

PROTECTING DIGITAL FREEDOM

EIGHT STEPS TO AN OPEN INTERNET

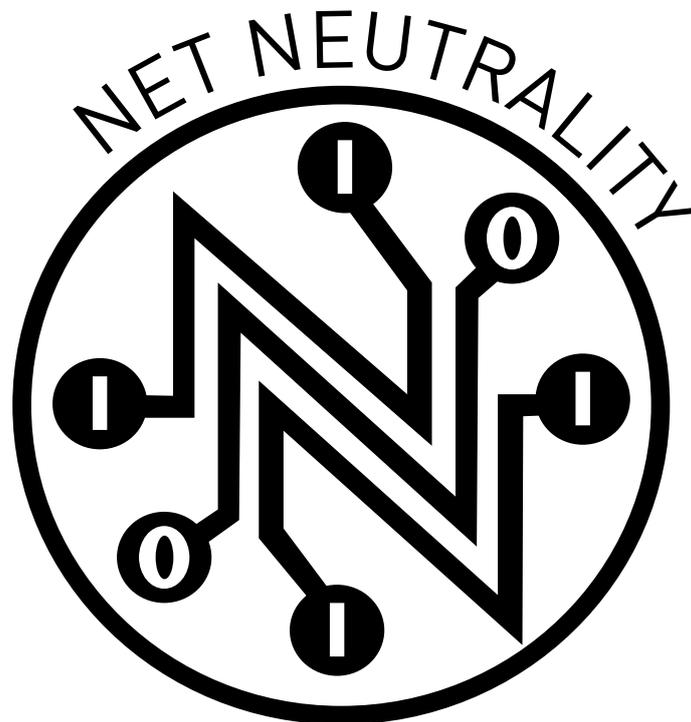
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Introduction

Net neutrality means that all traffic on the internet is treated equally, without discrimination on the basis of origin, destination or type of data.

Through the following eight steps to an open internet, we will highlight the benefits of net neutrality and address some of the common misconceptions.



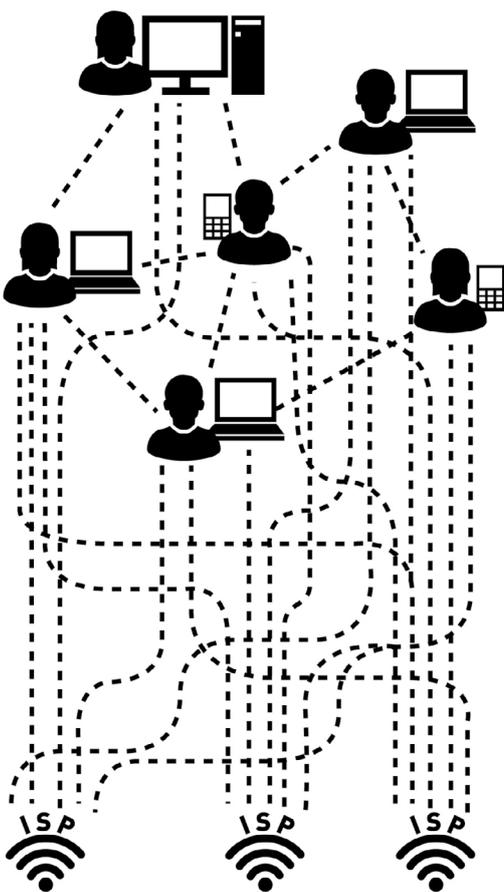
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LEARNING FROM PAST MISTAKES - WHY CREATE ANOTHER TERMINA- TION MONOPOLY?

