



ODUMUNC 2017 Issue Brief
UN General Assembly Third Committee:
Social Humanitarian and Cultural (SOCHUM)



**Measures to Ensure Net Neutrality
and Free Access to the Internet**

by Alex Beschler

Old Dominion University Model United Nations

Introduction

Of the many issues surrounding the internet, one that has persisted is the idea of “net neutrality.” Since the propellant of the internet to mainstream consumers, many experts have wondered what would happen if Internet Service Providers became more investment-concerned and would manipulate internet traffic to suit their agenda. With this in mind, several technology companies, governments and consumers alike wonder what would the detriment, if any, would be if internet traffic was discriminated against based on the ability to pay for faster access.

Net neutrality means assuring equal access. Can internet service providers (ISPs) offer different prices to their largest customers, because of their influence and greater economic efficiency, effectively making individual users pay more? Many Member States maintain this is illegal, since it violates equal internet access. Others think it is the basis of fair business. Each country’s policy varies, making international cooperation difficult and global standards remote.

A major debate for the Member States of the UN is whether it also means equal protection of individual privacy. Equal access does not conflict with national sovereignty or other policy goals. But equal protection of access, regardless of the kind of information involved, may weaken the ability of governments to establish their unique sovereign goals. These goals may be as uncontroversial as efforts to halt communications by terrorist organizations, or more controversial like the campaigns and communications of political opponents. No wonder net neutrality is controversial; it raises some of the most difficult choices facing the international community and UN Member States.

Regardless of the forms of net neutrality, it can be costly to establish, forcing government not shift their immediate policy goals. Many governments resist the spending that net neutrality may require, insisting that private internet access providers or foreign donors must bear the costs. Other countries, especially those with major internet service providers (ISPs), may view UN action an effort to undermine the competitive strengths of their businesses. Net neutrality, then, is anything but neutral; it means picking winners and losers in the world economy and legal order.

Background

Net Neutrality is the concept of how broadband companies are detached from the traffic they send over the internet (Lin, 2012). According to the Manifesto of Net Neutrality, if Consumer A requests a webpage on Server B, the Internet Service Providers (ISP) can do nothing to prevent or otherwise manipulate Consumer A and Server B’s request. The first mention of an explicit “Net Neutrality” term was used in an early 2003 paper written by a law professor named Tim Wu (Wu, 2003). He coined the term while writing a paper on preventing the discrimination of network traffic by ISP’s. A real world example is Comcast. Comcast has been found to block Bittorrent traffic, a special type of internet traffic (Svensson, 2007). If a consumer requested for Bittorrent traffic, Comcast would “throttle,” or drastically slow down internet traffic of that type.

Measures to Ensure Net Neutrality and Free Access to the Internet

This content has been blocked
by your service provider.

Figure 1.1 – An alleged “blocked” screen, speculating that without net neutrality there would be more of these blocked screens.

History of Net Neutrality

The idea of net neutrality has been around long before the term was coined. However, only in recent years has it attracted the focus of corporations, governments and consumers. ISPs lobby extensively in many countries. In the United States, for example, Comcast, AT&T and Verizon collectively spent \$11,880,000 in 2016 on lobbying in Congress, which is over double what Northrop Grumman spent, the top military industrial complex in America (Top Spenders of 2016, 2016). One of the main lobbying points against net neutrality is the concept of “fast lanes.”

A fast lane is when a cable company opens up a second type of network designed to send significantly faster traffic for a higher fee. ISP’s have already started doing this; for example, AT&T announced in 2014 that they would feature “sponsored data” where companies would pay a fee to have their advertisements delivered faster than others (AT&T, 2014). To convince their consumers to pay an extra fee, ISP’s executed a business plan called “double dipping”: the broadband company slows the traffic to both the Consumer A and the Server B in hopes of getting both to pay a higher rate in order to make double the profit.

