

Fri day, July 11, 2014

Dear Chairman Wheeler:

If we are indeed headed towards a set of rules that will allow for paid prioritization, a so-called two-speed Internet, I strongly advocate that high speed access be set aside for public sector entities like public broadcasters, libraries, and educational institutions.

See below for my full position paper on this topic, as well as an article from the Chronicle of Higher Education detailing my proposal.

Sincerely,

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More than Net Neutrality, We Need a Public Sector Space on the Internet

by William F. Baker, Ph.D.

Until recently, most Americans felt assured of "Net Neutrality," even if they'd never heard the term before. Under strict Net Neutrality, all data traffic flowing over the Internet would be treated equally, like calls made over the telephone system. Data requested when you input a Web address would be delivered to your computer as fast as the infrastructure of the Internet allows. And with some technologically nuanced exceptions, that's basically how the Internet in America has been functioning.

But on May 15, the Federal Communications Commission (FCC) proposed new rules that would allow Internet service providers (ISPs) to slow down or speed up data delivery to and from certain Web sites, effectively creating a two-speed Internet, one with a fast lane for those who can afford it and a slow lane for everybody else.

Net Neutrality's defenders worry that in a two-speed Internet, the Web's crucial smaller players like public media, the not-for-profit sector, and start-ups (the Googles and Amazons of tomorrow), would be unable to buy their way out of the slow lane, thus impoverishing American commerce and culture. The ISPs counter that they are within their rights to charge more in exchange for delivering better, faster service.

The struggle between the two sides is heating up, and FCC Chairman Tom Wheeler, while making strong statements sympathetic to Net Neutrality, remains unwilling to use his full regulatory power to back up his rhetoric. As of this writing, the number of comments on this topic registered at www.fcc.gov is closing in on fifteen thousand, more than forty-four times the amount for the next-most-commented-on topic.

The technical issues involved and the likely regulatory outcome of the Net Neutrality debate are way too complex to fully hash out here. Official statements from some of Silicon Valley's biggest firms imply that even they don't fully understand everything that's going on.

What's most important is the intensity and reach of the Net Neutrality debate itself. It is a signal of how colossally important the Internet has become to American life.

What we're witnessing in this debate is nothing less than the struggle to determine

the rules for our new dominant communications medium. It's not unlike 1934, when Congress passed the Telecommunications Act, creating the FCC. Radio had already been around for some time in America. The first commercial radio broadcast had come out of Pittsburgh in 1920, and amateur radio enthusiasts, like the Internet's earliest inhabitants, had been tinkering with the new technology since the turn of the century. Like the FCC's newly proposed Open Internet Rules, the Telecommunications Act of 1934 was an attempt to agree on a set of rules for an already thriving, but chaotic and rapidly expanding new technology.

What the 1934 Act totally failed to do was to carve out any territory for the public interest in the new broadcasting landscape. It wouldn't be until 1971, fifty years after the start of commercial radio and nearly thirty years after the start of commercial TV, that PBS and NPR would be on the air. In contrast, the BBC had been established as a public interest corporation way back in 1922.

We can't afford to fall so far behind again in creating a durable public interest equivalent for the Internet, especially when Internet access in the rest of the developed world is on average faster, less expensive, more widely available, and almost universally "Net Neutral."

Since it looks like we're heading toward some form of a two-speed American Internet, why not take some of what the big players will be paying to ISPs for a fast track to consumers and use the money to make sure public media, not-for-profits, and tech innovators get bailed out of the slow lane?

There is strong precedent for this sort of provision. Residential telephone service, especially in rural areas, has long been subsidized in the US by the higher phone bills charged to businesses, as well as by small charges tacked onto everybody's phone bill. The Connect America Fund (CAF), managed by the FCC, already exists to help build out Internet connections to schools and rural areas. In 2011, the CAF was \$4.5 billion. Yet as of 2012, 25.2% of American homes still don't have access to the Internet.