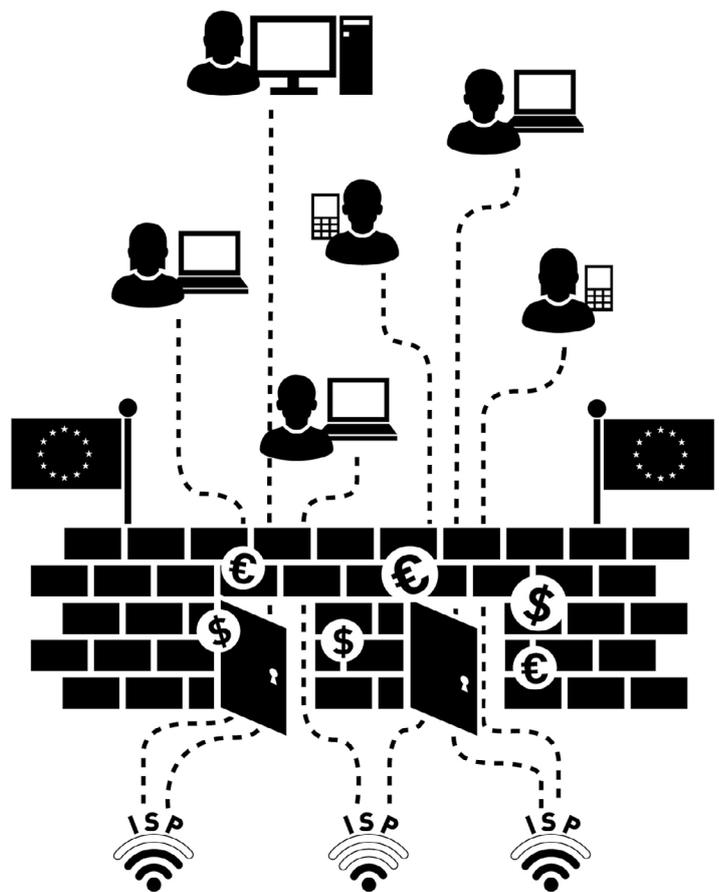
In the traditional telephony market, phone companies charge each other a “termination fee” to receive calls from other networks. The calling party’s network pays the recipient’s network to receive the call. This is known as “calling party network pays” or “sending party pays”.

If a mobile operator increases its termination fees, this will affect everybody that is making calls to that operator’s customers. Crucially, however, it will not change the prices paid by that operator’s customers. As an operator’s customers are the only ones NOT to suffer from an increase in termination fees, this market is profoundly (and almost automatically) uncompetitive.

OPEN INTERNET



NON-NEUTRAL INTERNET



In essence, the “net neutrality” debate is all about whether or not this model can be imported into the regulation of internet traffic. A “non-neutral” network is one where online services need to negotiate a fee in order to gain access to the internet access providers’ customers. This means that the internet access provider has a monopoly – anyone who does not accept the provider’s conditions may not have access to those individuals.

This CPNP [calling party network pays] system tends to create perverse economic incentives. Carriers tend to be motivated to set termination rates vastly in excess of real costs, because in doing so they raise, not their own costs, but rather the costs of their rivals.

J. Scott Marcus, Call Termination Fees: The U.S. In a global perspective. Available from ftp://ftp.zew.de/pub/zew-docs/div/IKT04/Paper_Marcus_Parallel_Session.pdf

2 IMPLEMENT NEUTRAL TRAFFIC MANAGEMENT MEASURES

Traffic management involves interfering in the normal flow of internet traffic to prioritise, slow down or block certain data in order to allow the network to function efficiently.

Net neutrality does not prevent access providers from managing their networks efficiently and only prohibits measures that imposes arbitrary restrictions and anti-competitive or discriminatory practices. The aim is to prohibit traffic management measures that are used for such anticompetitive reasons, to the unfair advantage of access providers’ own services or those of their business partners.

Traffic management is then reasonable if **temporary, necessary, proportionate, targeted, transparent and in accordance with the law.**

