Committee of experts on cross-border flow of Internet traffic and Internet freedom (MSI-INT)

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

MSI-INT (2014)04
26 March 2014

1st meeting, 17-18 March 2014, 9:30-17:30
(Strasbourg, Palais de l'Europe, Room 3)

Meeting Report

1. Mr Jan Kleijssen, Director of Information Society and Action Against Crime opened the meeting and provided relevant information to the MSI-INT, notably with regard to the resolutions adopted at the Council of Europe Conference of Ministers responsible for Media and Information Society (Belgrade, 7-8 November 2013).

2. The MSI-INT elected Mr Oliver Schenk as its Chair and Ms Margrét Magnúsdóttir as its Vice-chair. Dr Michael Kogler was appointed Gender Rapporteur.

3. The agenda (Appendix 1) was adopted without any changes. The list of participants appears in Appendix 2. The gender distribution of the 36 participants was 11 women (30%) and 25 men (70%).

4. The MSI-INT took note of its Terms of Reference and the Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods. It discussed about the results it is expected to deliver by the end of its mandate in December 2015.

Conclusions and decisions

5. With regard to the first expected result, namely *draft Committee of Ministers recommendation on cross-border Internet traffic*, Dr Monica Horten presented the findings and recommendations of the consolidated report on the cross-border flow of Internet traffic and interference which may have an impact on access to content, services and applications (CDMSI(2013)Misc20). MSI-INT members had an exchange of views and discussed the scope of a possible recommendation which focuses on state responsibility for the free flow of information across borders. Given the advanced state of analysis with regard to this line of work, the MSI-INT decided to give priority to its completion. It created a working group composed of Mr Garegin Chugaszyan, Mr Özgür Fatih Akpinar, Mr Mikhail Medrish, Ms Maeve Dion, Ms Karmen Turk and Dr Monica Horten, with Ms Maeve Dion to act as rapporteur.

6. With regard to the *draft Committee of Ministers recommendation on Internet freedom, the MSI-INT* discussed the scope of this recommendation. While noting the potential broad nature of the notion of Internet freedom, it agreed to focus its reflections on defining the notion and exploring it further in discussions with stakeholders as appropriate in the European Dialogue on Internet Governance (EuroDIG, 12-13 June 2014, Berlin) and the Internet Governance Forum (IGF, 2-5 September 2014, Istanbul). The MSI-INT agreed to create a working group composed of Dr Michael Kogler, Mr Alexander Borisov, Ms Gabrielle Guillemin, Mr Michael Unland and Ms Karmen Turk with Dr Michael Kogler to act as rapporteur.

7. With regard to the *report on freedom of assembly, expression and access to content on the Internet and proposals for further action to promote them*, the MSI-INT had an exchange of views as to the scope of the report and its relationship with other deliverables. Initial discussions identified two possible areas to be covered, namely political activism online (the right to protest online) and access to Internet content. Given the nature of this expected result, in particular the fact that it is not expected to be a standard setting text, the MSI-INT decided to assign a lower level of priority to it.

8. The MSI-INT agreed to start work on all the three expected results in parallel in line with the draft work plan proposed by the Secretariat (Appendix 3).

9. The MSI-INT discussed a proposal for a *draft Committee of Ministers recommendation to member states on measures to safeguard network neutrality* (Appendix 4). Members made comments and editing suggestions with a view to transmission to the CDMSI Bureau, which met on 19 and 20 March 2014.

Multi-stakeholder outreach (interactions, consultations, participation in events)

10. The MSI-INT discussed participation in events with a view to ensuring multi-stakeholder input and participation in its work, notably in the context of the EuroDIG and the IGF. It agreed to continue to invite stakeholders to its meetings in line with its Terms of Reference.

Any other business

11. The MSI-INT agreed to hold its next meeting in Strasbourg on 3 and 4 July 2014.

12. The MSI-INT asked the Secretariat to prepare a draft meeting report to be sent to the Chair and the vice-Chair for consideration. Thereafter the Secretariat will send the draft report to the MSI-INT with a deadline of 5 full working days allowing for comments. In the absence of comments within the deadline, the report will be deemed adopted by the MSI-INT and will be transmitted to the CDMSI.

13. The MSI-INT considers it unnecessary to distinguish between an abridged report and a full report as the progress of its work will be reflected in the draft recommendation to be produced. Hence it invites the CDMSI to consider the report as submitted and agree that future meeting reports will be submitted in the same manner and format.

