Net Neutrality Guidelines

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Draft BEREC Net Neutrality Guidelines

- Guidelines do not create new rules, they provide guidance
  - for national regulatory authorities (NRAs) on the supervision and enforcement of the Regulation
  - on the consistent implementation of the Regulation in EU

- Guidelines must be published by 30 August

  - In close co-operation with the Commission
  - After consulting stakeholder

Draft BEREC Net Neutrality Guidelines

- Inclusive process of drafting in close cooperation with EC and involving European-level stakeholders

  ➢ High expectations from EU-Institutions and stakeholders
  ➢ Drafting team of 20 NRAs + Commission

- In depth discussion led to balanced and pragmatic draft guidelines covering various complex issues

- Now we want to hear your opinion

  ➢ Tell us if some parts of our Guidelines are too loose or strict
  ➢ Please use concreate examples and justify your arguments

What's covered by the Regulation

- End-users has right to use and provide
  - ➢ information, content, applications and services

- End-users are
  - ➢ consumers, business users and content and application providers (CAPs)

- Regulation covers (in scope):
  - ➢ IAS (including sub-internet services, which would be an infringement)
  - ➢ Traffic and QoS management, Specialised services

- Out of scope:
  - ➢ Private networks, e.g. small WiFi hotspots and corporate networks
  - ➢ Services where the access to the internet is limited by the nature of the terminal equipment, e.g. M2M services, e-book readers

Commercial practices, e.g. zero-rating

- Commercial practices are allowed if they do not limit end-user rights laid down in Article 3(1)
  - Zero-rating is not prohibited *per se*

- Some commercial practices are clearly prohibited e.g.
  - all applications blocked except the zero-rated application(s) when the data cap is reached
  - banning the use of certain content, applications or services

- Others less clear – to be assessed on case-by-case basis
  - Guidelines set out criteria NRAs should use to make these assessments

Assessment criteria for commercial and technical conditions

Criteria taken from Regulation and expanded in Guidelines:

- Circumvention of general aims of Regulation

- Market position of ISPs and CAPs involved

- Any effects on end-user rights of consumers/businesses

- Any effects on end-user rights of CAPs

- The scale of the practice and availability of alternative offers

- Any effects on freedom of expression and media pluralism

Traffic management (TM)

- 'Traffic management' = the way traffic is forwarded in networks
- Regulation requires to treat all traffic equally
  - Traffic is normally considered to be treated equally as long as packets are processed agnostic to sender, receiver or application
- Regulation allows "reasonable traffic management" which may be used to differentiate between "categories of traffic".
- Regulation describes three specific exceptions which are allowed under stricter conditions.

Reasonable and exceptional TM

- Reasonable traffic management

  ➢ Categories of traffic could e.g. be defined by reference to application layer protocol or generic application type, but only in so far as:

      i. this is linked to objectively different technical QoS requirements
      ii. applications with equivalent requirements are handled in the same category
      iii. the justification given is relevant to the category of traffic in question

  ➢ ISPs cannot monitor specific content (transport protocol payload)

- Exceptional traffic management

  a) compliance with legislation or measures by public authorities
  b) preservation of integrity and security
  c) measures against exceptional or temporary network congestion

Specialised services (SpS)

- Specialised services must meet requirements of:
  - Necessity – whenever the optimised delivery is objectively necessary
  - Capacity – is network capacity sufficient that quality of internet access services is not degraded?
  - Are not substitutes for internet access service (IAS)
- Examples that may be considered specialised services:
  - VoLTE (high-quality voice calling on mobile networks)
  - Linear (live) broadcasting IPTV services with specific quality requirements
  - Real-time remote health services

Transparency requirements

- Information should be

  ➢ easily accessible, accurate, meaningful, comparable

- Information should cover:

  ➢ Traffic management measures used, and any impact on the end-user
  ➢ How QoS parameters like speeds may impact on the end-user
  ➢ Speeds:
    - Minimum, normally available, maximum and advertised speeds for fixed networks
    - Estimated maximum and advertised speeds for mobile networks
  ➢ Complaint-handling procedures

Role of the regulators

- Supervision
  - Monitoring contract information, commercial practices, traffic management practices and specialised services
  - By means of assessment of practices in the market, technical measurements, information-gathering

- Enforcement, e.g.
  - Requiring ISPs to deal with degradation of IAS
  - Requiring ISPs to cease or revise problematic traffic management practices
  - Requiring ISPs to cease providing specialised services in absence of sufficient capacity for IAS
  - Imposing fines on ISPs

- Reporting:
  - NRAs to provide annual reports to BEREC and Commission
  - Guidelines set out when to provide reports and what to include in them
  - BEREC is planning to summarise main findings of these annual reports

Consultation and beyond

- Draft Guidelines are subject to public consultation:
  - ➤ To learn how draft Guidelines are viewed by stakeholders and citizens
  - ➤ To road-test Guidelines and to see if some interpretations are
  - ➤ Considering any convincing alternative approaches to interpretation and implementation
- The consultation period ends on 18 July and no exemptions to this deadline will be made.
- In the future, "BEREC will review and update the Guidelines as and when it considers it to be appropriate" (para 181)