

DRAFT Net Neutrality Policy Statements

The Network Neutrality principle plays an instrumental role in fostering the full enjoyment of Internet users' human rights; in promoting competition on a level playing field; in allowing permissionless innovation; and safeguarding the generative nature of the Internet.

The following statements are based on the work developed by the IGF Dynamic Coalition on Network Neutrality, through transparent and participatory process, open to the contributions of all interested stakeholders. All elements included within the following statements are further specified in the appended Model Framework on Network Neutrality.

Statement I. On Network Neutrality

1. Network Neutrality Principle

Network neutrality is the principle according to which Internet traffic shall be treated equally, without discrimination, restriction or interference regardless of its sender, recipient, type or content, so that Internet users' freedom of choice is not restricted by favouring or disfavouring the transmission of specific Internet traffic, regardless of whether such favouring or disfavouring is based on: technical measures, such as blocking, throttling, filtering or prioritisation; financial measures, such as zero-rating, or the application of different rates for different types of content and services; or any other measures leading to uneven treatment of services.

2. Non-discriminatory Traffic Management

In accordance with the network neutrality principle, Internet service providers shall refrain from restricting or otherwise interfering with the Internet users' right to freely seek, impart and receive information and ideas via the Internet. Accordingly, Internet service provider should manage the transmission of Internet traffic in a non-discriminatory manner.

3. Transparent traffic management

Internet service providers shall provide intelligible and transparent information with regard to their traffic management practices and usage policies, notably with regard to the coexistence of Internet access service and other services.

4. Privacy

Any techniques to inspect or analyse Internet traffic shall be in accordance with privacy and data protection legislation, and done in a way conducive to exercising of relevant human rights.

5. Implementation

The competent national authority shall be mandated to regularly monitor and report on Internet traffic management practices and usage policies, in order to ensure network neutrality.

Statement II. On Specialised Services

1. Specialised Service Definition

Specialised services are electronic communications services that are provided and operated within closed electronic communications network using the Internet Protocol, but being separated from the Internet and not available on the Internet. Specialised services rely on discriminatory traffic management and therefore the network neutrality principle need not apply to such services.

2. Characteristics

Specialised services:

- i. do not constitute a substitute for Internet access services, nor for any service already available on the public Internet and therefore cannot be marketed as a substitute for such services;
- ii. are provided by the ISP for a fee on a specially-requested basis;
- iii. offer enhanced functionalities, whether that is assured quality of service, speed or security, whose level or type is not readily available on the public Internet;
- iv. rely on strict access control, although they are offered to the public;
- v. are conveyed via physically or logically separate infrastructure from the one used to convey Internet traffic.

Physical separation implies that specialised services and Internet traffic are transported over separate equipment.

Logical separation implies that specialised services and Internet traffic use the same physical equipment but the network operator dedicates specific and clearly defined resources to each type in a manner functionally equivalent to physical separation - that is resources are allocated upfront and cannot be reallocated without explicit modification of the service agreement. Such resources should also not be dynamically (re)allocated.

3. Business models

Internet service providers should be allowed to offer specialised services in addition to Internet access service, provided that such offerings are not to the detriment of Internet access services, or their performance, affordability, or quality.

Offerings to deliver specialised services should be provided on a non-discriminatory basis and their adoption by Internet users should be voluntary.

APPENDIX

Model Framework on Network Neutrality v.2.0

1. Net Neutrality Principle

- a) Network neutrality is the principle according to which Internet traffic shall be treated equally, without discrimination, restriction or interference regardless of its sender, recipient, type or content, so that Internet users' freedom of choice is not restricted by favouring or disfavouring the transmission of specific Internet traffic.
- b) The network neutrality principle shall apply regardless of the underlying technology used to transmit signals.

2. Non-discriminatory Traffic Management

- a) In accordance with the network neutrality principle, Internet service providers shall refrain from restricting or otherwise interfering with the Internet users' right to freely seek, impart and receive information and ideas via the Internet. Accordingly, Internet service provider should manage the transmission of Internet traffic in a non-discriminatory manner.
- b) Internet service providers may legitimately interfere with the transmission of Internet traffic when such interference is strictly necessary and proportionate to:
- i. give effect to a legislative provision or court order;
 - ii. preserve the integrity and security of the network, services and the Internet users' terminal equipment;
 - iii. prevent the transmission of unsolicited communications for direct marketing purposes to Internet users who have given their prior consent to such restrictive measures;
 - iv. mitigate the effects of temporary and exceptional network congestion, primarily by means of application-agnostic measures or, when these measures do not prove efficient, by means of application-specific measures.

