

# RESPONSE TO OFCOM DISCUSSION DOCUMENT TRAFFIC MANAGEMENT AND NET NEUTRALITY

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Cable&Wireless  
Worldwide

## SUMMARY STATEMENT

Net neutrality is presently being discussed throughout the world so Ofcom's own consultation is timely. Cable&Wireless Worldwide welcomes the opportunity to comment on Ofcom's discussion document.

Traffic management is an essential network management tool which is beneficial to end users. Deployment of traffic management techniques has enabled the existence of the variety of broadband packages (and pricing options).

Cable&Wireless Worldwide relies upon the ability to manage its network as it sees fit in order to bring to market economic and innovative service packages (eg the Demon Gamer offering offered by our THUS business). It is critical that the drive to ensure that consumers are not disadvantaged by perceived discriminatory practices on the part of ISPs does not inadvertently prevent legitimate use of traffic management, to the detriment of the market as a whole.

## RESPONSE TO QUESTIONS

i) How enduring do you think congestion problems are likely to be on different networks and for different players?

Today and in at least the near term it is a fact that at peak times there is insufficient bandwidth available to meet all users needs. Accordingly ISPs / network providers offer a range of broadband products allowing users to buy broadband services based on their actual requirements. Users that require high bandwidth and continuous availability have the option to buy a product that meets this need but which is also priced accordingly. Broadband services are commonly tiered and priced such that the price rises as the availability and capacity increases. The ability to offer this range of service (and tailoring of service to end user need and willingness to pay) relies upon the ISPs / network providers' traffic management tools.

Advances in network (including access) technologies will increase supply of bandwidth. However, history tells us that equally new applications will emerge to increase the demand for bandwidth: as such it would be foolish to predict a world where some form of traffic management isn't necessary to stave off congestion.

As networks are rolled out and capacity is expanded this investment of course needs to be recouped. An equitable way of recovering the cost of network upgrades and expansion needs to be found. The present method of charging by demand and usage offers a fair solution. Cable&Wireless WorldwideWorldwide itself is deploying a multi service next generation network. This is a single network over which many different services are carried. This network will service our enterprise customers and also our wholesale broadband customers. Consequently the cost of the network can be shared over an even greater number of services and customers, each receiving a service with characteristics (performance, price) matched to their requirements. Traffic management techniques are a prerequisite to allow multi service networks to function.

ii) What do you think are possible incentives for potentially unfair discrimination?

First we believe that discussion about discrimination should be delineated from differentiation of services among customers. As customer requirements vary, differentiation of services does not imply discrimination, rather differentiation is an effective means of maximising consumer value.

We agree with Ofcom that the potential for unfair discrimination can only exist in certain situations. Ofcom should focus attention on companies that meet this criteria:

1. ISP should have market power, absent this the presumption ought to be that no anti-competitive effects and consumer harm will arise;
2. The ISP would be vertically integrated with content provision and therefore be able to exert discriminatory behaviour.

ISPs whose operations fall outside these risk areas ought to be regarded to be governed by consumer switching behaviour.

iii) Can you provide any evidence of economic and or consumer value generated by traffic management?

Traffic management is a necessary tool to

a. comply with SLAs agreed upon in contracts with customers, which is today's practice for business customer services

b. operate networks efficiently as capacity in access networks is a scarce resource and needs to be priced effectively. Given that demand for traffic conveyance is heterogeneous (as different applications have different needs in terms of throughputs and bandwidth, and as different users have different sensitivities on the service provided) traffic management is inherently necessary for an efficient use of networks.

iv) Conversely, do you think that unconstrained traffic management has the potential for (or is already causing) consumer/citizen harm? Please include any relevant evidence.

We believe that traffic management is fundamental to effective and efficient network management. While unconstrained traffic management has the potential to cause harm, the competitive nature of the market provides the constraint that ISPs are motivated to implement reasonable policies and be open about what these are. The key question is whether the market alone is sufficient to ensure this happens, or whether regulation to ensure publication of policies is appropriate.

v) Can you provide any evidence that allowing traffic management has a negative impact on innovation?

