

Brussels, 19 April 2011

Digital Agenda: Commission underlines commitment to ensure open internet principles applied in practice

The need to ensure that citizens and businesses are easily able to access an open and neutral internet has been underlined by the European Commission in a report adopted today. The Commission will be vigilant that new EU telecoms rules on transparency, quality of service and the ability to switch operator, due to enter into force on 25th May 2011, are applied in a way that ensures that these open and neutral internet principles are respected in practice. For example, the Commission will pay close attention to the existence of generalised restrictions of lawful services and applications and to EU citizens' and businesses' broadband connections being as fast as indicated by Internet Service Providers' advertising. The Commission has asked the Body of European Regulators for Electronic Communications (BEREC) to undertake a rigorous fact-finding exercise on issues crucial to ensuring an open and neutral internet, including barriers to changing operators, blocking or throttling internet traffic (e.g. voice over internet services), transparency and quality of service. The Commission will publish, by the end of the year, evidence from BEREC's investigation, including any instances of blocking or throttling certain types of traffic. If BEREC's findings and other feedback indicate outstanding problems, the Commission will assess the need for more stringent measures.

Neelie Kroes, Vice-President of the European Commission for the Digital Agenda, said: "I am determined to ensure that citizens and businesses in the EU can enjoy the benefits of an open and neutral internet, without hidden restrictions and at the speeds promised by their service providers. I am a firm believer in the principles of competition, which are at the core of the new enhanced telecom rules on transparency, quality of service and the ability to easily switch operators. Over the next few months, in close cooperation with Member States' regulatory authorities, I will be closely monitoring respect for new EU rules to make sure that they ensure an open internet. At the end of 2011, I will publish the results, including any instances of blocking or throttling certain types of traffic. If I am not satisfied, I will not hesitate to come up with more stringent measures, which may take the form of guidance or even general legislative measures to achieve the competition and choice consumers deserve. If this proves to be insufficient, I am ready to prohibit the blocking of lawful services or applications."

There is no set definition of 'net neutrality' but it will be a legal requirement under EU law as from 25 May 2011 that Member States' telecoms regulatory authorities promote the ability of internet users "to access and distribute information or run applications and services of their choice" (Article 8(\$4)g of the telecoms Framework Directive 2002/21/EC, as amended by [Directive 2009/140/EC](#)).

Other rules directly relevant to net neutrality that enter into force on 25 May as part of new EU telecoms rules include requirements concerning:

- transparency (e.g. any restrictions limiting access to services or applications, connection speeds)
- quality of service (regulators can set minimum quality levels) and
- the ability to switch operator (within one working day).

Service transparency

Consumers are entitled to make informed choices about their internet provider on the basis of adequate information about possible restrictions on access to particular services, actual connection speeds and possible limits on internet speeds. There will be an obligation for telecoms providers under the new EU telecoms rules applicable from 25 May 2011 that consumers are informed – before signing a contract – about the precise nature of the service to which they are subscribing, including traffic management techniques and their impact on service quality, as well as any other limitations (such as bandwidth caps or available connection speed). BEREC has reported that the majority of Member States' national regulators received complaints about discrepancies between advertised and actual delivery speeds for an internet connection.

Blocking or throttling of lawful internet traffic

Blocking can take the form of either making it difficult to access or restricting certain services or websites on the internet. For example, some mobile internet operators block voice over internet protocol (VoIP) services. Throttling, which is employed to manage Internet traffic and minimise congestion, may be used to slow down certain types of traffic and so affect the quality of content, such as video streaming provided to consumers by a competitor. Today's report shows that there have been some instances of unequal treatment of data by certain operators. Although in many cases these were solved voluntarily, often after intervention by Member States' national regulatory authorities (NRAs), more accurate information is needed to distinguish cases of contractual or "de facto" blocking from those subjecting access to certain services to additional payment, and on the extent (isolated or generalised) of the blocking practices detected.

Internet traffic management

Most internet users can accept that an email takes a few seconds to reach its intended recipient, but a similar delay in online voice or video chats is disruptive. Today's report highlights the general consensus that traffic management is necessary to ensure the smooth flow of Internet traffic, particularly at times when networks become congested, and so guarantee a consistent good quality of service. There is broad agreement that operators should be allowed to determine their own business models and commercial arrangements. However, some parties are concerned about potential abusive traffic management, for example, for the purposes of granting preferential treatment to one service over another. The Commission and BEREC are monitoring the situation.

Switching internet service providers

The Commission's report confirmed it was crucial to ensure that consumers can change operators easily. The new telecoms rules on number portability, which will require that consumers be able to change their operators and keep their numbers within one working day, should help in this regard. The new rules also make sure that conditions for contract termination do not represent a disincentive to switching. The Commission and BEREC will examine how switching takes place in practice.

Background

The net neutrality report follows a Commission commitment, at the time of adoption of the EU telecom reform package, to report to the Parliament and Council and reflects comments made during a public consultation ([IP/10/860](#)), which attracted over 300 responses ([IP/10/1482](#)), and [wide discussions with interested parties](#) including a summit organised with the European Parliament.

Net neutrality Communication:

http://ec.europa.eu/information_society/policy/ecomms/doc/library/communications_reports/netneutrality/comm-19042011.pdf

Digital Agenda website:

http://ec.europa.eu/information_society/digital-agenda/index_en.htm

Neelie Kroes' website:

http://ec.europa.eu/commission_2010-2014/kroes/

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