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*Plenary sitting*

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20.10.2011

B7-0000/2011

## **MOTION FOR A RESOLUTION**

further to Question for Oral (O-xxxx/xxxx – B7-0000/2011),

pursuant to Rule 115(5) of the Rules of Procedure

on The open internet and net neutrality in Europe

**Herbert Reul**

on behalf of the Committee on Industry, Research and Energy

**B7-0000/2011**

**European Parliament resolution on Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - The open internet and net neutrality in Europe**

*The European Parliament,*

- having regard to Commission Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions COM (2011) 0222 final of 19 April 2011 on the open internet and net neutrality in Europe,
- having regard to the question of xx xx xxxx to the Council on Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - The open internet and net neutrality in Europe (O-xxxx/xxxx – B7-0000/2011),
- having regard to the Commission declaration on net neutrality (2009/C 308/02) of 18 December 2009,
- having regard to Article 1 (8) (g) of the Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services,
- having regard to Articles 20 (1)(b), 21(3)(c) and (d) and 22(3) the Directive 2009/136/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws,
- having regard to the Regulation No (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office,
- having regard to its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth,
- having regard to the Commission Communication COM (2010) 0245 final of 19 May 2010 on the Digital Agenda for Europe,
- having regard to the Council Conclusions of 31 May 2010 on "Digital Agenda for Europe",
- having regard to the Commission Communication COM(2011) 206 final of 13 April 2011 "Single Market Act. Twelve levers to boost growth and strengthen confidence - Working

together to create new growth",

- having regard to the Summit on "The open internet and net neutrality in Europe" co-organised by the European Parliament and the European Commission in Brussels on 11 November 2010,
  - having regard to the IMCO study "Network Neutrality: Challenges and responses in the EU and in the U.S." (IP/A/IMCO/ST/2011-02) of May 2011,
  - having regard to the Opinion of the European Data Protection Supervisor of 7 October 2011 on net neutrality, traffic management and the protection of privacy and personal data,
  - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Council is planning to adopt conclusions on the open internet and net neutrality in Europe at the TTE Council of 13 December 2011,
- B. whereas EU Member States should have complied by 25 May 2011 with the 2009 EU telecoms reform package and the Commission has already taken necessary steps to ensure that the principles of the EU Treaty and of the 'acquis communautaire' are respected,
- C. whereas the European Parliament has called on the Commission to safeguard the principles of the neutrality and openness of the internet and to promote the ability of end-users to access and distribute information and run applications and services of their choice,
- D. whereas the Commission has asked the Body of European Regulators for Electronic Communications (BEREC) to look into the barriers to switching operators, blocking or throttling of internet traffic as well as on transparency and quality of service in Member States,
- E. whereas the internet's open character has been a key driver of competitiveness, economic growth, social development and innovation which has led to spectacular levels of development in online applications, content and services and thus of growth in the offer and the demand of content and services; has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where there is limited access to independent media,
- F. whereas there are third countries that have prevented mobile broadband providers from blocking lawful websites and VoIP or video-telephony applications that compete with their own voice or video telephony services,
- G. whereas, internet services are offered on a cross-border scale and the internet is at the very centre of the global economy,
- H. whereas in particular, as underlined in the Digital Agenda for Europe, broadband and internet are important drivers for economic growth, job creation and European

competitiveness on the global level,

- I. whereas Europe will only be capable of fully exploiting the potential of a digital economy through stimulation of a well-functioning internal digital market,
  1. Welcomes the Commission's Communication and agrees with its analysis, in particular on the necessity to preserve the open and neutral character of the internet as a key driver of innovation and consumer demand while ensuring that the internet can continue to provide high-quality services in a framework that promotes and respects fundamental rights;
  2. Notes that the conclusions of the Commission's Communication indicate that there is at this stage no clear need for additional regulatory intervention on net neutrality on the European level;
  3. Points however to the potential for anti-competitive and discriminatory behaviour in traffic management in particular by vertically integrated companies; welcomes the Commission's intention to publish the evidence emerging from BEREC's investigations into practices potentially affecting net neutrality in Member States;
  4. Asks the Commission to ensure the consistent application and enforcement of the existing EU Telecom regulatory framework for communications and to assess within six months after the publication of the findings of BEREC's investigation whether further regulatory measures are needed in order to ensure freedom of expression, freedom of access to information, freedom of choice for consumers and media-pluralism as well as to achieve effective competition, innovation, facilitate wide-ranging benefits for citizens, business and public administration uses of the internet and underlines that any European regulatory proposal in the area of net neutrality should be subject to an impact assessment;
  5. Welcomes the work of the BEREC in this area and calls the Member States and in particular NRAs to work closely with BEREC;
  6. Calls on the Commission, together with BEREC in cooperation with Member States to closely monitor the development of traffic management practices and interconnection agreements, in particular related to blocking and throttling of or excessive price for VoIP and file sharing, as well as to anticompetitive behaviour and excessive degradation of quality as required by the EU Telecom regulatory framework and calls on the Commission consequently to guard that Internet Service Providers do not block, discriminate against, impair, or degrade the ability of any person to use a service to access, use, send, post, receive, or offer any content, application, or service of their choice irrespective of source or target;
  7. Asks the Commission to provide the European Parliament with information on current traffic management practices, the interconnection market and network congestion as well as any relation to lack of investments; calls on the Commission to further analyse the issue of "device neutrality";
  8. Calls on the Commission, the Member States and BEREC to ensure consistency in the approach on net neutrality and effective implementation of the EU Telecom regulatory

