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### Net Neutrality: The Law that Should be and the Law that Isn't

by

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*Abstract — The internet's success in fostering innovation, access to knowledge and freedom of speech is in large part due to the principle of net neutrality — the idea that internet service providers give their customers equal access to all lawful websites and services on the internet, without giving priority to any website over another. Due to intense lobbying by telecom operators like Airtel and Vodafone, the Telecom Regulatory Authority of India (TRAI) is planning to allow them to block apps and websites to extort more money from consumers and businesses — an extreme violation of net neutrality. The paper will deal with the recent network neutrality debate and what sparked it off. The Information and Technology (Amendment) Act, 2008, the mother legislation regarding media laws is silent with regard to the same. This paper also mentions laws regarding network neutrality that exist in other parts of the world. Beyond rules that forbid network providers from blocking content, applications and services, non-discrimination rules are a key component of any network neutrality regime. These apply to any form of differential treatment that is just short of blocking. Thus, it is important for policy-makers to decide which form of differential treatment should be banned. It also addresses the competitive concerns motivating network neutrality rules and also the potential impact of the proposed rules on consumer welfare. It is concluded that the Internet Service Provider should not be given the discretion to restrict communication and a middle path can be reached by policy makers to benefit the ISPs, the content providers as well as the internet users.*



### INTRODUCTION

“The internet is fast becoming the town square for the global village of tomorrow”, perhaps Bill Gates did not realise how flawed his ‘observation’ was going to sound a few years down the line. He compared the internet with a town square drawing an analogy of how both give opportunities to each individual to speak up and that it's a place where everyone is heard. Unfortunately Gates' idea of the internet is in deep trouble with telecom companies suggesting comprises on the neutrality of the internet under the veil reasons cited such as losses suffered due to lack of activity performed by smart phone users in terms of making phone calls or messages which according to the telecom companies in India is because these are available at meager costs due to various applications provided for by various ‘app developers’. Firstly, it is imperative to pinpoint what exactly net neutrality means, it is a principle that says Internet Service Providers (ISPs) should treat all traffic and content on their networks equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication. Net neutrality gained national attention after Internet activists and

experts flagged telecom giant Bharti Airtel's 'Airtel Zero' platform to be in violation of the principle. This plan by Airtel allowed its users to access certain websites on the internet at 'zero' rates, for example, the users could watch a YouTube video for free if only they bought the 'Airtel Zero' plan. Further, operators like Reliance Communications and Uninor have tied up with players like Facebook, WhatsApp and Wikipedia to offer free usage to consumers. These tie-ups between operators and internet companies have given rise to the question of net neutrality in the country.

### **'YOU AND I', THE AFFECTED**

To put it simply, the internet is right now a level-playing field. Anybody can start a website with very less capital, stream music or use social media with the same amount of data that they have purchased with a particular Internet Service Provider. But in the absence of neutrality, your ISP might favour certain websites over others for which you might have to pay extra. For example, Website A might load at a faster speed than Website B because your ISP has a deal with Website A that Website B cannot afford. It's like your electricity company charging you extra for using the washing machine, television and microwave oven above and beyond what you are already paying. To put it in terms of user-friendly words, WhatsApp might load at a faster speed than WeChat because your ISP has a deal with WhatsApp that the latter cannot afford. Though, the WeChat would eventually work but at such a slow speed that you might forget all about it and go



back to using WhatsApp again as it is easily available to you with negligible hassle.

### **ROLE OF INTERNET SERVICE PROVIDERS**


Internet Service Providers or ISPs serve as the gatekeepers for access to the entirety of the Internet's content and hence have vast power to restrict or exercise control over what information is received and communicated by the respective subscribers.<sup>1</sup> Due to the presence of such power, a question of under which circumstances ISPs should be required or permitted to exercise this power to prohibit their subscribers from accessing allegedly illegal, harmful or content that is disfavoured, is raised. Thus there are few things that government can choose to do, this includes, government can regulate ISPs to require them to restrict access to material by the private parties or the government to be harmful (example, Venezuela is attempting to do so), or, governments might enact net neutrality legislation to prohibit ISPs from exercising its power to control their subscribers' access to content that is lawful. The second alternative is the one that every internet user wants and expects from its responsible government that there should be access to all legal content without discrimination or censorship and control over the same must absolutely not be exercised by the respective Internet Service Providers.<sup>2</sup>