Appendix 1:   Annotated agenda

Appendix 2:   List of participants

Appendix 3:   Work Plan

Appendix 4:   Draft Recommendation CM/Rec (2014) of the Committee of Ministers to member States on measures to safeguard network neutrality

Appendix 1

Annotated agenda
MSI-INT (2014)02

1.   Opening of the meeting

        Mr Jan KLEIJSSEN, Director of the Information Society and Action Against Crime
        Directorate will open the meeting.

2.   Election of Chairperson and Vice-chair person and appointment of a Gender Equality
        Rapporteur
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        Resolution CM/Res(2011)24 on intergovernmental committees and subordinate
        bodies, their terms of reference and working methods, with particular reference to
        Article 12.

3.   Adoption of the agenda

4.   Information by the Secretariat

        Resolution no.1 Internet Freedom adopted at the Council of Europe Conference of
        Ministers responsible for Media and Information Society (Belgrade, 7-8 November
        2013).

        Decisions of the Committee of Ministers adopted at the 1187th meeting, 11-12
        December 2013 following the Council of Europe Conference of Ministers in Belgrade.

        Parliamentary Assembly Recommendation 2033(2014): Internet and politics: the
        impact of new information and communication technology on democracy.

5.   Discussion about the Terms of Reference and draft Work Plan

        The MSI-INT should take note of the results it is expected to deliver during its
        mandate and discuss and agree on a draft Work Plan and timetable. The committee
        is invited to create working groups and/or designate rapporteurs to lead on specific
        deliverables under its mandate. The MSI-INT is also invited to discuss and make
        proposals to the Bureau of the CDMSI with regard to work on network neutrality,
        which started in 2013, including a possible draft recommendation in view of MSI-
        INT's current Terms of Reference.

        MSI-INT Terms of Reference and the CDMSI Terms of Reference

        Draft Work Plan - MSI-INT(2014)03

        Declaration of the Committee of Ministers of Network Neutrality

        Protecting Human Rights through Network Neutrality: Furthering Internet Users'
        Interest, Modernising Human Rights and Safeguarding the Open Internet –
        CDMSI(2013)misc19E

Consolidated report on the cross-border flow of Internet traffic and interference which may have an impact on access to content, services and applications – CDMSI(2013)Misc20

Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent (see pages 50-57)

6. Multi-stakeholder outreach (interactions, consultations, participation in events)

The MSI-INT will be invited to consider participation in events with a view to ensuring multi-stakeholder input and participation in its work, notably in the context of the European Dialogue on Internet Governance (EuroDIG, 12-13 June 2014, Berlin) and the Internet Governance Forum (IGF, 2-5 September 2014, Istanbul).

7. Other business

The MSI-INT will be invited to consider any other business not dealt with above and to agree on the dates of the next meeting.

Appendix 2

List of participants

MEMBERS

Mr Garegin CHUGASZYAN, Executive Director, Information Technologies Foundation (ITF), Yerevan (Armenia)

Dr Michael KOGLER, Deputy Head of Department for Media Law, Constitutional Service of the Federal Chancellery (Austria)

Ms Zlatina NIKOLOVA, Chief Expert, European Programmes and Projects Department, Ministry of Transport, Information and Communications Technology (Bulgaria)

Mr Oliver SCHENK, Legal Adviser, International Media Cooperation Division, Office of the Federal Government Commissioner for Culture and the Media (BKM) (Germany)

Ms Margrét MAGNÚSDÓTTIR, Legal Advisor in the field of Media, Ministry of Education, Science and Culture (Iceland)

Mr Johan HALLENBORG, Deputy Director, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs (Sweden)

Mr Thomas SCHNEIDER, Deputy Head of International Relations Service, Coordinator international Information Society, International Affairs, Federation Office of Communication, Federal Department for the environment, transport, energy and communication (Switzerland)

Mr Yaman AKDENIZ, Professor of Law (Faculty of law),
Pro-Rector for the Istanbul Bilgi University   Apologised

Mr Alexander BORISOV, Professor, Moscow State Institute of International Relations

Ms Maeve DION, Swedish Law and Informatics Research Institute, Faculty of Law, Stockholm University

Ms Gabrielle GUILLEMIN, Legal officer - Freedom of Expression, Media Regulation, Freedom of Information - Article 19, London

