

Life in the fast lane: It may cost you more if Net Neutrality rules are reversed

When the telecommunication act of 1934 was signed into law by Franklin Delano Roosevelt, the implications of making wireless and wired communication a regulated commerce like trains was probably lost on most Americans. In fact, the majority of Americans had just received electricity a decade earlier, and only 40% of households in the U.S. even owned a radio.¹ Rural America would not receive “electrification” until a year later. It is also true that most Americans today probably don’t realize that interstate commerce laws that applied to trains running through Texas a century ago are now central to the fight over “Net Neutrality” and who controls the internet today.

What is Net Neutrality? In the words of Federal Communications Commission (FCC) Jessica Rosenworcel: “Net neutrality is the right to go where you want and do what you want on the internet without your broadband provider getting in the way.”

The Obama Administration’s FCC enacted “Equal Access to the Internet” rules in 2016 that were intended to preserve Net Neutrality and prevent Internet Service Providers (ISPs) from creating internet fast and slow lanes. The rules were the result of a decade long battle to protect Net Neutrality and were upheld in federal court. Now, those rules may prove to be fleeting. President Trump’s just appointed FCC Commissioner Ajit Pai, a former Verizon lawyer, has put forth a proposal to repeal Net Neutrality. The vote to roll back Net Neutrality is expected to go along party lines (just as the Obama-era rules to create them did). That is not surprising. The FCC is largely a partisan commission by design. By law, the five person FCC can have a maximum of three commissioners from a single party. All are appointees of the President and approved by Congress.

Despite the party-line voting at the FCC, proponents and detractors of Net Neutrality are not homogenous or partisan in nature. There are large companies on both sides of the issue and advocates in both parties. For example, Viacom and Comcast are against net neutrality. Google and Amazon are for net neutrality as are free speech advocates, consumer protection groups, and artists.

The most passionate advocates believe Net Neutrality is what enables the internet and protects free speech and an open society. They believe minority communities and minority points of view will be most affected by the loss of Net Neutrality.

The Obama rules as laid out by President Obama in a November 10th, 2014 letter:²

No blocking. If a consumer requests access to a website or service, and the content is legal, your ISP should not be permitted to block it. That way, every player — not just those commercially affiliated with an ISP — gets a fair shot at your business.

No throttling. Nor should ISPs be able to intentionally slow down some content or speed up others — through a process often called “throttling” — based on the type of service or your ISP’s preferences.

Increased transparency. The connection between consumers and ISPs — the so-called “last mile” — is not the only place some sites might get special treatment. So....the FCC (should) make full use of the transparency authorities the court recently upheld, and if necessary to apply net neutrality rules to points of interconnection between the ISP and the rest of the Internet.

No paid prioritization. Simply put: No service should be stuck in a “slow lane” because it does not pay a fee. That kind of gatekeeping would undermine the level playing field essential to the Internet’s growth. So, as I have before, I am asking for an explicit ban on paid prioritization and any other restriction that has a similar effect.

By proposing a sweeping repeal of these rules, internet providers will be able to slow down the speed of any website or service. Presumably, websites that pay the providers would not be slowed down, and consumers who pay more won’t be subject to the throttling down of sites that don’t pay the ISP.

The rationale for repealing Net Neutrality rules as presented in a statement by Commissioner Pai in November of 2017³:

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- For almost twenty years, the Internet thrived under (a bi-partisan) light-touch regulatory approach.
- This led to \$1.5 trillion private sector investment in the internet.
- In 2015 FCC bowed to pressure from President Obama to impose heavy-handed, utility-style regulations upon the Internet.
- By repealing the rules, the federal government will stop micromanaging the internet. Instead, the FCC would simply require internet service providers to be transparent about their practices so that consumers can buy the service plan that's best for them.

The rub:

Essentially, 90% of America only has two ISPs offering true broadband download speeds.⁴ So consumers will likely not have much choice in ISPs and will be faced with paying more to prevent the choking-off of certain sites or services. There is a chance that deployment of new technologies like 5G will create more competition, but until that happens, it is unlikely this dynamic will change. Creating a broadband network is very capital intensive and the barriers for entry are incredibly steep. Verizon reportedly spent over \$20 billion dollars creating the FIOS network that only covered the Northeast and Los Angeles markets.⁵

Pros of preserving:

- Consumers avoid paying extra “tolls” to access services like Skype, Netflix or PlayStation.
- No discrimination among users of the internet. Consumers with less money are not marginalized.
- A level playing field for all companies providing content on the internet.
- An open internet promotes a diversity of views. People of color, minorities, LGBT community and conservative viewpoints could not be throttled back by ISPs.
- More competition is better for the economy. Fees to ISPs from established services would stifle innovation in the marketplace.
- ISPs are viewed as an essential service like a

public utility and subject to regulation.

Pros of scrapping:

- ISPs will not be viewed as an essential utility and subject to regulation.
- ISPs will have more revenue to build better networks. The amount of data now being run through the pipes is exponentially more demanding than when the internet was born in the 1990s.
- ISPs insist they can protect the “open” internet where all viewpoints are protected. They insist they will not censor – and will always continue to give unblocked access to lawful websites.
- Fees for “fast lanes” are fair compensation for “data hogs” like streaming sites.

Sources*:

¹ <http://www.americanradioworks.org/segments/radio-the-internet-of-the-1930s/>

² <https://obamawhitehouse.archives.gov/node/323681>

³ http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1121/DOC-347868A1.pdf

⁴ <http://www.businessinsider.com/internet-isps-competition-net-neutrality-ajit-pai-fcc-2017-4/#-11>

⁵ <http://adage.com/article/news/verizon-s-23-billion-bet-fios-paying/136688/>

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