

"They write politics, we write government"

A BRIEF HISTORY OF NET NEUTRALITY

The year 2008 doesn't seem like such a long time ago. Unless you are among my youngest readers, it isn't just some foggy memory from your youth. I'm sure your life has changed in the last ten years – new homes, cars, spouses, or children, perhaps. On the other hand, the world of 2008 you can see in your memories looks similar to the world today. Switches turned on your lights, cars had four wheels and bread came pre-sliced. Everything in 2008 was super modern.

But in terms of the internet – what it does and how we use it – 2008 might as well have been the dark ages. The first iPhone had been on the market for just one year; it had a fraction of the functionality of what you have in your pocket today. The first pure streaming service, Hulu, was just launching; Netflix was still in the DVD delivery business. Facebook had 100 million users, but the "like" button wouldn't show up for another year. The way we used data in 2008 was a universe away from how use it today.

We can see this quantitatively. Total internet traffic has increased ten-fold in the last decade. Mobile data usage has increased by a factor of 500.

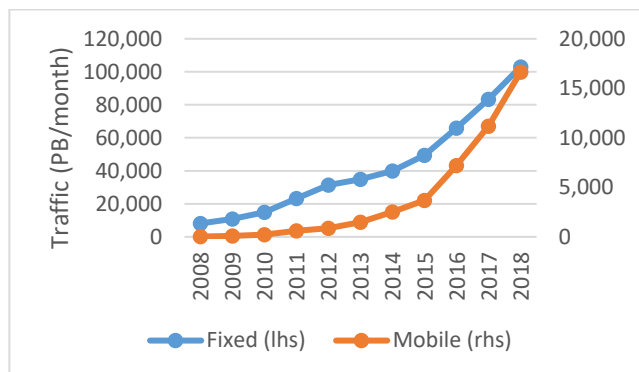


FIGURE 1 - CISCO, VISUAL NETWORKING INDEX. 2017-2018
FIGURES ARE PROJECTED.

Which is all a nice way to say that providers throttling data wasn't issue back then. Sure, "the internet wasn't so bad before net neutrality" – but this is comparing apples and oranges. Our interstate highways wouldn't work well under the rules in place for them in 1890. A fundamentally different world requires a fundamentally different regulatory scheme.

But 2008 would be the last year in the dark ages; all the services you know and love were springing to life. The incoming Obama administration saw these changes, and saw the potential for internet service providers (ISPs) to act against the public good. Because most people have only one ISP option, they have no recourse if their provider decided to prioritize traffic. Without rules saying otherwise, nothing could prevent them from blocking your *Narcos* or *Handmaid's Tale*. Because of this, Obama's FCC started enforcing net neutrality in 2010. ISPs couldn't discriminate speed of data delivery based on the source of the traffic. Everybody was happy.

Except Verizon. Verizon sued the FCC, saying that it had no authority to enforce this rule. Skipping the legal mumbo-jumbo (which I don't understand anyway), Verizon won the suit. Our society lost its ability to prevent ISPs from choosing what content we see. President Obama cared about this issue and worked with the FCC to write a new rule, complying with the ruling in the Verizon case, but still allowing for the needed regulation. After just one year (2014), net neutrality was back, and the American consumer could get their web content without interference from any corporation. Life was again good.

Cue the new administration. Trump put in a new chairman of the Federal Communications Commission, Ajit Pai, an avowed enemy of net neutrality. He got on his soap box, with his huge coffee mug, and told us that by preventing cable companies from doing what they wanted, net neutrality was stifling internet innovation. Consumers, he said, would be better off in a free world of free competition. Perhaps he wasn't aware that the majority of American homes have no choice for their ISP, rendering competition impossible. After all, he's just the chairman of the Federal Communications Commission, he shouldn't expect to know about the communications industry.

And I'm sure it's just a coincidence that, when he was previously in private industry, most of Pai's income was based on representing telecommunication companies.

In defending his action, Pai spoke of the cost of maintaining networks and the need for further investment. This is a valid point, but misleading. If the elimination of net neutrality leads to more investment, this can only happen via a new income stream. That income has to come from somewhere. There is only one somewhere – you and me, the subscribers of the ISPs.

Now, we don't really know what ISPs will do in an unregulated world. But we do have some ideas.

They might try to create a model similar to that of cable TV: create "bundles" of content. The new "basic internet" package, which costs what you pay now, would do a fine job displaying text-based sites (like LobbySeven) on your laptop. But, if you want social media to load quickly, well that's extra. Same for streaming sites. Same if you want use data on your phone. Unless you've cut the cord, you probably pay for bundles now. If you want ESPN, you have to pay for Disney too. If you want Telemundo you have to pay for Bravo, and so forth. Bundling is profitable cable companies and costs consumers, who are effectively forced to pay for things they do not want. Imagine if your grocer said you couldn't

buy an apple unless you bought an orange, a pomegranate and a persimmon to go with it.

Or, they might take a cue from something we observed during that fateful year of 2014, when there was no net neutrality. You may recall that Comcast unilaterally decided to throttle Netflix, whose streaming traffic was growing quickly. Netflix was basically forced to pay a fee to Comcast – just to regain parity in delivery speed. This looks to me like extortion. Comcast was able to leverage its non-competitive position in the distribution stream to extract this payment. Were this to become widespread, the end-of-day victim would, of course, be the consumer, as the cost must be passed along.

Now, Comcast (and others) have taken to the airwaves saying that they will not throttle – and maybe this is true. But why wouldn't they? Clearly, it would be more profitable for ISPs to engage in the types of practices I've described (and probably others I haven't thought of). Even if you don't think cable companies are inherently evil, any "believer in the free market" has a cornerstone axiom that corporations act to maximize profits. Unregulated free markets ideology is not consistent with cable companies foregoing this new power.

Let's go further – say the cable companies are altruistic (or worried about public outcry); let's say they keep on keeping on, delivering content fairly. In this best case, we are saying that literally nothing changes. In other words, the best case in eliminating net neutrality is maintenance of the status quo; the worst case is corporations controlling what information you receive, with the sole objective of maximizing their own profit.

I always end up my core point of view. Free markets are great – we would get nowhere without them. But in order to create their magic, free markets must be free – meaning they actually allow for competition. In addition, they must be regulated so that corporations (or, occasionally, individuals) don't take actions from which they personally profit, but create a cost for society as a whole to pay. There are

a lot of regulations on the books, and I'm sure a lot of them should be changed. But I, for one, enjoy the occasional governmental protection from corporate excess.