

## New year, new action on net neutrality

It is not surprising that some reporters covering the February 1 oral arguments for *Mozilla v. Federal Communications Commission* before the U.S. Court of Appeals for the D.C. Circuit referenced Groundhog Day. Not only was the large rodent scheduled for his spring forecast the following day, but the same court has ruled multiple times on this issue over the past decade—bringing to mind the endless loop Bill Murray finds himself in the movie *Groundhog Day*.

The question before the court this year is whether in December 2015 the FCC was arbitrary and capricious in reversing its 2015 order, which included rules against blocking, throttling, or paid prioritization of Internet access. ALA, ACRL, and 18 other amici from higher education organizations filed in support of Mozilla in the case underscoring that the FCC's December 2017 Order "imperils the [I]nternet's continued operation as a reliable platform for research, learning, and information sharing." The amicus brief details the significant burden the 2017 order will impose on universities, libraries, and the communities we serve if not vacated.


The last time this court took up net neutrality, it affirmed the FCC's 2015 order. It is expected to rule on the current case by summer 2019.

It's unlikely the D.C. Circuit court will have the final word, though. In addition to

a likely Supreme Court appeal, members of Congress have signaled interest in a legislative solution. The House Communications Subcommittee was scheduled to hold its first net neutrality hearing February 7, and ALA planned to file a statement into the record. Entitled "Preserving an Open Internet for Consumers, Small Businesses, and Free Speech," Democratic leaders said the hearing will focus on the effects of the 2017 rollback in net neutrality protections.

Researchers at Northeastern University in Boston found that wireless providers were throttling video streaming. In a statement last fall, David Choffnes, assistant professor of computer and information science at Northeastern, pointed out, "There's no evidence that any of these policies are only happening during network overload. They're throttling video traffic even when the network doesn't need to. It happens 24/7, and in every region where we have tests."

In addition to federal action, some state lawmakers have argued they have an obligation to protect consumers with net neutrality rules and that local governments can approve or deny requests by telecommunications providers to operate in their states. Less than six months after the 2017 FCC vote, 36 states had proposed or passed a resolution, bill, or executive order supporting net neutrality protections. But whether these state laws are enforceable is an open question.

Perhaps only one thing is certain—that we will continue to see net neutrality in the news, and ALA will continue its long advocacy for strong, enforceable net neutrality protections that empower online participation and free expression for all. Stay tuned in coming months. 

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