Dr Monica HORTEN, Visiting Fellow, London School of Economics and Political Science

Ms Karmen TURK, Advocate, Triniti Tallinn

PARTICIPANTS AND OBSERVERS

Member States representatives

Mr Bakhtiyar MAMMADOV, Head of Legal and Human Resources Department, Ministry of Communications and Information Technologies (Republic of Azerbaijan)

Mr Tanel TANG, Deputy to the Permanent Representative of Estonia to the Council of Europe (Strasbourg)

Mr Nicu **DUMBRĂVEANU,** senior engineer, Department of security and data protection, Informational Technology Service, Ministry of Internal Affairs (Republic of Moldova)

Mr Victor MORARI, Head of the Maintenance Department of the informational systems, Informational Technology Service, Ministry of Internal Affairs (Republic of Moldova)

Mr Mikhail MEDRISH, Chairman of the Council (Board) of the Coordination Center for the Russian ccTLD (Russian Federation)

Ms Brigita KOZLEVCAR-ZORGA, Advisor, Information Society Directorate, Ministry of Education, Science and Sport (Slovenia)   Apologised

Mr Nicolas ROLLIER, International Relations Service Federation Office of Communication, Federal Department for the environment, transport, energy and communication (Switzerland / Suisse)

Mr Özgür Fatih AKPINAR, Head of Consumer Rights department, Turkish Information and Communication Technologies Authority, Ankara (Turkey)

Mr Erhan BAL, Turkish Radio & Television Supreme Council (RTÜK), International Relations Department, Ankara (Turkey)

Dr. Ömer Fatih SAYAN, Member to Information and Communication Technologies Authority, Ankara (Turkey)

International Organisations and other participants

Mr Peter EBERL, Deputy Head of Unit, Unit B-2: Regulatory Coordination and Users, European Commission - DG CONNECT, Electronic Communications Networks and Services
                                                                  Apologised

Ms Susanne NIKOLTCHEV, Head of Department for Legal Information, European Audio-Visual Observatory   Apologised

Mr Michael UNLAND, Senior Adviser, Office of the OSCE Representative on Freedom of the Media, Organization for Security and Co-operation in Europe

Ms Sylvie COUDRAY, Division for Freedom of Expression, Democracy and Peace - Communication and Information Sector, UNESCO   Apologised

Ms Xianhong HU, Division for Freedom of Expression, Democracy and Peace - Communication and Information Sector, UNESCO   Apologised

Civil society, private sector and other communities

Ms Ayesha HASSAN, International Chamber of Commerce   Apologised

Mr Giacomo MAZZONE, European Broadcasting Union   Apologised

Ms Sinéad McSWEENEY, Director of Public Policy/EMEA, Twitter   Apologised

Mr Marco PANCINI, Senior Policy Counsel, Google   Apologised

Mr Patrick ROBINSON, Director, Business and Human Rights, YAHOO!   Apologised

Ms Katitza RODRIGUEZ, International Rights Director, Electronic Frontier Foundation

Mr Holger ROSENDAL, Member of the European Newspaper Publishers' Association (ENPA), Chefjurist at the Danish Newspaper Publishers' Association *(Danske Dagblades Forening - DDF)* Copenhagen, Denmark   Apologised

Mr Michael ROTERT, Honorary Spokesman, EuroISPA (European Internet Service Provider Association)   Apologised

Mr Nicolas SEIDLER, Internet Society   Apologised

Mr David SULLIVAN, Policy and Communications Director, Global Network Initiative   Apologised

Ms Melina VIOLARI, Policy & Privacy Manager, Facebook   Apologised

Council of Europe Secretariat

Mr Jan KLEIJSSEN, Director, Directorate of Information Society and Action against Crime

Mr Jan MALINOWSKI, Head of Information Society Department

Ms Silvia GRUNDMANN, Head of the Media Division, Information Society Department

Ms Elvana THAÇI, Administrator and Secretary of the MSI-INT Committee, Media Division, Information Society Department

Mr Lee HIBBARD, Head of Internet Governance Unit, Information Society Department

Ms Loreta VIOIU, Administrator, Internet Governance Unit, Information Society Department

Ms Elisabeth MAETZ, Assistant, Media Division, Information Society Department

Ms Fabienne DEYROLLES, Civil Society Division, Democratic Governance Directorate, Directorate General of Democracy (Council of Europe)   Apologised

