Digital Networks Act – Call for Evidence

Vodafone's response to the European Commission's call for evidence for an impact assessment - Ares(2025)4545535

1. Introduction

To unlock the full potential of the EU's digital single market, a comprehensive reset of telecoms regulations is essential. Vodafone welcomes the Commission's Call for Evidence (CfE) on the Digital Networks Act (DNA). The DNA, coupled with a bold and ambitious Digital Omnibus package (Annex 1) in the shorter-term, can bring about the necessary changes to stimulate innovation, investment and harmonisation across different European markets.

The DNA's scope and objectives must go well beyond those of the current European Electronic Communications Code (EECC), tackling the core challenges facing the European connectivity ecosystem and promoting a more balanced internet value chain. Today, new 'non-traditional' communications providers offer equivalent or competing services without being subject to the same regulatory obligations as traditional telecoms operators. Meanwhile, network providers are managing ever-growing volumes of data traffic driven by digital services, new technologies, and evolving business models. It is imperative that all comparable services operate under consistent regulatory standards.

Vodafone is aligned with the Commission in our objectives for the DNA to the extent that we want the introduction of the act to ensure 1.) Simplification; 2.) Same Service, Same Rules; 3.) Single Market. At a high level this should result in:

- **Simplification**: Regulation must be made fit for purpose in the modern digital ecosystem and ensure an effective rebalancing of the sector. The new framework should have as an overriding objective to create an environment that drives investment and innovation and is focussed on achieving regulatory certainty and commercial outcomes, whilst reducing the significant compliance costs created by complex, overly prescriptive, disproportionate and duplicative regulations. We endorse the European Commission's initiative to streamline current reporting obligations. While not strictly bound to a 50% reduction, we advocate for simplification wherever feasible. Likewise, we support eliminating redundant regulatory requirements for providers of business-to-business (B2B) and IoT services.
- **Same Service, Same Rules:** Equivalent services must be governed by equivalent rules to avoid competitive distortions. This can be achieved through a combination of limiting existing tech exemptions from regulation and streamlining legacy regulations. This should result in an integrated and proportionate regulatory framework for all providers of digital communication services.
- **Single Market:** A service provider in one market should be able to effectively deploy networks and provide services on a pan-EU basis, creating opportunities to scale. This will require the maximum harmonisation of digital sector rules, with national divergence only occurring if clearly and objectively justified.

The impact of creating a DNA which meets these objectives will be wide-reaching. The potential of increased innovation and investment will not only bolster the digital and telecoms sectors but also the broader economy, especially as digitalisation has become a key cornerstone of growth. The DNA would also enhance consumer benefits by expanding access to digital services and through enabling the growth of the digital economy. Modernising rules through the DNA also contributes to the EU's wider environmental goals both through removing barriers to the proliferation of technology which enables decarbonisation and by creating a framework for broader responsible use of networks.

Vodafone's submission focuses on positions we consider necessary to realise an ambitious DNA and also on interim steps we believe should be taken to ensure its success and to alleviate barriers in the sector in the short-term.

2. Overview of Vodafone Positions

Simplification	Authorisation	• The General Authorisation and other relevant authorisation processes should be centralised, with all notifications being made in a uniform manner to a centralised authority (DRA). • Expand scope to all digital service providers. • Carve-out B2B services.
	Access Regulation	• The SMP regime must remain in place until a successful fibre migration has delivered sustainable infrastructure competition, and even then, will likely need to remain in natural monopoly areas. • The focus should remain on Market 1 (where SMP is still found in 24 Member States) and Market 2 (with SMP in 16 Member States).
	Technical Regulations	• Revise emergency communication requirements to adjust to new technology, a new ecosystem and changed user behaviour. • Extend application to all communications services. • Transition to EU level specification of provider obligations relating to configuration, routing, and location information.
	Universal Service Obligations	• USO should be repealed as it is outdated and no longer relevant in terms of affordability and availability.
	End User Rights	• Simplify and harmonise existing rules, sector-specific rules can be moved into horizontal frameworks. • Relating to definitions, B2B market should not be in scope of the term 'end-user'.
	ePrivacy	• Recast limited ePrivacy provisions into the DNA and repeal the ePrivacy directive.
Same Service, Same Rules	Open Internet Regulation	• In the interim (in advance of DNA), EC should issue guidance on how the current framework including a non-exhaustive "whitelist" of use cases assumed to be compliant under the current rules and clarify B2B out of scope. • Through DNA, recast OIR into the DNA and redraft to be principles-based and innovative. B2B explicitly carved out.
	Interconnection	• DNA provisions should apply to all digital service providers to ensure that they operate on a level playing field to telecoms operators. This would critically encompass the interconnection, interoperability and switching obligations. • The dispute resolution mechanism should apply to all digital service providers.
	Satellite	• Satellite authorisation should be harmonised and centralised with this procedure through the Digital Regulatory Authority. • Ensure that all relevant providers are subject to the authorisation requirements, creating a level playing field.
Single Market	Governance and Institutional Arrangements	• The DNA should replace the EECC. • The DNA should establish a two-tier governance structure with a Digital Regulatory Authority (DRA) to oversee harmonised regulatory principles and implement rules for cross border services.
	Spectrum	• Facilitate longer licences and harmonised administrative renewals, ideally conversion to perpetual licences to remove discrimination versus fibre, provided conditions are met. • Gear spectrum award rules towards spectrum efficiency and network deployment, not fees. • Spectrum fees should reflect true opportunity cost, being the next most efficient use, not scarcity-driven auction prices, with a preference rather for investment commitments.

