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CDT Calls for Legislation to Preserve Internet Neutrality

WASHINGTON -- June 20, 2006 -- The Center for Democracy and Technology (CDT) today called on lawmakers to enact narrowly tailored legislation to preserve the essential neutrality and openness of the Internet, while leaving broadband network providers free to experiment with non-neutral arrangements elsewhere on their networks.

The Internet is fundamentally neutral, and that neutrality has been critical to its unique role as an engine for free speech and innovation, CDT finds in a new paper (<http://www.cdt.org/speech/20060620neutrality.pdf>). In the narrowband world, adherence to that neutrality was widely accepted. When Congress first permitted commercial traffic on the Internet, it did so with the understanding that information providers would be treated equally.

But as new broadband networks evolve, recent legal decisions, regulatory changes, announcements by network owners and a consolidating market have put that essential neutrality at significant risk.

"The open and neutral Internet is a unique engine of free expression, innovation and commerce. CDT has long promoted and defended the Internet as a true technology of freedom. We cannot take risks with its future," CDT Executive Director Leslie Harris said. "Once new, non-neutral networks and business arrangements have been put in place on the Internet, overturning those arrangements is likely to be extremely difficult. If the telecom bill happens this year, net neutrality language must be included. It is better to establish rules of the road in advance, so that neutrality will be factored into network architecture and business plans from the start."

CDT reached its conclusions after months of careful study and consultation with stakeholders from all sides of the debate. As part of that process, CDT commissioned a separate paper on the subject by Daniel Weitzner, available here <http://dig.csail.mit.edu/2006/06/neutralnet.html>.

In its paper, CDT makes five key findings: 1) today's Internet is neutral in a number of crucial ways; 2) neutrality is rooted in the Internet's history and has been central to its development as a tool for innovation and free expression; 3) the future of that essential neutrality is uncertain -- endangered by regulatory and commercial developments that open the door for discriminatory behavior by network providers; 4) legislation is warranted; and 5) legislation should take a narrow approach that focuses on Internet neutrality, rather than the broader question of "network neutrality," and does so in the least restrictive, yet still effective way.

CDT found that it is vital to make a clear distinction between "Internet neutrality" and the more ambiguous principle of "network neutrality." The broadband networks that would be affected by neutrality legislation also carry cable television and other non-Internet services over much of their bandwidth. CDT believes that current legislation should be focused specifically on the portion of broadband networks dedicated to the Internet. For the portion of the network not devoted to the Internet, CDT believes that legislation should require regular monitoring and reporting to ensure that as new services are deployed, they do not crowd or undermine the neutral Internet.

"Whatever Congress decides on this issue will affect the Internet for decades to come," CDT Staff Counsel David Sohn said. "If we can get the right rules in place, it will help ensure that the Internet remains a tool for democracy, industry and expression for new generations of users."

Added Sohn: "We need to move forward legislatively but we also need dialogue to ensure that we get it right. We don't want to impede the growth of new broadband networks or intrude into their non-Internet operations, but legislation that simply sets out consumer rights without prohibiting discriminatory treatment falls short of the mark in protecting the essential Internet. Such an approach would give the FCC too much discretion and too little guidance. We believe that net neutrality rules need to be clear in the statute so that the Commission is in an enforcement role, not a regulatory one. We intend to work with all parties to perfect legislation as the process moves forward."

About CDT: The Center for Democracy and Technology works to promote democratic values and constitutional liberties in the digital age. With expertise in law, technology, and policy, CDT seeks practical solutions to enhance free expression and privacy in global communications technologies. CDT is dedicated to building consensus among all parties interested in the future of the Internet and other new communications media.