

Everyone wants a piece of the golden goose

Fighting for Data and Dollars

New laws and policies are bringing huge, sweeping changes to the internet. Here and elsewhere, legislative experiments are fundamentally reshaping how the system has always worked – and no one seems to have much of an idea of how it will all work out.

The Supreme Court recently ruled that states can charge **sales taxes** from online retailers. Though it closes some **loopholes**, it may **hurt small sellers** on Amazon far more than it does Amazon itself. Amazon collects gross receipt taxes from New Mexico, but not local ones. **Full online sales taxes** may come next year. (New Mexico's own state sales tax has just risen to **7.875%** from 7.5%, but otherwise, taxes on SWCP services should stay the same in the near future, including the NM exemption of sales tax on webhosting services.)

Meanwhile, the **conflict** over **net neutrality** – that all traffic on the net should be treated the same – still drags on. Though the FCC has **officially repealed** the rules, the Senate last month voted to reverse the decision, while the House's effort is stalled with all Democrats on board, but still lacking the 46 votes necessary to pass the measure.

Washington state already signed a law preserving neutrality. **California** has been leading other states' efforts to do the same. The state Senate had passed strict rules, but the Assembly weakened them until the **people spoke out**. A group of 22 state attorney generals (including **New Mexico's**), along with over a dozen corporations and consumer advocacy groups have **joined together** in a major lawsuit to save it.

If net neutrality cannot be restored, what then? **Many fear** premium fast lanes and services bundled into expensive packages, as well as negative effects on small businesses, start-ups, and freelancers as their websites suffer from loading more slowly. Or maybe, as Ajit Pai, the head of the FCC **claims**, it will somehow increase innovation and protect consumers.

Yet consumer cynicism is amply justified. ATT&T, for example, **claimed** in a court filing that buying Time Warner would decrease TV prices. "There is no sound evidence from which the Court could fairly conclude that retail pay-TV prices are likely to increase," they said. Maybe not. But after the deal was done, ATT&T

quickly raised DirecTV prices by \$5/month while also reducing services.

Not to be left behind, **Comcast** is imposing new speed limits on video streaming to smartphones, hotspot usage, and charging more for high-definition video over the phone. Since it has no cellular network, Comcast resells Verizon Wireless service.

Videos will be limited to 480p, the same as DVD quality. Anything else will cost more. Comcast is trying hard now to convince unlimited-data users that this will save money and help conserve data, too.

European data protection plan

While it seems more and more dubious that eliminating net neutrality is going to make the net any better for anyone but the biggest, richest players, it is not the only legal challenge to the system. Others equally far-reaching are going on across the Atlantic.

On May 25, the **General Data Protection Regulation** (GDPR) went into effect across the European Union and economic zone. Since this applies to *any* enterprise doing business there, it will affect American internet companies, too. Global businesses that do massive online data processing may extend those same protections here, as it should be easier and cheaper to apply them universally. Plus, voluntarily adopting such principles may help forestall any efforts to legislate similar safeguards in the US.

The GDPR is **based** on the realization that processing data drives the net and must be protected at every step. It gives users tools to monitor and control their information. Users must consent to what data is being collected, by whom, and why. They have the right to download their data, to be notified within 72 hours of a data breach, with the rights to delete, to be forgotten, or move their data to another platform.

Stiff penalties of up to 20 million euros or 4% of the company's yearly income can be levied for breaches, so most corporations are scrambling to comply.

That's why you may have seen an unusual amount of pop-up notifications about privacy policies changing on different sites lately. This will likely continue for some time as companies eventually get on board.

Facebook, however, has already said it won't **follow the rules** outside Europe, but instead is touting new tools to protect privacy. The company won't make it any easier for users to **delete accounts**, either, and

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took their new users' agreements as an opportunity to push their **facial recognition technology**.

Will copyright kill the web?

Far less well thought out and much more antagonistic to users as well as producers, are the proposed changes to Europe's copyright laws. Critics are saying that if these requirements ever went into effect, they could seriously **break the internet**.

The new **EU Copyright Directive**, as it is called, is an attempt to harmonize European copyright laws all across the continent and anticipate future changes. However, this leaves the legislation vague, open-ended, and like the GDPR, would require new technologies to be implemented across the network.

The biggest controversies surround changes to two sections of the laws. Based on existing laws in **Germany** and Spain, Article 11's intention is to protect newspapers and other sources of investigative reporting from being used by internet giants like Facebook and Google for free. It proposes a **link tax** for hyperlinks and snippets of content that platforms would have to pay to quote other sources.

News articles are protected by copyright law but never before to **monopolize factual information**. Doing so violates freedom of information and interferes with the right to run a business. The proposal completely denies "**fair use**", the legal principle that some limited use of copyrighted material is acceptable without permission from the owner.

Since it is unsure just what would be taxed and how much it would cost, many fear that only the largest aggregators like Google could afford licenses. This might drive smaller sites out of business, thus hurting the very institutions it was designed to protect.

The proposed changes to Article 13, however, are even more **contentious**. This is meant to protect copyrighted material from being used without authorization or licensing. It would require expensive automatic **content filters** that would check all texts, photos, and so on, as they are uploaded, not just for Facebook, Instagram, Tumblr and other major sites, but many smaller publishers as well.

YouTube already has such a filter, called **Content ID**, which took them 11 years to develop. Sites like **Grammarly**, that can check for written plagiarism have similar systems. But one to scan visual, audible, and written content has not been invented yet and will require massive databases and processing.

False positives will undoubtedly happen as with Facebook's new filters to halt hate speech that recently **blocked** part of the Declaration of Independence. Just as under current rules, parties can demand takedowns of content they claim to own. However, in Europe there are **no rules** for this and nothing requires restoring posts of any material.

Misgivings arose over cost to outright **copyright** of the net. By turning providers into "content police", Article 13 could negatively affect everything from remixes and mashups of videos and music, code-writing, parodies, maybe even memes themselves.

Many of the geniuses who built the net, including Vint Cerf, co-inventor of email, and Tim Berners-Lee, who created the World Wide Web. They joined with nearly 100 other academicians, CEOs, engineers, and security experts to express their deep concerns.

"Article 13 takes an unprecedented step towards the transformation of the Internet from an open platform for sharing and innovation, into a tool for the automated surveillance and control of its users," they explained in an **open letter** to the President of the European Parliament.

Fortunately, this may have done some good. On July 5, the European Parliament **rejected** closed-door talks that would have sped the effort forward, with 318 votes against, 278 votes for, and 21 abstentions. This is *not* the end of the debate by any means, as revised measures will come up again September 10.

The US, which has one of the **longest periods** of copyright protection in the world already (up to 120 years for some works), may increase it yet again. No works have fallen into the public domain in 40 years, but on New Year's Day next year, all works from 1923 are scheduled to do so – unless Congress extends it retroactively yet again as they have twice already.

If you think this must be for some **Mickey Mouse** reason, you're right. Not only Disney's lawyers but the estates of George Gershwin and **Arthur Conan Doyle**, even restaurants profiting from exemptions for the music they played, **supported** it. **Another extension** is unlikely, but there are no guarantees.

The internet today, and in the foreseeable future, is threatened as never before. Aside from greed and ill-advised attempts to fix things, there are still hackers, spam, and the looming threat of cyberwar.

Yet it is also important to remember that the net was invented by very smart people with high ideals working together. That vision still exists, as the opposition to Article 13 shows, and it belongs not to some elite class but to all users. We *all* own the net, and that's why we at SWCP will continue to keep you informed.



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