		• NRAs must conduct proper cost-benefit analysis to prevent arbitrary misallocation, as currently a risk with Upper 6GHz. • Market-shaping measures should face higher thresholds and rely on existing competition frameworks. • A stronger peer review process is needed to ensure harmonised and efficient licence awards and support easier renewals.
	Satellite	• Satellite is a crucial test for Europe to demonstrate its ability to create and deliver a true single market • To deliver a pan-European service at scale Europe must enable providers to deliver via shared platforms and ground stations across Member States

We note that the call for evidence states that the DNA could propose a reduced and more harmonised set of common conditions and applicable requirements including security requirements. A unified, coherent approach to security regulation in electronic communications is essential. The upcoming Cyber Security Act (CSA) review already addresses the simplification of the EU's extensive cybersecurity framework. Vodafone has submitted proposals to support the simplification of the regulatory security framework under the CSA Consultation.

3. Simplification

3.1 Authorisation

To unlock the full potential of the digital economy, the EU must move from complexity to coherence. Fragmentation across national rules, compliance regimes, and technical standards continues to stifle the EU's digital potential. Businesses face a labyrinth of regulatory hurdles when operating across borders. This not only inflates compliance costs but also deters investment and innovation. Cross-border operations in telecommunications are often marred by intricate authorisation procedures that differ vastly between jurisdictions. This applies across a range of rules including cybersecurity and law enforcement. End-users and EU operators cannot reap the fill potential of the single market.

These discrepancies lead to delays, increased costs, and operational inefficiencies. Simplifying these processes is essential to:

- Facilitate rapid deployment of services across borders, ensuring that consumers and businesses benefit from continuity and consistency in telecommunications services regardless of location.
- Reduce administrative burdens and compliance costs, allowing companies to allocate resources more effectively towards innovation and service improvement. This can enhance consumer experience through faster service delivery.
- Promote innovation and competition in the telecommunications sector by creating a more predictable and transparent regulatory environment that encourages new entrants and investments. This is particularly the case for services like IoT which are inherently cross-border.

Vodafone welcomes the Commission's objective set out in this Call for Evidence for the DNA of reducing reporting obligations by up to 50%. As well as this, there should be a simplification and further harmonisation of common conditions with cross-border emphasis.

The Digital Networks Act is the vehicle to bring about these crucial changes and achieve harmonisation across the ecosystem. The EECC was introduced with the intention of harmonising regulation of the electronic communications sector. But it was adopted as a Directive, with the ability of member states to implement with national variations. The consequence of this is continued fragmentation in the application of the rules, giving rise to cost and complexity. Service providers bound by the rules are unable to design services once and roll-out consistently across all Member States. This acts as a barrier to these operators

when seeking to give customers the benefits of pan-EU scale. This is especially problematic in relation to the development of B2B services which should be cross-border in nature but are stymied by this fragmentation. Recasting the EECC into a regulation (the DNA) will mean that all member states are required to implement the same rules. Only in exceptional circumstances national variations can be approved by the Commission which should be on the basis of an objective test established by the Commission.

