

Net neutrality

The legislative clock is ticking on the issue of Internet (net) neutrality—the concept of online non-discrimination. At the start of the 112th Congress, Senator Kay Bailey Hutchinson (R-TX), introduced S.J. Res. 6, a resolution of disapproval under the Congressional Review Act (CRA) to repeal net neutrality regulations adopted by the Federal Communications Commission (FCC) in December 2010 (available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2010/db1223/FCC-10-201A1.pdf).

When the bill was dropped, 39 of Hutchinson's fellow Republicans joined in as original cosponsors. Two additional Republicans signed on thereafter, bringing the total support to 42 of 47 Republicans in the Senate. No Democrats are cosponsors.

In April, the U.S. House of Representatives passed H.J. Res. 37, disapproving the rule submitted by the FCC to regulate Internet and broadband industry practices. The resolution, passed by a largely partisan 238 to 174 vote, prohibits the FCC from using funding to enforce the net neutrality principles. The House resolution sent a decidedly *unfriendly* net neutrality message to both the FCC and the Senate.

Once the FCC's order was published in the Federal Register on September 21, 2011, a 20-day clock was started in the Senate under the CRA. At the conclusion of the 20-day period, which ended October 13, Senator Hutchinson may file to discharge her resolution from the Senate Commerce Committee and bring the resolution to the Senate floor as a privileged matter (no filibusters are allowed). Of note: Senator Hutchinson has up to 60 legislative days (days in which Congress is in session) to do so. Once the resolution is brought up,


there will be a ten-hour debate (five hours for each party) and then a straight up or down vote will be taken. The House has already passed this resolution, so 51 votes for the Senate resolution would send this anti-net neutrality bill to the President Obama's desk for signature or veto.

So, where does all this leave the issue of net neutrality? For one thing, the House Republicans have clearly voiced their dislike of net neutrality and have taken several different legislative approaches to pull the plug on the FCC's order and its ability to enforce it—at the same time punting the issue over to the Senate.

While the House action on net neutrality was not all that surprising (even anticipated, quite honestly), it is less clear what the issue's fate might be in the Senate. While the Senate Democrats hold the majority, it will take all acting in unity to ultimately support net neutrality when it comes time to vote.

Beyond the legislative arena and the recent and anticipated Senate activity, Verizon and others have filed suit in federal court seeking to overturn the FCC's net neutrality decision. Several public interest organizations have also filed suit to try to make the FCC's rules stronger. (Significantly, AT&T and the cable industry have not filed suit, as they have accepted the FCC's rules.) It may take a year or more for the court to rule.

So where does all this activity leave libraries? At this point, it is unclear. However, ALA has a strong history of supporting net neutrality principles and is engaged in a very active and targeted lobbying campaign to oppose the Senate resolution.

Additional information about the legislative history of net neutrality and information on it more generally is available at www.ala.org/ala/issuesadvocacy/telecom/netneutrality/recenthistory/index.cfm. 

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