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## **Outline of Proposal for Open Internet Rules**

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1. The rules should prohibit blocking of unaffiliated applications, content or services by network providers.
2. The rules should also prohibit discrimination.
3. The rules should allow those forms of Quality of Service (QoS) that are offered on a non-discriminatory basis, i.e. without regard to the identity of the sender or receiver, the specific application or content (e.g. Skype or Vonage), or the type of application or content (e.g. Internet telephony), and let the user choose whether and when to use QoS. (In the rules, this would be achieved through the definition of “discrimination.”)

I distinguish between two questions:

- (1) whether and under what conditions network providers should be allowed to provide QoS and
  - (2) if they are allowed to offer QoS, whether and whom they are allowed to charge for it (this question is addressed in section 5 below).
- a) Network neutrality rules should not prevent the evolution of the network’s core more than absolutely necessary to protect the values that network neutrality rules are designed to protect.
  - b) If a network provider decides to offer QoS, the different classes of service need to be made available on a non-discriminatory basis, i.e. without regard to the identity of the sender or receiver, the specific application or content (e.g. Skype or Vonage), or the type of application or content (e.g. Internet telephony).
  - c) If a network provider decides to offer QoS, the choice of whether and when to use QoS must be left to the user.
4. The rules should prohibit a network provider from charging application or content providers for the right to access the network provider’s Internet service customers (access charges).

5. The rules should prohibit network providers from charging application or content providers for enhanced or prioritized transport. Network providers should be allowed, however, to charge their own Internet service customers for the type of QoS described above.

6. Allowing network providers to charge their own Internet service customers creates an incentive to degrade the quality of the baseline service in order to motivate their customers to pay for higher levels of service. To mitigate this incentive, the rules should require the regulator to monitor the quality of the baseline service and allow the regulator to set minimum quality standards, if necessary.

#### 6. Reasonable network management

a) To qualify as “reasonable network management”, a network management practice needs to be as non-discriminatory as possible, i.e. needs to be applied without regard to the identity of the sender or receiver, the specific application or content (e.g. Skype or Vonage), or the type of application or content (e.g. Internet telephony).

b) Any mechanisms for prioritization or differential treatment must be made available on a non-discriminatory basis, i.e. without regard to the identity of the sender or receiver, the specific application or content (e.g. Skype or Vonage), or the type of application or content (e.g. Internet telephony), AND the choice whether, when and for what applications to take advantage of this prioritization must be left to the user.

Under this approach, network providers would be allowed to police the amount of bandwidth that every user gets, but not how bandwidth is allocated among applications within this overall amount, or whether one application gets priority over another. Potential benefits of prioritization can be realized through the mechanisms described under b).