



With network neutrality regulation, there is a risk of value being lost. The market should be driven by **consumer needs and wants**, and there are consumer benefits with both open and managed accesses. They should co-exist.

OPINION 2: LET CONSUMERS BE THE JUDGE

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► **THE HEATED DEBATE** in recent years about network neutrality mixes several very separate questions into one blurred argument. To start, no telecom networks are “neutral.” Telecom is about creating a business environment that fulfils consumers’ needs, enables innovation and attracts investments.

We believe the end-consumers will determine the optimal business models for the future. In most industries, but especially in the online world, the verdict for players who don’t fulfil consumers’ needs is harsh. However, fulfilling needs does not necessarily mean offering free content in return for advertising revenue.

In fact, end-consumers have shown a significant willingness to pay for the right services. But the telecom, media and entertainment (TME) industries have been struggling to identify and design those services. It is therefore of utmost importance that the current approach of openness and trial-and-error continues. This openness must also include experimenting with different types of business models, as well as limited restrictions from regulation. Badly designed regulation may otherwise destroy significant value.

The key question is: From a consumer standpoint, should

operators take advantage of their access to the consumer, and if so, under what circumstances?

WHAT CONSUMERS WANT

A decade of experience in online consumer behavior has taught us a great deal about their needs and preferences. In this context, we believe the following criteria are the most important to safeguard:

- **Control and choice:** Consumers want to be able to control and choose their experience
- **Transparency, openness and fairness:** It should be clear to consumers what they pay for
- **Expected quality:** Consumers want an experience that meets an expected level of quality.

So, when debating the operators’ role and how they should take advantage of their position, consumer aspects should be used to set the boundaries, instead of ideological arguments such as neutrality, right to access, and democracy, which are used to draw attention away from end-consumers.

There are different reasons why operators would want to prioritize certain traffic:

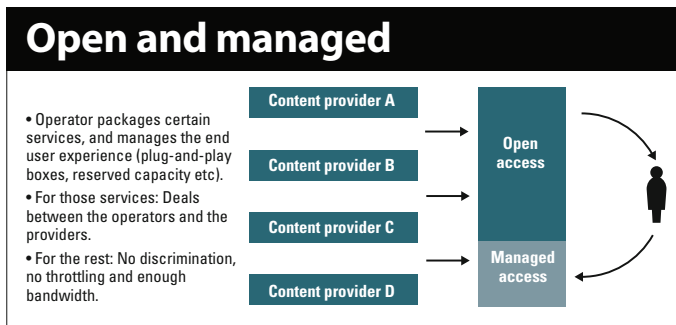
- The networks are getting

close to congestion, especially at peak hours in certain geographies

- Operators have their own services competing with others offered over open access, e.g. managed voice services versus VoIP available over the web
- Operators want to be able to monetize their position between content providers and end consumers, for example, by charging content providers a “toll fee.”

Regardless of the reason, the operator must explain its behavior to its customers. And the key driver in attracting consumers to broadband is not the operators own services – it is the consumers’ desire to communicate, plus access to all the available information, content and applications on the internet. On the other hand, there are consumers who above all want simplicity – plug-and-play solutions and end-to-end responsibility for services, and here the operators have a unique position to package solutions and create value.

Both those models must coexist: free and open access to anything on the internet, and managed access to provide end-to-end services, packaged



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and quality-ensured by the operator. Operators cannot shut down or throttle services available on the web just because they have capacity issues or the services compete with their own. This means they cannot force content providers to pay a “toll fee” to be granted a route to consumers, because end consumers will demand full access to the internet and will leave the relationship if they do not get it.

The proponents of network neutrality believe regulation is needed in order to sustain innovation, preserve the free spirit of the internet, and to preserve consumer transparency and choice. We believe regulations should not be necessary. Instead, we recommend that regulators set and enforce policies and laws to avoid anti-competitive activities, and to ensure that consumers can switch easily between access providers.

Regulators should consider the following approach:

- ▶ ISPs should be allowed to make exclusive deals with content providers and offer bundled services based on mutually beneficial business models
- ▶ ISPs should be allowed to pursue new price plans such as metered pricing so they

can charge consumers who use extra bandwidth

- ▶ ISPs should be allowed to reserve part of the consumer-access bandwidth as long as they have customers’ consent, e.g. as part of the subscription contract.

However, any change or implementation of traffic shaping would need to be communicated. If their access provider makes changes to its traffic-shaping policy, consumers should be free to change their service providers without incurring any penalty. And before operators are allowed to make significant traffic-shaping decisions, there must be enough competition in the market that users have options if they want to switch providers.

NETWORKS CAN NEVER BE NEUTRAL

In essence, the ISPs should be allowed to act, and market conditions will ensure those actions are in line with customer desires. If they don’t, customers can voice their dissatisfaction by switching providers. Moreover, even if network neutrality regulation is passed, it will be hard to formulate and even harder to enforce. It will be very tough to prove that an ISP is deliberately

discriminating against a particular service. Networks are not neutral, and never will be, even if we try to think of them as such.

We believe a regulation that forces network neutrality will have a negative impact on the already tough climate in the TME industries. While legislating transparency and commoditization might be a good thing for consumers in the short term, it could be devastating for network investments and for the overall market in the long-term. We need to create a mutually beneficial environment and allow all players in the ecosystem to figure out together how to maximize their businesses, as well as how to satisfy, entertain and dazzle their customers. ●