Verizon's diabolical plan to turn the Web into pay-per-view

The carrier wants to charge websites for carrying their packets, but if they win it'd be the end of the Internet as we know it

Think of all the things that tick you off about cable TV. Along with brainless programming and crummy customer service, the very worst aspect of it is forced bundling. You can't pay just for the couple of dozen channels you actually watch. Instead, you have to pay for a couple of hundred channels, because the good stuff is scattered among a number of overstuffed packages. (By the way broadband services should be regulated as Title II common carrier that way no one can question FCC statutory authority to enforce Net Neutrality)

Now, imagine that the Internet worked that way. You'd hate it, of course. But that's the direction that Verizon, with the support of many wired and wireless carriers, would like to push the Web. That's not hypothetical. The country's No. 1 carrier is **fighting in court** to end the Federal Communications Commission's policy of Net neutrality, a move that would open the gates to a whole new -- and wholly bad -- economic model on the Web.

[With worker retirements looming, IT starts to prepare for a workforce exodus. | For quick, smart takes on the news you'll be talking about, check out InfoWorld TechBrief-- subscribe today.]

As it stands now, you pay your Internet service provider and go wherever you want on the Web. Packets of bits are just packets and have to be treated equally. That's the essence of Net neutrality. But Verizon's plan, which the company has outlined during hearings in federal court and before Congress, would change that. Verizon and its allies would like to charge websites that carry popular content for the privilege of moving their packets to your connected device. Again, that's not hypothetical.

ESPN, for example, is in negotiations with at least one major cellular carrier to pay to exempt its content from subscribers' cellular data caps. And what's wrong with that? Well, ESPN is big and rich and can pay for that exemption, but other content providers -- think of your local jazz station that streams audio -- couldn't afford it and would be out of business. Or, they'd make you pay to visit their websites. Indeed, if that system had been in place 10 years ago, fledglings like Google or YouTube or Facebook might never have gotten out of the nest.

Susan Crawford, a tech policy expert and professor at Yeshiva University's Benjamin N. Cardozo School of Law, says Verizon wants to "cable-ize the Internet." She **writes in her blog** that "The question presented by the case is: Does the U.S. government have any role in ensuring ubiquitous, open, world-class, interconnected, reasonably priced Internet access?"

Verizon: the new Standard Oil
Verizon and other carriers answer that question by saying no.

They argue that because they spent megabucks to build and maintain the network, they should be able to have a say over what content travels over it. They say that because Google and Facebook and other Internet companies make money by moving traffic over "their" networks, they should get a bigger piece of the action. (Never mind that pretty much every person and business that accesses Google or Facebook is already paying for the privilege, and paying more while getting less speed than users in most of Europe.)

In 2005, AT&T CEO Ed Whitacre **famously remarked** that upstarts like Google would like to "use my pipes free, but I ain't going to let them do that because we have spent this capital and we have to have a return on it."

That's bad enough, but Verizon goes even further. It claims that it has a right to free speech and, like a newspaper that may or may not publish a story about something, it can choose which content it chooses to carry. "Broadband providers possess 'editorial discretion.' Just as a newspaper is entitled to decide which content to publish and where, broadband providers may feature some content over others," Verizon's lawyers argue **in a brief (PDF)**.

That's so crazy I won't bother to address it. But the FCC has done such a poor job of spelling out what it thinks it has the right to regulate and how that should work that the door is wide open for the carriers' bizarre -- not to mention anticonsumer -- strategies and arguments.

I don't want to get down in the regulatory weeds, but there is one bit of legalese that's worth knowing: common carrier. Simply put, it means that the company doing the shipping can't mess with the contents. A railroad is a common carrier, and as such it can't decide whose cargo it will carry and whose it won't.

Before railroads were common carriers, they did things like favor products made by John D. Rockefeller's Standard Oil, which made him even richer and also led to the creation of a wildly out-of-control monopoly. (Yeshiva's Crawford has an in-depth but readable explanation of these issues in her book "**Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age**."

But the FCC has never ruled that ISPs are common carriers, partly because it's afraid of the power of the lobbyists to influence Congress and partly because its directors lack spine. And now that lack of spine is about to bite the butt of everyone who uses the Web.

According to people who follow this stuff closely, because ISPs are not common carriers the judges on the U.S. Court of Appeals in Washington, D.C., are looking askance at the FCC's defense against Verizon's lawsuit, although a verdict isn't likely for months.

Here are the stakes: "If Verizon -- or any ISP -- can go to a website and demand extra money just to reach Verizon subscribers, the fundamental fairness of competing on the Internet would be disrupted. It would immediately make Verizon the gatekeeper to what would and would not succeed online. ISPs -- not users, not the market -- would decide which websites and services succeed," writes Michael Weinberg, vice president of Public Knowledge, a digital advocacy group.

A taste of the Web's future: The Time Warner vs. CBS dustup
You don't have to wait for the Verizon verdict to get a taste of what the New Web Order would be like. Time Warner Cable and CBS just had a dustup over how much Time Warner would pay CBS to carry its programming. When the pair couldn't agree, the cable giant stopped carrying CBS programming in New York City, Los Angeles, and Dallas. CBS then retaliated by stopping Time Warner subscribers from streaming its programming over the Internet.

They settled after about a month. Staying true to form, Time Warner refused to give customers a rebate as compensation for lost programming.

That's not exactly the same issue that we're facing in the fight over Net neutrality, but it should give you a sense of what life is like when the giants fight it out over what you're allowed to access and for how much. Users get caught in the middle, and the rights we've taken for granted simply disappear.