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e-Research: A Journal of Undergraduate Work, Vol 3, No 1 (2012)[HOME](#) [ABOUT](#) [USER HOME](#) [SEARCH](#) [CURRENT](#) [ARCHIVES](#)[Home](#) > [Vol 3, No 1 \(2012\)](#) > [Bryant](#)**The Bias of Neutrality: An Examination of a Congressman's Motivations on the Issue of Network Neutrality****Harrison Beau Bryant**

Abstract: The United States Congress is an institution that, especially in recent times, is continuously faced with more modern and complex problems. The political dilemma surrounding the issue of network neutrality is a perfect example of a highly complex and technical problem that members of Congress have been forced to think about and act on. Because use of the Internet has now been almost entirely integrated into American society, with nearly 80% of the U.S. population connected in one way or another, the Internet's priority as a subject of legislation has seen a meteoric rise in Congress (data.worldbank.org; opencongress.org). In fact, many representatives in Congress have taken a firm position with regard to how they approach regulation and the Internet, though these positions can be a bit complicated because of the convoluted nature of the "free internet" arguments. This essay will narrow down the issue and look specifically at Representative Gary Miller's stance on "net neutrality," examining how party affiliation, district interests, and fundraising needs have influenced the Congressman's position on the subject.

Key words, terms, concepts, names: congress, congressman, internet, internet neutrality, internet regulation, internet service providers, ISPs, Gary Miller, FCC, David Cohen

In order to understand the two sides of the net neutrality argument, it is crucial to first gain a general understanding of what exactly is meant by the term "net neutrality." Network neutrality, defined most simply, is the idea that all of the information that is shared on the Internet ought to be done so without any priority, i.e., neutrally (FCC 10-201). Simply put, this means that Internet Service Providers (ISPs) cannot discriminate between content distributed over their networks. For example, ISPs could not arbitrarily cause a certain website to load more quickly than another website, though they may have an economic incentive to do so. The debate over net neutrality has reeled in some big-time commercial players. Companies that traditionally provide free services over the Internet tend to be in favor of net neutrality. For example, Google, eBay, and Amazon are all outspoken advocates of the policy, while major ISPs such as Verizon and Comcast are, for the most part, opposed to the idea ([http://www.google.com/...](http://www.google.com/)). In fact, David Cohen, the Executive Vice President of the Comcast Corporation, claimed that any regulation of the Internet "would likely do more harm than good" (2006). The debate reached its peak in 2010 when the Federal Communications Commission decided to release a report laying out its proposed "rules" of network neutrality, which it said would become the foundation for its policies concerning internet regulation (FCC 10-201). From 2010 to present, the debate in Congress has been framed by the FCC's proposed rules, with the two sides demonstrating their respective positions on net neutrality by either supporting or opposing the FCC's report.

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As mentioned, the Internet has become such a pervasive and underlying issue in technology legislation that it would be next to impossible for a representative not to hold some kind of opinion regarding it. Representative Gary Miller of California is no exception. Miller has served in the U.S. House of Representatives since 1999; thus, his congressional career has "grown up" alongside the Internet. When Miller began his first term in the House, only 36% of American households had access to the Internet. Miller, however, serves the 42nd District in California, which is the second wealthiest district in the entire United States. The median annual income of his district is over \$90,000 - nearly twice the national average. Because of this concentration of high-income households, it is more than likely that Miller's constituents have had access to the Internet for a greater amount of time than districts with a lower median income (Jansen 2010). The 42nd District is also notably well educated: 89% of the residents in the district hold a high school degree (national average: 84%) while 37% hold a college degree (national average: 27%). This means that Miller's constituents are more likely to be informed or at least interested in the decisions that he makes, because of the influence that education can have on one's political participation. Luckily for Miller, the 42nd District is a solid, Republican stronghold, consistently voting for most Republican candidates (elections.nytimes.com). In fact, over his time in office, Miller has been steadily reelected with at least 60% of the votes gathered in his district. His seat, however, is not as safe as it once was.

In the 2012 election cycle, because California's Congressional districts have been slightly redrawn, Miller will be going toe-to-toe with another Republican incumbent who has been widely popular in his district, Representative Ed Royce. The threat of losing his Congressional seat has no doubt heightened Miller's sense of urgency regarding the maintenance of his own image as a solid politician, and perhaps more importantly, as a solid Republican. He has begun campaigning in his district once again, this time with the realization that there is a chance he might lose. House campaigns are not an easy affair even when the district is relatively secure. Incumbents spend an average of just over one million dollars operating campaigns (Smith et al. 2011). During the 2010 election year, Miller spent \$749,000 for this purpose even though he had relatively little competition (elections.nytimes.com). In light of the newly redrawn districts and the heightened competition for his seat, it is likely that Miller will need to spend even more money this time around. In order to do this Miller will have to turn to his primary sources of campaign financing for help.

