

UK PROPOSED AMENDMENTS

RATIONALE

Differentiated quality of service and traffic management services are well-established practices within existing electronic communications services. In fact, there will be greater scope for customising and differentiating service in an all IP-world. Already, there are cases of the gradual development of an innovative service such as with 3G services where access is offered to “mobile-ready” Internet sites or employing techniques to ensure the delivery of voice or video applications to match consumer expectations of such services. We are already familiar with this in the broadcasting world, where certain cable or satellite operators may enter into exclusive agreements with content providers (like Sky and Premier League football). Similar arrangements may also exist in the electronic communications world.

There is nothing in the Framework or elsewhere in the European law preventing a service provider from providing subscribers with access to pre-defined and differentiated set of services or applications. These kinds of commercial arrangements will continue to exist, and are desirable to the extent that they strike a balance between

- (a) enabling innovation and experimentation with new business models, and
- (b) ensuring that any restrictions on access to services or applications are not anticompetitive.

But competition will only be effective if **consumers are fully informed of the conditions under which the particular service is provided**. It is therefore absolutely critical that consumers are made fully aware of, for example, any limitations there may be on the service they are purchasing, so that they can exercise an informed choice.

CURRENT TEXTS

In order for there to be a recognition of the importance of transparency the UK are suggesting modifications to Article 8(4)(g), this reflecting that differentiation between services has always been and should continue to be an acceptable practice, **as long as there is full transparency** and information to consumers about the type of content, services and applications that are accessible, including information about how legitimate traffic management policies can impact on the delivery of such services.

AMENDED ARTICLE 8(4)(g) FRAMEWORK DIRECTIVE

“NRAs shall promote the interests of the citizens of the European Union by inter alia:

(g) applying the principle that ~~end-users should be able there should be~~ transparency of conditions under which services are provided, including information on the conditions of ~~to access to and/or use of and distribute~~ information or run applications and services, and of any traffic management policies of their choice

LU RECITAL to be included in FRAMEWORK DIRECTIVE

“ In order for consumers to exercise choice and fully benefit from competition, there should be transparency of the conditions under which services are offered and provided, including information on any limitations regarding their ability to access, use, distribute or run applications and services.

Traffic management policies, are an example of such limitations, which could have an impact on the delivery of the service. Traffic management policies are the procedures put in place by the provider in order to measure and control traffic on a network link so as to avoid filling the link to capacity or overfilling the link, which would result in network congestion and poor performance.

AMENDED ARTICLE 20 UNIVERSAL SERVICE DIRECTIVE
(current Presidency text)

~~“information on any limitations imposed by the undertaking, where allowed under national law, regarding a subscriber’s ability to the conditions regarding -access to and/or; use or run applications and of~~ services and applications, including information on any traffic management policies and on how these may impact on the delivery of the service;”