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## **Net Neutrality: A Library Issue**

**Devon Greyson**

*Should the Internet be regulated? Are my neighbours impairing my ability to Skype with my parents by downloading movies all the time? Is my ISP allowed to block my access to competitors' websites? What does "Net Neutrality" mean to me, and my library?*

Net (or network) neutrality is the principle that any content sent over a network (in this case, the Internet) should be treated equally by the network. On a neutral net, the speed at which an end-user can access any given content is based on the capacity of that user's Internet connection, and not on any favourable or unfavourable treatment the Internet service provider (ISP) is giving some content in relation to other content. In other words, on a neutral net, your PDF of *Feliciter* will come up on your screen as fast as your connection will allow; on a non-neutral net, an ISP opposed to this article about net neutrality could slow or block your access to this magazine in an attempt to discourage you from accessing it.

The legal structure behind this idea descends from the Anglo-American concept of "common carriers," originally applied to shipping and transportation networks (e.g., railways) and later applied to communications networks (e.g., postal mail, telephone). At issue in the net neutrality debate is whether ISPs should be considered common carriers or not.

"Net Neutrality 101" Resources
<ul style="list-style-type: none"><li>• Factsheet: <a href="http://bcinfopolicy.ca/2008/04/26/net-neutrality-in-a-nutshell/">http://bcinfopolicy.ca/2008/04/26/net-neutrality-in-a-nutshell/</a></li><li>• Video: <a href="http://www.youtube.com/watch?v=cWt0XUocViE">http://www.youtube.com/watch?v=cWt0XUocViE</a></li><li>• FAQ: <a href="http://www.cbc.ca/technology/story/2009/07/02/f-net-neutrality-faq.html">http://www.cbc.ca/technology/story/2009/07/02/f-net-neutrality-faq.html</a></li></ul>



### **The net neutrality debate in Canada**

The debate over whether or not to enforce some form of net neutrality in Canada has been characterized primarily by large ISPs (and some media companies with concerns over piracy) weighing in on the side of the ability to do any form of “traffic management” they think is necessary, and public interest advocacy groups such as the Campaign for Democratic Media (now known as OpenMedia.ca), the National Union of Public and General Employees, and the Council of Canadians arguing that networks should not be allowed to discriminate among (legal) content.

In some respects, this can be seen as a debate over whether the Internet should be treated as a utility or an entertainment device: a telephone or a television, a public highway or a roller coaster. Is the Internet a basic service that should be open to all with minimal barriers, and a neutral net essential in order to have a level playing field among all who participate in online communications? Or is the Internet an entertainment venue on which content providers should book time or space, paying each ISP to make content available on that ISP's network?

Of course, the beauty of the Internet is that it is *both* a telephone and a television, both a communications utility and an entertainment device. In this case, whose rules apply: those that

guarantee that any vehicle that won't damage the road can drive along it, or those that ask for a ticket and check your height before you board to ride? This has been the policy challenge for Canada to disentangle.

### **Net neutrality in Canada today**

While net neutrality began attracting attention in Canada around 2005, most of the coverage and discussion at that time were confined to IT blogs, forums and publications. In 2008, all of that changed when the CBC tried to distribute the final episode of the popular television reality show *Canada's Next Great Prime Minister* via BitTorrent. Due to many ISPs throttling the peer-to-peer protocol, thousands of viewers were left frustrated by the process, and net neutrality issues were brought into mainstream consciousness.

In the spring of 2009 the Canadian Radio-Telecommunications Commission (CRTC), which had previously declined to consider Internet regulations, held public hearings on Internet “traffic management.” In addition to being the first online public hearings held by the Canadian government (and paving the way for the massive copyright e-consultation a few months later), participation in these hearings was simple enough to allow for far more end-user contributions than a traditional hearing.

