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## **Statement by The Norwegian Consumer Council to The European Commission's online public consultation on 'specific aspects of transparency, traffic management and switching in an Open Internet'**

The Norwegian Consumer Council fully supports The European Consumer Organisation (BEUC) in its call to the European Commission to protect Net Neutrality in Europe and endorses BEUC's response to this online public consultation on 'specific aspects of transparency, traffic management and switching in an Open Internet.'

Openness and neutrality are the foundations on which the Internet as we know it has been built over the decades. It is this neutral and open Internet which has significantly enhanced consumers' participation in society, access to knowledge and diversity; at the same time promoting innovation, economic growth and democracy.

Unfortunately, the principle of the neutrality of the Internet is being increasingly violated across Europe, as clearly evidenced by the investigation undertaken by BEREC in the spring of 2012<sup>1</sup>.

For example, BEREC found show that 2 in 3 Europeans may be subjected to illegitimate discrimination of their Internet connection due to their Internet Service Provider's (ISP) commercial decision to focus resources on specialized services, or that 1 in every 2 Europeans may not have the option to use Voice-over-Internet-Protocol (VoIP) services on their mobile broadband service. In addition to BERECs investigation, further examples of breaches of net neutrality can be found on the website Respect My Net<sup>2</sup>.

As BEUC points out in their response to the consultation<sup>3</sup>, a large number of network operators are using their powers of traffic control in order to block the transmission of data, priorities their own services at the expense of competitors, restrict the use of certain applications or charge online service providers a premium to guarantee fast delivery of their content; all of which could be

<sup>1</sup> 'A view of traffic management and other practices resulting in restrictions to the open Internet in Europe', BEREC BoR (12) 30, 29 May 2012.

<sup>2</sup> [www.respectmynet.eu](http://www.respectmynet.eu)

<sup>3</sup> BEUC response to European Commission public consultation on 'specific aspects of transparency, traffic management and switching in an Open Internet', X/2012/077, October 2012



categorized as traffic management done for commercial reasons, and so in violation of the neutrality of the internet.

Net neutrality is not an issue of transparency, nor is it a competition issue. If left to competition, it is not guaranteed that all European consumers will be offered a broadband service free from illegitimate, discriminatory traffic management. In fact, BEREC's findings prove that for a very significant percentage of European consumers their choice for a neutral access is already rather limited, if not non-existent. There is a considerable risk that the situation will worsen and violations of the net neutrality principle will become even more common practice than they are today.

The objective of creating a true Digital Single Market combined with the borderless nature of the internet is incompatible with divergent approaches to net neutrality among Member States. Differing net neutrality rules applying between Member States only creates more uncertainty and puts consumers in a weaker position than where they are today.

It is crucial that a common legislative approach to protect the openness and neutrality of the internet is undertaken in Europe. The Norwegian guidelines for Internet neutrality is often pushed as a good example of soft regulation. As BEREC's report shows, there have been no reported breaches of net neutrality or the guidelines within the period investigated. Regardless of that, the lack of enforcement if necessary has to be considered as a major weak point in regards of the importance of net neutrality as a pre requisite for a necessary infrastructure for a digital single market and democratic values in general. The voluntariness of the guidelines is also challenging. Since the adoption of the Norwegian guidelines in 2009, no new telecom operators have signed the guidelines.

As such, we call upon the European Commission to restore the neutrality of all Internet access services across the European Union and protect them from future violations by undertaking new legislative measures which should include the following elements at least:

- A definition of the (public/best effort) Internet.
- A definition of legitimate and illegitimate traffic management.
- A general prohibition of discrimination between internet traffic streams unless done on legitimate traffic management grounds and, in particular, a prohibition of violations of the end-to-end principle.
- A clear set of ISP obligations regarding the neutrality and Quality of Service (QoS) of internet access on the one hand and specialised services on the other.

Regards,  
**The Norwegian Consumer Council**

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