

# Public consultation on specific aspects of transparency, traffic management and switching in an Open Internet

## Questionnaire

### General information

#### Question 1:

I answer as:

-single choice reply-(compulsory)

h) Other

Please specify: -open reply-(compulsory)

Civil society association

#### Question 2:

a) Please provide the full name and a brief description of your organisation and describe your interest in open Internet issues.

-open reply-(compulsory)

La Quadrature du Net is an advocacy group defending the rights and freedoms of citizens on the Internet.

b) If your organisation is registered in the Transparency Register, please indicate your Register ID number. -open reply-(optional)

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c) Please provide the postal and e-mail address of your organisation and, if you wish, the name of a contact person (including telephone number and e-mail address) for any questions on your contribution. -open reply-(compulsory)

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d) In which Member State(s) are you established and where do you perform your activity?

-open reply-(compulsory)

La Quadrature du Net is established in France and acts in the European Union.

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

## 1. Traffic management

### 1.1. Traffic management and differentiation

#### Question 3:

Please explain **briefly** which traffic management techniques are usually applied by network operators or ISPs and how they are technically implemented.

-open reply-(optional)

See [www.respectmynet.eu](http://www.respectmynet.eu) to complement the information of BEREC.

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

#### Question 4:

Congestion management is one of the reasons for applying traffic management measures.

a) Please describe **briefly** how congestion management normally works.

-open reply-(optional)

b) If possible, please provide a **definition** and **examples** of genuine congestion management measures, i.e. measures which are **necessary** to avoid or tackle network congestion, as opposed to measures which may be called congestion management but actually pursue other purposes.

-open reply-(optional)

Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)

No

**Question 5:**

Please provide your views on the following ways/situations where traffic management may be applied by ISPs.

Are traffic management measures:

a) applied to deliver managed services (e.g. to ensure a guaranteed quality of service for a specific content/applications)

-single choice reply-(optional)

problematic

Please explain your response

-open reply-(compulsory)

Incumbent operators want to "enable incremental revenues by end-to-end QoS pricing and content value pricing" and allow for "new interconnection policies based on the differentiation of the QoS parameters for specific services and types of traffic (not only on the "volume"). That, they say, should be part of the "Internet ecosystem" (i.e. not just for so-called "managed services" or "specialized services", which are private IP networks distinct from the public Internet) (see ETNO contribution to WCIT). This is totally contrary to the principle of Net neutrality. A comprehensive definition of Net neutrality excludes managed services on the public Internet. In France, a parliamentary report rightly stressed last year that Net neutrality is to be understood as the "Internet users' ability to send and receive the content of their choice, to use services or run applications of their choice, connect the equipment and use the programs of their choice (...) with a transparent, sufficient, and non-discriminatory quality of service (...)." The report clarifies a key point: the notion of "non-discriminatory QoS" means that Internet access provider cannot establish "differentiated QoS" on the public Internet. According to the French parliamentarians: The concept of nondiscrimination can be interpreted in various ways, including as a homogeneous treatment of flows, as a differentiation in how flows are processed according to the objective needs of the uses they support, or as no discriminatory access to various levels of quality of service. (...) The concept of nondiscrimination is used here in the sense of \*homogeneous delivery\*. (Our emphasis). This is a rigorous definition of Net neutrality. Preventing operators from introducing differentiated QoS interconnection policies is indeed of paramount importance to protect the Internet from legitimate traffic management policies that would hurt freedom of communication and innovation online.

b) taking into account the sensitivity of the service to delay or packet loss

-single choice reply-(optional)

problematic

Please explain your response

-open reply-(compulsory)

If they are indeed implemented, they must be application-agnostic, controlled by end-users and not be tied to "premium offers" but be accessible to all.

