

5<sup>th</sup> of June 2023



SABIEDRISKO  
PAKALPOJUMU  
REGULĒŠANAS  
KOMISIJA

# REPORT ON COMPLIANCE WITH THE REGULATION OF OPEN INTERNET ACCESS

---

Unijas street 45,  
Riga, LV-1039  
T: +371 67097200

Public Utilities Commission | [www.sprk.gov.lv](http://www.sprk.gov.lv) | [sprk@sprk.gov.lv](mailto:sprk@sprk.gov.lv)

## TABLE OF CONTENT

- Introduction
  - Overall description of the national market situation
  - Quality of service supervision
  - Analysis of Internet service users' complaints
  - Supervision of traffic management requirements
  - Evaluation of zero-tariff applications offers
  - Evaluation of contractual information requirements
  - Imposition of penalties
  - Summary of the supervision of Open Internet requirements
-

## INTRODUCTION

In accordance with the Open Internet access Regulation [1] (hereinafter - Regulation), the Public Utilities Commission of Latvia (hereinafter - PUC) monitors compliance of the public Internet access service (hereinafter - Internet service) provided by electronic communications merchants (hereinafter - the merchant) with the requirements of the Regulation and the principle of the Open Internet.

The principle of the Open Internet determines that all Internet traffic should be treated equally, regardless of the content of transmitted information, the type of applications and services used, the location or destination of users and information sources, and the type of terminal equipment used. Therefore, internet traffic shall be treated without discrimination, blocking, throttling or prioritization.

Traffic management measures are permissible if they are justified and applied regardless of the type of applications and services used, as well as the content of the transmitted information.

As an exception, merchants may apply reasonable traffic management measures if necessary to:

- comply with legislation or decisions of courts or public authorities;
- maintain the security of the electronic communications network (hereinafter - the network) and equipment;
- prevent emergency or short-term network congestions and reduce the consequences of congestions.

Merchants can take reasonable traffic management measures designed to promote the efficient use of network resources and optimize the quality of Internet service.

For such measures to be considered reasonable they should be transparent, non-discriminatory and proportionate, and thus must be based on objectively different technical quality of service requirements for specific categories of traffic and not on commercial considerations.

---

[1] REGULATION (EU) 2015/2120 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union. Link:<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2120&from=en>

## INTRODUCTION

In addition, merchants are free to offer services on their network that are optimized for specific content, applications, or services that require a higher level of connection quality than a typical Internet service provides.

Services in need of optimisation may include voice telephony services over a mobile network (e.g. VoLTE [2]), television broadcasting services provided by operators using the Internet Protocol (IPTV [3]), M2M [4] services, etc.

In addition, the requirements of the Open Internet determines that merchants need to provide end-users with easily accessible, transparent, clear and understandable information about the received Internet service and the parameters characterizing its quality, as well as provide information about possible factors that can impact the user experience when using a certain application or services and their quality in general.

In order to ensure the supervision of Open Internet requirements, PUC:  
determines the minimum quality requirements for the Internet service;

- ensures the supervision of the quality of services;
- performs analysis of end-user complaints;
- conducts a survey of merchants regarding the compliance of the activity with the provisions of the Regulation and other legal acts.

In accordance with the guidelines [5] of the Body of European Regulators for Electronic Communications (BEREC), PUC publishes an annual report on compliance with the Open Internet requirements of the Regulation. In view of the above, PUC provides a report for the period from May 1, 2022 to April 30, 2023.

---

[2] Voice over Long-Term Evolution

[3] Internet Protocol television

[4] Machine-to-Machine

[5] BEREC Guidelines on the Implementation of the Open Internet Regulation. Link:

<https://www.berec.europa.eu/en/document-categories/berec/regulatory-best-practices/guidelines/berec-guidelines-on-the-implementation-of-the-open-internet-regulation-0>

## OVERAL DESCRIPTION OF THE NATIONAL MARKET SITUATION

Every year, PUC ensures the implementation of a range of measures for monitoring the compliance of Internet services provided by merchants with the requirements of the Regulation, as well as the improvement of the Open Internet requirements monitoring process.

