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Context :

I, Bernard HUGUENEY, am a French computer scientist (Ph.D) knowledgeable in computer networks
(I have been teaching at bachelor level (Licence in France) on this matters).

Executive summary :

Will we have to write a "Robber_baron_(network_operators)" page on wikipedia ?
Would we allow highway operators to choose which cars can by given priority (i.e. with a siren) ?
Should we let network operator take all the profit of content providing on the internet, discouraging innovative players and entranching oligopoles ?

My answers ask you these questions.

Answers :

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?

None one the French mobile phone operators (cf. [Orange], [SFR] and [Bouygues]) currently allow a content-neutral use of the internet, in order to protect their entrenched oligopole on mobile audio transmission. This effectively prevents more efficient solutions to enter this market.

The existing degree of competition is of course insufficient given that networks always lead to oligopoles at the network operators layer (cf. supra).

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

Problem will arise in the future for both content producers and consumers as the data-transportation oligopoles will siphon as much of the content producers profit as possible (which means all of it thanks to the quasimonopole).

This should be obvious considering what happened when some people had the upper hand on some fluvial transportation

over the Rhine River in Europe [WP:Robber_baron] and later on railroad transportation in the USA [WP:Robber_baron_industrialist].

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

The current regulation (Telecom Package) is naive in this regard [Telecom package] as it relies mainly on free market efficiency while the networks /internet providers are monopolistic/oligopolistic by nature.

Tribunals will be swamped by complaints ('network operators were to restrict unreasonably end-user choice for access to Internet portals and services') and users will be deprived of better technologies if the legislator fails to be proactive in this regard.

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?

Currently traffic management is 'necessary' to sell 'snake-oil' at the highest profit : 'guaranteed' priority (with premium rates) on standard internet network (lowest cost).

For safe and fast data transmissions, we have the phone network (which is expensive) for cheap but unreliable data transmission, we have the internet. No amount of traffic management will give the holy grail of cheap and reliable data transmission.

Of course, traffic management is necessary when network incidents overload the network, but it should by definition be extremely uncommon.

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?

The net neutrality concerns will be allayed by the provision of transparent information to end users, to the extent that users can make use of such information in an efficient free market. That is, of course, to no use at all, as anyone looking at the networks operators market will notice.

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

While the same principles should hold for fixed and mobile networks, congestion management will be more of an issue on mobile networks. Furthermore, emergency services could be for important on mobile networks, but for the later exception on the net neutrality principles should be agreed upon by the legislation and not by private entities.

One could refer to a car analogy. Some cars need to have priority on the roads network (police chasing criminals, firefighters, ambulances...)

but nobody would give private entities the right to choose which one would have a siren !

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?

Of course no discrimination should be allowed, if we are to rely on competition to bring the best internet experience to end-users, because true competition requires a level playing field.

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?

Of course it would be utterly naive to rely on anything but the law in order to enforce regulations against the network operators self interest.

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?

For media pluralism and cultural diversity, they should strive provided that network neutrality ensures a level playing field for anyone. For freedom of expression, I believe the right to anonymous expression is also essential (cf. wikileaks.org).

Conclusion :

The needed regulatory framework for a level playing field must be capable of dealing with the issues identified by making illegal any discrimination based on either :

- * technology (such as P2P, VOIP...)
- * the identities involved in the communications (such as Google®, Facebook®...)

Which is only putting into law the the end-to-end principles (P4." In practice, this means that network operators treat packets equally, regardless of origin, content type or destination. ").

I hope that you will provide the European market with such a level playing field so that we are not kept out of the fantastic internet potential by the short-term self interest of the network operators oligopolists.

Best Regards,

Bernard Huguene

References :

[Orange] http://www.orange.fr/bin/frame.cgi?u=http%3A//mobile.orange.fr/content/ge/high/v2_offre_boutique/offre/offres/origami_jet_ed_oes.html

"Internet, e-mails, TV (20 chaînes), wi-fi et messagerie vocale visuelle illimités"

...

* Internet illimité 24h/24 : navigation illimitée sur le portail Orange World, Gallery et internet (hors contenus payants). Ne sont pas compris dans l'offre les usages modem, les contenus et services payants. Les services de voix sur IP, Peer to Peer et Newsgroups sont interdits."

[Bouygues] Bouygues Telecom also bans VOIP and so-called 'router' usage.

[SFR] http://s5.s-sfr.fr/mobile/uc/00/2b/vv/Brochure_tarifs_cle.pdf

" Concernant l'accès à Internet, le Peer to Peer (échange de ressources entre utilisateurs, l'un de ces utilisateurs mettant à la disposition de ses correspondants au travers du réseau, des ressources matérielles ou logicielles, des fichiers ou des données), les Newsgroups (Système en réseaux de Forum de discussion) et la Voix sur IP sont interdits. L'abonné déclare en être totalement informé et l'avoir accepté."

[WP:Robber_baron] http://en.wikipedia.org/wiki/Robber_baron

[WP:Robber_baron_industrialist] http://en.wikipedia.org/wiki/Robber_baron_%28industrialist%29

[Telecom package]"In markets where there continue to be large differences in negotiating power between undertakings, and where some undertakings rely on infrastructure provided by others for delivery of their services, it is appropriate to establish a framework to ensure that the market functions effectively. National regulatory authorities should have the power to secure, where commercial negotiation fails, adequate access and interconnection and interoperability of services in the interest of end-users. In particular, they may ensure end-to-end connectivity by imposing proportionate obligations on undertakings that control access to end-users. Control of means of access may entail ownership or control of the physical link to the end-user (either fixed or mobile), and/or the ability to change or withdraw the national number or numbers needed to access an end-user's network termination point. This would be the case for example if network operators were to restrict unreasonably end-user choice for access to Internet portals and services."