

**Society of American Archivists  
Council Meeting  
May 7–9, 2018  
Chicago, Illinois**

**Issue Brief: Net Neutrality  
(Prepared by the Committee on Public Policy)**

**BACKGROUND/DISCUSSION**

This issue brief addresses the following priority within the 2018 SAA Public Policy Agenda: “Support the maintenance of net neutrality in the United States and legislative proposals that would ensure that Internet providers are designated as common carriers under Title II of the Communications Act of 1934.”

On April 13, 2015, the Federal Communications Commission (FCC) formally reclassified fixed and mobile broadband Internet access services as a public utility subject to regulations under Title II of the Communications Act of 1934.<sup>1</sup> Similarly, Internet service providers (ISPs) were classified as common carriers. This ruling enabled the FCC to pre-emptively restrict ISPs from participating in anti-competitive business practices and unjustly interfering with the public’s access to information. Title II classification allowed individual Internet users to equitably discover, access, and share information of their choosing without interference from ISPs.

On February 22, 2018, the FCC published a new rule, entitled “Restoring Internet Freedom” (83 FR 7852), which overturned the Title II Order of 2015.<sup>2</sup> Under this new rule, which will go into effect on April 23, 2018, ISPs are no longer subject to preemptive regulation by the FCC and Internet access will no longer be considered a public utility subject to Title II regulations. The FCC plans to return regulatory jurisdiction to the Federal Trade Commission, which will have limited authority to penalize an ISP after receiving consumer complaints. On February 22, 2018, twenty-two state attorneys-general filed a lawsuit with the United States District Court of Appeals in Washington, DC, to block the FCC ruling.<sup>3</sup> Several technology companies and public interest groups have filed complementary petitions against the FCC.<sup>4,5,6,7</sup> Meanwhile, several

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<sup>1</sup> <https://www.federalregister.gov/documents/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet>

<sup>2</sup> <https://www.federalregister.gov/documents/2018/02/22/2018-03464/restoring-internet-freedom>

<sup>3</sup> <https://ag.ny.gov/sites/default/files/petition.pdf>

<sup>4</sup> <http://thehill.com/policy/technology/376794-kickstarter-etsy-others-file-net-neutrality-lawsuit>

<sup>5</sup> <http://thehill.com/policy/technology/381828-video-game-industry-group-joins-lawsuit-against-fcc-over-net-neutrality>

<sup>6</sup> <https://www.freepress.net/our-response/expert-analysis/explainers/were-suing-fcc-heres-how-it-works>

<sup>7</sup> <https://www.eff.org/deeplinks/2018/02/fccs-net-neutrality-order-was-just-published-so-now-fight-really-begins>

states and municipalities are developing local legislation to protect net neutrality and promote ISP competition.<sup>8,9</sup>

Because the issue of net neutrality reflects the intersection of archival principles with access to information, the Committee on Public Policy has prepared this issue brief for Council review and approval.

## **RECOMMENDATION**

**THAT the following issue brief on “Net Neutrality” be approved:**

### **Issue Brief: Net Neutrality**

#### **SAA Position**

SAA supports the maintenance of net neutrality in the United States and legislative proposals that would ensure that Internet providers are designated as common carriers under Title II of the Communications Act of 1934.

#### **In support of this position, SAA will:**

- Advocate for pertinent agency regulations and federal or state legislation that support these goals, including prohibiting paid prioritization.
- Work with other information and humanities organizations (such as the American Library Association, the Chief Officers of State Library Agencies, WITNESS, Public Knowledge, the Society of Professional Journalists, the Open Technology Institute, and the Sunlight Foundation) to promote the preservation of net neutrality.

#### **The Issues**

Archivists share a commitment to provide open and equitable access to records entrusted to our care, regardless of physical format and in accordance with our professional Code of Ethics. Archives provide access to historical records that are essential to establishing and upholding the civil and political rights of individuals. Additionally, archives ensure that evidence of our collective human experience is preserved for and made accessible to researchers, including attorneys, private citizens, genealogical researchers, K-12 teachers and students, historians, scientists and medical researchers, college and university professors and students, and government agencies.

Archival users increasingly rely on digitized and born-digital materials that archives and libraries are making available online at an exponentially rapid pace in response to customer requests for digitized information. The principles of network neutrality are indispensable for the transparent and democratic distribution of information available online from tens of thousands of archival repositories throughout the country.

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<sup>8</sup> <https://www.freepress.net/our-response/expert-analysis/explainers/net-neutrality-politics-local>

<sup>9</sup> <https://www.eff.org/deeplinks/2018/04/californias-legislature-seeks-protect-network-neutrality-and-promote-isp>

Efforts to reclassify broadband Internet access as an information service and mobile broadband as a private mobile service undermine vital regulatory protections that prevent Internet service providers from artificially restricting or privileging access to Internet traffic. Net neutrality enables archives and archives workers to provide researchers with equitable and unfettered access to our shared cultural heritage.

### **Additional Resources**

American Civil Liberties Union, “What Is Net Neutrality?” December 2017.  
<https://www.aclu.org/issues/free-speech/internet-speech/what-net-neutrality>

American Library Association, “Network Neutrality.”  
<http://www.ala.org/advocacy/telecom/netneutrality>

Electronic Frontier Foundation, “Net Neutrality.”  
<https://www.eff.org/issues/net-neutrality>

Issues and Advocacy Section of SAA, “Archivists on the Issues: Net Freedom and the Federal Communication Commission.” December 12, 2017.  
<https://issuesandadvocacy.wordpress.com/2017/12/12/archivists-on-the-issues-net-freedom-and-the-federal-communication-commission/>

WIRED, “The WIRED Guide to Net Neutrality.” March 1, 2018.  
<https://www.wired.com/story/guide-net-neutrality/>

**Support Statement:** This issue brief supports SAA’s Public Policy Agenda by providing members and other prospective audiences with SAA’s considered opinion on the topic of network neutrality, an issue that reflects the intersection of archival principles with access to information.

**Impact on Strategic Priorities:** Addresses Goal 1: Advocating for Archives and Archivists, Strategy 1.1. Provide leadership in promoting the value of archives and archivists to institutions, communities, and society; Strategy 1.2. Educate and influence decision makers about the importance of archives and archivists; and Strategy 1.3. Provide leadership in ensuring the completeness, diversity, and accessibility of the historical record.

**Fiscal Impact:** Approval of the issue brief does not commit SAA to expend funds on any particular advocacy effort at this time.