

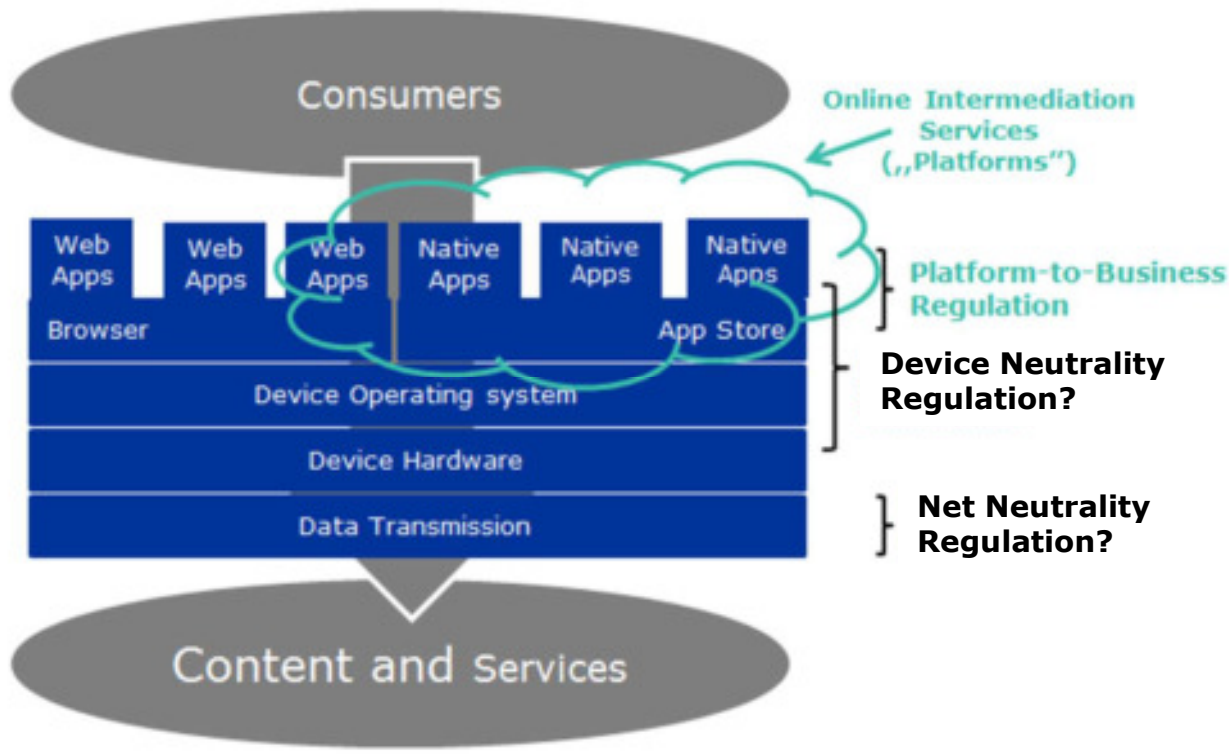
DEVICE NEUTRALITY
***THE MISSING LINK FOR FAIR
& TRANSPARENT ONLINE
COMPETITION?***



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“Neutrality Regulation” landscape



- „Light-handed“ regulation**
- no per se (discrimination) restrictions
 - transparency, redress, monitoring
 - subject to impact assessment




- „Heavy-handed“ regulation**
- per se (discrimination) restrictions
 - transparency, redress, monitoring
 - not subject to impact assessment





Key Objectives for a „Neutrality“ Regulation

1. Reduce/eliminate incentives of vertically integrated providers to limit downstream competition;
 2. Reduce fragmentation of content and incompatibility of services;
 3. Increase innovation and investment incentives;
 4. Increase welfare, especially with respect to consumer surplus.
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Discrimination may occur at each Internet access layer

- In particular, discrimination may occur with respect to
 - access to data and/or functionalities at a given layer (e.g., sensors, camera, storage, voice assistant, push notifications, battery management)
 - default settings and prominence (e.g., pre-installed apps, browser defaults, app ranking)
 - technical, legal or economic requirements/prohibitions (e.g., security standards, payment services, customer communication)



Some Pros and Cons for Device Neutrality Regulation

- Discrimination may have legitimate business rationale (e.g., curation, security, financing)
- But can also be an effort to secure or leverage market power (e.g., across layers)
- Price or product differentiation common place in other industries; regulation hampers investment and innovation
- But dominant positions and „termination monopolies“ also likely to exist in the context of devices
- Vertical integration more common in the context of devices than it was in network access (in Europe).
- Three-criteria-test for (Device) Neutrality Regulation?



Questions to be discussed

- Which layers should be targeted? Different regulation at different layers?
- Threshold of intervention (vertical integration, installed base, „dominance“, commercial intent)
- Different regulation for devices with „thin interfaces“ (e.g., dash buttons; smart speakers) ?
- Heavy-handed (network-like) vs. light-handed (platform-like) regulation?
- Coherence of „neutrality“ regulation at different layers & level playing field for all in Internet access ecosystem



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Improving network and digital industries regulation