Google Feedback on the Digital Networks Act (DNA) Proposal

EXECUTIVE SUMMARY

Google welcomes the opportunity to provide feedback on the European Commission's proposal for a Digital Networks Act (DNA). We share the Commission's ambition to secure a **resilient connectivity ecosystem** and establish a genuine telecoms single market that boosts European competitiveness and achieves the **"Digital Decade" targets**.

As a long-standing partner in the European digital ecosystem, **Google is a primary investor in digital infrastructure in Europe**. Google's expansive fiber backbone network across Europe—built in close partnership with European telecom operators—forms a vital part of our global infrastructure, which includes 33 subsea cable investments (with 6 serving Europe), 6 large European data centers, and a massive cloud footprint of 42 regions and 202 network edge locations. Furthermore, the deployment of the Google Global Cache (GGC) across 180 countries drives massive network efficiencies. These investments are complementary to those of telecom operators and reduce costs for these operators while improving the quality of experience for European consumers.

Furthermore, **Google invests significant financial amounts** in the content, applications and services that support demand for telecoms services, both fixed and mobile - investing tens of billions of dollars per year in our platforms (such as Android), services (such as Google Search, Gemini, and enterprise collaboration apps in Workspace), and content and applications (such as YouTube). With 5G rollout and fibre to the home deployment reaching maturity in many European countries, the focus now shifts from deployment to adoption, including how we build the new digital services that will drive demand for the next-generation connectivity that has been built across Europe, providing investors with a return on investment and supporting Europe's digital transformation.

To secure Europe's digital future, **Europe needs sustained innovation, investment and resilience, not new disputes or regulatory overreach**. The DNA must focus on removing concrete barriers to the single market rather than intervening in functioning commercial dynamics. As currently drafted, the proposal risks shifting the focus from telecom reform to a regulation of the whole Internet, threatening the stability of the entire European digital ecosystem. Specifically, we are deeply concerned by:

1. **Unwarranted Expansion of General Authorisation**: The proposal inappropriately expands traditional telecom regulation to any network providing information society services, capturing private networks (including non-public infrastructure like submarine cables and data connecting networks), cloud providers, and Content Delivery Networks (CDNs), creating severe regulatory overlap with existing frameworks like NIS2 and DORA.

2. **Regulating IP Interconnection & Creating Disputes**: The introduction of "ecosystem cooperation" and "voluntary conciliation" mechanisms attempts to regulate many competitive markets adjacent to telecoms operators, including the highly competitive IP interconnection market. These provisions act as a dispute creation process, incentivizing large incumbent operators to extract "network usage fees" that will ultimately act as a tax on the internet and raise prices for consumers.

3. **Erosion of Open Internet Protections**: By granting broad powers to define "specialised services" via implementing acts without the interpretative boundaries of the 2015 Open Internet Regulation, the proposal creates a severe risk of bypassing net neutrality and creating a two-tier internet.

4. **Lack of Simplification and Impact Assessments**: Despite the stated goal of simplification, the proposal defers critical regulatory decisions to over 15 BEREC guidelines and 24 implementing acts. Regrettably, market-altering mechanisms like 'ecosystem cooperation' were introduced without any comprehensive impact assessment nor any evidence of a market deficiency to be addressed.

Rather than generating immense regulatory uncertainty and new burdens that will stifle digital innovation, we urge policymakers to re-focus the DNA on **achievable, demand-stimulating**

improvements to the single market. Public policy regarding the EU connectivity ecosystem should maintain a **pro-innovation, consumer-oriented** attitude by continuing to enforce **pro-competition access regulation, reinforcing spectrum harmonisation, and facilitating simplified regulatory procedures to offer true pan-EU services to consumers.**