c) used to implement or manage compliance with the explicit contractual restrictions (e.g. on P2P or VoIP) of the Internet access product accepted by the user -single choice reply-(optional)

problematic

Please explain your response

-open reply-( <b>compulsory</b> )	
Contractual restrictions to Internet access that are not strictly necessary to respond to an unforeseen and temporary security threat or a congestion episode should be banned, since they are contrary to the principle of Net neutrality.	
d) targeting types/classes of traffic contributing most to congestion -single choice reply-( <b>optional</b> )	problematic
Please explain your response -open reply-( <b>compulsory</b> )	
Again, such discriminatory measures, only targeting certain types of traffic, should be banned, save for when they are temporary and aimed at alleviating a temporary security threat or episode of congestion. Even then, traffic management policies must be transparent and proportionate (i.e actually effective to address the situation). Application agnostic measures should be preferred to measures targeting specific classes of traffic.	
e) targeting heavy users whose use is excessive to the extent that it impacts on other users -single choice reply-( <b>optional</b> )	problematic
Please explain your response -open reply-( <b>compulsory</b> )	
Heavy uses often corresponds to innovative uses. Data caps, if they are application-agnostic, do not per se contradict the principle of Net neutrality. However, they amount to a bad policy choice since they could disincentivize investment in infrastructure. To be sure, the development model of the Internet has always been based on addressing capacity constraints by investing on bandwidth. Such investment allows for the new resources added by the operators to be used for the benefit of all users, thus enabling the growth of the network and of its usages.	
f) applied during busy times and places, when and where congestion occurs -single choice reply-( <b>optional</b> )	problematic
Please explain your response -open reply-( <b>compulsory</b> )	
Such measures would only be appropriate if the operator can demonstrate that the congestion is temporary and isolated.	
g) affecting all applications/content providers in the same way (application-agnostic) -single choice reply-( <b>optional</b> )	appropriate
Please explain your response -open reply-( <b>compulsory</b> )	
Under Net neutrality, such measures would be appropriate as a means to share available bandwidth between users, but not as a means to sell premium offers prioritising certain users' traffic.	
h) affecting (similar) applications/content providers of the same category in the same way -single choice reply-( <b>optional</b> )	problematic
Please explain your response -open reply-( <b>compulsory</b> )	
As explained above, the criterion of non-discrimination should be construed to mean a homogeneous, i.e neutral, delivery of all types of traffic.	
i) used, without other grounds, against services competing with the ISP's own services -single choice reply-( <b>optional</b> )	problematic

Please explain your response

-open reply-(compulsory)

Anti-competitive traffic management practices are among the most problematic types of discriminatory traffic management practices. Regulators often focus on them in discussions on Net neutrality, neglecting other forms of discriminations that are also prejudicial to the benefits brought about by Net neutrality.

j) implemented at the full discretion of the ISP

problematic

-single choice reply-(optional)

Please explain your response

-open reply-(compulsory)

Again, measures implemented at the full discretion are of course extremely problematic, and this is not even a contentious item in the Net neutrality debate anymore. Transparency on traffic management practices is mandated by the provisions of the 2009 Telecoms Package. Transparency is indeed of paramount importance to assess the legitimacy of traffic management practices under the lens of Net neutrality. The French NRA recommends that "reasonable" traffic management practices respect the the principles of relevance of the motives (congestion or security threat): proportionality, efficiency, non-discrimination, and transparency.

k) other differentiation criteria (please specify)

-open reply-(optional)

To sum up, one of the goals of EU-wide network neutrality safeguards should be to provide a consistent and enforceable framework to assess whether traffic management practices are reasonable – i.e. whether they actually seek to protect the freedom of communication of end-users – and when they are not. In the view of many stakeholders, there are two situations in which such practices are legitimate: Unforeseeable and temporary congestion: When a wireless or land-line network goes through a period of unforeseen congestion (e.g. in the case of equipment failure), network operators are entitled to temporarily implement discriminatory traffic management practices in order to ensure to fluidity of data streams. But every time, operators must be able to prove to the regulatory authority that such congestion of its network was not foreseeable and that it took necessary steps to correct it. If the deployment of very high broadband networks takes longer than expected and operators face a durable saturation of their network, then the available bandwidth should be shared equally between all the subscribers and all service providers, until operators invest to upgrade their infrastructure. Security threat on the network: In case of a sudden attack or all other event undermining the proper operation of the network, discriminatory practices are also legitimate. But they should be circumscribed to temporary traffic hazards. Malicious actions aiming at altering the global operation of the network, whether intentional or accidental, should be considered as attacks. Traffic hazards needs to be addressed through temporary measures, either manually – when irregular traffic is detected – or automatically – when such traffic hazards are already well-known. The duration of these measures should not exceed that of the attack. They should be made transparent in order to foster collaboration among the community of network operators and allow for both a sound diagnosis of security threats and for the adoption of the most adequate methods to deal with them.

