



# Net Neutrality in Europe

*Unit "Regulatory Coordination & Users"  
European Commission, DG CONNECT*

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# The goals of today's presentation



- To present you the current state of play and legislative situation regarding net neutrality (NN) in Europe and why regulation in this field is needed



- To provide an overview of the provisions related to net neutrality in the European Commission's Connected Continent Proposal



- To provide clarity on what is expected from candidate countries both in terms of legislation and implementation





# Is there a legal definition for net neutrality?

**There is no "legal" definition of net neutrality (NN).**

- However, the Commission's Connected Continent proposal sets out the principles to ensure the open Internet by providing clear **EU-wide rules for traffic management**.
- **Blocking, throttling or degradation** of Internet traffic is prohibited.
- Reasonable traffic management measures should be **non-discriminatory, transparent and proportionate** and can be applied only in a limited number of clearly defined categories, e.g. court order, network security, anti-spam, exceptional or temporary congestion.





# Why should the Commission take action now?

1. Although the 2009 Regulatory Framework provides NRAs tools to deal with NN issues, Member States started to take different approaches regarding net neutrality - this risks at further fragmenting the Digital Single Market
2. The evidence from BEREC published in May 2012 shows that there is a problem regarding net neutrality on European markets. The results of the Eurobarometer survey from 2014 support this evidence.
3. Stakeholders need regulatory certainty, which was underpinned by the results of the Public Consultation carried out by the European Commission in 2012





# 1.1 The revised Electronic Communications Framework (2009) supports net neutrality

## Net neutrality

<p><b>Choice -</b> Art. 8 of Framework Directive (FD)</p> <p>NRAs must promote the ability of end-users to access and distribute information or run services of their choice.</p>	<p><b>Transparency -</b> Art. 20 and 21 of Universal Service Directive (USD)</p> <p>NRAs can oblige service providers to publish transparent, comparable, adequate and up-to-date information.</p>	<p><b>Quality of service -</b> Art.22(3) USD</p> <p>NRAs can set minimum quality of service requirements</p>	<p><b>Switching -</b> Art. 30 USD</p> <p>Initial commitment period shall not exceed 24m + contract offers with max 12m duration + conditions and procedures for termination shall not disincentivise operator change.</p>	<p><b>E-privacy -</b> Art. 5 ePrivacy Directive</p> <p>Surveillance of communications and related traffic data, without consent of the users concerned, shall be prohibited.</p>
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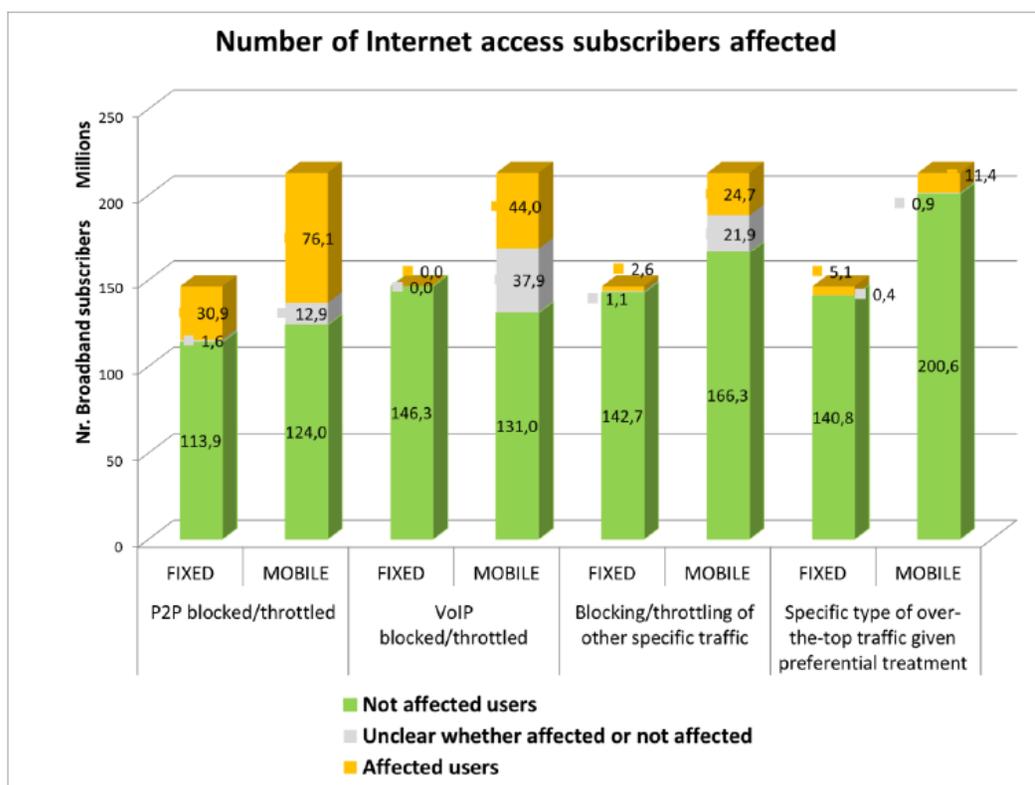
## 1.2 Member States are adopting different approaches as regards net neutrality

In the absence of more concrete EU guidance, some EU Member States have begun to adopt different approaches regarding net neutrality, ranging from non-binding instruments to specific legislation.