3. Transparent traffic management

- a) Internet service providers shall provide intelligible and transparent information with regard to their traffic management practices and usage policies, notably with regard to the coexistence of Internet access service and specialised services. When network capacity is shared between Internet access services and specialised services, the criteria whereby network capacity is shared, shall be clearly stated.
- b) The use of globally unique Internet addresses is instrumental to maximise the transparency of Internet traffic management. Accordingly, subscribers of Internet access service have the right to receive and use a public and globally unique Internet address.

4. Privacy

- a) Any techniques to inspect or analyse Internet traffic shall be in accordance with privacy and data protection legislation. By default, such techniques should only examine header

information. The use of any technique which inspects or analyses the content of communications should be reviewed by the relevant national authorities to assess compliance with the applicable privacy and data protection obligations.

5. Implementation

a) The competent national authority shall:

- i. be mandated to regularly monitor and report on Internet traffic management practices and usage policies, in order to ensure network neutrality, evaluate the potential impact of the aforementioned practices and policies on fundamental rights, ensure the provision of a sufficient quality of service and the allocation of a satisfactory level of network capacity to the Internet. Reporting should be done in an open and transparent fashion and reports shall be made freely available to the public;
- ii. put in place appropriate, clear, open and efficient procedures aimed at addressing network neutrality complaints. To this end, all Internet users shall be entitled to make use of such complaint procedures in front of the relevant authority;
- iii. respond to the complaints within a reasonable time and be able to use necessary measures in order to sanction the breach of the network neutrality principle.

b) This authority must have the necessary resources to undertake the aforementioned duties in a timely and effective manner.

6. Specialised Services

a) Specialised services are electronic communications services that are provided and operated within closed electronic communications network using the Internet Protocol, but not being part of the Internet. Specialised services rely on discriminatory traffic management and therefore the network neutrality principle need not apply to such services.

b) Specialised services:

Specialised services:

- i. do not constitute a substitute for Internet access services, nor for any service already available on the public Internet and therefore cannot be marketed as a substitute for such services;
- ii. are provided by the ISP for a fee on a specially-requested basis;
- iii. offer enhanced functionalities, whether that is assured quality of service, speed or security, whose level or type is not readily available on the public Internet;
- iv. rely on strict access control, although they are offered to the public;
- v. are conveyed via physically or logically separate infrastructure from the one used to convey Internet traffic.

Physical separation implies that specialised services and Internet traffic are transported over separate equipment.

Logical separation implies that specialised services and Internet traffic use the same physical equipment but the network operator dedicates specific and clearly defined resources to each type in a manner functionally equivalent to physical separation - that is resources are allocated upfront and cannot be reallocated without explicit

modification of the service agreement. Such resources should also not be dynamically (re)allocated.

c) Internet service providers should be allowed to offer specialised services in addition to Internet access service, provided that such offerings are not to the detriment of Internet access services, or their performance, affordability, or quality. Offerings to deliver specialised services should be provided on a non-discriminatory basis and their adoption by Internet users should be voluntary.

7. Definitions

a) The “Internet” is the publicly accessible electronic communications network of networks that use the Internet Protocol for communication with endpoints reachable, directly or through network address translation, via a globally unique Internet address

b) The expression “Internet service provider” refers to any legal person that offers Internet access service to the public or Internet transit service to another ISP.

c) The expression “Internet access service” refers to a publicly available electronic communications service that provides connectivity to the Internet, and thereby provides the ability to the subscriber or Internet user to receive and impart data from and to the Internet, irrespective of the underlying technology used to transmit signals

d) The expression “Internet transit service” refers to the electronic communications service that provides connectivity between Internet service providers.

e) The expression “Internet traffic” refers to any flow of data packets transmitted through the Internet, regardless of the application or device that generated it

f) The expression “specialised services” refers to electronic communications services that are provided and operated within closed electronic communications network using the Internet Protocol, but not being part of the Internet. The expression “closed electronic communications networks” refers to networks that rely on strict admission control.

g) The expression “application-agnostic” refers to Internet traffic management practices, measures and techniques that do not depend on the characteristics of specific applications, content, services, devices and uses.

h) The expression “subscriber” refers to the natural or legal person who has entered into an agreement with an Internet service provider to receive Internet access service.

j) The expression “Internet user” refers to the natural or legal person who is using Internet access service, and in that capacity has the freedom to impart and receive information, and to use or offer applications and services through devices of their choice. The Internet user may be the subscriber, or any person to whom the subscriber has granted the right to use the Internet access service s/he receives. Any legal person offering content and/or applications on the Internet is also an Internet user.