



**WRITERS
GUILD OF
AMERICA, WEST**

Data Caps Threaten Innovation and Competition

The Writers Guild of America, West (WGAW) supports a free and open Internet. This distribution platform offers new ways to create and deliver news, information and entertainment, increasing competition and the diversity of content offered to consumers.

The adoption of new technologies like smart phones and tablets, coupled with the rise of streaming video services has fueled growth in Internet usage. The Internet holds great promise for both content creators and consumers. Its unlimited capacity provides ample space for diverse content not available on traditional media platforms that, as a result of media consolidation, are controlled by a few powerful corporations. For writers, the stories they have been unable to tell now have an outlet. However, the innovation and competition enabled by an open Internet is threatened by monthly data caps instituted by wireline and wireless service providers.

Recent actions by both wireline and wireless Internet Service Providers (ISPs) to cap Internet usage raise important concerns about Net Neutrality and the viability of the Internet as a competitor to cable services. For instance, AT&T's U-verse Internet services impose a 250 gigabyte monthly cap. This translates into about 121 hours a month of high definition (HD) video streaming. Nielsen reports that in 2011, the average American watched over 130 hours of video each month. The cap works to prevent consumers from substituting Internet video for cable television. Until recently Comcast maintained the same data cap. In May 2012, Comcast announced an increase to 300 gigabytes per month with the option to purchase additional data. However, it appears Comcast may be using its position as an ISP to discriminate against services that competes with its own products. The company has launched its own Internet video streaming service, Xfinity Streampix, to compete with rivals like Netflix and Amazon. Notably, the service is exempt from Comcast's own data caps when accessed over the Xbox 360 Xfinity app because, according to Comcast, it does not travel over the public Internet. However, testing by network engineers suggests that Xfinity traffic to the Xbox may not be traveling over a private network but it is being prioritized over competing video traffic.¹ It is clear these data caps will allow cable companies to discriminate against Internet delivered video, undermining competition in the video marketplace.

While wireless providers have begun rolling out faster Internet service over new 4G networks, consumer use of this advanced technology is restrained by company imposed data limits. Under the mid-range plans provided by AT&T and Verizon Wireless, users are limited to 2 gigabytes of data transfer per month, effectively restricting a consumer from downloading even one high definition movie. Sprint is the only wireless company to offer unlimited data plans. These caps severely limit the potential for mobile distribution of video content.

Data Caps are a Cure Worse than the Disease

Data caps are an ineffective way to address Internet congestion, which occurs at specific times. The imposition of data caps to decrease congestion is like trying to reduce rush hour traffic by limiting the number of miles one can drive in a month. In fact, one of the few analyses of real world Internet traffic found that congestion only occurs at specific times and data caps punish users who do not

¹ Dugan. Andrew. "An IP Engineer and Consumer View of Xfinity Traffic Prioritization." Level 3 Communications Blog, May 17, 2012. Available at <http://blog.level3.com/2012/05/17/an-ip-engineer-and-consumer-view-of-xfinity-traffic-prioritization/>

contribute to congestion. As one of the authors of the study concluded, “Data caps, therefore, are a very crude and unfair tool when it comes to targeting potentially disruptive users.”²

Furthermore, by limiting Internet use, data caps reduce the incentive for ISPs to expand network capacity. Public Knowledge has pointed out that ISPs have the ability to increase bandwidth at relatively minor cost.³ They also have the choice of shifting some of the cost to third-party content providers, for example, through the use of Content Delivery Networks. Data caps undermine both innovation in congestion management and investment in more network capacity.

Action Needed

The FCC should investigate ISP data cap policies and practices, to ensure they are not used to stifle competition. Furthermore, Congress must step in to protect competition and to properly define and enforce nondiscrimination against content providers in order to protect the development of a competitive online video market.

Who We Are

WGAW is a labor organization representing more than 8,000 professional writers of motion pictures, television, radio, and Internet programming, including news and documentaries. For more information on the WGAW, please visit: www.wga.org.

² Felten, Benoît. “Do data caps punish the wrong users?” Fiberevolution.com, November 28, 2011, <http://www.fiberevolution.com/2011/11/do-data-caps-punish-the-wrong-users.html>

³ Odlyzko, Andrew et al. “Know Your Limits: Considering the Role of Data Caps and Usage Based Billing in Internet Access Service.” Public Knowledge, May 2012, p. 26. Available at <http://www.publicknowledge.org/know-your-limits-considering-role-data-caps-and-us>.