Internet Society submission to the public consultation on the draft BEREC Report on the Internet Ecosystem

21st July 2022

Introduction

The Internet Society welcomes the Body of European Regulators for Electronic Communications' (BEREC) efforts to investigate and analyse how users' Internet experience is affected by different trends in the Internet ecosystem. We appreciate the opportunity to provide feedback in response to the open public consultation on the draft report on the Internet Ecosystem. Through this submission, we seek to contribute additional resources that may be of value for BEREC's continued investigations, as well as a recommendation for future work to include the development of a process for Internet impact assessments.

Understanding trends and new developments in the Internet is a core part of the mission of the Internet Society. Over the past years we have conducted analyses like those of BEREC in investigating how trends of consolidation in the Internet economy may affect the network's future evolution and implications for its users (see references below). Our own findings from this work largely aligns with the report's assessment of current trends of market concentration in different elements of the Internet's ecosystem, and that interdependence across those elements may have important implications for Internet users. While this work echoes many of the concerns raised in the draft report our investigation also identified positive effects from some of these trends, which we recommend that the draft report also takes into consideration.

However, one of the most important take-aways from our own work is that the complexity and interdependence amongst elements in the Internet ecosystem requires careful consideration. In this light we believe that an important tool for evaluating long term implications for the global Internet and its users is to promote the practice of Internet impact assessments for new policies and technologies. This is particularly vital with regards to any regulatory intervention that may be advanced to address structural competition problems or abuses of dominance.

General comments

1.   The report's overall goal and structure provides a useful overview of current trends of market concentration in various elements of the Internet ecosystem. While some sections of the report could benefit from more data, for example to substantiate the claim of concentration in the CDN market, we believe that the report provides very useful insights to current trends. Similarly, the analysis of how such trends may affect users and the Internet's general openness is well structured and includes useful reasoning about dynamics across markets. To deepen and complement this analysis we would like to recommend our own research on this topic. Notably the "<u>Global Internet Report 2019: Consolidation in the Internet Economy",</u> but also our subsequent work together with Chatham House and its <u>"Special Issue on Consolidation of the Internet"</u> that includes perspectives on these trends from a variety of stakeholders.

2.   As noted in the draft report, new developments through the EU's Digital Market's Act, and the upcoming Data Act, provide for regulatory interventions to mandate interoperability with and across platform services. While such interventions may be warranted to address structural competition issues and abuses of dominance, we believe it is important that the regulator also considers how the implementation of such measures may affect users and Internet openness. To this end its important that the report acknowledges that careful consideration is required when interoperability is mandated in an ecosystem otherwise premised on voluntary collaboration. In 2020, the Internet Society published the report <u>"White Paper: Considerations for Mandating Open Interfaces"</u> that looks closer at such regulatory measures, and could be a useful resource in outlining such considerations in the draft report.

3.   The report makes emphasis on the strong market positions held by a limited number of companies. It would also be important to reflect the enormous diversity in the eco-system: the Internet carries a broad array of sites and services offered by an equally broad array of commercial, NGO, governmental, and individual entities, most with little or no market power. Sites such as Wikipedia are very popular and far-reaching, but may lack the financial or technical resources to respond to risks or regulations imposed on the Internet eco-system, and smaller sites will certainly lack such resources.

4.   Finally, it is important to recognize that users are a major component of the Internet eco-system, and that a high percentage of traffic on the Internet is user-initiated. A great deal of the content provided by the major actors in the eco-system is requested by users, who presumably are finding value in the content.

Recommendation for future work

Even though a whole generation has grown up with Internet, it still can be considered a nascent technology. One that evolves and can still respond fast to changing circumstances (the role the Internet played during the pandemic being an example). Any early intervention might ossify the current technical and business arrangements in place. We would urge regulators to conduct specific Internet Impact Assessments to any policy proposal that could affect the characteristics of the infrastructure needs to thrive as an open, globally connected, secure and trustworthy resource.

At the Internet Society we have developed a model -the **Internet Impact Assessment Toolkit**- that could serve as inspiration, or as an off-the-shelve framework, to analyse the impact of any policy proposal. We have developed a **guideline** on how to use the model and we have already conducted and **published** several assessments of different policies and new technologies.

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About the Internet Society

The Internet Society is a global non-profit organisation founded in 1992 by some of the Internet's early pioneers. Our global community is made up of thousands of energetic, enthusiastic, and committed individuals, organisations, and volunteers. We believe the Internet is a force for good and we are working towards an open, globally connected, secure and trustworthy Internet that benefits everyone. With 110 active chapters across six continents, of which 28 are in Europe, and more than 90.000 individual users supporting our activities, the Internet Society is a relevant stakeholder, and a reliable civil society and technical community interlocutor for Internet governance issues.