

ARMENIAN SCHOOL ON  
INTERNET GOVERNANCE  
*Net Neutrality*

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# ***Net Neutrality***

*Internet Service Providers and governments should treat all data on the Internet equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication.*

*Tim Wu, Law Professor in Media Law, Columbia University, (2003) "Network Neutrality, Broadband Discrimination" Journal on Telecom and High Tech Law.*

# ***Net Neutrality***

**ELEMENTS:**

**DIFFERENTIAL TREATMENT OF PACKETS** by  
Telcos/Internet Service Providers based on packet  
sender and/or type/or content

**DIFFERENTIAL CHARGING** based on packet sender,  
user or type (charging by telco or ISP and/or  
charging/zero rating of user)

**PARTIES:** Telecommunications Providers, Internet  
Service/Access Providers, Applications/Service  
Providers

**NB:** Usually excludes 'traffic management'

# ***Net Neutrality: ISOC***

*Public Policy Briefing 2015:*

*The Challenges*

- *Blocking and Filtering*
- *Internet Fast Lanes (preferential treatment)*
- *Throttling*
- *Zero rated services*
- *Market Competition*

# ***Net Neutrality: ISOC***

## *Principles:*

- openness, as well as the enabling characteristics of access, choice, and transparency
- Choice and control by users over their online activities
- fair and impartial access to Internet resources, and transparent access to accurate information about bandwidth and network management policies

# ***Net Neutrality: EU***

EU Directive (L310.1) 26 November 2015

- users will be free to access the content of their choice, they will not be unfairly blocked or slowed down anymore
- no paid prioritisation
- all traffic will be treated equally, subject to strict and clearly identified public-interest exceptions, such as network security or combating child pornography, and subject to efficient day-to-day network management by Internet service providers.
- In parallel, Internet access providers will still be able to offer specialised services of higher quality, such as Internet TV and new innovative applications, so long as these services are not supplied at the expense of the quality of the open Internet.

# ***Net Neutrality: EU***

Content:

*Article 11.1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers*

Charter of Fundamental Right of the European Union

# ***Net Neutrality: Australia***

Discrimination by packet sender – No  
*(not permitted under competition law)*

Discrimination by packet type – yes  
*(as part of traffic management)*

Discrimination on price – yes,  
*(as long as it isn't anti-competitive)*

Discrimination by user – yes – sort of  
*(can provide content to own subscribers)*

# ***Net Neutrality: USA***

## Background

US Concept of 'common carrier' – akin to public utilities. Requirement of non-discriminatory carriage of goods/services

Under US law, services such as telegraph, telephone considered as common carriage services

Historically, internet services categorised as an information service – and not subject to common carrier regulation and rules

# ***Net Neutrality: USA***

**FCC: Report and Order 15-24 March 2015( Based on ISPs being 'common carriers) (*Upheld by US Court of Appeals June 2016*)**

- No blocking to lawful content, applications, services, or non-harmful devices, *subject to reasonable network management*
- No throttling – not impair or degrade lawful Internet traffic... - *subject to reasonable network management*
- No paid prioritization – favouring some traffic over other traffic – including traffic shaping, prioritisation, resource reservation...

*NB: However, requirements on common carriers eased – no tariff regulation, rate regulation, unbundling etc*

# ***Net Neutrality: USA***

FCC Consultation on Overturning Open Internet Order:  
Docket No – 108: ‘Restoring Internet Freedom’”

*The Chairman of the Federal Communications Commission (FCC) has proposed a Notice of Proposed Rulemaking (NPRM) to end the utility-style regulatory approach that gives government control of the Internet and to restore the market-based policies necessary to preserve the future of Internet Freedom, and to reverse the decline in infrastructure investment, innovation, and options for consumers put into motion by the FCC in 2015.*

# ***Net Neutrality: USA***

Proposed Rulemaking: Restoring Internet Freedom

- ISPs back to information service classification
- Mobile broadband Internet Access services no longer a commercial mobile service (under Title II)
- Return regulation to Federal Trade Commission and Commission's Enforcement regime
- Examine if ex ante regulation necessary
- Delete Internet Conduct Standard

*Comments 12 July – Reply comments 16 August*

# ***Net Neutrality: USA***

## **July 12th: Internet-Wide Day of Action to Save Net Neutrality**

- The FCC wants to destroy net neutrality and give big cable companies control over what we see and do online. If they get their way, they'll allow widespread throttling, blocking, censorship, and extra fees. **On July 12th, the Internet will come together to stop them.**

# *Net Neutrality*

Issues	ISOC	USA	EU	Australia
Content (Lawful)				
Discrimination on Packet type/sender				
Discrimination on packet price				
Discrimination on service access				
Constraining choice of service provider				

# *Net Neutrality: References*

## **Definition:**

Tim Wu (2003). "[Network Neutrality, Broadband Discrimination](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=388863)"  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=388863](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=388863)

## **ISOC**

<http://www.internetsociety.org/net-neutrality>

## **Canada**

[https://www.canada.ca/en/radio-television-telecommunications/news/2017/04/crtc\\_strengthen](https://www.canada.ca/en/radio-television-telecommunications/news/2017/04/crtc_strengthen)

## **EU**

<http://ec.europa.eu/priorities/digital-single-market/>  
<http://stakeholders.ofcom.org.uk/consultations/net-neutrality/statement/>

## **Australia**

<https://www.communications.gov.au/what-we-do/internet>

## **FCC**

FCC Open Internet <https://www.fcc.gov/openinternet>  
[https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344614A1.txt](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344614A1.txt)

***Net Neutrality***

***QUESTIONS***

***THANK YOU***