



Tuesday 31 July 2018 – 2:30 pm –
4:00 pm

Session 3

Concerns Regarding Net Neutrality and the Future of the Internet

Part One

The first part of the session included two ten-minute presentations where each speaker shared their view on net neutrality. The panel was made up by Flávia Lefèvre Guimarães, Adviser for CGI.br, and Fernando Latterza, Head of Regulatory Projects for Latin America at Telefónica. This first part was moderated by Carolina Aguerre of CETYS-UDESA

Flávia Lefèvre, Adviser, CGI.br

- The latest research conducted by CETIC.br (part of CGI.br) shows a significant digital divide between high and low-income consumers.
- While several countries in the region have established the right to net neutrality, it is difficult to guarantee the effectiveness of such laws within the legal framework and case law. It would be advisable to have *ex ante* regulations.
- In Brazil, most users access the Internet through their mobile telephones, using monthly limited-data plans. Once the data is consumed (between 200 MB and 1 GB per month), users can only access Facebook and Whatsapp.
 - Zero-rating plans represent a threat to net neutrality and, consequently, to the openness of the Internet. This is because these plans are used by companies as a valuable commercial strategy to monetize the lack of infrastructure by collecting their users' personal data.
 - Zero-rating schemes also discriminate by application and constitute a lack of respect for service continuity.
- There is little balance between what users pay (even with their personal data) and operators' earnings.
- Users are subject to the editorial criteria applied by the owner of the platform, as they can only access the contents offered by the provider, which is usually filtered using different algorithms.
- There is a lack of transparency in the agreements signed between ISPs and content providers. These agreements are typically signed between the companies that dominate the Brazilian market (approximately 80% of the market is dominated by three companies, mostly by two) and content providers such as Facebook and WhatsApp.
- The International Telecommunications Union (ITU) has been incorporating issues that are typically related to the Internet. This is a cause for concern, given the predominantly multilateral structure of the ITU. This concern focuses on the changes that might be suggested during the Plenipotentiary Conference to be held this year.

Fernando Latterza, Head of Regulatory Projects for Latin America, Telefónica.

- Telefónica has defended net neutrality, which it interprets to mean not blocking any content and not discriminating against any traffic.
- Published in 2014, Telefónica's first digital manifesto clearly sets out the principle of defending net neutrality.
- Telefónica operates in several countries that have specific rules to protect net neutrality. The company respects net neutrality, even in countries with no specific regulations in place.
- Five elements:
 - Competition. Competition fosters net neutrality, as a competitive environment does not offer incentives for limiting traffic.
 - Regulation. Telefónica is in favor of regulating competition in general as a mechanism to protect users, as opposed to specific regulations.
 - Traffic. The company has introduced changes to increase its traffic capacity to maintain the quality of the network, as opposed to discriminating against content.
 - Innovation. Not many studies reveal a correlation between innovation and net neutrality.
 - Transparency for users. The best tools for users are transparency and freedom of choice. The information on how traffic is managed must be transparent, so users can choose the plan that best suits their needs.
- A few weeks ago, Telefónica published a new version of its manifesto which includes a proposal to move from net neutrality to digital neutrality, involving various actors that are part of the ecosystem.
- As for zero rating, it is considered an innovation that allows users to access the most popular applications. Therefore, free access to these applications is a positive thing because it helps users save on their data plans.

Part Two:

Debate. Two-minute participations by the different sectors, including government, private sector, technical sector and civil society representatives.

Lucrecia Corvalán, GSMA

- GSMA believes in an open, accessible, affordable and quality Internet. With the advent of 5G and newer generations, it is essential that network operators manage their networks to ensure their sustainability.
- The legal framework must be flexible, based on general principles (future-proof) and must consider the following three principles:
 - Business flexibility so that operators can respond to user demands.
 - Traffic management to ensure network sustainability both now and in the future.
 - Transparency, so that users can make better-informed decisions.

Roberto Zambrana, ISOC Bolivia

- This debate is very important in Bolivia, where there is no specific legal framework on the matter.
- Some schemes might be justified based on relevant arguments, such as their cost for users, but they may lead users towards certain applications or services.
- The transition to 5G will cause the new business models to appear (including zero-

rating schemes) which are currently very rigid.

Gerardo Martínez, IFT Mexico

- The Mexican Telecommunications Act (approved in 2014) includes specific provisions regarding net neutrality based on the principles of free choice, non-discrimination, privacy, transparency and clarity.
- These principles will be taken into account in specific guidelines that will be published by the Institute after submitting them to a public consultation process.

