

June 30th, 2010

RESPONSE

**FOR THE PUBLIC CONSULTATION ON THE OPEN INTERNET
AND NET NEUTRALITY IN EUROPE**

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?

There are already problems, and more heavy problems will appear in the near future if net neutrality isn't respected as much as it should be.

French legislation is on a crash course as it was visible on the net neutrality debat organized by the operator's authority, ARCEP: most representatives said that net neutrality should be respected for legal contents only. But basically, stating whenever a content is legal or not is against the net neutrality. Who could accept that a corporation opens all mail that it should ship and decide solely if the mail will be delivered or not ?

Most french ISPs limit edk and bittorrent traffic, whatever this traffic could ship, stating this is for "traffic managing" purposes. But these transmission technologies became vital resources for open-source projects like Ubuntu, as Facebooks internal server updates, and most critical it's weakening the real nature of the internet, that was designed to be mostly decentralized to protect the American army's data against nuclear attacks. The world wide web is only one of the many existing protocols, and it's centralized model shouldn't have priority against all the rest.

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

Hard to tell. Most ISPs will, of course, "manage" the traffic to make their own content delivery better than all the others. But also legal dispositions will bring the traffic being analyzed by DPI (deep packet inspection), making the "relatively free internet" in EU as censored as China's or Iran's. There's no between: net neutrality is yes or no.

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

The regulatory framework is making things even worse, complicated. Unless a major change in all regulations, net neutrality will definitively be lost, and so will be the internet as open as it was so far.

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?

Traffic management is not necessary, the job of an operator is to carry the data, that's after all what the users and company pay for and this was the key principle under which internet was created. The only optimisation should lead to an increased efficiency for delivering every packets. In practice, some Internet service providers became themselfe content distributors and therein lies a conflict of interest that tempt them to prioritize their own traffic compared to others.

Transit should be paid on a speed basis, not a volume basis.

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?

Most users don't care how it work, all they want is that everything work properly. There is a rising number in consumers becoming content provider themselves, and because of this those consumers start to need more and more upload. Sadly operators seems to want to confine them in the role of passive consumers, with increasingly large download speeds (ability to consume) and nearly no increase in upload speed (ability to create).

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

On mobile networks the structure should be identical, if the architecture cannot sustain higher speeds (limited frequencies) then the operators should charge a premium for higher speed. Currently in France mobile internet is severely limited and most of it is confined to the operator's own services (which doesn't make sense on a network conservation standpoint as it uses the mobile network anyway!)

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?

Currently most French Operators prioritize their own services, or services of those who “pay extra” for the bandwidth. FREE (internet service provider) blackmailed DAILYMOTION (video site) in paying or FREE wouldn't carry their video data, most Internet service provider's TV service benefit from a more stable bandwidth than any internet services. How can you watch a full HD video streaming from your ISP's content portal and can barely load a video from youtube without buffering, if your Operator isn't actively throttling bandwidth toward their competitors?

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?

Any kind of management will lead to abuses, the temptation is just too great.

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?

- no answer, because if objective is retained, abuses are without precedent and no regulation will have enough effect -

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?

ISP to end-user: mostly adequate if not volume-limited. FTTH deployment should be accelerated.

ISP regulation: most EU countries are in oligarchy, because less than 3 operators have a total of 95% of market share. Competition should be reinforced in regulatory ways, or there will be service stagnation.

ISP to ISP (peering): looks like it's ok right now. But if an ISP has the bad idea of making blackmail to another...

ISP to ISP (TIER-1 to TIER-x): the biggest french ISP, Orange, allows one to watch Youtube at 20 kB/s speeds (for a normal speed of 900 kB/s). Reason: Orange and Cogent are in conflict with the bandwidth payment, so access speeds are greatly reduced. But because Cogent offers multinational and transcontinental access, any regulation on this point is difficult -if not impossible. Poor internet.

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?

Just don't let private concerns care about this.

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

Watching a HD 1080p video on Youtube ? There should be no “buffering” while playing the video. So, bandwidth should be good enough for this (16384k xDSL, cable and FTTH).

Also, remember that end-users aren't just consumers: one sure wants to share it's holiday video (or whatever one created) through video hosts, and peer to peer. It's better if it don't takes hours of upload for a few HD video minutes. FTTH gives the opportunity to have (quite) symmetric bandwidths at home.

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?

Economic penalties. If no action from the ISP to provide the minimum quality, no further customer subscription, and all actual internet access isn't paid to the ISP (to make simple: no income at all for the ISP). I dislike the idea of a “service provider license” that can be revoked, like in China.

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

Internet Service Providers are basically internet service providers. Not content distributors. Transparency to consumers end-users should consist for every ISP to show as annex of the contract the complete router map from the international entry points to the “box” in the user's home (not the complete network map, just the branch concerning the user – but the complete one should be accessible too).

So, the end-user can himself see how the ISP optimized it's network for maximal and complete

service quality.

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?

My response to this question can only be too long and redundant for this document: just take in account what NGO like "[La Quadrature du Net](#)" tell about this critical point.

But keep in mind: I presented solutions like VPNs, TOR, I2P, GNUnet and Freene because it *can/will* be helpful in the future. Disrespect of net neutrality could, for example, prevent unaware end-users from reading Wikileaks.