

SVT's response to public consultation on "The open internet and net neutrality in Europe"¹

Summary

The open character of the Internet is in SVT's opinion probably one of the most important reasons why Internet in only one and a half decade has become a fundamental part of peoples lives and a cornerstone of the economy of Europe. It has become a guarantee for access to information and media pluralism. This would not have been possible if the Internet had been built in a less open way. Therefore, it is of great importance to keep the Internet as open as possible. Net neutrality is a key to achieving that goal.

The current state of openness of the Internet is in SVT's opinion relatively good. However, there are potential problems, and the situation might quickly deteriorate. There is therefore reason to closely follow the current trends and developments of new business models.

For example it is becoming more and more common among mobile network operators not to allow certain types of traffic on their networks, such as VoIP or file sharing. Sometimes these restraints are motivated by capacity constraints, sometimes no such explanation can be found. In SVT's opinion these kinds of restraints on traffic are problematic and should be seen as a temporary last resort. Traffic management should only be used at a minimum for technical and legal reasons. Discriminating traffic by type, content provider or origin will distort competition and deviate from the end-to-end principle, which is at the core of the open and neutral character of the Internet.

The move to next generation networks needs substantial investments. Still, there seems to be a continued willingness for consumers to pay for better access, and also a willingness from operators to invest. Therefore it is reasonable to keep the commercial arrangements as today. Where providing Internet access is not commercially viable, government subsidies might be needed.

It is reasonable that operators can provide managed services for customers who are willing to pay for them, as long as these services do not interfere with the provision of open Internet access.

Open and transparent information to consumers is a necessity but not enough to ensure an open Internet. For many consumers the information provided by Internet operators today is far from clear and understandable. The information can be provided in different ways, and consumer organizations and NRAs should take an active part in providing fact based and neutral information about the services from different network operators. Information should not relieve network operators from adhering to key net neutrality principles.

¹ *SVT is one of Sweden's three public service broadcasters and the most popular television company in Sweden. SVT operates five digital national channels, the website svt.se and SVT Play, the most popular on demand service for television programmes in Sweden.*

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 can not be solved by the existing degree of competition in fixed and mobile access markets?

The open character of the Internet is probably one of the most important reasons why Internet in only one and a half decade has become a fundamental part of people's lives and a cornerstone of the economy of Europe. For SVT's audiences the Internet has provided not only the opportunity to watch SVT's programmes, news and other services where and when they want but also to interact with the content and communicate with other users. It also makes it possible to provide additional services that are costly to deliver through broadcast, for example live streaming of sign language.

The current state of openness of the Internet is relatively good. However, there are potential problems, and the situation might quickly deteriorate. There is therefore reason to closely follow the current trends and developments of new business models, including for example: the expansion of managed services in particular when sold in combination with open Internet access, the ongoing trend towards consolidation in the telecom market, the expansion of dominant Internet operators to adjacent markets such as content delivery, and the more and more common approach by mobile operators not to allow certain types of services over their networks, even though the services as such might be perfectly legal.

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

A potential risk factor is if and when network providers use their control over the networks to vertically integrate on the market. One such example could be if or when a network provider that provides both Internet access and content services over a managed network, can use either its control over the network or the market power through the managed service to take control of content delivery over the public Internet. This might quickly lead to a downward spiral with a decrease in competition and less efficient markets, and in the end to a diminished possibility for content providers to reach end users.

A related risk factor is when access to managed networks and the open Internet is bundled and not treated as separate services, such as when use of a managed service and the open Internet is counted against the same traffic cap.

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

It is, for the reasons stated above, important to draw a line between managed services and open Internet access. In SVT's opinion, regulation should reflect this.

The tools provided in the current regulatory framework is in SVT's opinion relevant for keeping the public Internet open. It is also important that the tools provided, when necessary, are being used.

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?

Traffic management should only be used at a minimum for technical and legal reasons. Discriminating traffic by type, content provider or origin will distort competition and deviate from the end-to-end principle, which is a core principle of the open Internet.

5. To what extent will net neutrality concerns be allayed by the provisions 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 effort' basis, on the other?

Open and transparent information to end-users is a necessity but not enough to ensure an open Internet. For many customers the information provided by Internet operators today is far from clear and understandable. Network operators should be required to regularly provide end users with clear, precise and relevant information on traffic management. Still, information should not relieve network operators from adhering to key net neutrality principles.

