

What Net Neutrality Means for the Legal Industry

The Federal Communications Commission's (FCC) recent vote in favor of repealing net neutrality is likely to create a tectonic shift in leverage from content providers and tech start-ups to those who control the Internet service providers' (ISP) distribution networks. We expect our in-house and law firm clients will need FCC/communications talent to guide them and their clients through the new business opportunities and obstacles that will arise or gear them up to litigate and justify or attack pipeline preferences.

With the lifting of net neutrality regulations, ISPs—which include all of the major cable companies, such as Comcast, Verizon, AT&T and Time Warner—will have the ability to vary their rates and speeds based on the source of data and bandwidth usages. This means that content providers such as Netflix, Google, Amazon and Apple, as well as online gaming platforms (Sony PlayStation, Xbox, Wii, etc.), will most likely have to pay to play. We suspect the lawyers that represent the Internet providers are going to be faced with complex and time-consuming contract renegotiations.

Content providers, however, could potentially raise concerns around antitrust and unfair competition. These concerns would lead to a rise in demand for contract litigation attorneys, especially those with antitrust experience, both within law firms and directly for companies on both sides of the conflict—the ISPs who will be sued and the content providers who will be suing them.

Start-ups may not have the financial resources to compete on a level playing field with established competitors, potentially stifling innovation and disruption. Start-ups may then choose to invest in contract attorneys at an earlier stage of growth as a cost-savings solution

due to the uncertainty in how accessible their content will remain. In turn, private equity and venture capitalists may be dissuaded from investing in start-ups because of these uncertainties. It is likely that larger companies will begin to acquire smaller ones—or smaller ones will begin to join forces—to reach the levels of growth they desire, presenting a need for M&A experts.

In the end, the consumer will likely pay more for Internet services and consumers' Internet activities will probably be tracked and followed even more now that they can be bought in ways they have not been in the past. All of that information will likely need to be protected, resulting in the need for lawyers with privacy experience.

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Various states, particularly the tech-heavy ones, may want to write their own legislation on net neutrality, which will require talented lawyers who are adept at interpreting FCC regulation.

Despite these concerns, companies who have been waiting to invest in 5G networks may now find more incentive to do so and investing in smart legal talent who can negotiate and are familiar with the telecomm landscape would be a logical next step. With change, comes opportunity. Net neutrality (or lack thereof) impacts everyone who uses the Internet in some way; therefore, the opportunity is enormous. ▲