At this key moment in deciding the rules of play for the American Internet, it is essential to demand that education, culture, and innovation don't get left behind, as they did with TV and radio. The timing of demanding a meaningful provision for the public interest online is far more important than knowing exactly how the technological and legal details will be worked out. What's at stake right now is whether the Internet's full potential will be realized for all Americans.

As Edward R. Murrow said of television, "This instrument can teach, it can illuminate; yes, and it can even inspire. But it can only do so to the extent that humans are determined to use it to those ends."

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From the Chronicle of Higher Education, July 10, 2014:

One Professor Schemes to Keep Colleges in the Web's Fast Lane
by Avi Wolfman-Arent July 10, 2014

William F. Baker has no quarrel with net neutrality, the principle that says all Internet traffic should be treated equally regardless of substance or source. He's all for it in the abstract.

But after 50 years in media, Mr. Baker, a former television executive who now directs the Bernard L. Schwartz Center for Media, Public Policy and Education at Fordham University, no longer dwells in the abstract. "I'm a person who's been in the trenches a long time," he says. "I'm not a theoretician."

So when the Federal Communications Commission proposed new rules in May that could allow Internet-service providers, or ISPs, to charge extra for faster connection speeds, Mr. Baker didn't despair. Instead, he strategized. This month, while moderating a panel on net neutrality at the New York campus of the University of Navarra's IESE Business School, Mr. Baker unveiled a paper advocating a

"public-sector space on the Internet" akin to the bandwidth reserved for public broadcasting.

He believes the idea to be novel, simple, and potentially transformative. It also rests on a cynical?critics might say defeatist?premise: that net neutrality is doomed because the major telecommunications providers oppose it.

"Since it looks like we're heading toward some form of a two-speed American Internet," Mr. Baker wrote, "why not take some of what the big players will be paying to ISPs for a fast track to consumers and use the money to make sure public media, not-for-profits, and tech innovators get bailed out of the slow lane?"

To do that, he'll have to persuade interested parties, including the nation's universities and libraries, that the demise of neutrality on the Internet is imminent. That figures to be a tough sell. On Thursday, 11 mainstream higher-education groups are scheduled to release a set of principles advocating staunch support for an open Internet. Their actions are just the latest in a long line of pro-neutrality stances, which together raise a central question: Is academe ready to envision, and plan for, a future without net neutrality?

If it is, Mr. Baker's proposal would be an attractive one. His chief desire is to insulate nonprofit organizations like colleges from the competitive disadvantages that would accompany a postneutrality web. He isn't sure what form those provisions would take. It could be a redistributed tax on Internet providers. It could wind up as an exemption guaranteeing nonprofit access to the Internet's fast lane.

But Mr. Baker says the particulars don't matter right now. What matters, he says, is getting the notion of a public-sector Internet "into the public drinking water."

Leaning on History

Mr. Baker's pitch leans hard on history. In his introductory paper he points to U.S. government subsidies for rural, residential telephone service beginning in the 1930s as an instance where potential losers in a new technological arena received special protection.

Nathan Newman, a panelist at the IESE event and a fellow at New York University's Information Law Institute, says one can go all the way back to the 18th century for examples of similar projects. "The post office gave massive discounts for sending newspapers through the mail under the premise you needed small newspapers to get ideas out across the country," he says.

Like Mr. Baker, Mr. Newman believes it's time to "start talking about details" if indeed the FCC chooses to abandon the neutral Internet. "The ideal is a world where you have some prioritization payments but the FCC makes sure those payments go to greater access in urban and rural areas, and you provide nonprofit priority access," he says.

A tiered and unregulated Internet, Mr. Baker fears, would marginalize public-interest voices much the way American radio and television did. By the time Congress established the Corporation for Public Broadcasting, in 1967, Mr. Baker says, the moment for creating a domestic equivalent to the BBC had passed.

