

A conversation with Patrick Lucey and Danielle Kehl on March 19, 2014

Participants

- Patrick Lucey — Policy Program Associate, Open Technology Institute, New America Foundation
- Danielle Kehl — Policy Analyst, Open Technology Institute, New America Foundation
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Note: These notes were compiled by GiveWell and give an overview of the major points made by Patrick Lucey and Danielle Kehl.

Summary

GiveWell spoke to Patrick Lucey and Danielle Kehl to learn more about opportunities for philanthropy in broadband policy. Conversation topics included the cost of internet access in the U.S., the principles of universal service and net neutrality, prospects for regulation, and the advocacy landscape.

Major broadband providers

Comcast is the nation's largest broadband provider and Time Warner Cable is the third largest, and they are hoping to merge. Cable and telecommunications companies are dividing the communications market, with AT&T and Verizon doing some upgrades on wireline services but primarily focusing on the wireless market rather than competing broadly with cable companies in the wireline market.

Cost of internet access in the U.S.

Compared to consumers in other countries, Americans generally pay more for broadband internet, with smaller differences for lower speed plans and larger differences for higher speed plans, particularly those from large incumbent providers. Exceptions to this trend include high-speed plans provided over municipal broadband networks and Google Fiber.

In their research on the costs of connectivity, New America compared the price of low, medium, and high speed broadband in the U.S. and Europe and found that the U.S. median is significantly higher for all speeds, that U.S. ranges are generally more extreme, and that U.S. prices increase exponentially as speed increases, whereas European prices increase more linearly. The Federal Communications Commission (FCC) could publish more of the cost data it collects from service providers on an annual basis to allow researchers to calculate the average cost for different speeds of broadband, but it has not done so.

Very broadly speaking, U.S. prices are more competitive for slower speeds because of competition from DSL services and price discrimination by cable companies (i.e. companies

are able to charge people who need faster internet more because of the lack of competition).

Universal service

Universal service is the idea that all Americans should have access to affordable communications services. The federal Universal Service Fund (USF) supports the following programs with contributions from telecommunications carriers:

- E-rate, which subsidizes connectivity for schools and libraries.
- Lifeline, which subsidizes telecommunications services for low-income consumers, among other initiatives.
- Connect America Fund, which focuses on building out phone and broadband access in rural and high-cost areas.
- The Rural Health Care Program, which subsidizes telecommunications services for rural health care providers.

The Universal Service Fund was originally constructed for phone service and is in the process of being updated to support broadband services, but is encountering some challenges because of the differing regulatory status of phone and broadband service.

Net neutrality

Network neutrality is the notion that internet service providers should treat all data equally, neither limiting nor expanding access to particular websites and services. Net neutrality has received a lot of attention lately, in part because of a recent DC circuit court decision striking down FCC net neutrality rules and the potential Comcast-Time Warner Cable merger, which would give the resulting network a very large share of the high-speed residential broadband market. New America believes it is important to protect net neutrality so that the internet remains a place where new ideas can flourish. Net neutrality is one of the founding conditions that contributed to the initial growth and success of the internet.

Regulation

Generally speaking, U.S. regulation gives internet providers exclusive control over their infrastructure. Because building infrastructure is prohibitively expensive, this limits competition. In most other developed countries, open access provisions (such as local loop unbundling) let competitors provide services over networks owned by other companies at regulated rates. Open access was a historic principle in the U.S. that we've moved away from (in part because of issues about how broadband is classified). Some argue that one of the corollary benefits of Title II reclassification would be allowing the FCC to reinstitute open access provisions, which would spur competition.

Municipalities could also create more competition among internet providers by building

open access networks to which retail service providers could lease access.

Reclassification of broadband

The Telecommunications Act of 1996 created two categories of services:

- **Telecommunications services**, which are classified as common carriers and subject to requirements that include open access provisions. Common carrier requirements prohibit discrimination.
- **Information services**, which are not classified as common carriers and are not subject to open access provisions. Broadband is currently classified as an information service.

Reclassifying broadband as a telecommunications service could:

- Strengthen net neutrality by giving the Federal Communications Commission (FCC) the authority to regulate broadband providers as common carriers.
- Help settle details regarding the business structure of open-access networks.
- Make it easier for the Universal Service Fund (USF) to provide direct support for broadband access.

Although the FCC has the authority to reclassify broadband—as indicated in the January 2014 ruling on *Verizon vs. FCC*—political resistance from incumbent providers and opponents of government regulation will likely discourage the FCC from doing so. The FCC experienced strong pushback several years ago when it began discussing reclassification; critics denounced reclassification as “the nuclear option” and effectively ended the debate.

Although it is not likely that the FCC will pursue reclassification, carriers and public interest groups are, to some extent, preparing for the fight. However, public interest groups will likely be outspent on advocacy by incumbent providers by a wide margin.

Other actions that the FCC could take include:

- Removing barriers to infrastructure investment, particularly in the nineteen states that currently limit or ban municipalities from building local networks. The FCC is actively discussing this option.
- Modernizing the Universal Service Fund (USF) to focus more on broadband. This is currently being done with E-rate. The FCC’s current strategy for modernizing USF is to include broadband provisions in existing programs for phone service.

Advocacy landscape

Groups supporting policies broadly in line with the public interest include:

- Trade groups representing competitive and rural carriers
- Content providers, particularly those that have been affected by weak net neutrality, such as Netflix
- Companies and consumers interested in more affordable broadband services.
- Public interest groups, including Free Press, Public Knowledge, the Center for

- Democracy and Technology, and the Electronic Frontier Foundation.
- Community-focused institutions, including the Schools, Health, and Libraries Broadband Coalition and the American Library Association
 - Consumer protection groups, including the Consumers Union and the Consumer Federation of America.
 - Groups focused on social justice for particular constituencies, such as the National Hispanic Media Coalition and the Media Action Grassroots Network.
 - Foundations, including the Benton Foundation, the Ford Foundation, and the Knight Foundation, which runs the Knight News Challenge.
 - Former FCC commissioner Michael Copps, who now serves as Special Advisor to the Media and Democracy Reform Initiative at Common Cause.

Other people to talk to

- Christopher Mitchell — Director of the Telecommunications as Commons Initiative at the Institute for Local Self-Reliance.
- Susan Crawford — Professor at Harvard Law School and the Benjamin N. Cardozo School of Law; Fellow at the Roosevelt Institute; Author of [Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age](#).

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