### **'MORE APP USAGE MEANS MORE DATA CONSUMED AND MORE MONEY INFLOW'**

Recently, the Telecom Regulatory Authority of India (TRAI) released a consultation paper that outlines the framework for over-the-top services or OTTs such as search engines (Google, Bing), video platforms (YouTube, Dailymotion) and social networks (Facebook, WhatsApp), and further invited internet users to voice their opinions on the licensing of internet services prevailing in the country. A basic fundamental of the consultation paper is dealt with hereinafter. This paper, which according to the majority of internet users is biased towards the telecom companies (read Airtel, Vodafone, Reliance, etc.) suggests that these companies are not doing well financially for the sole reason that they have been hurt because of various 'apps' which offers

services such as instant messaging and voice call-both national and international (read - WhatsApp, Hike Messenger) at minimal rates, this basically means that an Indian internet user can connect a voice call to the US using any such app with only data charges being levied on such person according to the length of the conversation. The telecom companies claim that this would result in far less revenue generated than

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 Page: 95

what is earned through normal SMS or phone call service that is the flagship of every telecom company. This is not entirely true. Telecom companies receive money from app developers (hereafter, content providers). It is a universal fact that the content providers pay money to the Internet Service Providers or telecom companies for bandwidth while the customers pay the money for data charges to the same telecom companies as well. This shows that in this three-way deal, the telecom companies are earning from both sides just by being a mere mediator. This I say because of the fact that the ISPs do not own any content provider and hence exercises no control over the same apart from being the go-to to the customers ultimately. Taking into consideration that Indian Market Research Bureau has estimated that there are 213 million internet users in India, they must generate hefty revenue in the form of data charges to the handful of telecom companies that thrive in India.(Namely (Namely-Airtel, Vodafone, Tata Docomo, Idea Cellular, Aircel, BSNL, MTNL, Reliance, MTS India, Videocon and Telewings)). Thus, this data shows that the instant messaging apps or those of the voice calls are not really throttling the telecom companies as it has been claimed. Such faceless arguments reasons cited by the TRAI in its consultation paper have pulled the morale of the internet user down. Now the cure for this, they believe, is differential pricing or simply, endangering the online world as we knew. What the latter suggests is that once net neutrality that so exists in India today will be done away with or violated (since there are no laws regarding the same) then the telecom companies shall earn multifold. It is this greed that is making a number of telecom companies take such an anti-consumer approach. This step would mean that a content provider will pay the telecom company exorbitant amount of money in order to eliminate competition, meaning thereby, and this content provider's site will be that of zero rating which will eventually disallow competitive content providers to exist in the market.

### **INDIAN INTERNET ENTREPRENEUR - VICTIM OF ANTI-NET NEUTRALITY**

While this and never-ending debate on the network neutrality gains weight, there is still a portion of the internet users whose views have not even been brought yet - the small Indian entrepreneur. With every youth-oriented sitcom being started in India revolving around a bunch of friends who give effect to an idea of a start-up, it is a common fact that the Indian youth is entrepreneur-oriented. Hence, with violations of net neutrality or services by telecom companies carried out in the same direction will leave the early entrepreneur in a fix. Starting an app-based company does not require a hefty amount of capital hence it looks so attractive. But on the other hand if telecom companies have their say and network neutrality is done away with in India then this small entrepreneur will have no means to

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 Page: 96

survive as, practically, that entrepreneur will not have multi-million denominations in his/her bank account to pay to the network provider for exclusivity or even for entering

the market, meaning thereby, if a big entrepreneur has invested millions for exclusivity with a particular telecom company then the small entrepreneur will either not join the business, back out of it or find him/her self a rich investor. The latter cannot be many and hence this shows how the entrepreneurial spirit in the country will be tarnished or watered down if the government does not take some action regarding the same soon, like the USA did.

### **VIOLATION OF NETWORK NEUTRALITY LEADS TO VIOLATION OF OTHER NATIONAL LAWS**

E-commerce companies, investors as well as every other Tom, Dick and Harry is crying hoarse over the violation on net neutrality or the move by Airtel in the form of Airtel Zero being 'anti-competitive' in nature. This finds reference to the law inscribed in The Competition Act, 2012.<sup>3</sup>

Exclusive partnerships by telecom companies with e-commerce players, social media applications and others will not only compel users to sign up for restrictive data plans but also kill any new start-ups that do not have enough resources to arrange a tie-up with big telecom companies. The Competition Commission of India itself gave an official statement stating that it is examining competition concern over the network neutrality which has engulfed the attention of a large number of internet users. Further, it was also stated that the Commission could intervene on its own if any dominant player erected an artificial barrier to prevent other players from entering the market.

