DIGITALEUROPE

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Fixing telecoms regulation for scale and investment: What's needed under the Digital Networks Act

Executive summary

Europe's ambition to lead in connectivity is being held back by a regulatory framework that no longer matches the realities of today's digital infrastructure. As the Commission explores reform through the upcoming Digital Networks Act (DNA),[1] it is time to move towards a simplified, harmonised and investment-focused model.

This paper builds on DIGITALEUROPE's existing positions, which remain valid, to address the elements raised in the European Commission's call for evidence.[2] We support the DNA as a corrective framework – not an expansion – and urge action in the following key areas:

- **Simplify and harmonise**: Replacing the current directive with a regulation can improve legal certainty and consistency across Member States. But simplification must go beyond legal form: it must reduce regulatory burden for operators and eliminate outdated obligations that hinder innovation and scale.
- **Shift access regulation towards a more proportionate model**: The EU's access framework should better reflect market realities and encourage investment. We welcome the Commission's proposal to introduce a harmonised EU-wide access product as a default remedy where competition issues are identified. *Ex ante* obligations should be applied only where necessary.
- **Strengthen spectrum coordination whilst respecting national contexts**: Europe must end fragmented spectrum assignments that delay deployment and deter investment. We support

[1] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14709-Digital-Networks-Act_en.

[2] Our relevant past positions include: our flagship report *Mind the gap: A new Connectivity Act for the Digital Decade*, available at https://cdn.digitaleurope.org/uploads/2022/03/DIGITALEUROPE_Mind-the-Gap_A-new-Connectivity-Act-for-the-Digital-Decade.pdf; our contribution to the Commission's exploratory consultation, *Assessing the debate on contributions to network deployment*, available at https://cdn.digitaleurope.org/uploads/2023/05/Assessing-the-debate-on-contributions-to-network-deployment.pdf; and our response to the Commission's white paper, *Overcoming Europe's connectivity challenges to reclaim global leadership*, available at https://cdn.digitaleurope.org/uploads/2024/07/Overcoming-Europes-connectivity-challenges-to-reclaim-global-leadership.pdf.

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minimum licence durations of 20 years, investment-friendly payment terms and an EU-level roadmap to ensure timely and coherent spectrum release, particularly as 6G approaches.

- **Simplification is the 'level playing field'**: The right way to level the playing field is not by expanding telecoms rules to cloud, over-the-top or other digital service providers, but by reducing obligations that weigh disproportionately on telecoms operators. Clear regulatory boundaries between distinct market segments must be preserved.
- **Clarify the rules on specialised services**: Uncertainty has discouraged providers from launching innovative services like 5G slicing or ultra-low-latency vertical applications. Clarifying that such services are compatible with net neutrality is essential to unlocking next-generation use cases.
- **Secure Europe's digital backbone**: Geopolitical tensions expose vulnerabilities in Europe's digital infrastructure. To ensure resilience, the EU must enforce harmonised network security standards, strengthen 5G Toolbox implementation and develop certification schemes reflecting new architectures like virtualisation, AI and Open RAN.

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Correction, not expansion

The questions raised in the call for evidence are not new. In our 2022 *Mind the gap* report, we identified **inadequate returns on private investment** and **significant delays in spectrum auctions** as key barriers hindering European leadership in fixed and mobile networks, with growing concerns about Europe's position in the forthcoming 6G era. These challenges are not the product of recent developments or emerging technologies, but of structural shortcomings that have persisted across multiple legislative cycles.

Whilst the policy objective of a genuine single market for connectivity has been stated for years, the regulatory framework has not delivered it. The EECC has suffered from delayed enactment across Member States, with up to four-year lags in some cases,[3] with Member States introducing national variations regarding general authorisation conditions, administrative charges or service obligations. The Code's design as a directive has proven insufficient to ensure predictability for operators aiming to deliver cross-border services or invest at scale. The result is a sector still defined primarily by national boundaries.

We therefore support the Commission's intention to simplify and harmonise telecoms rules as part of the DNA. A future framework **adopted as a regulation** would eliminate the risks of divergent transposition and provide investors with greater legal certainty.

The choice of legal instrument, important though it is, must not distract from the real goal: a lighter framework that removes, rather than adds, layers. In this light, the DNA should not aim to reshape the entire sector, but act as a necessary course correction. The solution lies in **fewer rules applied uniformly**, and designed to reflect how networks are built and used today.

