

Table 2.9. Net neutrality

	Has your government adopted a position regarding traffic prioritisation (net neutrality)? If so, please provide details.
Australia	No. However, the Australian Government is actively monitoring the issue. The government acknowledges that it needs to continually assess the appropriateness of existing regulations in the face of rapid sectoral change, including in business practices. Australia places a strong emphasis on the provision of accurate, transparent and relevant information to consumers in relation to service terms and conditions, including under the industry-based Telecommunications Consumer Protections Code. It is important to note that there are general provisions in the Competition and Consumer Act which prevent telecommunications operators from engaging in anti-competitive practices. The ACCC's existing powers to address competition issues as they relate to content services in the communications market focus on anti-competitive conduct and economic market analysis. In March 2012, an independent review of the operation of media and communications regulation in Australia assessed the country's current arrangements in terms of their effectiveness in achieving appropriate policy objectives for the convergent era. The Convergence Review noted that the ACCC's existing powers may be too narrow to address evolving content-specific issues, such as exclusive rights arrangements and bundling, and network neutrality issues that inhibit competition. In this context, the review proposed that the ACCC retain its telecommunications-specific powers for the present time, and that these powers be reviewed once the NBN is implemented. The government is currently progressing its consideration of the Convergence Review.
Austria	No
Belgium	No. The government has not adopted a policy as yet. It first plans to transpose the European regulatory framework into Belgian law and see if those measures are sufficient to guarantee net neutrality.
Canada	The CRTC announced a framework regarding traffic prioritisation in 2009. Internet Traffic Management and Net Neutrality (Telecom Regulatory Policy CRTC 2009-657) On 21 October 2009, the CRTC issued a decision that establishes a new framework to guide ISPs in their use of Internet traffic management practices (ITMPs). The decision attempts to balance the freedom of Canadians to use the Internet for various purposes with the legitimate interests of ISPs to manage traffic on their networks, and emphasises the need for ISPs to be more transparent about the measures that they are using to manage congestion. The decision establishes a framework which allows the CRTC to determine whether or not specific ITMPs are in compliance with subsection 27(2) of the Telecommunications Act, which prohibits unjust discrimination and undue preference. The decision notes a strong preference for economic measures, such as usage-based billing and time of day pricing, since they match consumer usage with willingness to pay and are generally fully transparent. Technical measures, which could include traffic prioritisation, or limiting the bandwidth of heavy users or certain applications, require additional scrutiny in order to ensure that they are designed to address a defined need and that they result in minimal harm to secondary ISPs and end-users. The decision also includes provisions relating to section 36 of the Act, which governs the carriage of content. ISPs are not allowed to degrade real-time or time-sensitive traffic (e.g. voice-over-Internet protocol or video conferencing) without prior Commission approval: www.crtc.gc.ca/eng/archive/2009/2009-657.htm
Chile	Yes. Traffic prioritisation is forbidden under the Chilean net neutrality law, which states that an ISP cannot prioritise one service over another, including its own services. The ISP must publish the technical and commercial characteristics of all plans.
Czech Republic	No
Denmark	No. According to Section 4(7) of the Act on Electronic Communications Networks and Services the Danish Business Authority (DBA) may lay down rules for the purpose of requiring providers of electronic communications networks or services to ensure end-users the ability to access and distribute information and to run applications and services of their choice. Section 4(7) implements Art. 8(4)(g) of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services as amended by Directive 2009/140/EC. DBA has not experienced any problems regarding traffic prioritisation. The possibility to lay down rules will be used only if DBA identifies a specific need.
Estonia	No
Finland	The Communications Market Act (Section 68) establishes a user's right to select a content service provider. The terms of an agreement of a telephone network subscriber connection and any other agreement relating to reception of a communications service may not restrict a user's right to choose a content service provider.
France	Following on from the adoption of the new "telecoms package" in 2009 and prior to considering the adoption of rules, French institutional players have initiated a debate on issues surrounding net neutrality and, in particular, traffic management practices. In this context, ARCEP has published 10 suggestions and recommendations on the neutrality of the Internet and networks in 2010 (www.arcep.fr/uploads/tx_gspublication/net-neutralite-orientations-sept2010-eng.pdf), as well as a report to the government and Parliament at the request of the latter to find a balance in relation to net neutrality (www.arcep.fr/uploads/tx_gspublication/rapport-parlement-net-neutralite-sept2012-ENG.pdf). The principles include supervision of acceptable traffic management practices and a definition of an adequate framework for the use of managed or specialised services. Principles proposed by ARCEP in 2010 Proposal No. 1: ARCEP recommends that, in accordance with the legislative provisions in effect, ISPs marketing Internet access be required to provide end-users with: – the ability to send and receive the content of their choice;

