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# Report on Compliance with the Regulation of Open Internet Access

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## Introduction

In accordance with the Open Internet access Regulation [1], Public Utilities Commission of Latvia (SPRK) ensures compliance with the principles of open Internet and thus monitors the compliance of a public Internet access service (Internet service) provided by merchants with the Regulation on open Internet access requirements and transparency measures to ensure access to open Internet.

Open Internet access means traffic management measures taken by operators to ensure that all Internet traffic is treated equally (without discrimination, restriction or interference), regardless of the sender or recipient, the content of the information transmitted, type of applications and services used, location of users and information sources or type of destination and terminal equipment used.

Restrictive traffic management measures that unreasonably block, slow down, modify, restrict, interfere with, degrade or discriminate against the content of the information transmitted, the application or the type of service shall not be permitted. Only exceptionally, if necessary and for as long as necessary, operators may impose traffic management restrictions in order to:

- comply with the law, decisions of courts or public authorities;
- maintain network and equipment security;
- prevent network congestion and reduce the consequences of exceptional or short-term congestion.

Operators can take reasonable traffic management measures designed to promote the efficient use of network resources and optimize the quality of Internet service by providing equivalent quality of service to all users. For such measures to be considered reasonable, they must be transparent, non-discriminatory, proportionate and not based on commercial considerations, but on objectively different technical quality of service requirements for specific categories of traffic.

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

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[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>*

Services in need of optimization 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.

Transparency measures to ensure access to the open Internet require operators to provide users with easily accessible, transparent, clear and comprehensible information on the Internet access service received, its quality parameters, as well as information on possible impacts that may affect the user experience, using a particular application or service, as well as overall quality.

In order to ensure the supervision of open internet requirements, SPRK determines:

- minimum quality requirements for Internet service;
- ensures the supervision of the quality of services;
- performs analysis of user complaints;
- conducts a survey of merchants regarding the compliance of the activity with the provisions of the Regulation.

In accordance with the guidelines of the Body of European Regulators for Electronic Communications (BEREC) [5], SPRK publishes an annual report on compliance with the open internet requirements of the Regulation for the reporting period from 1 May of the previous year to 30 April of the current year. In view of the above, SPRK provides a report for the period from May 1, 2021 to April 30, 2022.

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- Supervision of traffic management requirements
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[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://berec.europa.eu/eng/document\\_register/subject\\_matter/berec/regulatory\\_best\\_practices/guidelines/9277-berec-guidelines-on-the-implementation-of-the-open-internet-regulation](https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/9277-berec-guidelines-on-the-implementation-of-the-open-internet-regulation)

## Quality of service supervision

In order to ensure the monitoring of service quality, merchants shall annually provide SPRK with service quality declarations and a report on compliance with the requirements of the open Internet. In its turn, SPRK evaluates the information submitted by merchants and performs service quality measurements.

Since 2021, SPRK has temporarily stopped measuring the quality of Internet access service.

Currently, SPRK plans to develop a new Internet access service quality measurement tool (quality measurement tool) based on the requirements of the BEREC Net Neutrality Regulation Assessment Methodology [6] and the BEREC Net Neutrality Measurement tool specification [7]. Regular measurements will be resumed with the implementation of a new quality measurement tool.

Meanwhile, SPRK continues to monitor the quality of Internet service, analyzing and summarizing the information to be submitted annually by merchants, from which it can be concluded that in year 2021 the proportion of fixed Internet service connections with a connection speed above 100 Mbps has reached 68% of total fixed Internet service number of connections. In turn, the share of the number of mobile Internet service connections with a connection speed above 30 Mbps has reached 76% of the total number of mobile Internet service connections.

In addition, SPRK performed an analysis of the information submitted by merchants within the framework of the annual information to be submitted, on the quality values forecast in 2022, which the merchant is able to provide in the electronic communications network as a whole and what quality users can expect.