In the time period from May 1, 2022 to April 30, 2023, PUC implemented several measures to improve the mechanism of monitoring of merchants and the protection of end-users, including, improving regulatory acts, collecting, compiling and analyzing the information submitted annually by merchants, handling complaints of end-users, etc.

In compliance with Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, the Electronic Communications Law (hereinafter - Law) was developed, which entered into force on July 29, 2022. Along with the entry into force of the Law, it was necessary to develop and update the regulatory acts issued based on the previous Law [6]. Thus, to continue to ensure the performance of PUC functions, including ensuring compliance with the principles of Open Internet and monitoring the compliance of the Internet service provided by merchants with the requirements of the Regulation, the new regulatory acts issued based on the Law were developed and entered into force October 1, 2022.

The aforementioned regulatory acts in the context of the compliance of the Internet service provided by the merchant with the requirements of the Regulation include [7]:

1. specified requirements for merchants that provide electronic communication services regarding the minimum set and values of the service quality parameters to be included in contracts with end-users;
2. harmonized and clarified parameters of service quality, determining the minimum quality requirements of an appropriate Internet service, as well as the procedure for determining compensation, if the merchant has not provided service quality that meets the requirements specified in the contract;
3. specified requirements for the merchant regarding the volume and level of detail of information submitted to the PUC, characterizing the quality of the service in their electronic communications network, as well as compliance with the requirements of the Regulation.

[6] Electronic Communications Law, valid until July 29, 2022

[7] Terms of contract for electronic communication services Link: <https://likumi.lv/ta/id/335942-elektronisko-sakaru-pakalpojumu-liguma-noteikumi>

## QUALITY OF SERVICE SUPERVISION

In order to ensure the monitoring of the quality of the Internet service provided by merchants, PUC performs the collection and analysis of the information submitted annually by the merchants, as well as the technical monitoring of the quality of the Internet service.

Since 2021 PUC temporarily stopped measuring the quality of internet service. It is planned to resume regular measurements after the development of a new Internet service quality measurement tool. In order to implement the aforementioned, PUC announced a procurement procedure for the development and maintenance of a new Internet service quality measurement tool in the 2nd quarter of 2022, but the procurement procedure ended without a result. Considering the result of the procurement procedure, additional information research and clarification of the documentation was carried out, and it is planned to re-announce the procurement in 2023.

Meanwhile, PUC continues to monitor the quality of Internet service by analysing and summarising the information submitted annually by merchants. In accordance with the regulations on the quality of electronic communications services [8] and the regulations on the submission of information in the electronic communications sector [9], once a year, merchants submit information to PUC about the quality of the provided electronic communications services and compliance with Open Internet requirements. The declared quality values reflect information about the quality indicators of the merchants provided service, which can typically be expected when using the merchants provided service.

In 2023, 115 merchants who provide Internet service in a fixed network and 3 merchants who provide Internet service in a mobile network submitted information to PUC about the quality of the provided Internet service, as well as updated information about the compliance of the provided Internet service with the requirements of the Regulation [10].

---

[8] PUC decision of September 22, 2022 no. 1/28 "Regulations of quality requirements for electronic communication services". Link: <https://likumi.lv/ta/id/335935-elektronisko-sakaru-pakalpojumu-kvalitates-prasibu-noteikumi>

[9] PUC decision of September 22, 2022 no. 1/29 "Regulations for submitting information in the electronic communications sector". Link: <https://likumi.lv/ta/id/335936-informacijas-iesniegsanas-noteikumi-elektronisko-sakaru-nozare>

