

U.S. Senate committee tackles Net neutrality today

Lawmakers take up the issue of Net neutrality again in light of new evidence that ISPs are widely throttling legal peer-to-peer file sharing

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Internet neutrality will be at the heart of a full U.S. Senate Committee on Commerce, Science and Transportation hearing Tuesday morning. With the expansive title "the future of the Internet," lawmakers will debate "developing applications, consumer expectations, and network operation" in light of new evidence by a Silicon Valley startup company that ISPs are widely throttling legal peer-to-peer (p-to-p) file sharing.

The unexpected Senate committee hearing may signal that lawmakers are ready to debate Internet bills long languishing in Congress. The Senate hearing comes on the heels of last Thursday's Internet neutrality hearing before the FCC at Stanford University.

While there was scant "hard evidence" of Internet service providers mismanaging networks introduced at last week's FCC hearing, Vuze, a peer-to-peer video distributor based in Palo Alto, Calif., on Monday released the first findings of its own analysis of how major ISPs are throttling Internet traffic of 8,000 users participating in Vuze's study during 1 million hours of Internet time. ISPs use the nonstandard and potentially harmful practice of sending false reset packets to artificially interrupt and abort network connections when people are sending legal digital files.

Vuze created a software plug-in that could be installed in the Vuze Platform application to monitor all potential network interruptions that a user experiences due to reset messages, not interruptions specifically related to use of the Vuze platform. The data released Monday covers Jan. 1 through April 13.

Last fall, the Associated Press exposed dominate ISP Comcast for cutting off access to legal file-sharing programs. In response to petitions filed by Free Press and Vuze, the FCC launched its ongoing investigation.

"At a minimum, more investigation is required to determine whether these resets are happening in the ordinary course of business or whether they represent the kind of throttling practices which target specific applications and/or protocols, harming the consumer experience and stifling innovation," said Vuze's attorney Jay Monahan in a statement

"Vuze's report suggests what many have feared all along: In addition to Comcast, other phone and cable companies may be censoring legal Web traffic over their networks," said Marvin Ammori, general counsel of Free Press, which in the past two years has collected 1.5 million signatures on its Save the Internet petition. "Many industry practices remain unknown and are increasingly difficult to detect. Consumers and innovators cannot be expected to police for abuse, nor should they have to accept interference until their network provider is exposed. Until the FCC makes it clear that it will not tolerate Internet blocking, phone and cable companies will continue to engage in this harmful practice."

Testifying Tuesday before the Senate committee will be Kevin J. Martin, FCC chairman; Michele Combs, vice president of communications for Christian Coalition of America; Robert Hahn, executive director of the Center for Regulatory and Market Studies for the American Enterprise Institute; Patric Verrone, president of the Writers Guild of America, West; actress and producer Justine Bateman, who serves on the board of the Screen Actors Guild; Kyle McSlarrow, president and chief executive officer of the National Cable & Telecommunications Association; and Lawrence Lessig, a professor of Stanford University's Law School and a member of the board of Free Press. Combs and Lessig also testified last Thursday before the FCC at Stanford in favor of Internet neutrality.

The Internet neutrality debate covers a wide spectrum of issues from piracy to free speech to network management. A key issue is whether the government needs to legislate or regulate policies over how Internet service providers manage their networks. Many Web companies and public interest groups are concerned that allowing ISPs to manage traffic free from government oversight would result in network operators giving preferential treatment to their own services, or those that make side deals with the providers for faster delivery.

Some industry groups have countered that government oversight would only stifle broadband deployment, and that self-regulation has allowed the Internet to flourish.

After last week's FCC hearing, Lessig wrote in his blog, "tiered access for consumers does not violate 'network neutrality' principles. Obviously I'd prefer a world of flat rate, fast service. And if we actually had any meaningful ISP competition, we might get to that. But the narrow question I've addressed here is whether it would violate neutrality principles for ISPs to offer different bandwidth commitments for different prices. I don't believe it does."

For the entertainment industry, the debate reopens the issue that was at the heart of the recent writers' strike: compensation and distribution of online content.

Dan Glickman, chairman and chief executive of the Motion Picture Association of America, has already declared his opposition to Net neutrality legislation, warning that it would lead to rampant piracy by giving open license to p-to-p sites.

But some content producers are concerned that a nonneutral Internet could lead to network operators brokering sweetheart deals with entertainment companies to choke off distribution of rival artists.

The issue was been showcased recently by Comcast's controversial throttling of traffic on the p-to-p site BitTorrent, which sparked protests from consumer advocacy groups.

Legislative efforts in both branches to codify Net neutrality are stalled. After his first attempt was shot down in June 2006, U.S. Rep. Ed Markey (D-Mass.) introduced a milder version of Net neutrality legislation in February with the Internet Freedom Preservation Act. In the Senate, Sen. Olympia Snowe (R-Maine) and Byron Dorgan (D-N.D.) introduced a more forceful bill last January, but it has sat in committee since.

The Senate bill is assured of a contentious markup process before it has a chance to emerge from committee. Then, garnering the 60 votes required to pass is a very real challenge, given that Snowe is the lone Republican cosponsor of a bill along with Dorgan and several other Democrats. Markey's bill in the House is a different version, which means that if both were to pass, the two chambers would have to agree on a common final format, which would then return to the respective floors for another vote.

Blogging on the site firedoglake.com on Friday, U.S. Sen. John Kerry (D-Mass.) said, "Look, this doesn't mean we're going to apply a prescriptive, heavy-handed bureaucratic approach to how network providers are permitted to serve subscribers," Kerry wrote. "But we need to insist on basic fairness and an open, content-neutral approach to how users can access the backbone of our telecommunications system."