Network Neutrality
Implications for Europe

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What is Net Neutrality all About?

Possible Understandings
- "No censorship"
- "No arbitrary blocking" (DoS)
- "No discrimination"
- "No exclusion of devices"
- "No differentiation of bits" (dumb pipes)
- "No innovation in IP networks" (freeze the internet)

Existing Answers
- ✓ media law, constitutional law (free speech)
- ✓ competition law, Art. 5 EU Access Directive (any-to-any-principle)
- ✓ competition law, Art. 10 EU Access Dir. (non-discrimination)
- ✓ interoperability rules, e.g. Art. 7 R&TTE Dir. (CE-marking for terminal equipment)
- ✓ international standards (MPLS, IPv6 ... of IETF, ITU-T ...)
- ? Net Diversity approach (consumers’ choice)
Net Neutrality in the USA

2002  Nascent Services Doctrine by FCC Commissioner Abernathy: “Regulators should exercise restraint when faced with new technologies and services.”

2003  FCC starts **deregulation** of broadband markets by narrowing “open access” (common carriage) requirements for DSL facilities

2003  Prof Wu publishes paper on “Network Neutrality, Broadband Discrimination” and thereby starts a debate on **re-regulation**

2004  FCC Chairman Powell articulates non-binding “Four Freedoms” concept

2005  FCC investigates in alleged unjustified blocking of VoIP by Madison River Com., closed after settlement

2006  FCC approves AT&T/Bell South merger under condition of a net neutrality commitment limited to 2 years

2006+  Six different bills for some sort of net neutrality rules proposed
Regulation in Europe

1998  First Regulatory Framework on telecommunications
2002  New Regulatory Framework maintains strict ex-ante regulation plus
dogma of Technological Neutrality (extension to new technologies)
2003  Expansion of ex-ante regulation on mobile sector
2007  EU Commission’s infringement proceeding against German new market
       rule: “New market shall not in principle be subject to ex-ante regulation”
2007  EU Commission sets prices for international mobile roaming by
       “Regulation” outside the regulatory framework
2007  EU Commission proposes amendments to Regulatory Framework, e.g.
       additional separation remedy (segregation of SMP networks)
       plus authorization for imposing net neutrality obligations: ...
European Regulation of Minimum Quality?

- EU Commission’s proposal: “minimum quality of service”
  “In order to prevent degradation of service and slowing of traffic over networks, the Commission may, having consulted the Authority, adopt technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks.” –Art. 22 (3) Users’ Rights Directive

- What is a “minimum quality”?
- Will consumers benefit?
- Is more state control always better?

The East German experience of quality control by the state: a role model for European Internet regulation?

- EU proposal is going to become effective not before 2010
Customer Choice in Germany

Variety of broadband platforms with a quality policy of their own right

Household Coverage (%), September 2007

- 68% of Germans have a choice of at least 4 broadband offers with different quality features

Variety of super broadband (25+ Mbit/s) infrastructure

Various roll-outs
- 2005: Cable ops, regional 3-play offers
- 2006: Deutsche Telekom, FTTC in 50 cities
- 2006: NetCologne, FTTH in Cologne area
- 2007: M-Net, FTTH in Munich
- 2007: Arcor, FTTC in 50 cities
- 2008: Versatel, FTTC in large cities

Source: BMWi Breitbandatlas
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US Deregulation / EU Regulation and Investments

Telecom investments per capita (USD)

In 2006 and 2007, investment rates in the US are rising due to consistent deregulation.

USA: 193 USD per capita
EU-15: 128 USD per capita

*EU-15  Source: OECD (2007)