Ultimately, the DNA should establish a Digital Regulatory Authority (DRA) to coordinate the regulatory requirements stemming from the Act and provide a common implementation of other applicable requirements for providers. However, recognising that such a shift will not be possible overnight, the DNA should set a glide-path to achieve maximum harmonisation. This glide-path should set out short-term and long-term measures:

- In the short term, the DNA should apply a "passporting" and "Country-of-Origin" (CoO) principle to all relevant services.
    - Passporting: To offer services and to deploy networks, a telecoms operator must notify the NRA in each member state in order to obtain 'general authorisation'. Currently, by obtaining a general authorisation, a provider becomes subject to regulatory obligations as set out in the EECC. However, the rules in the EECC are implemented differently in Member States, and as such, the authorisation only applies in the Member State in which it was received. The EECC sought to streamline the process for obtaining a general authorisation across the member states, creating a standardised form for notifying relevant NRAs. However, this is not used in all cases, and accountability for managing the general authorisation framework remains national. The process should be centralised, with all notifications being made in a uniform manner to a Digital Regulatory Authority. Once a provider has notified the EU body, it can 'passport' its authorisation to other member states, removing the need to notify in each country it is providing services. The Passporting Regime is likely to be particularly effective in the context of M2M/IoT services, which by nature are more likely to be offered on a pan-EU basis.
    - CoO: Under the CoO principle, providers would only be subject to the jurisdiction of the authority in their country of EU 'origin' (and comply with their interpretation of the rules), in order to provide services across the EU. The application of country-of-origin for services will simplify compliance and reduce legal complexities for businesses operating in multiple EU countries. Encouraging cross-border activities will drive economic growth and business scalability within the EU.
- In the long term, following greater harmonisation achieved through passporting and CoO, the central authorisation should be centralised and moved to the DRA. This will ensure a 'sunset' of national variations in favour of a maximum harmonised approach. Through this glide-path B2B services should also be carved out of general authorisation.

Many of the benefits of establishing a DRA are set out in section 5.1. However, it is worth highlighting that the benefits of a centralised authority are particularly pronounced when reducing fragmentation across regulations including the general authorisation regime. The DRA would provide a clear authority over interpretation of the rules and this would no longer be left up to NRAs to decide across multiple different markets.

By expanding the scope of the DNA to all digital service providers it would help close the growing gap between traditional and non-traditional communications providers. Currently this gap is complicating the landscape. These providers, such as US tech platforms, are able to create and release services across multiple countries and unlike telecoms operators "can move" across borders. Only a sub-set of service providers are currently obliged to obtain a general authorisation. A prominent outlier is providers of 'number independent' interpersonal communication service providers, such as OTT communication platforms, despite offering comparable services to 'traditional' providers. Expanding the scope would ensure that the

requirement to notify would be expanded to the full scope of providers offering digital communication services across the EU.

Finally, we should ensure that B2B services are not in scope of the provisions on authorisation. B2B carve-outs allow providers to innovate without being constrained by obligations that are irrelevant or disproportionate to the nature of enterprise services. This is particularly important for emerging and innovative use cases.

3.2 Access Regulation

The Significant Market Power (SMP) regime was introduced over two decades ago, initially covering 18 markets considered susceptible to ex ante regulation. Thanks to its success in fostering competition, only two markets remain on the list today - both related to fixed broadband.

However, despite this reduction, the SMP framework has become increasingly complex and bureaucratic. Additions such as the co-investment regime, wholesale-only operator rules, and symmetric access obligations under the EECC and the Gigabit Infrastructure Act have created overlapping and parallel access systems. These layers of regulation - beyond the core SMP framework - should be repealed to enable genuine regulatory simplification.

The SMP regime should be re-focused on addressing the remaining and enduring bottlenecks. These bottlenecks, if left unchecked, risk enabling a re-monopolisation of the fixed market during the copper-to-fibre migration. The regulatory focus must therefore be twofold:

1. **Ensure the fibre migration enhances infrastructure competition**, resulting in more - not fewer - contestable fixed broadband markets.
2. **Once this is achieved**, transition to a simplified future regime where ex ante regulation focuses on areas of natural monopoly and persistent bottlenecks. This must include a nationwide perspective to prevent rural areas from facing disproportionately high broadband costs compared to urban areas.

The SMP regime must remain in place until a successful fibre migration has delivered sustainable infrastructure competition - particularly outside natural monopoly areas. The focus should remain on Market 1 (where SMP is still found in 24 Member States) and Market 2 (with SMP in 16 Member States).

Proposals to remove all markets from the relevant list in the short term are misguided. This approach would create a regulatory vacuum, ignoring the continued presence of SMP in Markets 1 and 2 and undermining sound regulatory practice. Premature deregulation would, furthermore, lead to higher access costs for alternative operators and thereby affect their ability to invest in competitive fibre infrastructure. Instead, these markets should remain on the list until the Commission proposes a credible alternative that preserves competition during the fibre transition and prevents remonopolisation.

Vodafone supports a re-focused SMP regime centred on Markets 1 and 2, with harmonised rules for copper-to-fibre migration. We advocate repealing all other access rules not tied to SMP findings - such as symmetric access and co-investment schemes - which have added unnecessary complexity and allowed dominant fixed broadband providers at instances to use them strategically in their favour.

