
Colt Technology Services Group Limited

Comments on

**BEREC Draft on Net Neutrality
Regulatory Assessment Methodology**

BoR (17) 112

05 July 2017

NON-CONFIDENTIAL

This is the non-confidential, official response of the Colt Technology Services Group Limited (*henceforth entitled "Colt"*) to BEREC's draft on "*Net Neutrality Regulatory Assessment Methodology*", BoR (17) 112 ("*draft BEREC Guidelines*", or "*draft Guidelines*"), published June 01, 2017 which BEREC drafted following its previous activities in this field.

Colt wishes to thank BEREC for the opportunity to give its views on the BEREC draft document in the consultation procedure.

1. Preliminary Remark (no reference in draft):

As a Pan-European business services provider, Colt would like to voice its disappointment that BEREC has not been explicitly addressing business customer services as it has done in such a welcome manner with its past efforts regarding net neutrality, notably with its recent Net Neutrality Guidelines. We would like to understand the sole concentration on consumer, or best effort services, to mean that in general business services are out of scope. We welcome further substantiation that this would be the case.

Being a pure business services provider, Colt seeks to offer a high service quality at any time. Business customers connected directly to Colt's own fibre optics network will always be provided with the full nominal bandwidth of the related service within the boundaries of Colt's network, offering local access via fibre and Ethernet.

Colt asks that BEREC elaborates on the vital distinction between these different types of customers in order to avoid negative consequences on contractual relationships with business customers which have been negotiated in a fair and transparent manner, often with highly specialised counterparts on the side of the customer fully aware of what they are buying into. Moreover, customers enjoy a wealth of documentation by far exceeding the minimum transparency requirements set out by the EU Commission and transposed subsequently by NRAs. Furthermore we ask BEREC to encourage NRAs to continue in their efforts – as for example shown in BNetzA's Transparency Guidelines – to create exceptions for business services providers such as being exempt from providing product information sheets before being expressly prompted by (business) customers or having to adapt contractual provisions. (GTCs)

2. Sec. 3.1 IAS Speed Measurement Sec., p. 4 et seq./Sec 5.2 End user environment, p. 14 et seq. :

As stated earlier, we understand that in general business services are out of scope. Nevertheless, we wish to point out the following below.

While BEREC addresses a wide variety of factors to achieve fair results in measuring speed and bandwidth, the sheer quantity of these factors at the same time demonstrates that measurement is a complicated and sensitive topic not easily to be addressed appropriately. For its business customers using the IP Access product, Colt deploys technology not being sensitive to interference, and on Colt's own fibre network any customer will possess the full nominal bandwidth at any time. Further down the network, including the IP backbone, Colt puts great emphasis and effort into providing sufficient capacity to create a continuous service quality. This is agreed on in SLA's with customers.

However – and this does not only apply to business customers – it should be noted that the actual speed and bandwidth of the internet communication (eg., a download) is dependent on numerous factors all out of Colt's influence, ie. the speed of the third-party IP networks, or the performance and load of remote servers.

Therefore Colt suggests that BEREC proposes methods which will allow transparency and establish firm test criteria (eg. No use of WIFI for fixed access) and reflect technically accurate

measurement agnostic of the infrastructure being used. Moreover, measurements should be submitted to both, customer and provider in order to verify the results in a fair manner.

3. Sec. 6.3.2 Effect of specialised services on IAS, p. 20/21:

BEREC proposes a check between neighbouring network elements to determine potential abuse in favour of specialised services. However, this can only be one indicator for such abuse, ie. BEREC should consider adding further parameters to allow NRAs to unambiguously identify any form of abuse rather than drawing such conclusion on a too narrow basis.

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We would like to thank BEREC in advance for its kind attention to Colt's contribution.

Yours sincerely,

Colt Technology Services Group Limited