



EUROPEAN PARLIAMENT

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*Plenary sitting*

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7.11.2011

B7-0572/2011

## **MOTION FOR A RESOLUTION**

further to Question for Oral Answer B7-0641/2011

pursuant to Rule 115(5) of the Rules of Procedure

on the open internet and net neutrality in Europe

**Herbert Reul**

on behalf of the Committee on Industry, Research and Energy

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*United in diversity*

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**B7-0572/2011**

**European Parliament resolution on the open internet and net neutrality in Europe**

*The European Parliament,*

- having regard to the Commission Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions (COM(2011)0222 final) of 19 April 2011 on the open internet and net neutrality in Europe,
- having regard to the question of 12 October 2011 to the Council on the open internet and net neutrality in Europe (O-000243/2011 – B7-0641/2011),
- having regard to the Commission declaration on net neutrality (2009/C 308/02) of 18 December 2009,
- having regard to Article 1(8)(g) of Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC, on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services,
- having regard to Articles 20(1)(b), 21(3)(c) and (d) and 22(3) of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws,
- having regard to Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office,
- having regard to its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth,
- having regard to the Commission Communication (COM(2010)0245 final) of 19 May 2010 entitled 'A Digital Agenda for Europe',
- having regard to the Council Conclusions of 31 May 2010 on 'Digital Agenda for Europe',
- having regard to the Commission Communication (COM(2011)206 final) of 13 April 2011 entitled 'Single Market Act: twelve levers to boost growth and strengthen confidence – Working together to create new growth',

- having regard to the summit on ‘The open internet and net neutrality in Europe’ co-organised by Parliament and the Commission in Brussels on 11 November 2010,
  - having regard to the Committee on Internal Market and Consumer Protection study entitled ‘Network Neutrality: challenges and responses in the EU and in the US’ (IP/A/IMCO/ST/2011-02), of May 2011,
  - having regard to the Opinion of the European Data Protection Supervisor (EDPS), of 7 October 2011, on net neutrality, traffic management and the protection of privacy and personal data,
  - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Council is planning to adopt conclusions on the open internet and net neutrality in Europe at the Transport, Telecommunications and Energy Council on 13 December 2011;
  - B. whereas Member States should have complied with the 2009 EU ‘Telecoms’ reform package by 25 May 2011, and the Commission has already taken necessary steps to ensure that the principles of the EU Treaty and the *acquis communautaire* are respected;
  - C. whereas Parliament has called on the Commission to safeguard the principles of the neutrality and openness of the internet and to promote end users’ ability to access and distribute information and run applications and services of their choice;
  - D. whereas the Commission has asked BEREC to investigate the barriers to switching operators, the blocking or throttling of internet traffic, and transparency and quality of service in Member States;
  - E. whereas the internet’s open character has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited;
  - F. whereas there are third countries that have prevented mobile broadband providers from blocking lawful websites and VoIP or video-telephony applications that compete with their own voice or video telephony services;
  - G. whereas, internet services are offered on a cross-border scale, and the internet is at the very centre of the global economy;
  - H. whereas, in particular, as underlined in the Digital Agenda for Europe, broadband and internet are important drivers for economic growth, job creation and European competitiveness at global level;
  - I. whereas Europe will only be capable of fully exploiting the potential of a digital economy through stimulation of a properly functioning internal digital market;

1. Welcomes the Commission's communication and agrees with its analysis, in particular on the necessity of preserving the open and neutral character of the internet as a key driver of innovation and consumer demand, while ensuring that the internet can continue to provide high-quality services in a framework that promotes and respects fundamental rights;
2. Notes that the conclusions of the Commission's communication indicate there is, at this stage, no clear need for additional European-level regulatory intervention on net neutrality;
3. Points, however, to the potential for anti-competitive and discriminatory behaviour in traffic management, in particular by vertically integrated companies; welcomes the Commission's intention to publish the evidence emerging from BEREC's investigations into practices potentially affecting net neutrality in Member States;
4. Asks the Commission to ensure the consistent application and enforcement of the existing EU 'Telecoms' regulatory framework for communications and to assess, within six months of publication of the findings of BEREC's investigation, whether further regulatory measures are needed in order to ensure freedom of expression, freedom of access to information, freedom of choice for consumers, and media pluralism, to achieve effective competition and innovation, and to facilitate wide-ranging benefits in terms of citizens', businesses' and public administration uses of the internet; emphasises that any European regulatory proposal in the area of net neutrality should be subject to an impact assessment;
5. Welcomes BEREC's work in this area and calls on the Member States, and in particular the national regulatory authorities (NRAs), to work closely with BEREC;
6. Calls on the Commission, together with BEREC in cooperation with Member States, closely to monitor the development of traffic-management practices and interconnection agreements, in particular in relation to blocking and throttling of, or excessive pricing for, VoIP and file sharing, as well as anticompetitive behaviour and excessive degradation of quality, as required by the EU 'Telecoms' regulatory framework; calls further on the Commission to ensure that internet service providers do not block, discriminate against, impair or degrade the ability of any person to use a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target;
7. Asks the Commission to provide Parliament with information on current traffic-management practices, the interconnection market and network congestion, as well as any relationship to lack of investment; calls on the Commission to analyse further the issue of 'device neutrality';
8. Calls on the Commission, the Member States and BEREC to ensure consistency in the approach to net neutrality and effective implementation of the EU 'Telecoms' regulatory framework;
9. Emphasises that any solution proposed on the issue of net neutrality can be effective only through a consistent European approach; therefore asks the Commission to follow closely the adoption of any national regulations related to net neutrality, in terms of their effects

