

Response to the European Commission's public consultation on THE OPEN INTERNET AND NET NEUTRALITY IN EUROPE

GENERAL REMARKS

Motorola supports an open and innovative Internet. Today, the Internet is a medium for all facets of society: it carries a growing portion of all economic activity; news is delivered electronically; personal finance is conducted online; socializing is now done through the Internet; governments connect with and communicate to citizens; and the list of critical functions goes on.¹

It is our observation that the proponents of net neutrality regulation promote arguments that are short on facts and long on unfounded speculation. In just the last five years, the Internet has enjoyed remarkable innovation and unparalleled growth, all of which has occurred without net neutrality rules. We take the view, that before net neutrality rules are even considered, it must be a clear obligation for those seeking a change in the current regime to demonstrate a need for these rules. Such demonstrations cannot be based upon dire predictions of alleged harm that will befall the Internet in the absence of government regulation, especially when such predictions have been wrong time and time again.

There is no market failure in the wireless broadband arenas that are necessary to correct, nor is there any justification for government regulation in the vibrantly competitive wireless broadband market. Indeed, there is no justification for extending net neutrality rules to wireless providers. Doing so would undermine the innovation, investment, and consumer benefits that have been the hallmark of the wireless broadband market.

Finally, managed services are a critical component of continued broadband innovation and investment and hold enormous promise for consumers. The Commission should encourage, broadband providers to offer managed services to their customers, which will result in numerous consumer benefits, such as increased video competition, improved healthcare, and more efficient energy distribution and usage arrangements.

THE OPEN INTERNET AND THE END-TO-END PRINCIPAL

QUESTION 1: IS THERE CURRENTLY A PROBLEM OF NET NEUTRALITY AND THE OPENNESS OF THE INTERNET IN EUROPE? IF SO, ILLUSTRATE WITH CONCRETE EXAMPLES. WHERE ARE THE BOTTLENECKS, IF ANY? IS THE PROBLEM SUCH THAT IT CANNOT BE SOLVED BY THE EXISTING DEGREE OF COMPETITION IN FIXED AND MOBILE ACCESS MARKETS?

QUESTION 2: HOW MIGHT PROBLEMS ARISE IN FUTURE? COULD THESE EMERGE IN OTHER PARTS OF THE INTERNET VALUE CHAIN? WHAT WOULD THE CAUSES BE?

¹ As evidenced in the US review of this issue the evidence on the record conclusively establishes that the current regime is working to the benefit of consumers and providers alike. See Motorola comments, *Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, 14 January 2010, <http://fjallfoss.fcc.gov/ecfs/document/view?id=7020374036>.

QUESTION 3: IS THE REGULATORY FRAMEWORK CAPABLE OF DEALING WITH THE ISSUES IDENTIFIED, INCLUDING IN RELATION TO MONITORING/ASSESSMENT AND SUBSEQUENT ENFORCEMENT?

TRAFFIC MANAGEMENT/DISCRIMINATION

QUESTION 4: TO WHAT EXTENT IS TRAFFIC MANAGEMENT NECESSARY FROM AN OPERATORS' POINT OF VIEW? HOW IS IT CARRIED OUT IN PRACTICE? WHAT TECHNOLOGIES ARE USED TO CARRY OUT SUCH TRAFFIC MANAGEMENT?

Today, new users coupled with new uses of Internet bandwidth are testing service providers' abilities to match bandwidth and management practices to demand. Soaring numbers of broadband users and increased usage of bandwidth-intensive applications and services such as video are driving unprecedented bandwidth and management needs. Just like the Internet was relatively unheard of before the mid-1990s, sites such as YouTube, Myspace, Facebook and others associated with the "Web 2.0" trend did not exist until recently and now account for a staggering proportion of all Internet traffic. In addition, the increasing availability of user-generated content and professionally-produced content from TV networks and others on the Internet is placing even more bandwidth demands on Internet service providers. In this environment network operators are faced with decisions about how to manage the traffic over their networks to continue to deliver the quality the high quality services that consumers demand.

Motorola believes that the use of traffic management is necessary in order to achieve better performance. Absent some level of network management, it is not possible to deliver reliable time-sensitive services that require quality of service.

QUESTION 5: TO WHAT EXTENT WILL NET NEUTRALITY CONCERNS BE ALLAYED BY THE PROVISION OF TRANSPARENT INFORMATION TO END USERS, WHICH DISTINGUISHES BETWEEN MANAGED SERVICES ON THE ONE HAND AND SERVICES OFFERING ACCESS TO THE PUBLIC INTERNET ON A 'BEST EFFORTS' BASIS, ON THE OTHER?

QUESTION 6: SHOULD THE PRINCIPLES GOVERNING TRAFFIC MANAGEMENT BE THE SAME FOR FIXED AND MOBILE NETWORKS?

Motorola supports open access to the Internet but advocates against open access mandates that place restrictions on the network-management approaches taken by Internet service providers.

1. Broadband Internet access consumers should have access to their choice of legal Internet content within the bandwidth limits and quality of service of their service plan.
2. Broadband Internet access consumers should be able to run applications of their choice, within the bandwidth limits and quality of service of their service plans, as long as they do not harm the provider's network.
3. Consumers should be permitted to attach any devices they choose to their broadband Internet access connection at the consumer's premises, so long as they operate within the bandwidth limits and quality of service of their service plans and do not harm the provider's network or enable theft of services.
4. Consumers should receive meaningful information regarding their broadband Internet access service plans.