#### **Airtel and Flipkart: The Deal That Was**

The specific provision of the Competition Act, 2012 referring to Section 3(1) is a general prohibition of any agreement in respect of production, supply, distribution, storage, acquisition or control of goods, provision of services, which causes or is likely to cause an appreciable adverse effect within India.<sup>4</sup> In the present case, it is difficult to say that a move by a telecom company shall act in adverse effect to competition in India. Hence the more specific provision in this regard would be Section 3(4) which indicates certain vertical restraints in trade, and they are widely referred as vertical agreements.<sup>5</sup> This leaves the question of vertical agreements. Now we shall

examine what a vertical agreement is in the light of Airtel Zero plan and the content providers who are a part of it. A few essential conditions need to be established to claim any agreement as coming under Section 3(4) of the Competition Act, 2012.

The first condition is that parties to such agreement must be at different stages or levels of production chain, in respect of production, supply, distribution, storage, sale or price of, or trade in goods or provision of services. In the current study regarding the Airtel Zero plan, this essential is completely abided by as Airtel Zero and Flipkart are parties which are different in their levels of services, meaning thereby, Airtel would be distributor in the present scenario whereas Flipkart is the content provider simply. So it is clearly defined they these two are not competitors as such (As required by Section 3(3) of the Competition Act, 2012). The next essential to be considered is that both parties are in different markets. This is crystal clear as Airtel is the Network Company where Flipkart is the Content Provider. Lastly, the agreement should cause or should be likely to cause Appreciable Adverse Effect on Competition (AAEC).<sup>6</sup> Appreciable Adverse Effect on Competition simply refers to an agreement which has a force of limiting or controlling product and services at any stage and which directly or

indirectly results in bid rigging or collusive bidding.<sup>2</sup> It would be safe to say that the present agreement is in fact causing appreciable adverse effect on competition. This is because when Flipkart is agreeing to pay an exorbitant amount of money to Airtel to be exclusive for its Airtel Zero Plan then it shall do everything and pay much higher to maintain that exclusivity and push out other competitors in the similar market such as Amazon, Snapdeal, Jabong etc. Thus, this move can be said to be “controlling product or service” in nature and hence shall come under as having AAEC. Of course, the phenomena of Appreciable Adverse Effect on Competition runs way more deeply but that shall be discussed in the next section dealing with net neutrality and anti-competitiveness exclusively. In the light of vertical agreement which has various sub-categories, the current one would be included in the fourth sub-category which is “refusal to deal” and includes any agreement that restricts or is likely to restrict, by any method the persons or classes of persons to whom goods are sold or from whom goods are bought. In the present deal, it has been observed that many other players in the competition would have been restricted. Further, little has been said about small entrepreneurs who have just recently begun their application startup who may not be financially capable of challenging Flipkart at such an initial age as the former is one of the biggest players in the app retail sector in India today and would have paid millions for such exclusivity to Airtel, which, as mentioned earlier is not what an early entrepreneur will be able to afford and he would have been restricted out Airtel Zero had such a




monumental deal been struck between telecom giant Airtel and app retail giant Flipkart.com. This paper has dealt with the Airtel-Flipkart ‘almost’ deal merely illustratively and not to pinpoint a particular company as such.

### **How is anti-net neutrality action violating the national law?**

As discussed above, violation of net neutrality is anti-competitive in nature like in the case of *Airtel-Flipkart deal*. Essentials for the same have been discussed before and hence, the nature of such agreements shall be further deliberated upon. It is important to deliberate more upon other aspects of anti-competitive agreements one of these is the ‘rule of reason’. The process of identifying an agreement and further condemning it as anti-competitive has always been a grey area in anti-trust cases. As a result, the courts have devised tools of investigation in order to expeditiously come to a logical conclusion. Of the many legal principles that have become the cornerstone of anti-trust common law none have attracted more attention than the rules of “per se” and the “rule of reason”. These two rules in particular have played an instrumental role in discerning whether a particular agreement is anti-competitive or not. The “rule of reason” mandates that there must be an elaborate enquiry into the reasonableness of a challenged business practice. The plaintiff bears the burden of proving “rule of reason” and must satisfy this burden by proving that there exists a real anti-competitive effect such as increase in price, reduction of output, or maybe deterioration in quality of goods and services.<sup>8</sup> Since these proofs are difficult to make, courts allow proof of the defendant’s “market power” instead.<sup>9</sup> This rule was first explained by the US Supreme Court in *Board of Trade of City of Chicago v. United States*<sup>10</sup>. Further, the Court held that “any restraint is of essence, until it merely regulates and promotes competition. To determine this question, the Court must ordinarily consider the facts peculiar to the business to which restraint is applied, its condition before and after the restraint was imposed, the nature of restraint and its actual or probable effect.” The per se rule refers to a judicially created principle of anti-

