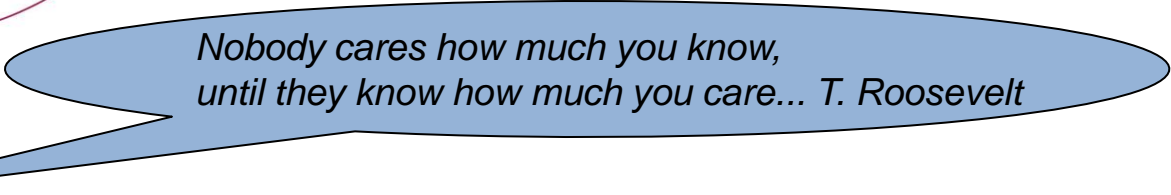


# Provisions on “Open Internet” in the “Connected Continent” package

## *BEREC analysis*

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*Nobody cares how much you know,  
until they know how much you care... T. Roosevelt*

## ■ Why net neutrality matters – BEREC's analysis of the situation

Traffic management and differentiation: diverse, not necessarily harmful - can be problematic

- Low current risk but high potential impact (dynamic analysis)

## ■ BEREC guidance to assessing traffic management (and contractual restrictions)

Evaluate “reasonableness” of TM on a case-by case approach, using assessment criteria:

Non-discrimination between players ; End-user control ; Efficiency and proportionality ; Application-agnosticism

## ■ Regulatory approach

### 1. Ensuring that market forces work

Strengthening competition through SMP regulation, effective transparency, easy switching

### 2. Detecting and evaluating harmful practices / degradation of service

Quality of service and markets monitoring

Evaluation of the practice and of the market situation

### 3. Acting when necessary


Using additional powers, e.g. minimum Quality of Service requirements, penalties...


# BEREC *Connected Continent* proposal

- On this highly controversial issue, the Commission introduces a balanced policy, broadly in line with BEREC previous analysis.



- However, the legal basis chosen (a Regulation) is very rigid: drafting requires utmost care...  
... in such a fast changing environment.

| Key aspects of Commission's proposal   | Observations   |
|--|--|
| <p>Defining</p> <ul style="list-style-type: none"> <li>- Internet Access Services (IAS)</li> <li>- Specialized Services</li> </ul> <p>... and their relationship</p> | <ul style="list-style-type: none"> <li>- Preferable to <u>keep a large definition of IAS</u> (<i>for a wide application of rules</i>) and better specify specialized services (<i>to emphasize distinct implementation</i>):             <ul style="list-style-type: none"> <li>* suggest to add concept of <b>closed networks</b></li> </ul> </li> <li>- Impairment of IAS by Spec. S.: preferable to combine:             <ul style="list-style-type: none"> <li>* <i>Generic conditions</i> (“performance”, “affordability”)</li> <li>* <i>Specific situations to be characterized by regulators</i></li> </ul> </li> </ul> |
| <p>Rules governing IAS</p>   | <p><u>Leveraging on common concepts is useful</u></p> <ul style="list-style-type: none"> <li>- Criteria: transparency, non-discrimination, proportionate</li> <li>- Must apply to <b>all differentiations</b> (incl. contractual)</li> </ul> <p><u>“Reasonable” traffic management:</u></p> <ul style="list-style-type: none"> <li>- The basis framework should be improved...             <ul style="list-style-type: none"> <li>* <i>avoid unclear concepts: serious crimes, temporary congestion, equivalent types of traffic</i></li> </ul> </li> </ul> <p>... and completed by regulators' detailed assessment 4</p>      |

| Key aspects of Commission's proposal   | Observations   |
|--|--|
| <p>End-user freedoms<br/>... benefit from a stronger protection</p> <p>... within NRAs scope of competence</p>   | <p>The object of net neutrality is to limit <u>ISPs' interference in Internet usage</u> related to traffic type, origin, terminal used...</p> <ul style="list-style-type: none"> <li>* OK to wide-reaching principles</li> <li>* <u>But</u> many players involved<br/>→ clarify that <i>rules apply within ISPs control</i></li> </ul> <p>- In order to facilitate NRAs' monitoring and action:</p> <ul style="list-style-type: none"> <li>* Avoid out-of-framework concepts (e.g. "cultural diversity")</li> <li>* <b>IAS quality expectation must be reasonable</b></li> </ul> |
| <p>NRAs tasks and powers</p>  <p><b>To monitor and be ready to act... better than constrain offers!</b></p> | <p><u>Monitoring the availability of IAS with sufficient quality</u></p> <p>- Requires <b>NRAs in control for transparency, QoS measurements</b>, and getting proper information from ISPs</p> <p><u>Robust capacity to intervene:</u></p> <ul style="list-style-type: none"> <li>- Explicit legal basis to use most appropriate tool: penalties, disputes settlement... and QoS requirements (<i>if necessary!</i>)</li> <li>- European-level review useful, but no excessive standstill</li> </ul>   |