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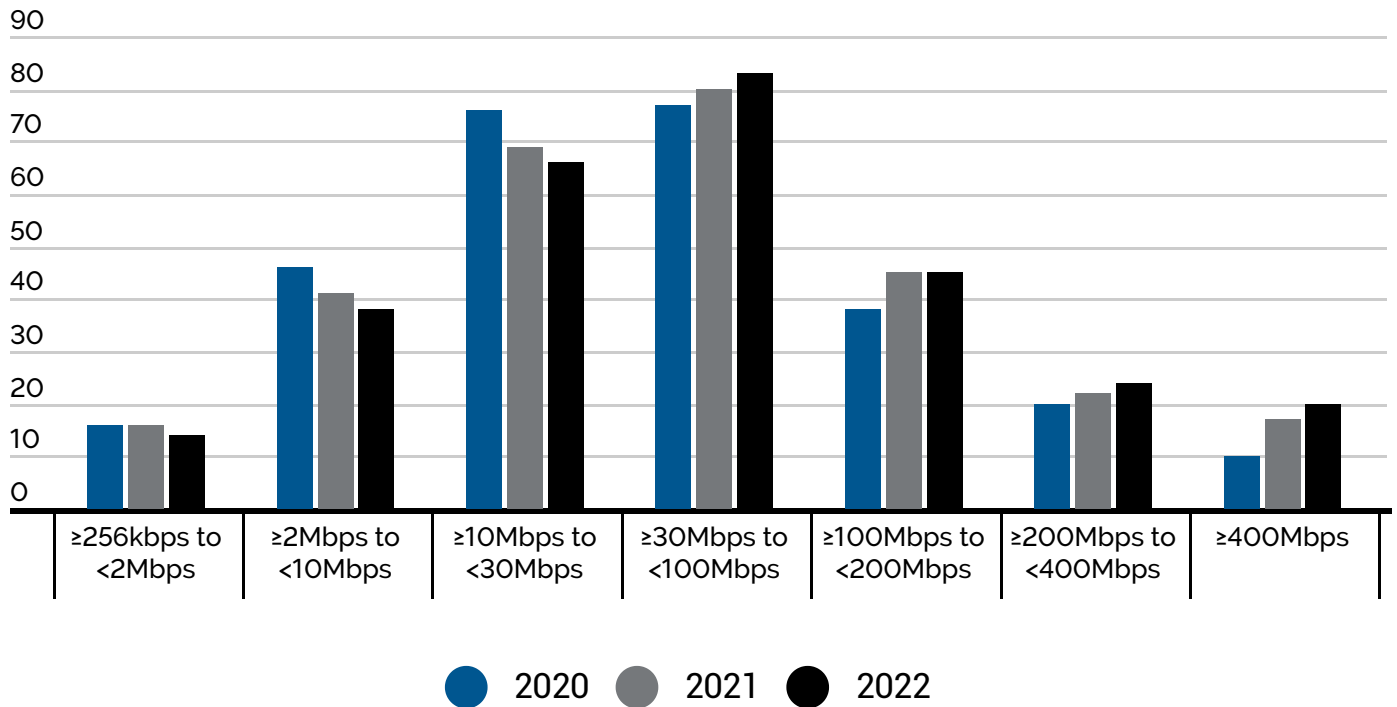
[6] *BEREC Net Neutrality Regulatory Assessment Methodology, BoR (17) 178, 05.10.2017*

[7] *BEREC Net neutrality measurement tool specification, BoR (17) 179, 05.10.2017*

## Quality of service supervision

The percentage distribution of the number of merchants by fixed Internet service speed groups was analyzed in the last three years (Figure 1).

Figure 1. Percentage distribution of the number of merchants by fixed Internet service speed groups in the last three years.



