

**EU PUBLIC CONSULTATION
ON THE OPEN INTERNET AND NET NEUTRALITY IN EUROPE**

ENPA POSITION

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Introduction

Newspaper publishers are actively diversifying their business models and embracing the internet as a platform to engage with a growing audience demanding high quality, text-based and interactive news. Publishers have also increased their presence in the mobile environment with the publication of newspaper content on new applications such as e-readers or tablets.

The newspaper publishing sector is therefore taking an active part in the information society and in democratic debate, especially in the digital environment. To be able to fulfil their mission, publishers also need to ensure that the legal and economic conditions sustaining the digital environment enable them to develop their new business models in this area, including paid-for-offers and other quality services that they would like to provide for their users.

For this purpose, it is important to ensure that the new digital market provides equal opportunities and fair competition among all players and that internet services providers and telecom operators offer their services on a non-discriminatory basis. Newspaper publishers therefore believe that respect for net neutrality is one of the indispensable conditions for the proper functioning and evolution of the information society to the benefit of all users and industries.

ENPA considers that there are four important elements/challenges which need to be considered in the debate on net neutrality:

- The risk of discrimination among commercial services using the bandwidth, which might also compete with operators' own commercial services
- The risk of discrimination among end users whose access might either be partial or degraded
- The risk of discrimination according to the type of access to the network, fixed or mobile
- The possibility for public authorities to impose restrictions that could have an impact on certain press content and the fundamental rights including freedom of expression.

In this submission, ENPA has therefore analysed the question of net neutrality from a different perspective:

- From a commercial and competition point of view: how to ensure that traffic management does not create discrimination and unfair competition among the different players.

- From net neutrality to technological neutrality point of view: how to avoid bottlenecks for the dissemination of newspaper content on fixed and mobile platforms.
- From a fundamental rights perspective: how to ensure that public authorities or operators do not take action on the network which could have prejudicial effects on press freedom.

Commercial and competition aspects of net neutrality

ENPA supports the principle of network neutrality, believing that allowing network providers to provide preferential treatment for certain internet traffic would challenge the essentially democratic and innovative nature of the internet.

ENPA believes that in the online environment, the competitive market for network operators exists at the point of delivery; any decision regarding quality of content delivery lies with the consumer, not the provider.

Network operators are free to provide consumers with a selection of varying qualities and speeds of internet access, from which consumers are free to choose according to what best serves their needs. These revenues may be invested in developing next-generation networks in order to remain competitive on their primary market: the provision of electronic communication services.

Whilst recognising the need for network operators to conduct basic traffic management in order to optimise the customer experience, ENPA believes that no distinction must be made between different types of content.

Visitors to newspaper websites, whose publishers are unwilling or unable to pay for the premium delivery of content, may experience a decline in service quality. These visitors are likely to defect, resulting in lower visitor numbers and reduced advertising revenues, thereby threatening their nascent business model, the very existence of these newspapers, and media plurality in general.

In using new platforms and the internet for the delivery of their content, publishers expect operators to ensure fair commercial conditions and fair competition among the different services delivered on the network in the fixed and mobile environment.

In a converging media landscape, ISPs and Telecom operators are increasingly involved in the production and dissemination of content and in the advertising market. In this context, they can be tempted to favour their own content related activities when it comes to providing a better quality of service in terms of speed of delivery to the users. Such a situation could discriminate against other content providers, including newspapers.

ENPA therefore believes that in a market where access to information is also connected to the speed of news delivery to the users, it is essential that networks guarantee equal treatment and non-discrimination among different content providers.

Net neutrality and technological neutrality

The following requirements, at least, need to be fulfilled to ensure appropriate conditions for the distribution of newspapers on online platforms:

- Avoiding bottlenecks and ensuring sufficient revenue streams for publishers in their relationships with ISPs, telecoms and ICT industries when agreements are made for the dissemination of the newspaper content on new platforms or applications.
- Respecting copyright rules on all platforms especially as regards companies using newspapers' content for their online commercial activities (requirement of prior authorisation and remuneration).
- Ensuring that digital versions of newspapers are taxed at the same VAT rate as for printed newspapers, currently applied in each Member State.
- Preventing regulatory obstacles for advertising (bans, mandatory requirements or labelling) which directly affect newspaper revenues.
- Guaranteeing fair competition among all players, in particular between publishers and search engines, in the advertising market.

Although the concept and definition of net neutrality does not include these elements because they are not directly related to traffic management issue, ENPA believes that it is important to keep them central to the debate, as they are also an essential part of the relationships between content providers and the ICT industries.

Net neutrality and freedom of expression

It is quite understandable that public authorities require a certain level of control of the network, for instance for public security reasons, the fight against terrorism or child protection.

However such a type of intervention by operators in the network and in the management of traffic can only be done in an environment which respects fundamental rights, including freedom of expression. In establishing this type of control, EU and national decision-makers have to avoid a too restrictive policy which could have an adverse effect on content delivered by the press (potential cases of defamation, violation of privacy, etc).

ENPA therefore calls for the respect of fundamental rights, including freedom of expression, in the overall debate on net neutrality and recommends a thorough discussion with all stakeholders when certain measures could also have a negative impact on press content.

ENPA - the European Newspaper Publishers' Association - is an international non-profit association, advocating the interests of the European newspaper publishing industry to different European and international organisations and institutions.

ENPA represents over 5,200 national, regional and local newspaper titles, published in 25 European countries. More than 150 million newspapers are sold and read by over 300 million Europeans every day, in addition to the millions of unique daily visits to online newspapers websites. Publishing industries as a whole constitute an important economic sector in the EU employing more than 750,000 people in 64,000 companies.

Newspaper portals still remain amongst the most consulted websites on the Internet and are the reference point for many. There are currently more than 2100 daily, non-daily and Sunday newspaper websites in ENPA member countries.



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