



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 July 2011

12950/11

**TELECOM 102
AUDIO 25
MI 366
CONSOM 127**

NOTE

from: Presidency
to: Delegations
No. Cion prop.: 9350/11 TELECOM 48 AUDIO 9 MI 224 CONSOM 63
Subject: Draft Council conclusions on Net Neutrality

Delegations will find attached a Presidency text on the above-mentioned subject with a view to the meeting of the Telecommunications and Information Society Working Party on 19 July 2011

ANNEX

Draft**Council Conclusions on Net Neutrality**

THE COUNCIL OF THE EUROPEAN UNION

1. WELCOMES

The Commission Communication of 19 April 2011 on "The open internet and net neutrality in Europe".¹

2. RECALLS

- a) The Commission Communication of 19 May 2010 on "A Digital Agenda for Europe";²
- b) The Council Conclusions of 31 May 2010 on "Digital Agenda for Europe";³
- c) The Commission Communication of 25 August 2010 on "Progress Report on the Single European Electronic Communications Market 2009 (15th Report)";⁴
- d) The Council Conclusions of 18 December 2009 on "Post-i2010 Strategy - towards an open, green and competitive knowledge society";⁵
- e) The conclusions of the Spring European Council of March 2009, recalling the fundamental role of telecommunications and broadband development in terms of European investment, job creation and overall economic recovery;⁶

¹ Doc. 9350/11

² Doc. 9981/1/10 (revised version of 26 August 2010)

³ Doc. 10130/10

⁴ Doc. 10245/2/10

⁵ Doc. 17107/09

⁶ Doc. 7880/09

- f) The Commission Communication of 13 April 2011 “Single Market Act. Twelve levers to boost growth and strengthen confidence - Working together to create new growth”;⁷
- g) The conclusions of the Spring European Council of March 2011 highlighting the importance of the Single Market in delivering growth, employment and promoting competitiveness;⁸
- h) The Commission Staff Working Paper - Digital Agenda Scoreboard of 31 May 2011.⁹

3. RECOGNISES

- a) That ICT is a key driver which contributes significantly to economic growth and job creation in the EU and has a key role to play in helping the EU economy emerge from the current financial crisis in a better condition;
- b) That the timely implementation of the objectives of the Digital Agenda for Europe will further spur innovation and economic growth;
- c) That the i2010 initiative has contributed, amongst other initiatives, to increased access to broadband for EU citizens and to the bridging of the digital divide;
- d) That having a single digital market offering affordable and secure high bandwidth communications and rich and diverse content and services is an important policy objective;
- e) The need to maintain the openness of Internet while ensuring that it can continue to provide high-quality services in a framework that promotes and respects fundamental rights such as freedom of expression and freedom to conduct business.

⁷ Doc. 9283/11

⁸ Doc. 7880/1/09

⁹ Doc. 11041/11

4. NOTES

- a) That, although ICT is fundamental to the running of EU economies across all sectors, significant barriers to implementing a knowledge society and to establishing a well-functioning digital single market remain and need to be addressed as a matter of urgency;
- b) That the open character of the Internet can foster innovation and significantly contribute to the fulfilment of the Digital Agenda for Europe goals;
- c) The existence of some concerns, mainly emerging from both users and content and service providers in regards to traffic management and equal treatment of data;
- d) The existence of some concerns, mainly emerging from consumers, in regards to price transparency and the discrepancy between advertised and actual delivery speeds for an Internet connection;
- e) The existence of some concerns, mainly emerging from consumers and data protection authorities, in regards to personal data protection.

5. UNDERLINES

- a) The need to preserve the open and neutral character of the internet and consider net neutrality as a policy objective;
- b) The need to support research in the area of net neutrality to enhance innovative solutions, competitiveness and further development of the knowledge-based economy;
- c) The need for promotion of innovative solutions by content providers and telecom operators, in particular by means of the new European Research Framework Programme (Horizon 2020);
- d) The need to undertake actions towards the completion of the digital single market by 2015, especially by removing barriers which hinder cross-border electronic service delivery;

- e) The need for creating ways of enhancing citizens' trust and confidence in the online environment;
- f) The importance of addressing the issues of traffic management, blocking, degradation, quality of service and transparency and of enabling the consumers to make better and informed choices;
- g) The importance of ensuring that users can create, distribute and access content and services of their choice;
- h) The importance of the application of the principle of technology neutrality, underlying the objectives of the EU Regulatory Framework for Electronic Communications Networks and Services;
- i) Its support for both technical and policy research to enhance the effectiveness of the consumer transparency obligations;
- j) The importance of allowing sufficient time for the provisions of the EU Regulatory Framework for Electronic Communications Networks and Services to be implemented and, subsequently, its application to be monitored in practice;
- k) The need to reduce the digital divide by further developing educational programmes aiming at raising ICT skills and at preventing and reducing digital exclusion.

6. INVITES THE COMMISSION TO

- a) Continue its dialogue with Member States and stakeholders on net neutrality while ensuring the rapid development of broadband;
- b) Monitor, jointly with BEREC, the issue of traffic management to allow for a smooth flow of reasonable and transparent traffic management;

- c) Continue studying the aspects of net neutrality where complaints may have some basis, including charges and conditions that mobile operators impose on VoIP providers as well as impairment of peer-to-peer traffic;
- d) Provide additional guidance on data management best practices.

7. WELCOMES

- a) The Commission's intention to publish by the end of 2011 the evidence emerging from BEREC's investigations, including any instance of blocking or throttling certain types of traffic, practical obstacles regarding change of operator and the discrepancy between advertised and actual delivery speeds occurring in the Member States;
- b) The Commission's commitment to monitor the implementation of the EU Regulatory Framework for Electronic Communications Networks and Services;
- c) The Commission's commitment to issue a Code of EU Online Rights by 2012.

8. INVITES MEMBER STATES TO

- a) Further enable the National Regulatory Authorities to implement the provisions under the EU Regulatory Framework for Electronic Communications Networks and Services;
- b) Ensure that National Regulatory Authorities are promoting the publication of transparent, comparable, adequate and up-to-date information on applicable prices and tariffs as well as quality of service;
- c) Continue their dialogue with stakeholders on the openness of the Internet and net neutrality;
- d) Promote the open and neutral character of the Internet as their policy objective.