



# NET NEUTRALITY AND ACCESS TO INTERNET

ISTANBUL, TURKEY

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- Inclusive e-government/information society landscape (no citizen left behind)
  - Efficiency
  - Use new technologies to strengthen democracy and participation
  - Use new technology to support business and create new business opportunities
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- World Summit on the Information Society (Geneva 2003, Tunis 2005) recognised the right of everyone to benefit from the information society; reaffirmed the desire and commitment of participating states to build a people-centred, inclusive and development-oriented information society, fully respects **the Universal Declaration of Human Rights**, and the universality, indivisibility, interdependence and interrelation of all human rights and fundamental freedoms
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# Electronic communications regulation

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- Communications liberalisation and regulation (convergence of technologies) have led to changes in regulation
  - Technology neutral regulation: covers infrastructure, access, services, universal service obligation, etc.
  - In the process of constant change (internationally and nationally)
  - Debate about new concepts such as net neutrality
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- Access in the ICT (telecom) sense means that as many ICT services depend on a network all service providing entities (businesses) must have access on fair terms
  - Entities must be able to interconnect with one-another on fair and equal terms
  - *To ensure these issues is important for the regulator and there may be interference with the normal principles of the market*

## Basic Principles

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- Access also means that people as users (consumers, businesses, citizens) must have **real** access to the internet
- To ensure this is a practical as well as regulatory/legal question
- The economic, educational, geographic situation of the country must be considered
- Affordable price must be affordable in the country considered

# What is net neutrality?



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- ISPs are not allowed to restrict certain access to internet or provide access on different conditions for different uses
  - ISPs could potentially use the connection to individual users to differentiate between different uses and/or charge differently
  - This must be avoided through regulation (entailing a restriction to the totally free market)

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- ISPs could potentially restrict certain uses like internet telephony (games, peer-to-peer network, *or*
  - Differentiate between private and commercial uses/users of internet
  - This could be used for anti-competitive purposes and/or to stifle freedom of expression

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- [Federal Communications Commission](#) (FCC)  
Broadband Policy Statement
  - To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to:
    - access the lawful Internet content of their choice.
    - run applications and use services of their choice, subject to the needs of law enforcement.
    - connect their choice of legal devices that do not harm the network.
    - competition among network providers, application and service providers, and content providers.

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- The true value of the internet lies in the fact that it belongs to all of us, as a platform for free expression, for community, for business – it may even be our most valuable communal asset. For that reason the internet must be managed carefully, transparently and lightly.
  - Service transparency
  - Minimum quality requirements
  - Right to switch service providers

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- The risk of monopolisation
  - Access issues (essential facility) - Interoperability
  - Sharing of infrastructure and/or centralised systems
  - *The maximum competition* even if limited infrastructure (cf. telecommunications, utilities) – the role of the regulator, special obligations for operators in a dominant position (regardless of ownership)

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- Some standards for equipment are necessary to ensure interconnection and avoid harm
  - The standards should normally be set by the market participants
  - Oversight by the regulator is needed
  - The standards should be as „light“ and as global as possible to ensure a viable market

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- After liberalisation, when the state no longer operates and controls ICT: competition law and special issues of competition law such as rules for the market functioning for services of general economic interest are very important
  - Special regulation in addition to competition law and regulation

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- Because the market cannot function fully (limited infrastructure, undertakings with significant market power, networks, universal service) the regulator is involved in tariff setting:
  - Price-cap regulation: regulator sets price, if operators are efficient they get to keep profit
  - Rate of return regulation: guaranteed profits

# The importance of access: Regulatory tasks

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- **Securing network integrity and functioning:**
  - There must be access at all times and provisions must be made to deal with emergencies
- **Consumer issues (or together with special body)**
- **Limited resources (essential facilities):**
  - Frequency spectrum
  - Numbering plan, number portability
  - Infrastructure sharing

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- For individuals for both public and private services access is essential
  - The more e-governance there is, the more important it is that there is access to internet
  - Legal, regulatory and practical as well as educational issues should go hand in hand
  - Gradual transition to e-governance but not too slow, or the efficiency gains cannot be realised

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- Ability to use e-commerce also requires access to internet
  - Measures to encourage consumer confidence may be needed as well as consumer protection legislation
  - Some form of e-signatures must exist
  - Public procurement rules
  - The main aim of e-commerce rules is to ensure consumer protection also in electronic commercial activities
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- There must be a definition on what kind of services are covered by an e-commerce law as very many services may use internet but not all are such services as should be covered by the e-commerce law
  - The question of service providers (intermediaries) is important and needs regulation including related issues such as caching and hosting

# The Estonian example: The Tiger Leap

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- Independence of Estonia August 1991
  - The Tiger Leap Project started in 1996 to prioritise Information Technology:
    - Access to computers and internet
    - Computerising all schools
    - Public access to computers and internet
    - Legislation to bring in integrated databases (X-road) and the ID-card
    - Banks developed internet banking and e-signatures (first internet bank 1996)
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- 78 % of population are Internet users
- Over 700 Public Internet Access Points in Estonia, 51 per 100 000 people.
- The entire territory is covered by wi-fi
- More than 1 100 000 smart-card type ID-cards issued
- 94% (citizens) of tax declarations were e-declarations (2011), 97% businesses
- 1st place in Internet Banking (98% of transactions)

