

European Commission's consultation -  
"The future of the electronic communications sector and its  
infrastructure"



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# Background

The consultation is a response to calls from large telecom operators to have content providers such as Meta, Netflix, and Alphabet make a “fair contribution” to the operator’s investments in new infrastructure, such as 5G. The logic goes, since a large portion of traffic on telecom networks is “generated” by these content providers, they should also contribute to investments in infrastructure.

The Internet Society and other stakeholders are deeply concerned about such rules (including BEREC and many national governments). We see the premise of a regulatory intervention as fundamentally flawed and that the new rules would be detrimental to the global Internet and its users.

The European Commission will use the results of the consultation to determine the next steps and if there is a need to proposed new rules.



# ISOC's general concerns

We think that the rules being proposed corresponds to a “sender pays” settlement model, directly threatens net neutrality, and risks a global Internet fragmentation.

We have already observed similar rules in South Korea (see ISOC's Internet Impact Brief on this topic), which have had detrimental effects for the open Internet.

We are also deeply concerned about this debate in the EU inspiring similar discussions in other parts of the world, which is why a strong response to the current consultation is especially important.

## Other countries discussing this topic:

- South Korea (partially in force)
- India (consultation planned)
- Taiwan
- Australia
- Vietnam
- Cambodia
- Bangladesh



# About the consultation

Deadline: 19 May

## What does the consultation ask about?

The consultation consists of 4 sections, and the majority of the questions are directed to telecom operators or online services. The key issues of concern are in “Section 4. Fair contribution by all digital players”, but other sections may also be relevant to comment on.

## How can you contribute?

As respondents we are invited to either respond directly to the questionnaire OR submit a written submission.

ISOC will send a written submission and respond in reference to the different sections and specific questions. We will also include general comments about the questionnaire’s utility, and what we perceive as highly biased questions.



# Summary of Questionnaire

Section 1. "Technological and market developments: impacts on future networks and business models for electronic communications"

Section 2. "Fairness for consumers"

Section 3. "Barriers to the Single Market"

Section 4. "Fair contribution by all digital players"



## Our key concerns:

Q 54.: “[...]. Some stakeholders have suggested a mandatory mechanism of direct payments from CAPs/LTEs to contribute to finance network deployment. Do you support such suggestion and if so why? If no, why not?”

- Corresponds to a “sender pays” settlement model, which is incompatible with the Internet Way of Networking.
- Direct violation of net neutrality rules
- Creates Internet fragmentation by premising reachability on prior contracting
- Distorts voluntary and efficient interconnections
- Distorts existing markets and competition amongst ISPs
- No benefits to consumers

Q 60.: “[...]. To achieve this, some stakeholders have suggested to introduce a mechanism consisting of a EU/national digital contribution or fund. Do you support such suggestion and if so why? If no, why not?”

- If the obligation is based on traffic volumes the solution is still an indirect mechanism for “sender pays”
- Risks Internet fragmentation if content providers opt-out from EU region.
- Distorts voluntary and efficient interconnections
- Distorts existing markets and competition amongst ISPs
- No benefits to consumers



# High-level outline of our contribution:

- **Flawed premise and the absence of a problem**
  - Fundamentally flawed framing by describing online services as “traffic generators”. It is users, paying their Internet Service Provider (ISP) for access to the Internet, that drive the traffic from these online services - not the other way round.
  - There is no evidence of a market failure or other problem that would require a regulatory intervention. (see e.g. BEREC’s preliminary assessment, and statements by the Netherlands)
- **The questionnaire is highly biased and many of the results will not be useful.**
  - **Examples bias:** If you say “No” on Q54 you have 1000 words to respond. If you say “Yes”, in favour of new rules, you can outline your argument in 4000 words.
  - **Examples lack of usefulness:**
- **The proposed solutions (Q54 and Q60) would be detrimental to an open and globally connected Internet**
  - See previous slide



If you don't want to respond to the consultation – why?



## Useful links:

Link to the consultation: <https://digital-strategy.ec.europa.eu/en/consultations/future-electronic-communications-sector-and-its-infrastructure>

### ISOC material on the topic:

- “In One Corner, Large Telecom Operators. In the Other, Everybody Else” : [\(includes links to statements by other stakeholders\)](https://www.internetsociety.org/blog/2023/02/in-one-corner-large-telecom-operators-in-the-other-everybody-else/)  
<https://www.internetsociety.org/blog/2023/02/in-one-corner-large-telecom-operators-in-the-other-everybody-else/>
- “Sender Pays: What Lessons European Policy Makers Should Take From The Case of South Korea”  
<https://www.internetsociety.org/blog/2022/09/sender-pays-what-lessons-european-policy-makers-should-take-from-south-korea/>
- “Internet Impact Brief: South Korea’s Interconnection Rules”  
<https://www.internetsociety.org/resources/doc/2022/internet-impact-brief-south-koreas-interconnection-rules/>
- “Old Rules in New Regulations – Why “Sender Pays” Is a Direct Threat to the Internet”  
<https://www.internetsociety.org/blog/2022/05/old-rules-in-new-regulations-why-sender-pays-is-a-direct-threat-to-the-internet/>

### Body of European Regulators (BEREC) preliminary assessment

<https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-preliminary-assessment-of-the-underlying-assumptions-of-payments-from-large-caps-to-isps>

### Netherlands (“Plans for charging Internet toll by large telecom companies feared to have major impact on European consumers and businesses”)

<https://www.rijksoverheid.nl/documenten/publicaties/2023/02/27/plans-for-charging-internet-toll-by-large-telecom-companies-feared-to-have-major-impact-on-european-consumers-and-businesses>

