

NAR Issue Summary

Business / Net Neutrality

NAR Committee:

Federal Technology Policy Advisory Board

What is the fundamental issue?

Net neutrality is shorthand for the concept that Internet users should be in control of what content they view and what applications they use on the Internet. More specifically, net neutrality requires that broadband networks be free of restrictions on content, sites, or platforms. Networks should not restrict the equipment that may be attached to them, nor the modes of communication allowed on them. Finally, networks should ensure that communication is not unreasonably degraded by other communication streams.

I am a real estate professional. What does this mean for my business?

The business of real estate is increasingly conducted on-line. Streaming video, virtual tours and voice-over-internet-protocol are just some of the technologies that are commonly used by real estate professionals today. In the future, new technologies will be adopted which will no doubt require unencumbered network access.

Some real estate professionals, realty website operators and real estate industry affiliated content providers believe net neutrality provisions are necessary to prevent broadband providers (cable and telephone companies, primarily) from implementing possibly discriminatory practices that could negatively impact real estate professionals' use of the Internet to market their listings and services. Some possible examples include practices that would (1) limit the public's access to real estate websites, (2) limit a real estate firm access to online service providers who may be in competition with network operators' own services, e.g. Internet phone services, or (3) charging certain websites more for the broadband speeds necessary to properly transmit or display audio or video content such as online property tour, podcast or phone services.

NAR Policy:

NAR supports legislative and regulatory efforts to ensure that broadband providers adhere to net neutral practices. NAR is concerned about the FCC's "fast lanes" proposal and has commented in opposition to the current proposed rule.

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NAR supports seven principles to guide lobbying efforts on any legislation to require broadband providers to adhere to net neutral practices:

1. Consumers are entitled to access the lawful Internet content of their choice;

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2. Consumers are entitled to run applications and services of their choice, subject to the needs of law enforcement;
3. Consumers are entitled to connect their choice of legal devices that do not harm the network;
4. Consumers are entitled to competition among network providers, application and service providers, and content providers;
5. Network providers should not discriminate among internet data transmissions on the basis of the source of the transmission as they regulate the flow of network content;
6. Broadband providers must be transparent about the service they provide and how they run their network and;
7. These principles should apply to both wireless and wireline networks.

Opposition Arguments:

Opponents of network neutrality fear that excessive regulation of Internet Service Providers will create a disincentive to invest in new or additional Internet infrastructure ultimately leading to poor service for consumers.

Legislative/Regulatory Status/Outlook

On December 21, 2010 the Federal Communications Commission (FCC) issued new rules on net neutrality. Under these rules, wired broadband providers were "prohibited from blocking lawful content, applications, services and the connection of nonharmful devices to the network." Wireless broadband providers, however, were allowed more flexibility, reflecting the technical limitations on the amount of traffic a wireless network can handle. Both wired and wireless broadband providers would have been subject to transparency requirements, which require them to let consumers know how they manage network activity. The new rules also allowed internet service providers to charge usage-based fees for broadband, so customers using more bandwidth may be charged more for service than customers using less bandwidth.

On January 14, 2014, the U.S. Court of Appeals for the District of Columbia ruled that key elements of the FCC's 2010 Open Internet Order are invalid. By tossing out these rules, ISPs are now free to charge content companies higher fees to deliver Internet traffic faster or otherwise more efficiently.

On May 15, 2014, the FCC issued a proposed rule for comment. This rule would allow large content providers like Netflix and Facebook and others to negotiate separate, exclusive deals with Internet Service Providers to carry their content on faster connections. This has been termed "Internet fast lanes." The proposed rule is now subject to a public comment period through September 10. The FCC will issue a final rule sometime before the end of the year.

NAR has filed comments opposing the Commission's "fast lanes" proposal. In addition the Association organized a broad real estate coalition including over 100 MLSs, large firms and industry associations opposing the FCC's proposal. NAR will continue to let members of Congress know about our concerns and urge them to weigh in with the FCC.

The FCC is expected to issue its final rule on February 26, 2015.

Both the House and Senate have produced discussion drafts of legislation that purport to create net

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neutrality protections. NAR is working with both chambers to strengthen the draft by addressing loopholes that could weaken consumers' protections.

Current Legislation/Regulation (bill number or regulation)

FCC Notice of Proposed Rulemaking entitled “Preserving the Open Internet” and “Broadband Industry Practices, GN Docket No.09-191, WC Docket No. 07

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