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The U.S. is Net-Neutral. The Rest of the world? Maybe Not So Much.

BY [MICHAEL BERNSTEIN](#) / ON MARCH 20, 2015

Last month, the Federal Communications Commission (“FCC”) voted to regulate Internet service as a public utility. This move helps ensure that Internet service providers do not block content or divide the web into fast lanes for Internet and media companies that can afford it and slow lanes for everyone else.

This is the second time the FCC has tried to implement net-neutrality. In December of 2010, the FCC instituted regulations for Internet Service Providers (“ISPs”) like Verizon and Comcast while still categorizing the Internet service industry as information services. In January 2014, a court ruled that while the FCC had the general authority to regulate Internet traffic, it could not impose net-neutrality on ISPs if they were being classified as information services. Instead, to impose tougher common-carrier regulations outlined in Title II of the 1934 Communication Act, the FCC must classify the ISPs as common carriers. This shift to common carrier status is the change the FCC made last month.

Proponents say regulation is justified on the grounds that there is a market failure in the broadband industry: for most consumers in the U.S., the market for high-speed Internet service is usually limited to one player—their cable company. Net-neutrality is needed so that ISPs do not take advantage of their market power and block Internet start-ups who would be unable to pay fees larger companies could afford for faster delivery of content, from entering the market. Opponents say regulating ISPs as public utilities will discourage investment in broadband and ultimately hurt consumers.

Publically, big companies, like Google, Facebook, and Netflix, have been in favor of net-neutrality in the U.S., although lately their support, at least privately, has been [lukewarm](#). On one hand, big internet companies have good reasons to be in favor of net-neutrality: they don’t want to be charged for delivering more content at a faster rate, thus ceding revenue to broadband companies, and they don’t want to alienate many of their employees who are against any policy that would disadvantage start-ups. On the other hand, being on the top-tier of a two-tiered internet would reinforce their market position and create further advantages for them in product markets like self-driving cars, health care, and electricity, where a faster more reliable internet matters.

Europeans, aside from the Dutch, are also not fully on the net-neutrality bandwagon. German Chancellor Angela Merkel has [explicitly called for a system](#) in which the Internet is provided in two categories—one for free Internet and the other for special services (e.g., self-driving cars). And E.U. member states are reportedly drawing up proposals that would allow ISPs to

prioritize certain services to ensure that the network functions properly. Reportedly, the softer position of E.U. members reflects both the greater lobbying power European ISPs have in relation to American tech companies (who are in the [European doghouse](#) over antitrust and data privacy issues), as well as the fact that big American tech companies are [not pushing very hard for net-neutrality](#) in Europe.

Meanwhile, in Australia and New Zealand, Netflix [is being accused](#) of abandoning its position on net-neutrality. Recently, when the company launched in those countries it announced a deal with an Australian ISP to allow customers to use Netflix without it counting against their monthly data limits (in Australia and New Zealand ISPs charge consumers by the amount of data consumed per month—like wireless carriers in the U.S.). Proponents of the company's move argue that the deal does not necessarily bring Netflix's commitment to net neutrality into question; rather, in a less regulated market Netflix is merely doing what it must to compete.

While the disparity between the regulatory environments surrounding net-neutrality in the U.S., Europe, and other parts of the world may be substantial, it remains to be seen whether there will be any practical consequences in the marketplace. For example, will the "Internet of Things" grow faster in Europe because deregulation will allow ISPs to provide a faster, more reliable service to companies in those businesses? Some in the know do not think so—when Vittorio Colao, the CEO of Vodafone, a very large player in the European broadband market, was asked after a meeting with Tom Wheeler, chairman of the FCC, about whether the new net-neutrality rules would handicap Americans from competing with Europe in new product markets, [he thought not](#): "Americans are great pragmatists so they will do what is right. In the end they will not think about principles."