

Consultation response form

Your response

| Question | Your response |
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| <p>Question 1: Functioning of the net neutrality framework</p> <p>(a) Which aspects of the current net neutrality framework do you consider work well and should be maintained? Please provide details including any supporting evidence and analysis.</p> <p>(b) Which aspects, if any, of the current net neutrality framework do you consider work less well and what impact has this had? What, if any, steps to you think could be taken to address this and what impact could this have? Please provide details including the rule or guidance your response relates to and any supporting evidence or analysis.</p> | <p>(a) The framework broadly encourages support for the overriding principles of net neutrality, namely non-discrimination, open access and transparency. The mechanisms for monitoring these should be retained and strengthened. The freedom to use independent components without forced bundling or vertical integration, and the freedom to switch flexibly are vital.</p> <p>(b) The trend towards the delivery of bundled services with associated customer financial or performance benefits continues. Such offerings have benefits from vertical integration but risk damaging competition, inhibiting new market entrants and creating silos, walled gardens and an inability to switch components easily without service quality or cost penalty. Service contracts should clearly identify the exit penalties implied by such service bundling and the flexibility to replace elements of the service with alternatives from other providers.</p> |
| <p>Question 2: Use cases, technologies, and other market developments</p> <p>(a) What, if any, specific current or future use cases, technologies or other market developments have raised, or may raise, particular concerns or issues under the net neutrality framework?</p> <p>(b) What, if any, steps do you think could be taken to address these concerns or issues and what impact could this have? Please provide details of the use case, technology or market development and the rule or guidance your response relates to, as well as any supporting evidence and analysis.</p> | <p>(a) Content providers, Cloud service providers, Platform services, bundling and greater intelligence in embedded IoT and autonomous devices are all increasing the need for network neutrality to allow agile business models able to incorporate the latest technology, content and network function virtualisation (NFV). All these developments increase the need for end to end network neutrality which does not constrain and disadvantage business customers and end consumers in terms of choice, cost, performance or switchability.</p> <p>(b) Service providers in recent days have outlined plans to include content in their offerings, whether it be 5G operators stressing that they will not be but pipes for OTT providers, or Facebook changing their name to reposition</p> |

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| | <p>themselves as more than simply a platform for others' content. Regulation should ensure open APIs and non-proprietary platforms to maximise the flexibility and availability of services to customers.</p> |
| <p>Question 3: Value chain</p> <p>Are there particular business models or aspects of the internet or other value chains that you think we should consider as part of our review? Please explain why, providing details including any supporting evidence or analysis.</p> | <p>(a)</p> <p>Integrated supply chains involve multiple organisations who are all customers of complex services from their providers. This requires seamless and network neutral transition across multiple different ecosystems end to end. This is no longer a simple interface between two organisations who may be able to collaborate co-operatively to harmonise technology choice in order to simplify their business model. It is a complex multi-level matrix of many companies in an ever changing end-to-end data journey.</p> <p>The OfCom review needs to understand some of the more complex supply chains including R&D, manufacturing, packaging, transportation, distribution, wholesale and retail and end consumer logistics to ensure that the desired network neutrality is preserved. There is an increased risk of hidden bias and influence.</p> |
| <p>Question 4: International cases studies</p> <p>Are there any international case studies or approaches to net neutrality that you think we could usefully consider? Please include details of any analysis or assessments.</p> | <p>The EU Open Internet Regulation and the BEREC Guidelines on its implementation and subsequent ECJ Judgements</p> |
| <p>Question 5: Guidance and approach to compliance and enforcement</p> <p>Are there specific challenges with the existing guidance that we should be aware of (e.g. ambiguity, gaps)? Assuming the rules stay broadly the same, which areas could Ofcom usefully provide additional clarity or guidance on? Please provide details.</p> | <p>Actions required to ensure net neutrality may be made more difficult by encrypted aspects of transmission which should be used to monitor and/or influence prioritisation.</p> |
| <p>Question 6: Annual report</p> <p>Do you find Ofcom's annual monitoring report useful or are there any changes you think we could usefully make either to the content or how we communicate this?</p> | <p>Ofcom's annual monitoring report is an important discipline and enforcement tool for exposing infringements and demonstrating the extent to which the market is sustaining level playing fields in each respect. Recording the frequency of switching in terms of frequency, ease and cost would be a useful indicator.</p> |

Question 7: Other

Is there any other evidence or analysis that you are aware of and/or could provide to aid our review?

The principles of network neutrality need to allow for exemptions and these need to be confirmed but clearly defined and reported on. These included allowing some degree of prioritisation during recovery from significant failures, where the sequence of recovery may be vital to preserve system and content integrity. Such exceptional procedures do need to be transparently defined and agreed in advance and reported on when exercised. The allowance of zero-rated traffic must be limited to situations in which this does not compromise open competition, and needs to be carefully controlled in the context of data caps in bundle offerings where a customer may trigger additional charges as a result of prior usage within the cap by such traffic. The degree to which encryption may obstruct the ability to discern whether discriminatory prioritisation has occurred must be carefully controlled.