Mr Rüdiger DOSSOW, Secretariat to the Committee on Culture, Science, Education and Media, Parliamentary Assembly of the Council of Europe

Mr Philippe KRANTZ, Division for Legal Co-operation of the Council of Europe, Secretariat to the European Committee on Legal Co-operation

Ms Maria MICHAELIDOU, Programme Advisor, Data Protection Unit, Secretariat to the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

Mr Oscar ALARCON-I-JIMENEZ, Penological Co-operation, Medicrime and Trafficking of Organs Unit, Council of Europe

Ms Nichola HOWSON, Co- Secretary of the Governance Committee, Congress of Local and Regional Authorities of the Council of Europe

Mr Tim LISNEY, Secretary of the Governance Committee, Congress of Local and Regional Authorities of the Council of Europe

Appendix 3

Work Plan
MSI-INT(2014)03

<u>2014</u>

17-18 March	1st MSI-INT meeting

Constitution of the Committee of Experts, discussion of Terms of Reference, discussion and agreement on Work Plan and timetable for delivering on expected results. Creation of working groups and/or designation of rapporteurs to work on deliverables, namely draft recommendation on cross-border Internet traffic; draft recommendation on Internet freedom; and report on freedom of assembly, expression and access to content on the Internet and proposals for further action to promote them. Discussion of a possible proposal to the CDMSI Bureau for a Draft Recommendation of the Committee of Ministers to member states on measures to safeguard network neutrality.

19-20 March	1st CDMSI Bureau meeting

Report on the 1st MSI-INT meeting. Discussion of a possible proposal to the CDMSI for a Draft Recommendation of the Committee of Ministers to member states on measures to safeguard network neutrality.

20-23 May	1st CDMSI Plenary meeting

Report on MSI-INT work progress, CDMSI orientation on deliverables and timetable. Discussion and possible approval of a Draft Recommendation of the Committee of Ministers to member states on measures to safeguard network neutrality.

3-4 July	2nd MSI-INT meeting

Discussion of a proposal for a draft recommendation of Committee of Ministers to member states on cross-border Internet traffic. Taking stock of work progress made with regard to other deliverables, discussion of state of play and way forward.

24- 25 September	2nd CDMSI Bureau meeting

Report on the 2nd MSI-INT meeting and overall work progress. Discussion of a proposal to the CDMSI for a draft recommendation of Committee of Ministers to member states on cross-border Internet traffic.

18-21 November	2nd CDMSI Plenary meeting

Report on MSI-INT work progress and CDMSI orientation on deliverables and timetable. Discussion and possible approval of a draft recommendation of Committee of Ministers to member states on cross-border Internet traffic.

2015

TBD	3rd MSI-INT meeting

Discussion of a proposal for a draft Committee of Ministers recommendation to member states on Internet freedom. Taking stock of progress made with regard to the report on freedom of assembly, expression and access to content on the Internet, including proposals for further action to promote them.

TBD	3rd CDMSI Bureau meeting

Report on the 3rd MSI-INT meeting and overall work progress. Discussion of a possible draft Committee of Ministers recommendation to member states on Internet freedom.

TBD	3rd CDMSI Plenary meeting

Report on work progress and discussion of a draft Committee of Ministers recommendation to member states on Internet freedom.

TDB	4th MSI-INT meeting

Discussion and possible finalisation of a draft Committee of Ministers recommendation to member states on Internet freedom. Discussion and possible finalisation of the report on freedom of assembly, expression and access to content, including proposals for further action to promote them.

TBD	4th CDMSI Bureau meeting

Discussion of a proposal for a draft Committee of Ministers recommendation on Internet freedom and of the report on freedom of assembly, expression and access to content and transmission of proposals for approval to CDMSI Plenary.

TBD	4th CDMSI Plenary meeting

Possible approval of draft Committee of Ministers recommendation on Internet freedom. Taking note of the report on freedom of assembly, expression and access to content on the Internet and discussion of proposals for further action to promote them.

Appendix 4

Draft Recommendation CM/Rec(2014)___of the Committee of Ministers to member States on measures to safeguard network neutrality

CDMSI(2014)005
11 March 2014

1. The European Convention on Human Rights (ETS No. 5, hereinafter the Convention) applies to the Internet equally and without any distinction to its application to offline activities. Council of Europe member states have an obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention.

