



**European Commission**  
**Mr Pearse O'Donohue**  
**Cabinet of Vice-President Neelie Kroes**  
per e-mail: [pearse.o'donohue@ec.europa.eu](mailto:pearse.o'donohue@ec.europa.eu)

**Re**  
European Commission proposal on net neutrality

**Amsterdam**  
13 September 2013

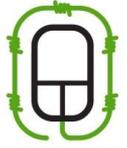
Dear Mr O'Donohue,

We are very concerned about the net neutrality provisions in the draft Regulation. Our meeting of 12 September could not allay our concerns.

Firstly, during the meeting we expressed our concerns regarding the prominent role for 'specialized services' in the draft Regulation. We used the example of a 'Facebook only' mobile subscription as an undesirable service that could be offered to consumers under the draft. We explained the reasons behind this specific concern and asked you to confirm whether or not such a service would be allowed under Article 23(2) of the draft proposal.

We were disappointed that you could not exclude this possibility. This has increased our concerns over the limited scope of the actual net neutrality provision in Article 23(5). Furthermore, the requirement that impairment of the general quality of internet access services should be "substantial", although deleted in the final proposal of Article 23(2), is still present in recital 50 of the proposal, thus further confirming the concerns we shared with you during our meeting.

Secondly, we asked you whether you could confirm the guarantee by your colleague Mr. Heath, via Twitter on 11 September as well as in person prior to our meeting, that the Dutch net neutrality law can remain in place as is, if the draft were to be adopted unamended. When asked for such a confirmation, you noted that Mr. Heath, an official EU spokesperson, merely 'talks to journalists',



suggesting that his statements are not to be taken seriously. You also claimed that it was impossible for the Commission to issue a binding statement on this matter.

We were shocked to learn that promises issued to the press and the general public by a spokesperson on behalf of the Commission on this matter are apparently deemed worthless by you. We hereby kindly ask the European Commission to confirm in writing that it considers Dutch net neutrality law to be compatible with the current draft proposal, thus guaranteeing that it will not initiate infringement proceedings against the Netherlands in relation to this law.

Another issue, which we sadly did not have time to discuss, is Article 23(5)(a) of the draft proposal, which mentions the prevention or impediment of serious crimes as a ground for applying traffic management measures. This addition is already worrisome in itself, as it may have grave consequences for freedom of expression online. However, Dutch net neutrality law does not recognize crime prevention as a reason to restrict internet traffic. We would therefore appreciate if the Commission's statement regarding the compatibility of Dutch net neutrality law is extended to include this specific paragraph.

Finally, as regards the tone of the meeting, in response to our sincere concerns, you acted in a rude and condescending manner. We trust you will provide us with a more constructive response in writing.

We look forward to your swift reply. We will publish this letter and your response on our website.

Regards,

Janneke Slöetjes  
Ot van Daalen

Cc Dutch Ministry of Economic Affairs