

Lawrence Lessig: A threat to innovation on the web

Lessig, Lawrence . FT.com ; London (Dec 12, 2002): 1.

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FULL TEXT

In a report issued last week, LeggMason, the financial adviser, highlighted an important policy issue emerging in the United States. It concerns one of only two great internet policy proposals floating about in Washington just now (the other has to do with spectrum), and is an idea that the rest of the world could benefit from as well.

The proposal is to get regulators to help preserve the neutrality of the internet. Last month, led by Vermont's Public Services Board, the National Association of Regulatory Utility Commissioners unanimously endorsed a proposal calling on the Federal Communications Commission to ensure that access to the internet remain neutral, meaning that access providers be prevented from exercising control over how consumers use the network. A few days later, a strange coalition of companies and consumer activists, including Disney, Microsoft, and the Media Access Project, sent a letter to the chairman and members of the FCC, asking the government to ensure the "ability of consumers and business to communicate with one another ... without obstruction from network service providers." Both steps signal, LeggMason reported, a "key policy issue" that will increasingly frame the telecommunications debate: "the extent to which the network provider can restrict the customers' use of the network."

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The question here is an old one, but it is important that a broad range of commercial and non-commercial actors now agree upon it. The internet was born a "neutral network", but there are pressures that now threaten that neutrality. As network architects have been arguing since the early 1980s, its essential genius was a design that disables central control. "Intelligence" in this network is all vested at the "end" or "edge" of the internet. The protocols that enable the internet itself are as simple as possible; innovation and creativity come from complexity added at the ends.

This "end-to-end" design made possible an extraordinary range of innovation. When Tim Berners-Lee started to sell the idea of a "World Wide Web", he did not need to seek the approval of network owners to allow the protocols that built the internet to run. Likewise, when eBay launched its auction service, or Amazon its bookselling service, neither needed the permission of the telephone companies before those services could take off. Because the internet was "end-to-end", innovators and users were free to offer new content, new applications or even new protocols for communication without any permission from the network. So long as these new applications obeyed simple internet protocols ("TCP/IP"), the internet was open to their ideas. The network did not pick and choose the applications or content it would support; it was neutral, leaving that choice to the users.

This ideal of neutrality predates the internet. It would be a strange and bad thing if the electricity grid discriminated against Sony television sets by serving reliable electricity only to Panasonic TVs. Likewise, it is desirable that the roads are not built to favour Ford trucks over BMWs, but are instead designed to favour none, equally. In both cases, policymakers have long understood the importance of platform neutrality. In both cases, neutral platforms enable the broadest scope for innovation and growth.

But increasingly, the providers of internet connectivity are pushing a different principle. US broadband companies are trying to ensure that they have the power to decide which applications and content can run. Under such a regime, if Microsoft wants to sell Xboxes to run on the broadband network then it will have to pay the network providers for that privilege. Or if Disney wants to stream movies on the internet, it too will have to pay the network tax.

Now Disney, and Microsoft are big companies, you might think. What's wrong with taxing the rich? But the argument of this emerging coalition is that neutrality on the network helps innovation generally. An internet where innovation required the permission of the network owner would be much less creative. The growth and potential of the network comes from leaving it open to grow as consumers and innovators choose.

This neutrality will not come naturally. The tendency of network providers will always be, as it has been so far, towards control. But it is an important and promising development that so broad an alliance of companies could join consumer activists to push the government to preserve the most crucial aspect of the internet's original environment.

It might seem strange that this lesson in preserving the original values of the internet should come from Microsoft and Disney - two companies that have suffered a great deal of criticism from network activists. But on this issue both deserve praise. Policymakers must see that what makes innovation possible on the internet is the freedom to innovate without the permission of a network owner.

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DETAILS

Company / organization:	Name: Disney Enterprises Inc; NAICS: 337125; Name: Microsoft Corp; Ticker: MSFT; NAICS: 334611, 511210; DUNS: 08-146-6849
Publication title:	FT.com; London
Pages:	1
Number of pages:	0
Publication year:	2002
Publication date:	Dec 12, 2002

Publisher:	The Financial Times Limited
Place of publication:	London
Country of publication:	United Kingdom, London
Publication subject:	Business And Economics
Source type:	Trade Journals
Language of publication:	English
Document type:	PERIODICAL
ProQuest document ID:	228705836
Document URL:	http://search.proquest.com.ezp-prod1.hul.harvard.edu/docview/228705836?accountid=11311
Copyright:	(Copyright Financial Times Ltd. 2002. All rights reserved.)
Last updated:	2017-11-08
Database:	Business Premium Collection,Business Premium Collection,European Business Database

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