Our position reflects Vodafone's dual role as both a major investor in fixed infrastructure and an access seeker in various markets. We believe this balanced approach promotes infrastructure competition while recognising the need for proportionate regulatory oversight in areas where natural monopolies persist. Once competitive fibre investment has been maximised, regulation can and should be simplified - ensuring contestable markets and better outcomes for consumers and businesses across the EU.

3.3 Technical Regulations

To drive meaningful progress in telecom regulation, Vodafone advocates for a harmonised EU-wide framework covering emergency calling, numbering, and scam prevention. While technical dependencies may require transitional arrangements, the end goal must be a unified regulatory approach that ensures consistent implementation across all Member States. This harmonisation is essential to reduce fragmentation, lower compliance burdens, and enable the delivery of seamless, pan-European services.

Emergency communication requirements must evolve to reflect new technologies, ecosystems, and user behaviours. Vodafone supports extending these obligations to all communication services, including non-number-based platforms such as apps, and unified communications. Establishing EU-wide technical regulations and harmonised rules would eliminate legal uncertainty, ensure consistent provider responsibilities - such as configuration, routing, and location - and enhance the reliability of emergency services. Defining standards for accurate location generation across diverse devices and networks, implementing network-independent message delivery requirements, and modernising local Public Safety Answering Point (PSAP) infrastructure are all critical steps. Together, these measures would improve emergency response capabilities.

Current national discrepancies regarding the use of numbers create legal uncertainty and hinder innovation, particularly for cloud-based and cross border services. To ensure consistency and clarity in telecommunications regulation, national numbering plans should be maintained while harmonising over-the-top (OTT) rules and regulatory practices across the EU. This includes standardising sender ID requirements for calls and SMS, defining the permitted use cases for cloud-operated services - such as mobile and geographic numbers - and clarifying the use of alternative numbering ranges. Know Your Customer (KYC) processes should be applied to all players, whether traditional telecom operators or OTT service providers. Additionally, cross-border service configurations and number fee structures must be aligned, with incentives established to promote a unified interpretation of harmonised rules, through referrals to the DRA.

There should be a level playing field between number-based interpersonal communication services (NB-ICS) and number-independent services (NI-ICS). Today, NB-ICS face stricter obligations, even when NI-ICS offer similar functionalities. For example, emergency call regulations apply only to NB-ICS, despite NI-ICS often controlling key elements like the number, location, and Calling Line Identification (CLI). This imbalance is further exacerbated by divergent national rules on emergency call routing and caller information, which increase compliance costs and prevent NB-ICS from offering consistent EU-wide services.

The misuse of telephone numbers and spoofing for fraud is escalating globally, impacting consumer trust, enterprise operations, and carrier compliance. Current regulations focus on technical network-level controls, but fragmented rules and cross-border inconsistencies hinder effectiveness. In the area of scam regulation, NB-ICS are again disproportionately burdened. CLI and call-blocking rules and apply only to NB-ICS, despite the fact that scams also occur over NI-ICS platforms like WhatsApp. Rules also vary across Member States, requiring separate compliance assessments in each jurisdiction. For example, Denmark allows geographic numbers (linked to specific locations) as CLI across devices, while Spain restricts this to nomadic numbers (not tied to a fixed location). Some countries even mandate blocking calls with suspicious CLI patterns. This creates uncertainty and undermines the purpose of CLI rules, which aim to protect users from spoofing, fraud, and scam calls by clarifying call origin. These inconsistencies not only raise compliance costs but also distort competition. Harmonised, technology-neutral rules would foster innovation and ensure fair treatment across all communication services.

3.4 Universal Service Obligation

The EU's USO regime as outlined in the EECC, was designed to ensure that all end-users have access to essential digital services. These remain valid policy objectives. However, the digital landscape has evolved

significantly since the EECC was adopted in 2018. As it stands, the USO framework is outdated. It distorts competition and does not deliver on its intended purpose. Its impact on bridging the digital divide has been limited, and the affordability of broadband has improved primarily due to market competition rather than regulatory intervention. Through the Commission's goal of replacing the EECC with the DNA, it should repeal the USO.

Today's digital market includes a broader range of beneficiaries, particularly large technology firms, who do not contribute to the USO regime. This has created an imbalance in both obligations and funding, raising questions about the fairness and sustainability of the current framework.

Moreover, other policy instruments now more effectively address the original goals of the USO. For instance, the European Accessibility Act ensures broadband access for vulnerable and disabled users, rendering the USO's accessibility provisions largely redundant. At the same time, telecoms operators have taken proactive steps to support affordability and accessibility through initiatives such as social tariffs, without relying on regulatory mandates.