QUESTION 7: WHAT OTHER FORMS OF PRIORITISATION ARE TAKING PLACE? DO CONTENT AND APPLICATION PROVIDERS ALSO TRY TO PRIORITISE THEIR SERVICES? IF SO, HOW – AND HOW DOES THIS PRIORITISATION AFFECT OTHER PLAYERS IN THE VALUE CHAIN?

QUESTION 8: IN THE CASE OF MANAGED SERVICES, SHOULD THE SAME QUALITY OF SERVICE CONDITIONS AND PARAMETERS BE AVAILABLE TO ALL CONTENT/APPLICATION/ONLINE SERVICE PROVIDERS WHICH ARE IN THE SAME SITUATION? MAY EXCLUSIVE AGREEMENTS BETWEEN NETWORK OPERATORS AND CONTENT/APPLICATION/ONLINE SERVICE PROVIDERS CREATE PROBLEMS FOR ACHIEVING THAT OBJECTIVE?

Motorola believes that managed services will be a key driver of innovation and investment in broadband networks. IP-based services hold enormous promise for consumers in terms of exciting new interactive applications and other innovations. For example, Motorola is investing in a wide range of IP-based solutions for broadband providers, including smart grid technologies and various wireless broadband applications and services.

Moreover, the continued growth of managed services will advance the goal of ensuring that the open Internet remains a platform for innovation and growth -- a goal that Motorola shares. Encouraging the delivery of managed services will create the right incentives for operators to continue to invest in and deploy next-generation broadband networks and technologies, including technologies that enable the more efficient utilization of broadband bandwidth and the allocation of more capacity to the open Internet.

In light of these public interest benefits, the Commission should pursue policies that encourage continued investment in managed services. For example, the Commission should view the term “managed services” expansively in order to accommodate changes in technology and advancements in service delivery arrangements. By contrast, the Commission should eschew government mandates in the dynamic and fast-evolving broadband market – such as a common quality of service regulatory condition which may restriction new and innovative business models and network management techniques – that risk chilling further investment and innovation and undermining open Internet goals.

In addition, revenues from managed service offerings will be necessary to help defray the costs of broadband networks. Broadband service is available to more than 90 percent of households in the United States, but a substantial percentage elect not to buy the service for a variety of reasons. It is in everyone’s best interest – network providers, content providers, and Internet application and software companies – to find ways of making broadband connections more affordable, and managed services are one way to do so. In short, broadband providers should be encouraged to offer managed services, not discouraged from doing so.

QUESTION 9: IF THE OBJECTIVE REFERRED TO IN QUESTION 8 IS RETAINED, ARE ADDITIONAL MEASURES NEEDED TO ACHIEVE IT? IF SO, SHOULD SUCH MEASURES HAVE A VOLUNTARY NATURE (SUCH AS, FOR EXAMPLE, AN INDUSTRY CODE OF CONDUCT) OR A REGULATORY ONE?

MARKET STRUCTURE

QUESTION 10: ARE THE COMMERCIAL ARRANGEMENTS THAT CURRENTLY GOVERN THE PROVISION OF ACCESS TO THE INTERNET ADEQUATE, IN ORDER TO ENSURE THAT THE INTERNET REMAINS OPEN AND THAT INFRASTRUCTURE INVESTMENT IS MAINTAINED? IF NOT, HOW SHOULD THEY CHANGE?

CONSUMERS – QUALITY OF SERVICE

QUESTION 11: WHAT INSTANCES COULD TRIGGER INTERVENTION BY NATIONAL REGULATORY AUTHORITIES IN SETTING MINIMUM QUALITY OF SERVICE REQUIREMENTS ON AN UNDERTAKING OR UNDERTAKINGS PROVIDING PUBLIC COMMUNICATIONS SERVICES?

QUESTION 12: HOW SHOULD QUALITY OF SERVICE REQUIREMENTS BE DETERMINED, AND HOW COULD THEY BE MONITORED?

QUESTION 13: IN THE CASE WHERE NRAS FIND IT NECESSARY TO INTERVENE TO IMPOSE MINIMUM QUALITY OF SERVICE REQUIREMENTS, WHAT FORM SHOULD THEY TAKE, AND TO WHAT EXTENT SHOULD THERE BE CO-OPERATION BETWEEN NRAS TO ARRIVE AT A COMMON APPROACH?

QUESTION 14: WHAT SHOULD TRANSPARENCY FOR CONSUMERS CONSIST OF? SHOULD THE STANDARDS CURRENTLY APPLIED BE FURTHER IMPROVED?

THE POLITICAL, CULTURAL AND SOCIAL DIMENSION

QUESTION 15: BESIDES THE TRAFFIC MANAGEMENT ISSUES DISCUSSED ABOVE, ARE THERE ANY OTHER CONCERNS AFFECTING FREEDOM OF EXPRESSION, MEDIA PLURALISM AND CULTURAL DIVERSITY ON THE INTERNET? IF SO, WHAT FURTHER MEASURES WOULD BE NEEDED TO SAFEGUARD THOSE VALUES?

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