

No Future for 'Net Neutrality'
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Telco Subject Matter Expert





SLOWPOKE

WEB of DECEPTION

IT'S ANOTHER ORWELLIAN BILL! THE "COMMUNICATIONS OPPORTUNITY, PROMOTION, AND ENHANCEMENT ACT" WOULD ALLOW INTERNET PROVIDERS TO CONTROL CONSUMERS' ACCESS TO WEBSITES.

HMM... THIS TELECOM INDUSTRY PR SITE LOADS VERY QUICKLY.

YET THE VERIZONSUCKSBUTT BLOG WON'T LOAD AT ALL!

AT THE HEART OF THE TELECOMS' PLAN IS A "PAY FOR PLAY" SYSTEM IN WHICH OWNERS OF WEBSITES PAY FOR HIGH-SPEED DELIVERY, LEAVING OTHERS IN THE DUST.

SO, WHAT'S ON THE INTERNET TODAY, DEAR?

LOWEST COMMON DENOMINATOR NEWS
CELEBRITIES WITH POT-BELLIES!

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BUT THE DOUBLESPEAK DOESN'T END THERE! TELECOM REPS ARE SPINNING OPEN-INTERNET ADVOCATES AS OPPONENTS OF FREEDOM!

I'M AGAINST GIVING THE FCC AND GOVERNMENT REGULATORS THE POWER TO DECIDE HOW THE INTERNET WILL BUILD OUT IN THE FUTURE!

THE FLOW OF CASH—I MEAN INFORMATION—MUST NOT BE IMPEDED!

ACTUAL QUOTE

HANDS OFF THE INTERNET!

ACTUAL SLOGAN BEING USED BY COMPANIES WHO WANT THEIR HANDS ON THE NET

... AS IF AMERICANS NEEDED TO BE ANY LESS INFORMED.

MA'AM, WHAT DO YOU THINK ABOUT THE BILL THAT MAY LIMIT YOUR FREEDOM TO VISIT ANY WEBSITE YOU WANT?

HUH? WHAT BILL?

I'LL BET THE ILLEGAL MEXICANS ARE TO BLAME SOMEHOW!

www.slowpokecomics.com

Any serious
issue
Needs
humour!



Summary

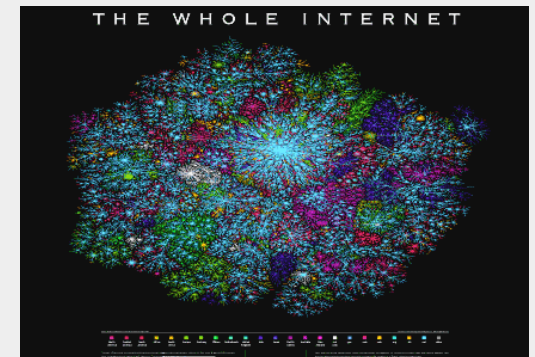
- Introduction
 - What is 'network neutrality'
 - Observations
- Interpretation of 'network neutrality' ('NN')
- History of the 'NN' debate
 - US, Europe and India
 - Australia
 - Now Trump's US
- NN a 'window' to wider issues
 - ISPs and 'copyright'
 - OTTs, Investment & Competition
- Discussion of 'current issues' in Australia
- Observations
- References and Acknowledgements





Definitions of ‘network neutrality’ (‘NN’)

- “the principle that all electronic communication passing through a network is treated equally independent of content, application, service, source or target” – BEUC definition
- Global trends:
 - Huge demand in traffic and innovative applications! (ie excess demand)
 - Increasing number of time-sensitive and broadband intensive applications
 - Variable speed, network congestion & ‘variable’ quality
- Industry response:
 - Traffic management becoming accepted
 - Different pricing practices expanding
 - Bad behaviour attempted by some!
- Consumer response:
 - Want cheap, unlimited, fast access to more stuff....and.... reliable!
- Government/regulatory/courts respond differently!!





An 'Amusing' View by comedian John Oliver in the US



<https://www.youtube.com/watch?v=fpbOEoRrHyU>



Origins of the ‘NN’ debate – US story!

- Internet (cable Internet services)
 - FCC declaration – implication for 2014 an ‘information service’ - 2002
 - Not a ‘common carrier’ and no regulatory oversight
 - (basis for 2014 court decision!)
- Wire-line Internet services
 - Same FCC ruling applied – 2005
 - Vonage (VoIP) access to 911 case!
 - ‘open access’ NOT required (unique) – reduced ISP competition!!
- Comcast wins against FCC ruling
- Open Internet Order 2010
 - FCC ‘aggressive NN stance’
- FCC Order ruled invalid!!! – Jan 2014
 - Retention of the disclosure rules



FCC - the Open Internet Order 2010?

- An '*aggressive net neutrality stance*'
 - more lenient approach for mobile providers
 - Specific rules:
 - Transparency of n/w management practices etc – disclosure requirement
 - No blocking
 - Fixed providers – lawful content, applications, services, non-harmful devices
 - Mobile providers – as above BUT noting 'services that compete with their services' (eg OTT messaging, voice and/or video services)
 - No unreasonable discrimination
 - Concerns
 - Netflix, Disney, ESPN – 'sponsored data' for competitive advantage!



‘NN Discussion in Europe (Australia?)

