**freedom of expression and the telecommunications and internet access sector**

***QUESTIONNAIRE FOR STATES***

**August 2016**

**ANSWERS BY THE MINISTRY OF TRANSPORT, INFORMATION TECHNOLOGY AND COMMUNICATIONS**

1. *Laws, regulations and other measures (including, where applicable, contractual arrangements and extralegal measures) that may permit authorities to require Telecommunications and Internet Service Providers to:* 
   1. *suspend or restrict access to websites or Internet and telecommunications networks; and*
   2. *provide or facilitate access to customer data;*

Under the Electronic Communications Act (ЕСA), the enterprises providing public electronic communication networks and/or services must keep for a period of 6 months the data generated or processed in the course of their activities, which are necessary to: trace and identify the source of the connection; identifying the destination of the connection; identify the date, time and duration of the connection; identify the type of the connection; identify the electronic communication terminal device of the user or what is presented for his terminal device; and to establish an identifier of the used cells. Such data are processed and stored according to the requirements of the Law on Protection of Personal Data, and solely for the needs of the National Security and for prevention, detection and investigation of serious crimes. Access rights and the relevant procedure regarding access to this information are provided for in the ECA.

The ECA also contains provisions for ensuring conditions for interception of electronic communications relating to the protection of national security and public order. Art. 304 of the ECA provides for allowing, by the enterprises providing public electronic communication networks and/or services, interception of electronic communications in real time, the possibility of continuous monitoring and real-time access to data associated with a call. The opportunities for interception and continuous monitoring and access to data related to a call in real time, are provided only under the Law on Special Intelligence Means.

The law stipulates that interception must be carried out in a way that excludes the possibility of unlawful interference and ensures protection of information related to the interception. The intercepted electronic messages are received only by the State Agency on Technical Operations and the State Agency on National Security under the Law on Special Intelligence Means.

1. *Laws, regulations and other measures (including, where applicable, contractual arrangements and extralegal measures) governing/regulating the activities of private entities that provide network components or related technical support, such as network equipment providers, submarine cable providers, and Internet exchange points;*

The Electronic Communications Act (ECA) includes specific provisions concerning radio equipment and terminal electronic communications equipment, devices for interactive digital TV services and standards in the field of electronic communications networks and/or services: e.g. free marketing and operation of terminal electronic communication devices and devices for digital interactive television services and conformity assessed radio equipment under the Law on Technical Requirements to Products. This Act provides that on the territory of the Republic of Bulgaria no radio equipment can be put into operation, which: uses frequency bands designated for national security purposes in the National Radiofrequency Table; uses frequency bands which, according to the National Radiofrequency Table have not been allocated for the relevant type of radio services in the Republic of Bulgaria; whose technical characteristics do not comply with specific requirements of the ECA.

1. *Laws, regulations and other measures (including, where applicable, contractual arrangements and extralegal measures) on public disclosure of requests made or actions taken to a) suspend or restrict access to websites or Internet and telecommunications networks; and b) to provide or facilitate access to customer data;*

The Electronic Communications Act (ECA) stipulates that operators are obliged to take all necessary steps to ensure the integrity of their networks, thus ensuring the continuous provision of services on those networks. In case of a breakthrough or violation of their networks' integrity, operators immediately notify the National Regulatory Authority.

The National Regulatory Authority submits annually to the European Commission and the European Agency for Network and Information Security (ENISA) a summary report on the notifications received on breakthroughs or violations of the networks' integrity and the relevant actions taken.

In ECA it is also provided that in risk of a breach of the electronic communications networks’ security the enterprise providing public electronic communication services shall, in an appropriate manner, notify its subscribers of the danger thereof, as well as of the funds required for its removal and the costs associated with it.

Regarding access to user data in the national legislation, the Electronic Communications Act stipulates that enterprises can process data of consumers only when such data are directly intended for the provision of electronic communication services. The data collected and processed for the purposes of a call or establishing a connection is deleted or de-personified after completion of the call or connection.

1. *Remedies available in the event of undue restrictions on Internet and telecommunications access or undue access to customer data;*

Please refer to the above answers.

1. *Other relevant laws, policies or initiatives to promote or enhance Internet accessibility and connectivity, including measures to promote network neutrality.*

The right of access to information and freedom of expression and opinion is a fundamental principle guaranteed by the Constitution of the Republic of Bulgaria. The Constitution guarantees the right of everyone to seek, obtain and disseminate information and the right of all citizens to information from state bodies and agencies on issues of legitimate interest to them, if such information is not a state or other legally protected secret and does not affect the rights of others.

The Law on Integration of Persons with Disabilities aims to create conditions and to guarantee equality, social inclusion and support for people with disabilities.

