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Madame Sharon Bowles, MEP
European Parliament
Brussels.

29 January 2009

Dear Madame Bowles:

Subject: “Net Neutrality Revisited”, 28 January 2009

Thank you for giving me the opportunity to address the matters raised by [Dr Gernot Pehnelt's](#) interesting study yesterday evening, and for the hospitality of Die Landesregierung Nordrhein-Westfalen. I apologise for taking your meeting's time and for leaving early.

I am writing to you now, in my personal capacity. The organisation that I represent in this context <ISOC-ECC.ORG> is currently under consultations on these issues. I expect to revert to you and your colleagues on the basis of agreed positions in due course. However, it is already clear to me that the Internet user community in Europe would strongly oppose legislative or technical measures that would facilitate or permit imposition of discriminatory access to Internet services.

May I recall the main points that I made during the discussion yesterday evening, as this might be helpful for the participants, among others:

1. The Internet as we know it, has grown very rapidly without discrimination between traffic, based on content, services or applications. Many companies and operators have benefited greatly from this development. As one might say “if it ain't broke don't fix it.” Those participants in the Internet who have benefited the most from these developments – including individual users - are not among those seeking discrimination among content and users.
2. Innovation in the Internet has been and will continue to be at the periphery. We do not seek innovation in the network itself, just transmission capacity. Lots.

Indeed, we have known for more than a decade that the explosion of Internet usage was on our doorstep. That is now happening. It is very difficult to justify, now, regulatory measures which are motivated by companies wishing to seeking to manage inadequate capacity. The solution is investment

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3. The proposition that the operators should be empowered to manage their traffic may appear superficially rational, but in practice it could create incentives for the manufacturers and operators to invest in technologies to manage and filter traffic, rather than investing in capacity. That is not what we need. Indeed, investment in bandwidth capacity is technically and economically feasible, now, whereas we have no experience as to the cost, reliability and security of investment in so called "intelligent network management".

In any event, the kind of discrimination that is envisaged could give operators rights over matters which are either relevant to personal privacy or should be addressed, if necessary, by the Courts.

4. However, the principle issue is one of power: several amendments that have been proposed would give the operators powers to decide what is and what is not a priority Internet transmission. It was clear from the discussion last night that this would be on the basis of the ability to pay, including the suggestion that the highest priorities would be on-line gambling and tele-medicine. (The latter may well prove to be a social priority but not necessarily quite so profitable, being subject to e.g. NHS budgets and the policies of the Health Insurance organisations.)
5. Furthermore, once the powers to discriminate between content and users are in place, the scope for abuse is undeniable. Other countries who wish to regulate the Internet for their own purposes might well seize on the EU precedent for their own purposes. Already in Europe we have seen attempts to interfere with individual's access to the Internet, on the basis of the content that is used.
6. Finally, to illustrate the proportionality of this issue, I suggested that the technology for discrimination between IP Packets should indeed exist. But that it should only be invoked, as requisitioned by the Regulator, in an emergency.

In conclusion, I would counsel strongly against members of the European Parliament drawing into the Telecommunications Package, through such amendments, matters that have no place there. The Institutions should address the regulatory aspects of telecommunications, without prejudice to the over-arching fact of the Internet.

Yours sincerely,

-/- signed -/-

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