

ARMENIAN INTERNET GOVERNANCE  
FORUM

*Net Neutrality*

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# ***Net Neutrality***

## **Definitions: RFC 1958 (1996)**

*The principle of constant change is perhaps the only principle of the Internet that should survive indefinitely....*

*the community believes that*

- the goal is connectivity,*
- the tool is the Internet Protocol,*
- and the intelligence is end to end rather than hidden in the network*

# ***Net Neutrality***

*Internet Service Providers and governments should treat all data on the Internet equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication.*

*Tim Wu, Law Professor in Media Law, Columbia University, (2003) "Network Neutrality, Broadband Discrimination" Journal on Telecom and High Tech Law.*

# ***Net Neutrality***

ELEMENTS:

PLAYERS: Governments/Internet Service Providers

CONTENT: 'Free speech'

DIFFERENTIAL TREATMENT OF PACKETS based on packet sender and/or type

DIFFERENTIAL CHARGING based on packet sender, user or type

# ***Net Neutrality: ISOC***

## *Elements:*

- ... the user being in control of where they go and what they do online. Companies that provide Internet services should treat all lawful Internet content in a neutral manner without hampering the users ability to access that content*
- network management must be even-handed, and should diminish neither the quality nor accessibility of online content for users.*

# ***Net Neutrality: ISOC***

*Qualification: (May 2015)*

*People should have access to the legal content of their choosing, should have competition among carriers. And there should be transparency between the user, the consumer and the provider as to what network management means, and how it's been implemented for their service... networks should not be managed in ways that are anti-competitive or discriminatory.*

*Sally Wentworth, Senior Public Policy Manager, ISOC*

# ***Net Neutrality: USA***

Issues (over the past 20 years)

- Classification of ISPs under Title II the *Communications Act 1934* as a ‘common carrier’ - or not
- Power of the regulator – Federal Communications Commission (FCC) to regulate to address the ‘deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans’ (s. 706 *Telecommunications Act 1996*)

# *Net Neutrality: USA*

## The Saga:

1996: Telecommunications Act – s. 706

2005:

- FCC Policy Statement
- *National Telco Assoc v BrandX* – ISPs an information service

2008:

- *FCC v Comcast*

2010:

- *Comcast v FCC*
- FCC Open Internet Order (and Sixth Report on availability of broadband)

2014: *Verizon v FCC*

# ***Net Neutrality: USA***

*FCC Open Order Released March 2015:*

- No blocking to lawful content, applications, services, or non-harmful devices, *subject to reasonable network management*
- No throttling – not impair or degrade lawful Internet traffic... - *subject to reasonable network management*
- No paid prioritization – favouring some traffic over other traffic – including traffic shaping, prioritisation, resource reservation...

*NB: However, requirements on common carriers eased – no tariff regulation, rate regulation, unbundling etc*

# ***Net Neutrality: USA***

*ISOC reaction:*

*... we are concerned with the FCC's decision to base new rules for the modern Internet on decades-old telephone regulations designed for a very different technological era*

.

*Regulatory approaches that could affect the sustainability of the global, open Internet need to take into account the technical reality of how networks are operated and managed. Allowing the necessary technological flexibility to keep pace with rapid innovation is integral to ensuring the continued growth and success of the Internet. We believe we need to be careful that this flexibility is not undermined by the use of a regulatory framework designed to govern the old telecommunications system.*

# ***Net Neutrality: USA***

*The Guardian 13 March 2015*

*The National Cable and Telecommunications Association, which represents the largest cable companies, said the release “only confirms our fear that the commission has gone well beyond creating enforceable open internet rules, and has instead instituted a regulatory regime change for the internet that will lead to years of litigation, serious collateral consequences for consumers, and ongoing market uncertainty that will slow America’s quest to advance broadband deployment and adoption”.*

# ***Net Neutrality: EU***

Content:

*Article 11.1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers*

Charter of Fundamental Right of the European Union

# ***Net Neutrality: EU***

A Digital Single Market Strategy for Europe –  
announced 30 June 2015 –to be implemented 2016

- users will be free to access the content of their choice, they will not be unfairly blocked or slowed down anymore
- no paid prioritisation
- all traffic will be treated equally, subject to strict and clearly identified public-interest exceptions, such as network security or combating child pornography, and subject to efficient day-to-day network management by Internet service providers.
- In parallel, Internet access providers will still be able to offer specialised services of higher quality, such as Internet TV and new innovative applications, so long as these services are not supplied at the expense of the quality of the open Internet.

# ***Net Neutrality: EU***

But Ofcom's 'Approach to Network Neutrality' 2011

*The appropriateness of different approaches to traffic management is at the heart of the Net Neutrality debate. Given the controversial nature of this debate, it is important to bear in mind that traffic management is often beneficial. (Two types)*

Best efforts – delivery of all packets on more or less equal terms or

Managed services – prioritise certain traffic according to value ascribed to it

# ***Net Neutrality: Australia***

Content: No general right of free speech, available at common law – with qualifications

Definitions of carrier and carriage service providers (including ISPs) in the *Telecommunications Act 1997*

Competition governed by general trade practice law (with special provisions for telcos)

No legislative requirement for broadband – but creation of a company NBN Co to provide broadband

# ***Net Neutrality: Australia***

Discrimination by packet sender – No  
(not permitted under competition law)

Discrimination by packet type – yes  
(NBN Co's service category offerings)

Discrimination on price – yes, as long as it isn't  
anti-competitive

Discrimination by user – yes, can provide  
content to own subscribers

# *Net Neutrality*

Issues	ISOC	USA	EU	Australia
Content (Lawful)				
Discrimination on Packet type/sender				
Discrimination on packet price				
Discrimination on service access				
Constraining choice of service provider				

# *Net Neutrality: References*

## **Definitions:**

RFC 158: <[http://www.rfc-editor.org/search/rfc\\_search.php](http://www.rfc-editor.org/search/rfc_search.php)>

Tim Wu (2003). "[Network Neutrality, Broadband Discrimination](#)" (PDF). Journal on telecom and high tech law.

## **ISOC**

<http://www.internetsociety.org/net-neutrality>

Sally Wentworth: <http://readwrite.com/2012/05/29/internet-society-theres-room-for-compromise-on-net-neutrality>

## **FCC**

<FCC Open Internet <<https://www.fcc.gov/openinternet>>

## **EU**

<http://ec.europa.eu/priorities/digital-single-market/>

<<http://stakeholders.ofcom.org.uk/consultations/net-neutrality/statement/>>

## **Australia**

<https://www.communications.gov.au/what-we-do/internet>

<<http://www.nbnco.com.au/sell-nbn-services/supply-agreements/wba2.html>>

***Net Neutrality***

***QUESTIONS***

***THANK YOU***