2. Article 10 of the Convention guarantees the right to freedom of expression to everyone. It applies not only to the content of the information but also to the means of dissemination, since any restriction imposed on the means necessarily interferes with the right to receive and impart information. The right to freedom of expression is both a right on its own and an enabler of other fundamental rights and freedoms. The Internet offers an unprecedented opportunity for the realisation of freedom of expression and the right to receive and impart information of people's choice, not linked to ownership or exploitation of means of mass communication or to channels of distribution.

3. The right to private life, which is protected by Article 8 of the Convention, is not only an individual right but also an essential condition for our democratic societies. The protection of personal data is intrinsic to the right to private life and it should be guaranteed in full compliance with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

4. The Internet owes its growth and success to its distributed nature and management by multiple private sector actors. Its creative and innovative power is the result of the openness that the Internet technical standards and architecture have offered to both scientists and network end-users at large. The Committee of Ministers Declaration on Internet Governance Principles has emphasised that the preservation of open standards, the interoperability of the Internet, its end-to-end nature and the Internet's potential for innovation are founding principles for the governance of the Internet.

5. Internet companies which offer Internet connection to users at large (ISPs) have the ability to manage information and data flows transiting through the Internet networks that they operate. They may engage in practices of traffic management for different legitimate purposes such as to preserve the integrity and security of the network. However, they also have the ability to block, downgrade or prioritise specific types of content, applications or services. Some of the techniques used in this context permit analysis or inspection of the content of end-users' communications, which in turn may have implications for the fundamental right to respect for his/her private life, respect for his/her correspondence and personal data protection.

6. These practices raise questions with respect to the principle of network neutrality which in accordance with the Committee of Ministers Declaration on network neutrality means that users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice. Moreover, the Committee of Ministers has stated in

the Declaration on Internet governance principles that traffic management measures which have an impact on the enjoyment of fundamental rights and freedoms, in particular the right to freedom of expression and to impart and receive information regardless of frontiers, as well as the right to respect for private life, must meet the requirements of international law on the protection of freedom of expression and access to information, and the right to respect for private life.

7. Measures that block and filter Internet content and services are bound to have an influence on Internet accessibility and accordingly engage the responsibility of a state under Article 10 of the Convention. Recommendation CM/Rec(2008)6 of the Committee of Ministers to member states on measures to promote the respect for freedom of expression and information with regard to Internet filters provides relevant guidelines in connection with the full exercise and enjoyment of the right to freedom of expression and the right to private life.

8. The Internet has public service value as it provides people with an essential tool for their everyday activities, including communication, information, knowledge and commercial transactions as well as a platform for engagement in and contribution to political processes and democratic governance. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet, offers guidelines on how to ensure the protection and promotion of human rights and fundamental freedoms on the Internet, promote Internet access, diversity, openness and security.

9. In our modern information society, the ability to freely receive and impart information and ideas and to fully participate in democratic life is increasingly reliant upon the nature and quality of one's Internet connection. The users' experience on the Internet will determine which information they will ultimately have access to. Slow connections, filtered content or prioritised services all affect users' experience. Fear about inspection/monitoring/surveillance of individuals' communications over the Internet fundamentally undermines the trust of people in the Internet.

10. The principle of network neutrality supports the full exercise and enjoyment of the right to freedom of expression, the right to private life as well as technological innovation and economic growth. The implementation of this principle should be put in place through a clear legal framework aimed at safeguarding the public service value of the Internet, which guarantees access to publicly available information, the establishment of predefined criteria to evaluate whether limitations to access are justifiable, necessary and proportionate to their legitimate aim and a clear definition of how both private and public sectors will be implementing the network neutrality principle. Network neutrality laws have been adopted in Europe (Council of Europe member states); regulatory approaches evidence feasibility and also offer examples of good practice.

11. Therefore, with a view to ensuring full delivery of the public service value of the Internet the Committee of Ministers recommends that member states take all the necessary measures to safeguard the principle of network neutrality having regard to the guidelines for a domestic network neutrality legal framework set out in the appendix to this recommendation, in co-operation, where appropriate, with all relevant stakeholders.

Appendix to Recommendation CM/Rec(2014)____

Guidelines for a network neutrality legal framework

1. <u>Network neutrality</u>

    1.1.   Network neutrality is the principle according to which Internet traffic shall be treated equally, without discrimination, restriction or interference regardless of its sender, recipient, type or content, so that Internet users' freedom of choice is not restricted by favouring or disfavouring the transmission of Internet traffic associated with particular content, services, applications, or devices.