Meaningful simplification

Merging laws, as anticipated in the call for evidence, does not automatically reduce complexity, especially if overlapping or outdated rules are simply preserved under a new label. Real simplification must make compliance lighter: only those obligations that are truly necessary and fit for purpose should be preserved.

We support the Commission's proposals to simplify the general authorisation regime, with **reduced and standardised conditions** across the EU. We also welcome the Commission's intention to reduce reporting obligations by up to 50 per cent and to **eliminate burdens on business-to business (B2B) and IoT (Internet of Things)** service providers.

B2B and IoT connectivity services are increasingly central to Europe's digital transformation. They underpin smart manufacturing, logistics, energy systems, health technologies, and a wide range of industrial and public sector applications. Unlike traditional telecoms services, these offerings are typically deployed in controlled environments, serve professional users and do not rely on public network access or mass-market service provision. Applying end-user obligations designed for consumer communications services to these specialised deployments adds disproportionate costs and complexity without delivering meaningful benefits

[3] Directive (EU) 2018/1972. Poland was the last Member State to transpose the EECC, submitting a draft transposition law to its Parliament by June 2024, over three years past the original deadline of 21 December 2020. Other countries, such as Croatia and Cyprus, also completed transposition more than a year late. These delays prompted the European Court of Justice to fine five Member States – Poland, Ireland, Latvia, Portugal and Slovenia – a total of €12.4 million for failing to meet the transposition deadline.

to users. Streamlining obligations for these providers will directly support Europe's competitiveness in high-value digital infrastructure and services.

A smarter approach to access regulation

DIGITALEUROPE has long argued that Europe's regulatory framework must evolve to support infrastructure investment and efficient network use. As network competition deepens and symmetric access frameworks mature, ***ex ante* obligations should be retained only where strictly necessary**. We support the creation of a harmonised EU-wide access product as a targeted remedy in markets where competition issues are clearly identified, subject to a robust market review and Commission oversight. This ensures fair access without stifling investment incentives.

We also support an accelerated copper switch-off. Replacing copper networks with fibre, hybrid-fibre-coaxial (HFC), 5G fixed wireless access (FWA) and low Earth orbit (LEO) satellite broadband offers significant benefits. We endorse the development of a European toolbox for national copper switch-off plans, but caution against imposing a fixed EU-wide switch-off deadline. The decision to switch off copper networks should remain with the network owner. Instead of a binding deadline, policymakers should support fibre rollout as a prerequisite for copper switch-off.

Finally, Europe's connectivity market structure itself must be taken into account. Fragmentation, exacerbated by merger control focused on national markets, has long limited the scale of investment. European operators serve, on average, far fewer subscribers than their counterparts in other global regions.[4] Consolidation that allows for in-market scale, provided it does not harm competition, is essential for enabling pan-European operators that can invest in infrastructure and digital innovation.

A level playing field?

The call for evidence envisages measures to address 'challenges in the cooperation between the various digital players in the digital infrastructure ecosystem.' It considers empowering BEREC and NRAs to 'facilitate' such cooperation.[5]

Europe's digital transformation can only succeed through the collective effort of a wide range of investors and contributors, from telecoms operators and vendors to cloud providers, application developers and equipment manufacturers. DIGITALEUROPE's members invest across this entire value chain. These actors are not interchangeable, nor are their roles or regulatory needs the same. The DNA must preserve clear boundaries between distinct market segments, including telecoms, cloud infrastructure and over-the-top

[4] Europe has an average of 4.4 million subscribers per operator compared to 95 million in the US, 300 million in India and 400 million in China. See Mobilise Global, 'Europe's looming mobile crisis – a call to action for survival,' available at https://www.mobiliseglobal.com/europes-looming-mobile-crisis-a-call-to-action-for-survival/.

[5] This appears to reflect concerns raised in the context of network usage debates between content and application providers (CAPs) and telecoms operators. There is little historical evidence of significant interconnection disputes in Europe, which are typically limited to capacity upgrades rather than market failure. See, in particular, *BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs*, available at https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC_preliminary-assessment-payments-CAPs-to-ISPs_0.pdf.

services, which operate under different competitive dynamics and should not be subject to a one-size-fits-all regulatory framework.[6]

The right way to level the playing field is not to increase the regulatory burden on digital service providers, but to **lighten obligations that weigh disproportionately on telecoms operators** to promote investment.

