

The Framing of Net Neutrality

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Introduction

"The internet in its current form is NOT broken, and the FCC is currently taking steps to fix that."-John Oliver.

Net Neutrality is the concept that Internet Service Providers (ISPs) should treat all content using their cables and cell towers equally. (Finley, 2020) Net Neutrality generally prevents the issues of having a fast lane for companies to buy into. Without Net Neutrality, Internet Service Providers, like Comcast or Verizon, would be able to force companies like Google or Netflix to buy into their fast lane of service, which would make it more difficult for customers to load any company that does not buy into the fast lane. This becomes an issue both for the consumer and the company creating content because they would be affected by the higher prices set by ISPs.

To understand why Net Neutrality is relevant now, it is essential to understand the history of NN. The concept of Net Neutrality was created by Tim Wu in 2003, who described it as "Online freedom of expression, competition of service, innovation, pricing, and internet traffic management." (Wu, 2003) Until 2005, Internet Service Providers were regulated as "Common Carriers," meaning their Internet management was generally unrestricted as the Federal Communications Commission only monitored ISPs' telephone services. (Bergmayer, 2021)

During the trial for *National Cable & Telecommunications Ass'n v. Brand X Internet Services* (2005), the Supreme Court ruled that Internet service providers had to have a single integrated information service (Cornell, 2020), meaning this was the first time Net Neutrality was upheld. For a decade following the 2005 court case, ISPs continued suing the Federal Communications Commission through different court cases. One of which was *Comcast Corp v. FCC* (Casetext, 2010). Comcast was accused of intentionally slowing people's Internet and was fined by the Federal Communications Commission, leading Comcast to sue in retaliation.

Finally, in 2015, the FCC released the Open Internet Order, which made Internet Service Providers tampering with consumer internet speeds illegal and regulated ISPs to be transparent about network practices, performance, and access. Unfortunately, in 2017, the order was repealed, enacting ISPs to charge companies more for content that takes up more bandwidth. (Castillo, Haselton, 2017)

Once more, in 2021, Net Neutrality was enforced through Executive Order 14036 under President Biden. Although it is not currently law, the FCC is voting on whether to codify Net Neutrality into law in April 2024. The motivation for this paper is partially due to the timeliness of events. In the United States, 311 million citizens utilize the Internet (Petrosyan, 2024). That means the back and forth between the FCC and ISPs affects 93.73% of Americans, making it a predominant issue. A poll by the University of Maryland found that 83% of Americans disagreed with the FCC's 2017 ruling, a significant increase from their 2015 poll, which cited that 70% of Americans supported net Neutrality. (Fung, 2017)

The frames of Net Neutrality include Morality and Ethics, Economic Development and Competition, Public Accountability and Governance, and Global Perspective. Morality and

Ethics refers to the rights consumers have to equal access to information and the responsibilities companies have to provide. Economic development and competition are the frames of net Neutrality from an economic perspective, meaning how net Neutrality affects the American economy and whether it prevents ISP monopolies. The Public Accountability and Governance frame is how the Federal Communications Commission chairs are chosen and the intricacies of the relationship between Internet Service Providers and the FCC. Finally, the Global Perspective frame compares the United States' stance on net Neutrality to that of other countries.

Net Neutrality is not an argument about the speed of the Internet; it is an issue of Internet freedom, innovation, and economic opportunity. Now more than ever, citizens rely on the Internet to access work, entertainment, information, and more. People's opinions on Net Neutrality are entirely dependent on how the issue is framed on both sides. However, the most effective frame relies on Americans' personal issues.

Frames

Frames	Frames in Context of Net Neutrality
“Morality and Ethics”	Freedom of equal access to information and the responsibility corporations have to citizens.
“Economic development/competition”	Net neutrality essentially gives corporations an even playing field, encouraging innovation from startups rather than just corporations who can afford not to have net neutrality.
“Public accountability and governance”	The conversation of net neutrality often shifts to how the FCC chairs are chosen and the transparency of the relationships between ISP leaders and the American Government.

“Global Perspective”

Compares how the United States’s net neutrality policy fares against other countries.

Arguably, the most prominent author when it comes to Net Neutrality is Tim Wu. As previously mentioned, he coined the Term in 2003 in his article "Network Neutrality, Broadband Discrimination. He goes into much more detail in his book, "The Master Switch: The Rise and Fall of Information Empires." Wu writes that controlling information and communication is unethical, but it has happened before. He discusses that there have been similarities between the telephone, radio, and film industries throughout history. These were presented as an innovative alternative to heavily controlled information but eventually succumbed to consolidation and became controlled by a monopoly. Specifically, he relates AT&T's patent lawsuits to NBC lobbying the government to "The Studio" strategy that early Hollywood used to control all aspects of film production. Vint Cerf, a pioneer of the Internet, also once argued that the Internet was good because of its decentralized structure, which encouraged collaboration and innovation like the pioneers of other communication industries.