Apart from keeping oversight over the transparency of information to customers, NRAs and other stakeholders such as consumer organizations can provide help through applications and websites that compare, test and review the terms of different operators services. One such example is the Swedish regulator PTS's app Bredbandskollen, that allows any user to test whether their Internet access has the speed guaranteed by the provider.

It is, again, also important that a clear distinction is made between managed services and open access. When the different services are sold bundled, the terms becomes very complicated to explain to customers, and in practice this might lead to a less open Internet. This might i.e. be the case when usage of paid managed services provided by the operator are counted against the open access traffic cap.

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

Yes, but it is reasonable that terms of access for the end users can be different. It is for example reasonable that the same operator can put in place traffic caps for mobile networks while not having any caps for fixed traffic.

7. What other forms of prioritization are taking place? Do content and application providers also try to priorities their services? If so, how – and how does this prioritization affect other players in the value chain?

Fluctuations of bandwidth levels exist on the Internet and a quality of service level cannot be guaranteed at all times. Apart from regular open Internet access, some consumers might be interested in buying additional managed services that guarantee a certain level of quality of service, which is ok as long as it does not affect the performance and amount of data level for the basic open Internet access purchased by the consumer. This means that no data should be deducted from the customer's open Internet access due to usage of bandwidth guaranteed services.

Within the open Internet access traffic should not be prioritized. In particular, it should not be possible for network providers to prioritize their own content services on the open Internet, since this quickly might lead to a sizeable loss of competition on the market.

It is also becoming more and more common among mobile network operators not to allow certain types of traffic on their networks, such as VoIP or file sharing. Sometimes these restraints are motivated by capacity constraints, sometimes no such explanation can be found. In SVT's opinion these kinds of restraints on traffic are problematic and should be seen as a temporary last resort.

Traffic caps can, if necessary, better alleviate the problem with a limited number of users consuming an excessive amount of bandwidth.

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?

It is reasonable that operators can provide managed services for customers who are willing to pay for them, as long as these services do not interfere with the provision of open Internet access. The needs of the consumers might differ and it is reasonable that the operator can adjust the service to each customer's need as long as a reasonable part of the network, where other means of access is not possible, is dedicated to open Internet access.

That said, there might be reason to closely follow the evolution of the market for managed services out of a competition perspective. There is an obvious risk for market concentration, and in the end less competition.

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?

Not necessarily. In SVT's opinion there is no need to have the same terms or conditions.

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?

It is in SVT's opinion obvious that the open character of the Internet and the commercial arrangements on and surrounding it has gained society, and there is no reason to assume that this might change in the foreseeable future. It is in SVT's opinion important that all types of content and all content providers also in the future are treated equally.

The move to next generation networks needs substantial investments. Still, there seems to be a continued willingness for consumers to pay for better access, and also a willingness from operators to invest. Therefore it is reasonable to keep the commercial arrangements as today. Where providing Internet access is not commercially viable, government subsidies might be needed.

If content providers and operators want to provide a service to customers under other terms than what has evolved for the open Internet, it should be allowed. But this should, in SVT's opinion, not be defined as a part of the open Internet.

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?

One instance might be if traffic from certain content providers are throttled, in particular if the undertaking are providing similar content services over the same physical network, for example through a managed service. This would be a serious breach against net neutrality principles.

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

If QoS requirements become necessary, it is important that NRAs have the technical expertise to monitor and follow up problems that might originate in breach against the regulation. It is also important that simple tools are provided to consumers that enable them to test their connection and report problems to NRAs.

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?*

Co-operation between NRAs can be fruitful in order to find best practice. Still, requirements might very well differ, not the least in order to reflect to the general broadband situation in the particular country.

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

It is important to provide information on different occasions, not only when terms of agreement are signed. Information should also be given when a possible change in terms happens or when limitation of access occurs. It is also of importance that the information is so comprehensible that the customer can make a well informed decision based upon the information given.

The information can be provided in different ways, and consumer organizations and NRAs should take an active part in providing fact based and neutral information about the services from different network operators. One example is through services such as “Bredbandskollen” mentioned above, provided by PTS in Sweden.

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 public Internet is an important part of the society today. It has become a guarantee for access to information and media pluralism. This would not have been possible if the Internet had been built in a less open way. Therefore, it is of great importance to keep the Internet as open as possible. Net neutrality is in SVT’s opinion a key to achieving that goal.