The Law provides that the integration of people with disabilities is carried out by providing accessible information to such people. At the same time it determines the authorities at national and local level responsible to ensure conditions for the integration of people with disabilities by providing specialized information on the use of services, routes, architectural, transportation and other facilities in public places for recreation and culture. This law also provides for an obligation of the Bulgarian National Television, the Bulgarian National Radio and the Bulgarian Telegraph Agency to provide information accessible to people with disabilities and also include in their programs special broadcasts for such people. This law also regulates the right of persons with disabilities to receive additional monthly funds that are designed, among others, to cover the additional costs for information and telecommunications services and accessible information.

The National Strategy for People with Disabilities 2016 - 2020 is aimed at improving quality of life of people with disabilities, non-discrimination on grounds of "disability", ensuring their full and active participation in all spheres of social life and promoting respect for their rights in all policies.

The National Program "Digital Bulgaria", which aims to define the parameters (measures, responsible institutions, deadlines, budget) for development of the Information Society (IS) in Bulgaria and to support the implementation of European guidelines and objectives, set out in the Digital Agenda for Europe (DAE), for social and economic potential of information and communication technologies (ICT) and the Internet.

The Law on Access to Public Information governs the public relations connected with the right of access to and re-use of public information. The Law provides for the right of individuals with visual impairments or hearing-speech disabilities to request access to public information in a form that corresponds to their ability to communicate.

The Law on e-Governance regulates the activities of administrative bodies pertaining to: working with electronic documents, provision of administrative e-services and exchange of e-documents between administrative bodies. The Law provides for building and maintaining of a single portal for access to administrative e-services provided in an accessible way, including to persons with disabilities.

The Ordinance for e-Administrative Sservices: it regulates, inter alia, the provision of e-government services in an accessible way, including for persons with disabilities; making of electronic statements and creating electronic documents in an user friendly manner, including for persons with disabilities. Websites of providers of administrative services must meet the requirements for accessibility level Class AA according to WCAG 2.0 (Web Content Accessibility Guidelines 2.0 of the World Wide Web Consortium) and the relevant content on websites should be easily accessible and presented in standard WCAG 2.0 formats. The compliance of the website of each provider of administrative services with the above requirements and with the requirements for accessibility, including for disabled people, is checked by tests prior to publication on the Internet and upon any change in the source code of the software product, which supports the relevant Internet page. Under the Ordinance, the administrations develop and publish, in a prominent place on their official websites, Accessibility Policy of Content for People with Disabilities.

In recent years, a top priority, both at European and national level, is the provision of broadband Internet access to all citizens. In this regard, the European Commission proposed an ambitious reform, introduced in September 2016, of the EU rules in electronic communications, with new initiatives to meet the growing needs of Internet connectivity and improve the European competitiveness. These proposals will encourage investment in very high capacity networks and speed up the provision of public wireless internet access for Europeans. Promotion of investment in networks with very high capacity is increasingly important for education, health, industry or transport. In order to meet these challenges and prepare for the digital future of Europe, the Commission presented three strategic goals for internet connectivity for 2025:

All major socio-economic driving forces, such as schools, universities, research centers, and transportation centers, all providers of public services such as hospitals and administrations, and enterprises relying on digital technology should have Internet access at very high speed allowing users to download/upload data volume of 1 Gbps.

All European households, whether rural or urban, should have access to internet at download speed of at least 100 Mbps, which can be increased to 1 Gbps.

All metropolitan areas and all major roads and railways should have continuous 5G coverage. An interim target by 2020 is to offer 5G at least in one major city in each EU Member State.

These objectives can only be achieved with huge investments. The Commission therefore proposed a new European Code of Electronic Communications, including future-oriented and simplified rules by which for all the enterprises it will become more attractive to invest in new high-quality infrastructure across the EU, both in their own and other countries.

In addition to the Code, the European Commission also presented an action plan for the introduction of 5G across the EU from 2018 on. Another key initiative for Internet connectivity - WiFi4EU - aims to help European municipalities to offer free wireless access points to the Internet for all citizens.

Net neutrality is a principle whereby all electronic communications passing via the Internet are treated equally without discrimination, restriction or interference, regardless of the sender, recipient type, content, device, services or application. Net neutrality is a central topic in recent years in a number of legislative initiatives at European level in the context of introducing stricter regulation regarding net neutrality.

The questions of net neutrality are associated with the idea that the Internet owes much of its success to the fact that in recent decades it developed as an open platform for innovation with easy access by end users, content and application providers. A major role in achieving this success plays also the fact that development of the Internet is done mainly on a commercial basis without regulatory intervention.

The existing EU regulatory framework for electronic communications introduces some general principles of net neutrality designed to ensure access of end users to information and the opportunity to distribute such information or run applications and services of their choice. The main effort must be directed towards finding a balance between preserving the open character of the Internet and guaranteeing the fundamental rights of consumers.

However, regarding certain aspects of net neutrality there should be an opportunity for intervention of a competent national authority, in the event of problems related to: the quality of internet access services in the context of net neutrality; deterrence of anticompetitive blocking or delaying of services, content or applications; preventing unjustified discrimination of content or services; using appropriate models and measures for traffic management; and transparency so that users are aware of the characteristics of services and the capacity used, etc.