framework;

9. Emphasizes that any solution proposed on the issue of net neutrality can be effective only through a consistent European approach; therefore asks the Commission to closely follow the adoption of any national regulations related to net neutrality, in terms of the effects on the respective national market as well as on the Internal Market; considers it would benefit all stakeholders if the Commission were to provide EU-wide guidelines, including with regard to the mobile market, to ensure that the provisions of the Telecoms package on net neutrality are properly and consistently applied and enforced;
10. Underlines the importance of cooperation and coordination among the Member States and in particular among the NRAs, together with the Commission, in order for the EU to benefit from the full potential of the internet;
11. Draws the attention to the serious risks of departing from network neutrality such as anticompetitive behaviour, blockage of innovation, restriction on freedom of expression and on media pluralism, lack of consumer awareness and infringement of privacy which will be detrimental to businesses, to consumers and the democratic society as a whole and recalls the opinion of the EDPS on the impact of traffic management practices on the confidentiality of communications;
12. Reminds that the EU Telecom regulatory framework aims at promoting freedom of expression, non-discriminatory access to content, applications and services and effective competition and therefore any measure in the area of net neutrality should in addition to existing competition law aim at tackling any anti-competitive practices that may emerge as well as lead to investments and facilitate innovative business models for the online economy;
13. Considers the principle of net neutrality as a significant prerequisite for enabling an innovative internet ecosystem and for securing a level playing field at the service of European citizens and entrepreneurs;
14. Considers that effective competition in electronic communication services, transparency on traffic management and quality of service as well as ease of switching are among the minimum necessary conditions for net neutrality, assuring end-users of freedom of choice and requests;
15. Recognises that reasonable traffic management is required to ensure that the end user's connectivity is not disrupted by network congestion; in this context operators may, subject to NRAs scrutiny, use procedures to measure and shape internet traffic in order to maintain networks' functional capacity and stability and to meet quality of service requirements; urges the competent national authorities to use their full powers under the Universal Services Directive to impose minimum QoS standards and believes that ensuring quality in time-critical service traffic shall not be an argument for abandoning the best-effort principle;
16. Urges the competent national authorities to ensure that traffic management interventions do not involve anti-competitive or harmful discrimination; believes specialised [or managed] services should not be detrimental to the safeguard of a robust "best effort" internet access, thus fostering innovation and freedom of expression, ensuring competition

and avoiding a new digital divide;

### **Consumer Protection**

17. Calls for transparency in traffic management including better information for end-users and stresses the need to enable consumers to make informed choices and to be effectively able to switch to a new provider that can best suit their needs and preferences including the speed and volume of downloads and services and recalls to this regard the importance of providing consumers with clear, effective, meaningful and comparable information on all concerned commercial practices with equivalent effect in particular on mobile internet;
18. Calls on the Commission to publish further guidance as regard the right of switching operators so as to comply with the transparency requirements and promote equal rights for consumers across the European Union;
19. Notes the existence of concerns emerging from consumers in regard to the discrepancy between advertised and actual delivery speeds from an Internet connection; calls in this respect on the Member States to coherently enforce the ban on misleading advertising;
20. Recognises the need for creating ways of enhancing citizens' trust and confidence in the online environment; calls therefore on the Commission and Member States to further develop educational programmes aiming at raising consumers' ICT skills and at reducing digital exclusion;
21. Calls on the Commission to invite consumer representatives and civil society to participate actively and equally with industry representatives in the discussions regarding the future of the Internet in the EU;
22. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States.