

## **Plans for charging Internet toll by large telecom companies feared to have major impact on European consumers and businesses**

### **Summary**

The Netherlands is concerned about the plans of the large European telecom operators to charge toll on the Internet. **This poses considerable risks to the Internet ecosystem and is likely to cause considerable harm to European consumers and businesses, and impeding European digitalisation.** The large telecom companies omitted crucial information resulting in a misrepresentation of facts. Economists from Oxera have prepared a critical report regarding the fitness of the plans to promote network investments and its impact. It's imperative that any policy affecting the Internet ecosystem is evidence-based and putting the consumer first.

### **Introduction**

The European Commission has launched a consultation on i.a. these plans to charge toll. In May 2022 this old debate on Internet toll charges flared up again. According to the large telecom operators online service providers, such as video streaming services, should pay for the Internet traffic they send to the subscribers of telecom operators. The Netherlands has been an advocate for the open Internet, and has been strongly committed to adopt European legislation to ensure all telecom operators would not discriminate between Internet traffic and prevent telecom operators from blocking, delaying or charging certain Internet traffic. This principle is also referred to as 'net neutrality'. In 2015 this resulted in the European 'Open Internet regulation'.<sup>1</sup>

Now, 8 years later, large telecom operators are again making pleas to be allowed to charge toll to online service providers. These formerly state-owned telecom providers, represented by the European association ETNO, state that without such a levy they will not be able to make sufficient network investments. For several reasons the Netherlands is very critical towards this plea. In the first place the large telecom operators have not been able to point out what the actual problem is. Secondly, even if there would be an investment issue, the solution of a toll charge would not be an effective instrument to promote additional network investments. This is one of the conclusions from a report by Oxera commissioned by the Dutch Ministry of Economic Affairs. In addition there is room for considerable doubt whether such a levy would not violate net neutrality. Furthermore, the current debate is framed as a battle between telecom operators and online service providers, whereas the debate should really be centered around the interests of consumers and businesses.

### **Current arguments fail to show what the problem is that should be solved**

The large telecom operators point at the traffic growth of the last years, while the revenues they get from their subscribers have remained relatively stable. They suggest that this has led to higher network costs, while at the same time they are not compensated for this in the form of higher income. According to the large telecom operators, this implies that they have less money to invest in their networks. As a result, they suggest, telecom operators cannot contribute sufficiently to meet the ambitious goals of the European Commission regarding coverage of Fiber to the Home and 5G networks in 2030. In order to be able to meet these goals, the large European telecom operators consider it necessary to allow them to charge toll to online service providers. In response of the strongly voiced plea of the telecom operators, the European Commission has now included this idea in a consultation as part of a broader consultation on connectivity.

However, it seems highly premature given there's not only a lack of any serious argumentation for an Internet toll. Even worse, there has been a serious misrepresentation of facts.

- For example in their narrative the large telecom operators fail to reveal that the strong growth of Internet data in the past in reality did not at all confront them with higher network costs. This is because network equipment becomes ever more powerful at the

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<sup>1</sup> See the Open Internet regulation (EU) 2015/2120), November 25, 2015.

same price. By omitting this crucial insight, telecom operators suggest a problem that does not exist: networks cost have not at all grown out of control as a result of the steady data growth.

- The narrative of the telecom providers also leaves aside the fact that the other costs, not related to traffic, have developed particularly beneficial for telecom operators. This is among others due to network modernisation (next generation networks require generally less staff) and historically low costs of capital. Bottom line, telecom operators saw their margins improve considerably. Notably, this is also confirmed by recent research commissioned by the large telecom operators.<sup>2</sup> It shows that the margins of large European telecom operators have increased very substantially since 2015. Even more notable, the margins in Europe turn out to be the highest compared to their peers in other countries such as the US, Japan, South-Korea and China. Based on their own figures, the gloomy image pictured by the European telecom operators is very hard to maintain.
- More fundamentally, the large telecom operators seem to forget that consumers already pay for their Internet traffic, through their Internet subscription. The plea for an Internet toll actually implies that large telecom operators want to get paid twice. The availability of attractive content and other online services is the very reason consumers are willing to pay for a good, high speed Internet connection. Without the availability of attractive online services there would be no demand for Internet connections, and consequently there would not be any business model for telecom operators.