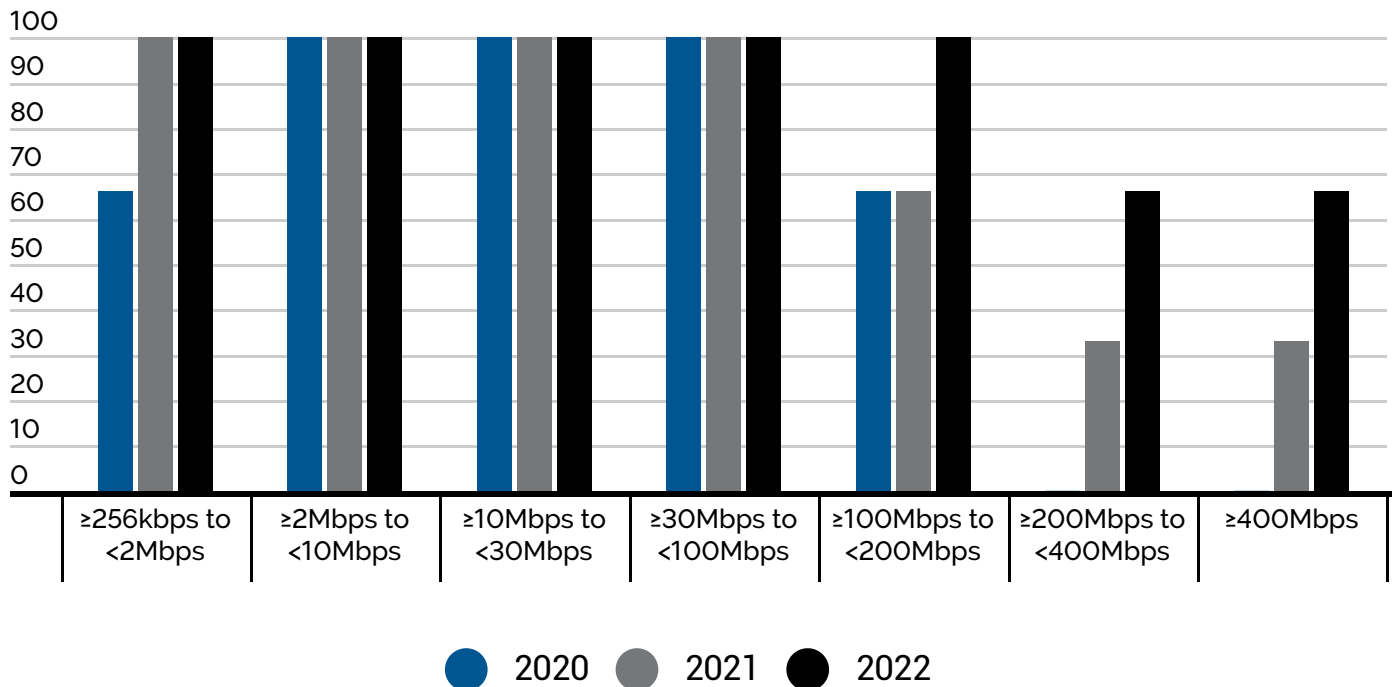
Over the last three years, the number of operators providing Internet services with a connection speed of less than 30 Mbps has been declining in the fixed electronic communications network (fixed network). In 2022, out of 117 operators required to submit Internet service quality declarations, 82 or 70% indicated that they provide Internet service, including with a connection speed of up to 30 Mbps, which is 24% less than in the previous year.

At the same time, there is a tendency to increase the number of operators offering Internet service in a fixed network with a connection speed above 100 Mbps. In 2022, out of 117 operators who submitted Internet service quality declarations, 57 or 49% indicated that they provide Internet service in a fixed network, including with a connection speed above 100 Mbps, which is 3% more than in the previous year.

## Quality of service supervision

The percentage distribution of the number of merchants by mobile Internet service speed groups was analyzed in the last three years (Figure 2).

Figure 2. Percentage distribution of the number of merchants by mobile Internet service speed groups in the last three years.



For the Internet service in the mobile electronic communications network (mobile network) over a period of several years, no significant changes have been observed. In the declarations submitted for year 2022, all mobile network operators have indicated that they provide Internet services in the mobile network in a wide range of connection speeds.

Over the last three years, the number of operators in the mobile network that provide Internet service with a connection speed above 100 Mbps has increased.

In general, the data on the quality of Internet service collected over several years show that the number of merchants providing Internet service with a connection speed below 30 Mbps in favor of a connection speed above 100 Mbps is decreasing.

Taking into account the above-mentioned indicators, it can be concluded that during the last three years the availability of Internet services in Latvia has been ensured at a level of quality that reflects the development of technology (requirement of Article 5 (1) of the Open Internet access Regulation).