Arguments For Net Neutrality

One of the many arguments made in support for net neutrality is that it provides control of user data. Simply put, if the ISP’s do not limit or discriminate the data, the user controls the content that they request. ISP’s interfering with web searches means that private companies or powerful individuals can

guide consumers towards specific results that can result in manipulating the consumers’ opinions and beliefs. The internet would no longer be a place where individuals could have access to every single piece of information available. Instead, it will become a place where individuals are presented with a specific group of information as if this data was the only data available. Therefore, free internet has to do with consumer’s rights.

Because the UN views internet access as a human right, it is considered essential for consumers to be guaranteed the right to have a free, unbiased connection to the internet. As it considered immoral and wrong for water companies to taint their water and offer to clean it up for an extra fee, it is immoral and wrong for ISP’s to restrict or manipulate their data and request an extra fee in order to lift their influence on the data. Finally, the last major argument for net neutrality is the idea of competition. Because of broadband providers’ unique position, inhibiting a neutral access to the internet creates leeway for an exploitive business model.

Arguments Against Net Neutrality

Some arguments made against the idea of a neutral internet concerns the way business works. If there are no investments in the internet access industry, broadband providers cannot properly invest in their company, thereby not guaranteeing returns on those investments. In other words, if the industry does not conduct proper business, broadband companies will not make as many investments, thus dramatically degrade the quality of the infrastructure as a whole. Secondly, broadband infrastructure is only so limited.

For instance, 50% more infrastructure investment is required in the US than that of the EU *as a whole* (Ehrlich, 2014). In addition, back in 2007, ISP’s were serving 75 petabytes of data from YouTube alone (Swanson, 2007). Due to the vast volume of information that ISP’s have to serve, ISP’s came up with the idea to have several tiers of internet access,

Measures to Ensure Net Neutrality and Free Access to the Internet

the basic form being the more the consumer pays, the faster connection they get. Finally, a neutral internet would cause prices to go up. Because consumers would not be willing to pay more money but demand faster bandwidth, ISP's would have no choice but to increase prices across the board to maintain their infrastructure.

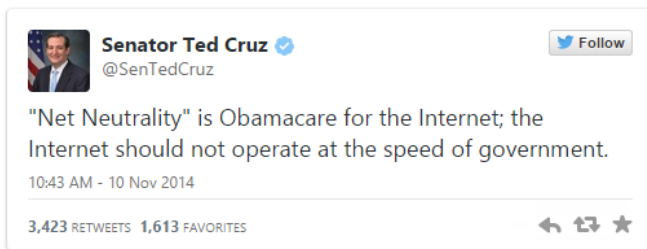


Figure 1.2 – Obama care for the Internet? A Tweet from United States Senator Ted Cruz comparing net neutrality to a controversial healthcare program in the United States

Current Situation

The current state of net neutrality around the world varies significantly depending on the country. In northern European countries, for example, ISP's follow neutral internet laws. In countries like China, the government owns all available ISP's and even if they claim to apply neutral internet laws to their ISP's, restricting competition is also a form of interfering with the availability of data to consumers. In general however, broadband providers are mostly indiscriminate of their internet traffic. Currently, ISP's in developed countries are lobbying for those laws to be changed to allow some level of discrimination. In fact, most lobbying takes place in the United States, since many consumers and most technology companies agree that the main broadband companies' agenda is somewhat detrimental to the overall well being of consumers.

United Nations Action on Net Neutrality

Net neutrality can be viewed as an economic development, or a human rights issue. The latter

perspective has been especially important in the UN, especially for Member States of the European Union and Latin America. Their leadership made a major actor of the Human Rights Council, where they turned to solve any problems associated with it. According to the UN, disconnecting people from the internet is considered a violation of people's human rights (17/27, 2011). Because of this standard, the UN considers any ISP that unfairly discriminates internet traffic a human rights violation. Right now, the UN does not have any significant plans to change the laws, given the UN's political position in the world. Nevertheless, the debate about net neutrality has been going on for some time and attracts the attention of the UN especially since the popularity of net interference is gaining momentum in the United States Federal Communications Commission.