Now, he says, is the time to correct that: "In my long career in media, this is the only window I've ever seen for a chance to have some meaningful new regulatory activity that embraces the public service and academic world."

Mr. Baker's message is likely to resonate in the public-media world, where he is a fixture. Before coming to Fordham, he spent two decades as chief executive of the Educational Broadcasting Corporation, which was then the parent company of the New York-based public television stations WNET-TV and WLIW-TV. Before that he was president of Westinghouse Television. Already his contingency plan for a postneutrality web seems to have captured the attention of others in the New York media landscape.

"If this happens, if there's danger and net neutrality is really threatened, what is the public-policy response?" asks Laura R. Walker, president and chief executive of New York Public Radio. "And how do you create a system where free, high-quality educational content can remain readily accessible? I think Bill is onto something."

Courting academe, however, is another task entirely. Higher-education interest groups have been committed to preserving net neutrality since it became a topic of public conversation, in the early to mid-2000s. Advocates say paid prioritization would hamstring cybereducation, hinder research collaboration, and slow the analysis of Big Data. They also believe it contradicts the spirit of the Internet, a technology nurtured and weaned in academe.

"There is a really deep appreciation with the higher-ed and research-library community for the open Internet," says Prudence S. Adler, associate executive director of the Association of Research Libraries.

No Preferential Access

After the U.S. Court of Appeals for the District of Columbia Circuit vacated the FCC's existing net-neutrality rules, in January, Ms. Adler and leaders of Educause and the American Library Association wrote a joint letter urging the commission to preserve net neutrality. "Paid prioritization and other forms of preferential access will significantly disadvantage libraries, education, and other nonprofit institutions," they wrote.

Though they're disappointed by the FCC's proposed move away from net neutrality, advocates connected to academe say they aren't yet willing to consider contingency plans like Mr. Baker's. "We need to really focus on net neutrality," says Ms. Adler. "That's the fight we need to win."

Representatives of Educause, the American Library Association, and the Association of Research Libraries say they met with the FCC's internal open-Internet working group on May 12 to discuss the commission's proposal. In addition to signing the net-neutrality principles released on Thursday, all three groups plan to issue an official filing with the FCC on July 15, the last day of the public-comment period. That document, they say, will ask the FCC to reclassify Internet-service providers as common carriers, in essence equating the Internet to a public utility.

It will also lay out ways the FCC could preserve an open Internet without pursuing reclassification, focusing in particular on a clause in the Telecommunications Act of 1996. The FCC has the authority to "implement open-Internet rules that would preserve what they called the virtuous cycle of Internet development," says Jarret Cummings, director of policy and external relations at Educause.

Mr. Cummings and other proponents of net neutrality in higher education say they will not concede the inevitability of an Internet split asunder. Mr. Cummings believes that would lead to a scenario where "everyone is trying to clamber on the lifeboat that is the priority lane, and the overall ship that is the Internet sinks from neglect."

Susan Crawford, a visiting professor at Harvard Law School and former special assistant to President Obama for science, technology, and innovation policy, agrees that a two-tiered scheme would weaken higher education's position over the long term.

"If you start thinking about what kind of deals higher ed should be cutting with the incumbent, you're essentially taking the same role as the media conglomerates," says Ms. Crawford. "You may get a deal today, but that means your destiny 10 years from now is at the mercy of these very few actors." She is further convinced that public pressure on the FCC will buoy net neutrality, obviating the need for any kind of contingency plan.

But Ms. Crawford also believes advocacy focused solely on maintaining net neutrality

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misses larger issues. She hopes academe, for example, will agitate for the creation of municipal fiber-optic networks that would compete with cable-company broadband.

And on that point, she and Mr. Baker may have some common ground. At root, Mr. Baker says, nonprofit groups should look beyond the open-Internet debate as it has been framed for the past decade and should embrace new ways of thinking. "Instead of saying, 'Net neutrality, that's it,'" he says, "let's think bigger than that."