

# EU - Net Neutrality Consultation

## Response from PhoneAbility

**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?

*Response:* We do not believe that there is currently a problem with net neutrality or the openness of the net in Europe.

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

*Response:* We believe that problems could arise as a result of growth in demand for broadband services, leading to pressure on capacity and consequent action by network operators to manage traffic flows. Demand growth will probably be concentrated in the sector of video streaming, with TV broadcasting increasingly using internet paths to facilitate 'catch-up' programming and video on demand. Downloading of various forms of entertainment material, and participation in on-line gaming, will add to this demand and only a relatively small amount of this potential traffic could be delayed for delivery at less busy periods. The effects of such pressures will be seen mainly as restrictions on download speeds, but we would also be concerned that upload speed might be sacrificed to ease bottlenecks in parts of the system.

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

*Response:* We do not believe that the regulatory framework is capable of dealing with such issues, unless traffic management priorities can be established in a way that protects essential and vulnerable users. Operators are likely to concentrate upon managed services for which they have developed commercially advantageous agreements, so that users of all other services will have to rely upon 'best efforts'.

**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?

**Response:** *We believe that traffic management measures will be necessary, but we have no view on how they could or should be applied.*

**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?

**Response:** *Our concerns would not be allayed by provision of information that simply confirmed that a service which was necessary for the user would take low priority in comparison with more profitable managed services. In our view, there will be a need to ring-fence certain essential services under a heading of 'must carry' obligations, so that these are not shunted aside at times of great network pressure.*

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

**Response:** *We believe that they should be the same.*

**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?

**Response:** *We are unable to offer a view on this.*

**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?

**Response:** *We see no reason why network operators should not enter into exclusive agreements with other service providers, provided that the quality of service for a defined set of essential services is not degraded as a consequence. We would see this set of essential services as being protected by mandatory 'must carry' obligations. One example - of many - would be the video services (back-to-back and relay) used by those deaf and speech-impaired people who rely upon sign language; these services require significant bandwidth in both up and down directions and are unlikely to figure in any collection of managed services.*

**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?

**Response:** *We would expect only 'must carry' obligations to be set by 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?

*Response:* We would not want to see such commercial arrangements restricted, but a form of universal service base-line should be defined to ensure protection for the minimum set of essential services, especially where these may be unprofitable. We regard this as necessary because commercial pressures may in time lead to new structures for costing and charging, to the disadvantage of some groups of service users. We have assumed that essential services such as tele-care, home support, public information and emergency assistance would be treated as managed services, with access and quality of service parameters agreed between the suppliers and the carriers, but some form of regulatory intervention may eventually be needed if such public service facilities were to be put at risk as a result of predatory pricing.

**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?

*Response:* If, in a basket of public communications services, the quality of service of some components appeared to be degraded, such that the users of those components then got an unsatisfactory service, the regulator should be able to intervene and insist upon minimum requirements being maintained. We suggest that this should apply in particular where users come to experience a degradation in the quality of service that they have previously enjoyed.

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

*Response:* We believe that, in both of these respects, the paradigms of the fixed line and mobile telecommunications sectors could and should be applied. The present arrangements appear to work well and equitably in these sectors.

**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?

*Response:* See our response to Question 12. We are of the view that co-operation between NRAs is most desirable, given the ubiquitous nature of the internet, but failure to achieve co-operation should not prevent or delay intervention to deal with clear instances of market failure.

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

**Response:** *We believe that the provisions contained in the revised Electronic Communications Directives are adequate at the present time.*

**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?

**Response:** *We note that content sent through the internet is already subject to constraints imposed by civil and statute law, and that internet traffic and the actions of users are monitored to a very high degree. Furthermore, these constraints are set by diverse national and cultural factors which may be strongly at variance. It seems illogical for any administration to argue for internet freedom while at the same time telling its citizens what content they may and may not examine. We therefore consider that such issues are best left to an emerging consensus within, and possibly between, each diverse community.*

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**PhoneAbility** is a UK Charity having the aim of improving access to electronic communications services for disabled and elderly people. More information is available at [phoneability.org.uk](http://phoneability.org.uk)