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Net 'Neutrality' is Government Theft

by Ross Kaminsky (more by this author)

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To Democrats, there are only two categories into which fit all places, people and things. There are those inside of government and those outside. If something is inside, it needs to be nurtured, protected and subsidized. If something is outside, it needs to be regulated and taxed.

(And, please, no e-mails about the US military. Liberals see it as an illegitimate appendix to government and treat it accordingly.)

History's greatest example of a world-changing system developed in an essentially unregulated environment is certainly the Internet. Despite the claims of Al Gore, the Internet was not, like the light bulb or the telephone, the invention of one person. But rather the Internet is the ultimate example of widely dispersed creativity, investment, and response to consumer demand -- the essence of Adam Smith's "invisible hand" -- which is bettering the lives of people around the world, rich and poor, black and white, in dozens of languages, forever.

And it comes as no surprise that Democrats want to regulate it.

On Monday, Julius Genachowski, the Obama-appointed Chairman of the Federal Communications Commission ("FCC") laid out his [intention to implement new FCC rules](#) regarding the Orwellian-named policy of "Net Neutrality." Genachowski has an impressive, but thoroughly left-leaning pedigree, including working at the *Harvard Law Review* while Barack Obama was running it, clerking for very liberal judges including David Souter, and working for Obama's presidential election campaign.

The idea of "Net Neutrality" is to prevent Internet Service Providers ("ISP"s) from being able to slow down particular internet traffic or charge more for it, even if that traffic is compromising internet service for the rest of their network's customers.

One definition of Net Neutrality is “the principle that data packets on the Internet should be moved impartially, without regard to content, destination or source.”

And while that sounds oh-so-fair on first glance, what the principle really amounts to is theft.

ISPs like Verizon, Comcast, and AT&T have spent many billions of dollars on Internet infrastructure. In fact, according to James Gattuso who studies telecommunications issues for the Heritage Foundation, AT&T claims to have invested more money into the American economic infrastructure than any other company last year, and plans to invest \$18 billion in capital spending in 2009.

Net Neutrality aims to tell these firms how to operate their very valuable assets, under the guise of being “neutral”. So, for example, an ISP will not be allowed to slow down “peer-to-peer” file transfers even if they are disproportionately degrading Internet service for others. Much like our income tax system, it is reported that 10% of internet users consume 80% of bandwidth. And much like our tax system, there are those who want others to foot the bill for their costs. If ISPs can't have policies which address the fact that bandwidth is limited and that bandwidth hogs need to be restrained so the rest of their customers can maintain adequate service, that puts them in an extremely difficult situation.

Imagine you are a private builder of toll roads who invests a billion dollars in a highway. Then the government tells you that it's unfair for you to charge 18-wheel tractor-trailers a higher toll than you charge passenger cars despite the fact that the big trucks are responsible for the large majority of your maintenance and repair budget. What would your choices then be? Probably some combination of stopping construction of further roads, raising the prices for everyone (because the government says everyone has to pay the same price), or trying to find legally uncertain ways to game the system. The same choices will apply to ISPs under Net Neutrality.

Some proponents of Net Neutrality argue that the rules are necessary because there isn't very much competition among ISPs. But beyond the fact that in most cities and suburbs the competition between just the cable company and the phone company is enough to keep the business intensely competitive, Genachowski also proposed applying the new rules to wireless broadband services, possibly the most

competitive business in America.

As Dylan Tweney noted in an article at *Wired* magazine entitled “FCC Position May Spell the End of Unlimited Internet”, “AT&T has repeatedly stumbled in its ability to provide 3G wireless capacity, thanks to the unexpected popularity of the iPhone. Those difficulties lend credence to AT&T’s (and Apple’s) reluctance to allow apps like Skype and Slingplayer unfettered access to the 3G network: If the network can barely keep up with ordinary demand, just imagine what would happen if we were all live-streaming the Emmy Awards over our iPhones at the same time.”

While both the pro- and anti-Net Neutrality sides claim to be on the side of innovation, in the words of Heritage’s Gattuso, “I’m stumped to think of any government regulation which has increased rather than decreased creativity and innovation. This scheme is not made necessary by a lack of competition. It’s made to replace consumer choice with a government rule as to how traffic is to be managed. At the very least, we’ll have a slower, less efficient Internet. The government rules will be a first-come, first-served basis, but I doubt that’s the model the market would come to on its own; it’s not the model that works in most sectors of the economy.”

So why the push for “Net Neutrality”? Most of the support from the private sector is from large internet content companies which used to be truly capitalist and essentially libertarian in behavior, companies like Amazon, eBay, and particularly Google. As they add more high-bandwidth content, such as movies and music, they want to prevent ISPs from being able to charge them for using such a high percentage of available bandwidth. Instead, under the guise of “neutrality”, they’re trying to use government to prevent the owners of Internet infrastructure from being able to rationally set prices for the use of that infrastructure. In other words, they are trying to steal the ISPs property rights. Is it any wonder that almost all of Google’s political contributions go to Democrats?

According to Timothy Lee, Adjunct Scholar at the Cato Institute, there is also a technical misunderstanding by supporters of Net Neutrality. They believe that the increasing availability of new products, many of which will use higher-than-average bandwidth, will not be adequately dealt with by market forces and will eventually degrade the whole system. Says Lee, “The big problem with the argument is that they think the Internet is more fragile than it is. People have a lot of investment in

the way it works now. It's not realistic to think it will substantially change in a fundamental way. The real risk is that you end up with bureaucrats rather than entrepreneurs making technical and business decisions about how networks will work, a situation you really never want and particularly don't need in the extremely competitive wireless sector. The Internet's architecture will preserve what's good about it without needing regulation."

Another major problem with the described FCC regulations is that they include the words "reasonable" and "case-by-case" regarding how they will be enforced. Does anyone really want to trust any government, but especially this government, to determine which case is reasonable? This is the government that refused to prosecute members of the Black Panthers who were obviously intimidating voters and a government that's doing its best to defend ACORN, all the while scheming how to put as many conservative talk radio hosts as possible out of business and hiring people who publicly state that Republicans are "a**holes." Reasonable, indeed.

Net Neutrality regulations are not just unnecessary, but they pose a grave danger to the greatest technological advance in generations -- not to mention that they amount to theft of the ISP's property. As Dylan Tweney points out, with the Internet, "the FCC is proposing taking a free market that works, and adding another layer of innovation-stifling regulations on top of that. This may please the net neutrality advocates who helped elect the current administration, but it doesn't add up."

Ross Kaminsky has been a professional derivatives trader for over 20 years. Ross is a fellow of the Heartland Institute and writes about political economy and current events at Rossputin.com. He also contributes to blogs for the Denver Post, the National Taxpayers Union and FreedomWorks among others.

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