Wu writes, "We sometimes treat the information industries as if they were like any other enterprise, but they are not, for their structure determines who gets heard. It is in this context that Fred Friendly, Onetime CBS News president, made it clear that before any question of free speech comes the question of 'Who controls the *master switch*.'" Wu continues to discuss the moral implications of monopolies in the communication industry, writing that control will limit freedom of expression through censorship and manipulation of information and the importance of open, accessible information. Tim Wu believes that without Net Neutrality, innovation is in danger due to restrictive monopolies.

The second frame of the argument of Net Neutrality is "Economic Development and Competition," specifically, how Net Neutrality affects the United States Economy. An author who writes about this at length is NYU Professor of Economics Nicholas Economides. He is an expert in network economics and antitrust laws and has been named one of the top economists in the United States. In his piece titled "'Net Neutrality,' Non-Discrimination and Digital Distribution of Content Through the Internet," Economides discusses the economic effects of Net Neutrality at length. He writes, "The decentralization of the Internet based on "Net Neutrality" facilitated innovation resulting in successes such as the creation of the World Wide Web, Google, MSN, Skype, Yahoo, etc. "Net neutrality" also increased competition among the applications and services that operate "at the edge of the network," which did not need to own a network to compete. "Economides believes Internet service providers are taking advantage of their customers and companies who rely on the Internet, stating that the pricing ISPs provide is a scheme for maximizing profit.

Additionally, Economides writes that the abolition of net Neutrality creates issues with antitrust laws both horizontally and vertically, such as ISPs favoring certain video services over others. This would assist whichever companies could pay ISPs more, inherently preventing innovation by limiting consumer access to startup video services. There is also the risk of a duopoly when creating "premium" services, encouraging the reduction of "plain" service capacity. Networks could provide premium contracts with a "take it or leave it" mentality because these content companies would have no other options.

The third frame in the discussion of Network Neutrality is Public Accountability and Governance, which is defined as the transparency of the relationship between FCC chairs and Internet Service Providers. Journalist Norm Alster contributes to this discussion by investigating

the FCC in his piece "Captured Agency: How the Industries dominate the Federal Communications Commission It Presumably Regulates." He details the history of the FCC, which generally follows the will of the wireless industry and the history of the heads of the FCC. Alster discusses how presidents choose FCC chairs and connect these chairs' donations to presidential campaigns. Tom Wheeler is the former head of the Federal Communications Commission and donated over \$700,000 to Obama's campaign. This explains why the president could overlook Wheeler's reputation of muffling research proving wireless radiation raised the risk of brain tumors. Wheeler's corruption wasn't alone. Former FCC Commissioner Meridith Baker is now in charge of the CTIA, which represents the wants of ISPs.

According to Alster, agency capture will result in limited competition, higher service prices, and reduced access to information services. He proposes reform in the Federal Communications Commission, stating that increased accountability and transparency are needed. He also writes that more laws regarding FCC chairs' conflicts of interest would be beneficial to prevent agency capture.

The final frame of network neutrality is the global perspective, which compares how the United States manages net Neutrality to other countries. One paper that discusses this at length is "A Comparison of Network Neutrality Approaches" by Kenneth Carter, Tomoaki Watanabe, Adam Peake, and J. Scott Marcus. The authors picked to compare the United States, Japan, and Countries in Europe to compare the different approaches. They define the United States as having four policy principles: access to lawful content, run lawful applications, attach lawful devices, and have competitive alternatives. Yet, the FCC does not always consider these principles, and it is struggling to codify net Neutrality into law. Japan, however, has introduced Network Neutrality as an amendment to their "New Competition Policy Program," which

requires networks to be accessible to content equally to all users at a reasonable price. The authors note the similarity between Japan's reality and the United States' mission. The EU has made moves to constrain market power through sector-specific laws for competition. Compared to the U.S. and Japan, the EU successfully prevents monopolies through this direct approach.

The author's analysis resulted in the following: "Europe and Japan today enjoy a far more competitive broadband market than does the United States. On average, more than half of all retail DSL lines in Europe are provided by competitive entrants." This frame relied on finding countries that had been successful in their rules regarding Net Neutrality and then working backward from there, analyzing the intricacies of their laws and history.

