

Response to “QUESTIONNAIRE FOR THE PUBLIC CONSULTATION ON THE OPEN INTERNET AND NET NEUTRALITY IN EUROPE”

I'm an individual, net user, professional software developer living in the UK.

**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?

Fixed:

Increasingly, fixed access companies are starting to block or restrict certain protocols such as bittorrent. This has not been a major problem yet in the UK, but it is likely to become so if the principle of net neutrality is lost.

Yes – mobile telecoms companies are increasingly trying to control what can travel over their data networks – e.g. blocking or restricting skype. Competition is unlikely to resolve this as there are a small number of competitors who all share the same interests in being able to control and extract revenue from mobile data.

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

Companies providing internet access tend to think of themselves as 'owning' the customer and then seek to extract revenue. Examples include BT/Virgins trials of Phorm which modifies http traffic to insert adverts.

This is a natural response to the increasing commoditisation of internet access. However telcos won't allow this to happen without a fight.

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

No. See the uk response to Phorm trials.

**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?

If operators continue in the advertising fantasy of offering 'unlimited' internet, then they will need to limit internet usage or spend unlikely sums on providing infrastructure to provide real unlimited internet.

**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?

They won't. Internet companies and mobile companies both operate 'confusopolies' where they seek to confuse rather than be compared. They have realised that in most cases, customers only compare on the monthly up-front cost, so they hide other information in smallprint and make it hard to compare. (try comparing mobile phone tariffs – it is almost impossible).

Additionally, given the standard long (1 year) contracts and difficulties in switching, it is too late when a customer realises that their internet company is interfering with traffic.

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

Yes. These two will converge in practice.

The same principles of openness apply. Say what you are selling, then provide it.

If you are selling a connection which does not treat all traffic equally – then it isn't internet access.

Note – it is totally fine to limit bandwidth usage as long as it is independent of the traffic type, and it is advertised clearly in the product sold.

**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?

-don't know.

**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?

Agreements between network operators and providers will for a while allow the network operators to extract more revenue, but it will cause stagnation in the industry as providers find it increasingly difficult to compete with established players. This would be disastrous for the European consumers.

**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?

They should be regulatory. Otherwise, the industry will find ways to work around them.

**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?

-don't know.

**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?

-don't know

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

-don't know

**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?

-don't know

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

Use of 'up to xxx speed' advertising should be stopped as they have become misleading and meaningless.

All bandwidth controls should be clearly stated in normal print in advertising which mentions speed . (similar to requirements for APR disclosure in credit cards)

**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?

It should be clear that

A) ISPs are not responsible for material published via their networks

B) as a corollary, ISPs are not allowed to block content except when required to by governments where the material clearly breaches the law.

We need to be very careful here not to allow the slippery slope from

- 1) blocking child pornography
- 2) blocking suicide chat rooms
- 3) blocking religious hate speech
- 4) blocking copyright infringement
- 5) blocking libellous material
- 6) blocking government secrets
- 7) blocking commercially sensitive material
- 8) etc...

All the best. This is important, I hope you do a great job.

Rob Jonson.