

April 2017 Tuesday Topic

Privacy and Net Neutrality: An Update

Welcome to Tuesday Topics, a monthly series covering topics with intellectual freedom implications for libraries of all types. Each message is prepared by a member of OLA's Intellectual Freedom Committee or a guest writer. Questions can be directed to the author of the topic or to one of the [co-chairs of the IFC](#).



With the change in presidential administrations comes an entirely new climate surrounding net neutrality and online privacy. Now at the helm of the Federal Communications Commission is Chairman Ajit Pai, a former Verizon lawyer who previously served as an FCC Commissioner. His philosophy is that “consumers benefit most from competition, not preemptive regulation. Free markets have delivered more value to American consumers than highly regulated ones.”¹ This philosophy has already played out in the following ways:

Privacy

In October 2016 the FCC adopted rules that allow consumers “to decide how data are used and shared by broadband providers.”² Under those rules, ISPs had to obtain explicit permission from consumers to use, share, or sell “sensitive information, including geo-location information, financial information, health information, children’s information, social security numbers,” browsing history, and app usage.³ Those rules hadn’t yet gone into effect, but on April 3rd the President signed [Senate joint resolution 34](#) into law, which nullifies them. The result: ISPs are now allowed to mine users’ internet-generated data, profile users’ online behaviors, and sell that information to marketers.⁴ Google and Facebook, generally not subject to FCC rules, have long been collecting consumer data, “but online advertising executives say telecom providers potentially have access to more powerful data than the two tech powerhouses.”⁵ Another result of the law is that the FCC is no longer allowed to create similar privacy regulations in the future.⁶

Net Neutrality

Net neutrality rules, adopted by the FCC in 2015, prevented the division of the internet into “pay-to-play” fast lanes that would benefit web and media companies while non-commercial entities (e.g. consumers and librarians) could be left using slow lanes. Such a divided internet could result in unequal access to internet content where commercially provided content would be preferred. As part of the ruling, broadband internet service providers (ISPs) were classified as common-carrier utility services, which must comply with more stringent oversight.

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Chairman Pai has indicated he will repeal those net neutrality rules, although the timetable for that will be slower than the privacy ruling that Congress enacted.⁷

What can library staff do?

- Net neutrality is a hot button issue with the public; the FCC received more than 1 million public comments before the 2015 ruling⁸
 - Keep an [eye on the news](#) and comment when the FCC announces new rules

ALA makes the following privacy recommendations:⁹

- Participate in the [movement to encrypt all web traffic](#) by moving library websites and services to HTTPS, which prevents intermediaries like ISPs from eavesdropping
 - The [Let's Encrypt](#) initiative provides free and easy to install certificates for HTTPS websites
- Negotiate contracts with ISPs that prevent the collection of browser history and other data of internet users in the library
- Provide anonymous internet access to patrons using [the Tor browser](#) or similar technologies
- Teach users to protect themselves from online surveillance by using technologies such as public proxies, [Virtual Private Networks \(VPNs\)](#), and anonymity networks such as Tor

The Electronic Frontier Foundation has also [provided guidelines](#) to protect users' privacy from ISPs.

Sources

¹ Federal Communications Commission, "[Ajit Pai, FCC Chairman](#)," (no date).

² Federal Communications Commission, "[FCC adopts broadband consumer privacy rules](#)," October 27, 2016.

³ Office for Intellectual Freedom, American Library Association, "[How libraries can respond to the repeal of the FCC privacy rules](#)," March 31, 2017.

⁴ Jack Marshall, "CMO Today: Internet privacy for sale," *Wall Street Journal*, March 31, 2017.

⁵ Ibid.

⁶ Jeff Dunn, "[Senate Republicans just voted to give internet providers the green light to sell your web-browsing data without your consent](#)," *Business Insider*, March 23, 2017.

⁷ Steve Lohr, "[Net neutrality is Trump's next target, administration says](#)," *The New York Times*, March 30, 2017.

⁸ Ibid.

⁹ Office for Intellectual Freedom, American Library Association, "[How libraries can respond to the repeal of the FCC privacy rules](#)," March 31, 2017.

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