

Our response to the Public Consultation on the Open Internet and Net Neutrality in Europe is given below.

If you have any queries or require any additional information the contact person is Dave Hall.

Regards
Dave Hall

David Hall Systems Ltd
Phone: +44(0) 20 8301 6956
Fax: +44(0) 20 8301 4278
Email: davejhall@aol.com

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

There is much more competition in Europe than in the US so the issues surrounding net neutrality and the openness of the Internet are different. Consequently different approaches and solutions are required in Europe. It appears that the competition currently provided by network operators and service providers is likely to continue which should prevent significant difficulties developing. However we are concerned about how the competition will develop in the content market. Thus we consider that there may be a need to focus on the provision of content.

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 consider that the introduction of fibre and increased wireless capacity could cause problems to emerge in other parts of the value chain. This will result from the reduction of capacity constraints for the connectivity parts of the network so that other parts of the network are unable to cope with the demands. This aspect could be made worse by the changing Internet consumption resulting in different traffic loadings and requirements. Already it appears that iPad usage is much less peaky than dongle usage. Additionally the value chain is becoming much more complex with the possibility of bottlenecks developing where one company or provider may be able to control significant points in the network.

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

Response

We are not convinced that the regulatory framework is capable of evolving to meet the changing requirements, particularly related to the provision of content. We consider that there is a need for further research in this area.

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

There is a view that traffic management is required to ensure that a small group of users do not use a substantial amount of the bandwidth resulting in difficulties for other groups of users. With the increasing demand for bandwidth from all users and the different usage profiles associated with the various access devices we consider that this aspect of traffic management is different now. Thus there is a need for research to ensure that the full implications of this changing demand are understood.

Another view is that traffic management is required to ensure that different broadband packages and pricing options can be provided. Again we consider that this traffic management requirement is changing with the increase in managed services and future changes to the value chain. Similarly there is a need to fully understand the implications of these changes.

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

We are concerned that there will be difficulty understanding the information and this could lead to some confusion amongst some users. Indeed to ensure that information is understood by all users it may be necessary to present it in different formats based on the abilities of the users. Additionally consumers will be accessing managed services where the regulatory framework establishes details the information that should be provided. However citizens using the public Internet will have access to much less information. We are concerned that these differences could result in a new form of digital divide. This could be particularly significant as an increasing proportion of government services are provided online.

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

Response

We consider that the principles should be the same but the application of the principles and procedures is likely to differ between fixed and mobile networks. It appears that finding an appropriate means of applying the same principles to fixed and mobile networks will be difficult but a solution needs to be found.

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?

Response

This is a difficult issue and it is becoming more complex. There is a range of services and applications all with different latency requirements so can these requirements be provided without prioritisation on a common infrastructure. There is also a need to consider how these latency requirements interface with any traffic management that may be taking place. We also consider that managed services will be given priority over the open Internet so this is another layer of complexity. All these issues will impact on the value chain and there is a need to fully understand all the implications of 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 are concerned that this question may be incorrectly worded so we have tried to examine the ideas behind the question. Provided that the quality of service conditions and parameters are clearly explained to consumers then we see no reason why there should not be different qualities of service for similar content. The different qualities of service would be charged at different levels which would assist consumers in deciding what package to subscribe to. We are concerned that exclusive agreements related to the provision of content or services entered into by network operators could have an adverse impact on the range of content and services available to all consumers. We also consider that where a large proportion of the network is used for the provision of managed services then the public Internet will have a lower quality of service which means citizens will be disadvantaged in their online activities which may cause difficulties and could be a form of digital divide.

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 consider that an Industry Code of Conduct, supported by regulatory action as appropriate, should be used to ensure that the services and applications are marketed appropriately. There may be a need for new forms of measures to ensure that citizens are not disadvantaged and this is likely to require regulatory action.

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 consider that there may be some developments in the value chain may result in changes in access to the Internet. With the need to invest in infrastructure and ensure that content providers receive an adequate return on their investment these issues regarding access are likely to become more significant. Thus further research is required into new forms of managing the value chain and to consider if the current approach of the provision of unlimited bandwidth is appropriate.

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

We consider that it would be more appropriate to apply minimum quality of service requirements to managed services but the question specifically refers to public communications services which appears to be something different to managed services. It would appear to be much more difficult to apply minimum service requirements to a best efforts open Internet. Consequently we consider further research is required to understand the feasibility of this requirement.

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

Response

Minimum quality of service appears to be a good concept but could be a very difficult concept to apply. The key requirement is to determine how this value could be quoted and measured so that it is easily understood. We are not convinced that this is feasible. Additionally as this minimum quality might only apply to the 'best efforts' open Internet network it may cause confusion when comparing this network with managed services provided over the Internet network. We consider that there may be a need to understand the relationship between minimum quality of service, end to end quality of service requirement, and Universal Service Obligations. Currently it appears that this relationship is not fully understood and we consider that this could have more implications for citizens than consumers.

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

If minimum quality of service requirements can be defined then the NRAs should have enforcement powers to ensure compliance with the standards. To support these powers NRAs should co-operate in developing common enforcement procedures. However we consider it might be better to allow market forces to ensure that products are fit for purpose which avoids the difficulty of fully defining minimum qualities of service and thus use consumer power to ensure compliance. To develop this concept further research is required on the approach that should be adopted.

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

Response

For consumers the transparency should consist of full details of the product that they are obtaining access to. Additionally we consider that there needs to be significant improvements in the quality of information that is presented and the way it is presented. However we are concerned that it appears that no information will be provided to citizens which we consider is inappropriate.

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 consider that the Internet is a key driver in changing society which will impact issues such as freedom of expression, media pluralism and cultural diversity. The role of the Internet as a driver will be changed by open access and traffic management and we consider that further research into this relationship is required. One example is that traffic management might be used to address copyright issues and the full implications of this need to be understood. There is also a need to consider how these changes will impact on the existing legal or other systems. Another aspect to be considered is that the Internet changes the way people interact

and as this is an ongoing process there is a need to ensure the Internet is open to support these changes.