

## Comments on the BEREC's Consultation on the Draft Report on Monitoring Quality of Internet Access Services in the Context of Net Neutrality

*by VON Europe, April 2014*

The Voice on the Net Coalition Europe ('VON') welcomes the opportunity to comment on the BEREC's consultation on the draft Report on monitoring quality of Internet access services in the context of net neutrality (hereafter 'the Consultation').

VON welcomes the BEREC's thorough analysis of Internet access performance measurement methodologies and systems. There is a need for such methodologies and systems to evolve and adapt, to allow national regulatory authorities (NRAs) to guarantee that end-users can enjoy the open Internet and access the content, applications and services of their choice with the best possible experience.

The end-user experience is indeed very important. Therefore, VON considers that it is crucial to gather data not only to help consumers get a better picture when choosing their access operator or to assist regulators in their monitoring, but also in order to help content, applications and services providers in adapting their content to the available infrastructure by minimising the impact on bandwidth, something they have been investing in for years. Moreover, data gathering is also important for research purposes by universities or specialised entities such as Measurement Lab (M-Lab),<sup>1</sup> or to be used by consumer organisation and/or comparison websites. Hence, the data gathered by NRAs should be made publicly available.

The BEREC must also take into account the fact that the online ecosystem is complex and multi-dimensional. Quality of service (QoS) measurements, as well as enforcement of open Internet policies and regulations will require leveraging the deep technical expertise within the regulators and creating a process for gathering input and data from outside experts. The BEREC should convene a technical advisory group – with industry participants (content, application and service providers and ISPs) operating across the EU, and other relevant stakeholders (*e.g.* consumer groups) – as a means of receiving expert input to help inform reasoned decision-making about what forms of discrimination may be anticompetitive or harm end users and consumers, create barriers to

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<sup>1</sup> See Measurement Lab (M-Lab), <http://www.measurementlab.net/>.

innovation (including by providers of content, applications and services and consumers), and what 'best practices' should be put forward. Industry experts can provide the BEREC with valuable information on network management practices and developments in network infrastructure and technology, and what constitutes minimum QoS as provided for in EU legislation.

VON believes that if measurement tools are put in place, these need to be independent, open and transparent. This requires:

- The need for measurement systems to be as independent as possible from the measured ISPs: relying solely or mainly on data provided by the ISP themselves does not seem a satisfying approach to us;
- Well-documented and open-source measurement tools, to help make the data collected more useful and credible;
- Openly available data and analytic methodologies, to support independent analysis and peer-review;
- Openly documented measurement framework. This is true especially when a measurement program is put in place to produce QoS measurements that will be published and used to ensure accountability and network health; and,
- Consistent, consistently-managed, well-documented measurement platform, to help ensure that the data collected are truly robust.

VON also welcomes the annex to the draft Report listing the NRAs efforts at national level, and encourages the BEREC to include this annex with the final Report.

### **Measurement Beyond the ISP Leg**

VON welcomes the BEREC's recommendation to use measurements beyond the Internet Service Provider (ISP) leg. We believe that this would help take into account the connectivity investments made by Internet Service Providers (ISPs) (*e.g.* peering, transit). Measuring both the quality of the ISP leg and beyond the ISP leg would allow to better identify where network investments lag behind.

We do however urge BEREC to proceed with caution when encouraging NRAs to introduce measurement beyond the ISP leg. We understand that interconnection arrangements may affect application performance, but measuring application performance as experienced by end-users is a more direct and less administratively burdensome way of evaluating their impact on the consumer, than encouraging NRAs to impose extraterritorial requests for information on ISPs.

### Evaluating Performance of IAS as a Whole & Evaluation of Performance of Individual Applications

VON also welcomes the BEREC's recommendation that NRAs increasingly need to put emphasis on:<sup>2</sup>

- 1) *"evaluating performance of IAS as a whole, to assess potential degradation due to specialised services"*; and,
- 2) *"evaluation of performance of individual applications using IAS, to assess potential application-specific degradation"*.

We agree that there is a need to put more emphasis on measuring and monitoring of the performance of Internet access services that users experience relative to specialized services, as well as the actual performance of applications as delivered over the Internet access services.

We believe that end-users need to be able to benefit from the availability of and access to Internet content, applications and services. The 1<sup>st</sup> evaluation captures the relative dimension of that – making sure that specialized services do not degrade the open Internet. Whilst, the 2<sup>nd</sup> evaluation captures the fact that Internet access revolves around the user experience while enjoying specific content, applications or services, and not so much about the actual data transmission. Therefore, it is important to also measure the actual user experience.

VON believes that the BEREC's and the NRA's focus for measurement efforts should be on the end-users experience. Therefore, we consider that transparency towards consumers should not only cover the technical impact of traffic management practices implemented by the access provider. The information supplied should also disclose the impact on the user experience, as such disclosure is likely to be most meaningful to many users.

It is very difficult for users to realise where a low quality Internet experience comes from. Indeed, it could come from the hardware they use – such as low computing power or faulty configuration of their Wi-Fi router – or from an ISP having a poor quality network, from an ISP's traffic management practices, or indeed, from the poor quality of a piece of content, application or service.

This difficulty was highlighted by the BEREC in its response to the European Commission's consultation on the open Internet and net neutrality in Europe from September 2010:

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<sup>2</sup> See, the Consultation. p. 40.

*“Consumers may not be able to detect the actual application of discriminating traffic management techniques and find it difficult to distinguish between the effects of traffic management techniques on quality of service from the effects of other quality degrading factors. For instance, a consumer who is observing that traffic is routinely throttled may not know whether this is done by intention, or is caused by other factors such as network congestion, which is leading to the degradation of service.”*

This presents an added complication when it comes to the discriminatory behaviour affecting a number of Internet uses, especially Voice over IP (VoIP), through blocking or degradation. Users may think that it is the VoIP software application they are using which is of poor quality, and with one or two clicks, switch to an alternative application – or indeed, if they experience bad quality for all VoIP applications, not use VoIP anymore but only traditional, less versatile telephony.

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We thank you in advance for taking consideration of these views. Feel free to contact Herman Rucic, VON Europe, by phone (+32 (0)478 966701) or email (hrucic@voneurope.eu) should you need further information.

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### **About the VON Coalition Europe**

The Voice on the Net (VON) Coalition Europe was launched in December 2007 by leading Internet communications and technology companies, on the cutting edge to create an authoritative voice for the Internet-enabled communications industry. Its current members are Google, Microsoft, Skype, Vonage and Voxbone, and its supporters are Viber.

The VON Coalition Europe notably focuses on educating and informing policymakers in the European Union and abroad in order to promote responsible government policies that enable innovation and the many benefits that Internet voice innovations can deliver.