



5G and Net Neutrality

Technological innovation and Regulation

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Stefan Lechler, DG CONNECT B1

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Open Internet Access: Reg. (EU) 2015/2120

- Entry into force: **29/11/2015**, application from **30/04/2016**

Scope

- Rules apply to both **fixed and mobile services**
- **“Internet access service” (IAS)**: access to virtually all end-points of the internet. Providers must not restrict connectivity to any accessible end-points

NOT in scope:

- IP-interconnection (*but monitoring by NRAs and competition authorities*)
- Private/corporate networks

Key provisions

- Individual right of end-users - Art. 3(1)
- Commercial agreements and practices – Art. 3(2)
- **Non-discriminatory traffic management – Art. 3(3)**
- Privacy – Art. 3 (4) and 3(3)
- **"Specialised services" – Art. 3(5)**
- Transparency rules – Art. 4
- Role of NRAs – Art. 5

BEREC Guidelines (2016)

- Ensure common approach of NRAs
- In close cooperation with the Commission, after consulting stakeholders
- Key issues raised at the consultation:
 - Traffic management
 - "Specialised" services and their impact on IAS
 - Commercial agreements and practices (incl. "zero-rating")

Technology developments: 5G

- Launch of **5G Public Private Partnership** (2013)
- Launch of **5G Action Plan** (2016)
- **European 5G Observatory** (2018): <https://5gobservatory.eu/>
- **European Electronic Communications Code** (Dir. 2018/1972)
 - Lays the groundwork for the deployment of 5G across Europe by more coordinated and efficient spectrum management

Traffic management - Art. 3(3)

- **Principle:** equal treatment, without discrimination, restriction or interference
- does not exclude reasonable **traffic management** to optimise overall transmission quality
 - differentiation based on objective technical quality requirements, not commercial considerations
 - transparent, non-discriminatory and proportionate
 - no monitoring of the specific content of traffic

“Specialised services” – Art. 3(5)

- **Services other than IAS, optimised for specific content, applications or services**
 - Optimisation must be necessary to meet service requirements for specific levels of quality that are not assured by IAS
 - By providers of IAS and CAPs
 - Examples: managed IP-TV, eHealth
- **Safeguards to avoid detriment for IAS**
 - No substitute to IAS
 - Sufficient network capacity to provide SpS in addition to any IAS
 - Not to the detriment of the availability/general quality of IAS

5G and “specialised services”

Dynamic allocation of resources

- New technology will allow dynamic resource allocation (“slicing”)
- NRAs need to assess whether a SpS is detrimental to IAS
- Many performance factors: Complex measurement methodology

Not replacing the general internet

- Varied service quality: throughput, latency, volume of connections

Fostering innovation is one of the objectives of the Regulation

- No obligation for prior authorisation before launching a SpS
 - *ex post*-control by NRA
 - Operators require clarity

Next formal steps

- BEREC published **opinion** in December 2018
- BEREC **review** of its **Guidelines**
 - updated draft for public consultation later in 2019
 - Publication of new Guidelines in 2020
- **Commission Report** on the implementation of the Regulation (end of April 2019)



Thank you for your attention!