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NET NEUTRALITY IN THE EUROPEAN UNION

European political forces have recently agreed on a possible introduction of the net neutrality principle in the European system; the European institutions will release a normative text on this matter. But what is net neutrality? And how can it influence EU's action?

di **Paola Labib**

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Raffaele Giaquinto

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Net neutrality is a topic that has recently ignited the international and European debate: a few months ago the United States, convincingly supported by President Obama, approved a new law about it.

European political forces have recently reached an agreement on net neutrality: the European institutions will release a normative text for such a complex topic.

But what is net neutrality exactly? Why is it at the centre of the political and legal debate? And how can such principle influence EU's action?

Various scholars, legal and IT experts have defined the neutrality principle differently; net neutrality has already been approved in many organisations, characterising it in different ways.

Despite not existing only one definition of net neutrality, **a network is generally considered neutral when its contents are accessible to all users.**

The Federal Communications Commission (FCC) has recently introduced a normative proposal, later approved by USA Parliament, in which Internet access without any restriction is classified as a **public utility service**; as a result, the biggest American telecommunication companies will not be able to work without taking public interest into account.

In spite of never giving a legal definition of net neutrality, the EU had already discussed this topic in the European Commission Communication "The open Internet and net neutrality in Europe" (Comm. 2011/22), confirming the value of such principle and offering to regulate it. The agreement made between European political forces lays down that telecommunications workers **may not block access to the Internet (no blocking), slow it down nor make it difficult (no throttling), nor favour some traffic over other traffic, especially if prepaid.**

There are still various doubts, which will be solved after approving the normative text on net neutrality: the agreement lays down different waivers for such principle.

As a matter of fact, telecommunications workers may not apply the net neutrality principle, thus acting with no limit to **prevent the spread of illegal contents and Internet congestion without altering the flow of data, as well as guaranteeing specialised services like telemedicine.**

Furthermore, not all workers' customs are laid down, e.g. the so-called "**rating zero**", which indicates the worker's decision to exclude the user's web surfing from those websites whose quantity is monthly foreseen by users' subscription. This leads to the promotion of surfing only particular websites.

As can be seen, net neutrality can influence EU's actions in different situations, such as freedom of thought and expression, as well as competition policy.

Net neutrality allows access to any website or information; how can such freedom be connected with freedom of thought established by art. 11 of EU Charter of Fundamental Rights, whose legal value is recognised by the Treaty on the Functioning of the European Union? It is also worth thinking about how this freedom of information can coexist with the right to privacy: which pieces of information can always be considered accessible and which cannot? Is the net neutrality principle ignored if some data are not spread?

It has already been noticed that applying the net neutrality principle can significantly affect the free market and the right of competition: the European Commission has recently accused Google of illegally abusing its dominance in the telecommunications market, in accordance with art. 102 TFEU.

It is assumed that Google gave the first positions to its services in the results of web research done by its users, thus infringing free competition.

A correct application of the net neutrality principle would have avoided this situation, also giving a single normative framework, as requested by art. 110 TFEU.

As can be seen, the net neutrality principle rises many questions; it will be EU's task to take this opportunity and make it count.
