



The Internet Left Gets a Case of the Vapors

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The “net neutrality” issue has officially gone supernova. What should be a staid commercial argument between broadband pipe and application providers has become a political rallying point for the Internet left. Yet, in the euphoria of a battle between good and evil, the enlightened versus the benighted, the farseeing against the retrograde, net neutrality proponents have fallen victim to believing their overblown rhetoric. To them, a crisis-in-theory has become a crisis-in-fact; fierce competition between broadband platforms disguises durable monopoly; and incentives to maximize traffic over platforms are inverted into schemes to censor and block content.

To be sure, the locked-down, content-limited, pay-for-everything Internet described by net neutralists sounds rather bleak – kind of like CompuServe circa 1993. But, their self-regard combined with millenarian certainty of Internet doom do not amount to a compelling case for Internet regulation.

To begin with, take SavetheInternet.com’s statement of what is at stake as Exhibit A:

Congress is pushing a law that would abandon the Internet's First Amendment -- a principle called Network Neutrality that prevents companies like AT&T, Verizon and Comcast from deciding which Web sites work best for you -- based on what site pays them the most.

Even allowing for political hyperbole and misrepresentation, communications legislation under consideration by Congress in no way threatens the status quo. There is *no* net neutrality mandate right now. Through a series of regulatory decisions, the FCC has allowed broadband to thrive in a relatively unregulated, largely market-driven environment. Despite the lack of a net neutrality mandate, broadband competition and consumer access to content of their choosing remains the norm. Meanwhile, the

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Federal Trade Commission possesses jurisdiction to police unfair competition and consumer fraud concerns. This is all accomplished without inviting the FCC to regulate the Internet.

Exhibit B of the net neutrality hysteria was the recent op-ed in *The Washington Post* by professors Lawrence Lessig and Robert McChesney. Professor Lessig has become something of the Internet's Chicken Little. Since his 2000 book *Code*, Lessig has been warning of the "end of the Internet" as we know it. While Lessig has predicted the Internet's demise at the hands of rapacious corporations going on six years now, over 40 million American homes and businesses have signed up for broadband service and content offerings over the Internet have multiplied. Broadband providers have every incentive to maximize traffic on their networks to offer consumers a better product. That providers might differentiate offerings by offering low-latency Internet video or voice options to consumers or applications' providers is a good thing. That limited-access packages at lower cost to the consumer might emerge in an unregulated market is a good thing. The Internet does not need saving, except from premature regulators like Lessig and McChesney.

Finally, to round out the netroots grass roots patina of the net neutrality campaign, is Exhibit C, Common Cause, whose business model is usually to urge regulation of speech. Echoing their compatriots on the Internet left, Common Cause raises the specter of a "privatized" Internet with "slow lanes" where the broadband providers get to "double charge" for access. Admittedly, one doesn't expect Common Cause to have much acuity in its economic analysis. But the ability of broadband providers to pull off these dastardly deeds is simply presumed.

More likely, the "tollbooth" conversation of net neutrality goes something like this:

[*Broadband CEO*]: How much are you going to pay me to run your bits over my network?

[*Google CEO*]: That's funny, I was just going to call and ask you how much you were going to pay me to allow my wildly popular bits to grace your network?

[*Broadband CEO*]: Wha? You should be paying me....

[*Google CEO*]: Excuse me, I need to get the other line to ink the Google broadband package with your competitor.

[*Broadband CEO*]: Zero sounds like a great price.

Now, to be sure, not all website operators have the cachet and consumer demand of a Google. However, it is the collective interest of both broadband providers and content companies to increase subscribership and connect consumers. It may be a fight over the spoils from consumers between the pipe and content companies, but neither broadband operators nor content companies have a monopoly on virtue or vice.

A good prophecy of doom has its soul-satisfying qualities. So too does the solidarity of being in a group of the enlightened fighting against would-be toll keepers and innovation-killers. But network neutrality proponents have embarked on a crusade prematurely without bothering to make the case in all but the crudest terms.

What is really too bad is that net neutralists have backed themselves into a corner. There are legitimate concerns surrounding net neutrality. But the answer isn't "regulate or the Internet will come to an end," but "be vigilant and sensitized to the competition issues that exist with broadband networks." This makes for much more staid, even boring, rhetoric. It involves close analysis instead of loud sloganeering. But, let us hope that some of the net neutralists can walk their political campaign back, and contribute more soberly to a discussion of how to ensure America has a vibrant, competitive, application- and content-rich broadband future.