Publicly funded demand side measures, such as vouchers to cover the cost of telecommunication expenses, is the most justifiable and efficient way of ensuring that the limited few who remain affected by affordability have the ability to choose the operator and services of their own choice.

3.5 End User Rights

European telecommunications operators are currently subject to overlapping regulatory frameworks, particularly in the area of end-user rights. Currently, these rights are extensively covered under the EECC, while also being addressed in horizontal legislation such as the Consumer Rights Directive. This dual regulation creates unnecessary complexity and administrative burden. To address this, end-user rights provisions within the EECC should be significantly simplified through its recasting into the DNA. The EC should take the opportunity to reduce regulatory complexity and so where appropriate, these provisions should be deleted from the sector-specific code and integrated into horizontal consumer protection laws. This approach would preserve the high level of consumer rights while streamlining compliance obligations. Moreover, it would ensure a level playing field by subjecting all service providers offering similar services, regardless of sector, to the same horizontal legal standards.

For example, accessibility requirements currently found in Article 103 of the EECC could be removed, as they are already comprehensively covered by the European Accessibility Act (EAA). Similarly, Chapter III of the Consumer Rights Directive (notably Articles 6, 7, and 8) provides robust protections regarding information transparency and contract withdrawal rights, making duplicative provisions in the EECC redundant.

To the extent that sector-specific provisions remain within the DNA, these should be harmonised across all EU Member States. Pan-European operators face significant challenges due to inconsistent implementation of these provisions, which undermines regulatory coherence and increases operational costs. Member States must be required to implement these provisions uniformly, without deviation or the addition of national requirements. Article 102 of the EECC, which allows Member States to introduce further national provisions to address "newly emerging issues," contributes to this fragmentation and creates uncertainty for operators seeking to scale services across borders. A harmonised approach would reduce compliance burdens and foster a more predictable regulatory environment.

The current term 'end-users' within the EECC should be clearly defined to exclude B2B customers through its inclusion into the DNA. The current broad interpretation, which includes large enterprises, dilutes the original intent of the provisions, namely, to protect consumers who are typically the weaker party in negotiations with operators. In contrast, B2B relationships often involve parties with comparable bargaining power, and in some cases, the business customer may hold greater leverage. For instance, Article 105 of the EECC requires operators to provide all end-users with annual best tariff information. This requirement is ill-

suited to B2B customers, who typically have bespoke contractual arrangements, and imposes unnecessary administrative burdens on operators.

It is also essential to clarify that NRAs retain the authority to address domestic consumer issues without overlapping or conflicting mandates from National Consumer Bodies. Clear delineation of responsibilities will prevent regulatory duplication and ensure that consumer complaints and enforcement actions are handled efficiently and appropriately within the correct institutional framework.

3.6 ePrivacy

Europe's current electronic privacy rules are outdated and inconsistently implemented across the Single Market. This fragmented regulatory landscape is holding back pan-European operators like Vodafone from developing and scaling data and AI-driven solutions across their footprint. At the same time, it exacerbates regulatory asymmetries between electronic communications service (ECS) providers and over-the-top (OTT) players, who often fall outside the scope of the ePrivacy framework.

Vodafone is calling for the introduction of a harmonised, flexible, and future-proof legal instrument to govern the processing of electronic communications data and metadata. This new framework should replace the current patchwork of national implementations of the ePrivacy Directive and apply consistently across all EU Member States. Crucially, it must be applicable across the entire digital ecosystem, ensuring a level playing field for all actors.

A harmonised legal basis for data processing would unlock the potential for a wide range of data-driven products and services across Vodafone's European footprint. It would enable the use of more powerful, centralised compute and analytics capabilities - consolidated in fewer locations - and enhance the cybersecurity techniques we already employ. This would not only improve operational efficiency but also strengthen protections for end users.

We believe the most effective way to achieve this is through the repeal of the existing ePrivacy Directive. Provisions that are already comprehensively regulated under other EU legislative acts - such as the GDPR's rules on the processing of personal and location data - should be retired. However, elements not sufficiently addressed elsewhere, particularly the principle of confidentiality of communications, should be clarified and incorporated into a new, ambitious legislative proposal such as the Digital Networks Act.

The ePrivacy Directive was originally intended to serve as lex specialis to the GDPR. However, many of its specific provisions are now implicitly covered under the broader scope of the GDPR, which applies to all forms of personal data processing, including those related to publicly available ECSs. The fragmented implementation of the Directive across Member States hampers operators' ability to roll out value-added services and data analytics at scale. It also creates regulatory asymmetries with large technology companies that are not subject to the same sector-specific rules.

