Chapter 3

Net Neutrality: An Issue of Democracy

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ABSTRACT

Beyond the likes of a purely technical issue, situated at the heart of the transport layer of the TCP/IP protocol, net neutrality takes the form of a complex political debate. This chapter’s endeavour is to study the set of dimensions that make it possible for net neutrality to be read as a global political issue. The chapter follows the constantly evolving notion of net neutrality as it interrogates the Internet as a laboratory of governance, the actors and dynamics involved in the establishment of a “technical democracy” and the dialectic between the Internet’s universal, egalitarian ideal and the techno-political measures shaping the “network of networks.”

INTRODUCTION

Introduced by Tim Wu in 2003, the concept of neutrality of the Internet – or, more briefly, net neutrality – first became a source of debate in the United States, reaching Europe only slightly later. At its core is the idea that all packets of information that circulate within the “network of networks” should be treated equally, regardless of their source and recipient. This principle’s preservation, and alternatively its violations, occur against a backdrop of complex issues concerning the relationships between Internet access providers, content and service, operators (including transit operators), content delivery networks, consumers, and governance stakeholders (Schafer, Le Crosnier, & Musiani, 2011).

The issue is primarily an economic one. Network operators emphasize the possible alternatives for infrastructure funding, at a time when band-
width is increasingly used for consumer content, as well as the strategies for improving “Quality of Service,” enabling improved transit of certain types of information. But behind and alongside economics, the issue is also deeply political.

Within this analysis, this chapter seeks to outline powerful and divergent values and imaginaries, and to invite a (re)thinking of each actor’s role on the Internet chain, from ISPs to users, from states and regulators to citizens, in an ecosystem in fragile equilibrium and perpetual motion. First, the chapter addresses the ways in which, during the past ten years, the notion of net neutrality has acquired an important political dimension. This process is grounded in legal precedents, both in the United States and the European Union; it is also shaped by the democratisation of Internet uses, the technological evolutions of the “network of networks,” the evolution of power relations between the different actors of the Internet value chain. The second part of the chapter locates net neutrality in a more general and highly political context, that of Internet governance. It does so not only from a theoretical point of view, but a very practical one, showing the variety of actors that take part in the debate, as well as the variety of national declinations of the controversy. The global nature of the net neutrality controversies does not erase the national specificities of debates, regulations and norm-making processes—demonstrating how this controversy, while overcoming boundaries and frontiers, does not obliterate them.

To analyze information and communication technologies and the so-called “new media,” particularly those that are based on the Internet, software studies, critical code studies and cyber-infrastructure studies have recently responded to the challenge of inter-disciplinarity (Fuller, 2008), drawing on past studies in the sociology of technology and science that have explored the social and political qualities of infrastructure (Star, 1999). Elsewhere, some authors operating at the crossroads of computer science, sociology, law, and Science and Technology Studies (STS), have shown that innovative methodological approaches and studies on network architectures, integrating the connection between these and networked practices, are possible (Agre, 2003; Braman, 2011; Elkin-Koren, 2006; Star & Bowker, 2002). Modifications in architecture have not only causes, but also consequences, that are economic, political and social, and it is the constant interaction between these issues that is put into question in any discussion of net neutrality. These considerations cannot be separated from those of the uses and practices taking place daily on the Web, and from the power relations at work in the Internet economy.

FROM A SEEMINGLY TECHNICAL ISSUE TO A POLITICAL CONCEPT

An Evolving Concept

The concept of net neutrality has been evolving ever since Tim Wu’s 2003 article. Its appropriation by numerous actors with divergent goals helped to make it polysemic.

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At the end of 2002, cable operators in the United States, accustomed to managing relationships on
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