



## Draft Resolution on Net Neutrality – EDRi comments

European Digital Rights is deeply concerned with the motion for a resolution on the open Internet and net neutrality. The current text is not providing sufficient safeguards to prevent dangerous experimentation with the nature of the Internet in Europe, undermining both fundamental rights and the economic value of the Internet. The following amendments are particularly a cause for concern for EDRi:

- **Compromise amendment 6** demands that Internet access providers do not block any “lawful content”. This suggests that operators may interfere with any traffic that it considers to be “lawful”. In a society based on the rule of law, only a judge should be able to decide what is legal or not. Any restriction of communication needs a legal basis in order to be compliant with the ECHR.

Not only do operators have incentives to seize more control over internet traffic, they are also increasingly under pressure from vested interests to take measures which run counter to their role as a mere conduit. It is inappropriate in the context of network neutrality to encourage a non-neutral framework that “promotes and respects intellectual property rights”. Privatised policing of IPR affects the status of the operator as a mere conduit, robbing citizens of legal certainty and due process of law. IMCO's suggested text is therefore contrary to Article 52 of the Charter.

- **Compromise amendment 7** is based on a “wait and see” approach. This approach failed European citizens in relation to local loop unbundling, failed European citizens on mobile roaming and failed European citizens yet again on mobile data roaming. Even though these regulations have proven to be a success, operators still insist on arguing that the market would regulate itself. Faced with the ever-growing mountain of evidence that European operators, particularly in the mobile sector, block and throttle online services, we should not make the same mistake again.

- **Amendments 36, 37 and 40** call for reasonable traffic management and for transparency in traffic management. T-Mobile “transparently” blocked all calls to the legally obtained number ranges of Truphone in the UK, effectively making it impossible for that operator to enter the market<sup>1</sup>. Vodafone's rural wireless Internet access service “transparently” discriminated against rural inhabitants (who had no alternative mean to access the Internet) by blocking access to VoIP services in Germany.<sup>2</sup> Consumer Focus calculated that the transparent but unintelligible mobile phone charging structure in the UK costs consumers £5 billion per year.<sup>3</sup>

We welcome the following amendments that support net neutrality and the preservation of the open Internet:

- **Compromise amendment 1** underlines that the principle of net neutrality is crucial for innovation, competition, freedom of expression and the value of the open Internet for society.

- **Compromise amendment 4** highlights that the online economy and free speech rely on openness. It highlights that departing from the principle of net neutrality leads to a restriction of freedom of expression, innovation and the development of new business models.

- **Amendment 24** recognises that there is evidence, especially in the mobile sector, for harmful and discriminatory practices by operators that violate the principle of net neutrality.

The most effective consumer protection can only be achieved by including strong protection against illegitimate traffic management practices into the EU regulatory framework.

1 <http://news.techworld.com/mobile-wireless/9191/t-mobile-blocks-voip-rivals-calls/>

2 <http://www.heise.de/ct/artikel/Schmalspur-1216729.html>

3 <http://www.theinquirer.net/inquirer/news/2042469/uk-consumers-waste-gbp5-billion-wrong-mobile-phone-tariff>