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NET NEUTRALITY – THE RAGING DEBATE

Dr Mamta Mohan and *Misbah Jahan

Amity University (Noida)

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ABSTRACT

Last few weeks have seen a frenzy of debate taking place around the topic of Net Neutrality. While customers accuse the service providers (ISPs and telecom companies) of trying to "control Net" through their new "Zero Pricing Plans", the service providers have been adamant that the new regulations are meant for the optimization of bandwidth. The topic of Net Neutrality needs to be explored from various angles; then and only then alone would it be possible to reach a fair conclusion regarding the issue. The aim of this paper is to put these various perspectives (regarding the issue) in place.

INTRODUCTION

The past decade or so has seen the expansion of Information Technology like never before. Playing a pivotal role in this expansion is – "Internet". Internet has not just enabled mass dissemination of information but also in doing so it has transcended geographical boundaries and time zones. This has given rise to the term "real-time transfer of data". The freedom afforded by its "open architecture" and its relatively inexpensive nature has enabled innovation on an unprecedented scale. This has become the very reason for its rise in popularity in a very short span of time. Internet was conceptualized in early 1960s and ARPANET (the predecessor of Internet) was deployed in 1969. The popularity of Internet was propelled further by the invention of World Wide Web in early 1990s. Since the pace of global rise of Internet has been stellar. The virtual space has, now, blossomed into a parallel universe with its own plethora of apps and software. The sheer beauty of Internet lies in the fact that it does not have an owner and nobody controls it. It's rightfully democratic as it does not discriminate among people in voicing their opinion over it. This non-discriminating nature of Internet can be better identified by the term "Net Neutrality". Net Neutrality implies that all data on the Internet should receive equal treatment in terms of content and speed and that there should be no discrimination of data based on content, application, site,

platform etc. This implies that traffic on Internet should be maintained at same speed. This means that the data over the Net enjoys freedom of transmission without being subjected to undue interference by the network provider. The idea of Net Neutrality underlines the idea of "freedom of data".

Literature Review

Wu, a Columbia University professor, sparked the worldwide debate of Net Neutrality in his 2003 paper, "Network Neutrality, Broadband Discrimination". He predicted that over the course of next decade communication regulators worldwide would spend more and more time in resolving disputes between the interests of the general public and those of the broadband providers. He views Network Neutrality as an end; open-access and anti-discrimination as two different means to the same end. He suggests that an anti-discrimination system would be a better long term model to ensure innovation. Lee (2009) considers the decentralized structure of Internet aided by its open structure as the prime reason for its success and any deviation from this can in no way be considered reasonable. He also states that rigid centralization and bureaucracy hamper innovation. Mueller, Cogburn, Mathiason and Hofmann (2007) suggest three ways in which Internet governance can be guided by Network Neutrality. First of these would be promotion of Network Neutrality as a global norm which would guide the policies of Internet. Second would be extension of Network Neutrality to Internet's technical functions. Third would be the use of Network Neutrality concept in aligning WTO regime with the governance regime of Internet.

*Corresponding author: Misbah Jahan
Amity University (Noida)

The “Inclusive” Internet

The importance of Net Neutrality can be best understood if we understand the implications of its non-existence and the repercussions of discriminatory practices of service providers. A distinct feature of the Internet design is “end to end principle”. The “end to end principle” has been best summed up by network theorist Jerome Saltzer as: “The end to end principle says ‘don’t force any service, feature or restriction on the customer; his application knows best what features it needs, and whether or not to provide those features itself’”. In other words, Net Neutrality promotes inclusiveness of data as well as users – it does not discriminate on the basis of content or user. So the moment a service provider enforces differential pricing of data, it violates a basic principle of Internet. When a service provider gives “free access” of certain sites to its customers, what it implicitly does is that it dictates the choice of content to its users. This can be viewed as a veiled attempt to curb “freedom of choice”.

Also, significant is the loss of business to the small players. When a service provider provides access to certain websites free to the customers, it’s the websites which pay for this “free access”. Startups cannot afford to pay service providers for “free access” of their websites as much as the big guns do. This causes a monopoly-like market situation where only the big fishes would be able to survive. This would not only kill competition but also eliminate innovation from the Internet. If the ISPs and telecom companies are not stopped, then they would use these tactics to discriminate against those products and services which can give competition to their own. These anti-competitive practices can shatter the concept of “free and open Internet”.

Another point is that if the service providers implement discriminatory data policies, the user would have limited choice of content available on Net as the new content (products and apps) would face the brunt of differential pricing. This absence/limited access to new content would make the virtual space boring. Also noteworthy is the point that while discriminatory treatment of online traffic can lead to faster loading of free websites, it may also hamper the loading of others which may even include emergency services like hospital helplines. One of the keystones of Internet is the freedom that it has entailed to the user in terms of choice of content and to the content maker in terms of delivery. Enforcing discriminatory policies would be violation of this very freedom.