1. SCOPE OF THE GENERAL AUTHORISATION REGIME

1.1. Analysis: unwarranted scope expansion of the General Authorisation Regime (Article 9)

The DNA proposal lacks clarity regarding its exact scope and inappropriately expands the scope of obligations applying to traditional telecom operators well beyond the sector of public electronic communications networks. While the proposal may claim that "cloud services" themselves are out of scope by definition, it effectively captures them by heavily regulating the underlying physical infrastructure that makes cloud computing possible—such as CDNs, private enterprise networks, and submarine cables. In addition, while the actual definitions of electronic communications networks have not been changed, the scope of regulation is expanded through other changes:

a. **Expansion of General Authorisation**: Article 9(2) explicitly applies the general authorisation regime not only to public electronic communications services but also to providers of electronic communications networks (ECNs) used wholly or mainly for providing "information society services available to the public". As indicated by Recitals 42 and 43, this expansion is deliberately designed to capture all types of ECNs involved in the delivery of digital services. This broad wording effectively brings cloud providers, Content Delivery Networks (CDNs), and many private enterprise networks into the scope of public telecommunications regulation. The current wording could see a large range of private networks being in scope, that would include cloud 'hyperscalers', banks, broadcasters, gaming and e-commerce companies, and universities, among many others: all these would potentially find themselves subject to the same obligations as an Internet Service Provider (public ECN) that delivers broadband or mobile access to end-consumers. This expansion relies on a premise of convergence between cloud/private networks and public telecom services. This premise is wrong, as cloud services are complementary to telecom operations, not replacements for them.

b. **Broadened Definitions of Access and Interconnection**: The definitions within Article 2 have been significantly expanded compared to the European Electronic Communications Code (EECC), widening the scope of regulation. The definition of "interconnection" in Article 2(29) deliberately removes previous limitations to public networks, explicitly bringing non-public ECNs, private networks, caches, and content-delivery infrastructures into scope. Similarly, the definition of "access" in Article 2(28) has been expanded to explicitly cover access to ECNs generally.

c. **Number independent Interpersonal Communications Services (NI-ICS):** While the proposal notes that NI-ICS are excluded from the general authorisation regime (Article 9(3)), these services may still be subjected to public interest obligations—such as network resilience, cybersecurity, data retention, and lawful interception—under other applicable EU or national legislation.

d. **Non- public ECNs:** The proposal's resilience requirements explicitly bring non-public ECNs, such as submarine communication cables, cable landing stations, and data center connecting networks, into its regulatory scope. Regulating these under telecom law ignores that they are already comprehensively governed by the NIS2 Directive and the Critical Entities Resilience (CER) Directive, creating a risk of duplicative and conflicting mandates.

1.2. Risks: legal overlap and impact on consumers and SMEs

This expansion brings cloud providers, Content Delivery Networks (CDNs), and many types of private enterprise networks into the scope of public telecommunications regulation. Subjecting these entities to telecom law ignores that they are already regulated by extensive, tailored EU frameworks such as NIS2, DORA, and the DMA. The DNA introduces duplicative resilience planning and reporting requirements for network segments like data centers and submarine cables, conflicting with the NIS2 and Critical Entities Resilience (CER) Directives. The expanded scope relies on a flawed premise of convergence, but these services are, in fact, complementary. Cloud providers do not compete for "last mile" retail access; they provide the

B2B infrastructure that enables the digital economy to function, in support of telecom operators' activity.

Furthermore, the broadened definitions of access and interconnection create a risk that National Regulatory Authorities (NRAs) could impose mandatory interconnection obligations on private networks, cloud networks and CDNs, which would impose disproportionate compliance burdens on cross-border businesses and thousands of European enterprises across sectors like finance and healthcare that never intended to be telecom providers.

This has risks to consumers and SMEs: If cloud networks, CDNs, and private networks (commonly operated by banks, healthcare providers, insurances, car manufacturers, universities, business consultancies, etc.) are forced into telecom-style regulatory regimes—and potentially subjected to dispute resolution—the operational costs across the digital value chain will increase. These higher connectivity costs and potential service degradations will ripple across the wider European economy, heavily impacting websites, broadcasters, and SMEs in sectors like manufacturing, healthcare, and finance. Ultimately, this regulatory uncertainty will slow the adoption of essential cloud services and emerging technologies like AI, and the ensuing socio-economic benefits.