In previous election years, the majority of Miller's campaign contributions have come from the real estate and construction industries. The top two contributors to his 2010 campaign were the National Association of Mortgage Brokers and a company called Lytle Development. These two contributors donated \$19,000 and \$12,000 respectively (opensecrets.org). It is not surprising that the real estate industry would have an economic interest in supporting a strong Republican incumbent for Congress, especially one whose district is in Southern California. Republicans typically have a pro-business outlook towards politics, and Miller himself is no different. In his "Capitol Connection Newsletter," Miller continually promotes the Republican ideology of deregulation and supports the idea of the free-market economy (garymiller.house.gov). Therefore, real estate interests have plenty to gain if Miller is elected. Interestingly, though, the number three spot for top campaign contributor is held by a company outside of the real estate industry: AT&T Inc. Having contributed \$10,000 to Miller's 2010 campaign, it appears that the telecommunications giant also has a vested interest in helping Miller remain in Congress (opensecrets.org). Because it is highly likely that Miller will reach out to these contributors again, it is safe to assume that many of the decisions he makes as well as the actions he takes will occur with these contributors, as well as their interests, in mind. Miller, then, has to be significantly concerned with how these donors and his constituents will react to his issue positions. What, then, is the position he takes on net neutrality?

Miller has sided with the overwhelming majority of Republicans on the issue of net neutrality. He espouses the opinion that any regulation of the Internet is bad regulation and is harmful to the "free and open" nature of the

network (garymiller.house.gov). In order to make his position on the issue clearer, Miller, along with 79 other Republicans and 1 Democrat, cosponsored the "Internet Freedom Act" (H.R. 96). The bill's stated objective is to "prohibit the Federal Communications Commission from further regulating the Internet," and it is a piece of legislation primarily designed to nullify the net neutrality rules issued by the FCC. The FCC's rules, though they are lengthy and contain several prerogatives, have the general goal of promoting the freedom of the Internet by *protecting* it from ISPs and big-business. The FCC, in doing this, operated under the viewpoint that the Internet is currently not as free as it might seem to be because of the threat that the companies controlling it pose (FCC 10-201). Miller sees things a different way, though. He believes that any federal regulations of the Internet, even those designed specifically to protect and promote its freedom, inherently diminish that freedom and "hinder investments in new technologies and broadband access" (see Miller's email response provided in Appendix A). In his email, he argues that "since the Internet's inception, the network has been neutral;" this statement assumes that the ISPs and businesses have not affected the freedom of the Internet whatsoever. He calls the FCC's rules an "unprecedented move" and vows to stop their implementation at all costs. With regard to the issue of net neutrality, it is clear that Miller has an opinion and that he has no reservations about making it widely known. It is important to analyze how and why his issue position may be affected by the political pressures that he faces from his constituents and contributors.

Miller needs to worry about the opinions of his constituents because they control his job security with their votes. His stance on net neutrality, like his position on any issue, is probably motivated in part by a desire to appeal to his district. By talking up the harmful effects of the FCC's rules on "competition" and "broadband access," Miller solidifies his own position as being a positive influence on these two factors. Because residents of his district are comparatively wealthy, it is likely they not only desire basic Internet access but they also want the ability to access other quicker Internet connections as well. Miller uses his position to demonstrate that he wants the ISPs to have absolute control over their networks so that they have an economic incentive in strengthening their networks' infrastructures, thereby increasing competition and network access. Additionally, because his constituents are more educated, there is a good chance that they are aware of the options available to them as compared to the options available in the rest of the nation. Therefore, if Miller did not work hard to make sure that they had, at the very least, the option to get better Internet, they may begin to question his effectiveness. His constituents are only one aspect of his motivations, however, perhaps more important are the pressures that he faces from those who hold the money that he needs for reelection.

