

Dear Mr. Ki-Young Choe, Minister of Science, Technology and ICT,

The signatories of this letter would like to voice their concern regarding the dangerous developments in South Korea telecom regulation that run contrary to the principle of net neutrality. If left unchecked, the country risks losing the innovative capacity of the open internet and risks undermining the benefits for freedom of expression worldwide through the unrestricted flow of ideas and information.

In response to telecoms regulator KCC [losing a court case](#) against Facebook regarding whether a cache server should be made available across ISP network boundaries, [the South Korean legislature passed a law](#) this past May that requires content providers to institute "service stabilization measures". These are vaguely defined in the statute and risk of being interpreted as requiring content providers above a certain minimum traffic and user number to ensure priority delivery of their content to end-users<sup>1</sup> by paying telecom companies a network usage fee. This "pay to play" regime is the opposite of the net neutrality principle.

The original architecture of the open internet allows everyone to connect on a global level playing field. With an access fee to an ISP the global delivery of any service is ensured, thereby creating a very low cost of innovation and enabling competition. South Korea's Sending Party Network Pays regime – as established in 2016 – is a fundamental departure of this open system. This regulatory framework comes from the old telephony era and contradicts decades of evidence about economic growth and enjoyment of fundamental rights in an open internet architecture.

The new law will charge speakers money for delivery of speech and thereby threaten the scaled-up freedom of speech currently afforded to billions of people by the Internet. Before the arrival of the Internet, freedom of speech meant only that you were allowed to speak, but did not provide any resources for speakers to reach the mass. Often only those with power and influence had access to legacy media. Freedom of speech was not equal. However, online, powerless individuals could post messages with the reach of

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<sup>1</sup> Shown in the original bill's legislative intent section (Article 22-7 of Telecommunications Business Act)

millions and billions as long as they obtain access to the Internet at any location on the global network by paying a flat fee proportional to the data access speed.

South Korea has been considered a model country with high internet penetration rate and dense fibre network penetration, but violations of network neutrality should not undermine this potential. Korea has already instituted a mandatory Sending Party Network Pays rule among Internet Service Providers since January 2016, and this new law further increases costs for content providers by holding them responsible for the last mile delivery. Furthermore, South Korea is creating a dangerous precedent for other countries which risks undermining the global nature of the internet.

We the undersigned civil society organizations and academics call on the government of South Korea to repeal the new Content Providers' traffic stabilization law and the SPNP rule immediately.

Sincerely,

Open Net Korea (South Korea)

epicenter.works – for digital rights (Austria)

Access Now (Global)

European Digital Rights (EDRi)

Article 19 (Global)

The Benton Institute for Broadband & Society (USA)

ICT Users Association (ASUTIC) (Senegal)

Asociación por los Derechos Civiles (ADC) (Argentina)

IT-Pol (Denmark)

Homo Digitalis (Greece)

D3 - Defesa dos Direitos Digitais (Portugal)

Seguridad Digital (Mexico)

Electronic Frontier (Norway)

Korean Progressive Network Jinbonet (South Korea)