

TO: Duphis Dillinger, CEO, RedBlue

FROM: Edward Smith

DATE: September 30, 2023

SUBJECT: State Action and Net Neutrality

RedBlue has recently been accused of violating First Amendment rights due to requiring its users to sign a terms of service agreement that restricts certain types of speech on the platform. However, RedBlue has not violated these users' First Amendment rights due to the idea of "State Action". Section One of the Fourteenth Amendment states that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" (*law.cornell.edu*). In simpler words, states can't perform actions that deprive citizens of amendment rights, and all citizens must be treated equally under the law. However, this means that private citizens and companies cannot violate amendment rights because state action requires there to be some sort of action by the government to suppress the rights of individuals. By requiring users to agree to the RedBlue terms of service, we are not arresting them, charging them with any crimes, or further restricting any amendment rights of theirs if they do not agree to or abide by our rules. They will simply not be allowed to use the RedBlue application if they do not follow our rules, which does not qualify as state action and thus, does not violate their First Amendment rights.

Net Neutrality is currently a heavily debated issue and is "the idea that internet service providers like Comcast and Verizon should treat all content flowing through their cables and cell towers equally" (Finley, 2020). For example, an ISP would not be able to slow down access to a certain streaming service or website just because they disagree with their views or have a deal with a competing streaming service or website. During the Obama Presidency, the FCC passed a network neutrality plan that changed the broadband internet's classification to that of a public utility, which gave the FCC more power to regulate ISPs. They also established new rules during this time that prohibited providers of broadband from treating some forms of content differently than others or blocking any sort of content or applications that aren't illegal (Lee, 2015). When the Trump Administration appointed Ajit Pai as the new chairman of the FCC, many of the regulations that were passed under President Obama were eliminated in a 2017 FCC vote. Under

the new rules, ISPs were instead only required to “disclose information about their network-management practices” (Finley 2020). Very recently, President Biden’s nominee to the FCC, Anna Gomez, was confirmed by the Senate and broke the 2-2 deadlock that has held within the FCC for the last few years. As of now, it seems the FCC is moving to reinstate the previous rules that had been put into place during the Obama Era and repealed during the Trump Era. This will prevent ISPs from blocking or slowing down access to content as well as preventing them from speeding up certain websites or content in exchange for payment (Fung, 2023). Overall, it seems that in the coming months, net neutrality will be restored to its former status in 2015 and may even be strengthened with new rules as well.

As for my own opinion on the net neutrality debate, I firmly side with net neutrality and its idea that all content should be equal when flowing through the internet. Broadband internet has become a public utility over the years due to how important it has become and how much we rely on it. It is not only important for the use of entertainment but has become increasingly important for the uses of education and employment over the last few decades. For this reason, it makes no sense that companies should be able to block or slow down certain types of content if it is not illegal. Other public utilities, such as water or electricity, are generally not allowed to restrict access to their utility, so ISPs should not be allowed to do the same. Allowing them to do so would actively harm many customers in many aspects of life where the internet is required. Students may have trouble watching videos or loading assignments that their teachers assign, employees may experience difficulties when trying to attend virtual work meetings or communicate with other coworkers, and the use of communications or entertainment within the home could be restricted or slowed simply because the ISP wishes to do so for personal gain. Net neutrality would not allow this to happen and because it promotes the freedom of content and information flow over the internet, I side with net neutrality and believe it is the most sensible position.

## References

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