Comments

Draft BEREC Guidelines on the Implementation by National Regulators of European Net Neutrality Rules

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About Sandvine

Based in Waterloo, Ontario, Sandvine offers network policy control solutions that add intelligence to fixed, mobile and converged communications service provider (CSP) networks. They empower CSPs to gain actionable business insight into network traffic, launch new services for consumers and businesses, optimize traffic delivery for improved quality of experience, enhance security, and keep subscribers engaged.

Sandvine's networking equipment and software performs end-to-end policy control functions including traffic detection and classification, and network policy creation, decision and enforcement across the data, control and business planes.

Sandvine's network policy control solutions are deployed in more than 300 networks in over 100 countries. Approximately 50 of those customers are in Europe. The traffic of hundreds of millions of Internet subscribers flows through our solutions every day.

While Sandvine's solutions were once best known for traffic management capabilities, since 2011 the biggest part of Sandvine's business has been helping CSPs create and deploy innovative subscriber services. In 2015, over 60% of the order value for Sandvine's software related to such service creation use cases – many of which employing zero-rating functionality – and the company has become an acknowledged global leader in the area.

Comments

Sandvine's comments are focused on three specific areas: sub-internet services, zero-rating and sponsored data.

1. **Sub-internet services**. Sandvine agrees that banning the use of VoIP or video streaming for anti-competitive purposes (as we believe BEREC is concerned has occurred) is counter to the spirit of Network Neutrality. However, paragraph 17 of BEREC's guidelines, as written, could also preclude other socially beneficial offers that enable access to only a pre-defined part of the internet (e.g. access only to particular websites), which, in Sandvine's view, are entirely consistent with the notion of Network Neutrality.

   For example, as one aspect of its commitment to social responsibility, Sandvine customer Econet Zimbabwe launched Econet Zero, which zero-rates over 50 educational websites for all broadband customers, including university sites, online courses Wikipedia, and others.

This is not about a network operator or content provider "picking winners and losers," nor is it motivated by any anti-competitive agenda. This is a true demonstration of social responsibility.

Similarly in Guyana, Sandvine customer GTT is offering completely free access to over 20 education, news, health and public service websites. The offer is being made in cooperation with the Government of Guyana. Again, the motivation on behalf of the operator appears to be pure and the benefits to subscribers undeniable. Would BEREC want to prevent network operators from implementing similar offers in Europe?

If BEREC truly had concerns about picking winners and losers under such free offers, there could be a requirement that the operator make the offer "open" to all similar websites in these socially beneficial classes. However as the operator is absorbing the cost of the bandwidth itself, with no direct commercial benefit, such a requirement on a charitable endeavour could be inappropriate.

2. **Zero-rating**. Sandvine applauds BEREC for concluding that Network Neutrality and service innovation, achieved through the zero-rating of network traffic, can be entirely compatible notions. While many early innovators were in emerging markets, increasingly we are seeing innovation occur in developed markets where Network Neutrality rules have been well-defined or are being finalized.

   In May 2016, Sandvine published its "Best Practices for Zero-Rating and Sponsored Data Plans Under Net Neutrality." This whitepaper explores real-world examples of CSPs using zero-rating and sponsored data to effect service differentiation all over the world, and describes how these innovative plans may be adapted to lower the risk of Network Neutrality concerns, where such rules apply. As it turns out, Sandvine's Best Practices are consistent with BEREC's views that:

   > 1) Special traffic management rules should not apply to zero-rated data (with some potential qualifications that consider user choice); and
   >
   > 2) Applying zero-rating to a class of applications is more aligned with Net Neutrality than zero-rating select, individual applications within a class.

   Sandvine has included as part of its comments to BEREC's current public consultation its Best Practices whitepaper. We believe that if these Best Practices are followed, Network Neutrality can be preserved, consumers can benefit from enhanced choice, content and application providers can benefit, and the market for Internet access can become more competitive. In developed markets throughout Europe, where Internet subscription rates can exceed 100%, service innovation through zero-rating can become a new, highly beneficial means fro CSPs to compete for subscribers' business. We encourage BEREC to consider including other of Sandvine's Best Practices in BEREC's final guidelines, as doing so could lend more certainty to the market.

3. **Sponsored data**. A sponsored data offer is one in which a third party (neither the CSP nor subscriber) sponsors some or all of the cost to deliver content or applications to the end user. Think of sponsored data as the Internet equivalent of a toll-free number. Instead of the subscriber (equivalent to the "caller") paying for the related data, the content or application provider (the "callee") pays. Sandvine's Best Practices whitepaper also addresses how to preserve Net Neutrality when implementing these offers.

   Sandvine was surprised that BEREC's guidelines were silent with respect to sponsored data. We hope that BEREC considers amending its guidelines to explicitly come out in support of the practice, as long as Best Practices are followed.