[10] <https://www.sprk.gov.lv/content/pakalpojumu-kvalitate>

# QUALITY OF SERVICE SUPERVISION

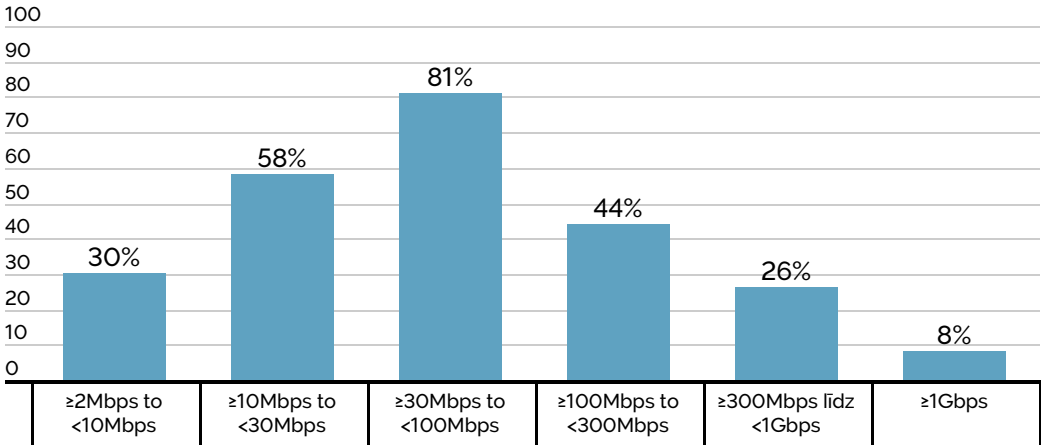
It can be concluded that the number of Internet service connections in a fixed network with a connection speed of over 100 Mbps has reached 69% of the total number of Internet service connections in a fixed network. On the other hand, the number of Internet service connections in the mobile network, which support a connection speed above 30 Mbps, has reached 88% of the total number of Internet service connections in the mobile network.

In addition, the Internet service quality in a fixed network value forecast declared by merchants show that there is still a tendency for the number of merchants who provide Internet services with a connection speed lower than 30 Mbps to decrease. In 2023, out of 115 merchants which provide Internet service, 71 merchant (62%) indicated that they provide a connection speed up to 30 Mbps, which is 8% less than in the previous reporting period.

At the same time, it can be concluded that the number of merchants who provide Internet service in a fixed network with a connection speed over 100 Mbps remained at a stable high level. In 2023, out of 115 merchants, 56 merchant (49%) indicated that they provide Internet service in a fixed network with a connection speed over 100 Mbps, which is equivalent to the data declared in the previous reporting period.

No significant changes have been observed in the Internet service quality forecasted values in the mobile network declared by the merchants, and Internet service in the mobile network is provided at a level equivalent to the previous reporting period.

Figure 1. Percentage distribution of the number of merchants by fixed Internet service speed in 2023.



## QUALITY OF SERVICE SUPERVISION

In the declarations submitted in 2023, all 3 merchants that provide electronic communication services in the mobile network indicated that they provide Internet services in the mobile network with in wide range of connection speeds from 2 Mbps to 30 Mbps, as well as over 100 Mbps.

In general, the forecasted Internet service quality values declared by merchants in 2023 show that the number of merchants who provide Internet service with a connection speed below 30 Mbps continues to decrease, while a number of merchants who provide Internet service with a connection speed above 100 Mbps continues to increase. In addition, the number of connections with the connection speed above 30 Mbps continues to increase in the mobile network. Considering the aforementioned, it can be concluded that the availability of Internet service is ensured in Latvia at a quality level that reflects rapid technological development of the networks (requirement of Article 5, Clause 1 of the Regulation).

## ANALYSIS OF INTERNET SERVICE USERS' COMPLAINTS

In order to ensure the protection of end-users' rights, PUC provides telephone consultations and also performs analysis of end-users' complains in cases where the end-user and the merchant fail to resolve the conflict situation and to reach a mutual agreement independently.

In 2022, PUC received 14 end-user complaints about Internet service, of which 7 (50%) were related to inappropriate quality of Internet service.

Also, in 2022 PUC provided 35 telephone consultations on Internet service, of which 17 (48%) were related to service quality issues. In general, the number of cases where the PUC's involvement was necessary to resolve the conflict situation is equivalent to the previous reporting period.

In addition, in 2022, there were no cases when end-users' ability to use the Internet service was significantly interrupted or any of the requirements of the Regulation were violated. Therefore, it can be concluded that the Internet service provided by merchants can be assessed as meeting the requirements of the Regulation.