    1.2.   The network neutrality principle should be applied irrespectively of the infrastructure or the network used for Internet connectivity and to all Internet access services and Internet transit services offered by Internet service providers, regardless of the underlying technology used to transmit signals.

    1.3.   Internet service providers should be free to offer specialised services in addition to Internet connectivity, provided that such services do not diminish or affect performance, affordability, or quality of access to Internet and to content that is publicly available. States should ensure that specialised services do not degrade the bandwidth available for the open internet to a point that threatens its public service value. Offerings to deliver specialised services should be provided on a non-discriminatory basis and their adoption by Internet users should be voluntary. Preferential treatment of data based on the purchase power of a content provider conflicts with fundamental principles of media policy. Conversely, end-users who are not content providers may be charged for specialised services.

2. <u>Undue discrimination</u>

    2.1.   In accordance with the network neutrality principle, states should guarantee that Internet service providers refrain from discriminating, restricting, or otherwise interfering with the transmission of Internet traffic, unless such interference is strictly necessary and proportionate to:

        2.1.1. give effect to a non-discriminatory legislative provision or court order;

        2.1.2. preserve the quality of the service and the integrity and security of the network;

        2.1.3. prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;

        2.1.4. minimise the effects of temporary or exceptional network congestion, primarily by means of neutral measures;

2.1.5. comply with an explicit request from the end-user, provided that this request is given freely and is not incentivised by the Internet service provider or its commercial partners;

2.2. Internet traffic management should relate only to the quality of service, the development of new services, network stability and integrity. Exceptions to the principle can only to be justified by overriding public interests. Measures should be proportionate, appropriate and avoid unjustified discrimination, and they should be subject to periodic review and not be maintained longer than strictly necessary.

3. <u>Privacy</u>

Any technique to inspect or analyse Internet traffic should be in accordance with legislation on the right to private life and personal data protection. The use of techniques which inspect or analyse the content of communications should be reviewed by the relevant supervisory authority to assess compliance with the applicable privacy and data protection obligations.

4. <u>Transparency</u>

4.1. Internet service providers should provide clear, transparent and publicly available information with regard to their traffic management practices and usage polices, notably with regard to the co-existence of Internet access service and specialised services.

4.2. When network capacity is shared between Internet access services and specialised services, the criteria whereby network capacity is shared, shall be clearly stated. Users and service providers should be adequately informed about any network management measures that affect in a significant way access to content, applications or services.

5. <u>Supervision</u>

5.1. Competent national supervisory authorities should regularly monitor and report on Internet traffic management practices and usage policies in order to ensure respect for the principle of network neutrality. Reports should be developed transparently and openly and should be made available to the public for free.

5.2. Competent national supervisory authorities should also put in place to users and society appropriate, clear, open, efficient and easily available procedures aimed at addressing network neutrality complaints, respond to them and sanction breaches to the principle.

Glossary of terms

Data flow – a set of packets traversing a network element. It may consist of the packets from a single application session, or it may be an aggregation comprising the combined data traffic from a number of application sessions.

Internet access service – the publicly available electronic communications service that provides connectivity to the Internet, and thereby provides the ability to the subscriber or

Internet user to receive and impart data from and to the Internet, irrespective of the underlying technology used to transmit signals.

Internet service provider (ISP) - any legal person that offers Internet access service to the public or Internet transit service to another ISP.

Internet traffic – one or more data flow(s) transmitted through the Internet, regardless of the application or device that generated it.

Internet traffic management – all technical means used to process through the network traffic sent or received by end users, including both application-specific and application-agnostic traffic management.

Internet/end-user – any natural or legal person who is using Internet access service, and in that capacity has the freedom to impart and receive information, and to use or offer applications and services through devices of their choice. The Internet user may be the subscriber, or any person to whom the subscriber has granted the right to use the Internet access service s/he receives. Any legal person offering content and/or applications on the Internet is also an Internet user.

Specialised services – sometimes referred to as "managed services", they are electronic communications services that are provided and operated within closed electronic communications networks using the Internet Protocol, but not being part of the Internet, and that indispensably require end-to-end control. The expression "closed electronic communications networks" refers to networks that rely on strict admission control. They constitute an exemption to the principle of net neutrality.