

26 April 2016

Global open civil society letter to the Body of European Regulators of Electronic Communication (BEREC) in support of strong net neutrality guidelines

The signatories of this letter support BEREC and its members in their task to provide guidelines on the implementation of the EU Regulation 2015/2120.[1] The new EU regulation creates a basis for strong and stable net neutrality safeguards. We therefore encourage BEREC and the 28 national telecom regulators to bring an end to the uncertainty and establish strong net neutrality guidelines. Clear guidelines will ensure a digital single market, with the freedom and legal certainty to provide services across borders and consumer choice.

We urge you to respect the Regulation's goal to "ensure the continued functioning of the internet ecosystem as an engine of innovation", respecting the Charter of Fundamental Rights of the European Union. Since the inception of the Internet, net neutrality has been a vital precondition for freedom of expression, freedom of assembly, competition and freedom to conduct business.

The success of the US and Indian consultations should boost BEREC's work. 3.7 million comments were submitted to the US Federal Communications Commission (FCC)'s consultation, while over one million comments were submitted to the Telecom Regulatory Authority of India (TRAI). These are probably the biggest direct democratic engagements in any telecom regulatory issue in history.

Now it is the European Union's turn. BEREC decided to put the consultation at the very end of its decision making process, with very little time to analyse the feedback and let alone take it into account. We encourage you to reconsider the limited and tight deadline for responding to your public consultation, so you can duly consider citizens and stakeholders' input when finalising the guidelines. A flexible approach to the deadline will have no negative consequences, but will add credibility to the process.

In the elaboration of the guidelines, we ask you to consider the following points:

- "Services other than internet access services" (also known as "specialised services") need careful consideration. Weak guidelines could permit the circumvention of all net neutrality safeguards.
- Zero-Rating is a harmful practice that restricts consumer choice, distorts competition, undermines the freedom to seek, receive and impart information and the freedom to conduct business. The Regulation should be understood as prohibiting this abuse.
- Traffic management should be as application-agnostic as possible. Class-based traffic-management risks discriminating against services, harming user choice, discouraging to use encryption and would contradict transparency requirements established under the Regulation.

The difficult questions you are faced with in these months are not about theoretical business models. You are setting the limits and safeguards for the future of the Internet in Europe and

ensuring that Europe will not be globally disadvantaged by anti-competitive restrictive practices.

Signatories:

[1] <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R2120>