This fragmentation has real-world consequences. For example, the Directive currently limits ECS providers from adopting anti-fraud measures that could protect customers from impersonation fraud. These are measures that are also being discussed under the EU's Payment Services Regulation. To deploy such solutions, operators must seek exemptions in each Member State, resulting in delays and legal uncertainty that ultimately harm consumers and stifle innovation. This is particularly problematic for emerging European digital services such as the GSMA Open Gateway.

Finally, the principle of confidentiality of communications (CoC) remains a cornerstone of digital privacy and must be preserved in any future regulatory framework. However, it must also be modernised to reflect today's technological realities. The CoC should be expanded to cover all forms of interpersonal communication and devices that record private life, in line with Article 7 of the EU Charter of Fundamental Rights. This includes traditional ECSs like voice calls and SMS, as well as OTT services such as video calls, messaging apps, gaming voice channels, digital assistants, and smartphone recorders.

4. Same Service, Same Rules

4.1 Open Internet Regulation

1. If the Commission were to design an Open Internet Regulatory (OIR) framework from scratch today, we do not believe it could establish a meaningful rationale for the current approach – whether a market failure, promotion of investment or innovation, or protection of consumers. There is a lack of compelling evidence that would support maintaining this approach. In fact, the rules are actively harming the telecoms sector across Europe, whilst other countries who have removed net neutrality requirements (e.g. the US) or softened their application (e.g. the UK) are able to develop and launch use cases and manage traffic with no evidence of consumer harm. For further detail, we refer to a paper commissioned by Vodafone from academic Dr Briglauer, who assessed the continuing relevance of the existing open internet regulation.1
2. The DNA should be the opportunity for an ambitious policy reset signalling a commitment to improving the investment environment across the European telecoms sector and in incentivising the roll out of 5GSA across all markets. This ambition should be realised by recasting the current OIR into the DNA and drafting the new OIR as a principles-based regulation which promotes investment, innovation and improving consumer outcomes across the digital ecosystem.
3. The integration of the OIR into the DNA gives an opportunity to also restrict the scope of application of the OIR provisions to B2C situation, thereby excluding B2B (including when subsequently used for B2C). Currently, there are several B2B use cases which are being prohibited from being bought forward or are in a regulatory grey zone e.g. most app-based slicing. This is not in the spirit of the original objective of the OIR which was about consumer protection. To ensure that B2B are excluded from potential principles-based regulation, the notion of an "end-user" should be replaced by a "consumer". This would provide telecoms operators with the necessary flexibility to launch B2B use cases without fear of non-compliance. These actions would provide the most legal certainty and harmonisation across all markets.

The basic principle underpinning the Open Internet framework is that networks must carry all traffic in a neutral manner – irrespective of whether that content is efficiently designed or optimised. This is to ensure that all end-users have access to, and can deliver, the content, services and applications of their choosing. This applies not only to consuming end-users but also to content providers, including some of the most powerful digital companies in the world. The outcome of the well-intentioned but ultimately flawed application of the Open Internet rules is that many content providers' business models have evolved to take advantage of unrestricted and free access to broadband networks, whilst ignoring the impact this has on network operators. At the content end, traffic has become increasingly concentrated in the hands of a very small number of digital service providers. Across both fixed and mobile networks globally, over two-thirds of traffic originates from just eight major players.[2] This concentration has been coupled with increasing imbalance in the distribution of value along the digital communications value chain, with content now representing nearly 60% of overall value.[3]

It is a similar picture with content delivery networks (CDNs). Their growing popularity has been driven by the need for more middle mile capacity to handle exploding volumes of traffic, and to deliver this efficiently. A number of big tech providers have therefore built out their own content delivery capabilities, edging out a number of independent players who were previously active in the CDN market. The middle mile is therefore becoming even more concentrated in the hands of the same small number of big tech players. As a consequence of these trends, the ecosystem has moved from a small number of network operators exchanging symmetrical volumes of traffic, to a small number of content generators leveraging their

[1] W. Briglauer, Efficiency and Effectiveness of Net Neutrality Rules in the Mobile Sector. Available at: https://www.wu.ac.at/
[2] The 8 companies are Alphabet, Meta, Netflix, Microsoft, TikTok, Apple, Amazon and Disney. Sandvine, Global Phenomena Report 2024.
[3] https://www.gsma.com/solutions-and-impact/connectivity-for-good/public-policy/wp-content/uploads/2022/05/Internet-Value-Chain-2022-1.pdf

infrastructure in the middle mile to push highly asymmetric volumes of traffic onto the last mile networks, in order to deliver content to their end-users. This relationship is evidently an asymmetric business-to-business relationship. Consequently, the mutually beneficial 'settlement free' interconnect arrangements that existed between public network operators for many years are no longer appropriate. OIR needs to adapt to this new landscape and to allow the innovative services which would justify investment in the next generation technology.