Figure 1.3 - Tom Wheeler, Chairman of United States' Federal Communications Commission (FCC)

Landmark United Nations Action

The UN has not been quick to act on net neutrality, reflecting the difficulties Member States face domestically. In lieu of global policy, small and middle-sized countries struggle to articulate their national politics. They're no controversy about the need for a UN policy on the issue, but little agreement on how to achieve it.

While there is not a significant amount of landmark resolutions passed in the United Nations regarding

Measures to Ensure Net Neutrality and Free Access to the Internet

the preservation of net neutrality, there are two landmark papers written that form the net neutrality agenda for the UN. The Human Rights Council (HRC) in 2013 passed a resolution, proposed by Sweden that established the goal of the “promotion protection and enjoyment of human rights on the internet” (20/13, 2012).

In addition, a report from the UN Special Rapporteur on Freedom of Opinion and expression (17/27, 2011), while not explicitly stating the views of the UN’s position on net neutrality, was greeted with general recognition and agreement with many countries. The report stated that

...it is especially important that the new rules prevent ISPs from discriminating against some types of content in favor of others, either by slowing down delivery speeds or by creating a fast lane to ensure quicker delivery for only some content providers that have paid extra fees.

The report also comments on the United States’ broadband internet access redefinition as a public utility. This hints at the other major perspective on net neutrality, which is economic. Without access to the internet, economic development is greatly retarded. Accelerating economic development requires easy access. The economic perspective is especially important a different group of countries, the less developed country (LDCS) of the Non-Aligned Movement (NAM), the biggest voting bloc in the UN.

Country Positions

Brazil: Brazil is an example of a prominent Non-Aligned Movement leader that established net neutrality laws in April 2014 (Net, 2015). In other words, Brazil has made it illegal for any ISP to discriminate internet traffic. In addition, the legislation prevents cable companies from charging more for services that require more bandwidth (such as video streaming) (Walker, 2014).

China: China has no sort of net neutrality laws; competition between ISP’s continues to flourish, however (Malcolm, 2014). China is very tolerant of competition between companies, so long as they do not affect the power or rights of the state. The Chinese government also supports the rights of its major ISPs, supporting their efforts to expand influence, power and profits for China.

India: India, however, does not have any sort of laws on net neutrality (TNN, 2015). India’s ISP’s follow principles similar to what can be described as non-discriminatory. India has shown that access can be maximized through government policies directing more of the economy and government programs to on-line platforms, and facilitating access through very low-cost access, including radically cheaper smart phone access.

European Union (EU): The 28 Member states of the EU were among the first to establish the principle of net neutrality laws into effect (Lee, 2016). The European Union has an article in its charter that declares that ISP’s cannot throttle or block internet traffic, specifically stating that “traffic should be treated equally, without discrimination, restriction or interference, independent of the sender, receiver, type, content, device, service or application” (Union, 2016).

Measures to Ensure Net Neutrality and Free Access to the Internet

Particular European member states like the Netherlands were especially early to sign in net neutrality legislation (Walker, 2014). Part of the legislation is to prevent mobile operators from charging extra for using VoIP (Voice Over IP), or internet calling (the same technology used by Skype and other video/IM clients). This is hardly surprising; most northern European countries tend to be progressive about technology laws. Even the EU is under pressure to make compromises in its position, especially after terrorist attacks in Belgium, France and Germany in 2015-16. No European government, however, has shown willingness to compromise a general commitment to net neutrality and other principles like protection of privacy.

Non-Aligned Movement (NAM): The 120 Member States of the Non-Aligned Movement are agreed on the importance of net neutrality, which they view as a equalizer in the rights of individual citizens against major corporations, but also in their economic and political competition with other countries, especially the wealthier countries of Europe, North America and even countries like China. They strongly believe it is unfair to force their people's to bear to high costs of extending internet access. Those costs, they maintain, wherever possible must be born by wealthier states that created the internet and profit most from it. But many NAM Member States also fear any loss of national sovereign control, and hesitate before sharing those rights with others, including individual residents.