Please explain your response.

-open reply-(compulsory)

Self-explanatory.

Does your answer to this question (a, b, c, d, e, f, g, h, i, j or k) contain confidential information?

No

-single choice reply-(compulsory)

#### Question 6:

The use of managed services may affect the Internet access service in some cases, due to the sharing of access resources.  
a) Please explain the impact of managed services on the standard Internet access service ("best effort") in terms of available bandwidth and quality of service.

-open reply-(optional)

Both the Internet and managed services should be defined in the regulatory framework and steps taken to ensure that the development of managed services will not occur at the expense of the Internet. According to the French national regulatory authority (Arcep), managed services are acceptable as long as they "respect competition laws and sector- specific regulation, and provided that the managed service does not degrade the quality of Internet access". Such degradation would occur if, for instance, an operator decided to allocate the vast majority of its bandwidth to managed services, thereby depriving the Internet access from sufficient network capacities. To ensure that managed services will not undermine the attractiveness of Internet access offers, Arcep proposes that the quality of service requirements

included in the Telecoms Package be construed in the context of the neutral Internet to protect the latter against degradation "Given the shared social interest in having an Internet connectivity that operates in a satisfactory way for the maximum number of users, it seems necessary to encourage the service to be of satisfactory quality. An ISP's responsibility in this matter is naturally central". To preserve the attractiveness of Internet access, managed services should also respect specific conditions. In particular, it seems that any managed service should only give access to one specific type of application or a limited package of services (whether these are HD video, videoconferencing, e-Health, etc). Otherwise, one managed service could absorb most of the applications that the Internet has to offer and unfairly compete with this open and neutral communications architecture.

b) Please explain whether it is possible to offer separate capacity for managed services and the standard Internet access service. If yes, please provide information on the circumstances (costs, technologies) of separating them.

-open reply-(optional)

Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)

No

#### Question 7:

a) Please give examples of "new business models" which could be developed on the basis of managed services by

(i) Network operators/ISPs:

-open reply-(optional)

(ii) Content providers (on the basis of agreements with ISPs):

-open reply-(optional)

b) How important are these innovative business models likely to become in the next three years? Please substantiate your view by means of available forecasts or studies.

-open reply-(optional)

c) What would be the expected benefits in terms of innovation and investment through new businesses (content or applications) benefitting from guaranteed levels of quality of delivery through managed services?

-open reply-(optional)

Does your answer to this question (a, b or c) contain confidential information? -single choice reply-(compulsory)

No

#### Question 8:

What are likely positive and negative effects of certain traffic management practices on the Internet ecosystem, in particular on innovation and investment, by (i) network operators/ISPs and (ii) content providers? Please explain your view and, if appropriate, distinguish between different traffic management practices.

-open reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

## 1.2 Traffic management and privacy issues

#### Question 9:

It appears that the implementation of traffic management measures requires ISPs to analyse certain information about individual data

packets, for instance by deep packet inspection (DPI) techniques. Please explain which type of information needs to be read by ISPs to implement the different traffic management measures. In which layer can this information normally be found?

-open reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

**Question 10:**

a) Are there any privacy risks arising from the use of DPI for traffic management purposes, and, if so, what are the implications for transparency and consumer protection?

-open reply-(optional)

In its 2011 opinion on Net neutrality, the European Data Protection Supervisor (EDPS) makes clear that management practices that are not strictly necessary to ensure the network's security or integrity amount to a global monitoring and inspection of users' communications, thereby undermining privacy. To respect current data protection laws, the EDPS stresses that users must give explicit consent to their Internet communications being monitored and restricted. Information guidelines should be drafted by EU and national privacy watchdogs on the sort of information that should be included to properly inform users on the range and modalities of traffic inspection. In any case, as underlined by the EDPS, "providers should offer alternative services, including an Internet subscription not subject to traffic management, without imposing higher costs to individuals" (§56 of the opinion). Also, to the extent that privacy-invasive measures are actually being put in place, the manufacturing of hardware used for this purpose as well as the modes of implementation by access providers should be subject to specific legislation, so as to ensure on the long run the confidentiality of electronic communications (see §84 of the EDPS opinion).

b) Are there alternative techniques for traffic management that do not involve deep packet inspection? Please provide examples and explain your response. Please compare those alternative techniques with deep packet inspection, in particular in terms of their effectiveness, potential impact on privacy and costs for operators.