trust law that a trade practice violates the competition law if the practice is in restraint of trade, regardless of whether it actually harms anyone. Also, in the matter regarding appreciable adverse effect on competition the Competition Commission of India in its report discussed the conditions which determine whether an agreement has appreciable adverse effect on competition. These set conditions are that the agreement is leading to creation of barriers to new entrants in the market, that it is driving existing competitors out of the market, there is foreclosure of companies by hindering entry into the market, and finally there is promotion of technical,

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 Page: 99

scientific and economic development by means of production or distribution of goods or provision of services.

### **POSITION OF NETWORK NEUTRALITY IN THE USA**

The debate on network neutrality first hit the USA back in the 1990s (in India it's a relatively new issue which came up just a few months ago in the early months of 2015). In fact, the term "network neutrality" was coined by Law Professor Tim Wu in January 2003 while discussing "competing contents and applications". Even though the debate regarding the same went on, there were no clear legal restrictions against practices impeding net neutrality. There were several attempts to pass the bills regarding network neutrality provisions but they failed each time between 2005 and 2012.<sup>11</sup> Finally, the Federal Communications Commission or the FCC reported in 2014 that there can be two options regarding the future of network neutrality. Firstly, permitting fast and slow broadband lanes, leading to a compromise on net neutrality and secondly, reclassifying broadband as a telecommunication service which would preserve network neutrality. In February 2015, the FCC rules in favor of network neutrality by reclassifying broadband as a common carrier according to the national laws. This provision of network neutrality is in its nascent age as these rules came into effect only on June 12, 2015. The document begins with "the open internet drives the American economy and serves every day..."

To understand network neutrality in the USA and its future, the biggest case in the history of network neutrality has to be discussed. The case which started it all, in the sense that, because of this case, the telecom companies, content providers as well as the internet users started taking the issue regarding network neutrality seriously. This legendary and one of its kind case is that of *Comcast Corpn. v. Federal Communications Commission United*<sup>12</sup>. The facts in brief are that a number of subscribers of Comcast high-speed internet observed that Comcast was interfering with their use of peer-to-peer networking applications. Two non-profit advocacy organizations challenged such interference by Comcast and filed a complaint with the Federal Communications Commission. The complaint stated that the actions of Comcast violated the FCC regulations and internet policy. Consequent to this complaint, the FCC issued an order censuring Comcast from interfering with subscribers' use of peer-to-peer software. In its order, FCC stated that it had jurisdiction over Comcast's network management practices and further found that Comcast's method of bandwidth

 Page: 100

management breached federal policy. Comcast complied and appealed. The Court of

Appeals relied on the judgment of *American Library Assn. v. Federal Communications Commission*<sup>13</sup> which stated that a commission may exercise ancillary authority only if “the Commission's general jurisdictional granted mentioned in the Communications Act, covers the regulated subject and the regulations are reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities.” Why this decision became so significant is because the Order given by FCC was the Commission's first attempt to impose rules which require network neutrality among Internet Service Providers. But the Court unanimously held that FCC lacked power to enforce these rules. The second biggest case was between *Verizon v. Federal Communications Commission*<sup>14</sup> which was filed after the FCC Open Internet Order 2010 was released but had still not come into effect. The Court ultimately gave an order condemning a few regulation of the FCC Open Internet Order while upholding the other ones. This piece related to network neutrality in the US in particular has been mentioned because of the impact this country has all over the world. Net neutrality is still an urban topic of discussion and thus it becomes important that the US's role and position regarding the same be understood. Further, the new rules and regulations by the FCC will go on to act as guidelines for net neutrality regulations being framed throughout the world. Hence, keeping this broad scope in mind the suggestions which the author wants to put forth regarding network neutrality that should be formulated or drafted by Indian framers have been dealt with in the next section keeping in mind the drafts and final regulations of the US and provisions from laws of other countries as well.

