



# Net Neutrality, OTTs and Charging

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# The regulatory framework

'Net neutrality' is the principle that users of the internet (consumers and content and application providers (CAPs)) should be in control of what they see and do online, rather than the internet service providers (ISPs) that connect them.

- The rules are aimed at protecting the open internet. **The Open Internet Access Regulations** came into force in the EU in April 2016. Following the UK's departure from the EU, the rules were retained in UK law with minor amendments.
- The rules constrain the activities of ISPs when providing internet access services:
  - ISPs must **treat all traffic equally**, but they can use traffic management when certain conditions are met;
  - ISPs cannot **enter into agreements or engage in commercial practices which limit end-users' rights** to access and distribute the content of their choosing;
  - ISPs must allow end-users to **use the terminal equipment of their choice**; and
  - ISPs must **be transparent with end-users** about the service they receive.
- ISPs can offer services outside the rules that require optimisation, known as '**specialised services**', as long as certain conditions are met.

# Our 2023 review

## Why did we review?

- Since the rules were introduced, **there has been significant evolution in the internet ecosystem**:
  - Traffic volumes have increased significantly.
  - Several large content providers have emerged or grown in scale.
  - New and evolving technologies are being developed which touch the internet (e.g. the Internet of Things, 5G, VoIP, cloud computing, CDNs).
- There have also been **international developments** that made our review timely:
  - Following Brexit, there was an opportunity to depart from BEREC's guidance and set our own interpretation of the rules.
  - There is a lively international debate about the future of net neutrality and the related issue of ISPs charging OTTs.

## What were the objectives of the review?

- We wanted to enable innovation and growth by OTTs, and to support innovation and investment for ISPs. We believe that consumers will benefit from all providers innovating and delivering services that meet their needs.
- Our review focused on three core objectives:
  - I. **Safeguarding citizens' and consumers' access to an open internet.**
  - II. **Safeguarding the open internet as an engine for innovation.**
  - III. **Safeguarding well-run, efficient and robust networks.**

## Outcomes

- We published [our statement and updated guidance](#) in October 2023.
- We are continuing to issue our annual monitoring reports, most recently in January 2025.

# Updated guidance to provide greater clarity

- In general, we found the net neutrality framework has worked well. It has supported consumer choice and OTTs to deliver their content and services to consumers. However, we concluded we should provide greater clarity on several issues, to ensure the regime encourages pro-consumer innovation and investment. We updated our guidance accordingly:
  - **Retail offers** – We clarified ISPs can provide retail packages with different quality of service levels. This includes premium quality packages with, for example, priority coverage or guaranteed levels of latency, jitter or packet loss. But all traffic within a package must be treated equally and ISPs must be transparent to consumers.
  - **Traffic management** – Recognising traffic management can support network efficiency, ISPs can manage traffic on their networks to ensure a good quality of service for all. In treating different types of traffic differently, this should reflect the characteristics of the traffic and ISPs must be able to correctly identify the vast majority of traffic on their network.
  - **Specialised services** – ISPs can provide ‘specialised services’ for content and services that require optimisation and cannot be delivered over their internet access service. While ISPs should be able to demonstrate the need for optimisation, we will be mindful of the uncertainty in minimum network requirements for new services, and will take account of the potential benefits of innovation when considering if we are concerned.
  - **Zero-rating offers** – ISPs can provide most zero-rating offers. We will take a case-by-case approach to assessing zero-rating offers and will only consider taking enforcement actions where we are concerned that consumer choice is materially reduced.
  - **Other changes** – We also adopted a pragmatic approach to enforcement on topics including WiFi in public spaces and on public transport, ISPs offering parental controls or content filters, ISPs blocking scams or harmful content, and prioritising emergency communications.
- We expect these changes should allow ISPs to innovate and manage their networks more efficiently, to the ultimate benefit of consumers.

# We did not see evidence to justify a regulatory charging regime in the UK

Under the rules, ISPs are not explicitly forbidden from charging OTTs for carrying their traffic to end-users, but the rules prohibit them from making decisions about traffic delivery on a commercial basis, effectively restricting their ability to charge. Any legislative change to allow charging would be a matter for Government.

- ISPs told us that the inability to charge OTTs leads to inefficient traffic delivery and limits their ability to invest in their networks. We considered whether there could be benefits to charging regime from this perspective, both in principle and in practice.
  - We did not consider if it would meet broader policy aims, such as contributing to network roll out (the ‘fair-share’ debate).
  - Interconnection and on-network CDN hosting are outside the net neutrality regulations, and ISPs are not restricted from reaching commercial agreements with OTTs or other businesses on these arrangements.
- **Overall, we concluded the evidence was insufficient to support the case for a charging regime at this time.**
- While a charging regime could in principle sharpen incentives for content providers to deliver traffic more efficiently, we found that:
  - many content providers value the quality of service experienced by their customers and take steps to ensure this (e.g. CDNs);
  - some content providers work collaboratively with ISPs to manage expected peaks caused by their content; and
  - there could be practical challenges to implementation, including difficulties with commercial negotiation which might require regulatory intervention.