## Analysis of Internet service users' complaints

In 2021, SPRK received a total of 18 end-user complaints about the Internet service, where 8 complaints were related to the quality of the Internet service.

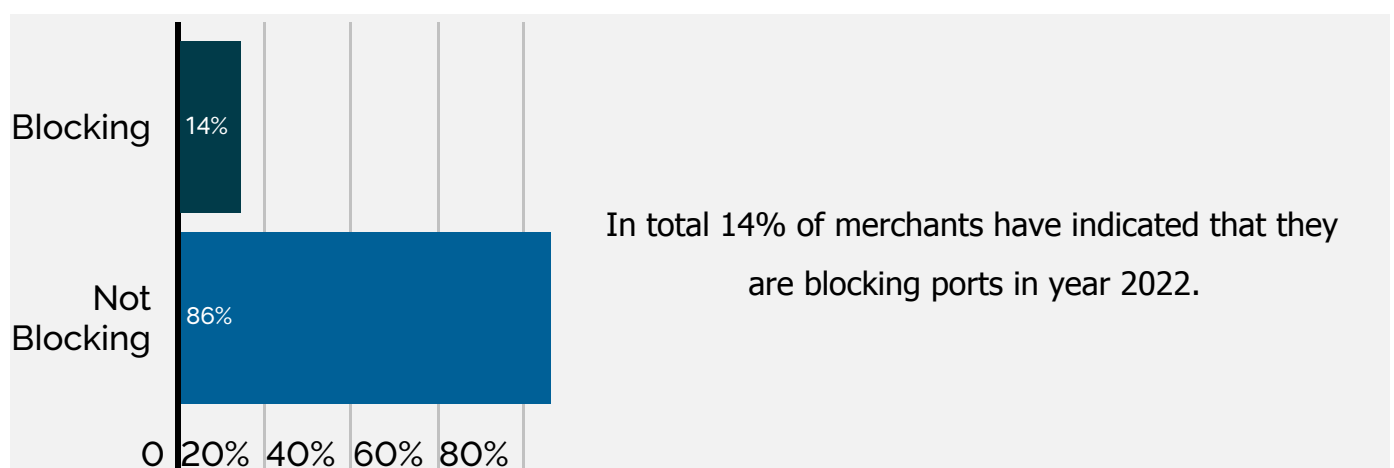
In addition, in 2021, SPRK provided 24 telephone consultations on Internet service quality issues.



In 2021, there were no cases when users' access to the Internet service was interrupted or any of the requirements of the Regulation were violated.

## Supervision of traffic management requirements

In accordance with the third subparagraph of Article 3(3) of the Regulation, operators shall not be allowed to take traffic management measures that go beyond the provisions of the second subparagraph of Article 3 (3) of the Regulation, in particular blocking, slowing down, modifying, restricting, discrimination, blocking of applications or services, or specific categories thereof, except as provided in the Regulation.



### Commonly blocked ports:

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6,6%

#### Port 25

Port 25 is used by the Simple Mail Transfer Protocol to transmit electronic mail messages. 25th 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.

5,8%

#### Port 137

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 malware are often transmitted through these ports.

5,0%

#### Port 139

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

4,1%

#### Port 135 and 138

4,1%

#### Port 53

Port 445 is used for file sharing. This port is also often misused because it is vulnerable to remote access to the computer, allowing unauthorized connections to make the device part of the attack without the device owner or user knowledge.

4,1%

#### Port 136 and 445

Compared to the previous year, the number of merchants applying traffic management measures for port blocking has not changed. Evaluating the information submitted by merchants in 2022, it can be concluded that all traffic management measures implemented by merchants, when blocking ports, are applied to ensure network and user protection and do not have a negative impact on access to the Internet service. Some operators have indicated that they are taking traffic management measures to provide specialized services such as VoIP or VoLTE.



## Evaluation of zero-rating applications offers

Zero tariff or unlimited internet for applications is a tariff for mobile operators that does not count the amount of data consumed for certain applications or types of traffic (such as video, music or other traffic).

