

**QUESTIONNAIRE
FOR THE PUBLIC CONSULTATION ON THE OPEN INTERNET
AND NET NEUTRALITY IN EUROPE
Czech Telecommunication Office response**

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?*

In the Czech Republic no problems in identifying of menacing network neutrality have been identified. According to available information some mobile network operators have considered the blocking of VoIP traffic but finally they did not realize this intention. At present when providing access to internet in fixed and mobile networks only the „Fair User Policy“(FUP) consisting in limiting the data transmission volume in time (mostly per month) is used.

Question 2: *How might problems arise in future? Could these emerge in other parts of the internet value chain? What would the causes be?*

Following problems in providing internet access services might appear in future in the Czech Republic:

- Differences between advertised and available data flow speeds, most of all in case of access to Internet by means of mobile network.
- Discrimination of certain kind of traffic when introducing prioritisation in the control of data traffic.
- Introducing of secured forms of transmission (e.g. encryption of transmission routes or encryption made by user) could cause increase in demand of transmission capacity even if the capacity demand does not change.

Question 3: *Is the regulatory framework capable of dealing with the issues identified, including in relation to monitoring/assessment and subsequent enforcement?*

Yes, the revised regulation framework enables to identify problems in accordance with the Framework Directive 2002/21/EC modified by the Directive 2009/140/EC and in accordance with Universal Service Directive 2002/22/EC modified by the Directive 2009/136/EC.

The transposition of the revised regulation framework to the national legislation should enable NRA to accomplish efficient monitoring and evaluation of information about the provision of services of internet access to end users. Status quo of net neutrality and open Internet should be monitored systematically and continuously in order to cope successfully with occurring problems. It is necessary to define the relations among maintenance of the net neutrality supervision, supervision of illegal content on internet and security as well as network integrity.

According to the revised regulation framework the extension of the powers of the Czech Telecommunication Office (CTO) in the Czech legislation allows to adhere the net neutrality and openness of the Internet in the Czech Republic.

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?*

This question is addressed to the operators therefore the Czech Telecommunication Office does not respond.

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?*

Transparent and for end users comprehensible providing of comparable proposals on both categories of the services („best effort“ and „managed services“) and information about them allows the end users to decide which category of service suits most their requirements and finance options.

Question 6: *Should the principles governing traffic management be the same for fixed and mobile networks?*

With regard to the generally promoted principle of the technological neutrality there is no reason to suppose that the principle of open Internet will be affected by the method of access to Internet.

Regarding the existence of many similarities between fixed and mobile networks the using of similar principles of traffic management may be used when services of internet access are provided. The fixed and mobile network operators have to solve similar technical problems because of the use of similar technologies on IP basis. Because of limited transmission capacities in mobile networks it is nevertheless necessary in some cases to determine stricter limitation for utilizing transmission capacities. Nevertheless it is assumed that these limitations in the mobile networks will be reduced due to the expansion and implementing of new technologies.

The principles of operation of mobile networks are assumed by the Czech Telecommunication Office as generally more exigent because of the danger of increased impact of unforeseen end user's concentration in the relative small areas in these networks.

Because of limitation of the transmission capacity in mobile access networks, traffic management functions are used more often. The limits of transmission capacities causes that services requiring high data rates can not be sufficiently supported in some networks. The mobile network operators must apply measures which prevent the running out off available access capacities if necessary. Nevertheless, the basic services as the public telephone service, web browsing and email should always be accessible to all users.

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?*

The Czech Telecommunication Office does not have this information (CTO does not regulate the content).

CTO suppose that there could be preference of selected types of traffic (e.g. for certain subscribers, the certain types of terminal equipment or selected services). The requirements for priority might arise from the need to secure certain emergency calls. If the capacity of networks is not sufficient enough, prioritisation can negatively affect the quality of providing the „best effort services“ to other subscribers and consequently the other service providers who do not use prioritisation.

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?*

Yes, to all providers of content, applications and on line services the same quality of service and quality parameters must be rendered. They must be consistent with the principle of non-discrimination providing the same quality of the service and related parameters. In connection with the development and deployment of managed services even the application of managed (controlled) services with warranty quality could cause disruption of competition as long as all providers of services would not be able to ensure comparable conditions and affect the internet usage based on “best effort”.

Exclusive agreements about preferentially provided services between network operators and service providers could in some cases affect non discriminative provision of services on Internet, because the reduction of quality of other services e.g. insufficient network dimensioning could occur.

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?*

It would be appropriate within market self-regulation to develop and apply agreed service quality standards also for applying managed services. To address this element of self-regulation – “Code of Conduct” as efficient as possible, it would be appropriate to be jointed by all players on the market.

Commercial agreements of preferential provision of services between network operators and service providers should not be subject of regulation.

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?*

The Czech Telecommunication Office has not been informed about the content of these commercial agreements, because the legislation of the Czech Republic does not follow the obligation for subjects to pass these agreements to the CTO as in the case e. g.

interconnection agreements. The Czech Republic does not currently consider even to be expedient to have these agreements available.

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?*

The reason for the intervention of The Czech Telecommunication Office (as NRA) is non-adhering to basic requirements for the minimum quality of service. Furthermore, it may be lack of transparency of offers for providing the service of Internet access or excessive transparency limitations of some kind of data traffic at Internet network access.

Paragraph 3 of Article 22 of the Universal Service Directive 2002/22/EC modified by the Directive 2009/136/ES allows the NRA to establish minimum requirements for quality of service (to prevent degradation of service of internet access or obstacles or slowing down traffic within the network). This requirement can be interpreted as a requirement to prevent deterioration of the quality of individual services.

Question 12: *How should quality of service requirements be determined, and how could they be monitored?*

To determine the quality of service requirements, the available standards and specifications of international standardization organizations should be used. Requirements for the minimum quality of service must define the minimum acceptable level. Quality of service parameters should also be measurable. The method of control could be established in the same way as for monitoring and measuring quality parameters of the universal service.

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?*

Currently, successful collaboration of the European regulators is taking place to tackle problems of net neutrality at the BEREC level. It would be appropriate in the context of this cooperation to propose a uniform approaches for evaluating observation of net neutrality on a European scale, which could be used as in the individual EU Member States background document to ensure minimum service quality requirements.

If the market situation shows that it is necessary to establish minimum requirements for tested service quality, this should become a generally compulsory document. The Czech Republic has proved a form of measure of general nature or decree.

Compliance with the national requirements of the minimum quality of service Internet access should be continually monitored and evaluated.

Question 14: *What should transparency for consumers consist of? Should the standards currently applied be further improved?*

Subscribers should have the following information:

- the applied prices, charges and fees,
- conditions for access to services,
- changes of terms, restricting access to services and applications, or the possibility of their use,
- description of the procedures used for the management and measurement of data traffic,

- minimum level of offered quality of service,
- quality of service parameters according to the definition of the regulator,
- all procedures established by the provider to measure and control the traffic to prevent the fulfilment of bandwidth and its excision, and the impact of these procedures might have on the quality of service
- restrictions imposed by the provider on the use of terminal equipment supplied,
- the types of measures that may be taken by the provider in response to the cases of security or integrity disruption.

Existing standards should be extended to describe in detail all service parameters associated with the quality of provided services.

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?

The Czech Republic is not aware of any further major problems in this area.

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