



BUSINESSEUROPE
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BUSINESSEUROPE VIEWS ON NET NEUTRALITY AND THE OPEN INTERNET

The competitiveness of the EU depends on its ability to develop strengths in knowledge-intensive, high-value sectors. That in turn will require a world-class digital environment that promotes the flow of ideas and information.

BUSINESSEUROPE notes that the rapidly increasing demand for bandwidth is however leading to congestion and challenging the current “best efforts” approach to management of the communications networks on which businesses and consumers depend.

Network operators are increasingly faced with decisions about how to manage traffic over their networks to meet the demand for high-quality services. By allowing network operators to resolve congestion through innovation, a more productive solution could be achieved, underpinned by competition and transparency, which supports jobs and growth and delivers a better online experience.

In this context, BUSINESSEUROPE would like to stress the following principles:

1. REGULATION WOULD BE PREMATURE AND COULD HAMPER INVESTMENT

- Regulation has a strong impact on the investment decisions businesses make and on the service offerings they develop. It is therefore imperative to consider this impact, and to support rather than hinder innovation. The online market is nascent and its development is currently shaped by a wide range of regulation. In the absence of evidence of any consumer detriment concerning network access it would be premature to impose new net neutrality rules.
- The market should continue to provide a basic level of open access service that enables consumers to carry out all functions and run all (legal) applications at a useable level. Competition in Europe currently guarantees this access. Traffic management techniques support both this access and freedom of expression. They should be allowed to manage congestion and optimise the performance of the various applications using networks.
- Guidance on traffic management techniques should be flexible and relevant in order to allow network operators and regulators to respond to emerging challenges. Rather than providing detailed guidance which would quickly become out-dated, a principle of ‘equal treatment for equal kinds of services’ would be a more effective tool for protecting consumers and content providers.



2. NETWORK CONGESTION CAN BE SOLVED BY ENCOURAGING MARKET INNOVATION

- Easing congestion will depend on infrastructure innovation, and the private sector has already announced significant investment in Next Generation Networks to support increasing demand for bandwidth. However, as prices for network access continue to fall further incentives may be needed to encourage future investment. By creating a new market in the provision of managed services, consumer demand for bandwidth can be satisfied while investors can access new revenue streams.
- This has already happened to some degree in the mobile phone and broadband markets, where companies have developed a range of service offerings at different tariffs which meet varying consumer needs. By allowing internet service providers (ISPs) to create new service packages based on network access, regulators can support ongoing innovation while delivering greater choice and competition for consumers.
- There is a danger that imposing stringent net neutrality rules in the absence of a clearly evidenced problem would stifle this innovation. Consumers would be faced with only one level of service offering with all of the attendant congestion issues. This would not enable them to perform all functions at the speed and quality that they may wish nor give them the freedom to opt to pay more for a premium service.

3. COMPETITION AND TRANSPARENCY WILL PROTECT USERS

- Many EU member States have competitive online markets in which consumers can choose from a wide range of internet service providers and also switch between providers without penalty subject to the terms of their contract. If an ISP prevents access to valuable content, consumers will vote with their feet and change provider – a very effective restraint on behaviour.
- Competition needs to be complemented by transparency to bring real benefits to customers. By requiring ISPs to be transparent, consumers will benefit from increased choice and competition on a range of variables such as internet speeds, download limits, traffic management policies and exclusive content deals.
- Traffic management is a very complex and technical issue. ISPs must do their utmost to ensure that information on the principles of traffic management that are applied can be clearly understood by consumers.
- However, there needs to be a pragmatic approach to the provision of this information that recognises the limits of what increased consumer information will achieve. An ISP can only provide information about those aspects of the service within its control. As there are many other factors that can impact on a customer's experience, this is unlikely to match exactly what the user sees in real time.
- This will require sensitivity in the regulation of enhanced transparency, with a focus on the substance of the information provided to consumers, and not the form in which it is delivered. A simple tick-box approach could artificially narrow the fields of competition to those issues selected by regulators and stifle service offerings.

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