	<ul style="list-style-type: none"> – the ability to use the services and run the applications of their choice; – the ability to connect the hardware and use the programmes of their choice, provided they do not harm the network; – a sufficiently high and transparent quality of service. <p>Proposal No. 2: On the matter of Internet access, ARCEP recommends that, as a general rule, no differentiation be made between the way in which each individual data stream is treated, whether according to the type of content, the service, application, device or the address of the stream's origin or destination. This applies to all points along the network, including interconnection points. There may be exceptions to this principle, provided they comply with the guidelines set out in proposed recommendation No. 3.</p> <p>Proposal No. 3: Marking exceptions to the principles stated in proposals nos. 1 and 2, and to limit any possible deviations from these principles, ARCEP recommends that when ISPs do employ traffic management mechanisms for ensuring access to the Internet, that they comply with the general principles of relevance, proportionality, efficiency and non-discrimination between parties and transparency.</p> <p>Proposal No. 4: To maintain all of the players' capacity to innovate, all electronic communications operators must be able to market "managed [or specialised] services" alongside Internet access, to both end-users and information society service vendors (ISV) [or content and application providers (CAP)], provided that the managed service does not degrade the quality of Internet access below a certain satisfactory level, and that vendors act in accordance with existing competition laws and sector-specific regulation.</p>
Germany	The issue of net neutrality has not been formally raised in Germany as yet. But expert dialogues on network neutrality led by the Federal Ministry of Economics and Technology demonstrated that it is possible to maintain the free transfer of data while still introducing new business models with regard to the development of high-performance network infrastructures. The German government has been empowered by the German legislator to lay down the essential requirements for non-discriminatory transmission of data and non-discriminatory access to content and applications in order to prevent arbitrary reduction of quality of services and an unfair impediment or deceleration of data communication in the networks, taking into account the European requirements, as well as the aims and principles of the Telecommunications Act, vis-à-vis service providers operating telecommunication networks (§ 41a Telecommunications Act)
Greece	The issue of net neutrality is fully within the competences of the regulator. The government has not adopted any position guidelines.
Hungary	The Hungarian administration considers net neutrality a high priority issue. No final position regarding traffic prioritisation has been adopted, but the NRA pays close attention to market developments in Hungary and the actions of European Union institutions in connection with net neutrality. The NRA has already made a preliminary study on net neutrality, which has been published for public consultation (http://nmhh.hu/dokumentum/150627/network_neutrality_consultation_document.pdf). The final position on traffic prioritisation and net neutrality can be expected following this public consultation.
Iceland	No
Ireland	A formal position on net neutrality has not yet been adopted. ComReg will be guided by any recommendations and positions currently being developed at the European level by BEREC and EC. To date, no complaints or disputes related to traffic prioritisation issues have been raised before ComReg.
Israel	Mobile operators are required by law to act in a neutral manner, not to block or limit applications, and not to bar equipment features. The Ministry of Communications intends to extend this framework to all operators.
Italy	Neither the government nor AGCOM have adopted an official position regarding traffic prioritisation (net neutrality), apart from certain responses to public consultation within the European Union in 2010. In any case, further studies are needed. With regard to net neutrality, AGCOM issued two public consultation documents in February 2011: the first, was a survey, "Consumer protection and competition issues with regard to VOIP and Peer-to-Peer services provided on mobile networks", which focused on some issues relating to Net Neutrality (Delibera no. 39/11/CONS www.agcom.it/Default.aspx?DocID=5768); the second document has a wider scope and it is specifically devoted to Net Neutrality (Delibera no. 40/11/CONS www.agcom.it/Default.aspx?DocID=5772). Public consultations were held in Spring 2011. In December 2011, AGCOM issued two reports containing the main outcomes of the two public consultations (Deliberation No. 713/11/CONS www.agcom.it/Default.aspx?DocID=7872 and Deliberation No. 714/11/CONS www.agcom.it/Default.aspx?DocID=7874), also in addition to a focus piece published on its website. Furthermore, AGCOM will issue further studies and public documents in the near future, reporting on its actions and deepening its analysis. The aim is to develop a deeper analysis concerning the relationship between growing use of traffic management techniques, the introduction of new pricing models, and net neutrality principles (i.e. equal treatment of data for users accessing the Web).
Japan	In Japan, Internet traffic has increased due to the rapid penetration of broadband networks and services. If a handful of heavy users constantly occupy network bandwidth, the speed of general user communications will decrease. To prevent this problem, some ISPs are conducting packet shaping. In May 2008, the telecommunications carrier organisations developed the "Guidelines for Packet Shaping" as the minimum necessary rules to avoid arbitrary operations of packet shaping. The guidelines were revised in June 2010 and March 2012.

