

# Comcast's Traffic Pact With Netflix Is Shrouded in Secrecy



William Thomas Cain / Getty Images

The Comcast Center, home to Comcast's corporate headquarters, in Philadelphia

Netflix's agreement with Comcast to establish a direct connection between the two companies means that customers of the nation's largest broadband company can be confident that they'll receive reliable, high-speed streaming service from the online video giant for years to come, the two firms [said](#) in a statement on Sunday. But that confidence comes at a price for Netflix, which has capitulated to the demand made by the Philadelphia-based broadband behemoth that it pay a financial cost for the massive amount of traffic it sends to [consumers](#).

It's not hard to see why Netflix felt the need to strike a pact with Comcast. Over the last few months, the average speed of Netflix streaming video content to Comcast subscribers has declined by more than 25%, according to Netflix, which publishes monthly speeds [reports](#). Financial terms of the deal were not disclosed, prompting criticism from some in the public interest community about the secrecy of these types of commercial arrangements.

Public interest groups are also concerned that such deals could normalize an

environment in which giant broadband providers extract fees simply for delivering Internet content to consumers. Deep-pocketed companies like Netflix can surely afford to pay such fees, but startups may not be able to do so, public interest advocates warn, which could stifle the development of the next generation of Internet-based services.

The deal highlights an ongoing structural shift in the physical and commercial architecture of the Internet as consumers use increasing amounts of bandwidth. It also underscores the growing leverage held by broadband giants like Comcast, Verizon and Time Warner Cable in negotiations with Internet content companies. At a time when the relationship between broadband companies and Internet firms is under intense regulatory [scrutiny](#), the pact is further evidence that private financial deals are the new front in the multi-year battle for advantage between these corporate giants.

**(MORE: [Here's Why Your Netflix Is Slowing Down](#))**

The agreement offers benefits for both companies. Netflix gains a direct connection to the nation's largest broadband company, bypassing bandwidth providers that operate as intermediaries between residential broadband companies and Internet firms. For its part, Comcast can use the pact as evidence that it is "playing nicely" with Internet companies at a time when the company is seeking regulatory approval for its [proposed deal](#) to buy Time Warner Cable, which would create a broadband behemoth with unprecedented power. (Time Warner Cable was spun off from TIME parent Time Warner in 2009.)

Technically speaking, the deal is known as a "paid peering" or "transit" agreement, in which Internet companies pay the broadband giants for the right to physically hook up with their networks at interconnection points around the country. Traditionally, peering agreements were straightforward deals in which bandwidth companies agreed to carry roughly equal amounts of traffic. If the traffic exchange was symmetrical, no money exchanged hands. But with the explosion of high-bandwidth services like Netflix, the broadband companies are increasingly demanding compensation in exchange for those direct connections.

As broadband-based video services like Netflix and YouTube have surged in popularity, the big broadband companies have expressed displeasure that they are obliged to deliver high bandwidth content — which often competes with their own video offerings — over the infrastructure that they have spent billions of dollars to build. In essence, the broadband companies feel that Netflix and YouTube are getting a “free ride.” In 2005, incoming AT&T CEO Ed Whitacre famously [remarked](#) that upstarts like [Google](#) would like to “use my pipes free, but I ain’t going to let them do that because we have spent this capital and we have to have a return on it.”

Prior to Sunday’s agreement, Netflix was connecting with Comcast’s network through intermediaries at five or fewer locations around the country, according to a person familiar with the deal. Now, Netflix will be able to connect directly to Comcast’s network at dozens of locations, the person said, which should improve performance for consumers. Netflix had wanted to install so-called “caching” equipment inside Comcast’s network — which would have brought the most popular content closer to consumers — but the broadband giant was not comfortable with such an agreement. Instead, the two companies will connect their networks directly.

**(MORE: [Comcast Set to Buy Time Warner Cable for \\$45 Billion](#))**

Although financial terms of the arrangement were not disclosed, the amount of money changing hands is “de minimis,” said the person familiar with the deal. “The fees are paid to operate the networking gear at the locations where the networks are connected,” the person said, adding that the new arrangement could actually save Netflix money over the course of several years. That’s because Comcast presented the video service with better financial terms than it had received from the bandwidth intermediaries that Netflix was previously using to connect to Comcast’s network.

John Bergmayer, Senior Staff Attorney at Public Knowledge, a D.C.-based public interest group, said the deal is alarming not only due to its secrecy, but also because it puts residential broadband companies in the business of charging Internet companies to deliver content to consumers. “No one on the outside knows what is happening in this

market,” said Bergmayer. “However, it is clear that residential ISPs should be in the business of charging their users for access the Internet, not of charging the rest of the Internet for access to their users. This ensures that they are putting the needs of their users first.”

The [FCC](#)'s 2010 Open Internet order prohibited broadband companies like Comcast, AT&T and Verizon from blocking or discriminating against rival services on their networks. But last month, a federal court [struck down](#) most of the FCC's order, because the agency had earlier failed to classify broadband as a “telecommunications” service, which would have allowed it to establish “common carrier” regulations prohibiting the broadband giants from discriminating against rival services.

Comcast is bound to abide by open Internet principles until 2018 thanks to an agreement it made with the government as part of its purchase of entertainment giant NBCUniversal, and the company has said that it will extend that agreement to cover Time Warner Cable, if regulators approve the deal. But the Open Internet order — which enshrined the principle of “net neutrality — only applies to the “last mile” connection into consumers' homes. The FCC's order specifically exempts “existing arrangements for network interconnection, including existing paid peering arrangements,” which means that the deal struck by Comcast and Netflix is not covered by the rules.