Consumer research into the transparency of traffic management information provided by ISPs

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Introduction

1. In March 2011 the Broadband Stakeholder Group (BSG) introduced the *Traffic Management Transparency Code* to help improve the information available to consumers about internet service providers (ISP) traffic management policies. [1] The Code set out a framework by which major ISPs agreed to provide meaningful, useful and comparable information for consumers about their traffic management policies through published 'key factor indicator' (KFI) tables. All of the major fixed and mobile ISPs became signatories to the Code.[2]

2. Ofcom believes that information on traffic management policy and practices is important for consumers when choosing their internet service, and it is therefore also important that the BSG's *Traffic Management Transparency Code* works effectively for consumers. We commissioned new consumer research to understand how consumers are buying (and using) mobile and fixed broadband services, and their knowledge of traffic management polices within this context.

Background

3. The growth in the use of the internet has created a significant challenge for ISPs who must consider how best to meet this ever increasing demand. They can respond by investing in additional capacity on their networks, however this can take time to implement and can be both economically and technically challenging. This means that ISPs may seek to actively manage how their existing capacity is divided amongst their customers. Such activity is undertaken by ISPs using 'traffic management' tools.

4. Ofcom's current approach to traffic management recognises that some forms of traffic management may be necessary to reduce network congestion and can benefit internet consumers by improving the quality of their internet experience.[3] The issue is not whether traffic management is acceptable in principle, but whether particular approaches to traffic management cause concern. For example, managing peak congestion by prioritising the transmission of time-sensitive traffic (e.g. streaming, internet calls) before other types (e.g. emails, browsing) could be a reasonable and efficient manner of sharing limited bandwidth amongst internet users.

5. We believe that, in principle, competition is likely to be the most effective mechanism for incentivising ISPs to offer a positive experience online. It places commercial pressure

[1] http://www.broadbanduk.org/wp-content/uploads/2013/06/Voluntary-industry-code-of-practice-on-traffic-management-transparency-on-broadband-services-updated-version-May-2013-2.pdf
[2] http://www.broadbanduk.org/bsg-openinternettrafficmanagement/trafficmanagementkfis/
[3] http://stakeholders.ofcom.org.uk/binaries/consultations/net-neutrality/statement/statement.pdf

on ISPs to offer products that meet consumers' needs and given the UK internet market is a rapidly changing and dynamic one, intervention carries risks of unintended consequences. However, we recognise that the benefits of competition are likely to be diluted if consumers do not have access to sufficient information to make informed choices. Ofcom has therefore supported a self-regulatory approach which has focussed on ensuring consumers can access sufficient information on the internet traffic management policies offered by ISPs.

6. In March 2011 the BSG introduced the *Traffic Management Transparency Code* to help improve the level of transparency around their traffic management policies. [4] The Code set out a framework by which major ISPs agreed to provide meaningful, useful and comparable information for consumers about their traffic management policies through published 'key factor indicator' (KFI) tables. All of the major fixed and mobile ISPs became signatories to the Code.[5] We welcomed the Code's introduction in our November 2011 *Net Neutrality Statement* and noted that we would monitor its implementation.[6]

7. Outside of this Code we have consistently highlighted that the outright blocking of specific (legal) applications or traffic types would be highly undesirable and likely to lead to regulatory intervention. In the 2012 *Communications Infrastructure Report* we observed that two mobile ISPs in the UK restrict access to internet call applications (e.g. Skype) on some of their low value plans.[7] Whilst concerned about this practice we noted that it affected only a small subset of products available to consumers and, given the high level of choice and competition in that sector, further intervention would not have been proportionate at that stage.

8. In the last 12 months we have observed a significant amount of activity in relation to traffic management. A number of ISPs have altered the manner in which traffic management is presented to consumers on their websites and in advertising. Broadly these changes have meant that the quality and transparency of information consumers can access has improved. For example, changes include:
   - Increasing the prominence of traffic management information on ISP websites (e.g. referenced on the home page and/or at point-of-sale);
   - Including supporting text that introduces the KFI tables and explains the relevance of the ISPs traffic management policy; and
   - Referencing traffic management policies specifically in product marketing and brand advertising.

9. Also, the types of traffic management policies applied by ISPs have developed. A number of fixed ISPs now offer internet products that have no traffic management policy applied to them (even in peak periods). Other ISPs have refined their policies to focus on the

[4] http://www.broadbanduk.org/wp-content/uploads/2013/06/Voluntary-industry-code-of-practice-on-traffic-management-transparency-on-broadband-services-updated-version-May-2013-2.pdf
[5] http://www.broadbanduk.org/bsg-openinternettrafficmanagement/trafficmanagementkfis/
[6] http://stakeholders.ofcom.org.uk/binaries/consultations/net-neutrality/statement/statement.pdf
[7] http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/infrastructure-report/Infrastructure-report2012.pdf

prioritisation or slowing-down of certain activities (e.g. prioritising gaming or slowing down peer to peer filesharing). These changes illustrate that transparency in combination with competition and innovation are providing internet consumers with variation and choice.

