

Network Neutrality – What Is It and What Does It Mean?

By: Cheri Michel, Paralegal

Network Neutrality is an issue that has been bandied about lately without a lot of explanation of what it means for the average consumer. The issue revolves around whether all Internet traffic should be treated equally, or if an Internet Service Provider (ISP) should be allowed to act as a filter for Internet content.

Proponents of net neutrality are concerned that if an ISP were to be given the ability to “filter” Internet content and services, that, in effect, the Internet and access to it would be controlled by a few large corporations that would restrict information and limit competition, and potentially impact free speech. Opponents of net neutrality believe that an ISP provider should have the right to slow down or restrict a user’s access to certain high-bandwidth web content or programs in order to make its Internet “gateway” work more efficiently for other users attempting to access lower-bandwidth content.

Those who oppose net neutrality suggest creating a type of tiered service offering which would require individuals using or providing web sites with a higher bandwidth to pay more than individuals requiring a lower bandwidth. This concept itself – that users pay accordingly for the level of services or speed desired - is not unusual. In fact, it is similar to the structure commonly used to charge for other services, such as phone service, cable service, or even automobile emergency tow service. The difference in this case is that the ISP would have the ability to charge *providers* of Internet content, websites or services a fee for faster access to the ISP’s gateway and to the end user. Net neutrality opponents argue that a tiered service offering would spur innovation with regard to methods for handling high bandwidth, and would provide an incentive for an ISP to invest in its network, since it could potentially recoup that investment.

Congress and the Federal Communications Commission (FCC) have already begun to address the issue of net neutrality. In 2005, the FCC created a Broadband Internet Access Policy Statement with four principal policies (listed below). These four policies are to be incorporated into future policies and do not themselves create regulatory obligations:

- Consumers are entitled to access the lawful Internet content of their choice;
- Consumers are entitled to run applications and services of their choice, subject to the needs of law enforcement;
- Consumers are entitled to connect their choice of legal devices that do not harm the network; and
- Consumers are entitled to competition among network providers, application and service providers, and content providers.

In 2009, the FCC re-classified Internet broadband services so that broadband services now fall under the FCC’s regulatory policies. The FCC then added two additional principal policies with the aim of touching on net neutrality and imposing regulatory obligations. The requirements are: 1) That an ISP cannot favor any lawful Internet applications and content over others; and 2) That they must prominently display network management policies and provide notice to customers of changes in those policies.

Since this is new effort by the FCC, it is unclear at this time what other policies it may draft and how it will attempt to implement those policies; or if Congress will successfully pass legislation to legislate net neutrality. One thing that does seem clear is that if the opponents of net neutrality take these regulatory policies and legislative actions to court, we are sure to see a long battle that may eventually re-shape the way we access and use the Internet.

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Cheri Michel is an intellectual property paralegal in Hahn Loeser’s Akron office.