

Comcast's BitTorrent Blocking: A Case for Open Internet

What is an Open Internet?

Open Internet a set of principles that ensure that all Internet users are able to access any Web site or Web content and use any application without restrictions or limitations imposed by their Internet service providers.

In 2005, the Federal Communications Commission adopted an Internet Policy Statement guaranteeing consumers access to (1) all lawful content, (2) applications and services of consumers' choice, (3) competition among network, applications and content providers, and (4) the ability to attach all devices to the network. A footnote to the policy provides a narrow exception for "reasonable network management." At the time, the FCC claimed a full rule was unnecessary until there was evidence of discrimination.

Here is the Evidence: Comcast Blocking File-Sharing Traffic

In 2007, testing by the Associated Press, the Electronic Frontier Foundation and MIT professors confirmed that Comcast secretly blocks and degrades particular applications and had been doing so for months while publicly denying it.

Comcast was targeting applications using the BitTorrent protocol, among other peer-to-peer applications. BitTorrent has many lawful uses and is the future of high-quality Internet video. It is even widely used by the major Hollywood studios for legal distribution of movies, TV shows and music, and by software makers to develop and distribute software. Comcast has an incentive to degrade BitTorrent because Internet television can compete with Comcast's cable television offerings – indeed Comcast cites these online video providers as competition in its Securities and Exchange Commission (SEC) filings.

Free Press, several other consumer groups, and scholars at Harvard, Yale, and Stanford law schools filed a petition with the FCC asking the agency to declare that Comcast's actions clearly violate the Policy Statement and consumers' rights.

On February 25, 2008, the FCC held a field hearing at Harvard Law School on Comcast's Internet blocking. While hundreds of concerned citizens tried to attend the hearing, Comcast paid dozens of seat-warmers to fill the room, a move that kept others from taking part. Many promptly fell asleep in the seats meant for interested citizens.

Time for Congress to Act

Comcast's actions violate Open Internet principles by blocking consumers' access to (1) lawful Internet content, (2) applications and services of their choice, and (3) competition among network providers, application and service providers, and content providers.

Reps. Ed Markey (D-Mass.) and Chip Pickering (R-Miss.) have introduced the bipartisan Internet Freedom Preservation Act (H.R. 5353) preventing Internet service providers (ISPs) from serving as gatekeepers by discriminatorily blocking or interfering with content. It also reaffirms the FCC's authority to preserve and promote open and nondiscriminatory broadband networks.



Preserve the Open Internet

Reps. Ed Markey (D-Mass.) and Chip Pickering's (R-Miss.) bipartisan Internet Freedom Preservation Act (H.R. 5353) is a major first step in ensuring that economic innovation, democratic participation and free speech will continue to flourish on the Internet. The bill prevents Internet service providers (ISPs) from serving as gatekeepers by blocking or interfering with Internet content. It reaffirms the Federal Communications Commission's authority to preserve and promote open and non-discriminatory broadband networks. H.R. 5353:

Protects free market competition online: This bill has no new, heavy-handed government regulations. The principles of an open and non-discriminatory Internet have been part of the Internet's governance structure since its inception. Such protections were stripped away by the FCC in 2005 as an inadvertent consequence to other un-related changes to broadband Internet policy. H.R. 5353 seeks to preserve the nature of the Internet as an unrestricted marketplace of ideas and commerce where innovators rise and fall on their own merits.

Addresses current market abuses: Last year, Comcast was found blocking certain Internet applications used to deliver online TV programming. Many of the *thousands* of channels offered – including the U.S. military's Army Newswatch, the Pentagon Channel's Iraqi Freedom Minute and LifeChurch.tv – are not even available on cable. Given that nearly 99 percent of all residential broadband connections are provided by incumbent cable or telecom companies, there are insufficient market forces to prevent ISPs from blocking, degrading or filtering Web content – especially when it directly competes with their own services.

Preserves a parent's ability to safeguard their child's online experiences: Open Internet principles do not prevent ISPs from blocking or managing illegal online materials, such as child pornography. Furthermore, parents will continue to be able to obtain and install family-friendly Internet filters, applications and other controls on their own computers.

Enhances our global competitiveness: The Internet supports telemedicine, tele-education, tele-commuting, job growth and is central to people's lives. Unfortunately, money is now being spent on tools restricting the Internet rather than expanding capacity. Our country is currently ranked 16th among world networks, far behind our global competitors. The country that invented the Internet ought to still be leading the world. With unfettered Internet access, more consumers purchase Internet service – and providers can't make their profits by charging more for smaller pipes.

Encourages broadband investment: Anti-discrimination principles do not have to be sacrificed to connect more people to the Internet. Some ISPs claim that unless they can erect new online toll roads and filters, they won't be able to invest in the next generation of networks. There is simply no economic basis for this argument. Indeed, the lack of non-discrimination protection discourages investment in new and innovative online applications and services.

Please contact Reps. Ed Markey and Chip Pickering's offices and sign on to H.R. 5353, the Internet Freedom Preservation Act of 2008.



Preserve Open and Non-Discriminatory Nature of the Internet

Support H.R. 5353 the Internet Freedom Preservation Act

Reps. Ed Markey (D-Mass.) and Chip Pickering's (R-Miss.) bipartisan Internet Freedom Preservation Act (H.R. 5353) is a major first step in ensuring that economic innovation, democratic participation and free speech will continue to flourish on the Internet. The bill prevents Internet service providers (ISPs) from serving as gatekeepers by blocking or interfering with Internet content for anticompetitive reasons. It reaffirms the Federal Communications Commission's authority to preserve and promote open and nondiscriminatory broadband networks. The bill also calls for a nationwide series of public hearings – a unique, grassroots opportunity for local communities to tell Congress that high-priced phone and cable lobbyists will no longer set the agenda. H.R. 5353:

Makes Network Neutrality the law of the land: Network neutrality is the baseline consumer protection that prevented network operators from interfering with and discriminating against Web traffic since the Internet's inception. But a 2005 FCC decision stripped away this protection. The bill requires the FCC to protect the free-flowing Internet from all gatekeepers and guarantees these protections under the Communications Act. It modernizes and reinstates the historic nondiscrimination provisions that have always protected U.S. telecommunications consumers.

Addresses current market abuses: Last year, AT&T was found censoring Pearl Jam during an online broadcast of a concert criticizing President Bush, while Verizon was caught blocking text messages sent by NARAL Pro-Choice America to its own members. Comcast was found blocking certain Internet applications used to deliver lawful online TV programming. Given that nearly 99 percent of all residential broadband connections are provided by incumbent cable or telecom companies, there are insufficient market forces to prevent ISPs from blocking, degrading or filtering Web content.

Enhances our global competitiveness: High-speed Internet access is no longer a luxury – it's a lifeline for every American. No other tool in history has held such promise for connecting everyone to the global marketplace. Unfortunately, money is now being spent on tools restricting the Internet rather than expanding capacity. So our country is now 16th among world networks, far behind our global competitors. The country that invented the Internet ought to still be leading the world. With unfettered Internet access more consumers purchase Internet connections as demand increases for cutting edge content and services.

Encourages, rather than prevent, broadband investment: There is no economic reason why anti-discrimination principles must be sacrificed to connect more people to the Internet. Some ISPs claim that unless they can erect new online toll roads and filters, they won't be able to invest in the next generation of networks. There is simply no economic justification for it, and no other leading broadband nation has sacrificed Internet freedom. Indeed, the lack of non-discrimination protections in the U.S. discourages investment in new and innovative online applications and services, driving jobs overseas.

