

Bennett Ross Comments on Justice Department's Challenge to California Net Neutrality Law

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Bennett L. Ross, chair of Wiley Rein's Telephony & Information Technology Practice and a partner in the Telecom, Media & Technology and Litigation practices, was quoted in an October 2 *S&P Global Market Intelligence* article about the U.S. Department of Justice's (DOJ) challenge to the state of California's new net neutrality law. In a lawsuit filed this week, the DOJ said the federal government has exclusive authority to set policy with respect to interstate communications, including Internet service.

According to the article, California's law would regulate Internet service providers – and govern their treatment of Internet traffic – at the state level, a move that runs counter to the federal government's current deregulatory approach to the Internet.

Mr. Ross said the California law is broader in scope than efforts in some other states to address net neutrality. Most other state actions "have been limited to state contracting requirements," he said.

In those states, "if an Internet service provider doesn't adhere to certain net neutrality requirements, the state won't do business with that Internet service provider," Mr. Ross said. "That's obviously a very different construct than what California has done, which is essentially prescribe conduct and requirements that every ISP purportedly must meet."

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Mr. Ross said the DOJ's lawsuit also could temporarily slow or stop pending net neutrality actions by lawmakers in other states. "I suspect that if you're a state attorney general, rather than getting dragged into litigation, you might counsel the legislature in your state to maybe stand down until the California litigation is concluded," he said.

The article can be found here (*subscription required*).