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CMBA

CreativeMediaBusinessAlliance

CMBA response to the EC consultation on “net neutrality” in Europe (September 2010)

The Creative and Media Business Alliance (CMBA) is an informal grouping gathering some of Europe’s top media and creative business and industry associations. It was launched in November 2004 to give the sector a strong and united voice at the level of the European Union. The companies we are representing invest efforts, time and resources in developing a wide range of broadcasting, music, film, book, magazine and newspaper offers, including on the Internet. We therefore appreciate the opportunity given by the European Commission to contribute to its “net neutrality” consultation.

The EU’s regulatory framework for electronic communications and services contains provisions on “Quality of Service” (QoS) in order to prevent the degradation of service and the hindering or slowing down of traffic over networks. It also aims to promote the ability of end-users to access and distribute information or run services and applications of their choice. The CMBA is supportive of the QoS requirements brought in by the 2009 Telecoms Package but wishes to emphasize a crucial point made in the EC’s consultation document (p.5 of the Questionnaire), namely that these requirements could and should only apply insofar as the content, services and applications in question are legal. In other words, illegal Internet traffic operators could under no circumstances demand or expect to be treated on a par with legal content and application services in terms of traffic differentiation. Indeed, calls for more “net neutrality” should under no circumstances be used as a shield providing immunity for illegal online behaviour.

Illegal and unauthorised content currently clogs broadband pipes and the CMBA submits that a reduction of illegal online activity would contribute both to an improvement in quality of service and gain clarity in identifying other sources of network congestion. The CMBA believes that a balance needs to be struck between legitimate traffic management practices aimed at ensuring QoS and tackling gangrenous elements of the net (e.g., illegal traffic), while at the same time allowing for innovation in services, enhanced quality and increased interactivity in full respect of competition rules.

As specifically mentioned in the EC’s questionnaire, ensuring a high level of QoS for users of electronic communications networks and services touches upon issues of great societal importance, which should be actively taken into account, such as the imperative to defend and promote freedom of expression, media pluralism and cultural diversity.