

# Net neutrality and the regulation debate

February 9 2006

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Public-interest groups like Common Cause and the Consumer Federation of America want it; Internet service providers such as BellSouth, Verizon and AT&T, don't. Large internet companies, led by Google, are lobbying Congress and the Federal Communications Commission for some form of it.

It is network-neutrality legislation. Network neutrality is the concept that network providers, such as AOL or Comcast, should be neutral in how quickly and efficiently they provide Internet content and that the consumer should be able to access any content or application he or she desires in relatively the same way without restrictions from the Internet service provider.

The possibility of network-neutrality legislation is on the minds of interest groups and Internet service providers as Congress and the Federal Communications Commission prepare to revisit the Telecom Act. Two sides are quickly forming. Those in favor of government intervention to prevent tiers of Internet service and those who would like to let the market dictate the development of bandwidth capability and who will pay for faster technology.

Proponents of legislation would like to see regulation coming from Congress that ensures that networks providing the means or the "pipes" for the Internet remain neutral as to the access and speed of delivery of the content.

Jonathan Krim of [Washingtonpost.com](http://Washingtonpost.com) and Newsweek Interactive

moderated a panel on network neutrality Wednesday at the Congressional Internet Caucus Conference on the State of the Net. Krim opened the panel with an analogy of an electronic jukebox, which gives priority to purchased songs in a queue according to the price paid for the song. "The more you pay the more priority your song will get playing on that jukebox and in many ways I think that is the proper analogy with what can happen with packet prioritization on the Internet."

Telephone and cable companies have dominated the role of Internet service providers. They have said that the ability to create a faster, tiered, Internet system is the wave of the future.

"What BellSouth is talking about in the context of net neutrality is bigger, better, faster internet -- the internet of the future," said Bennett Ross, general counsel for BellSouth's Washington office. "We see there are only two really principals and questions that have to be addressed. ... Namely is this an area which the government should regulate? And if the government is going to regulate what are those regulations going to look like?"

This is the question on the minds of ISPs, Internet companies, and lawmakers. As the president signed the Deficit Reduction Act Wednesday, which paved the way for digital television reform, House Committee Chairman Joe Barton, R-Texas, emphasized in his keynote address at the conference that there was not a more pressing issue than revision of telecom law. "And as for net neutrality, it's pretty tough to determine what the right thing is," said Barton.

Gerry Waldron, a partner in communications law for Covington and Burling, said that regulation is what is needed to ensure the future of a fully accessible and open Internet. "In terms of whether there is a role for government to preserve the internet, we think the answer to that is yes."

Waldron referred to testimony given by Dr. Vinton Cerf, one of the "founding fathers" of Internet protocols and now vice president of Google, to the Senate Committee on Commerce, Science and Transportation on Feb 7.

In his testimony Cerf asserted the need for regulation as a way to keep the U.S. telecom industry as well as online commerce competitive with other developed nations. "Allowing broadband carriers to reserve huge amounts of bandwidth for their own services will not give consumers the broadband Internet our country and economy need," Cerf told Sens. Ted Stevens, R-Alaska, and Daniel Inouye, D- Hawaii. "Promoting an open and accessible Internet is critical for consumers. It is also critical to our nation's competitiveness -- in places like Japan, Korea, Singapore, and the United Kingdom; higher-bandwidth and neutral broadband platforms are unleashing waves of innovation that threaten to leave the U.S. further and further behind."

The telecom industry, joined by cable companies, has argued that there is already sufficient oversight in FCC regulations. "There already exists oversight by the Federal Communications Commission today that has proven to be effective in protecting consumers' right to be in control of their Internet experience," said Walter McCormick president of the U.S. Telecom Association at the Feb. 7 hearing. "The Federal Communications Commission has made it abundantly clear that it has both the authority and the appetite to move swiftly to intervene on behalf of the consumer."

The wave of the future is an expensive one. CEOs in the industry are concerned about who will pay the cost of increasing broadband and innovating the next step in Internet evolution.

"All sides of the net neutrality debate agree that consumers should be in control of their Internet experience. Where we differ is on whether

consumers alone should foot the bill for the advanced networks that drive the Internet's growth and evolution," said McCormick. "Simply put, our side believes that businesses that seek to profit on the use of next-generation networks should not be free of all costs associated with the increased capacity that is required for delivery of the advanced services and applications they seek to market."

The fear of consumer groups is that a faster Internet will soon resemble the cable industry. Cable television creates a walled garden, showing only its programming and plugging other channels owned by the same company. With the possibility of a pay-to-play Internet approaching as fast as innovation, communications lawyers like Waldron are worried that ISPs might look too much like cable.

"The Internet is about innovation without permission," said Waldron at Net Caucus conference. "But if you wanted to start a cable channel today. You would have to go to Comcast and knock on their door and say, 'is it ok to get on?' We don't think the Internet should evolve to the point where we have to knock on BellSouth's door or Verizon's door in order to provide content."

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Citation: Net neutrality and the regulation debate (2006, February 9) retrieved 17 May 2024 from <https://phys.org/news/2006-02-net-neutrality-debate.html>

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