So, if we look objectively to all these facts we fail to see why there's a problem and what the problem would exactly be. It's essential that there's a clear problem definition, before one can look for a solution. Clearly, we have to avoid we're looking for a problem to a solution.

Because an open, free and well-functioning Internet is of such crucial importance for society, the Netherlands considers it imperative that any potential policy changes are considered very carefully, and are strongly evidence-based. This was expressed in the two letters the Netherlands, together with other concerned member states, sent to the European Commission last year.<sup>3</sup> In any case, the consumer interests should be put at the very center of any assessment.

### **Even if large telecom operators would not be able to invest sufficiently, than charging toll is not an effective instrument**

It's important to realise that charging toll on the Internet is an intervention that deeply affects the functioning of a complex, vital ecosystem. As such it can have a profound impact on European consumers and businesses. Charging toll is therefore not a policy instrument that should be applied lightheartedly. To contribute to a careful policy procedure, the Ministry of Economic Affairs has commissioned economists of Oxera to investigate whether toll charging could indeed be an instrument fit to promote network investments, and assess which (economic) impact this would have. In the accompanying report, Oxera concludes that from an economic perspective, charging toll on the Internet is not a fit instrument to promote network investments: *"promoting investment by network operators is not an economically sound reason for instituting a levy—there are more effective ways of achieving such a goal."*

- Oxera establishes that charging toll would constitute in the first place a welfare transfer from online service providers to the benefit of telecom providers. It is expected that only a limited part of the additional revenue stream to telecom operators will be passed on to the Internet subscribers in the form of slightly lower subscription fees. This is offset by price increases on the side of online services, such as video streaming, applications and cloud services, as online providers will seek to pass on the payments to telecom operators. This would effectively imply that e.g. subscriptions to Spotify or Netflix become more expensive.

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<sup>2</sup> ETNO, THE STATE OF DIGITAL COMMUNICATIONS 2023, January 2023, page 32.

<sup>3</sup> [Call for a careful process in light of the current debate on OTTs | Publication | The Netherlands at International Organisations \(permanentrepresentations.nl\)](#) en [Call for release of BCRD revision – Refusal of merge with fair share debate | Publication | The Netherlands at International Organisations \(permanentrepresentations.nl\)](#)

In addition the toll charge could instigate these online services to be less able to invest in the development of e.g. content or new, innovative services.

- Apart from these welfare impact, Oxera also concludes that the implementation of such an Internet toll charge would be highly complex and will be associated with substantial transaction and regulation costs. Oxera also points out to potential degradation of the quality of the Internet connections, as this was observed in South-Korea where a similar policy was introduced. Furthermore, Oxera pays attention to the negative impact of a toll charge on the digital transition, and states: "*Transitions to new technologies (in the broadest economic meaning of the word 'technology') are not instantaneous, and policy makers must be careful not to discourage activities with one hand which they are trying to encourage with the other.*" The Ministry regards the Oxera report as an important contribution to shift towards a consumer centered debate that is more based on evidence and objective and independent analysis, and less on partial interests of specific groups and opportunist arguments.

### **Next steps**

Large and small telecom operators play a vital role in the Internet ecosystem. It's therefore crucial that we ensure they have sufficient incentives to invest in their networks. Which implies that potential bottlenecks need to be carefully studied, and we ensure that only policy instruments are applied that are best fit. Therefore, the Netherlands will follow this policy debate carefully, and keep stressing the need for a careful, evidence-based approach that puts the interests of the European consumer right at the center of the debate.