

The Web: Net neutrality discriminatory?

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The idea of Net neutrality sounds fair in the abstract, but experts are telling UPI's The Web column the policy proposals emanating from Congress and the federal bureaucracy may actually be quite discriminatory.

The basic problem with the proposals is more complex than their advocates have let on thus far in their calls to ensure that all Internet content is treated equally, Jerry Ellig, a senior research fellow at the Mercatus Center at George Mason University, based in Fairfax, Va., told The Web. "It's possible that a network owner -- Verizon, Comcast, etc. -- could discriminate against Internet traffic in a way that harms consumers," Ellig said. "But it's also possible that a network owner could discriminate in a way that benefits consumers -- such as guaranteeing higher-priority transmission for movie downloads."

Ellig said new laws are not needed to reach the goal of ensuring better access to Internet services for all. "Anti-trust law, with its rule of reason standard, provides a flexible way of preventing discrimination that harms consumers while allowing discrimination that benefits consumers," Ellig said.

One of the federal agencies that deal with anti-trust issues -- disputes over unfair trading -- is the Federal Trade Commission. Ellig notes that the chairman of the FTC, Deborah Majoris, recently said that the FTC has jurisdiction over broadband networks "because broadband isn't telecommunications." That means it doesn't fall under the jurisdiction of the Federal Communications Commission, which regulates telephony

but not the high-speed Internet.

"So, while I think there may sometimes be a problem here, there's already a policy solution in place to deal with it," said Ellig.

The Congress is, however, moving forward with legislation to solve that problem with a new solution nonetheless. The Senate Commerce Committee last week sent a telecommunications bill to the Senate for consideration on a full floor vote. The bill is called the Communications, Opportunity, Promotion and Enhancement Act of 2006 and would create a two-tiered Internet, experts said. Under the proposed law, Web site owners would have to pay network providers fees in order to have their Web sites load speedily. If they don't pay the fee, they will load more slowly.

Some, however, view this as a good thing, as free-market capitalism in action. "I don't know how much, if any, government has been invested in building the infrastructure that exists today," Jeff Wasson, chief executive officer of Gusto.com, a new, community-based travel Web site, told The Web. "If the telcos have laid the pipes, then comparing them to a city sidewalk or our USA highway system is not accurate. Public good is what tax money does. Asking for-profit businesses to subsidize is a model that does not work. If I own something, I should be able to charge what the market can bear, plain and simple."

This too, may sound good, in theory, but policymakers may need to distinguish more carefully among different types of service providers, experts said. Some told The Web that it is important to differentiate between Internet backbone providers, operating the core of the Internet network, and broadband access providers who provide access to end users. Broadband access providers have never differentiated among the types of traffic. That means that the current bill before the Senate would make the Internet world radically different than it is today -- as it allows

differentiation among types of traffic.

This stance -- seen in the bill and promoted by some major telecom companies and even officials in the U.S. Department of Justice -- is leading to cynicism among some observers about the motivation for the change in regulation.

"The telcos say they have to charge extra so they can afford to build out broadband networks," said John S. Quarterman, chief executive officer of InternetPerils Inc., an Internet security consulting firm. "I'd be more willing to believe that if the various incumbent carrier, or their predecessors, hadn't already been promising us fast broadband for everyone for many years now, and if Japan and Korea hadn't already managed it without this kind of a finagle."

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