

Dear Commission President, Dear Vice Presidents, Dear Commissioners,

The undersigned civil society organisations would like to express their deep concern about the Commission's intention to proceed with its plans for a network fee, requiring content providers to pay a fee to telecommunication operators. The proposed model to achieve this is "Sending-Party-Network-Pays" (SPNP).

Back in June, 34 global civil society organisations raised their [concerns](#) to Commissioners Breton and Vestager about the way the SPNP model would drastically change the open and interoperable Internet. "Charging Content and Application Providers for the use of Internet infrastructure would undermine core network neutrality protections in the European Union, rivalling the Trump administration's attempt to eliminate net neutrality protections in the US", they said at the time. We note that the reflections by the European Commission are still ongoing, but unfortunately it appears that none of the concerns we raised in this previous letter have been addressed by the formal response dated 7 December 2022.

Today, we feel compelled to write to you again because our concerns continue to be present. The reality is that the SPNP model will cause significant disruption in the functioning of the digital single market, raising important issues of competition, consumer protection, connectivity, freedom of speech and trade. And, we are not the only ones concerned about this. The European Consumer Organisation (BEUC) has [noted](#) that for consumers "establishing measures such as the SPNP system would range from potential distortion of competition on the telecom market [...] to the potential impacts on net neutrality, which could undermine the open and free access to the Internet as consumers know it today".

Similarly, the Body of European Regulators for Electronic Communications (BEREC), in its preliminary assessment of the SPNP model, [concluded](#) that the Internet "has proven its ability to self-adapt to changing conditions" and that economic claims about cost of traffic can't be substantiated as "there is no evidence of 'free riding'". Furthermore, BEREC warns about an exploitation of the ISPs termination monopoly over their customers and that such proposals "could be of significant harm to the internet ecosystem"

Additionally, an SPNP regime targeting certain services would cause serious trade issues, since it can be seen as a violation of the World Trade Organisation's (WTO) [Annex on Telecoms Services](#), given that the effect of the law may end up discriminating against the content of smaller players. This could jeopardise Europe's global standing as a reliable trading partner, while, at the same time, provide the incentives to less democratic governments to use the same model to pursue undemocratic policy objectives.

Finally, we have been hearing loud voices that the SPNP model is not about net neutrality. First of all, when the SPNP model was first introduced in 2012, it was rejected on the basis of net neutrality arguments. Nothing has changed since then, either for the SPNP model or for net neutrality. More fundamentally, though, at the heart of network neutrality lies the effort to prevent ISPs from discriminating against lawful content. No matter how hard telecommunication providers may claim that they will not do that, they've been conspicuously silent when asked how they will deal with disobedient content providers.

We also would like to point out that according to the EU Commission's better regulation guidelines, political decisions should be prepared in an open and transparent manner, informed by the best available evidence and involving all relevant stakeholders.

This also means that conversations about how each player contributes to the development of the open Internet should be factual and objective. . However, , the current debate is highly politicised and, for the time being, lacks substantial analysis and public participation. The Commission has not yet followed the principles for preparing new initiatives, such as impact assessments or a public consultation. There is not even a guiding anchor in the ongoing work program of the EU. Several of these procedural shortcomings were pointed out to the Commission in an [open letter by seven EU member states](#) and in [parliamentary questions](#). With no apparent failure of the inter-connection market, no [supportive arguments that hold up to scrutiny](#), and an increasing number of [stakeholders](#) coming out against a proposal, regulatory intervention is not justified.

We therefore kindly request that you include civil society groups and other stakeholders in the development of potential legislation, as well as a public commitment to due diligence in EU legislation.

Sincerely yours,  
Epicenter.works (Austrian)  
Electronic Frontier Foundation (USA)  
European Digital Rights (European)  
Access Now (Global)  
Chaos Computer Club e.V. (Germany)  
La Quadrature du Net (France)  
Homo Digitalis (Greece)  
CitizenD - Državljan D (Slovenia)  
ApTI - Association for Technology and Internet (Romania)  
Digitalcourage e.V (Germany)  
IT-Pol IT-Politisk Forening (Denmark)  
Digitale Gesellschaft Schweiz (Switzerland)  
Electronic Frontier Norway (Norway)  
D3 Defesa dos Direitos Digitais (Portugal)  
Aquilenet (France)