-open reply-(optional)

Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)

No

**Question 11:**

Where the user's consent is required for traffic management measures, particularly where such measures might entail access to and analysis of certain personal data by ISPs, please explain how (e.g. in which format) this consent should be sought by the ISP, what prior information needs to be provided by the ISP to the user, and how the user consent should be given, in order to optimise user awareness and user convenience.

-open reply-(optional)

See question 10.

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

## 2. Transparency and switching (consumer choice)

### 2.1 Transparency and general characteristics of the Internet access offer

**Question 12:**

In order to allow consumers to make informed choices, on the basis of clear, meaningful, and comparable information, which elements should be

important

communicated to consumers? - Elements related to traffic management practices: a) Contractual restrictions (blocking, throttling, other restrictions on application use) -single choice reply-(optional)	
Please provide reasons for your answer: -open reply-(optional)	
We disagree with the premises of this section. Transparency is not enough to ensure Net neutrality. One reason that is often overlooked is the fact that information on access restrictions will be too difficult to understand for average users, that contractual and commercial documents are typically not very accessible, and that the information will be too technical in nature to allow the majority of users to assess the legitimacy and consequences of the imposed restrictions, even though the latter will have an impact on their use of the Internet, and eventually on the Internet ecosystem itself. It shows a clear lack of will to actually enforce Net neutrality. Again, this kind of traffic management practices is totally contrary to Net neutrality. And again, the question shows a very biased approach by the Commission, in particular considering that it is not specified whether we are talking about Internet access or managed services distinct from the public Internet. The former is implied, in which case such traffic management practices should be banned.	
b) Traffic management policy applied to prioritise certain traffic in specific circumstances -single choice reply-(optional)	important
Please provide reasons for your answer: -open reply-(optional)	
Same as a)	
c) Whether and to what extent managed services may affect the quality of the best effort Internet (e.g. the possibility of the Internet connection being affected when watching IP-TV or when using other managed services) -multiple choices reply-(optional)	important
Please provide reasons for your answer: -open reply-(optional)	
d) Other restrictions, please specify: -open reply-(optional)	
e) Data allowances (caps), download limits -single choice reply-(optional)	important
Please provide reasons for your answer: -open reply-(optional)	
f) What these data allowances enable customers to do in practice (download x hours of video; upload y photos etc.) -single choice reply-(optional)	important
Please provide reasons for your answer: -open reply-(optional)	
Again, this would be totally incompatible with the principle of Net neutrality. There is no economic justification for dictating the types of	

Internet uses to users. By allowing and even encouraging such business models, the EU Commission is drifting away from policies that can foster investment and will fail to deliver on its broadband targets. We strongly urge the Commission to reconsider its approach to Net neutrality and its impact on broadband policies.

**Elements related to speed and quality:**

a) Average speed, typical speed ranges and speed at peak times (upload and download)

-multiple choices reply-(optional)

important

Please provide reasons for your answer:

-open reply-(optional)

b) Respect of guaranteed minimum speed (if applicable)

-multiple choices reply-(optional)

less important

Please provide reasons for your answer:

-open reply-(optional)

The best-effort principle underlying the Internet implies that it is not pertinent to focus on guaranteed minimum speeds. Average speeds is a better notion to inform users on their Internet experience and the kind of use they will be able to undertake.

c) What these speeds allow customers to do in practice (video-streaming, audio-download, video-conferences etc.)