Net neutrality and innovation

DIGITALEUROPE has consistently supported the principles of the Open Internet Regulation, including the prohibition of unjustified blocking and throttling of lawful content, and the commitment to non-discriminatory treatment of internet traffic.[7] At the same time, the Regulation allows for the provision of 'specialised services,' requiring specific quality characteristics provided they do not degrade the general quality of internet access.

In practice, inconsistent interpretations by national regulators have made providers reluctant to develop or launch specialised services – based on network slicing in 5G, low-latency industrial applications or dedicated virtual private networks – due to concerns about whether these would be deemed permissible.

Differentiated services are not incompatible with net neutrality. On the contrary, they can champion the value of next-generation networks in enabling digital transformation. We support **clarifying the scope of the specialised services provision**, promoting consistent application across Member States to enable innovation, especially in sectors that depend on guaranteed network performance such as healthcare, transport and manufacturing.[8] These clarifications can preserve the Regulation's core principles – non-discrimination, openness and user empowerment – whilst enabling tailored, high-quality services where demanded by consumers or verticals.

Reducing fragmentation in spectrum policy

Divergent spectrum assignment practices – around timing, licence conditions and renewal – continue to inhibit timely network deployment.

Spectrum reform is an area where political realism is especially important. Member States have historically resisted deeper EU involvement in this area, in part because spectrum auctions contribute significantly to national budgets. Spectrum management also intersects with national industrial policy, legacy usage rights

[6] The conduct of non-telecoms digital players – particularly around security, market fairness and systemic risk – is already comprehensively regulated under existing EU legislation. The NIS2 Directive (Directive (EU) 2022/2555) imposes strict cybersecurity and risk management obligations on essential digital infrastructure, including cloud services. The Digital Services Act (Regulation (EU) 2022/2065) establishes due diligence, transparency and accountability requirements for online platforms and intermediaries. The Digital Markets Act (Regulation (EU) 2022/1925) imposes behavioural obligations on designated gatekeepers, including rules on interoperability, self-preferencing and data access.

[7] Regulation (EU) 2015/212.

[8] See *DIGITALEUROPE response to BEREC public consultation for the evaluation of the application of Regulation (EU) 2015-2120 and the BEREC Net Neutrality Guidelines*, available at https://cdn.digitaleurope.org/uploads/2019/01/DIGITALEUROPE%20response%20to%20BEREC%20net%20neutrality%20consultation%20April%202018[1].pdf.

and national security planning, all areas where governments have so far expected to retain discretion. A successful reform must acknowledge these sensitivities.[9]

The call for evidence proposes a strengthened peer review process, an EU-level roadmap for authorisations, longer licence durations, investment-oriented auction design and greater use of spectrum sharing. These objectives are broadly aligned with our longstanding calls for improved spectrum coordination to enable private investment and prepare for the next generation of wireless technologies.

Stronger coordination

DIGITALEUROPE supports **stronger EU coordination on spectrum allocation and assignment**, whilst maintaining national competence over licensing and implementation. Local conditions such as population density and existing use cases require tailored national licensing. However, delays, inconsistent rules and high reserve prices in several Member States have shown the limits of voluntary coordination.

A strengthened peer review mechanism would reduce distortions and improve the investment environment. The Commission, together with Member States, should focus on developing an effective EU-level roadmap for spectrum release. Vertical use cases and emerging technologies, such as satellite broadband and 6G, stand to benefit especially from more harmonised EU strategies.

Smarter assignment

The current complexity of national assignment conditions deters investment. Mobile operators face vastly different costs and regulatory environments depending on the country. Some allocations are excessively delayed; others are priced too high, often requiring full payment up front. This creates uncertainty for infrastructure rollout and limits the attractiveness of EU markets to long-term investors.

Auction design should serve infrastructure goals, not primarily fiscal ones. Artificial spectrum scarcity and excessive financial burdens limit rollout, particularly in rural and less profitable areas. The Commission and Member States should jointly define principles for efficient and deployment-focused spectrum awards.

We support the introduction of minimum licence durations of at least 20 years, with extension possibilities linked to coverage and investment commitments. This would align Europe with global best practices and ensure greater predictability.[10] Investment-friendly payment conditions should also be encouraged: operators should be allowed to pay when spectrum becomes available and in annual instalments ('pay per use') rather than in full at the time of award.

[9] See also the 'Towards improved governance' section below.