### **THE LLAW AS IT IS AND THE LAW AS IT SHOULD BE**

In India, there are no such rules or laws which define net neutrality or even deal with it remotely in the mother law regarding media that is the Information and Technology (Amendment) Act, 2008. This means that there is no law which would require that all users of the internet be equally treated, without discriminating or charging differentially by content, user, platform, site, applications, type of attached equipment or the mode of communication. Since only recently a few violations of net neutrality principles have been made by Indian service providers, the government of the biggest democracy of the world has come to task and ‘assured’ internet users who vehemently expressed dissent at the activities of such service providers, that laws regarding net neutrality shall be discussed and decided very soon. Meanwhile, taking the example of the Constitution of India itself and

how some of its provisions have been borrowed from the Constitutions of the world over, it is imperative to note legislations or rules regarding net neutrality that have been drafted by other countries to expect what the government of India must be working on and what it must enact and what it must do away with.

The first ever country to enact a legislation with regard to net neutrality or the equableness of the internet was Chile which ensured that its ISPs will not be able to discriminate against content or applications made available to the citizens of the country. But at the same time there a few countries around the world and especially in Latin America which are less supportive of the concept of net neutrality and are further taking steps in this regard. For example, Venezuela has planned to establish an internet bottleneck at its border to prevent its citizens from engaging in speech that is “aimed at creating social unrest or disrupting public order.” Courts in Brazil in recent years have ordered the overly broad blocking of Internet content, and indeed, once

ordered all access to YouTube to be blocked in that country.<sup>15</sup> The author will now take into consideration a few provisions from draft and enforced laws from around to get a broader picture of how the regulations regarding network neutrality in India should look like.

To preserve and promote the open and interconnected nature of broadband networks that enable consumers to reach, and service providers to offer, lawful content, applications, and services of their choosing, using their selection of devices that do not harm the network; to encourage escalating broadband transmission speeds and capabilities that reflect the evolving nature of the broadband networks, including the Internet, and improvements in access technology, which enables consumers to use and enjoy, and service providers to offer, a growing array of content, applications, and services; to provide for disclosure by broadband network operators of prices, terms, and conditions, and other relevant information, including information about the technical capabilities of broadband access provided to users, to inform their choices about services they rely on to communicate and to detect problems; and to safeguard and promote competition, innovation, market certainty, and consumer empowerment.<sup>16</sup>

There should be provisions to prohibit blocking or modification of data in transit, except to filter spam, malware, and illegal content.<sup>17</sup> Must set some guidelines as to how ISPs and data operators should behave when managing



their networks. Law must bar operators from degrading, altering, modifying, impairing, or changing any content, bits, application or service. Further, must direct them to offer just, reasonable and non-discriminatory rates, terms and conditions on the offering or provision of any service by another person who might use the transmission component of communications and must make the same available publicly to keep it transparent.<sup>18</sup>

To amend the Information Technology (Amendment) Act, 2008 (which currently says nothing on the position of network neutrality in India) to establish a national broadband policy, safeguard consumer rights, spur investment and innovation, and for related purposes. Also, there are three practices that must be banned; these rules are blocking, throttling and paid prioritization - which refer to outright blocking of content, slowing of transmissions, and the creation of so-called "fast-lanes" - encompass most of the practices that net neutrality rules have been intended to eliminate, these should be applied to both fixed and mobile broadband internet. This approach would recognise advances in technology and the growing significance of mobile broadband internet access in recent years. Thus, such rules or those similar to them will protect the internet users and will provide the network providers a little relief too depending on their demands.

### **SOME HICCUPS THAT THE NET NEUTRALITY SUPPORTER FAILED TO UNDERSTAND - INTERNET REGULATIONS = LOSS OF JOBS**

It is easy to find that financial data of internet companies shows that for every \$1 billion dollars in revenue, network companies (read Apple, CISCO, HP, IBM, Microsoft, Google) provide close to 2500 jobs, while on the other hand, non-network companies provide close to 1300 jobs or about half as many. Net neutrality rules would lead to reduction of revenues and growth of network companies and shall transfer benefits (i.e. revenue or growth prospects) to non-network companies. Thus such regulations of net neutrality would impede job creation which is a major factor why the government



is a little apprehensive on enforcing such rules as reduction of opportunities in the job market would hamper the financial and growth structure of the country as a whole also. Moreover, such regulations of net neutrality would affectively increase the prevalent market risk, further lower the expected growth and suppress the investment in network. Such threats to investment incentives and creation of job opportunities shall not be in line with the emerging national policy on broadband and also the growing imperative to create better, permanent jobs.



