

EUROPEAN COMMISSION
Information Society and Media
Directorate-General
Electronic Communications Policy

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Dear Sir/Ms

I attach the answer from DR to the public consultation on the open internet and net neutrality in Europe.

Please don't hesitate to contact me if you have questions regarding our submission.

Yours sincerely,

Per Helge Sørensen

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?

At present DR has not experienced problems with traffic discrimination or net neutrality.

Question 2:

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

The main concern of DR is that internet providers (ISPs) through traffic discrimination may hinder the distribution of high quality content from public service broadcasters or force public service broadcaster's to carry the distribution costs on the open Internet. On a national level as well as on a European level this content is deemed democratically and culturally important, because it offers independent programming targeting all demographic groups on important topics such as news, music, national and European documentaries and films, and major events of cultural importance. Traffic discrimination could diminish the citizen's access to this content and thereby undermine the cultural and democratic value of public service for society.

Public service broadcasters are especially vulnerable to traffic discrimination because they are financed through the license fee and therefore do not have the opportunity to create new revenue streams (e.g. through advertising or subscription) that could pay for priority bandwidth or managed services. Net neutrality is therefore a fundamental precondition in order to ensure the open and free access to public service content.

Problems with traffic discrimination could arise as a consequence of increased bandwidth cost or dedicated portals (walled gardens) as the use of streaming video and on-demand

services increase. The risk of traffic discrimination may be augmented if the media and telecommunications market moves in the direction of vertical integration and partnerships between ISP's, content providers and CE manufacturers and thereby creates economical incentives to discriminate against public service (and other competing) content.

As mentioned DR has not experienced problems with traffic discrimination but DR finds it important to monitor the development closely as the internet gain increasing importance for the citizen's access to public service content.

Question 3:

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

At present DR has not experienced problems with net neutrality or traffic discrimination that calls for new regulation.

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?

No comment

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?

For DR the main priority is to ensure every citizen open and non discriminatory access to public service content on the internet. Transparency is an important means to ensure this and DR finds that transparency for the end user should be improved on the internet market.

However transparency may need to be supplemented with regulation or self-regulation if the market itself does not ensure open access to public service content. However, it is important to stress that this has not been the case so far in Denmark.

Question 6:

Should the principles governing traffic management be the same for fixed and mobile networks?

Yes

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 prioritization affect other players in the value chain?

The very concept of Next Generation Network is based on one entry point for the consumer to access virtually all content. Restriction and favoring access to specific content could be a part of new business models tied to physical hardware and/or software in connection with various CE equipment. Examples of this could be services for HBB-television, mobile apps and apps for tablet computers (iPad).

Public service is basically “equal for all” and will in principle not enter into agreements favoring one propriety technology for another. Public service participates in standardizations work for the benefit of promoting open standards and horizontal markets. As apps for mobile devices and the “internet connected-TV” rises in significant numbers, so does new participants in the value chain. They will have potential business cases in bundling and will exploit these in new gatekeeper roles. Presently, public service counteracts this by free-to-air and open internet access.

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?

As mentioned above managed services may create problems for DR and other public service broadcasters if access to public service content on public service broadcaster's websites is restricted.

Exclusive agreements between ISPs and commercial content providers could increase these problems if the agreements create incentive to discriminate against public service content or only to grant public service broadcasters access to users on infeasible economic conditions.

Against this background DR does not wish to enter into agreements on prioritizing DR's Internet traffic in the networks of the ISP's.

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?

The need for new regulation or self regulation initiatives depends on market developments and the behavior of main players in the market. At present DR sees no need for new 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?

No comment

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?

No comment

Question 12:

How should quality of service requirements be determined, and how could they be monitored?

No comment

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?

No comment

Question 14:

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

If traffic discrimination is taking place it is paramount that it is transparent for consumers in order to ensure that consumers in their choice of ISP are aware that certain types of content is discriminated against.

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?

As more and more of the modern world moves online ownership of the net infrastructure becomes more important. Not least because the net – through sites such as Wikipedia and YouTube - is an ever more important democratic rostrum, allowing even minor actors to deliver their messages whether in a cultural, political, commercial or any other sphere.

One of the finest traits of the open net is that it creates a level playing field for content providers - regardless of their economic basis. By legitimizing discrimination of traffic on the net, there is a substantial risk that the open, democratic nature of the net will be diminished if not dismantled. Rich companies will be able to buy traffic capacity they need, whereas this will be more difficult for less affordable companies (start ups and public service companies included). In effect this will exclude some companies and organizations from the public media sphere thereby reducing media pluralism.

DR recommends that the EU Commission monitors the development of net neutrality and traffic management closely and works meticulously and diligently towards ensuring that the Internet remains free and open in the years to come.