1.3. Recommendations

- **Exempt Non-Public Infrastructure**: Expressly exempt non-public ECNs, cloud infrastructure, and CDNs from the General Authorisation regime. Amend Article 9(2) to remove the inclusion of networks used for "information society services available to the public," ensuring traditional public telecommunications regulation is not applied to complementary digital services.
- **Preserve EECC Definitions**: Revert the definitions in Article 2 to align with the European Electronic Communications Code (EECC), ensuring that access and interconnection obligations apply strictly to public telecommunications networks. We demand the preservation of the original EECC definitions for "access" and "interconnection" to prevent this unprecedented regulatory overreach. This is in line with Better Regulation principles and the simplification agenda.

2. ECOSYSTEM COOPERATION AND FACILITY FOR VOLUNTARY CONCILIATION

2.1. Analysis: attempting to regulate the “broader connectivity ecosystem”, including the IP Interconnection market

Part VIII, Title IV of the DNA introduces a regulatory framework for "ecosystem cooperation" (Article 191) and a "Facility for voluntary conciliation" (Article 192). Article 191 tasks BEREC with publishing guidelines to facilitate cooperation on technical and commercial matters between ECNs and undertakings in "closely related sectors". Recital 402 broadens this scope to include Content and Application Providers (CAPs), software and AI developers, and network equipment manufacturers. Article 191(2) furthermore suggests that BEREC should ensure “that such cooperation is consistent with the guidelines”, with Article 192 establishing a “voluntary conciliation” process for disputes.

The proposals for regulatory guidelines, monitoring, and a “voluntary conciliation procedure” on interactions between telecoms operators and a wide swathe of adjacent industries, for example, with software and hardware vendors, CAPs and more, are not justified by any evidence of market failure. This would add a significant compliance burden to a wide range of industries that work with telecom operators and have a chilling effect on innovation, competition, and cooperation, the opposite of the stated goals of the Digital Networks Act. There is no justification for such intervention or monitoring.

On IP interconnection in particular, recitals 164 and 403 instruct that BEREC guidelines should address the hand-over of IP traffic (peering and transit) to ensure it does not lead to "economically unsustainable investment needs" for receiving public networks, and state that “benefits” from increased traffic should be "shared".

These provisions significantly overreach into the technical and commercial relationships of the broader Internet ecosystem, and the Commission’s proposal fundamentally misunderstands the fundamentals and functioning of Internet infrastructure, in markets that regulators and competition authorities have repeatedly stated have no market failure and no justification for

regulatory intervention, and creates overlap, confusion and duplication with existing regulation in other areas.

For example, Recital 164 states that traffic demanded by users delivered to telecoms operators may result in “disproportionate or unsustainable investment needs for the receiving providers” - given the Internet operates on a request-response mechanism, the traffic delivered to a telecom operator’s network is that which their customers demand, and investment needs are related to the demands of the operator’s customers. Furthermore, if this traffic is delivered over a transit connection, the operator is paying for such a connection. Such wording, and that in Recital 403, would make transit providers liable for the successful business models of their customers, turning upside down the fundamental hierarchy of Internet routing.

Recital 403 suggests that regulators should develop guidelines on “service level agreements”, including for peering interconnections. These are a mutual agreement between two network providers to exchange traffic directly between their networks, and where currently more than 99.9% of all arrangements are currently informal and without paperwork, based on well-understood industry norms.

Europe leads the world in IP interconnection hubs including in Frankfurt, Amsterdam and Paris, due to the low-friction, low-overhead opportunity for networks to come together and exchange traffic via peering. Introducing regulatory oversight and contractual requirements on this market, which has not identified market failure, would have a chilling effect on Internet stability, resilience, and Europe’s position as a leading IP interconnection hub, harming broader investment in digital infrastructure including data centres, fibre networks and submarine cables.

