

## Response to CWG-Internet October 2016 Open Consultation Pirate Party International<sup>1</sup>

### Abstract

We are of the view that an enabling environment to promote access to the Internet must recognize that it is not tenable to continue to attempt to impose the traditional copyright regime on the Internet and that it is urgent to reform drastically the current copyright regime. An enabling environment to promote the quality of access to the Internet must include strong network neutrality regulations. An enabling environment to build confidence and security in the use of the Internet must include strong protection of privacy, compliance with the principles of necessity and proportionality, prohibition of mass surveillance, and no prohibitions on strong encryption.

### Background

On 18 February 2016 the Council Working Group decided that Open Consultations would be convened on the following topic<sup>2</sup>:

#### **Building an enabling environment for access to the Internet**

1. What are the elements of an enabling environment to promote Internet connectivity?
2. What are the elements of an enabling environment to promote an affordable Internet?
3. What are the elements of an enabling environment to promote the quality of access to the Internet?
4. What are the elements of an enabling environment to build confidence and security in the use of the Internet?
5. What is the role of Governments in building an enabling environment?

We associate with the comments made in a previous submission to this group by the Pirate Party of Switzerland, see:

<http://www.itu.int/en/council/cwg-internet/Pages/display-mar2014.aspx?ListItemID=42>

### Enabling environment to promote access

It is not tenable to continue to attempt to impose the traditional copyright regime on the new media such as the Internet. Various attempts to criminalize private copying and downloading must be abandoned.

The time has come to recognize that a new online copyright regime is an urgent necessity. Governments should adopt the specific measures that have been proposed by Pirate Party, see:

[http://www.copyrightreform.eu/sites/copyrightreform.eu/files/The\\_Case\\_for\\_Copyright\\_Reform.pdf](http://www.copyrightreform.eu/sites/copyrightreform.eu/files/The_Case_for_Copyright_Reform.pdf)

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<sup>1</sup> <http://pp-international.net/>

<sup>2</sup> See <http://www.itu.int/en/council/cwg-internet/Pages/consultation-feb2016.aspx>

## **Enabling environment to promote quality of access**

Network neutrality is a fundamental requirement. This can be achieved by implementing network neutrality regulation at the national level. There should be international agreements enshrining network neutrality.

Further, in many cases, infrastructure is a natural monopoly and its provision cannot be a competitive market. In such cases, infrastructure should be provided as a public good, preferably by functional separation of incumbent providers, see:

[http://berec.europa.eu/eng/document\\_register/subject\\_matter/berec/regulatory\\_best\\_practices/guidelines/195-berec-guidance-on-functional-separation-under-articles-13a-and-13b-of-the-revised-access-directive-and-national-experiences](http://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/195-berec-guidance-on-functional-separation-under-articles-13a-and-13b-of-the-revised-access-directive-and-national-experiences)

and in particular the annex that details the favourable experiences in some countries:  
[http://berec.europa.eu/doc/berec/bor\\_10\\_44\\_b.pdf](http://berec.europa.eu/doc/berec/bor_10_44_b.pdf)

## **Enabling environment to build confidence and security**

Privacy is a fundamental human right. Violations of online privacy rights are widespread and have negative effects, including on freedom of speech. It is imperative to strengthen protection against violations of online privacy, in particular by ensuring compliance with the necessary and proportionate principles outlined at:

<https://en.necessaryandproportionate.org/text>

National laws must be modified to ensure the protection of privacy of Internet communications and to limit government surveillance. No such surveillance should be conducted without specific authorization from an independent and impartial court and it must be necessary and proportionate.

States must respect the privacy rights of citizens of other states.

States must not prohibit the use of strong encryption, nor attempt to weaken encryption standards or to compromise them through backdoors or by obtaining keys or passwords through court orders or clandestine actions.

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