

Pre-Symposium Lecture Series

Communications Law & Policy Society

WHITE PAPER:

The white papers are a series of one-page reports on the general subjects to be presented in panels or discussion groups at the symposium. They are written by CLPS members. These papers are only meant as guidelines and are not intended to limit the conversation in any manner. Panelists are encouraged to expand the topics to include their interests or practice areas.

How Net Neutrality Will Affect the Entertainment Industry

Net Neutrality, according to *Wall Street Journal* Tech Reporter Amy Schatz in her article "[*U.S. as a Traffic Cop in Web Fight*](#)," is loosely defined as "force[ing] Internet providers to treat all Web traffic equally, seeking to give consumers greater freedom to use their computers or cell phones to enjoy videos, music and other legal services that hog bandwidth." So what does Net Neutrality's implementation mean?

Though information is owned by the producers of content, access to that information is still controlled by the supplier of the medium, in this case Internet Service Providers (ISPs). Though this content producer and content provider access framework has remained largely constant in the "tangible" world (books, magazines, etc...), with the advent of the Internet the game seemingly changed. The Internet allowed for two things. First, it allowed for the empowerment of the individual. The American public had cheap and easy access to vast swaths of information a mere click away. Second, the internet provided its users the ability to visibly mobilize around a cause. Never before had consumer groups been able to organize and advocate so quickly and efficiently. However, the internet's continued existence as a major form of interconnection has been threatened by a proposed rollback of the principles of net neutrality

Threats to the unrestricted Internet access came from the network owners who hinted that users should have to pay stratified rates based on a website's popularity. The public's unrestricted ability to browse was in jeopardy. Want faster access to a website? You should pay for it. Consumer groups pushed back claiming this was simply strengthening the already powerful ISPs' position. Telecom providers have long argued that with the increased deployment of data-heavy services and devices, the subscriber fee based model of network support is less appealing and perhaps unworkable. Many consumers in smart-phone saturated markets have already started to complain of degraded services. This infrastructure problem affects Entertainment and Content providers whose ability to remain profitable depends upon consumers' ability to access content.

On October 22, 2009 the FCC weighed in. They established [Openinternet.gov](#) and disseminated a NPRM (Notice of Proposed Rule Making) that revolved around six principles to keep the Internet Neutral. These six principles are:

1. Subject to reasonable network management, a provider of broadband Internet access service may not prevent any of its users from sending or receiving the lawful content of the user's choice over the Internet.

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2. Subject to reasonable network management, a provider of broadband Internet access service may not prevent any of its users from running the lawful applications or using the lawful services of the user's choice.
3. Subject to reasonable network management, a provider of broadband Internet access service may not prevent any of its users from connecting to and using on its network the user's choice of lawful devices that do not harm the network.
4. Subject to reasonable network management, a provider of broadband Internet access service may not deprive any of its users of the user's entitlement to competition among network providers, application providers, service providers, and content providers. [11]
5. Subject to reasonable network management, a provider of broadband Internet access service must treat lawful content, applications, and services in a nondiscriminatory manner. [12]
6. Subject to reasonable network management, a provider of broadband Internet access service must disclose such information concerning network management and other practices as is reasonably required for users and content, application, and service providers to enjoy the protections specified in this part. [13]

What role these rules will eventually play a crucial point of discussion. What does remain clear, however, is the shape the debate is taking and the new administrations stance towards it.

This panel will discuss the impact of the proposed Net Neutrality regulations. From Internet Service Providers (ISPs) to the various entertainment industries, to software developers of all kinds, everyone seems to have an important stake in the proposed policy. This panel will be a forum to explore and define the changes brought by these new regulations where our panelists can comment and challenge the new plan.

Notes:

[11] Preserving the Open Internet, Notice of Proposed Rulemaking, GN Docket No. 09-191, FCC 09-93 (rel. Oct. 22, 2009); available at:http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-93A1.doc.

[12] Id. at ¶104.

[13] Id. at ¶119.

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