

## Response to Public Consultation on the Open Internet and Net Neutrality in Europe by The Publishers Association

September 2010

### Introduction

Publishing in the UK is the largest media sector, and the biggest creative industry. The Publishers Association (The PA) is the leading trade body representing consumer trade, academic and educational publishers in the UK. The PA's members represent approximately £4bn (80%) of the £5bn turnover within these parts of the overall publishing sector. Collectively the creative industries – of which the copyright industries form the dominant part – contribute over 8% of the UK's GDP.

In response to this consultation we will not address specific questions, but provide a summary of our opinions and key concerns on net neutrality.

The PA strongly supports the response from the Federation of European Publishers to this consultation.

### **The Publishers Association supports net neutrality**

The PA believes that the continuation of net neutrality will be good for consumers, content providers, creators, innovators, SMEs and new market entrants. We believe that it will continue to encourage diversity, innovation, social progress and creativity on the internet, and ensure that the web does not become stifled in the future.

Since its creation, the internet has provided the world with some of the fastest paced technological and social change we have ever experienced. This change has come about as a result of the freedoms inherent to the internet – the freedom to express yourself, innovate and have equality of access. A move away from net neutrality would endanger those freedoms and result in an internet which would cease to be a hub of creativity and new ideas.

The PA values the freedoms which the internet provides to society, and therefore supports the continuation of net neutrality.

### **Respect for copyright law**

When thinking about issues in relation to the creative industries, including publishing, it is important to do so with recognition of existing copyright and intellectual property legislation. In the context of the internet this is particularly important. Content providers are keen to foster an open environment on the internet, but this cannot overlook the copyright and intellectual property rights of those creators and businesses.

## *Incentives for creativity*

Creativity hinges on Intellectual Property rights (IP). IP provides a robust legal framework, offering protections and remuneration to content creators and providers. Authors and publishers need to have the security to invest in new works, with the understanding that this will be protected and that they will be duly rewarded, if they are to continue contributing towards the creative economy. IP incentivises these content providers to put their time, skills and financial investment into creative content. IP therefore ensures that a viable creative industry, both in the physical world and online, can operate to a high standard on an international scale.

The independent and creative character of the internet is underpinned by IP. It protects original works created by any content provider, regardless of any financial or commercial considerations. This supports the principles of net neutrality in preventing the internet from becoming a digital 'high-street', wherein only the already established, larger players have the ability to dominate the market, squeezing out smaller players and independents.

However, independence should not be equated with illegal practices. Net neutrality, as a principle, is the provision of equal access for all to legitimate content, and should not be seen to endorse any breaches of IP rights or the pursuit of illegal filesharing. By ensuring that IP is respected and illegal traffic is brought down to a minimum, net neutrality is able to offer superior quality internet across the board. IP enforcement can then inform public awareness campaigns to encourage a respect for intellectual property and recognition of the harm that piracy causes to creativity.

## *Freeing up bandwidth and protecting consumers*

Illegal P2P filesharing is one of the main causes for slow and congested bandwidth. By better implementing and enforcing existing copyright and intellectual property legislation, the EU can more easily promote the tenets of net neutrality across member states. Consumers using many sites distributing illegal or unauthorized content face the imminent threat of identity theft amongst other risks such as malware infection. Illegal and unauthorized content currently clogs broadband pipes and it is in ISPs' interests as well as consumers' to remove the sources of congestion. In addition, illegal behaviour undermines consumer confidence in the safety and security of the Internet and by extension e-commerce as a whole. No new legislation would be required in order to significantly increase the bandwidth available across Europe – better enforcement and action upon existing anti-piracy legislation would enable the bandwidth currently used by illegal filesharers to be used instead for legitimate services.

As e-publishing develops as a medium, titles will increasingly include multimedia, a variety of options and more complex file types – all of this will serve to increase the size of e-publishing files and increase the importance of having the bandwidth available for consumers to download and stream content without interruption.

ISPs must be required to recognise their obligations to reduce and prevent online piracy. The EU and its Member States must take concerted, joined up action to ensure that existing measures are implemented appropriately and that ISPs are required to shoulder some of the burden of this.

## Reasons for supporting net neutrality

### *Social cohesion*

The publishing industry contributes not just to the national and EU economies, but also to standards in literacy and learning. It has been shown through numerous studies that books and reading benefit communities, society and individuals by enhancing knowledge, employability and social cohesion. Research by the National Literacy Trust has shown that literacy has a significant and positive impact on happiness and success. Literate individuals are more likely to live in working households, to own their own homes, and to participate in community activities and the democratic process. They are also more likely to trust people in their community, perceive their community to be safer, have better mental health, and provide a better skilled and more flexible workforce.

Equally, reading for pleasure has been identified as the most important indicator of the future success of a child (OECD, 2002), and improvements in literacy, at any point in life, can have a profound effect on an individual. Publishers take an active role in supporting the social element of our industry, producing titles for emerging adult readers and running activities to promote reading through UK society. Importantly, what has been true of published content in print continues to be true in the digital age.

As printed books have done for centuries, e-books and other e-publishing formats are now offering tools to facilitate life-long learning, enterprise and communication. As e-publishing grows in relevance over the coming years, ensuring equality of access to its resources will also increase in importance. We therefore continue to support net neutrality as a fair and equal way of accessing those materials which are vital for social progression.

### *Freedom of expression*

As representatives of publishers whose role is to invest in creative works, we support the fundamental principles of freedom of expression, equality of access and the promotion of creativity, which are also enshrined in the internet as a result of net neutrality. Net neutrality allows creators the freedom to display all kinds of content, as well as freedom of choice amongst consumers to access this content whilst continuing to respect copyright laws.

As an extension to this, net neutrality inevitably provides protection to minority voices and SMEs which, under a post-net neutrality system, would otherwise be swamped by larger players pricing them out of the market. Through net neutrality, smaller players can operate on a level playing field by competing on the quality of their content alone, rather than through their commercial advantage or preeminent position in the market. This ensures that ISPs cannot monopolise the internet by choosing specific content providers and censoring others, which could lead to the extinction of minority voices and ideas in future. Net neutrality instead promotes cultural diversity and pluralism, through freedom of choice and availability.

## *Encourage competitive practices*

Equal access and freedom of choice through net neutrality are priorities. Everybody should have the ability to utilise the internet's vast range of services in a fair and impartial environment. If ISPs are permitted to determine the terms of engagement for all providers of content on the web and chose to, for instance charge those providers extra for user-access to content, this could lead to a wealth transfer from content providers to ISPs. These types of pricing systems particularly discriminate against SMEs and independent players (which actually make up the majority of the publishing market), who would be unable to afford to make such commercial decisions, compared to mainstream companies who would inevitably take up most of the market. This would mean that smaller content providers would be barred from the online market, and others would have less of an incentive to expand their online offering due to the higher costs and restrictive terms.

Content should not have to be filtered through a limited number of specific services from ISPs, but instead be available through any internet connection and should be accessed on merit, rather than financial or market pre-eminence. An internet without net neutrality will mean that the delicate market balance between ISPs, content providers, and consumers will be skewed leading to a censored and limited online offering. Net neutrality offers a more progressive, innovative and competitive environment.

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