South Africa: South Africa deemed net neutrality as a non-issue for the country (Staff, 2016); a neutral internet access for all citizens is essentially a de facto national policy. In practice though, much of the country lacks access and there is not mechanisms to finance universal access. South Africa joins the NAM in searching for an affordable solution.

Russia: Russia decided to defend its position on a non-neutral internet connection (Kozlovsky, 2014). Their justification is that by providing a faster internet connection to consumers that pay more for it the national infrastructure that provides internet access can be better maintained.

United States: On 26 February 2015, the United States recently passed laws redefining internet access as a public utility (Drutman, 2014), giving the government power to regulate it and provide a neutral internet connection. The topic of net neutrality was hotly debated in the United States, even making its way into pop culture (Net Neutrality, 2015).

Questions to Answer

Bearing all of the net neutrality debates in mind, there are several questions that the delegates of the UN need to face in order to fully understand and pass an informed resolution on.

- *A human or economic right?* Should an Internet connection be even considered a human or economic right? ISP's do claim that the amount of resources required to maintain a fully functioning network do not justify what the internet is being used for to date; basically, the internet is not required to perform basic human functions.
- *Access:* If broadband internet access were considered a human or economic right, then how would countries be able to ensure unbiased access to the internet?
- *Legal consequences:* f the UN passed a resolution to ensure this, what would be the counter-measures be for those who commit crimes on the internet, or against other nations?
- *Financial cost:* How will the international community cover the costs of implementing net neutrality? Will money come from

Measures to Ensure Net Neutrality and Free Access to the Internet

existing foreign aid budgets, from private firms (ISPs) or new taxes?

- *Enforcement*: Would we see the formation of a UN cyber police?

Bibliography

17/27, H. (2011). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. United Nations.

20/13, H. (2012). The promotion, protection and enjoyment of human rights on the Internet. United Nations.

AT&T. (2014, January 06). AT&T Introduces Sponsored Data for Mobile Data Subscribers and Businesses. Retrieved from AT&T: <http://www.att.com/gen/pressroom?pid=25183&cdvn=news&newsarticleid=37366&mapcode=>

Ehrlich, E. (2014). The State Of U.S. Broadband: Is It Competitive? Are We Falling Behind? Progressive Policy Institute.

Lee, D. (2016, July 1). Netherlands makes net neutrality a law. Retrieved from BBC: <http://www.bbc.com/news/technology-13886440>

Lin, R. (2012). What Is Net Neutrality. Retrieved from Ocf.Berkeley.Edu: <https://www.ocf.berkeley.edu/~raylin/whatisnetneutrality.htm>

Net, F. o. (2015). Brazil. Retrieved from Freedom of the Net: <https://freedomhouse.org/report/freedom-net/2015/brazil>

Svensson. (2007, October 19). Comcast Blocks Some Internet Traffic. Retrieved from Washington Post: <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/19/AR2007101900842.html>

Swanson, B. (2007, January 20). The Coming Exaflood. Retrieved from Discovery Institute: <http://www.discovery.org/a/3869>

TNN. (2015, April 13). What is net neutrality and why it is important? Retrieved from Times Of India: <http://timesofindia.indiatimes.com/tech/tech-news/What-is-net-neutrality-and-why-it-is-important/articleshow/46902071.cms>

Top Spenders of 2016. (2016). Retrieved from Open Secrets: <https://www.opensecrets.org/lobby/top.php?showYear=2016&indexType=s>

Measures to Ensure Net Neutrality and Free Access to the Internet

Union, E. (2016, April 30). Our Commitment To Net Neutrality. Retrieved from European Commission: <https://ec.europa.eu/digital-single-market/en/eu-actions-net-neutrality>

Wu, T. (2003). Network Neutrality, Broadband Discrimination. *Journal of Telecommunications and High Technology*.