

# Kluwer Copyright Blog

## Dutch University Blocks BitTorrent Pre-Emptively Breaking New Net Neutrality Law

Christina Angelopoulos (CIPIL, University of Cambridge) · Wednesday, March 28th, 2012



In the course of the implementation of the European telecommunications package, a set of proposals has been introduced to the Dutch Telecommunications Law ([Telecommunicatiewet](#)) to safeguard an open and secure internet for the Netherlands. The proposals include a net neutrality provision ([Articles 7.4a and VIb](#) of the draft amendment), an anti-wiretapping provision ([Article 11.2a](#) of the draft amendment) and an internet connection provision ([Article 7.6a](#) of the draft amendment). A broad majority in the Dutch parliament (Tweede Kamer) voted in favour of the amendments last June. The proposals will also have to be adopted by the Dutch Senate (Eerste Kamer) before entering into force. The vote before the Eerste Kamer is currently scheduled for 3 April.

The net neutrality amendment would oblige internet access providers to take a neutral stance towards all online services and applications. With this move, the Netherlands will be going beyond the requirements of EU law, taking an aggressive stance against traffic shaping. ISPs would be prohibited from hindering or delaying such services or applications except where one of four exhaustively listed conditions applies: such obstruction or delay is necessary a) to control congestion, but only if similar types of traffic are handled in a similar manner; b) for the integrity and security of the network; c) to prevent the transmission of unsolicited communications to the end user, provided he/she has given prior consent; or d) to implement a legal provision or court order. As a consequence of the proposed amendment, throttling broadband traffic, as well as Hadopi-type three strikes schemes will soon be forbidden in the Netherlands, making the country the first in Europe to outlaw blocking on the internet.

The imminent adoption of the amendment is juxtaposed nicely to a recent development from the University of Groningen. At the end of February the University [announced](#) that as of 1 March 2012 it will be blocking BitTorrent traffic in all student flats connected to its network. According to the University, the decision is a reaction to copyright infringement reports submitted by the US entertainment industry threatening claims unless action is taken. Up until recently the University's policy upon receiving such complaints had been to impose a graduated response system, contacting the students in question and informing them of the illegality of their actions and, in the case of repeat unheeded warnings, ultimately disconnecting them from the University network. However, it was decided that this procedure was overly cumbersome for the University staff and the simpler blocking solution, that does not concern itself with the intricacies of distinguishing between legal

and illegal behaviour, was found to entail much less work.

The University feels that its decision is irrelevant to the discussion in the Netherlands on net neutrality. In its announcement it stated that the University network has its own policy and responsibilities, while students are free to obtain internet access through commercial providers, as well as to use other protocols to exchange legal material. As long as the new net neutrality provisions remain out of force the University is indeed not in conflict with the law. However, in response to parliamentary questions posed on the topic, Dutch Minister of Economic Affairs, Agriculture and Innovation and Deputy Prime Maxime Verhagen [has clarified](#) that the University would qualify as a provider within the meaning of Article 7.4a and that, should the amended law become effective, it will be in breach of its obligations under the new provisions. The Minister further noted that complaints from copyright owners do not in and of themselves constitute a valid reason for blocking internet traffic.

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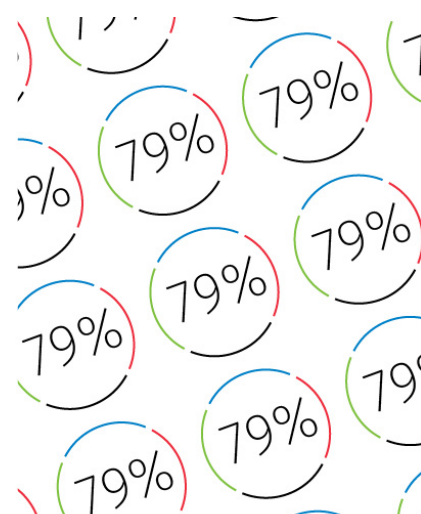
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