Korea	In December 2011, after gathering opinions from various stakeholders, the KCC (Korea Communications Commission) announced the “Guidelines for Network Neutrality and Internet Traffic Management”, which contain basic principles on network neutrality and traffic management practices. The guidelines include transparency in traffic management and no unreasonable discrimination or blocking, but also recognise the need for reasonable traffic management. Until now, the Korean government has not officially adopted a legally binding decision and is monitoring closely market development in this area
Luxembourg	On 17 November 2011, the Chamber of Deputies filed a proposal to guarantee the principle of net neutrality by law: The Chamber of Deputies, Recalling that network neutrality is a founding principle of the Internet that excludes at the level of data transfer any discrimination with respect to the source, destination and content of data packets and therefore guarantees access strictly equal to users regardless of their resources; Considering that the neutrality of the Internet is a guarantor for undeniable opportunities and other economic innovation, participation of the individual in society, pluralism and informational general distribution of knowledge; Considering the principle of the neutrality of the Internet is not absolute and that any necessary exception to this rule must be defined by law and controlled by the regulator; Emphasising the opinion of the European Data Protection Supervisor (EDPS) of 7 October 2011 on the neutrality of the Internet, traffic management and the protection of privacy, which draws attention to the potential dangers of violations to the principle of network neutrality; Including the systematic violation of the confidentiality of communications - which would hurt both businesses and citizens, even in democratic societies as a whole; Seeing the Communication from the European Commission, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 19 April 2011 on the open Internet and net neutrality in Europe (COM 2011/222); Considering that the current and global network operators, network providers and content providers try to undermine the neutrality of the Internet (eg. blocking applications, protocols or sites, "commercial" priority for some content or for some content providers, unjustified filtering, etc..) for reasons of profit maximisation; urges the Government: To put into law the principle of net neutrality and the necessary exceptions taking into account developments on the plan of the European Union; To commit themselves to the principle of the neutrality of the Internet at the European level and in particular at the Council "Transport, Telecommunications and Energy" on 13 December 2011.
Mexico	No
Netherlands	Yes. Strict net neutrality rules came into force on 1 January 2013.
Norway	Since 2007, the Norwegian Post and Telecommunication authority (NPT) has run a project monitoring market development and participating in the public discussion on net neutrality. In 2008, NPT decided to initiate a national working group with participants from major stakeholders in the Internet industry as a co-regulatory approach to net neutrality. This work resulted in the agreement on the “Guidelines for Internet neutrality” (www.npt.no/ikbViewer/Content/109604/Guidelines for network neutrality.pdf) published in February 2009. The guidelines have been signed by the major Internet service providers, some major content providers, industry organisations, the Consumer Ombudsman and the Norwegian Consumer Council. These guidelines define three principles that describe how net neutrality can be achieved, so as to ensure Internet users’ determination over their own Internet access, as well as the ways by which different providers can compete freely to offer content and applications over the Internet. The three principles are: 1. Internet users are entitled to an Internet connection with a predefined capacity and quality. 2. Internet users are entitled to an Internet connection that enables them to send and receive content of their choice, to use services and run applications of their choice, and to connect hardware and use software of their choice that do not harm the network. 3. Internet users are entitled to an Internet connection that is free of discrimination with regard to type of application, service or content or based on sender or receiver address.
New Zealand	No
Poland	No. Net neutrality is not written into telecommunications law. However, as a result of work on the European Commission’s communication on open Internet and net neutrality in Europe COM (2011) 222, the Polish government prepared a position in which it declares that possible future regulation should be flexible to allow innovative business models (ie. allow prioritisation), while maintaining the open character of the Internet, allowing users to access information and applications of their choice.
Portugal	No. For the moment the NRA sector is only monitoring behaviour related to net neutrality and QoS of ISPs.
Slovak Republic	No