Furthermore, the proposed DNA language regarding "shared" benefits and "economically unsustainable" investments fundamentally misunderstands the layered nature of the Internet - where lower-layer traffic exchange is neutral to the content carried on top - and serves as a direct link to the telecommunications industry's demands for mandatory "fair share" network usage fees.

2.2. Risks: regulatory overreach and incentives for artificial disputes

The market for Internet interconnection is already highly competitive and efficient, exhibiting no market failure that justifies regulatory intervention. Evidence from BEREC's 2024 reports confirms that the IP interconnection market is highly functional: 99.998% of peering agreements are successful "handshake" deals, and 97% of traffic is exchanged on a settlement-free basis.

Although labelled "voluntary," the conciliation mechanism acts as a dispute creation process, distorting a functional market by incentivizing large incumbent operators with significant market power (including the risk of certain Internet Access Service providers leveraging their 'termination monopoly', consistently raised by BEREC) to extract fees and creating the risk of mandatory dispute resolution mechanisms being introduced later.

The practical implication of the conciliation mechanism is that any online entity—a traffic "sending party"—could be forced to pay to deliver their content to users who have specifically requested it. Because consumers already pay their broadband providers for Internet access, allowing network operators to extract additional fees from content providers amounts to charging twice for the same delivery. This double-billing acts as a "network usage fee" or a tax on the Internet that will fundamentally alter the economics of the Internet and the ability for content and services to be made available over the Internet, and this new cost will inevitably be passed on to consumers in the form of higher prices - and less choice. Furthermore, to avoid these arbitrary fees, content and cloud providers may be forced to route traffic inefficiently, which would undermine network resilience and result in a degraded, lower-quality Internet experience for end-users.

2.3. Recommendations

- **Delete Articles 191-193**: Delete the provisions surrounding "ecosystem cooperation" (Article 191) and "voluntary conciliation" (Article 192) as they apply to IP interconnection.
- **Delete Recitals 164, 402 and 403**: Remove or heavily amend Recitals 164, 402 and 403 to eliminate any regulatory mandate for oversight of the "broader connectivity ecosystem", including incorrectly implying that peering or transit traffic causes

disproportionate investment needs for public operators or should be subsidized by non-telecom actors.

3. OPEN INTERNET ACCESS AND SPECIALISED SERVICES

3.1. Analysis: reopening of the Open Internet Regulation

The DNA maintains the core provision from the 2015 Open Internet Regulation (OIR) that providers shall treat all traffic equally (Article 93). However, Article 93(6) grants the Commission broad powers to adopt implementing acts detailing the conditions for offering "specialised services" (services optimised for specific content, applications, or services). Recital 255 explicitly links these powers to accommodating network slicing, differentiated industrial use-cases, and edge computing, and further suggests that the Commission could provide “criteria for compliance” (with the OIR) “including., inter alia, quality-of-service parameters or minimum levels to be ensured for general internet access services”. Additionally, the DNA repeals parts of the 2015 Open Internet Regulation but omits the original interpretative recitals that provided the background and boundaries for net neutrality.

3.2. Risks: erosion of net neutrality and creation of a two-tier Internet

By empowering the Commission to define criteria for specialised services via implementing acts, the DNA provides a regulatory pathway for traffic prioritization practices, without the benefit of public scrutiny and input from relevant stakeholders such as consumer / end user representatives and digital SMEs. This creates a severe risk that particular operators will utilize "specialised services" to bypass net neutrality protections, allowing them to monetize traffic prioritization (creating a "two-speed Internet") rather than investing in general network capacity. Because the DNA omits the OIR’s interpretative recitals, the practical application of these crucial protections will be left to the broad discretion of the Commission and BEREC guidelines, generating significant regulatory uncertainty for digital services.

