

BEREC Office ref № MC (14) 25

## Questions and Answers

regarding the Call for Tender № 2013-BEREC-OT-02

**INVITATION TO OPEN TENDER THE VALUE OF NETWORK NEUTRALITY TO  
EUROPEAN CONSUMERS**

**Contract Notice № 2013/S 243-422077 of OJ/S S243 of 14/12/2013**

### **Part 4**

#### Question 1:

Please clarify what is meant by the following: *“It is strongly desirable that the information collected should be detailed enough to allow the evaluation of a consumer’s willingness to pay for a given broadband package, given the consumer’s characteristics and the broadband package’s attributes.”*

#### Answer 1:

The information collected should provide the level and robustness necessary to reconstruct the “ideal” price of a certain package (e.g. with specific restrictions, or with no restrictions) for a certain type of consumer. This would then allow us to measure the difference between the ideal price the consumer would envisage to pay and the actual price offered by the ISP.

#### Question 2:

**Objectives of the research:** In its Call for Tenders, BEREC states that its underlying objectives are threefold: (i) To understand how consumer expectations and market dynamics are reflected in practice in retail offers; (ii) to understand what leads ISPs to adopt different traffic management responses under similar technical, legal and market constraints in different countries; and (iii) to understand the role and impact on Net Neutrality of competition, transparency and the ability of consumers to switch easily.

However, given the inherent limitations of a segment-based approach (which in turn is dictated by cost considerations), we believe that we may be unable to meet these objectives fully. Rather, it would seem to us that BEREC wishes for us to bear these underlying objectives in mind when designing our research, particularly when segmenting test areas, so that our results can help address points (i) – (iii) above. But we assume that BEREC is not expecting us to provide a detailed analysis or unambiguous answers to these questions. We would be grateful if BEREC could confirm this.

#### Answer 2:

These three objectives relate to a BEREC workstream on Ecosystem Dynamics and Demand-Side Forces. This study is an integral part of that BEREC workstream and has been designed with the aim of providing us with information to meet the three objectives. It is therefore useful for the consultant to bear these objectives in mind

when designing their research, and to understand that they provide a context for the study. We are not asking consultants to answer those questions specifically, but rather to carry out research which will help BEREC answer those questions.

Question 3:

**ISP dynamics partly out of scope:** It is our understanding that the insights gained during this project will subsequently be used by BEREC to inform further work (outside the scope of the present tender) which will seek to understand the full ecosystem dynamics that may determine to what extent net neutrality will be observed by ISPs in the future. We note that such an enquiry would need to consider, among other things, operators' incentives to discriminate and/or manage traffic, which may include, e.g., their bandwidth costs, the nature of their contractual arrangements with content providers, the profitability of their broadband, TV and triple-play offers, and other factors. We assume that this is generally out of scope for the current project. In particular, we assume that an assessment of ISPs' likely reactions to consumer preferences is outside the scope of the present project. We would be grateful if BEREC could confirm this.

Answer 3:

BEREC Office confirms that this study is not seeking to assess ISP's likely reactions to consumer preferences. That should be an outcome of another study, which will be done separately by BEREC.

Question 4:

**ISPs' stated policies vs actual practices:** The CFT at times refers to ISPs' "policies" and at times to their actual practices. We note that there may be a significant difference between the two, especially if by "policies" we understand ISPs' publicly stated approach to traffic management, which may fail to provide sufficient information or might not always be accurate. Our assumption is that BEREC's interest is primarily concerned with actual practices, although where information on these is unavailable we may need to resort to stated policies. We would appreciate if BEREC could comment on this.

Answer 4:

BEREC understands that there may be information asymmetries or lack of transparency to consumers regarding the traffic management practices of ISPs. BEREC's assumption is that ISPs' practices are aligned with their detailed policies, as set out in contractual information. It is these policies and practices, which we are primarily concerned with.

Question 5:

**Sharing of data:** In 2012, BEREC conducted a survey of operators across Europe, which was used to inform the report "A view of traffic management and other practices resulting in restrictions to the open Internet in Europe". In that report, BEREC categorised countries according to the degree of traffic management exercised by ISPs; see for example Figure 10 in that report. However, in that report the countries' names have been redacted. Once BEREC awards the contract for the study "The Value of Network Neutrality to European Consumers", will BEREC be able to share this information with the successful bidder? If so, will BEREC accept this data as valid, notwithstanding the fact that it may be two years old, if it is used in the current project? Is BEREC in a position to provide an up-to-date version of this data to the successful bidder?

Answer 5:

“The data was collected from ISPs on a confidential basis and, consequently the country-specific data was only available for BEREC internal purposes while drafting the report. The country-specific information can therefore not be made available to the successful bidder. The exercise may be carried out for a second time in 2015. At present there is not a more recent version of the 2012 data.”

Question 6:

**Definitions of net neutrality:** in prior work, BEREC has defined net neutrality as “the principle that all electronic communication passing through a network is treated equally. That all communication is treated equally means that it is treated independent of (i) content, (ii) application, (iii) service, (iv) device, (v) sender address, and (vi) receiver address. Sender and receiver address implies that the treatment is independent of user and content/application/service provider”. However, elsewhere the CFP refers to net neutrality “attributes” that are wider in scope in that they cover not only technological but also commercial aspects – e.g. contractual restrictions, data caps, application-based charging, etc. It is our assumption that for the purposes of the present study “net neutrality” should not be understood necessarily in the first sense, but in a wider sense, to be defined fully only during the project, and which may include many components on which consumers’ attitudes will be investigated. We would be grateful if BEREC could confirm this.

Answer 6:

BEREC Office confirms that the scope of the work is to go beyond the purely technological concept and to look at the commercial aspects of applying these concepts to offerings in the market and relations between different players.

*Riga, 11 February 2014*