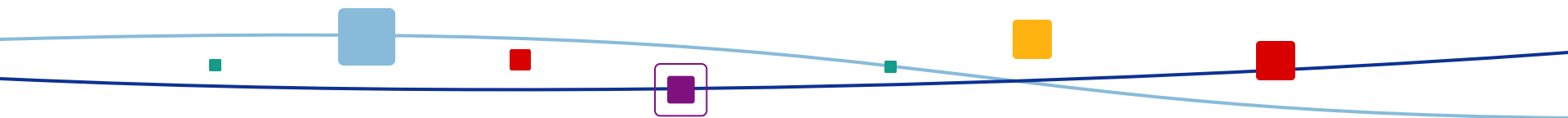


vivendi

Net neutrality, convergence and consumer protection
LatAm-EU Symposium on ICT Regulation

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NET NEUTRALITY

- BACKGROUND & KEY ISSUES -



Net neutrality: a debate originated in the United States...

The net neutrality issue was built and developed in the United States over 3 years ago by a coalition of Internet players, including Google, in response to a lack of competition on the broadband market owing to the quasi-monopoly of cable in the provision of internet access

October 2009: FCC proposal to introduce 2 new principles

- non-discrimination with regard to content (subject to lawfulness)
- transparency about network management practices for ISPs

In order to make these rules compulsory, the FCC anticipated their codification by Congress

April 2010, the US Court of Appeals for the DC Circuit stroke down a decision on the grounds that the FCC is incompetent to impose the theory of net neutrality on ISPs



...which has not yet taken the form of concrete regulations

In May 2010, in order to overcome the legal debate about its regulatory powers, the FCC proposed “third way” involving:

- Recognizing the transmission component of broadband access service—and only this component— as a telecommunications service – subject to regulation
- *De facto*, leaving other components of internet access services, and in particular, content, services and applications, outside the scope of regulation

In August 2010, Google and Verizon published a joint approach to net neutrality

- Recognizing the legitimacy for operators to be able to manage their network (*“Broadband Internet access service providers are permitted to engage in reasonable network management”*)
- Also recognizing that wireless broadband does not require the same treatment as wireline (*“only the transparency principle would apply to wireless broadband at this time”*)



A specific approach to net neutrality in Europe and in France

On wireline networks

- Unbundling obligations and the high level of investment by alternative operators have fostered active competition between ISPs, including in the local loop

These characteristics have translated into the development of triple play offers, whose monthly fees are among the lowest in the world

On wireless networks

- The fall in the price of 3G handsets means that broadband mobile internet access can be offered to almost all French and European population. In this respect, France is a country that has very good 3G coverage



Towards a new relationship between content / service providers and telecom operators ...

The US and European debate have contributed to identify three major issues:

The “limited” nature of (technology) resources, in particular bandwidth, especially for wireless due to the shared nature of the resource and the scarcity of frequencies;

The substantial cost for operators of upgrading the bandwidth capacity required for the transmission of data flows over networks ;

The importance of traffic management and of the distinction between the different kinds of flows, services or applications on the network according to their specific requirements (latency time, caching, speed, etc.)

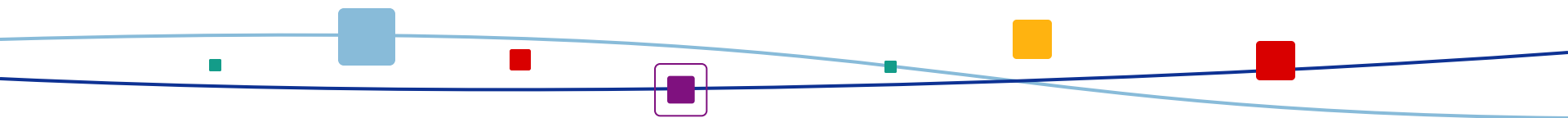


... based on the fact that traffic of data is dramatically growing

With the Internet's development, relationships have formed between local ISPs and global Internet players via data interconnection agreements (peering, transit agreements, etc.)

