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November 14, 2011  
**What's At Stake In the Net-Neutrality Fight**

By **Bill Frezza**

Two fundamental issues lie at the heart of the contentious battle over the Federal Communications Commission's (FCC) attempt to establish "network neutrality" regulations over the freewheeling Internet. Freedom of speech is not one of them.

This came as a surprise to the Smith College students I met recently when I was invited to campus to debate the issue. But then, many things surprised them regarding both the history of the FCC's role in regulating telecommunications and numerous facts about how the Internet was built-by whom, why they built it, and how it actually operates.

Ignorance served as no check to passion, however, as evidenced by my debating partner's assertion that each and every American has a "right to an architecture."

▶ A "right" to an architecture? This fight, like most fights in Washington, is about power and money. Do we really want to empower a political agency to regulate the most vibrant marketplace of products, people, and ideas that has ever bubbled up from the genius of a free people? It is naive to think that, once the FCC gets a foot in this door, rate regulation will

not follow as the ultimate means to achieve the vague and shifting goal of "fairness."

Would it surprise you to learn that none of the students knew that it was once illegal for Americans to own their own telephones, or that it took a Supreme Court ruling to strike down the FCC's power to sustain Western Electric's monopoly? Or that regulators used to fix prices for phone calls and long distance calls once cost a dollar a minute?

Indeed, not just students, but most adults don't seem to appreciate that telecommunications innovation lay dormant for decades precisely because the phone company operated under a regulatory mandate to treat everyone equally. No one could access a new capability unless and until it could be made readily available to everyone. This is why Bell Labs once claimed that modem speeds could never exceed ten thousand bits per second, compared to the millions of bits per second they typically operate at today. Faster modems would be unfair because not every

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telephone line in the country could support them.

Is this the FCC we want to empower to control the future of the Internet? Are we really prepared to sacrifice the tangible reality of progress for the utopian illusion of equality?

Succumbing to the dominant narrative, some of the students in the audience spouted romantic visions of the selfless, government-funded scientists who "founded" the Internet, arguing that net neutrality was a good idea because "the founders would have wanted it that way." They seemed unaware that the academics who crafted a set of protocol standards that allowed their computers to talk to each other were not the same entrepreneurs and corporations that risked their capital to build the networks we now enjoy in search of profits. Without these commercial operators, the now ubiquitous interconnected network of networks which many take for granted - as if a gift of nature - would not have been built.

Nor did these young scholars have any idea that many of the "founders of the Internet" supported Ralph Nader's determined efforts to make it illegal to transport commercial content over it. That's right. If Nader's front organization, the Taxpayers' Assets Project ([www.tap.org](http://www.tap.org)), had its way, the Internet would be a strictly non-profit public commons. In which case, most of the Internet that we now know would not exist. But in Nader's alternate reality we would all be equal - equally bereft of **Amazon.com**, iTunes, YouTube, **Google**, and Facebook. Yet the prospect of that information desert has not stopped Nader from advocating loudly for his laughable vision of net neutrality.

As for preferential treatment of paid content, my audience seemed oblivious to the fact that this has been going on for years through Content Distribution Networks. Bandwidth and storage are constantly traded off as architectures evolve, a healthy give-and-take driven by content providers willing to pay more to improve their customers' experience. If they can't satisfy their customers, those customers will go elsewhere.

Are we not all better served if Internet providers are free to discriminate in favor of time-sensitive traffic like voice and video over bulk delivery services like email, spam, and stolen copyrighted movies, which can be transported in the background? As new services are invented in the future, will innovators be required to petition the FCC for permission to treat their packets differently, giving incumbent competitors - along with free riders, lawyers, and armchair academics - an opportunity to lobby and object?

Which brings us back to the freedom of speech argument. The first amendment to the Constitution states that, "Congress shall make no law ... abridging the freedom of speech, or of the press." It says nothing about giving out free printing presses, nor does it command newspapers to make space available to all comers on a non-discriminatory basis. Freedom of speech does not mean subsidized speech, which is what net neutrality rules would create.

Now that the Senate has punted on the issue, the D.C. Court of Appeals will decide whether the FCC has the power to command Internet service providers (ISPs) to do just that. That makes ISPs the only party whose freedom is at stake here - the freedom to risk their capital, deploy their

property, and compete for customers as they see fit.

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**johnwerneken**

Don't trust the government...all of us together invariably will work to stick it to every one of us as an individual. Don't trust the monopolists either. Instead, trust competitors to compete, and individuals to prefer in their consumption what they know best, which is what they want themselves for themselves. One will still have issues of undue power frustrating all that, a need for law, and a need to watch that the law does not become the very evil it is established to prevent.



**PragmaticGuy**

Net Neutrality is not even really an issue of Fairness. The question is which corporate interests win out... the content providers or the physical architects of the system. I hope the ISPs have good lobbyists!



**RealClearDelusions**

There are lots of fundamental flaws with this article, so it's hard to focus on just one, but I'll try.

The notion that nefarious government bureaucrats set up the AT&T monopoly and prevented innovation is just utterly laughable. It was AT&T that sought and was granted that monopoly, which Ma Bell thereafter so successfully and vigorously maintained. (I'm sure you'd have taken great pleasure, Bill, in lecturing and patronizing those students with your vast and deep knowledge of the Kingsbury Commitment.)

So AT&T is the one that prevented the innovation, and it took decisions like Carterfone to open up its network -- you know, the network in which AT&T had invested all of its hard-won capital. In all your fascination with capital investment, I'm surprised you aren't calling out the Carterfone decision as a Marxist plot.

And of course the expected tradeoff that the government wanted -- and got -- for this monopoly grant was not "equal treatment" for all, but universal service. That is, ubiquitous service at affordable rates -- the very goal that ISPs bleat about today when they complain that they need the ability to discriminate in order to provide lower-priced broadband offerings to the 99 percent.

In any event, steeped in your tremendous historical knowledge of the wicked AT&T monopoly, what does your rant advocate? Why, turning the Internet over to AT&T, of course, along with a few other vertically integrated giants that likewise enjoy duopoly power in the fixed and mobile broadband space.

Genius. Don't trust the government to preserve openness on the Internet: trust the monopolists.



**Whiskey Jim**

I get your argument. Do you?

Net neutrality is malarkey.



**RealClearDelusions**

It must be nice for you to pretend you have some secret and superior knowledge without actually having to go through the small bother of sharing it.

Your comment is malarkey and balderdash too. Take that. Person with the stuffiest slang wins, hands down.



**Beef**

*"Are we really prepared to sacrifice the tangible reality of progress for the utopian illusion of equality?"*

That is the question of our day, is it not? Not just regarding the internet, but in all of our affairs.

Unfortunately, it seems about half of us now value "fairness" over everything, even our basic freedoms. Despite all the disastrous policy decisions of the past several years, the President still sits at 50% approval, and we continue with the grand project of redistributing away our future.

The explosive growth of the internet is a perfect example of how market forces can function to make all our lives better. Now I guess it's time to kill that, too.



**Mark+Dragan**

Great article. I was not aware of a lot of that information.



**bbeeman**

Most people don't realize what we went through with the fairness idea. It consumed the efforts of the telecommunications industry for generations to get out from under the slave like yoke the AT&T monopoly had imposed on our nation.

If people don't remember, we all had to lease our telephones from AT&T, and the style and technology was never improved. Technology was at a stand-still. It took not only entrepreneurs, but capital to end this tyranny. The Carter Phone decision and MCI's law suits finally broke this monopoly. Thanks for your article.

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