---



## SUPERVISION OF TRAFFIC MANAGEMENT REQUIREMENTS

According to the third part of Article 3 Clause 3 of the Regulation, merchants shall not engage in traffic management measures going beyond those set out in the second subparagraph, and in particular shall not block, slow down, alter, restrict, interfere with, degrade or discriminate between specific content, applications or services, or specific categories thereof, except as necessary, and only for as long as necessary, in order to:

1. comply with European Union legislative acts, or national legislation that complies with European Union law, to which the provider of internet access services is subject, or with measures that comply with European Union legislative acts or national legislation, including with orders by courts or public authorities vested with relevant powers;
2. preserve the integrity and security of the network, of services provided via that network, and of the terminal equipment of end-users;
3. prevent impending network congestion and mitigate the effects of exceptional or temporary network congestion, provided that equivalent categories of traffic are treated equally.

According to the information submitted by merchants in year 2023 about the traffic management measures taken, it can be concluded that all merchants who provide Internet service carry out traffic management measures in accordance with the laws and decisions of state institutions in order to ensure network security, as well as limit access to certain Internet resources.

Out of 115 merchants, 69% state that they perform traffic management measures themselves, while for 31% of merchants indicated that traffic management is performed by wholesale Internet service providers. In addition, two out of three merchants who provide Internet service in a mobile network state that they temporarily limit the connection speed in order to prevent possible network overload.

---

## SUPERVISION OF TRAFFIC MANAGEMENT REQUIREMENTS

At the same time, compared to the data for the previous reporting period, the number of merchants who perform port blocking measures has decreased by 4%. In 2023 port blocking was performed only by 10% of the total number of merchants who provide Internet service. Similarly to the previous reporting period most often blocked ports are 25, 53, 135 – 139.

25

Port 25 is used by the Simple Mail Transfer Protocol to transmit electronic mail messages. 25<sup>th</sup> port is blocked to prevent the spread of spam or unwanted messages that can be initiated, for example, by a malware-infected user's computer.

53

Port 53 is used by the Domain Name System (DNS [11]). This port is blocked to protect user terminals, for example, from being used in a distributed denial of service attacks.

135-139

Ports 135 to 139 operate in offline mode, which means that any information transmitted over the network is accepted when transmitted to these ports. As a result, different types of malwares are often transmitted through these ports.

In addition, 13% of merchants who provide Internet service indicate that they provide other services that are optimized for certain content, applications or services, or a combination of them, for which optimization is necessary to meet the requirements of a certain quality level requirements for applications or services. In this category, merchants most often indicated such electronic communication services as VoIP [12], VoLTE and IPTV.

Compared to the previous reporting period, the number of merchants applying traffic management measures has not changed. Evaluating the information submitted by merchants in 2023, it can be concluded that all traffic management measures implemented by merchants are applied for the purpose of protecting the network and end-users and do not have a negative impact on access to the Internet service, which meets the requirements of the Regulation.

---

[11] Domain Name System.

[12] Voice over IP.

## EVALUATION OF ZERO-TARIFF APPLICATIONS OFFERS

According to the definition of zero tariff set in European Union court judgments [13] (hereinafter - court judgments) and BEREC guidelines [14], zero tariff is a commercial practice in which the Internet service provider applies zero or other more advantageous rates to all or part of the traffic related to a certain application or category of applications. tariff. According to court rulings, Regulations and BEREC guidelines, the application of a zero tariff is prohibited, imposing an obligation on traders registered in the European Union to ensure equal treatment of traffic without discrimination or interference.

Considering the aforementioned and annually submitted data by merchants, it can be concluded that zero-tariff additional services are not offered in Latvia.

## EVALUATION OF CONTRACTUAL INFORMATION REQUIREMENTS

As indicated above, with the entry into force of the Law, the regulatory acts issued based on the previous Electronic Communications Law lost their force. Thus, it was necessary for the PUC to develop new regulatory acts, including PUC Decision No. 1/30 of September 22, 2022 "Terms of the Electronic Communication Services Contracts", which define:

1. information to be included in the contract for electronic communication services;
2. quality requirements for the provision of electronic communication services;
3. procedures for determining compensation if the merchant has not ensured the quality of the electronic communication service that meets the requirements specified in the contract;
4. the level of detail of the bill, in order to provide consumers with the opportunity to monitor and control expenses and the possibilities of receiving the bill.