In October 2009, the CRTC issued its ruling on Internet traffic management<sup>1</sup>, making Canada an early leader in issuing net neutrality regulations. However, responses to the compromise ruling have been mixed.<sup>2</sup>

The new Canadian “traffic management” regulations allow ISPs to shape traffic on their networks but state a preference for “economic practices” over outright throttling. Additionally, ISPs are now required to disclose which traffic management practices they employ, and to notify

consumers prior to any changes. Consumers, in turn, are allowed to make complaints about those practices they think are unnecessary, which may trigger a Commission investigation of their ISP. ISPs that sell wholesale services to smaller ISPs will now need approval from the Commission in order to throttle wholesale customers more than retail customers. A final highlight of the ruling was a clarification of the privacy obligations of ISPs that collect customers' personal information for the purposes of traffic management.

In short, while we still do not have any guarantee of a neutral net, the Canadian government has made a statement in favour of neutrality as an ideal. ISPs in Canada will now have more hoops to jump through in order to traffic shape, smaller ISPs may have a more level playing field, and ISPs' handling of end-users' personal information may be improved. NDP Digital Affairs Critic, Charlie Angus, who introduced pro-neutrality private member's bills in 2008 and 2009 has emerged as a watchdog over how the new regulations are functioning, and publicly encouraged the CRTC to be more proactive in investigating IPS practices and enforcing the new rules.<sup>3</sup>

Net Neutrality Policy News Resources
<ul style="list-style-type: none"><li>• Canada Policy News: <a href="http://saveournet.ca/">http://saveournet.ca/</a></li><li>• And for US Policy Development news: <a href="http://www.savetheinternet.com/blog">http://www.savetheinternet.com/blog</a></li></ul>

### **Is net neutrality a library issue?**

What does all this have to do with libraries? As the Canadian Library Association / Association canadienne des bibliothèques (CLA/ACB) *Position Statement on Intellectual Freedom* states, "It is the responsibility of libraries to guarantee and facilitate access to all

expressions of knowledge and intellectual activity.”<sup>4</sup> Net neutrality ensures that ISPs will not be deciding what Internet users can read, watch, access, and communicate online.

As is evident, a non-neutral net easily slides down a slippery slope into have and have-not Internet users, with only the privileged having full access to any website or protocol. In a scenario where a non-neutral net is the norm, telecommunications companies – which nowadays are often also online content providers – would have free rein to decide what their customers should be able to access, and what should be slowed down or blocked altogether.

In such a non-neutral world, ISPs could not only block end-users based on their ability to pay, but would also have the ability to selectively block information providers. Given that many large ISPs are also content providers (e.g., Rogers with Internet and Video rental or Shaw with Internet and Internet phone) there is significant potential for conflict of interest in shaping what any Internet subscribers can access. Further, ISPs could make a lot of money from content providers willing to pay for priority service – if one search engine loaded up faster than any other, users would likely migrate to it over the competition. The same would likely be the case with bookstores and most other online services.

### **Library Association advocacy**

Unsurprisingly, given the intellectual freedom implications of network non-neutrality, library associations have been taking action to advocate for a neutral net. Members of CLA/ACB and of the British Columbia Library Association (BCLA) joined forces in 2008 to pass near identical resolutions in support of net neutrality at their respective AGMs.<sup>5,6</sup> Both organizations have also highlighted the topic to their memberships via newsletter articles and conference workshops.

Canadian library associations are hardly acting alone in taking a stand for net neutrality. The ALA agrees, and in fact has been issuing policy briefs,<sup>7</sup> press releases<sup>8</sup> and articles<sup>9-11</sup> on the topic since at least 2006.

## **Conclusion**

Net neutrality is a critical component of equitable access to information and freedom of expression. While Canada has recently made some progress toward enshrining principles of net neutrality in our telecommunications regulations, the status quo does not guarantee protection of consumers from unnecessary “traffic management” on the part of ISPs. Librarians and library associations in Canada and the U.S. have advocated for net neutrality as part of their goal of protecting intellectual freedom, and such efforts must continue until net neutrality is assured.

## **Notes**

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