

# Verizon Playing Dangerous Game in Net Neutrality Battle

It's been awhile since net neutrality has been in the headlines, but that doesn't mean the war is over--far from it. In it's renewed challenge to the net neutrality rules imposed by the FCC, Verizon is [citing its First Amendment right](#) to free speech. The argument itself seems dubious, but if Verizon wins it could lead to unintended consequences it might like even less.

First, a little background on net neutrality itself. The framework of rules developed by the FCC is intended to ensure an even playing field for all on the Internet, and prevent Internet service providers (ISPs) like Verizon or Comcast from blocking certain content, or giving preferential treatment to other content.

Verizon claims the FCC net neutrality rules violate its right to free speech.

Verizon originally [filed suit against the FCC](#) in early 2011. However, that case was thrown out of court because the FCC had not yet officially defined the rules and the court ruled that Verizon couldn't sue the FCC over rules that didn't technically exist yet.

In that case, Verizon simply asserted that the FCC was exceeding the bounds of its authority. However, [according to the FCC site](#), "The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction

covers the 50 states, the District of Columbia, and U.S. possessions." That sweeping charter appears to grant the FCC the exact authority Verizon claims it doesn't have.

This time around, Verizon is playing the First Amendment card. The challenge, essentially, is that by limiting Verizon's ability to choose which content to block or promote, the FCC is infringing on Verizon's right to free speech.

There are a couple major flaws in the argument. First, an individual's right to free speech shouldn't apply equally to a corporation. I'm not a Constitutional scholar nor a legal expert, but it seems to me that a corporation can say what it chooses as a function of the fact that the people actually saying it have an individual right to free speech. However, the corporation as an entity doesn't necessarily enjoy that same right, and—in fact—the corporation's right to free speech is already limited by rules governing false advertising or mandates to include specific text or warnings on products.

Second, the FCC net neutrality rules don't actually inhibit an ISP's ability to express itself freely. Under the FCC rules, Verizon is free to publish whatever content it chooses--it simply can't block or discriminate against other content as a matter of business practice.

The fact of the matter is the vast majority of the data traversing the ISP's network (like Verizon) doesn't belong to the ISP in the first place. An argument could be made that by throttling or blocking traffic Verizon is actually the party guilty of stepping on the First Amendment rights of others.

Let's assume for a minute, though, that Verizon has a First Amendment right to free speech, and that the court agrees this right is somehow violated by the FCC net neutrality rules. There is another approach to the problem that might make net neutrality the lesser of two evils by comparison.

Part of the underlying problem is the fact that the major ISPs are also content providers. Verizon has a vested interest in [preventing Netflix traffic](#) because it has its own streaming entertainment services. Comcast is owned by NBC, so it could gain a strategic advantage for its own content by throttling the bandwidth for rival networks. The simple solution is for Congress to impose regulations banning ISPs from delivering their own content, or being owned by companies that publish or deliver content.

If the net neutrality rules suggested by the FCC to keep the Internet fair and open to all seem too draconian for Verizon, perhaps the problem is that Verizon the ISP needs to be separated from Verizon the cable TV provider, or Verizon the wireless broadband provider, or Verizon the VoIP (voice over IP) phone provider.

What do you think? Does the Verizon First Amendment claim have merit? Should Verizon and other ISPs be allowed to throttle or block certain network traffic? Or, do you think the FCC net neutrality rules are valid and necessary?