Finally, it is inappropriate that there are rules on only one type of access providers (traditional telecoms) and that this framework does not apply to the true gatekeepers of the digital ecosystem. ISPs no longer solely control the end-user experience. Technological shifts have fragmented the ecosystem, with the CAPs influencing outcomes through e.g. app stores, OS and algorithms. These players have significantly more scope to shape the internet experience of end-users, as they seek to exert increasing control over the quality of experience for end-users, via solutions at a device, software or application level. This again distorts competition against locally licensed European telcos in favour of global tech companies. These firms are able to monetise software-based network slicing whilst telecoms operators are prevented from realising this same outcome. This clearly distorts competition. It also weakens end-user protections, given these tech companies *de facto* shape end-user's internet experience. To the extent that OIR continue to be applied in the EU, the scope of these should apply to all players in the ecosystem. Through bringing OIR into the DNA and by ensuring the scope of the DNA applies to all digital service providers the EC would put all players on a level playing field and stimulate competition across consumer access instead of leaving this in the hands of a few, significantly less regulated players.

Recognising, the urgency needed to address these issues we recommend introducing some immediate and interim measures in advance of the DNA. These measures are designed to provide clarity and investment signals to telecoms operators. As an immediate step, the Commission should issue guidance on how the current framework would apply to new and innovative use cases. This would include a 'whitelist' of use cases assumed to be compliant under the current rules. They should also clarify that B2B services are not within the scope of the regulation given the whole intention was to protect consumers. The guidance should not introduce further restrictions and should just justify the need to 'whitelist' use cases as well as a B2B exemption (e.g. by setting out the policy need to encourage investment in 5G).

This whitelist should be focussed on use cases that would rely on optimised connectivity (in particular 5G network slicing) to be delivered at optimal quality. Any service on the whitelist would be presumed to be a specialised service. However, this whitelist must not be considered exhaustive, given that, particularly as 5G deployment and adoption spreads, new use cases will be under constant development. The Commission's Whitelist should be without prejudice to the fact that many use cases, including those listed, will fall entirely outside of the scope of the regulation under certain circumstances. Specifically, 'non-public' use cases are not covered by the Open Internet requirements. For example, where an IAS provider sells a dedicated internet service to a business customer, who then offers it to their own closed user group of customers, then this is a private service, and the provider shall be free to configure and manage it to suit their needs. Such cases remain outside the scope of the Regulation, irrespective of whether the 'use case' could also be considered a specialised service within the Whitelist if it is offered in a different contractual and operational manner.

4.2 Interconnection and Interoperability

The interoperability and interconnection obligations in the Code were introduced to address perceived 'bottlenecks' in the digital communications ecosystem. They were mandated only on telecoms operators to ensure effective end-to-end connectivity and communications for end-users. They do not apply to other digital service providers who have used lack of interoperability to support their winner-takes-all platform strategies. As above, the whole scope of the DNA should be expanded to ensure that regulation keeps pace with technological shifts and digital advances.

The need for this is ever more evident with the interconnection provisions in the code. With increasing convergence in the ecosystem and increasing levels of concentration across other layers of the value chain, the 'bottlenecks' in the ecosystem have changed. There are now a small number of players – not bound by the same rules - who play a significant role in the end-to-end conveyance of content and connectivity.

For example:

- Providers of cloud inputs (including data centres / cloud infrastructure and cloud software) and alternative core networks (such as sub-sea and Content Delivery Networks (CDNs)) are now accountable for hosting and carrying the majority of digital content across the internet backbone: around 70% of traffic entering our UK networks is transported via CDN infrastructure.
- The same small number of providers accountable for developing content,[4] hosting content on cloud infrastructure,[5] and conveying it across the internet backbone, through (for example) their own CDNs or sub-sea cables.[6]

These providers have become 'critical inputs' to effective end-to-end connectivity and to the effective functioning of the digital communications ecosystem. Existing regulations, such as the Digital Markets Act, do not address this fundamental inequality between traditional and non-traditional communication providers.