10. Traffic management and net neutrality issues have also been discussed at the European level. Ofcom contributed to the December 2011 *Guidelines on Transparency in the Scope of Net Neutrality* produced by the Body of European Regulators for Electronic Communications (BEREC)[8]. The European Commission has also been looking at net neutrality, including reviewing transparency in traffic management and broadband speeds information. Ofcom responded to their consultation in October 2012 and set out our experiences of approaching these issues.[9] We expect that the Commission will cover these topics in its forthcoming Digital Single Market proposals due to be published in September 2013.

11. We also note that the Advertising Standards Agency (ASA) published a new 'Help Note' which provided guidance to ISPs on the use of the term 'unlimited' to describe internet products.[10]

New consumer research on broadband usage and traffic management

12. Around these market developments Ofcom is considering whether the BSG's *Traffic Management Transparency Code* is working effectively for consumers. As part of this review we commissioned new consumer research to understand how consumers are buying (and using) mobile and fixed broadband services, and their knowledge of traffic management polices within this context.[11]

13. In February 2013 we commissioned Kantar Media to undertake further consumer research that would seek to answer the following questions:
    - What factors drive consumers' broadband purchasing decisions?
    - What are consumer experiences of, and expectations for, their internet services?
    - What is the current level of awareness, and understanding of, traffic management and the KFIs?

14. The research included consumers from a mix of age groups, locations (rural/urban), internet usage behaviours (light/heavy users) and internet access types (mobile and/or fixed broadband).

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[8] http://berec.europa.eu/eng/document_register/subject_matter/berec/download/0/365-berec-guidelines-on-transparency-in-the-_0.pdf

[9] http://stakeholders.ofcom.org.uk/binaries/international/responses/Ofcom_response_to_European_1.pdf

[10] http://www.cap.org.uk/CAP-and-BCAP-Consultations/Closed-consultations/~/media/Files/CAP/CAP/Help%20Note%20on%20use%20of%20unlimited%20claims%20in%20telecommunications%20advertising%20(2).ashx

[11] Ofcom has a duty, under section 14 of the 2003 Communications Act, to conduct consumer research for ascertaining the experiences of consumers in relation to matters connected with their experiences of the provision of electronic communications networks and services.

15. The research demonstrated that most consumers have very little knowledge about how the internet works. This awareness gap means that consumers are also unfamiliar with issues such as traffic management, with only around 1 in 10 aware of the term. Furthermore, of the few consumers that were aware of the term and its meaning, less than one third of these were aware that traffic management processes were currently being applied by internet providers. Overall this suggests that most UK internet users do not necessarily understand the potential relevance of traffic management to their product choices.

16. The research also found, however, that the traffic management information provided by ISPs (KFIs and surrounding material) is broadly transparent. For example, 73% of consumers that were aware of their ISP's traffic management policy believed that the KFI information was easy to understand.

17. In addition the research identified a number of ways in which the quality of the existing KFI information could be further improved. In particular, consumers suggested that ISPs make the following adjustments:
    - Provide an introduction to the KFIs that summarises the relevance of the policy and outline how it affects the ISP's product set;
    - Ensure that technical terms are explained in clear and simple (non-technical) language;
    - Provide specific and meaningful measurement criteria for when high usage or 'fair usage' policies are applied (e.g. 'Hours' of streaming as opposed to 'MB');
    - Use clear symbols to designate 'yes', 'no' and 'not applicable' responses in the KFI tables.

Next Steps

18. In our view the research supports the position that the self-regulatory approach is, for the time being, providing consumers that are aware of their ISP's traffic management policy with transparent information.

19. It also identifies a suite of practical adjustments that could further improve the accessibility of the information and should be relatively straight forward for ISPs to implement. We believe that it is appropriate for the BSG, as the owner of the *Traffic Management Transparency Code,* to consider these and facilitate a positive response by its membership to these suggestions.

20. The research also identified, however, a significant lack of awareness by consumers of traffic management in general. This means that whilst improvements to the KFIs will help those consumers who are aware of traffic management and its meaning, the majority of consumers do not understand its importance and may be unlikely to consider it in their decision-making.

21. Ofcom will continue our engagement with stakeholders on the results of this research. In particular, we want to explore whether low awareness on traffic management is a

source of consumer harm. In this respect, whilst it is important that consumers who are affected by traffic management are able to access appropriate information about it, the direct online experience of many consumers might currently be unlikely to be affected by traffic management. This may however change in the future and Ofcom will keep the issue under review. We will also hold discussions with consumer representatives and industry to explore ways in which awareness could be improved where appropriate.

22. As part of our monitoring program we expect to include an update on ISP's traffic management policies in the 2013 edition of the *Communications Infrastructure Report*. Ofcom will also support BEREC to assess market and regulatory developments at the EU level.