on the respective national markets as well as the internal market; considers it would benefit all stakeholders if the Commission were to provide EU-wide guidelines, including with regard to the mobile market, to ensure that the provisions of the ‘Telecoms’ package on net neutrality are properly and consistently applied and enforced;

10. Underlines the importance of cooperation and coordination among the Member States, and in particular among the NRAs, together with the Commission, in order for the EU to benefit from the full potential of the internet;
11. Draws attention to the serious risks of departing from network neutrality – such as anticompetitive behaviour, the blocking of innovation, restrictions on freedom of expression and media pluralism, lack of consumer awareness and infringement of privacy – which will be detrimental to businesses, consumers and democratic society as a whole, and recalls the opinion of the EDPS on the impact of traffic-management practices on the confidentiality of communications;
12. Points out that the EU ‘Telecoms’ regulatory framework aims to promote freedom of expression, non-discriminatory access to content, applications and services, and effective competition, and therefore that any measure in the area of net neutrality should, alongside existing competition law, aim to tackle anti-competitive practices that may emerge, and should lead to investment and facilitate innovative business models for the online economy;
13. Considers the principle of net neutrality as a significant prerequisite for enabling an innovative internet ecosystem and for securing a level playing field at the service of European citizens and entrepreneurs;
14. Considers effective competition in electronic communication services, transparency in relation to traffic management and to quality of service, as well as ease of switching, to be among the minimum necessary conditions for net neutrality, assuring end users that they can enjoy freedom of choice and requests;
15. Recognises that reasonable traffic management is required to ensure that the end user’s connectivity is not disrupted by network congestion; notes that, in this context, operators may, subject to NRAs’ scrutiny, use procedures to measure and shape internet traffic in order to maintain networks’ functional capacity and stability and to meet quality-of-service requirements; urges the competent national authorities to use their full powers under the Universal Services Directive to impose minimum quality-of-service standards, and believes that ensuring quality in time-critical service traffic shall not be an argument for abandoning the ‘best effort’ principle;
16. Urges the competent national authorities to ensure that traffic-management interventions do not involve anti-competitive or harmful discrimination; believes specialised (or managed) services should not be detrimental to the safeguarding of robust ‘best effort’ internet access, thus fostering innovation and freedom of expression, ensuring competition and avoiding a new digital divide;

## **Consumer protection**

17. Calls for transparency in traffic management, including better information for end users, and stresses the need to enable consumers to make informed choices and to have the effective option of switching to a new provider that can best meet their needs and preferences, including in relation to the speed and volume of downloads and services; points out, in this regard, the importance of providing consumers with clear, effective, meaningful and comparable information on all relevant commercial practices with equivalent effect, and in particular on mobile internet;
18. Calls on the Commission to publish further guidance about the right to switch operators, so as to comply with transparency requirements and promote equal rights for consumers across the EU;
19. Notes consumers' emerging concerns in relation to the discrepancy between advertised and actual delivery speeds from internet connections; calls on the Member States, in this regard, consistently to enforce the ban on misleading advertising;
20. Recognises the need to create ways of enhancing citizens' trust and confidence in the online environment; calls on the Commission and the Member States, therefore, to pursue the development of educational programmes that aim to increase consumers' ICT skills and reduce digital exclusion;
21. Calls on the Commission to invite consumer and civil society representatives to participate actively and equally with industry representatives in the discussions on the future of the internet in the EU;
22. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.