

By Alain Strowel, 27 February 2012

## Net neutrality: where do we stand in Europe?



On February 27, 2012, I organised a conference at the European Parliament on net neutrality in Europe. Further information and the programme are available [here](#). The conference was hosted by Ms Gallo MEP.

Net neutrality is a principle, or an ideal, according to which a public network should treat all content, sites, platforms, modes of communication, etc. equally so as to prevent any restriction in the communication process. This principle conflicts with the goal of efficiency, as basic management of the network is needed to reduce security risks and to limit spam. Further, experts consider that traffic discrimination is needed to improve the quality of services in the context of limited bandwidth. Such discrimination could, however, be anticompetitive if an operator accelerates the traffic of some online providers and slows down that of others. Network operators also claim that the huge investments required for next-generation infrastructure should be shared with the large online service providers who generate the most traffic. In turn, some media companies consider that the connections with illicit sites should be slowed down. On the other side, activist groups claim that any traffic management is incompatible with freedom of information.

Torn between these opposing claims and objectives, the ideal of net neutrality is not easy to implement.

This conference on net neutrality is timely as it coincides with the debate currently taking place in the EU.

On April 19, 2011, the Commission published a Communication titled "[The open internet and net neutrality](#)" (this Communication will be presented and discussed by G. Abbamonte of DG Info during the conference of Febr. 27, 2012). Thereafter, on November 17, 2011, the European Parliament adopted a [resolution](#) which "draws attention to the serious risks of departing from network neutrality". On October 26, 2011, the European Economic and Social Committee issued an [Opinion](#) on the Commission's communication "The open Internet and net neutrality in Europe".

Last but not least, the Guidelines on net neutrality and transparency of the BEREC (Body of European Regulators for Electronic Communications) are expected for 2012.

But other regulators in Europe already released reports outlining their approach to net neutrality:

- Norway: [Network neutrality. Guidelines for Internet neutrality](#) drawn by the Norwegian Post and Telecommunications Authority on the basis of a voluntary agreement between stakeholders (those Guidelines are presented by H. Krohg of Telenor: [download H. Krohg's presentation](#) in ppt);

- France: Sept. 2010 "[Ten Proposals](#)" following the 2010 consultation. Two new consultations of launched in Dec. 2011 on quality of Internet access and the collection of data on interconnection [here](#) (G. Mellier of ARCEP presented the state of the discussion in France : [download G. Mellier's presentation](#) in ppt);

- UK: publication in November 2011 of the [OFCOM's approach to net neutrality](#) based on a 2010 consultation.

The Netherlands is the sole country in Europe that opted for a regulation by law. Prompted by the KPN announcement that it would charge customers extra for accessing certain Internet applications (such as Skype's VoIP), one of the Chambers of the Dutch Parliament voted a [law on net neutrality](#) in June 2011. Following the Dutch developments, the Belgian Post and Telecommunications Institute, in October 2011, issued an [Opinion](#) on the pending amendments to the electronic communications law submitted to the Belgian Parliament in order to ensure net neutrality.

In a speech of 3 October 2011 ([Investing in digital networks: a bridge to Europe's future](#)), Commissioner Kroes stressed: *"I regret very much that The Netherlands seems to be moving unilaterally on this issue. We must act on the basis of facts, not passion ... For example, requiring operators to provide only "full internet" could kill innovative new offers. Even worse, it could mean higher prices for those consumers with more limited needs who were ready to accept a cheaper, limited package. I have asked BEREC, where all Member States' telecom regulators are represented, to give me facts and figures on transparency, blocking, throttling, and switching. It is very important that we wait for the facts and figures before acting. And if we do need to act, we must do so in a coordinated way across Europe"*.

It is important to have the right facts and to understand the technical issues beyond traffic management. As put by OFCOM's report, *"the appropriateness of different approaches to traffic management is at the heart of the Net Neutrality debate"* (p. 3).

The conference thus starts with a presentation of those technical issues ([download R. Laroy's presentation, Belgian Regulatory Authority](#) in ppt). Ph. Defraigne of Cullen International summarized the economic issues underlying the net neutrality debate, including whether large service and content providers, as principal beneficiaries of Internet traffic, should contribute to the investments needed to build the future networks ([download Ph. Defraigne's presentation](#) in ppt). P. Larouche, Professor at the Tilburg University, then addressed the regulatory issues, in particular whether an ex ante regulation might be needed on top of the regulation by competition law ([download P. Larouche's presentation](#) in pdf). Jasper Sluijs, Ph. D. researcher at the Tilburg

University, then discussed the freedom of expression issues that are usually associated with the net neutrality debate ([download J. Sluijs's presentation](#) in pdf).

The position of the stakeholders vary quite substantially. The operators, as expected, favor a light regulation of traffic management and net neutrality (see AT&T ([here](#)) and Orange ([download V. Hennes's presentation](#) in pdf)). The service and content providers claim that the traffic for Voice over IP (VoIP) service or Internet television (IPTV) is sometimes slowed down by operators, and that a more robust regulation and a more efficient enforcement of the neutrality principle are thus needed (see the view of Skype ([here](#)) and of the BBC ([download D. Wilson's presentation](#) in ppt)).

The Internet Society, a non profit organisation whose tasks include, among others, the definition of Internet-related standards, favors a clearer definition of what a reasonable traffic management covers ([download F. Donck's presentation](#) in pdf).

This conference is part of a series of events on ***Internet, Democracy and Governance***.

## **Presentations**

- [R. Laroy \(Belgian Institute for Telecommunications\)](#) (ppt)
- [P. Defraigne \(Director, Cullen\)](#) (ppt)
- [P. Larouche \(Prof. Tilburg University\)](#) (pdf)
- [J. Sluijs \(Researcher, Tilburg University\)](#) (pdf)
- [G. Mellier \(ARCEP\)](#) (ppt)
- [F. Donck \(Internet Society\)](#) (pdf)
- [V. Hennes \(Orange\)](#) (pdf)
- [H. Krohg \(Telenor\)](#) (ppt)
- [D. Wilson \(BBC\)](#) (ppt)