

NET NEUTRALITY

The Internet is a key driver for innovation, democratic participation and free speech. Its open nature lies at the heart of its success. It fuels investment in creative and innovative services, which directly boost growth in broadband uptake.

Net neutrality policies are crucial for the open nature of the Internet and user confidence. The key issue at stake is the establishment of a clear framework ensuring that the Internet remains open and that all Internet data traffic is managed transparently and without discrimination.

A key stake for public service media and their audiences

The open Internet has become an essential way to enjoy content and information, interact, create and participate in democratic debate.

A huge offer of audiovisual and audio programmes is now available, attracting more and more viewers, in particular younger audiences. Public Service Media (PSM) need to be present on all relevant platforms: TV and radio, which remain predominant, but also on the Internet. PSM are trusted brands in this environment, offering citizens a point of reference for news and a range of high quality programmes and services. Their investments drive innovation and actively contribute to the open Internet's success.

Innovation, growth and freedom of expression

The open nature of the Internet provides users unfettered access to content, applications and services in a non-discriminatory manner. It also enables content and applications industry to reach out to Internet users without any restriction. Accordingly, network operators are obliged to ensure unrestricted access to content and services for users, irrespective of their origin, type, or location on the Internet.

Demand for content and applications drive the appetite for connectivity, and ultimately the revenues generated by network operators, who benefit from high demand for more data volume and faster connections without necessarily facing higher costs. As outlined in a 2012 report on IP interconnection by the Body of European Regulators of Electronic Communications (BEREC), increased Internet data traffic diminishes the cost of data traffic per unit.

Transparency: a basic requirement

Transparency on the open Internet is the first pre-condition to ensure users' ability to access content online. The possibility for consumers to make informed choices hinges on the provision of clear and accessible information about how Internet traffic is managed and the conditions and quality of connections.

Transparency also underpins competitive broadband access markets. But measures strengthening transparency will only have a limited impact if they are not combined with a robust and clear policy regarding Internet traffic management.

Strictly limiting traffic management practices

Traffic management practices by network operators are only justified in certain specific cases, which need to be clearly identified and defined. Without a clear framework limiting traffic management practices to these specific cases, there will be leeway for network operators to discriminate internet traffic based on origin or ownership, distorting competition and impairing the open and neutral character of the Internet.

Defining cases in which Internet traffic can be reasonably managed must therefore be combined with a clear rule that prevents online content and services from being blocked, slowed down, altered, degraded or discriminated against and that ensures that equivalent types of traffic are treated equally.

Preventing new forms of traffic discrimination from arising

There are clear incentives for anti-competitive and discriminatory behaviour if unrestricted traffic management is permitted. With network operators increasingly offering content services of their own, there is an inherent risk that they will use their capacity to manage Internet traffic to favour their offers of content over those of competitors. They could also facilitate access to content and services from partners with whom they have developed preferential relationships or exclusive arrangements, and inversely restrict access to competing services by slowing down data flows. This could lead to a situation where only content providers with sufficient resources can negotiate 'preferential' deals, distorting competition, hampering innovation and reducing user choice.

Enabling coexistence between internet access and specialised services

Access services to the open Internet are provided over the same broadband networks as specialised (or "managed") services. The latter offer a guaranteed level of quality for services where a slower or degraded connection would considerably dent user experience. For example, IPTV (television transmission via Internet Protocol, regularly available in 'triple play' offers) is run as a specialised service. So far, both open Internet and specialised services have dynamically co-existed.

The development of specialised services should however be carefully overseen. Without further network capacity and clear rules establishing that the open Internet access is the norm and specialised services the exception, there is a risk that the development of specialised services degrades open Internet access services. This is because network capacity would be channelled in priority for specialised services, leaving insufficient capacity for open Internet access. There would also be a risk that investment in specialised services is made at the detriment of investment in faster access to the open Internet.

The EBU urges EU policy makers to support strong regulatory safeguards on net neutrality:

- **Ensure that the open Internet is the norm and specialised services the exception;**
- **The development of specialised services must not impair open Internet access;**
- **Clear transparency requirements to reinforce users' trust in the open Internet;**
- **Clear rules ensuring that equivalent types of traffic need to be treated equally;**
- **Define the specific cases in which network operators can manage Internet traffic;**
- **Prevent undue content blocking or discrimination.**

EU State of play

The vote of the European Parliament on the Single Telecoms Market Regulation on 27 October 2015 paved the way for the implementation of pan-EU net neutrality rules after a 2 year-long legislative process. The EBU welcomed the political compromise on the Single Telecoms Market regulation which introduces basic and robust set of rules safeguarding net neutrality in the EU.

National regulatory authorities will now play a key role overseeing the implementation of the EU net neutrality rules. EU-wide guidelines for national regulatory authorities will be set out by the Body of European Regulators for Electronic Communication (BEREC) over the course of 2016. The EBU has called for a consistent and firm application of the rules, which ensure that network operators are fully transparent towards the authorities as well as towards consumers.