-single choice reply-(optional)

important

Please provide reasons for your answer:

-open reply-(optional)

See previous answer.

d) Latency/network responsiveness (a measure of traffic delay) and which services would be affected thereby (e.g. certain applications such as IP-TV or videoconferencing would be more seriously impacted by higher traffic delays in the network of the provider)

-multiple choices reply-(optional)

important

Please provide reasons for your answer:

-open reply-(optional)

See previous answer. Note that the kind of services mentioned here can cope and are already coping with best-effort delivery by innovating in new and better protocols, compression techniques, etc, and that this should also be pointed out to users.

e) Jitter (a measure of the variability over time of latency) and which services would be affected thereby (e.g. echoing in VoIP calls)

-multiple choices reply-(optional)

Please provide reasons for your answer:

-open reply-(optional)

See previous answer.

f) Packet loss rate (share of packets lost in the network) and which services would be affected thereby (e.g. VoIP)

-multiple choices reply-(optional)

Please provide reasons for your answer:



-open reply-(optional)	
Idem.	
g) Reliability of the service (network accessibility and retainability), i.e. measure for successful start and completion of data sessions -multiple choices reply-(optional)	
Please provide reasons for your answer: -open reply-(optional)	
h) Quality parameters for (mobile) voice telephony (call setup success rate, dropped calls, speech quality, other) -multiple choices reply-(optional)	
Please provide reasons for your answer: -open reply-(optional)	
i) Other, please specify: -open reply-(optional)	
Does your answer to question 12 (or to any of its sub-questions) contain confidential information? -single choice reply-(compulsory)	No
<b>Question 13:</b> Some ISPs currently apply 'fair use policies', which give them wide discretion to apply restrictions on traffic generated by users whose usage they consider excessive. Do you consider that, in case of contractual restrictions of data consumption, quantified data allowances (e.g. monthly caps of x MB or GB) are more transparent for consumers than discretionary fair use clauses? -single choice reply-(optional)	Yes
Please provide reasons for your answer. -open reply-(compulsory)	
Transparency and consumer information is always better than the lack of thereof. Our objection to the Commission's approach is that it is also not sufficient to reach important policy objective such as Net neutrality.	
Does your answer to this question contain confidential information? -single choice reply-(compulsory)	No
<b>Question 14:</b> a) When should the elements of information referred to in question 12 be provided to the consumer by the ISP? -multiple choices reply-(optional)	before signing the contract - regularly updated during the contract period - during the contract period if changes occur
b) Which format (e.g. contract, general terms and conditions, separate and specific information, other (please specify)) do you consider appropriate to communicate this information to consumers?	

-open reply-(optional)	
Does your answer to this question contain confidential information? -single choice reply-(compulsory)	No
<b>Question 15:</b> What would be the (additional) costs for ISPs to (i) collect the various data mentioned in the table in question 12 (e.g. measuring of average speed, jitter, delay etc.) and (ii) communicate the information to their customers. Please provide an estimate of the above costs for your own company or an ISP of your choice explaining your assumptions and methodology, and details about the technical tools used to collect the various data. If possible, please provide a breakdown of the costs. -open reply-(optional)	
Does your answer to this question contain confidential information? -single choice reply-(compulsory)	No
<b>Question 16:</b> a) In order to promote transparency and consumer choice, do you consider it necessary that comparable data on the Internet access provided by ISPs is collected and published by NRAs or another independent organisation? -single choice reply-(optional)	Yes
Please explain your response. -open reply-(compulsory)	
Independent information is always key to ensure transparency.	
Do you think this information should be broken down by geographic areas or different data plans? -open reply-(optional)	
b) What are the advantages and corresponding costs of this data collection and publication being undertaken by NRAs or by another type of organisation (please specify which one). Please provide an estimate at EU-level or for an EU Member State of your choice. -open reply-(optional)	
Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)	No
<b>Question 17:</b> a) Do you consider it necessary to regulate the labelling as "Internet access" of subscriptions that restrict access to some Internet services, content or applications? -single choice reply-(optional)	Yes
Please reason your answer. -open reply-(compulsory)	
A non-neutral Internet access (neutral in the sense of homogeneous delivery of all types of traffic) should never be marketed as an "Internet access". It simply do not offer access to the universal and user-centric platform of communications known as the Internet.	
b) If yes, which restrictions would be acceptable before a subscription could no longer be marketed, without qualification, as an "Internet access" product"?	