---

[13] ECJ C-34/20 Telekom Deutschland (throttling), 17.paragraph; ECJ C-5/20 Vodafone (tethering), 14.paragraph; ECJ 854/19 Vodafone (roaming), 15.paragraph

[14] BoR (22) 81 "BEREC Guidelines on the Implementation of the Open Internet Regulation" point 40a

## EVALUATION OF CONTRACTUAL INFORMATION REQUIREMENTS

In addition, in accordance with Article 4, Clause 1 of the Regulation, merchants providing Internet service must ensure that any contract that includes an Internet access service must include at least:

- a) information on how traffic management measures applied by that provider could impact on the quality of the Internet services, on the privacy of end-users and on the protection of their personal data;
- b) a clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on Internet services, and in particular on the use of content, applications and services;
- c) a clear and comprehensible explanation of how any services referred to in Article 3(5) of the Regulation to which the end-user subscribes might in practice have an impact on the Internet services provided to that end-user;
- d) a clear and comprehensible explanation of the minimum, normally available, maximum and advertised download and upload speed of the internet access services in the case of fixed networks, or of the estimated maximum and advertised download and upload speed of the internet access services in the case of mobile networks, and how significant deviations from the respective advertised download and upload speeds could impact the exercise of the end-users' rights laid down in Article 3(1) of the Regulation;
- e) a clear and comprehensible explanation of the remedies available to the consumer in accordance with national law in the event of any continuous or regularly recurring discrepancy between the actual performance of the Internet service regarding speed or other quality of service parameters and the performance indicated in accordance with points (a) to (d).

Within the framework of the processing of the information submitted annually by the merchants, PUC also continues to carry out monitoring measures, using various communication channels, with the aim of promoting the awareness of the merchants about the requirements of the Regulation and state regulatory acts and the consequences of their non-fulfillment. With the entry into force of the new regulatory acts, during the processing of the annually submitted information by the merchants, PUC individually informed the merchants about the current changes in the requirements of the regulatory acts.

---

## EVALUATION OF CONTRACTUAL INFORMATION REQUIREMENTS

According to the data submitted in year 2023, 55% of merchants who provide Internet service and perform traffic management measures specify information about the traffic management measures to be performed also in contracts with end-users. In addition, 24% of merchants indicate that information on the traffic management measures to be performed is available on the merchant's website. In the future, implementation of wider range of measures for monitoring the requirements of the Regulation and national regulatory acts is planned.

## IMPOSITION OF PENALTIES

According to the Law, PUC supervises compliance with the requirements of regulatory enactments regarding the non-limitation of data traffic speed and data volume when providing Internet access services and promotes the protection of end-user rights according to its competence.

The Law provides for administrative responsibility for the violation of the laws governing the speed of data traffic and the amount of data specified in the regulatory enactments, when providing Internet services, as well as the violation of the end-users rights in the provision of electronic communications services. PUC, upon finding the mentioned violations, may issue a warning or impose a fine on the merchant.

During the reporting period, PUC did not find any violations of the requirements determined in the regulatory acts on the Internet services provided by the merchants, so no cases of administrative violation were initiated against the merchants.

---

## SUMMARY OF THE SUPERVISION OF OPEN INTERNET REQUIREMENTS

During the reporting period, from May 1, 2022 to April 30, 2023, PUC did not find any non-compliance with the requirements of the Regulation in the activities of merchants.

PUC concludes that merchants which provide Internet service do not apply discriminatory traffic management measures, and the availability of Internet services is ensured at a quality level that reflects technological development of the networks. Therefore, the rights of end-users determined in the Regulation are not violated.

A relatively small number of complaints from end-users shows that, in general, end-users are satisfied with the quality of the services they receive or can solve the problems with merchants without the involvement of PUC.

In addition, it can be concluded that the traffic management measures implemented by the merchants are applied to ensure the protection of the network and end-users and do not have a negative impact on access to the Internet service, which meets the requirements of the Regulation.

---