

Open internet access

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In line with Regulation (EU) 2015/2120 laying down measures concerning open internet access and retail charges for regulated intra-EU communications, the Commission presents a report on the implementation of the Regulation.

In particular, it assesses its implementation since it entered into force and compares the state of play regarding access to the open internet in the Union today, including in the light of market and technological developments, against the situation that existed before the regulation became applicable.

The Commission's assessment shows the objectives of the Regulation remain as relevant today as when they were first adopted and are not contested: there is broad consensus that consumers and businesses should have a right to access an open internet. It helps them to acquire information, communicate, innovate and compete in the global digital economy and is an increasingly important means for citizens to participate fully in society.

Implementation of the Regulation after December 2016

The supervision and enforcement of the Regulation is still comparatively recent and work in progress. A number of investigations by individual national regulatory authorities into certain topics are under way. Yet, the implementation has been consistent throughout the Union. The issues that have arisen were mainly transparency (contract information), zero-rating and traffic management measures. National regulatory authorities are addressing them in a coordinating manner. Indeed, within BEREC they established a working group to exchange practises and strive to maintain consistency in their application of the regulation. This coordination process led the decision-making in the Member States to converge widely.

Sanctions

Sanctions differ widely between Member States. For example, in some Member States, penalties are linked to a company's turnover, others have a fixed maximum amount and some have a combination of the two. For similar violations, the fixed maximum amounts range from around EUR 15 000 to EUR 3 million and turn-over related maximum fines range from 0.5 % to 10 %. The type of penalties imposed (fines and/or periodic penalty payments with or without the possibility to impose other sanctions such as suspension of activities) also differ between Member States.

Only very few penalties have been imposed to date and all of them were well below the applicable maximum.

Since effective, dissuasive and proportionate sanctions are crucial for the correct implementation of the regulation, the Commission is monitoring the implementation of this provision in the Member States.

Conclusion

The report concludes that compared with the situation in 2015, before the Regulation applied, end-users and content application providers express great satisfaction with today's state of affairs. Internet service providers also support the principles of an open internet and do not consider that it is necessary to amend these principles.

One of the Regulation's objectives was to support the internet as an engine of innovation. Today, digital businesses are clearly flourishing as evidenced by start-up clusters in very dynamic places across Europe. The emergence of these start-ups is, in part, thanks to their ease of access to their customers, which the Regulation supports.

From the assessment of the first two and a half years of implementation, the Commission concludes that the regulation's principles are appropriate in light of the development of the market and that they are effective in protecting the end-user and promoting the internet as an innovation engine.

Experience of how the Regulation is applied is still limited due to the relatively short time it has been in application. A further period of regulatory stability will enable regulators, stakeholders and end-users to become more familiar with its application. Such stability is ensured in the EU through directly applicable, principles-based legislation, supported by all relevant stakeholder communities, and underpinned by flexible mechanisms to ensure consistent decision-making at national level.

Therefore, the Commission concludes that it would not be appropriate to propose amendments to the Regulation at this stage.

The Commission shall continue to monitor developments in the market, in light of the developments in technology and services.

In particular, it shall work closely with BEREC, which is carrying out a coordination process that has successfully led Member States to converge their decision-making.