

# Kluwer Competition Law Blog

## Publication of BEREC guidelines on net neutrality

Francesco Maria Salerno (Cleary Gottlieb Steen & Hamilton LLP) · Thursday, September 1st, 2016

The EU umbrella group of telecoms regulators –BEREC- just published Guidelines on net neutrality. The Guidelines are designed to assist national regulatory authorities in enforcing the net neutrality provisions set out in a Regulation adopted last year (the Open Internet Regulation – No. 2015/2120).

The publication took place on August 30 in the afternoon with a web-streamed press debrief. Probably due to high attendance, at some point the streaming broke down. This is odd. BEREC could have applied for a online “fast lane”. Its own Guidelines include “linear broadcasting IPTV services” as a “typical example” of a service which could in principle qualify for guaranteed access (para. 113).

True, the net neutrality rules impose a number of requirements before fast lane treatment can be granted, among which probably the most important one is that there must be sufficient network capacity for everybody else. This provision is designed to avoid that fast lanes come at the expenses of other users.

This provision could also turn into an unintended incentive for additional investment in infrastructure: if providers want to offer fast lanes, but need to respect the sufficient capacity requirement, probably the best way forward is to add capacity. All in all, this would be a positive outcome for industry and consumers.

The Guidelines are available here: [http://berec.europa.eu/eng/document\\_register/subject\\_matter/berec/regulatory\\_best\\_practices/guidelines/6160-berec-guidelines-on-the-implementation-by-national-regulators-of-european-net-neutrality-rules](http://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/6160-berec-guidelines-on-the-implementation-by-national-regulators-of-european-net-neutrality-rules)

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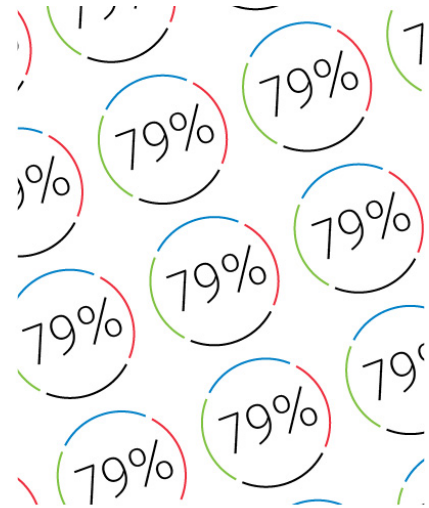
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