

Open internet access

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The Council discussed the state of play regarding a proposal to amend the EU telecommunications regulatory framework ("Connected continent").

The discussions focused in particular on roaming charges and net neutrality without introducing obstacles to innovation and investment.

Roaming: most delegations expressed the need to have more time to analyse what would be the best approach to avoid unintended side-effects.

The presidency proposed a new revised text on roaming. Many delegations pointed out that any "roam like at home" provision needed further examination, including as regards:

- the level of regulated wholesale prices;
- the definition of any "fair use" criterion, including whether any such criterion should apply at both retail and wholesale levels and whether it should be based on domestic or EU-wide usage; the definition of any "roam like at home" provision;
- the implications on national markets, including the risk of a "water bed" effect (i.e increased domestic prices to compensate for any losses on roaming services incurred by the visited or home operator), and on investment;
- the impact on flat-rate offerings;
- the relationship to the structural remedies, intended to promote competition, in the Roaming Regulation.

Open internet/net neutrality: issues relating to open internet/net neutrality are highly complex, involving fundamental rights, economic and technical aspects, content of communications, and also questions relating to appropriate scope (providers of electronic communications services/networks/other types of providers etc) and effectiveness.

The Presidency proposed a new text setting out an approach in principle to open internet/net neutrality.

Discussions on open internet/net neutrality appear to be converging around the following core elements:

- a simplified principles-based approach, in order not to inhibit innovation and to avoid technological developments making the regulation obsolete;
- not regulating "specialised services" (while not prohibiting them);
- allowing necessary flexibility regarding traffic management measures (while not including measures relating to content lawfulness);
- allowing scope for national NRAs, coordinated by BEREC, to provide guidance.

The presidency will continue to work on the proposal until the end of the year, based on the guidance given by ministers. Talks with the European Parliament would only start when the time is ripe.