Net Neutrality across the Globe

The fight for net neutrality has been gradually picking up across the globe. Countries like France are still trying to take a stand on the issue of net neutrality. On the other hand, countries like Chile, Netherlands, Brazil and US have already passed legislation to protect the sanctity of the Net. US is the most recent addition to this league. The FCC (Federal Communications Commission) has clearly underlined the rules for maintaining Net Neutrality, these being - 1. The Internet providers can no longer block access to legal content, services or apps; 2. Nor resort to throttling i.e., causing intentional

slowdown of lawful internet traffic; 3. And that there cannot be any sort of paid prioritization i.e., services cannot strike deals with ISPs in an attempt to have their services load faster than others (commonly referred to as the use of “fast lanes”). One of the most significant features of these legislations is that these were initiated by people as opposed to govt.

Net Neutrality In India

The issue of Net Neutrality raked up due to Airtel’s *Airtel Zero Plan*. The plan was aimed at allowing customers access to certain sites “free of cost”, the cost in this case would be paid by the concerned websites. As soon as the plan was announced, many biggies like Flipkart, Times Of India and NDTV came out in its support. However, not everyone was pleased. Companies like Amazon. in and Make My Trip pledged their support to net neutrality. The loud public outcry that followed *Airtel Zero Plan* forced Flipkart, TOI and NDTV to withdraw their support to *Airtel Zero Plan*. Soon *Clear Trip* followed as it withdrew from Internet.org. Internet.org is a partnership between technology giant Facebook and seven mobile companies (Reliance, Qualcomm, Samsun, Ericsson, Opera Software, Media Tekand Microsoft). The aim of the organization is to bring affordable internet access to the less developed countries especially those which have little penetration of Internet. However, the detractors view these intentions as far from noble. Internet.org plans to provide certain sites free to the users, but at the same time, these sites have to pay for “free access”. The move is seen as causing a serious dent to the neutrality of Internet.

Starting last year, Indian telecom companies had started making some noise about OTT (Over The Top) services such as messaging apps. These companies claim OTT services are becoming their revenue eaters as apps like Skype and Whatsapp have become popular modes of instant messaging and Internet telephony. This has shaken the market position of telecom companies as the leaders in messaging and voice calls. On March 27, 2015, TRAI (Telecom Regulatory Authority In India) published a 117 –page document called as “Consultation Paper on Regulatory Framework For OTT Services”. The Consultation Paper sheds light on network neutrality in India. It has invited public views on the issue till its deadline of April 24,2015. The *Airtel Zero Plan* has only provided such momentum to the issue of Net Neutrality that Indian social networking space is now flooded with videos(such as SaveTheInternet) that aim to create awareness about this issue in India. The #save the internet hash tag has been creating quite a flutter on Twitter and has gathered support from celebs, media houses and the common man alike.

The Dissenting Voices

Not everyone considers differential treatment of online data to be such a curse; there are many who believe that prioritized or subsidized data delivery can lead to optimization of bandwidth which would translate to better Internet Experience for the user. This is especially true in a country like India where bandwidth and spectrum is limited. The pro Net-Neutrality activists believe that telecom companies and technology giants like Facebook would gain control of the Internet because of their deals with ISPs and telecos. But for a large percentage of

the world population, Internet is still a distant dream. Only 42.3% of the world has access to Internet. The situation is worse in African Countries like Ethiopia where the Internet penetration is a meagre 1.7% of the population. In countries like these, the “special data plans” of these technology giants act as an enabler for gaining access to Internet. In Kenya, where deals have already been struck between telecos and Internet companies like Google and Facebook, the users aren’t complaining. Also, even if discriminatory practices do exist, they do not necessarily hurt Net Neutrality. The users accessing data on Zero platform can still access other data at standard speed and quality level. Putting zero platforms in practice doesn’t lead to elimination of other content from the Internet. This was well phrased by Mark Zuckerberg, who while defending zero platforms, said, “Universal connectivity, net neutrality can co-exist in India”. Infact Internet.org describes itself as, “a Facebook led initiative bringing together technology leaders, non-profit and local communities to connect two-thirds of the world that does not have access to Internet.” It further goes on to state that aims to, “give the unconnected majority of the world the power to connect”. Also, one must ignore the fact that, the Zero-Platforms are in perfect consonance with the idea of value-added services, one that automatically explains for its differential pricing.

Conclusion

An issue like Net-Neutrality needs to be explored further before passing a verdict on its future. While its benefits cannot be overlooked but neither can be the logic of those who favour zero-platforms. Further studies and research in this direction can only bring more clarity in this direction. Also the voices of all the stakeholders need to be heard impartially and with an open mind.

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