
Net neutrality
(February 2015)

It was with interest that ARCEP took stock of the contributions that the French Digital Council, *Conseil national du numérique* (CNUM) received on the issue of net neutrality.

Net neutrality is a prime objective, particularly given the way in which the internet has become a shared good that is essential to the running of our society and our economy. This neutrality is the shared responsibility of all internet players: first, of course, that of internet service providers (ISPs) and technical intermediaries (web hosting companies, CDN¹, backbone providers) but also, with regard to economic issues and the interaction between stakeholders, that of platform operators (devices, app stores, browsers, etc.) and content and application providers.

ARCEP welcomes the quality and relevance of the discussions that CNUM has initiated on net neutrality, which make a useful contribution to the debates that are underway at the European level, aimed at forging a balanced legislative approach – debates in which ARCEP is an active participant (notably in helping develop the positions of France and BEREC), taking advantage of concrete work done on the issue: gathering information on interconnection and traffic management, systems for measuring quality of service, etc.

The analysis of these issues that is contained in this summary is largely consistent with ARCEP's own analysis, as outlined in reports published in 2010 and 2012³.

ARCEP believes there are three main issues at stake:

- Governing reasonable traffic management practices to maintain a neutral and high quality internet, while ensuring that network operators can remain competitive. Here, ARCEP recommends applying the five main principles that are relevance, proportionality, efficiency, non-discrimination between market players and transparency. It also supports the principle of no significant impact on the quality of internet access services, as a supplement to competition law and sector-specific laws. To obtain a more detailed understanding of the traffic management practices being employed – as CNUM suggests in its Opinion No. 2013-1 on net neutrality⁴ – ARCEP plans on implementing periodic campaigns for gathering information on these practices from internet companies.

¹ Content delivery network

² Body of European Regulators of Electronic Communications

³ Net and internet neutrality, Proposals and recommendations (2010), Report to Parliament and the Government on net neutrality (2012)

⁴ “...to ensure the effective, enduring implementation of this principle, indicators should be set up to measure the level of neutrality of networks and services open to the public, in liaison with the political, economic and social stakeholders and the regulatory authorities, including at the European level.”

- The long-lasting smooth operation of the data interconnection market. ARCEP has been closely monitoring the evolution of this market for three years now⁵, from both an economic and technical standpoint, paying particular attention to peering agreements between ISPs and content and applications providers. The asymmetries between stakeholders, and particularly the very strong positions acquired worldwide by the internet giants, today pose a threat to adhesion to the principle of neutrality. Interconnection and peering are the central responsibilities assigned to the sector's regulator – in the same vein as voice calling and SMS traffic – and ARCEP is determined to mobilise all of its tools to ensure a fully neutral internet
- On the matter of mobile networks, ARCEP is keen to issue the reminder that, in France, when it comes to neutrality, the same principles apply to fixed and mobile networks. Certain particular features of mobile networks need to be taken into account when applying these principles, notably those tied to the risks of congestion resulting from the access network's limited capacity. Worth noting here is that the increase in available connection speeds, along with competition between operators, triggered the spontaneous abolishment of certain practices (blocking modems, VoIP, etc.) that could have appeared contrary to the principle of neutrality.

⁵ Decision No. 2012-0366 on the implementation of a process for gathering information on the technical and pricing terms governing interconnection and routing, amended by Decision No. 2014-0433-RDPI.