

Is Google a Media Company?

And Other Mysteries of the New Communications
Landscape

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Internet Utopianism, c. 1999

- “The network will make possible a wildness of spirit, where young minds can wander in adventurous, irresponsible, ungentle ways.”
- “It will contain not innocence, but a sort of naive gaiety, a buoyant, carefree feeling. . . .”
- **“It will be capitalist civilization at its best.”**

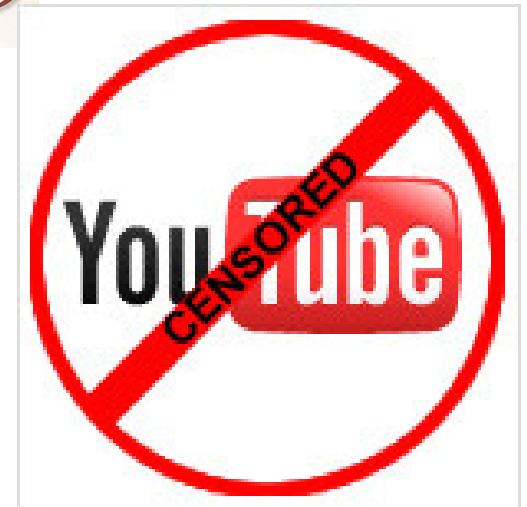
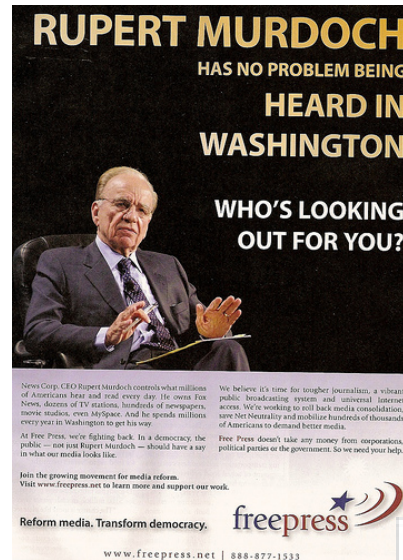
--Huber, Kellogg, & Thorne, *Federal Telecommunications Law*

But Some Voices Are More Equal Than Others

- Who orders this online world?
 - Physical Layer (cable/telco)
 - Search Layer
 - Social Network Layer
 - Device Layer
- Trend: Vertical integration
- Worry: Can old categories of conduit and content provider survive?

Policy Rationales for Net Neutrality

- Economic
 - Innovation
 - Antitrust
- Political
 - Berlusconi worry
 - First Amendment
- Cultural
 - Vertical integration
 - Blandness
 - Sensationalism



Net Neutrality Battles at the Physical Layer Reflect Worries About Other Layers

- Common carriage of data
- No discrimination according to source of data
- Transparent routing
- Do we have similar worries about other layers?

The graphic displays three tiers of internet service packages, each with a different set of logos and a price tag. The top tier is 'Internet Basic Service High Speed' for \$29.99, featuring logos for AOL, GO.com, msn, NBCi, abc, Walt Disney Internet Group, and eBay. The middle tier is 'Advanced Internet Service High Speed' for \$39.99, featuring logos for Google, Wikipedia, and Yahoo!. The bottom tier is 'Blogger Internet Service High Speed' for \$49.99, featuring logos for Myspace.com, YouTube, and Blogger. Each tier includes a description of the services and the number of websites included. At the bottom, a small disclaimer states: 'Full internet access available on request. Prices subject to change at any time. (Full Access does not include access to illegal material)'

Service Name	Price	Number of Websites
Internet Basic Service High Speed	\$29.99	over 60 websites
Advanced Internet Service High Speed	\$39.99	over 200 websites
Blogger Internet Service High Speed	\$49.99	over 2000 websites

Understanding the New Problems Posed by Intermediaries

- **From privacy to reputation**
- **From PC to cloud**
- **From network effects to network power**

Are Search Engines. . .

Conduits

- Google's VP of Content Partnerships: "I would say we're a conduit connecting our users with content and advertisers."
- Benefits
 - DMCA immunities
 - CDA immunities

Content-Providers

- On Family Guy deal: "We feel that we have recreated the mass media," said Kim Malone Scott, director of sales and operations for Google AdSense.
- Benefits
 - First Amendment protection

The First Amendment Question

The Path of Cable and Telecommunications

- *Turner Broadcasting*
 - Universal Service
 - No blocking of legal content
 - Transparency
 - Public knowledge of how traffic is routed
 - Level commercial playing field

The Print Model

- *Miami Herald v. Tornillo*
 - Game over

Concerns that Should Drive Intermediary Regulation

- Payola
 - Consumer Alert letter
- Privacy
 - Reciprocal transparency
- Cultural Power
 - Compulsory licensing to help newspapers?