

Telecoms Package - Who wants to jeopardize network neutrality?

The Telecoms Package, debated on Tuesday Sept. 2nd and voted in Sept. II contains off-topic amendments that go beyond its original purpose and try to regulate the content of communications and not only their conveying technologies. They directly threaten the very efficiency of digital communications. This note explains the harms they may cause to network neutrality, especially via the notion of “lawful content”.

Network Neutrality : One network, equal treatment for every user and every content

- Users can choose to access any content (which publication has not been declared illegal by a court decision).
- Anyone can use and offer any application or service over the network. (model of phone companies, transport or postal service : anything can be connected to anything).

Network neutrality allows "**bottom-up**" innovation. Users discover applications and services and choose the best.

Sustainable competition : anyone can create new competitive services. Small actors emerge and grow quickly.

Network neutrality is at the origin of Internet, enabled its growth and competition in digital economy. Enables consumer benefit / media pluralism / freedom of speech / cultural diversity / access to knowledge.

Music and entertainment industries push to filter Internet

Hoping to preserve business models based on selling copies, content industries want Internet Service Providers (ISP) to be required to monitor the content of user's connection. The notion of only allowing access to "**lawful content**" implies that **ISP will take decisions that shall be taken by a judge** (like if the post-office had to open and read every letter before deciding to carry them or not). Imposing such a filtering raises **several concerns**:

- Who will determine the limit between lawful/unlawful? Will it be consistent among member states?
- Who will pay for extra processing, network slowdown, false positive indemnification, etc.?
- What impact on innovation and digital economy?
- **Technically inefficient** : real criminals will find ways to circumvent such measures and get harder to detect. Circumvention techniques will spread rapidly among users (“cat and mouse game”).
- **Democratic risk** : can be used for censorship, restriction to freedom of association and political activity.

Ex: Harbour report: Amdt. 134 - (2002/58/EC) Art. 2 – pt 5 a / Amdt. 148 - Appendix I – Part B – pt b b / Amdt. 81 (2002/22/EC) Art. 22 – par. 3 / Amdt. 62, - Art. 1 – pt 12 / etc.

Filtering harms freedom of expression, democracy, competitiveness and innovation in digital economy

Internet Service Providers push to control content in order to monetize differentiated access

Today ISP don't influence the priority of what data or whose data goes through their networks for other purposes than preserving infrastructure's integrity and security.

They now want new business models based on differentiation over what content is accessed and what applications and services are used (ie. Some sponsored sites could be accessible for standard fee, and users would have to pay extra fees for decent access to other sites). Like TV cable companies, internet infrastructure managers could monetize their control of access by signing deals with major content/service providers.

Ex: Harbour report: Amdt. 13 - recital 14(b) / Amdt. 62 & 75 – art.1 – pt.12 / etc.

These practices would lead to “different internets” for different users paying different prices. It would harm small and independent innovators, thus the bottom-up innovation model on which Internet growth is based.

Restrictions to access and usage shall only be allowed to protect networks' security and integrity. (the term “reasonable network management” used in amdt. 29 is too broad).