It is safe for Miller to assume that the organized interest groups that finance his campaign, most being private sector corporations which operate - to some degree - within his district, want to see him promoting the interests of business in general. With respect to net neutrality, his number three contributor, AT&T, is directly affected by his opinion on the issue. AT&T provides several telecommunications services to Miller's district, including: broadband access, dial-up services, and mobile access (att.com). All three of these services would be affected by the FCC's rules on net neutrality. For example, if the FCC's rules were to be put in place, then AT&T would not be allowed to block or impede the operations of a website that provides voice over internet protocol services which compete with their own telephone plans. Because of this, AT&T has an enormous economic interest in blocking the FCC's rules from being put in place, an interest that certainly exceeds a relatively small campaign donation to a single representative. Miller, however, is much more reliant on AT&T for his campaign finances. He needs to maintain all of his connections in order to successfully raise the necessary funds to operate his campaign every time he goes up for reelection. In addition, AT&T as well as other companies and interest groups have the power to send messages to Miller's constituents, messages that can either help or hurt him. Interest groups can use "scorecards" to effectively rate politicians based on how well they are working on specific issues; these scorecards then become quick reference material for voters. Taking this into account, it is difficult to believe that the interests

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of AT&T and the rest of the telecommunications industry have not affected Miller's pro-business position on net neutrality.

Finally, there are the pressures that Miller faces from his political party. In this highly partisan era of Congress, Miller benefits from voting with his party on specific issues. Net neutrality, as demonstrated by the members who supported H.R. 96, is one of those issues. Nearly every Republican member of Congress feels that the Internet needs to be left alone and that it is especially not in need of protective Federal regulations. They voiced this opinion when they approved House Joint Resolution 37, a "largely symbolic" measure passed to show Congressional disapproval of the FCC net neutrality rules (nytimes.com). The measure passed on partisan lines, with 234 Republicans and 6 Democrats voting "yes," and 177 Democrats and 2 Republicans voting "no" (opencongress.org). As a member of the Republican Party, it would be unwise for Miller to go against the overwhelming majority of his fellow Republicans on an issue that seems so dividing, especially considering the fact that his district is composed primarily of Republicans. These political pressures end up being yet another influence on Miller's stance on the issue.

The debate over net neutrality has, to this point, been carried out as a proxy battle using the FCC's proposed rules for regulating the Internet; so far, no specific, broad legislation has been enacted by Congress that does anything but oppose or support the FCC's rules concerning net neutrality. In the future, it is likely that Congress will itself address the issue in a more comprehensive way by creating legislation that reflects its own opinions on the matter. The Republican Party and, more specifically, Representative Gary Miller, will probably remain true to the platform and support the interests of the big businesses that support them. Miller's position on the issue might come from preexisting convictions concerning neutral networks, but it is certainly not absurd to think that his ideology is influenced to some degree by his constituents, the funders of his campaign, and the other members of his party.

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Appendix A: original email from Congressman Gary Miller

October 11, 2011

Mr. Harrison Bryant

6 Leonado

Rancho Santa Margarita, California 92688

Dear Mr. Bryant:

Thank you for contacting me to express your reservations about Internet network neutrality. I appreciate hearing from you on this important issue. The advent of the Internet has led to advancements that were unimaginable even a decade ago. I believe it is vital that we allow the Internet to continue to provide economic benefits to innovators and consumers.

Congress is currently revising the nation's communications laws. An important and contested issue under consideration during this process is Internet network neutrality. In a neutral network, all network traffic is treated the same, regardless of origin or destination, and all content, applications, and equipment are treated similarly, regardless of function, ownership, or implementation. Since the Internet's inception, the network has been neutral. Network operators allow the application and content providers free access to the network. However, network operators claim no incentive exists to continue investing in and upgrading existing broadband networks. Congress is seeking a careful balance to ensure that continued investment in new technologies and infrastructure allows for cutting-edge advancements to be made available for consumers and industry alike.

In 2005, the Federal Communications Commission (FCC) announced four network neutrality principles, which have been incorporated into the Commission's policymaking activities. Since then, current FCC Chairman Genachowski announced an expansion and codification of the 2005 principles and the FCC issued a notice of proposed rulemaking. While a federal appeals court ruled that the FCC lacks the authority to regulate the Internet, the Commission has continued to seek ways to circumvent the ruling and expand and codify into law net neutrality. On December 21, 2010, the FCC adopted rules regulating the management of Internet networks.

Like you, I have serious concerns that the Commission's rules will hinder investments in new technologies and broadband access. That is why I have co-sponsored H.J. Res. 37, a disapproval resolution that if enacted into law would prevent the FCC from implementing these troubling regulations. You may be pleased to learn that H.J. Res. 37 was passed by the House of Representatives on April 8, 2011, and now waits further consideration by the U.S. Senate. As your Representative, you may be assured that I will continue to work to ensure that American consumers have access to the widest possible array of communications services and stop the FCC's unprecedented move.

Again, thank you for contacting me. I hope you will remain in touch in the future on other issues of importance to you.

Sincerely,

GARY G. MILLER

Member of Congress