Type of guidance	Binding legislation	Draft law pending	NRA guidance	Self-regulatory measures
The Netherlands	x			
Slovenia	x			
Belgium		x		
Finland		x		
Luxembourg		x		
France			x	
United Kingdom				x
Denmark				x

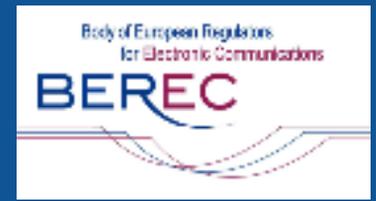


## 2. BEREC's traffic management investigation shows the problem in the NN field in Europe



### Share of users affected:

- P2P fixed: 21% (plus some of additional 1%)
- P2P mobile: 36% (plus some of additional 6%)
- VoIP mobile: 21% (plus some of additional 18%)
- Mobile restrictions on other specific traffic: 12% (plus some of additional 10%)



## 2.2 Eurobarometer survey results from 2014 show evidence of blocking Internet content

The survey shows that 1 out of 4 Europeans has experienced blocking of online content when using fixed or mobile internet connection.

People were stating that they have experienced blocking:

- 41% watching a video on a mobile device and 37% on the fixed Internet connection at home,
- 21% watching a sport competition on a mobile device and 22% on the fixed Internet connection at home,
- 23% listening to music on their mobile device,
- 23% uploading content on Facebook, blogs or forums through their mobile device,
- 19% playing online games at desk computer,
- 9% phoning from their smart phone via Internet.



### 3. Net neutrality stakeholders have different goals that have to be considered

*Not exhaustive*

#### End-Users:

- access to all content and applications of their choice
- good quality of the internet service
- affordable prices
- information on what they pay for
- easy switching

#### Content Providers:

- access to end-users
- non-discrimination of their content
- diversified quality needs



#### Internet Service Providers:

- protect their investments in the network
- develop new business models



# What are the elements of the Commission's proposal on NN?

## Balanced approach on NN based on 3 pillars

### 1) Open internet

- Clear traffic management rules
- No discrimination, blocking etc.

### 2) Open for innovation => specialised services

- Responding to demand
- Subject to certain conditions

### 3) Several safeguards => to ensure high quality of open internet

- Essential role for NRAs



# 1) Net Neutrality: open internet

- **Harmonised rules for traffic management**
  - Transparent, proportionate, non-discriminatory
  - No blocking, throttling, degradation, discrimination of specific content, applications and services
  - Limited number of justified derogations:
    - Court orders etc.
    - Network security, integrity
    - Unsolicited communications (with prior consent)
    - Congestion management (equivalent types of traffic to be treated equally)
- **Volume and speed-based contracts possible**



## 2) Net Neutrality: open for innovation

- **Specialised services responding to demand for better quality or new services**
  - IP-TV
  - Business services, VPN,
  - eHealth
- **Possible under certain conditions:**
  - Have to provide enhanced quality
  - No substitute to internet access services
  - Must not impair general quality of the internet

## 3) Net Neutrality: Safeguards for high quality of open internet

Important role for NRAs:

- **Monitoring and reporting:**
  - No impairment of general quality of internet
  - Availability of internet access services at levels reflecting technological progress => dynamic
  - Comparison with quality of specialised services and other criteria developed by BEREC
  - Impact of spec. services on innovation and cult. diversity
- **Strengthened powers** to prevent general impairment of quality of internet access services and to impose minimum quality of service requirements



## Current status of the legislative process

- The **European Parliament** (EP) adopted a first reading resolution on the proposal on 3 April 2014. Key results:
  - Introduction of a net neutrality definition (~equal treatment of all internet traffic)
  - Keeping the separation between the two concepts of internet access services and specialised services
  - Reduction of the scope of traffic management practices that are allowed
- The proposal is currently being examined by the **Council**.
- The goal should be to achieve an agreement on the text and subsequent adoption of the proposal by the end of 2014, in order to secure the basis for the development of a genuine Digital Single Market in the years to come.



## What is expected from candidate countries

- Candidate countries should **transpose the 2009 Regulatory Framework.**
- In the context of net neutrality a special focus should be given to the articles related to choice, transparency, quality of service, switching and e-privacy.
- Once the legislative process of the Connected Continent proposal is finalised, candidate countries should **directly apply the adopted regulation**, including the provisions related to net neutrality.



European  
Commission

***Thank you  
for your attention!***

