

The U.S. Federal Communications Commission should enact real, lasting Network Neutrality rules which would likely survive judicial scrutiny by reclassifying broadband as a public utility/telecommunications service. Furthermore, the Net Neutrality rule Chairman Wheeler is expected to propose and put for a vote in May are Net Neutrality rules in name only. I urge the Chairman to rescind these rules which would kill real Net Neutrality. Under a real Net Neutrality regime services like Netflix should not have to pay ISPs for preferential treatment on the ISP's network.

Many of these ISPs are committing a fraud upon users and the government. Take AT&T for example. In 1996 they received government subsidies to buildout a broadband network but used those subsidies to award their executives lavish bonuses. Today AT&T's network is unable to handle the demand of users wanting to access popular Internet websites and services. Instead of investing their own profits back into their network for infrastructure improvements - like upgrading bandwidth capacity etc ISPs like AT&T would rather have services like Netflix pay them for network upgrades. Do they not realize they are increasing Netflix's cost of doing business? If Netflix were a startup they could not today afford these costs. All businesses and users online have to pay for an Internet connection. Even Netflix has an ISP which it pays for Internet service. However, unlike most users who just pay for an Internet connection Netflix operates its own servers and has to pay for those servers to keep its website and services up and running. Maintaining a web server is already more expensive than paying a web hosting provider to host your website on an existing company's server. It is not Netflix's fault that AT&T's network cannot keep up with the demand of Netflix users accessing the Internet using AT&T's Internet services.

As such AT&T executive Jim Cicconi wrote a misleading article with a misleading heading "Who Should Pay for Netflix?" criticizing Netflix CEO Reed Hastings comments that his company should not have to pay an ISP for faster access. What this article is really about is who should pay for delivering Netflix into user's homes. AT&T is currently double dipping. They create an artificial scarcity with data caps - they suggest they need caps because their network cannot handle more usage - or they say they can handle more use but want to nickel and dime consumers for expanded usage. AT&T and all ISPs charge end users for an Internet connection with which users should be free to go anywhere they want online but then they choose to charge content providers also. Either charge the user or the content provider once don't do both. I am fine paying a reasonable monthly subscription fee for Internet access but once online should not have to pay extra for wanting to use Google, Netflix, or Skype versus the phone or cable company's own movie streaming and VOIP services.

In the pay TV space broadcasters and cable networks (content providers) get to charge the service provider and each year they are increasing the cost of TV to the point it is getting too expensive for consumers) online the service provider is doing the reverse - charging the content provider and it is still getting more expensive. Netflix should not have to pay interconnection fees to Comcast. Nor should Comcast be permitted to exempt its own XFINITY TV service from their data caps - that is a violation of Network Neutrality. If you cap data all data should be capped equally regardless of origin point or destination point. It is because of Comcast's

previous bad behavior that as a result of its NBCU merger it was subjected to Network Neutrality conditions until at least 2018. Our rights should not come with an expiration date.

In defense of its merger with Time Warner Cable Comcast brags that the merger would be good for the Open Internet and points out it is still subject to Net Neutrality, and TWC customers will by extension if merger is approved also be subject to Net Neutrality protections. Comcast is trying to paint it and its merger as a champion of the Open Internet. This is misleading and laughable. Remember it was only because of previous bad behavior from Comcast that it was subjected to Network Neutrality conditions when its merger was approved with NBC Universal. So what was this bad behavior: In 2008 Comcast was sanctioned by the FCC after it was discovered they were illegally throttling Bit Torrent a popular peer 2 peer file sharing network and client/software. Comcast reacted by suing the F.C.C. and a court agreed with Comcast that the F.C.C. did not have the legal authority to protect consumers from it's discrimination in that case. That case was Comcast v. F.C.C. Now FCC Chairman Julius Genachowski proposed to reclaim authority using a "Third Way" in which the FCC reclassifies broadband as a telecom service but exempts it from line sharing and price control rules. However, under pressure from some in Congress and with fierce political opposition from the far right and from the very corporations that would be affected by this he backed down. However, he still had the FCC pass a watered down 2010 Open Internet Order which was struck down by the courts in Verizon Wireless v. FCC. This is the second time FCC rules mandating Net Neutrality have been struck down for using the wrong legal framework.

Under Clinton-Gore Administration broadband was a telecom service and was competitive. Under Bush Cheney though broadband was misclassified an information service and ever since we have been falling behind other countries in the world in broadband penetration, pricing, having faster speeds and in competition/consumer choice. Indeed the Clinton Administration would not have allowed any company to monopolize the Internet be it a cable or telco (AT&T, Comcast, Time Warner Cable, Verizon, CenturyLink), or a tech company (Microsoft, Apple etc) and for this reason sued Microsoft for anti-competitively trying to extend its Windows desktop computer operating system monopoly on to the Web by tying their Internet Explorer web browser with Microsoft Windows with which they could monopolize the browser market and then by extension perhaps the search market, social networking market etc.