Net neutrality: policy issues

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Objectives

- Useful to distinguish between two aspects of net neutrality:
  - User rights – ability of users to determine where they go and what they do on the internet
  - Firm rights – commercial relationships between firms

User rights

- Widespread agreement that users should control their internet experience (which is not the same as saying operators cannot limit the experience)
- Essence of FCC 2005 Internet Policy Statement (replicated in Europe)
    - But some important questions:
        - Can users themselves agree to restrictions? Parental controls, spam filters, ad blocking or lower tariffs?
            - Transparency is required if users are to be in control
        - Should users be free to harm themselves? (malware)
        - Should users be free to harm other users (malware, congestion)
- Many other players in the value chain affect a user 's internet experience (access to apps, search results, editorial policies)

Firm rights

- More recently, ‘net neutrality’ has extended to rules about commercial relations between firms:
  - FCC ban on ‘paid prioritisation’
    - Operators can charge different prices to retail customers, but cannot discriminate between wholesale partners
    - Any price other than zero is presumed to be discriminatory
    - Network access has to be one-sided, whilst rest of the internet is multi-sided
  - Reviews of zero rating in both US and Europe (but no decisions yet)
    - Retail price discrimination (different prices, including zero, for different services)
    - With or without wholesale payment?

Firm rights

- Restrictions on relations between firms normally only justified in specific cases:
  - If network operator had monopoly power (i.e. agreements were not consensual)
  - If network operator also competed in the upstream internet market and was using paid prioritisation or zero rating to discriminate in favour of its affiliate
- Neither conditions seem to apply very often. In this case there is often more market power upstream than at network level

Firm rights

- Otherwise, hard to see why banning paid prioritisation or zero rating is required (or likely to be effective)
  - No ‘natural’ division of profits between firms in the value chain or reason why one set of users should meet all costs
  - Rest of the internet is not ‘neutral’ – large internet firms can (and do) ‘buy’ prioritisation across the internet (caching, search results)
  - Hard to see how any individual operator is going to affect user choice in global market
  - Barginaing power of operators seems limited in practice

Risks

- Restrictions that are not based on clear harm are likely to have unintended effects
    - Very difficult to draft clear rules, so lots of uncertainty
    - Ban on zero rating affects vital services
    - Some services never happen at all
    - Overall network investment likely to be lower, not higher
- Real dangers if internet providers are regulated as if they are public services but are expected to be financed by private capital

A middle way?

- Safeguard existing ‘best efforts’ internet
    - Minimum QoS to prevent degradation
- Allow innovation in both retail and wholesale to supplement this
    - Non-discrimination (between own affiliate and third parties or between third parties)
    - No change to paid bundle size when zero rating introduced
- Focus on outcomes not inputs like ‘reasonable network management’
    - Eg. Does ad blocking benefit users?
      Does zero rating restrict choice?