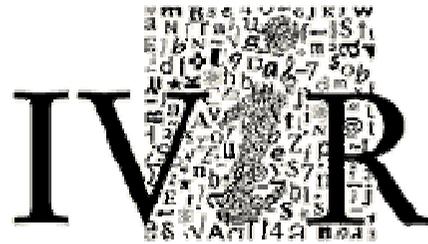


Network neutrality: a Pandora's box



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Yogi Berra



*'You've got to be very careful
if you don't know where you're
going, because you might not
get there'*

Topics

- Network neutrality: the incidents
- The European context
- ‘You can observe a lot by watching’
- Regulatory collusion
- Nothing new
- It’s a value chain
- Conclusions

Network Neutrality: the Incidents

- Blocking of VoIP (mobile, but also fixed)
- Filtering (child pornography, copyright)
- ‘Throttling’ of Traffic (P2P/Usenet)
- Additional charging of access/speed
- Differences in advertised and actual speed
- Prioritising traffic (Google/Verizon)
- Deep Packet Inspection (DPI)
- Restrictions on the application and/or terminal equipment level (iplayer, net tv, Iphone,)

The 'New Regulatory Framework'

- Network Neutrality issues can be found in two Directives
 - Framework Directive
 - principles
 - Universal Service Directive
 - Transparency
 - Quality of Service criteria

Principles

“Measures taken by Member States regarding end-users access' to, or use of, services and applications through electronic communications networks shall respect the fundamental rights and freedoms of natural persons...”

“The national regulatory authorities shall promote the interests of the citizens of the European Union by inter alia:(..) (g) promoting the ability of end-users to access and distribute information or run applications and services of their choice;”

Transparency

- End user contracts:
 - Conditions limiting access to and/or use of services and applications
 - Minimal service quality levels offered
 - Procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overflowing a network link, and information on how those procedures could impact on service quality
- NRA's are able to oblige undertakings to comply with information obligations

Quality of Service

- NRA's can set minimum requirements on undertakings providing public communications networks in order to prevent *the degradation of service and the hindering or slowing down of traffic over networks*
- Notification procedure (informing the European Commission (and BEREC))
- Recommendations European Commission (“take the utmost account of”)

‘You can observe a lot by watching’

- We don’t know much about network neutrality and related ‘openness’:
 - What is congestion
 - What is traffic management
 - What is common practice
 - Who is responsible for what
- Fact: we need (more) comprehensive studies

Regulatory Collusion

- Network neutrality influences other discussions (or is influenced by):
 - Competition and significant market power concept
 - NGN network construction
 - Responsibility and liability (ecommerce directive)
 - Universal service extension
 - Critical infrastructure-debate
 - Freedom of expression
- The Digital Agenda is a Pandora's box

Nothing New: Cable

- Member States can regulate (must carry):
 - to lay down proportionate obligations
 - in the interest of legitimate public policy considerations
 - meet clearly defined general interest objectives
 - proportionate, transparent and subject to periodical review
- So: no network neutrality, but regulated access and commercial negotiations
- But also: Internet becoming the new battlefield for the eyeballs (Is it really about ‘network neutrality’)?

A Value Chain

- Network neutrality is just one element or aspect of a broader value chain
- Value chain starts with the information provider and ends at the level of the individual consumer
- Each player can influence the value chain on one or more levels:
 - Content provisioning
 - Platform provisioning/selection
 - Transport and distribution
- Analyses of interdependencies/effects

Conclusions

- We need to know more
- Network neutrality goes beyond traditional competition or SMP-issues, no easy solutions
- Network neutrality is general interest (for ex post to ex ante...)
- Network neutrality should be dealt with from a value chain perspective
- A converged policy and regulatory approach is required to secure real openness
- No hasty measures, take time

Yogi Berra says

‘I made a wrong mistake’