

EMMA & ENPA, Square du Bastion 1A, 1050 Brussels

Mr. Pearse O'Donohue  
Deputy Head of Cabinet  
Cabinet of Vice-President Neelie Kroes  
Rue de la Loi 200  
B-1049, Brussels

Brussels, 19th July 2013

Dear Mr O'Donohue,

**Re: Press sector concerns regarding net neutrality in the draft regulation laying down measures to complete the European Single Market on electronic communications and to achieve a connected continent**

Following previous discussion we had with Vice-President Kroes and your colleagues in the Cabinet about net neutrality we would like to express our views on the on-going interservice consultation on the draft 'Proposal for a regulation laying down measures to complete the European Single Market on electronic communications and to achieve a connected continent'. In our view this proposal contain ambiguous wording that can be misunderstood and does not reflect the views of Europe's press sectors on net neutrality.

The European Magazine Media Association, **EMMA**, is representing 15.000 magazine publishers across Europe, publishing more than 50.000 magazine titles on all platforms. EMMA promotes a free, independent, pluralistic magazine media industry that remains competitive and vibrant.

**ENPA** is an international non-profit organisation representing publishers of newspapers and news media on all platforms. ENPA represents over 5,200 national, regional and local newspaper titles, published in many EU Member States, plus Norway, Switzerland and Serbia.

Today European press sector, a majority of which is small and medium sized companies, is increasingly technologically neutral and reaches millions of readers via the internet.

The *neutrality of the internet and non-discrimination* based on source, destination or application is one of the most important conditions to ensure equal opportunities for all publications to reach their readers. It is therefore a cornerstone of a free, independent, diverse and vibrant press.

It is *crucial* that the internet service infrastructure and ISPs in Europe do not discriminate against or prioritise certain content, and that competition is maintained between providers of editorial content, to enable and maintain the diversity of the press across Europe.

**Position of press publishers**

The press publishing sector in Europe strongly believes in and defends the respect of net neutrality: In our view **net neutrality guarantees the same quality of service and the same possibility to reach digital users for all content, applications and service providers, regardless of their financial capacity.** In this context, it has to be ensured that the current proposal indeed effectively safeguards net neutrality and does not abolish it.

The press sector is concerned that the draft proposal currently under discussion in the inter-service consultation contains some ambiguous wording that might be interpreted in such a way as to allow for problematic discrimination. If the Internet service infrastructure and ISPs were allowed to treat content from certain content providers differently from others, in return for an additional fee, then net neutrality would be at stake.

### **Specific concerns regarding the draft proposal**

According to our information, Article 20 of the draft proposal foresees that *'providers of content, applications and services and providers of electronic communications to the public shall be free to agree with each other on the treatment of the related data volumes or on the transmission of traffic with a defined quality of service.'*

We consider this provision to be highly problematic as it brings with it a serious risk of putting an end to the net neutrality principle as we know it today: Indeed, it might enable the provision of a guaranteed quality of service, as well as a privileged transfer of data, to the providers that conclude a deal with electronic communications providers and are able to pay for it. Consequently, it could have a detrimental impact on other providers of content, applications and services, especially many smaller and medium-sized enterprises, providers who are not in a position to strike such a deal.

This could result in content discrimination and in prioritisation of traffic for the content and service providers that pay more. The differentiation of treatment of certain types of content and services would seriously undermine fair competition between application/content providers and affect end-users' access to certain content, or categories of contents.

In addition, the wording that we understand is proposed for article 15.2 runs the risk of making it obligatory for electronic communications operators to provide this better service quality, in case a content provider or service provider requests it.

To ensure net neutrality and equal access of users to all different types of content available online, it is crucial that no deals can be concluded that would lead to discrimination between different types of content and preferential treatment of specific content or applications over others. All data should be transmitted with the same level of quality, regardless of the type of content, and all press publishers should have the same opportunity to reach their audience. This is a necessary precondition for a competitive, free, independent, diverse and vibrant digital press sector in Europe.

Consequently, we would kindly ask you to take our comments into consideration, with the aim of promoting the principle of net neutrality to the benefit of the independent press and end users.

Yours sincerely,

**Contacts at EMMA:**

**Contacts at ENPA:**

**About EMMA**

*EMMA, the European Magazine Media Association, is the representative trade association of the European periodical press. We represent 28 national magazine trade associations from EU Member States, as well as 24 corporate members from all over Europe. In total, we represent the interests of 15,000 publishing companies, turning out more than 50,000 titles per year, in print and online.*

**About ENPA**

*ENPA is an international non-profit organisation representing publishers of newspapers and news media on all platforms. ENPA has 31 member associations across many EU Member States, plus Norway, Switzerland and Serbia. Together our members represent over 5,200 national, regional and local newspaper titles, published on both print and digital platforms.*