



Cable Europe

Cable Europe response to the ERG consultation on Regulatory Principles of IP- IC/NGN Core

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Cable Europe, the European Cable Communications Association, groups all the leading European cable TV operators and their national trade associations throughout Europe. The aim of Cable Europe is to promote and defend the industry's policies and business interests at European and international level, and to foster co-operation among its members. The European cable TV industry provides broadband, telephony, digital TV to more than 73 million customers.

Cable Europe welcomes the opportunity given by the ERG to comment on its consultation document on Regulatory Principles of IP interconnection and its implications as one of the main challenges emerging out of the developments towards multi-service NGNs in the core network.

The following comments concentrate on question 9 of the consultation document which relates to **the Measures based on the Universal Service Directive**:

9.a) Do you consider it sufficient to potentially regulate minimum quality (Art. 22 USD new para 3)?

Cable Europe believes that the case for the introduction of so-called net neutrality regulation within the current telecoms review process has been overstated. The issue has risen to prominence in Europe following an ongoing debate in the US where online content consumption models are commonplace, where the application services markets is more developed and where competition in local broadband access is largely dominated by those operators with lines connected directly to customers homes.

None of this is true for Europe. As the Commission recognizes 'Retailing of video content, and the availability of on-demand TV programming via the Internet is as yet still a nascent market'. In addition, most incumbents in Europe are required to offer LLU or bit-stream access to broadband making retail competition in Europe more robust.

In short, the competitive conditions in Europe are simply not comparable to the US, and are therefore very unlikely to lead to possible issues of market abuse and therefore the need for regulators to intervene.

The wider issue linked to the Commission's proposals is how regulation can ensure quality of service and accessibility to content and transparency for customers without undermining the incentives of NGA networks to invest, to manage traffic flows and offer differentiated service packages to customers based on their needs.



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Therefore, we believe it is essential that regulation of quality of service currently being discussed in Council and the European Parliament must be flexible enough to promote network management if traffic flows are to be optimized. Without prioritisation of content and traffic management, consumers will simply be unable to take up innovative services and applications because their quality would not be good enough. In addition the revised regulatory framework should encourage experimentation of service and quality offering. Our ability to offer differentiated quality of services, and to optimize traffic management across networks where possible, is a key competitive differentiator as we compete with other NGA broadband suppliers, notably the incumbent operators.

9.b) Does this require additional regulation at the wholesale level?

Cable Europe does not believe additional wholesale level regulatory powers are necessary to address future potential issues. Regulators already have extensive powers to address net neutrality concerns under the existing European Framework.

Should an SMP broadband operator ever be found to be anti-competitively degrading or blocking specific traffic streams, NRAs are able to use the full range of remedies under article 12 of Directive 2002/19/EC including obligations to supply, charge caps, or require ISPs to provide particular information to consumers such as whether they block access to certain ports or websites. Essentially the tools need to address possible future problems are to be found in existing non-discrimination rules.

In addition, and in contrast to the situation in the United States, there is very strong retail broadband competition based on regulated bit-stream and/LLU offerings and competing infrastructure (FttH and cable based broadband access) across Europe. It is notable that for example Ofcom has lifted and TKK Austria has reduced ex ante obligations for the incumbent access provider in the market for wholesale broadband access in selected areas in the UK. In such a competitive market, consumers are well informed of different service offerings from different providers and can easily switch between them; a competitive process which provides clear constraint on possible market abuses.

In short, we think the market can and is addressing the issue, and that the existing regulatory framework has the ability to intervene when and if necessary. Internet interconnection is as an unregulated market success. Consequently, the most natural answer should be to let it unregulated. We are also unconvinced the competitive conditions in Europe mirror those of the US and accordingly the public policy concerns are much less significant.



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9.c) What is your opinion on ERG's consideration that the power to set minimum quality of service requirements (both, on end-user and network level) should be entrusted directly to NRAs?

Cable Europe is of the view that NRAs power to issue guidelines, setting minimum quality of service requirements so as to prevent service degradation and the slowing of traffic over networks, and to ensure users can access or distribute lawful content or to run lawful applications and services of their choice, is not unreasonably restricted. However, we believe the case for additional powers to set minimum of quality of services is unnecessary given the competitive market situation and the existing regulatory framework.

The combination of competitive markets for broadband services in Europe and reinforced transparency on, for example, blocking of services, empower users to choose between different forms of access to services and applications. This is the best safeguard should problems related to quality of service arise in the future.

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