



May 23, 2006

The Honorable Ted Stevens
Chairman, Committee on Commerce,
Science and Transportation

The Honorable Daniel Inouye
Co-Chairman, Committee on Commerce,
Science and Transportation

Dear Mr. Chairman and Ranking Member,

As Chairman of NetCompetition.org, an e-forum created to promote a rigorous debate on the merits of net neutrality legislation/regulation, I encourage the Committee to more fully explore the economic interests behind the push for net neutrality in your May 25th hearing. (Netcompetition.org is funded by a wide range of broadband telecom, cable and wireless companies who believe the best way to guard a free and independent Internet is free and open competition, not more government control of the Internet.)

I. Is Net Neutrality Principled? No, it's a Competition Double Standard.

If net neutrality is truly a competitive Internet *principle* worthy of becoming a permanent law, would Microsoft, Google, Yahoo, eBay and Amazon all agree to abide by the same principle of treating everyone the same in conducting their Internet businesses? This is a relevant and fair question because both the Internet browser and Internet search markets are actually more concentrated and less competitive than the wireless and broadband markets.

No Internet Search Discrimination? Would Google, Yahoo and Microsoft pledge to treat all Internet-search results equally and not discriminate against content by ranking websites based on how much advertising they pay to be a sponsored listing? Would they agree to not have two-tiers of Internet-search, one with sponsored listings at the top for those who pay the most and another at the bottom for those that can't or won't pay?

No Internet VoIP Application Discrimination? Would Microsoft, Google, Yahoo, and eBay all support the principle of treating equally every VoIP and communications application in price, terms, and conditions -- *in gaining access* to their platforms as their own default offerings?

- Would *Microsoft* agree to not discriminate in favor of its own bundled *Live Communications Server* application in price, terms and conditions, over competitive communications applications? (Like Vonage, AT&T Callvantage, Comcast Digital Voice, or Verizon Voicewing, or others?)
- Would *Google, eBay, or Yahoo* agree to not discriminate in favor of their own bundled communications or click-to call offerings, respectively, *Google Talk, Skype, or Yahoo Messenger with Voice*, in any way over competitive applications?

It appears that Net neutrality is really code for banning broadband companies from competing like ecommerce companies do. Net neutrality is code for: no broadband differentiation, customization or personalization; no broadband bundling of related products and services; no broadband vertical integration with applications or content; or no hybrid broadband-advertising business models. These are all common and legal business practices, which benefit consumers by lowering costs and increasing utility, and which tech/e-commerce companies routinely do.

Why do Microsoft, Google, Yahoo, and eBay have the freedom to use digital and IP communications technologies to differentiate, customize, personalize, bundle, and vertically integrate their businesses, but it should be illegal for competitive broadband telecom, cable or wireless companies to use the exact same technologies to differentiate, customize, personalize, bundle, and vertically integrate their businesses? Frankly, it does not look like a principle, but a self-serving, competition double-standard where e-commerce is free to converge into communications, but illegal for communications to converge into e-commerce.

II. Why is Net Neutrality Corporate Welfare for E-commerce Giants?

Strip away the populist rhetoric and net neutrality looks a lot like corporate welfare for Microsoft, Google, Yahoo, and eBay, who by the way, already enjoy market-leading 80-90% gross profit margins. These e-commerce giants, *who use and benefit from the Internet more than anyone*, want the government to legislate that they *pay the least* for it.

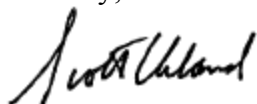
First, the Internet's a competitive market. Under current policy, everyone -- consumers, businesses, broadband providers, and government -- all pay the competitive rate for the amount of bandwidth they want available to them. E-commerce giants want special commercial treatment, regulated wholesale, price, terms and conditions, which have *never existed before in most of the broadband industry*, cable modems, wireless broadband, satellite broadband or WiFi.

Second, a more video-driven Internet will require a massive increase in bandwidth. Technology advances are facilitating more video streaming over the Internet, which demands *orders-of-magnitude-more bandwidth* from the Internet than email, surfing or voice. (For example, *one* HD two-hour video requires as much Internet bandwidth as *35,000 emails* do. It's the real world difference between moving pianos and delivering letters or packages.)

Third, e-commerce doesn't want to pay extra for the additional bandwidth video requires. The e-commerce giants all want to get into the potentially big business of distributing video content over the Internet, but don't want to pay the competitive rate for the increased cost of bandwidth they want to use. They want net neutrality to guarantee them a low regulated *wholesale* price so that the consumer has to foot the entire bill for their new expensive business practice. Practically, e-commerce companies are seeking to send the bandwidth equivalent of moving pianos in the future -- at the same rate they send letters or small packages today.

Lastly, this free-riding makes net neutrality a multi-billion dollar subsidy scheme. Net neutrality is simply a clever multi-billion dollar cost-shifting scheme by e-commerce giants to get everyone else to pay for the dramatically higher cost of shipping their videos to customers. Net neutrality would have the practical effect of being a big unfunded mandate from Washington, by creating an off-budget entitlement and subsidy program for e-commerce companies -- classic corporate welfare. The Committee should ask why should e-commerce companies get special treatment and a multi-billion dollar government-sanctioned cost subsidy?

Sincerely,



Scott Cleland, Chairman, NETCompetition.org

CC: Members of Senate Committee on Commerce, Science, and Transportation