



Cable Europe response to BEREC Public Consultations on the Draft BEREC Report on “Monitoring quality of Internet access services in the context of Net Neutrality”

29 April 2014

Cable Europe would like to welcome BEREC’s initiative for consulting the industry on its draft Report on Monitoring quality of Internet access services in the context of Net Neutrality. We have carefully examined the proposed report and we would like to take this opportunity to share some comments which we consider will contribute to improve the clarity of the Net Neutrality discussions.

Cable Europe is the trade association that groups all leading broadband cable operators and their national associations throughout Europe. The European cable industry provides digital TV, broadband internet and telephony services to more than 70 million customers.

BEREC’s draft report aims at identifying the procedures to create a quality monitoring system focusing on two main use cases:

- 1. Use case A: Transparency about IAS quality.**
 - a.1 Evaluate average performance region by region, or ISP by ISP;
 - a.2 Evaluate performance enjoyed by individual users.

- 2. Use case B: Regulatory supervision of IAS quality.**
 - b.1 Assess degradation of Internet access services as a whole;
 - b.2 Assess degradation of Internet access services for specific applications.

Overall, Cable Europe would like to express its support regarding all efforts that can bring clarity and objectivity on the transparency of broadband offering supplied to consumers. This we feel can only improve the quality of the public debate on Net Neutrality. Recent discussions in the context of the “Telecom Single Market” legislative package have demonstrated the wide disparity of views different industry stakeholders have on the concept of Net Neutrality. As such BEREC’s consultation is an important element in the constructive work needed between all stakeholders to come to a balanced outcome



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Cable Europe believes that there is still room to further improvements on self-regulation tools already available in the market. As it is widely recognized, European electronic communications markets are highly competitive in what regards to broadband services. This competition in fixed markets has been a cornerstone that prevents market failures on what concerns Net Neutrality.

BEREC's role on promoting a coherent and uniform model of measuring internet services performance should be limited to what is strictly necessary. BEREC's involvement will benefit from all stakeholders' input and Cable Europe is willing to contribute actively to this task that will improve all European broadband consumers' experience.

We would also suggest due account is taken of the prominent self-regulatory initiatives that several Member States are developing. Equally - although we understand BEREC has concerns on the methodology used in this respect - the prominent work of Sam Knows, sponsored by the European Commission, has much merit as a powerful tool promoting consumer awareness and knowledge.

As recognized, there are various factors that contribute to the fixed broadband consumers' experience and a measuring model that aims at covering the whole Internet ecosystem, although necessary in theory, will be unrealistic in operational terms. These models will never be able to include all variables, especially those that can be highly impactful on the consumer's experience and ISPs don't completely control, mainly because they are just a result of how IP (Internet Protocol) was conceived.

This being the case, any measurement requirements on cable ISPs should be limited to the HFC network which we control end-to-end. We cannot be responsible for reporting on how the quality of the end user's hardware, the upstream the IP transit path, or the location of the server, affects the broadband speeds consumers experience, and this should be made explicit in any policy guidance BEREC develops. Such an approach would also improve consumer choice as it would allow for a clear comparison between competing ISP networks on a like-for-like basis.

As regards the "ISP leg" as described in chapter 4.2.1 of the draft BEREC report, a reliable measurement tool therefore has to be restricted to the sphere that the relevant internet service provider has actual control over. That means that all external influences - on the side of the end-user (e.g. WIFI, software applications etc.) as well as on the side of the "internet" (outside the ISPs network borders) - have to be securely excluded from the measurement surrounding.



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Any relevant measurement system regarding the “ISP leg” can only operate between the network termination point on the customer side and the peering point on the ISP side. Outside these borders the responsibility for any service quality parameters lie with the end-user and possible manufacturers of end-user equipment on the one side and third network operators and service, content and application providers on the other side.

Further given the current policy focus on the relationship between the best-effort-internet and specialized services, we would encourage BEREC to examine the impact of specialized services on the speed of the internet. Communicating transparently on the impact of specialized services on the open internet would also be welcomed by consumers.

With this mind, Cable Europe would like to recommend that any work pursued by BEREC should be made the subject of an impact assessment. BEREC should also take as its starting point that self-regulatory tools, developed in cooperation with third parties, are an effective means of achieving independence, but also of improving the accuracy, comparability, trustworthiness and openness of broadband services comparisons.

In addition, NRAs have already launched comprehensive and effective regulatory tools and they should be afforded the opportunity to produce results and, overall, permit to obtain a clear understanding if there is a need for increasing the regulatory intervention.

It should also not be overlooked that ISPs already have significant transparency requirements on their electronic communications’ contracts that are in place with consumers, which already provides guarantees of their rights, but also framed by a fierce competitive environment that creates the onus on ISPs to provide the best possible service to retain their customers.

Considering our comments above, Cable Europe would also like to propose a workshop where stakeholders could present their views on this subject and work on a consensual model to evolve.