



NOTE

Danish Government's response to the Commission's public consultation on specific aspects of transparency, traffic management and switching in an Open Internet

The Danish Government welcomes the Commission's consultation on specific aspects of transparency, traffic management and switching in an Open Internet.

The Danish Government also welcomes the Commission's continued focus on issues related to net neutrality in order to ensure an open and neutral internet. An open and neutral internet is essential for the ongoing digitalisation of the public sector as well as the continued investment in and innovation of online services. This is necessary to ensure effective operations of both the public and private sectors in an increasingly digitalised world.

The Danish Government stresses the importance of a common European approach on net neutrality and therefore welcomes the initiatives undertaken by the Commission and BEREC on specific issues regarding net neutrality. The Danish Government supports the Commission's general position that effective competition and a sufficiently high level of transparency for end-users should be able to solve problems arising on net neutrality. Regulatory intervention in competitive markets is inappropriate unless it is the only way to solve possible net neutrality problems.

Regarding the traffic management issues the Danish Government stresses the importance of ensuring end-users' ability to access and distribute information or run applications and services of their choice, without network operators prioritising this access. In general, data traffic should be treated equally, but the Danish Government recognises that there may be cases where traffic management is necessary, e.g. to maintain the integrity and security of the Internet. Such prioritisation of data traffic shall not entail censorship or other similar limitations in freedom of expression.

Regarding transparency and switching issues the Danish Government stresses that the provision of relevant and significant information to end-users is important for the functioning of an effective market for Internet access. It is self evident that information on the possible use (and

limitations hereof) of an Internet connection in many cases is both relevant and significant for end-users. A high level of transparency is therefore a prerequisite for an effective market.

The possible use of an Internet connection is a function of both technical characteristics such as down-/upload speed, latency/network responsiveness, network management policies as well as commercial restrictions for example on certain use or the use of specific applications (e.g. IP-telephony).

In relation to transparency it would therefore seem out of place to distinguish between restrictions relating to technical or network management issues and restrictions relating to commercial decisions by the Internet Service Provider (ISP) in question. The actual or potential effect or restrictions on the end user's utilisation of his or her Internet connection should be the guiding principle in determining whether information concerning the restrictions is relevant and significant to the end-user.

To have the most profound effect on end-user behaviour relevant information should be available and easily accessible before the conclusion of a contract. If changes to the detriment of the end-user are made during the contractual period, the end-user should be made aware of these and in the case of significant detrimental changes, have the opportunity to cancel the contract without any penalty being incurred.

An insufficient level of transparency can often have the effect that the actual product or service in question does not meet the end-users expectations. The market for Internet access is not a simple market - "internet access" can be achieved with a wide array of technologies, with varying technical characteristics, through a host of different ISP's with differing network management policies etc. and is continuously developing. To completely match end-user expectations with the actual product or service in question might not therefore be possible.

However, the use of the unqualified term "Internet access" can easily lead end-users to believe that a service is unrestricted or at least only restricted in a very limited sense. It might thus improve transparency in this field if the unqualified term "Internet access" is used only to describe or market largely unrestricted services.

Regarding the IP interconnection issues the Danish Government notes that efficient IP interconnection arrangements are important for the optimisation of networks, and thus, to achieve the best possible quality on the open internet. Any problem that may have arisen between the mentioned market players has been solved through the commercial IP interconnection arrangements.