-open reply-(optional)

Only temporary measures necessary to address security threats and unforeseen congestion.

c) What would be the consequences (including the cost) for ISPs if they were not allowed to market as 'Internet access' an offer with certain restrictions, or if such marketing was subject to mandatory qualification? Please provide quantification for your own company or an ISP of your choice explaining your assumptions and methodology.

-open reply-(optional)

Does your answer to this question (a, b or c) contain confidential information? -single choice reply-(compulsory)

No

## 2.2 Switching

### Question 18:

a) Please explain what barriers to switching ISPs still exist (if any) and how they can be overcome. Please mention in your reply all direct and indirect factors dissuading consumers from switching (e.g. obstacles linked to the terminal equipment, burden of proof regarding a possible breach of contract, etc.)

-open reply-(optional)

As early as 2006, Ofcom had to deal with discriminatory practices on the part of British ISPs. It first favored rules governing the transparency of these practices, so that consumers were informed of their IAP's policies. Ofcom then realized that switching to another IAPs who did not engage in discriminatory practices was very difficult for consumers. Concerned with the fact that captive markets might be emerging, the regulator then tried – without much success – to facilitate migration from one IAP to another. But the effect of these policies on network neutrality is very dubious. First, transparency does not prevent all the IAPs in a given market to adopt anti-network neutrality practices. Second, even if neutral Internet access offers were to subsist in the absence of regulation, the transactions costs of switching IAP remain so high that many users would feel discouraged to do so. Reducing the transaction costs of switching ISP seems like a very difficult task, and even if the Commission succeeded, it would clearly be not as effective as mandating neutral Internet access offers and regulating the distribution of managed services in view of safeguarding the benefits brought about by Net neutrality.

b) How should an ISP inform consumers of changes to their packages?

-open reply-(optional)

c) What actions by an ISP would constitute a breach of contract or modifications to the contractual conditions which would enable a consumer to be released from a contract?

-open reply-(optional)

d) Should customers be able to easily opt out from certain contractual restrictions (up to a completely unrestricted offer) by the same operator?

-single choice reply-(optional)

Please explain your response.

-open reply-(optional)

e) Do you think that a customer should be allowed to switch **to another operator** within a reduced contract termination period in case his/her current operator does not at all offer an unrestricted Internet access product or does not allow switching to such unrestricted offer?

-single choice reply-(optional)

Yes

Please provide reasons for your response.

-open reply-(compulsory)

If the Commission is at all serious about protecting Net neutrality, not providing a fast-track procedure for switching operator in such cases would be absolutely incoherent. But again, even then, we think it would fail to protect Net neutrality.

Does your answer to this question (a, b, c, d or e) contain confidential information? -single choice reply-(compulsory)

No

**Question 19:**

While there may be valid (technical) reasons why consumers do not always get the advertised service speed or quality, should there be a limit on the discrepancy between advertised and actual service parameters (e.g. speed)?

-single choice reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

**Question 20:**

Pursuant to Article 30 (6) of the Universal Service Directive conditions and procedures for contract termination shall not act as a disincentive against changing service providers. How could changing of operators be facilitated? Please provide examples and explain your response.

-open reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

**Question 21:**

How could the transparency of bundles (packages including telephony, Internet, TV) be improved for consumers and how could switching be facilitated in the presence of bundles?

-open reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

**Question 22:**

a) How important would be the benefits for end-users of improved transparency and facilitated switching?

-single choice reply-(optional)

slightly important

Please explain your response.

-open reply-(compulsory)

Such as strategy would allow, and even legitimise, the development of restricted, pseudo-Internet access offers that will in the end confuse consumers, who today tend to enjoy unrestricted and unlimited access, and divert operators from a successful business strategy, which should be based on investment and comprehensive, neutral Internet access, with potentially innovative (but regulated) managed services being deployed alongside the public Internet.

b) What would be the expected benefits in terms of innovation by new businesses (content or applications) as a consequence of improved consumer choice and increased competition between ISPs?