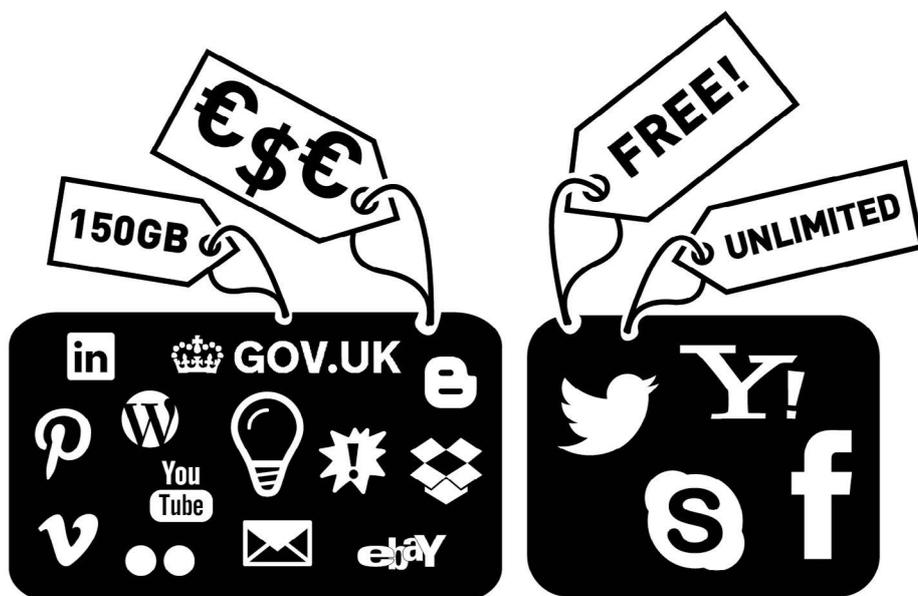
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PREVENT MONOPOLIES BASED ON PRICE DISCRIMINATION

Under price discrimination, users are allowed to download a certain amount of data as part of their pricing plan, and then have to pay extra for any additional downloads (a user might be allowed to download, for example, 500mb, with additional traffic costing 1 Euro per megabyte). Operators then allow certain online services to pay for their customers' downloads (or, for the moment, offer "free" access to certain services). So, access to Facebook or Twitter might be "free", even after the download limit was exceeded.

While it seems like a good thing that certain communications services are unrestricted, this is entirely dependant on what the access provider wants to offer and under what conditions. Just because they offer this service today, does not mean that they will offer it tomorrow. More importantly, consumers are very keen to keep track of their expenditure and will be far more willing to use a service that is not subject to download costs than to use one that is costing them money every time they click on a link. Ultimately, this means that established online services will be able to afford to pay for this type of privileged access and will create huge costs for market entry for innovative start-up services.

In the same way as the long-term competitiveness and efficiency of the telecommunications market required tariff rebalancing¹ that, in the short-term, increased the cost of certain services, the long-term competitiveness and efficiency of the market means that such discriminatory offers must be prohibited.



¹ The traditional, monopoly telecommunications market was based on a system where very expensive international phone calls subsidised the cost of phone lines and local calls. This system is incompatible with a competitive market and, therefore, the first step towards liberalisation is "rebalancing" of the prices to make them cost-oriented. This has unfortunate negative effects for line cost and local calls but is universally seen as necessary for the competitiveness of the market - boosting innovation and reducing costs in the medium- and long-term.

4

THERE'S NO NEED TO "BAN" SPECIALISED SERVICES

Some of the more imaginative lobbyists against net neutrality claim that it would "ban" specialised services that need to be run on networks with guaranteed speeds and quality of service.

Time-critical services such as telemedicine do not and will not run over the open internet, or compete in any material way with online services.