Pia Barbosa, Intervezes Brazil

- The competent bodies need to be updated to work in the digital environment.
- Zero-rating schemes not only affect how users choose their platform; they also damage the public debate on social media. What we are seeing is a scenario of digital monopolies: large companies are becoming points of content control.

Pablo Bello, ASIET

- In Latin America, the blocking of access to content and services is not a systematic issue.
- Certain monopolies are now consolidated in the digital ecosystem, so it is very important to develop a competitive, innovative and disruptive digital ecosystem where no single actor can choose which links make up the chain of the digital ecosystem, regardless of their market power.
- Mechanisms are needed to protect net neutrality, but also platforms, search engines, intermediaries, operating systems and algorithms.

Erick Iriarte, .pe

- When it comes to neutrality, what we are looking for is some form of regulation that establishes that the system must be neutral. In Peru, guidelines on this matter were first issued in 2012 and have since evolved.
- Net neutrality rules must allow any Internet-based application or service to have access to the same Internet speed. Innovation should be the result of users' freedom to access content or services, not of schemes designed by the industry's major players.
- In terms of legislation, Peru has four principles on net neutrality: an open, neutral, free Internet for everyone.

Catalina Achermann, SUBTEL; Chile

- The Net Neutrality Act of 2010 has been well received by both Internet users and the Internet industry. It considers three principles:
 - Technological neutrality. Limiting the use of a device is not allowed, provided it does not damage the network.
 - Traffic management is allowed, provided it does not affect free competition.
 - Transparency. All operators have submitted their reports on quality of service. This encourages healthy competition among the different actors.
- Zero-rating schemes should be assessed on a case-by-case basis.

Yacine Kheladi, Web Foundation

- There should be no restrictions for users to access content from anywhere in the world, access should not be blocked or slowed down in any way, and payments should not be accepted from content providers seeking to have their traffic prioritized.
- The Internet access market should be kept separate from the content market, as this

will ensure the continuity of the circle of innovation.

Eliana Quiroz, Internet Bolivia.org (remote participation)

- In addition to the IGF, several other global forums are discussing this tension between the Internet business sector and civil society. An imbalance against the people who use the Internet is perceived.
- The topics under discussion have to do with the commercial development of the sector, but also with user rights.
- It would be important to provide spaces where civil society can have a voice.
- The differences that exist between Internet users and companies should be reduced so users can join the debate. This could be done through capacity building programs funded by telecommunications companies.

Esteban Lescano, CABASE

- In Argentina, net neutrality is guaranteed by law since 2012, both as a right for Internet users and as an obligation for Internet service providers.
- Net neutrality guarantees online freedom of expression as well as competition among ISPs and content providers.
- It is not enough to issue a statement on the need to protect net neutrality. A practical application of this type of safeguard is needed to avoid offers linking exclusive content with specific Internet access services.

Eduardo Tomé, Sustainable Development Network, Honduras

- Honduras is a non-competitive environment for mobile service providers, as there are only two companies in the market.
- Users with fewer resources are affected by anti-competitive schemes, as they are exposed to disinformation campaigns and might become the object of a form of digital welfare.

Anabella Rivera, DEMOS Institute

- The Internet must be open, free and affordable. These words are very popular in these forums.
- In many countries, net neutrality is often presented as an obstacle to those whose priority is to combat insecurity, particularly to combat violence. However, the lack of a regulatory framework has allowed the Guatemalan population to access a space where they can exercise their freedom of expression, something quite uncommon in that country.

Augusto Mathurin, Virtuágora

- Stakeholders seem to agree on defending the general principle of net neutrality, despite differing opinions on how to guarantee this principle and its application.
- One possible approach to the debate might be to discuss whether it is convenient to divide the Internet into services. He expressed his opinion against Internet fragmentation.

Germán Arias, CRC, Colombia

- Colombia's regulatory framework guarantees net neutrality. For example, Internet content cannot be blocked unless ordered by the courts.
- Zero-rating schemes are assessed on a case-by-case basis, although this will have to be reviewed in the future.

Part Three:

Replies to the comments received from the floor

Flávia Lefèvre, Adviser, CGI.br

- It is true that political blockouts are not a common practice. However, in practice, blockouts do exist due to social and economic inequalities.
- The adoption of solutions based on the Internet of Things would result in an even greater divide for low-income populations.

Fernando Latterza, Head of Regulatory Projects for Latin America, Telefónica.

- We must focus on the importance of net neutrality, but also be in favor of an open Internet, which is why digital neutrality is even more relevant.
- Telefónica maintains continues to invest in the region at a steady pace to develop networks and infrastructure, so that the company's processes can adapt to the digital ecosystem and reach remote and rural regions.

Rapporteur: Israel Rosas, Outreach Manager LAC, Internet Society