Insight

What Does Netflix's Strong Net Neutrality Actually Achieve?

WILL RINEHART | MARCH 21, 2014

At first glance, of course Netflix wants "strong net neutrality." I don't blame them. They want this because it would legally mandate prices at zero and help their bottom line. While the concept of network neutrality is an important rallying cry for broader community under the rubric of Internet freedom, it remains a thoroughly nebulous term to define in practice, which this article shows.

When applied through regulation, network neutrality becomes a price restriction, as it requires all data to be free. In other words, rules of this sort make price differentiation illegal. This year, Netflix is committed to spending almost $3 billion on programming, and last year their net profits were just $112 million. At the end of the day, network neutrality would keep costs low, as the concept would outlaw certain vertical contracts and fix prices at a purported historical level (free).

To put this statement in context, it's helpful to review Netflix's recent moves. At last year's Consumer Electronic Show, Netflix said it wouldn't allow consumers to access HD movies from those ISPs that didn't sign up for Netflix's Open Connect service. It seemed as though Netflix was hoping that they could strong arm ISPs into co-locating. In other words, Netflix would put their large computer servers that hold all of the streaming data in the various ISP's network (co-locating), and the ISPs would bear most of the cost of maintenance. However, ISPs sell this kind of service, along with many others, to large content companies. In all likelihood, ISPs were reticent to get into this deal because of the implications to other contacts via most-favored-nation clauses.

A couple of weeks ago, Comcast struck a deal with Netflix, and their deal basically did exactly what Netflix had wanted a year ago with Super HD. One of the smartest guys on this issue, Dan Rayburn, had this to say about the deal:

> "To connect Netflix's servers to ISPs, Netflix buys transit from multiple providers, which then connect their networks to the ISPs. Netflix pays the transit providers for those connections and with that, gets a certain level of capacity from the transit provider. While Cogent is one of the companies Netflix is buying transit from, they are not the only one. Netflix buys transit from multiple companies, including Cogent, Level 3, Tata, XO, Telia, and NTT, with Cogent and Level 3 being the primary providers. Transit providers like Cogent then connect their networks to ISPs like Comcast in what's called peering. This is where a lot of the confusion starts as many are under the impression that ISPs like Comcast are suppose to allow any transit provider to push an unlimited amount of traffic into their network without any compensation. This isn't a Comcast specific policy, but rather one that is standard for all ISPs."

Money often does not trade hands on these kinds of deals, but when there are large imbalances, they do. Again, it has never been clear why we should regulate these contracts to zero. Moreover, this deal continues to show that antitrust is probably the better means to handle these kinds of concerns.