[10] In markets such as the US and South Korea, mobile spectrum licences typically extend for 20 years or more, often with renewal expectations. For example, the U.S. Federal Communications Commission (FCC) generally grants licences for terms of 15–30 years, with most major commercial spectrum bands, including those used for 5G, subject to renewal expectancy. In South Korea, recent 5G spectrum allocations (e.g. 3.5 GHz and 28 GHz) were awarded with 10–20-year durations, with a clear renewal roadmap. Longer licence terms are essential to encourage long-term infrastructure investment.

Preparing for future wireless needs

After a slow start to 5G rollout, Europe cannot afford to repeat the same mistakes looking to 6G and beyond. The **early identification and harmonised allocation of 6G bands** should be a political priority, accompanied by coherent usage conditions that give industry the confidence to invest early.

We agree that flexible authorisation models, including spectrum sharing and local licensing, will be important tools to support new use cases in vertical industries. Spectrum sharing remains an important tool to increase efficiency and support innovation, including in emerging vertical use cases, particularly in bands where traditional clearing and exclusive licensing are impractical. Flexibility, however, must not come at the expense of predictability. Sharing models should be deployed on a case-by-case basis, considering the nature of new and existing users, the risks of harmful interference and a cost-benefit analysis. Sharing cannot substitute the core need for longer licence durations, lower administrative burdens and coordinated assignment timelines that are key to investment.

Finally, satellite services play an increasingly important role in ensuring complementary coverage, redundancy and resilience. DIGITALEUROPE's members include satellite manufacturers, infrastructure providers and cloud operators, all of whom have a stake in ensuring that regulatory clarity and fair competition govern access to Europe's satellite connectivity market. Fragmented national authorisation procedures may hinder the development of seamless, cross-border satellite services and create unequal conditions for market access. An EU framework setting common principles for authorisation would promote investment and innovation across both European and global providers. At the same time, any new rules must avoid undue barriers on responsible market entrants.

Towards improved governance

Over the past three decades, EU telecoms regulation has been guided by the principle of national implementation within a common European framework. Whilst this model has delivered undeniable benefits – above all, competition and consumer choice – it has also prolonged fragmentation. Rules are transposed at different speeds, spectrum is awarded under diverging conditions and remedies vary across borders.

The idea of enhanced EU governance, as outlined in the call for evidence, seeks to address this not by proposing a new institutional architecture, but by considering whether existing bodies like BEREC, the BEREC Office and the Radio Spectrum Policy Group (RSPG) could take on more structured and strategic roles in implementation, coordination or even decision-making.

This is not the first time such ambitions have surfaced. Previous efforts to centralise oversight have met with resistance, often due to the political and fiscal significance of decisions such as spectrum allocation, which remain tightly held by Member States. Telecoms governance in Europe has always been a delicate balance between subsidiarity and market integration. The key challenge is how to improve consistency, trust and coordination without creating inefficient processes or parallel structures.

DIGITALEUROPE supports **targeted enhancements** to the roles of BEREC, the BEREC Office and the RSPG, where such changes reinforce implementation consistency and enable pan-European initiatives to succeed. To be effective, these institutions must operate within clearly defined mandates, maintain close engagement with industry and avoid taking on responsibilities that risk politicising technical decisions or duplicating national regulators' work.

Securing Europe's digital backbone

The geopolitical and security landscape has brought renewed attention to the vulnerabilities of Europe's digital infrastructure. Incidents such as suspected sabotage of undersea data cables in the Baltic and North Seas, increasing threats to telecoms infrastructure amid geopolitical tensions and the broader rise in state-sponsored cyberattacks have highlighted the strategic importance of ensuring the resilience and security of Europe's backbone networks. Submarine cables, terrestrial backhaul routes and interconnection points are core to Europe's economic sovereignty, public security and crisis response capabilities.

Europe must move towards harmonised security standards for network equipment. EU-level tools such as the 5G Security Toolbox and the candidate 5G Cybersecurity Certification Scheme rely on diverse national measures and create security gaps. The DNA should **improve enforcement of the EU Toolbox for 5G security** within a set timeframe, with periodic evaluations of Member States' network plans to ensure sensitive elements are from trusted vendors. In addition, new EU-level certification schemes must account for emerging network architectures and functionalities, including virtualisation, AI integration and Open RAN technologies.

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About DIGITALEUROPE

DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies. Our membership represents over 45,000 businesses who operate and invest in Europe. It includes corporations which are global leaders in their field of activity, as well as national trade associations from across Europe.

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