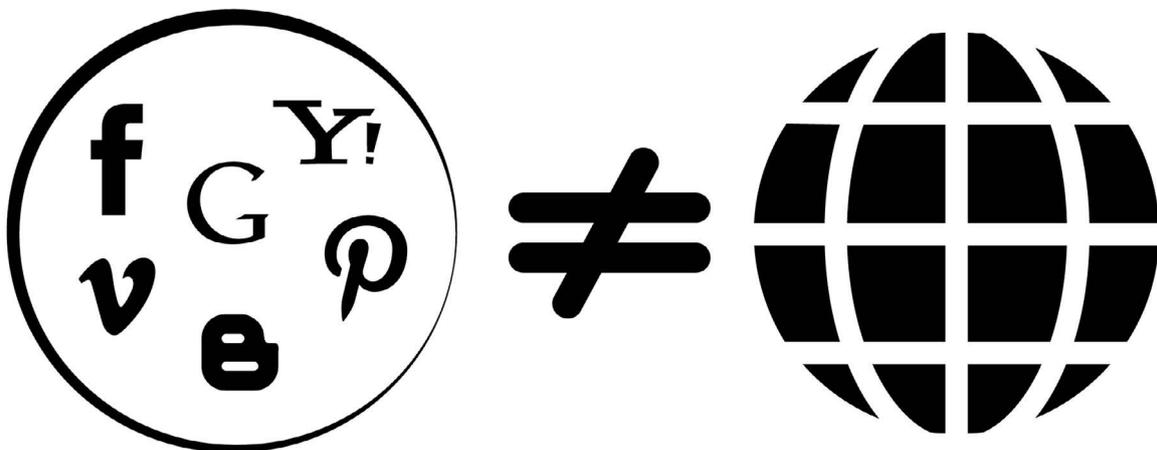
Any wording which avoids conflating genuine specialised services with discriminatory behaviour – such as requiring or permitting online services to pay for discriminatory access to the customers of the large operators – will simultaneously respect net neutrality and ensure that specialised services will continue to grow and provide value to Europe's citizens.

5

ONE PROBLEM AT A TIME: NET NEUTRALITY & PLATFORM NEUTRALITY

There are major problems with the openness, competitiveness and neutrality of a wide range of online platforms. This is an issue which certainly needs to be addressed. However, the issues at stake are almost entirely different from network neutrality and could not reasonably or efficiently be included in a Regulation on telecommunications.

Attempting to address both problems at the same time will result in failure to solve either of them.



6

NET NEUTRALITY WON'T MAKE ILLEGAL CONTENT LEGAL, SUCH AS CHILD PORNOGRAPHY

There is absolutely nothing in the proposed Regulation that could possibly be interpreted as meaning that online content that was previously illegal would suddenly become legal. Recital 46 confirms this.

The 2011 Child Exploitation Directive was the outcome of a long, careful consideration by the EU institutions. It is unspeakably bad practice for the Commission to essentially delete all of the blocking provisions of the 2011 Directive and replace them with a provision that offers NO safeguards and extends the blocking/filtering provisions into unnamed other policy areas, covered by the undefined concept of “serious crime”.

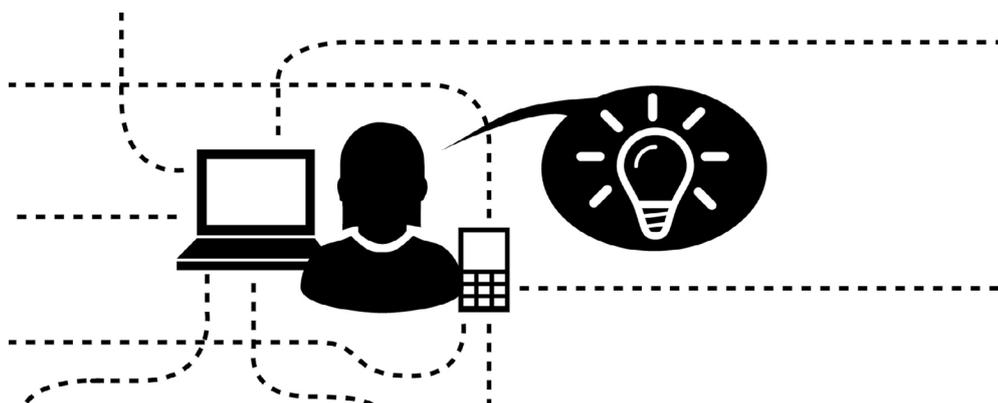
If the EU institutions wish to leave Article 15 of the 2011 Directive unaffected by the Regulation, all that is needed is a statement to that effect in the Regulation’s recitals.

7

PROMOTE FREEDOM OF EXPRESSION AND INNOVATIVE SERVICES

By guaranteeing the openness of the internet and the innovation without permission principle - a foundational principle of the internet that enables anyone to create, innovate and communicate without having to request authorisation from anyone - the number of attractive internet-based services and applications will continue to increase. Any other approach is little more than a dangerous experiment with a network that has given us – and continues to give us – huge economic and social benefits.