Furthermore, it is unclear that there is significant demand for such specialised services or for telecoms operators to roll them out. In Ofcom’s 2023 review of Net Neutrality, they asked UK

operators if there had been any specialised service offers that had not launched because of concerns with conflicting with open Internet provisions (which at the time, were carried over from the OIR). Operators responded with 28 different services which they considered had been limited or impeded by various aspects of the net neutrality framework. Ofcom's analysis was that this was the case for only four of these proposals[1]. Since Ofcom's additional guidance on specialised services, there has not been a significant growth in the number of new services taking advantage of the new guidance.

The existing OIR already provides for specialised services, so changes are not required to support the "network slicing, experimental services and differentiated industrial use-cases" that the Commission proposes. The proposal to issue "minimum quality of service parameters [...] for general internet access services" weakens the open Internet provisions in the OIR which states that any specialised service should not impair Internet access at all - defining a minimum quality of service may result in services tending towards that minimum level, rather than operators striving to provide the fastest possible speeds.

3.3. Recommendations

- **Strict Criteria for Specialized Services**: Ensure that Article 93(6) and related implementing acts regarding specialised services do not delegate broad powers that could be used to undermine existing net neutrality protections, network slicing safeguards, and end-user choice.
- **Reintroduce 2015 Interpretative Recitals**: Reintroduce the original interpretative recitals from the 2015 Open Internet Regulation to provide strict interpretative boundaries for the application of net neutrality rules.

[1] Ofcom, Net Neutrality Review, 26 October 2023, para 10.31

4. GOVERNANCE

4.1. Analysis

The DNA is proposed as a Regulation rather than a Directive, with the stated aim of simplifying and harmonizing the legal framework to deliver a true single market. However, the proposal relies heavily on secondary implementation and guidance instruments, foreseeing over 15 instances of BEREC guidelines and 24 instances of Commission implementing acts to establish the practical details of the framework. This adds complexity and is the opposite of the simplification claimed by the Regulation.

The introduction of the new "Office of Digital Networks", providing not just administrative support to BEREC (like the current BEREC Office) but playing an active role, providing "technical expertise, analytical capacity, coordination support and operational assistance" (Article 145(2)), is a significant shift.

4.2. Risks

Leaving the practical application of crucial rules—such as the boundaries for specialised services, net neutrality, and ecosystem cooperation—to the broad discretion of the Commission's implementing acts and BEREC guidelines generates immense regulatory uncertainty for the digital sector, and risks that the implementation of the Regulation in future may drift away from the original intent set by the Commission, Parliament and Council.

Telecom infrastructure projects operate on multi-decade financial horizons. Passing a Regulation that leaves critical technical rules - such as cost methodology definitions for European harmonised access products (Article 81) or affordability thresholds (Article 89) - to future implementing acts degrades market predictability and could harm the investment that the Regulation seeks.

The new Office of Digital Networks, having a newly active role in the work of BEREC, including by "participating and contributing to all the activities of the working groups", (Article 146) risks

influencing BEREC's history of rigorous evidence-based regulation with political or other pressures.

4.3. Recommendations

- Introduce further provisions to safeguard the independence of BEREC and NRAs, protecting regulatory certainty and Better Regulation principles, by ensuring that the new governance structures (such as the ODN) do not inappropriately centralize discretionary power or expand the Commission's influence over market regulation.

ADDITIONAL CONSIDERATIONS

While we strongly urge policymakers to reconsider the market-altering mechanisms discussed above, we support the Commission's ambition to secure a **genuine telecoms single market through targeted, demand-stimulating improvements**. We believe the DNA can positively impact the European digital landscape by focusing on the following achievable areas:

- **Maintaining Pro-Competition Access Regulation**: Access regulation has been one of the clearest successes of Europe's telecommunications framework. By enabling the emergence of alternative, competitive market players and specialists (such as 'towercos' alongside traditional telecom services), this framework has contributed significantly to the active rollout of fast gigabit and 5G connectivity across the continent.