In accordance with the rulings of the Court of Justice of the European Union [8,9,10] on infringements of the European Union's open internet rules, it was concluded that zero-tariff commercial practices do not comply with the Regulation's obligation to ensure equal treatment of traffic without discrimination or disruption.



In 2021, SPRK informed [11] merchants about the decisions of the Court of Justice of the European Union regarding the non-compliance of the zero tariff commercial practice with the requirements of the Regulation.

The electronic communications merchant limited liability company "BITE Latvija" offered zero-rating offers in year 2021. Limited liability company "BITE Latvija" offered its end users an opportunity to use the most popular applications ("WhatsApp", "Waze", "Facebook", "Delfi", "Twitter" and "Draugiem.lv") without charging these end-users for the amount of data consumed using these applications.

At the beginning of year 2022, limited liability company "BITE Latvija" announced that starting from year 2022, company would no longer offer zero-rating offers in Latvia.

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[8] *Judgment of the Court of Justice of the European Union in Case Nr. C-5/20. Link:*

[https://curia.europa.eu/juris/document/document.jsf?](https://curia.europa.eu/juris/document/document.jsf?text=&docid=245535&pageIndex=0&doclang=LV&mode=lst&dir=&occ=first&part=1&cid=4901115)

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[9] *Judgment of the Court of Justice of the European Union in Case Nr. C-34/20. Link:*

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[10] *Judgment of the Court of Justice of the European Union in Case Nr. C-854/19. Link:*

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[11] <https://www.sprk.gov.lv/events/sprk-informe-par-es-tiesas-spridumiem-saistiba-ar-nulles-tarifa-pakalpojumu>

## Minimal quality requirements and supervision of information included in contracts

According to Article 4 of the Regulation, operators need to provide users with easily accessible, transparent, clear and comprehensible information about the Internet access service received. The General Authorisation Regulations in the Field of Electronic Communications [12] set out the requirements for electronic communications undertakings providing an Internet service with regard to the information to be included in an electronic communications services contract (contract).

There are requirements for the following types of connection speeds related to Internet speed:

### Fixed Internet service

- The minimum guaranteed connection speed [13]
- The maximum (advertised) connection speed [14]
- The normally available connection speed [15]



### Mobile Internet service

- The minimum guaranteed connection speed [16]
- The maximum (advertised) connection speed [17]



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[12] <https://likumi.lv/ta/en/en/id/303972-general-authorisation-regulations-in-the-field-of-electronic-communications>

[13] *The minimum guaranteed connection speed (upload and download) which is not lower than 20 % of the numerical value of the maximum (advertised) connection speed indicated in the electronic communications services contract or of the upper limit of the speed range.*

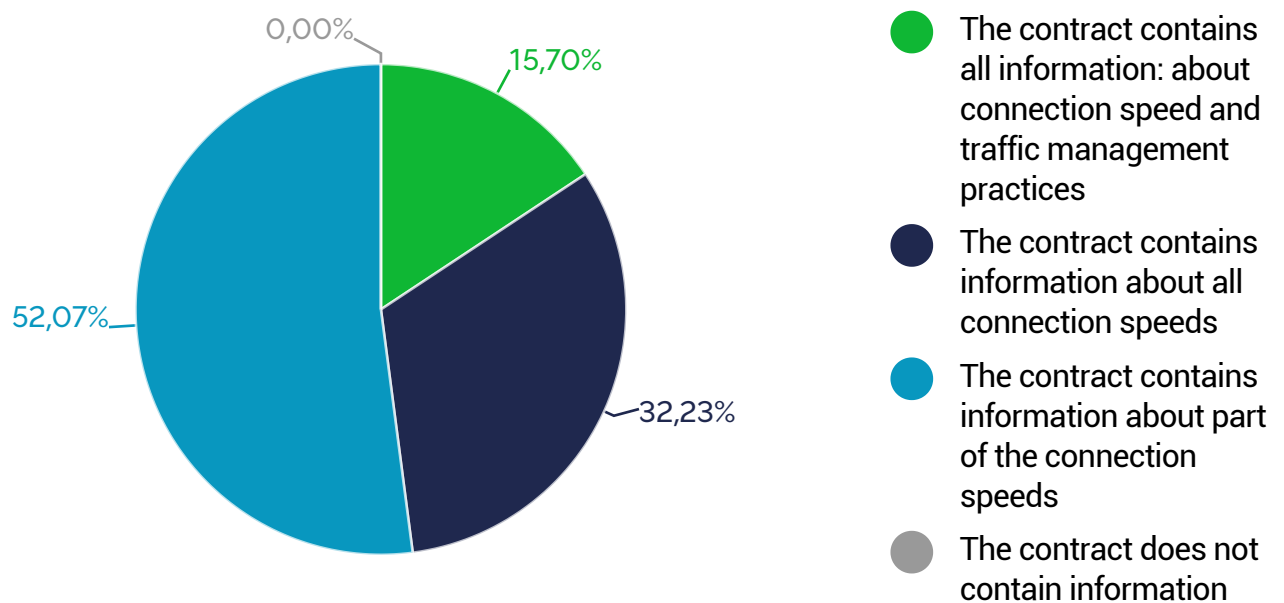
[14] *The maximum (advertised) numerical value of the connection speed or speed range which characterises the actual connection speed or speed range (upload and download) provided to the end-user which is constantly available to the end-user day and night, except for the hours of the highest traffic or specific circumstances which limit the receipt of electronic communications services.*