As a result, enshrining net neutrality into law is ensuring that internet remains a platform where both freedom of expression and innovation can flourish.



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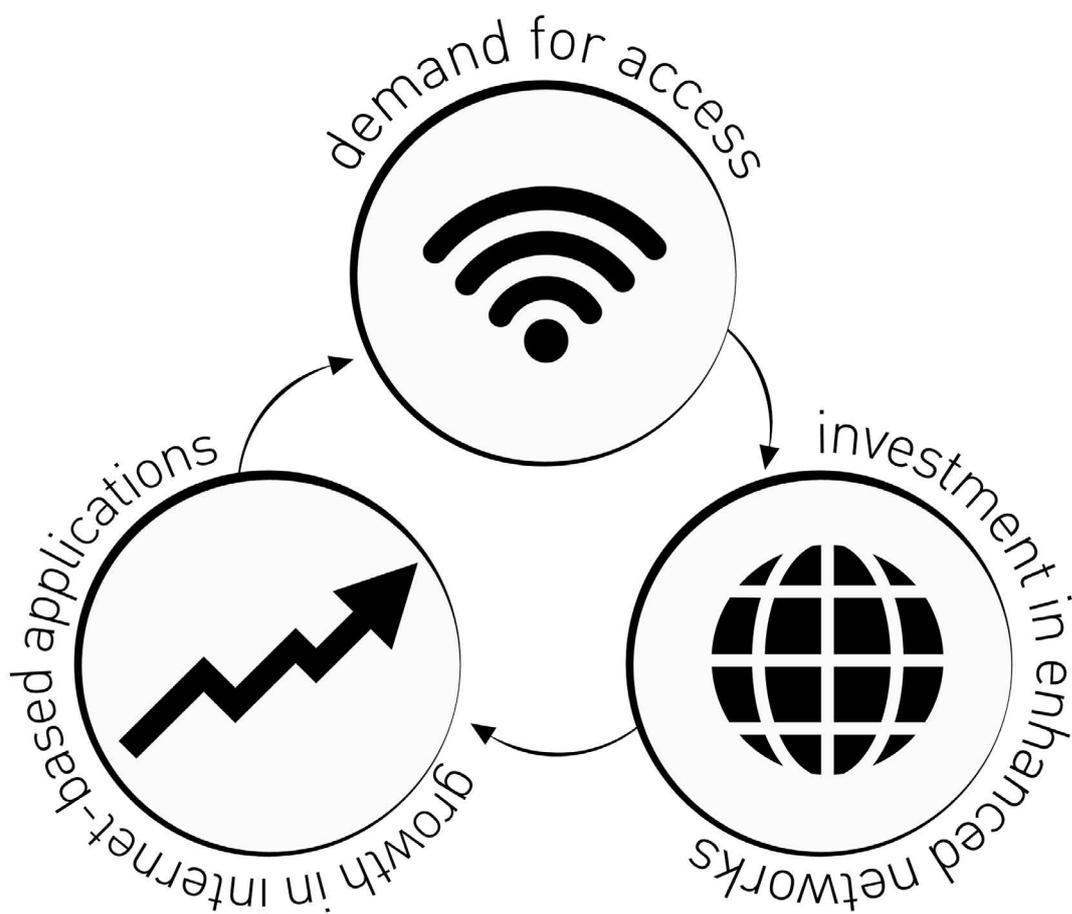
PROMOTE INVESTMENT

As new innovative services will develop in an environment where net neutrality and the innovation without permission principles are guaranteed, the demand for faster and better access to the internet will grow, generating more value for internet access providers and a stronger incentive to invest in enhanced network capacity.

This so-called “virtuous circle” illustrates the long-term economic benefit for telecommunications companies to invest in infrastructure and improve high speed broadband penetration.

The alternative is a vicious circle where barriers to the marketplace drives down innovation, reducing demand for high-bandwidth services, to the detriment of ALL stakeholders, including the telecoms operators.

Virtuous circle between content and applications, demand and network:





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