Net Neutrality: What Is It, and Why Is It Important To Libraries?

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1. Definition and background
2. Internet, telecommunications
3. FCC actions and regulations
4. ALA, libraries and Net Neutrality

The issues are complex, and the details matter. —Former FCC Chairman Julius Genachowski
A Definition of Net Neutrality

Net Neutrality:
Accessing any content or using any service or application over the Internet is done in a neutral manner. That is, there is no network configuration or practice by providers that discriminates against access to any legal content, services, or applications.
Background on Net Neutrality

- Neutrality long predates the Internet
  - Based on FCC phone co. (voice) regulations
    - No one refused service; all calls connected regardless of content
- Major FCC regulatory difference
  - Title I: “Information service”
    - Lacks non-discrimination protections
  - Title II: “Telecommunication service”
    - Strong non-discrimination protections

Is the Internet an information service or a telecommunication service?

47 U.S.C. Title II: It shall be unlawful for any carrier to make any unjust discrimination in charges or services or to subject any person to any unreasonable disadvantage.
Background on Internet Access

- Late 1990s: Most households (and libraries) had dial-up Internet access
  - More than 7,500 dial access ISPs
  - Most telecom/cable co. not ISPs

- Early 2000s: More households (and libraries) move to broadband (BB) Net access
  - More telecom/cable co. providing BB Net access
    - Demise of dial-up providers

"The growth of home broadband has created a new and difficult regulatory problem." --Tim Wu (2002)
FCC Actions for More Access

- Early 2000s: U.S. 15\textsuperscript{th} in household Net access
  - President Bush: Connect “every corner” of U.S.

- FCC action to increase access
  - More access based on more competition
  - More competition based on less regulation

- 2002: FCC says cable co. ISPs not subject to non-discrimination regs (Title II)
  - Provide unregulated “information service” (Title I)
    - 2004: Upheld by Supreme Court
FCC Removes Title II Protections

- 2005: FCC deregulates telco ISPs
  - “Level playing field” for both telco and cable ISPs
    - Both provide a Title I “information service”
  - Removes non-discrimination (Title II) protections to maintain a “neutral” Internet

The Title II nondiscrimination rules which were vital to keeping the Internet open (i.e., neutral) no longer apply. We need to keep a watchful eye to ensure that ISPs do not become Internet gatekeepers with the ability to dictate who can use the Internet and for what purposes.

—FCC Commissioner Michael Copps, 2005
FCC Actions and the Courts

- 2008: FCC says Comcast
  - “Significantly impeded consumers’ access to [Internet] content”
- 2008: Comcast sues FCC
- April 2010: Court finds in Comcast’s favor
- Dec. 2010: FCC Order reasserts some authority
- 2011: Verizon sues FCC
- 2014: Court says FCC can’t enforce non-discrimination regs under Title I

The FCC is relying on a hodge-podge of provisions it insists it can defend in court. —Wired website.
FCC Takes Major Action

- 2014: FCC opens major review of Net Neutrality
- March 2015: FCC adopts *Open Internet Order*
  - Reclassifies Internet as Title II telecom service
    - Includes strong non-discrimination regs
- Dec. 2015: AT&T sues FCC
- June 2016: Circuit court upholds Order
  - Supreme Court declines review

Libraries value an open Internet as critical to our democracy and to enhance our freedom of speech.
—ALA comments to FCC
Recent Developments

Elections have consequences…

- **2017**: FCC Internet order *reverses* 2015 Order
  - Removes Title II non-discrimination lang.
  - Suits filed; decision June 2019?
    - ALA files supporting brief
  - States pass Net Neutrality laws
    - WI AB 909 – not passed

- **2019**: Save the Internet Act *(HR1644)*
  - March 26: Passes subcommittee
    - Includes non-discrimination lang.

The 2017 Order supports “market-based policies necessary to preserve the future of Internet freedom.”

This bill restores popular, common sense net neutrality protections. --Chairman Mike Doyle (D-PA)
Net Neutrality and ALA*

- Strong Net Neutrality supporter
  - Filed numerous comments with FCC and court briefs
- Supports equitable access to content
- Opposed to censorship (by ISPs)
- Advocates for IF and diversity of opinions, regardless of communications medium

* For ALA information on this issue, see [http://www.ala.org/advocacy/telecom/netneutrality](http://www.ala.org/advocacy/telecom/netneutrality)

Without Net Neutrality the Internet could degrade into something like cable TV, to the detriment of all users.

--ALA comments to FCC
Net Neutrality and Libraries

- Libraries are Internet access providers
  - Only 65% of households have access
- Libraries don’t have deep pockets
  - Cannot pay for priority access
- Libraries concerned with
  - Digital divide
  - Equity of access
  - IF and First Amendment issues

Without a neutral Internet there is great risk that prioritized delivery will be available only to those who pay extra, an enormous disadvantage to libraries.

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? Questions ?

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