Discussion

Overall, as stated in this paper's introduction, most American citizens support Net Neutrality. However, that doesn't exempt the conversation's framework from criticism. In particular, the Global Perspective frame is a weaker argument compared to the other frames. The argument that other countries do something better than the United States doesn't necessarily consider the needs of America and the needs of other countries. The EU successfully targeted monopolies through law, but that isn't very realistic in the United States because of monopolies' financial control on our government. (Teachout, 2018)The argument seems reminiscent of the saying, "If your friends jumped off a bridge, would you?". What I mean by this is that we shouldn't be creating laws just because they have succeeded for other countries. Discussing other countries' successes isn't a wrong analysis; however, it is a weak frame.

The Public Accountability and Governance frame could be more effective. Of course, it's crucial to make citizens aware of the corruption in our government and how it affects those who

make decisions on Network Neutrality. However, it feels like it caters to an audience of government skeptics. The papers I have seen using this frame to create their argument for Network Neutrality often carry a very liberal tone. Net Neutrality isn't a party-line issue; 65% of Republicans favor reinstating Net Neutrality, with 82% of Democrats agreeing. (Lima-Strong, 2022) It does not make sense for authors to make political statements while talking about an issue that the majority of both parties agree with; it's polarizing and unproductive.

The Economic Development and Competition frame, combined with the Morality and Ethics frame, is the most effective way to discuss Net Neutrality. It makes the most sense to word Net Neutrality personally, tying the issue with the Ethics and Economic benefits for the average American. American psychology researcher Bali Robinson writes that selfishness is one of the critical factors in whether citizens support public policy, which makes sense. If these frames were used through a personal lens, it would be much more impactful. For example, instead of using equations to classify monopolies like Economides, the argument can explain more clearly how monopolies will affect the average person affording high-speed Internet. The same can be said for the Morality and Ethics frame, although this one is more personal than the other frames. If you combined the personal aspect of the Morality and Ethics frame with the implications of Economic Development and Competition, the discussion framework would be more effective.

Works Cited

Bergmayer, J. (2021, January 14). *What Makes a Common Carrier, and What Doesn't*. Public Knowledge. Retrieved April 19, 2024, from <https://publicknowledge.org/what-makes-a-common-carrier-and-what-doesnt/>

- Brown, R. (2023, July 22). “*The Lazy Master Switch: The Rise and Fall of Information Empires*”. Medium. Retrieved April 15, 2024, from <https://richard-a-brown.medium.com/the-lazy-master-switch-the-rise-and-fall-of-information-empires-summary-3fa129721d9c>
- Comcast Corp. v. Federal Communications*, 600 F.3d 642. (2010, April 6). Casetext. Retrieved April 15, 2024, from <https://casetext.com/case/comcast-corp-v-fcc>
- Economides, N. (2005). “Net Neutrality,” Non-Discrimination and Digital Distribution of Content Through the Internet*. *A JOURNAL OF LAW AND POLICY FOR THE INFORMATION SOCIETY*, 4:2, 210-233. https://neconomides.stern.nyu.edu/networks/Economides_Net_Neutrality.pdf
- Faulhaber, G. R., Madden, G., & Petchey, J. (n.d.). *Nicholas S. Economides - Brattle*. The Brattle Group. Retrieved April 19, 2024, from <https://www.brattle.com/experts/nicholas-s-economides/>
- Federal Communications Commission. (2015, June 12). *Protecting and Promoting the Open Internet*. Federal Registrar. Retrieved April 17, 2024, from <https://www.federalregister.gov/documents/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet>
- Finley, K. (2020, May 5). *What Is Net Neutrality? The Complete WIRED Guide*. WIRED. Retrieved April 19, 2024, from <https://www.wired.com/story/guide-net-neutrality/>
- Fung, B. (2017, December 12). *This poll gave Americans a detailed case for and against the FCC's net neutrality plan. The reaction among Republicans was striking*. The Washington Post. Retrieved April 19, 2024, from <https://www.washingtonpost.com/news/the-switch/wp/2017/12/12/this-poll-gave-america>

ns-a-detailed-case-for-and-against-the-fccs-net-neutrality-plan-the-reaction-among-republ
icans-was-striking/

Haselton, T., & Castillo, M. (2017, December 14). *FCC reverses Open Internet Order governing net neutrality*. CNBC. Retrieved April 15, 2024, from <https://www.cnbc.com/2017/12/14/fcc-reverses-open-internet-order-governing-net-neutrality.html>

Lima, C., & Schaffer, A. (2022, May 26). *Analysis | Poll finds Republican voters support bringing back net neutrality*. Washington Post. Retrieved April 19, 2024, from <https://www.washingtonpost.com/politics/2022/05/26/gop-voters-back-reinstating-net-neutrality-when-given-case-against-poll-finds/>

Petrosyan, A. (2024, March 13). *Internet usage in the United States - Statistics & Facts*. Statista. Retrieved April 19, 2024, from <https://www.statista.com/topics/2237/internet-usage-in-the-united-states/#topicOverview>