Far from having a negative impact, we believe that traffic management can have a positive impact on innovation. There are many potential applications to which traffic management can be applied. We believe that network operators can deploy these techniques to enhance their end user experience. Evidence<sup>1</sup> suggests that end users are suspicious of many traffic management

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<sup>1</sup> Such as online campaigns etc

techniques. ISPs (who will want to retain a good relationship with their customers) may well need to reconsider the manner in which they deploy such techniques and whether and when customers are informed. Traffic management is at the most basic level essential to ensure harmony within the network and the basic movement of traffic around the network in the most appropriate method. Subsequently it is essential to meeting the service requirements of the service bought. Ultimately by allowing the ISP to understand user preferences it can be used to improve the customer experience by enabling end users to access sites they favour quickly and consistently.

vi) Ofcom's preliminary view is that there is currently insufficient evidence to justify ex ante regulation to prohibit certain forms of traffic management. Are you aware of evidence that supports or contradicts this view?

We agree with Ofcom.

vii) Ofcom's preliminary view is that more should be done to increase consumer transparency around traffic management. Do you think doing so would sufficiently address any potential concerns and why?

We agree that greater transparency/education for consumers will help to address concerns. We note that as well as fair usage policies ISPs are increasingly publishing traffic management policies. As public debate on this subject continues a beneficial fallout is the education of the wider population about these techniques and a greater understanding of what the packages ISPs offer mean in real life usage terms.

However, Cable&Wireless Worldwide's experience from its business customer operations is that we deal with highly informed customers. Business customers discuss these matters at length during contract negotiations. It is clear from these negotiations that these customers comprehend traffic management techniques and tend themselves to impose certain SLA requirements for the service they purchase.

viii) Are you aware of any evidence that sheds light on peoples' ability to understand and act upon information they are given regarding traffic management?

We believe that our business customers are sophisticated purchasers who are able to fully comprehend and act upon such information.

Consumers are learning about the use of traffic management. The global debate around these matters will hopefully clarify the benefits and also outline when practices are undesirable. Our Demon service has undergone (false) press speculation that we were not being net neutral. Whereas our purpose was to bring to market a business grade low latency product to meet a niche gaming market need.

ix) How can information on traffic management be presented so that it is accessible and meaningful to consumers, both in understanding any restrictions on their existing offering, and in choosing between rival offerings? Can you give examples of useful approaches to informing consumers about complex issues, including from other sectors?

End users need to be informed that there are a number of factors that affect the service that they are purchasing. The headline speed is one of the factors. In addition peak hour availability is an additional important factor. We believe that market led initiatives will result in consumer education around these points. We note that both the BSG and ISPA are looking at whether there is a need for a best practice on transparency. We will work with these organisations as this workstream develops.

x) How can compliance with transparency obligations best be verified?

We believe that the key issues with transparency are that a) end users can easily find information about their ISPs traffic management policies, b) the policies are clear to the end user ie that they understand the implications for their service package and c) that the policy is accurate and reflects actual practice. It is difficult to see how compliance can be genuinely verified, our initial reaction is that customers will “vote with their feet”, however if a formal mechanism is required we would suggest Mystery Shopping for spot checks.

xi) Under what circumstances do you think the imposition of a minimum quality of service would be appropriate and why?

We believe that it is not desirable for Regulators to impose minimum quality of service obligations (QoS). Retail broadband provision is a competitive market. QoS obligations risk the removal / withdrawal of certain consumer packages (in particular at the lower end), risks a limitation of competition on the variety of service schedules. Ofcom would need to first assure itself that such a measure would not be detrimental to some or all users due to the additional costs incurred in meeting such a requirement. We believe that competition will bring about the best results for end users driving down prices and improving what is provided at a given price.