

Representing:

Self

Organisation (if applicable):

What do you want Ofcom to keep confidential?:

Keep name confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

Yes

Additional comments:

Question 1: How enduring do you think congestion problems are likely to be on different networks and for different players?:

Wireless networks are inherently more limited in the bandwidth they can provide due to the usable spectrum being finite; unfortunately, innovation in wireless transmission technology can only help up to a point and the only other alternative (building more and more smaller cells) can only be taken so far. There are also differences between wired networks: cable is, again in principle, more limited than DSL due to its network topology: a single circuit is shared between multiple households, while the phone network, with its star topology, grants every user a dedicated link to the exchange. The current situation which sees cable faster than DSL by a hefty margin is merely the result of the incumbent DSL providers' unwillingness to invest in infrastructure (VDSL2 could provide up to 200Mbps of bandwidth per copper link in ideal conditions; even allowing for the poorer condition and greater distance from the exchange, on average, of UK lines, the attainable speed would, on average, be much higher than the ones provided right now).

Question 2: What do you think are possible incentives for potentially unfair discrimination?:

Allowing ISPs to offer value added service (such as voice over IP or video) over their networks, a mechanism commonly known as double/triple/quadruple play. If a network provider is also gaining revenue from ancillary services, it makes economic sense for it to favor them over the competition using its infrastructure, most notably by degrading competitors' performances. Allowing ISPs to do so also makes it harder for consumers to switch, as users need to return the equipment provided by the ISP needed for using the associated services (ISP router with phone jack or TV set top box, for example). Finally, such an arrangement shifts consumers' ISP selection process away from cost/connection quality consideration and towards what accessory services are offered, in the same way that most consumers choose their cellular carrier based on what phone they find most attractive.

Question 3: Can you provide any evidence of economic and or consumer value generated by traffic management? :

No. For users having legitimate needs to prioritize certain kinds of traffic over others, consumer-grade routers with Quality of Service (QoS) management capabilities have been available on the market for a number of years.

Question 4: Conversely, do you think that unconstrained traffic management has the potential for (or is already causing) consumer/citizen harm? Please include any relevant evidence. :

Yes: traffic management has the potential to prevent new business models and companies from reaching sustainability. Online businesses could have to negotiate deals with every single ISP used by their actual or anticipated userbase in order to offer an usable service. This would both increase online businesses' start-up costs so much that only a few and already entrenched entities could do so. Additionally, rampant traffic discrimination could spell an end to anything but the most mainstream-aimed services. Exploiting the "long tail" would no longer be possible: with very few customers on each ISP, paying for usable access each time would result in a net loss for the company; as such, the more niche services would simply be put out of business.

Question 5: Can you provide any evidence that allowing traffic management has a negative impact on innovation? :

Yes: BT has been known to throttle the BBC iPlayer (<http://news.bbc.co.uk/2/hi/technology/8077839.stm>), (http://www.bbc.co.uk/blogs/technology/2009/06/iplayerbbc_v_bt.html), just to cite one of the most high-profile cases. Luckily, such instances are still relatively rare as the current internet is still more or less "neutral", but this will change the second ISPs believe they can discriminate traffic based on its destination and get away with it.

Question 6: 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? :

Again, the lack of such evidence is due to the fact the internet has behaved more or less in a "neutral" way, with ISPs prioritizing traffic, at most, by protocol and not by origin or destination on the network, thus degrading all services of the same kind equally regardless of the company providing them (exception made, again, with the value-added services they provide on their own: why is a Skype call on average of worse quality than the ISP's own VIOP package?). Mandating neutrality ex-ante would codify current practices, for the most part, and prevent ISPs from becoming gatekeepers to the internet's content.

Question 7: 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?:

Increased transparency around traffic management is a good first step, however it wouldn't, on its own, be sufficient. First of all, consumers in some areas (particularly rural ones or those without ULL or cable as well as DSL access) have a limited selection of ISPs, all of which use the same infrastructure (BT's wholesale IP infrastructure) and have similar conditions (all of them prioritize traffic and have low monthly data transfer caps): consumer awareness is useless without meaningful competition.

Question 8: Are you aware of any evidence that sheds light on peoples' ability to understand and act upon information they are given regarding traffic management?:

No.

Question 9: 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?:

It should be featured prominently on the marketing material and not allowed to be hidden behind asterisks or phrases like "acceptable use policy applies" (with the full aup buried in the bowels of the marketing material/website and printed in extra small fonts). Operstors should not be allowed to use terms like "unlimited" when they are not, in fact, offering unlimited service.

Other than this, a public centralized database detailing the priority treatment of each protocol/application (ex. Skype, SIP, SMTP...) across different carriers to be kept updated by the carriers themselves would help consumers have a centralized source for making informed decisions.

Question 10: How can compliance with transparency obligations best be verified?:

Service providers' actions should be monitored by an independent party with significant public participation; said party should have the power to levy fines against ISPs not complying with transparency requirement.

Question 11: Under what circumstances do you think the imposition of a minimum quality of service would be appropriate and why? :

Under all circumstances, it would be a guideline to consumers about what to expect from the network in the worst possible circumstances. If the network performed worse than the minimum quality of service, consumers should be entitled to reimbursement from the operator and the operator should be fined.