Slovenia	<p>A new Article on net neutrality is contained in a new Electronic Communications Act which was published on 31 Dec 2012 in the Official Journal of RS (http://www.uradni-list.si/_pdf/2012/Ur/u2012109.pdf#!u2012109-pdf). The unofficial translation into English reads:</p> <p>Article 203 (Net Neutrality)</p> <p>(1) The Agency promotes the preservation of open and neutral nature of internet and the possibility to access and to spread the information or use of applications and services at free choice of the end-users.</p> <p>(2) The Agency has to take into consideration the goals determined in the previous paragraph especially when executing its competences as indicated in the points 3 and 4 of the second paragraph of Article 132 and the third and fourth paragraph of Article 133 of this Act and when it concerns its competences related to the execution of the point 2 of the first paragraph of Article 129 by the network providers and internet access service providers.</p> <p>(3) Network operators and Internet access service providers should strive for the preservation of open and neutral nature of internet and should not limit, hold or slow down the internet traffic on the level of individual service or application or execute any measures for its depreciation, except in the instance of:</p> <ol style="list-style-type: none"> 1. necessary technical measures to secure undisturbed activity of networks and services (e.g.: avoiding the traffic congestion), 2. necessary measures to secure integrity and security of the networks and services (e.g.: an elimination of unauthorized excessive seizure of transmission medium – channel), 3. necessary measures for limiting unsolicited communications in accordance with the Article 158 of this Act, 4. court decision. <p>(4) Measures from the points 1, 2 and 3 of the previous paragraph should be proportionate, non-discriminatory, limited in time and to the necessary extent.</p> <p>(5) Services of the network operators and internet access service providers should not be based upon the services or applications that are offered or used by Internet access service.</p> <p>(6) The Agency may issue a general act to carry out the provisions of the third, fourth and fifth paragraphs of this Article.</p>
Spain	<p>Traffic prioritisation: in accordance with the General Law of Telecommunications, the Spanish Government has the legal authority to impose minimum requirements to avoid service degradation or traffic obstruction/slowing down. Net neutrality: Spain follows the criteria set by the Digital Agenda for Europe, which aim at an open and neutral Internet. These criteria have inspired the transposition of the new EU regulatory framework (Royal Decree-Law 13/2012).</p>
Sweden	<p>A strategic target for PTS by 2014 is freedom of choice for consumers when purchasing broadband subscriptions and ensuring that consumers get what they pay for. As a consequence, PTS is currently working on secondary regulations and guidelines to ensure transparency regarding limitations, traffic management and service levels. PTS believes it is a policy objective, both nationally and internationally, to retain an open Internet and ensure functional competition and freedom of choice for consumers on the Internet. An open Internet is fundamental for economical growth, innovation and democracy. Generally, as long as development of new services are not hindered by any traffic management practice in an unreasonable way the effects would be positive.</p> <p>From an innovation perspective it is important that, for instance, SMEs that are developing new, innovative services are able to reach customer markets and thereby grow. Restrictions to this growth due to agreements between larger companies could undermine Europe's ability to develop competitive online services and applications. PTS supports BEREC's conclusions where competition and transparency are inadequate or insufficient to address concerns; existing regulatory tools (including QoS requirements) should enable NRAs to address net neutrality-related concerns for the time being. NRAs are ready to act without hesitation if necessary.</p>
Switzerland	No official position has been adopted.
Turkey	No
United Kingdom	<p>The UK Government has not published any specific policy documents, but has set out its position in speeches. Ofcom published a regulatory statement setting out its approach to net neutrality and providing guidance to ISPs in November 2011. The key points were that:</p> <ul style="list-style-type: none"> – Transparency is key. Consumers should be made aware of any blocked services before subscribing to a service. – Ofcom believes that there are benefits to both “best efforts” Internet access (web traffic conveyed on more or less equal terms) and the provision of managed services (prioritised traffic), and that they can co-exist. – Innovation is important for the development of new content and services which Ofcom wants to protect. – Should Ofcom have evidence that innovation is being stifled, then it may consider introducing a minimum quality of service. – Blocking of services is highly undesirable and Ofcom expects market forces to address this issue, but we will keep this position under review. <p>Press release: http://media.ofcom.org.uk/2011/11/24/improving-traffic-management-transparency-ofcom-sets-out-steps-for-isps-to-take/</p> <p>Statement: http://stakeholders.ofcom.org.uk/consultations/net-neutrality/statement/</p> <p>The UK Government set out its views on net neutrality as part of Minister Ed Vaizey's speech at the OECD High-Level Summit on the Internet in June 2011: www.culture.gov.uk/news/ministers_speeches/8265.aspx</p>

United States

Yes. On 23 December 2010 the Commission adopted the Open Internet Order, which helps ensure that broadband providers cannot act as gatekeepers among content, applications, services and devices, all of which depend on the Internet as an open platform. The Order adopts three main rules:

1. Transparency: fixed and mobile broadband providers must disclose the network management practices, performance characteristics, and terms and conditions of their broadband services.
 2. No blocking: fixed broadband providers may not block lawful content, applications, services or non-harmful devices; mobile broadband providers may not block lawful websites or block applications that compete with their voice or video telephony services.
 3. No unreasonable discrimination: fixed broadband providers may not unreasonably discriminate in transmitting lawful network traffic.
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