  We strongly encourage the EU to maintain a resolutely pro-competition regulatory framework, especially by ensuring continued strong safeguards for access to wholesale telecommunications. **Pro-competition regulatory safeguards** continue to be vital to ensure consumer choice, particularly at the bottleneck level of wholesale Internet access. Furthermore, we agree that dealing with legacy networks through effective implementation of the Gigabit Infrastructure Act (GIA) and accelerating copper switch-off can further improve the fiber investment case.

- **Enhancing Spectrum Harmonisation**: Harmonizing the regulatory framework across the EU would significantly facilitate device compatibility and innovation. We encourage

the development of a more holistic spectrum sharing framework that is light on bureaucratic overheads and preserves fair incentives for participation. This can be achieved by enhancing coordination within existing structures, such as between BEREC, the Radio Spectrum Policy Group (RSPG), and the Conference for Electronic Post and Telecom (CEPT), rather than through the proposed mechanism of a Commission "veto" in certain circumstances.

Specifically, capabilities should be strengthened to drive innovative approaches to spectrum management, including spectrum sharing and the expansion of unlicensed and licence-exempt spectrum. **Making significant unlicensed spectrum available is crucial for the development of new devices and applications,** such as the Internet of Things (IoT), and is highly valuable for the WiFi offloading of network traffic, which helps alleviate network capacity concerns.

- **Facilitating Pan-EU Services**: We welcome the suggestion to make it easier to offer pan-EU communications services by harmonizing the implementation of the European Electronic Communications Code (EECC) across Europe, which would help avoid a fragmented patchwork of different national regulations.

  The core objective should shift towards facilitating pan-EU services that interested companies can offer to consumers and businesses, rather than merely enabling pan-EU companies. Ongoing market evolutions present great opportunities to offer cross-border communications services without needing to deploy infrastructure everywhere; providers can combine their existing footprint in certain Member States with infrastructure leased from neutral network operators in others. To support this, **simplifying authorisation procedures**—such as having the ability to obtain a single pan-EU authorisation for offering electronic communications services and networks (ECS/ECN)—would be very helpful. This simplification would allow providers to offer novel products and cross-border packages that benefit European consumers and businesses of all sizes.

CONCLUSION

The future of European connectivity depends on stable regulatory environments and a focus on long-term growth and societal benefits. Google remains committed to a DNA that fosters digital innovation and transformation, rather than introducing unnecessary regulatory complexity. However, to secure Europe's digital future, the final regulation must move away from **regulatory overreach and supply-side disputes, and instead focus on removing concrete barriers to the single market**.

We strongly urge policymakers to **reconsider the market-altering mechanisms** currently proposed in the DNA. True simplification requires **rejecting the unwarranted expansion of traditional telecommunications rules** to digital infrastructure, such as private networks, CDNs and submarine cables, which are already comprehensively regulated in other legal instruments. It also requires **safeguarding the open Internet** by preserving the strict interpretative boundaries of the 2015 Open Internet Regulation. Furthermore, policymakers must respect the technical and market realities of the **highly competitive IP interconnection market**; introducing artificial dispute resolution mechanisms acts as a backdoor for "network usage fees" that will inevitably raise prices for consumers and degrade the quality and innovative dynamic of the Internet.

Instead of intervening in functioning commercial dynamics, the DNA can support a r**esilient, competitive, and inclusive digital future by focusing on consumer-oriented, achievable improvements**. This means maintaining a resolutely pro-competition regulatory framework for telecommunications access, enabling innovative spectrum harmonisation, and simplifying procedures to allow providers to offer true pan-EU services.

Ultimately, while the rollout of connectivity infrastructure is progressing well, the most crucial focus area for Europe is to boost **consumer adoption and usage of these next-generation technologies**. By focusing on digital innovation and supporting consumer adoption rather than introducing unnecessary regulatory complexity, the DNA can genuinely make Europe competitive and its citizens prosperous in the 21st century.