- Background context – a ‘connected continent’
 - Variation across/between countries in Europe
 - Infrastructure and competition
 - Policies and regulation – pricing anomalies
 - **Mobile roaming charges**
- History in Europe – quiet until recently!
 - Some ‘dubious’ decisions by some Telcos (& their suppliers)
 - Mobile operators initially blocked Skype
 - KPN (initial) plan in 2011 to make users ‘pay for’ OTT competition
 - Netherlands has proceeded with NN rules! (2012)
- Current debate – ‘vote’ in May 2014!
 - Neelie Kroes – VP of the European Commission – backflip in 2014?
 - Trump’s FCC in the US reverses NN!



Arguments for and against

- For NN advocates (supported by Facebook & Google!) – a concern for free speech!
 - Reduction in competition and innovation
 - Potential abuse by ISPs for (unfair) competitive advantage
 - Risk of a ‘fast lane’ and ‘slow lane’ (ie congested)

Need for “online Magna Carta – bill of rights for the Web?”

- Against NN – potential impact (argued by Telcos!)
 - Constraint on network investment and innovation – eg 5G
 - Limited ability to provide network security
 - Inability to provide critical business & social service



‘NN’ Debate – A window to wider Issues

- Open access & structural separation
- NBN policy
- Regulatory certainty & network investment
- Telcos (regulated) vs OTT (unregulated)
- Competition & - ‘informed consumer choice’
- Misleading advertising (eg ‘fair use’ policies)
- Copyright’ & privacy protection
- ‘Internet’ filtering – SPAM, child porn, terrorism
- Ex-post versus ex-ante regulation (eg NN)



Data from Europe – BEREC Report – May 2010

■ BEREC

- Body of European Network Regulators

■ Highlights

- 20 – 50% of mobile BB users have ‘agreed’ to service restrictions (eg Skype, Viber etc)
- About 20% of fixed operators apply restrictions to limit ‘peer to peer’ services at peak times (eg bit torrent)
- Some 85% fixed users (76% of mobile users) propose at least 1 unrestricted service

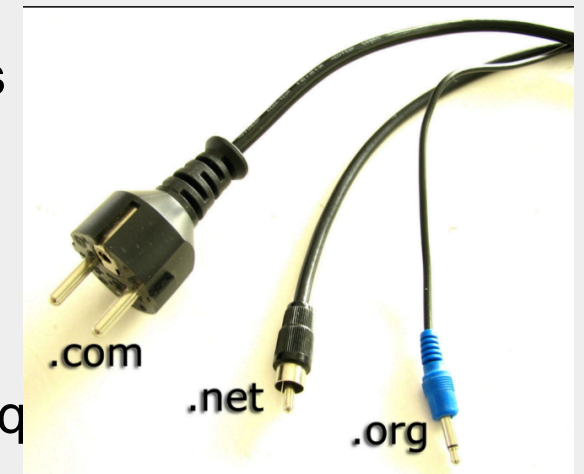
■ Questions

- Choices limited (in some countries) and increasing user awareness a challenge?



Current practices (in Australia)

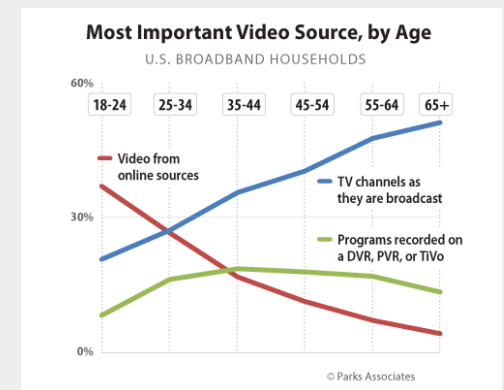
- Data caps
 - Fixed network caps (only in the US since 2011)
 - Mobile networks – ‘throttling’ vs ‘excess charges’
 - The 4G and 5G ‘opportunities’!!!!
- ‘Dodgy’ marketing (eg Kogan mobile)
 - ‘unlimited use’ claims – subject to ‘fair use’ terms
- iiNet and content – ‘welfare-enhancing’
 - Specified movies NOT in their data cap
- Politics and NN Issue?
 - ALP did not support recent Greens call for NN Inquiry
 - ACCC does see need for NN regulation





Observations

- Recommended direction on 'network neutrality' are VERY polarised
 - Competition and non-discrimination
- The US was the origin of debate and Europe more 'progmatic'
- Possible implications
 - Two (or more) tiers of Internet?? – a fast lane at a higher price
 - Future of telephony an example?
- Debate in Australia minimal to date! – Watch:
 - Netflix and Virgin 'eyeing' Australia market
 - FOXTEL broadband
 - ACCC 'concern' re Telco deals with OTT (large) players
- Impact of further decisions in the US and Europe
 - Recent changes in direction (eg Google, Netflix, Apple)



Be wary of arguments by 'corporates' based on principles!



References and Acknowledgements

■ References

■ Sample Papers

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 - Christopher S Yoo
- Does Europe Need Network Neutrality Rules? – International Journal of Communication 2007
 - Martin Cave et al
- Selected Articles from TJA Vol 59, No 2, 2009
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- Net Neutrality Regulation Debate in the UK and the US – 2012
 - Chinonso Ijzie
- Net Neutrality – Ending Network Discrimination in Europe – Oct 2013
 - Giusy Carnella et al

■ Acknowledgements to colleagues

- Paul Budde, John Costa, Leith Campbell