-open reply-(optional)	
Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)	No
<b>Question 23:</b> Would the facilitation of switching for consumers trigger any (administrative) costs for ISPs? -single choice reply-(optional)	No
Does your answer to this question contain confidential information? -single choice reply-(compulsory)	No
<h3>3. IP interconnection issues</h3>	
<b>Question 24:</b> a) In your view, are there any problems regarding IP interconnection arrangements (between network operators, ISPs, transit providers and/or content providers) that could have an impact on the quality of the best effort Internet? -single choice reply-(optional)	
Please explain your response. -open reply-(optional)	
b) Are there any specific issues related to the vertical integration of ISPs and transit providers? -single choice reply-(optional)	
Please explain your response. -open reply-(optional)	
Does your answer to this question contain confidential information? -single choice reply-(compulsory)	No
<b>Question 25:</b> Direct peering, Content Delivery Networks (CDN) or Quality of Service Interconnection (between ISPs and content providers) are being developed to propose an enhanced quality of service for content providers and end users. a) What role can they play in reducing the risk of network congestion? -open reply-(optional)	
b) What opportunities and threats do they constitute for: (i) ISPs, (ii) content providers, (iii) transit providers and (iv) end users? -open reply-(optional)	
c) Are there any barriers of a regulatory, technical or	

business nature that prevent market players other than ISPs from playing a more important role in reducing the risk of network congestion? -single choice reply-(optional)	
Does your answer to this question (a, b or c) contain confidential information? -single choice reply-(compulsory)	No
<h2>4. Process</h2>	
<b>Question 26:</b> a) Do you consider that intervention by public authorities is necessary at this stage? -singl choice reply-(optional)	Yes
If so, what would be the appropriate level of such intervention? -open reply-(optional)	
<p>A EU-wide regulation should: 1. Establish a preventive framework to protect Net neutrality. The Internet is unique network of communications whose specificities must be acknowledged by the body of laws regulating the telecoms sector. A ex post regime, currently privileged by BEREC and NRA, to address only the worst and persisting breaches of Net neutrality is insufficient. 2. Define notion of "minimum quality of service". Introduced in the Telecoms Package, this notion is at this stage very vague. The way it is construed by some NRA suggests that the legal basis for such interpretation is very fragile. It should therefore be further defined. An appropriate definition of "minimum quality of service" for any Internet access must be based on qualitative and evolutive criteria (the range of uses it must enable) but also on objective criteria of non-discrimination in traffic delivery. 3. Establish a procedure, accessible to any Internet user, to address the traffic management practices of ISPs, which should include ad hoc sanctions (administrative/pecuniary or criminal, depending on the degree of the interference with users' freedom of communication and of the seriousness and deliberate nature of the restriction).</p>	
b) What would be the consequences of divergent interventions by public authorities in the EU Member States? -open reply-(optional)	
Does your answer to this question (a or b) contain confidential information? -single choice reply-(compulsory)	No
<b>Question 27:</b> a) Have you made use of the dispute resolution powers under the Framework Directive <sup>[1]</sup> in relation to a dispute about traffic management practices?	
<sup>[1]</sup> See in particular Article 20 of Directive 2002/21/EC (Framework Directive) which allows either party to request a binding decision by the NRA to resolve a dispute within the shortest possible time frame and normally within four months. -singl choice reply-(optional)	
b) Have you also made use of these dispute resolution powers <u>also in relation to disputes between an ISP and a content provider</u> ? -singl choice reply-(optional)	
c) If you have made use, please explain under which circumstances. If you have not made use, please explain whether you consider that these dispute resolution powers would be an appropriate tool for such Internet traffic management disputes?	

-open reply-(optional)

Does your answer to this question (a, b or c) contain confidential information? -single choice reply-(compulsory)

No

**Question 28:**

Do you consider that regulators should monitor interconnection agreements between providers?

-single choice reply-(optional)

Please explain your view.

-open reply-(optional)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No

**Question 29:**

Under article 22(3) USD NRAs have the power to set minimum quality of service requirements on undertakings providing public communications networks. In a scenario where in a given MemberState no unrestricted offer is available (for instance because all operators actually block VoIP), do you consider that the "minimum quality of service tool" should be applied by the NRA to require operators to provide certain unrestricted offers?

-single choice reply-(optional)

Yes

Please explain your response.

-open reply-(compulsory)

See Question 26 a)

Does your answer to this question contain confidential information? -single choice reply-(compulsory)

No