Page: 103

To summarize, it can be said that network-companies create more jobs and subsequently return more cash back into the economy as compared to the non-network companies. An analysis of the same indicates clearly that policies and rules favour non-network companies and therefore hamper the ability of network owners to earn rich revenues, and generate cash flow can be expected on balance to come at the cost of a "net job loss" to the economy overall.<sup>19</sup>

### **CONCLUSION**

Network neutrality rules should be motivated with the concern that broadband access providers will harm competition by disadvantaging rival content providers. Thus, the fact that there is huge amount of dependency on network neutrality which requires its preservation has been established in the article. The internet is dynamic and is undergoing dramatic increases in demand and changes in the nature of service so provided. It is therefore concluded that ISPs should not be shackled with intermediary liability for hosting content that is harmful while similarly on the other hand Internet Service Providers should not be granted the discretion to restrict communications flowing through their wires that they do not favor for some or the other reason, rather, these should be subject to meaningful network neutrality regulations which would require them to facilitate all communications without any discrimination or censorship. The paper has dealt with Airtel-Flipkart deal as an example to explain the concept as well as the significance of absence of laws in this sphere. The paper also deals with a few negative impacts that network neutrality regulations have such as loss of jobs which is another aspect which must be taken care of by policy makers in India. Further, the side effect of not having laws in this regard is also mentioned so that it is realized that such absence is leading to violations of other national laws which prevail in the country. Most importantly, the rules and position on net neutrality in the United States of America have been mentioned specifically merely because it is after all the Big Daddy of the world and hence has an exemplary role to play in every field, especially in contemporary or urban society matters. To encourage the free flow of internet, governments should also look after laws of other countries regarding the same issue, some of which have been mentioned in this paper but the list is not exhaustive in nature and hence the government must take up the responsibility and amend the Information and Technology (Amendment) Act, 2008 accordingly to inculcate changes and to bring in new provisions regarding the open internet.

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<sup>1</sup> Barbara van Schewick, 'Network Neutrality and Quality of Service' (2015) 67 SLR 1.

<sup>2</sup> Michael Kotrous, 'Regulation and Net Neutrality' (2012) L43 JEL.

<sup>3</sup> The Competition Act, 2012, s 3.

<sup>4</sup> T Ramappa, *Competition Law In India Policy, Issues, and Developments* (2nd edn, Oxford University Press New Delhi 2009) 57.

<sup>5</sup> *ibid.*

<sup>6</sup> *Global Automobiles Ltd. v. Pooja Expo India (P) Ltd.*, 33. Case No. 33 of 2011 (CCI).

<sup>7</sup> *FICCI Multiplex Assn. of India v. United Producers/Distributors Forum*, [2011] CCI 32.

<sup>8</sup> *FTC v. Indiana Federation of Dentists*, 90 L Ed 2d 445 : 476 US 447 (1986).

<sup>9</sup> *NCAA v. Board of Regents of the University of Oklahoma*, 82 L Ed 2d 70 : 468 US 85 (1984).

<sup>10</sup> 62 L Ed 683 : 246 US 231 (1918).

<sup>11</sup> Dawn Carla Nunziato, 'Keeping the internet Free in the Americas' (University of Palermo Conference, 2008) <[http://www.palermo.edu/cele/pdf/english/Internet-Free-of-Censorship/01-Keeping\\_Interent\\_free\\_Dawn%20Nunziato.pdf](http://www.palermo.edu/cele/pdf/english/Internet-Free-of-Censorship/01-Keeping_Interent_free_Dawn%20Nunziato.pdf)> accessed on 9 October 2009.

<sup>12</sup> 600 F 3d 642 (DC Cir 2010).

<sup>13</sup> 406 F 3d 689 (DC Cir 2005).

<sup>14</sup> 740 F 3d 623 (DC Cir 2014).

<sup>15</sup> Joana Varon Ferraz, and others, 'Content Filtering in Latin America: Reasons and Impacts on Freedom of Expression' (University of Palermo, 2012) <<http://www.palermo.edu/cele/pdf/english/Internet-Free-of-Censorship/Content-Filtering-Latin-America.pdf>> accessed 9 October 2015.

<sup>16</sup> Network Neutrality Act, 2006.

<sup>17</sup> Internet Freedom and Non-discrimination Act, 2006.

<sup>18</sup> Internet Freedom and Non-discrimination Act, 2006.

<sup>19</sup> Joshua D Wright, 'Broadband Policy & Consumer Welfare: The case for an Antitrust Approach to Net Neutrality issues' (Information Economic Project's Conference on US Broadband Markets, Arlington, VA, April 2013).

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