These network interconnections are mainly commercial agreements that fall outside any framework and operate in accordance with the logic of relative strength, which thus creates an imbalance benefiting global players

- **By way of an example: the traffic imbalances between ISPs and several content / service providers are significantly exceeding the levels of asymmetry allowed by peering agreements**
- **Currently, peering costs, and thus of access to users, are marginal for global streaming/downloading platforms**



NET NEUTRALITY

– VIVENDI GROUP POSITION –



Net neutrality is one of the main issues on the French and European regulatory agenda

1. **March 2010:** Vivendi's hearing before ARCEP
2. **July 2010:** Reply to the public consultation launched by ARCEP on the draft guidelines
3. **July 2010:** Report on net neutrality delivered to French MPs by the Minister for the Digital Economy
4. **September 30, 2010:** End of the public consultation on net neutrality launched by the Information Society and Media DG
5. **Sept-Oct 2010:** Disclosure of the final version of ARCEP's guidelines
6. **End of 2010 – beginning of 2011:** Possible Parliamentary initiative in France on net neutrality: via the transposition of the Telecoms Reform Package but also other draft bills



Vivendi group position relies on a balance...

Implementation of 3 key principles

- Universal access to legal content
- Transparency with respect to content / service providers and consumers, based on well-defined levels of services
- Non-discrimination between content / service providers



... between telecom operators, consumers and content / service providers...

By means of leverage applied in three areas

- ➔ The creation of an upstream market for quality of service and bandwidth, in order to encourage, in particular, more efficient management of resources: ***commitment from ISPs to publish a catalogue of proposed services and associated prices***
- ➔ Rigorous transparency in contracts with content/service providers and consumers regarding traffic management, ***framed by some principles contained in the directives included in Telecoms Reform Package***
- ➔ Disclosure of general guidelines by regulatory authorities (resulting in soft regulation)
In France, the law (transposition of Telecom Package) would grant ARCEP a new role in the settlement of potential disputes between ISPs and content/service providers



...and on the implementation of measures against piracy

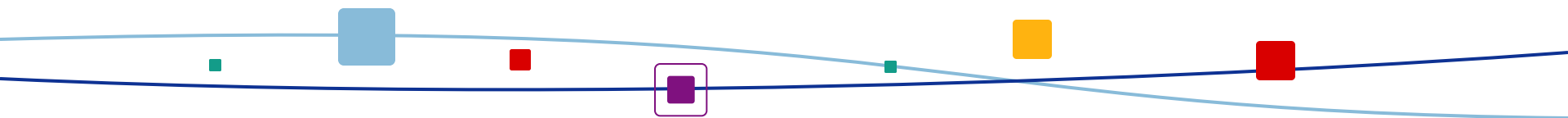
The distinction between legal and illegal content is essential

Hadopi, the new regulatory body in France, has a key role to play in order to help consumers identify legal vs. illegal sites and deter illegal downloading and file sharing

Filtering is an increasingly important tool to enhance the value of networks and content

Until recently, P2P traffic – with the illegal sharing of files protected by copyright – used to amount to 70% of operators' bandwidth. It is gradually being replaced by flows associated with streaming and direct downloads, which are also generated in large part by illegal sites

Article L. 336-2 of the Intellectual Property Code (cf. Appendix) provides an appropriate and balanced framework that guarantees compliance with stakeholders' rights and allows cease and desist actions against illegal sites in a judicial framework (even if they are located abroad)



NET NEUTRALITY

– APPENDIX –

Intellectual Property Code

Art. L. 336-2

In the event of an infringement of copyright or of a neighboring right occasioned by the content of a public online communication service, the High Court may decide the case in summary proceedings and may, on the application of the rights holders in respect of the protected works and objects, of their assignees, of the rights collection societies referred to in Article L. 321-1 or of the professional defense organizations referred to in Article L. 331-1, order any appropriate measures to prevent or put an end to that infringement of copyright or neighboring right, against any person capable of contributing to remedying that infringement.