[15] *the normally available numerical value of the connection speed or speed range (upload and download) which characterises the speed or speed range of the connection which is constantly available to the end-user day and night, including hours of the highest load, which may coincide with the maximum (advertised) numerical value of the speed or with the speed range of the connection and the numerical value or lowest limit of the speed range of which is not lower than the minimum guaranteed speed of the connection.*

[16] *The minimum guaranteed connection speed (upload and download) which is not lower than the lowest speed limit of the bandwidth connection (256 kbps).*

[17] *The maximum (advertised) numerical value of the connection speed or speed range which characterises the maximum connection speed (upload and download) actually available to the end-user.*

## Minimal quality requirements and supervision of information included in contracts



According to the data submitted by merchants in 2022, in 2021 all merchants who submitted the information to be submitted to SPRK annually indicated that they had included information in the agreements in accordance with the Regulation on Open Internet Access and the provisions of the General Authorisation Regulations in the Field of Electronic Communications.

In Latvia, the minimum requirements for the Internet service were introduced before the entry into force of the Regulation, thus the identified discrepancies are related to the agreements concluded before the entry into force of the Regulation.

## Penalties

In accordance with the Electronic Communications Law, SPRK monitors the requirements specified in regulatory enactments for the provision of Internet services in connection with the observance of data traffic speed and data volume restrictions, and that the specified information is included in the agreement. The Electronic Communications Law prescribes which act or omission of a merchant is to be recognized as an administrative violation. Thus, for violation of the traffic speed or data volume requirements specified in regulatory enactments [18] when providing Internet services, as well as violation of end-user rights in the provision of electronic communications services, except for violations of general authorization provisions [19], issue a warning or impose a fine.

[18] *Electronic Communications Law Section 78*

[19] *Electronic Communications Law Section 80*

## Summary of the supervision of open Internet requirements



SPRK has monitored the supervision the implementation of the Open Internet Access Regulation in the reporting period from 1 May 2021 to 30 April 2022.

SPRK concludes that ISPs do not apply discriminatory traffic management measures and that the availability of internet services is ensured at a level of quality that is in line with technological developments and availability, thus not violating the requirements of the Open Internet Access Regulation.

The relatively small number of end-user complaints indicates that, in general, end-users are satisfied with the quality of services received or are able to resolve problems with merchants without the involvement of SPRK.

In addition, it can be concluded that the traffic measures implemented by the merchants are applied to ensure the protection of the network and users and do not have a negative impact on the access to the services, that complies with the requirements of the Regulation.

SPRK, within the framework of processing the information to be submitted by merchants on an annual basis, continues to carry out monitoring measures with the aim of promoting the awareness of merchants about the requirements of the Regulation and the consequences of non-compliance through various communication channels.

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