Net Neutrality Rules as Barrier to Access for the LGBTQ Community

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Abstract

In December 2010, the FCC completed an almost 4 yearlong rulemaking process related to so-called “Internet Neutrality.” During this process, more than 32,000 comments and related documents were filed with the FCC, arguing for or against net neutrality regulation.

The debate over net neutrality is largely understood to be one of access providers vs. content providers. Those companies providing homes with access to the Internet want to be able to choose how to manage their networks, including the freedom to block access to sites or application providers whom they consider to be providing material that should be blocked. The most frequently used example of a type of ware to use is file sharing software. However, there are good reasons to believe that access providers will not limit themselves to software that appears to being used for illegal purposes. For example, in 2007, Verizon (now part of AT&T) blocked pro-choice text messages sent by the advocacy group NARAL Pro-Choice America. Although Verizon quickly reversed that decision, it and other ISPs maintain that they have the right to manage any and all content that travels through their networks.

At the same time, we know that access to LGBTQ information in public fora is controversial. Between 2000 – 2009, an average of three of the ten most frequently challenged library books in the US have been books with LGBTQ themes or information. There is no reason to believe there will be less pressure to limit or de-prioritize access to such information online.

I plan to examine the following question: Did the FCC consider the information needs of the LGBTQ community in the new “Internet Neutrality” regulations?

Initially, I searched the FCC net neutrality filings for the terms “gay,” and “LGBT.” These terms appeared a total of 60 times, suggesting at least some discussion of these issues. I plan to conduct close readings of the filings in which these terms appear, as well as the rule and Commissioner statements, in order to analyze the extent to which the information needs of the LGBTQ community were raised in the rulemaking process and final rule.

I anticipate finding that LGBTQ issues were raised as part of larger digital divide discussions, and that the documents are joint filings submitted by groups of civil rights advocacy organizations. I also anticipate finding no explicit mention of these groups in the rule or commissioner statements.

If that is the case, it means that LGBTQ-oriented content – including high-bandwidth content like videos from the It Gets Better project, designed to help prevent LGBTQ teen suicide – will be vulnerable to access limitations imposed by both broadband and wireless Internet access providers. I anticipate recommending changes to the FCC rules that will help ensure that LGBTQ content, and by implication, other politically controversial content, is not subject to this kind of corporate censorship.