This creates a number of regulatory imbalances and a greater and disproportionate burden on telecoms operators. For example, these non-traditional operators are able to leverage their market position and lack of regulatory obligations to avoid reaching fair technical and commercial terms with traditional telecommunications operators for traffic conveyance services, an issue well documented throughout the so-called 'fair share' debate. The February 2024 European Commission White Paper, "How to master Europe's digital infrastructure needs?", opened the prospect of introducing commercial Paid Peering arrangements between Internet Service Providers (ISPs) and Content and Application Providers (CAPs). Vodafone welcomes this, as it believes that it should be fairly compensated for the services (IP traffic conveyance services, including transit, peering, caching) and create a level playing field in the sector.

Currently the uneven application of regulation is acting to benefit, in particular, a small number of global digital service providers and hyperscalers to the detriment of Europe's telecommunications operators. Ultimately this is harmful for the commission's broader policy goals around levelling the playing field and creating digital sovereignty.

The DNA should recast the interconnection, interoperability and switching provisions (Article 2, Article 15, Article 26) into the new regulation. When doing so, and as part of a wider objective to level the playing field across the whole regulation, interconnection should be updated to ensure that all tech companies within the digital communications space are subject to relevant regulatory obligations. Specifically, the non-traditional operators (such as CDNs or large content generators with their own CDNs) and cloud service providers should be within scope, and made subject to relevant regulatory obligations, in particular interoperability, interconnect and switching, with a dispute resolution mechanism if commercial agreement cannot be reached in relation to traffic conveyance services.

Through the expansion of the scope, and specifically with regards to this expansion of interconnection provisions, the DNA should adapt the existing dispute resolution framework. Currently, Article 15(2) of the EECC authorises public ECNs to "negotiate interconnection with and, where applicable, obtain access to, or interconnection from, other providers of public ECNs". In such case of disputes between the two actors,

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[4] Over two-third of global internet traffic originates from just 8 providers: Alphabet, Meta, Netflix, Microsoft, TikTok, Apple, Amazon and Disney.

[5] Over a third of the EU cloud market is concentrated in three US-based cloud 'Hyperscalers' (Amazon Web Services, Microsoft Azure and Google Cloud).

[6] For example, in sub-sea cables, ownership of the ecosystem is gradually shifting away from a shared resource and towards the largest tech players, with around 20% of new long distance subsea cable installation being supported by tech giants.

Article 26 provides a dispute resolution framework for these undertakings. The dispute resolution framework for IP-IC arrangements needs to:

- Remedy the asymmetric bargaining power between large Content Application Providers (CAP) and their intermediaries and with providers of Electronic Communications Networks (ECN).
- Facilitates payment towards the costs of the valuable services provided by ECNs to CAPs, ensuring a fair and reasonable price for the services provided to CAPs for the delivery of traffic to end-users.
- Incentivises CAPs and their intermediaries to deliver traffic in a more efficient way.

This is necessary to ensure that where no commercial agreement is reached a mechanism is established to enable both parties to resolve discussions in the negotiation. The dispute resolution mechanism set out in Article 26 of the Code requires that there is an 'interconnection obligation', which again is limited to providers of public ECN. This is noted in the Article 2(28) EECC definition of interconnection which states that "'interconnection' means a specific type of access implemented between public network operators". Through the introduction of the DNA the scope should incorporate both public and private ECNs.

4.3 Satellite

Advances in satellite technology hold immense potential for enhancing network resilience, broadening coverage, and delivering crucial life-saving services. The adoption and integration of emerging satellite services is a critical test for Europe to demonstrate its ability to create and deliver a true single market. It is vital that providers are able to deliver a pan-European service at scale via shared platforms and ground stations across Member States – lessons from the current incumbent telecommunications sector, who are bound by national requirements, need to be acted upon. Without this, the emerging satellite technology will fail to deliver the capabilities that customers are seeking and will therefore lag behind their global counterparts.

To foster innovation and growth in satellite technology, it is crucial to maintain fair competition within the EU market. This means preventing preferential treatment of certain operators and ensuring that all players adhere to the same standards and regulations. A level playing field will encourage investment, drive technological advancements, and ultimately benefit EU consumers

Consequently, it is imperative that satellite services are subject to the same regulatory obligations, especially around interference limits, security, and lawful intercept, as terrestrial networks. The concern is that without this, satellite operators could bypass national requirements. The DNA would be a legislative opportunity to create a cohesive framework that integrates various national regulations into a unified policy. This will not only streamline processes but also reduce the risk of legal ambiguities that may hinder satellite operations and investments.

With a harmonised and non-discriminatory authorisation procedure, satellite operators can benefit from reduced bureaucratic hurdles, fostering a competitive and innovative market environment. This will not only enhance operational efficiency but also drive technological advancements and service improvements. This is crucial for enabling seamless, cross-border direct-to device (D2D) satellite services and avoiding fragmented national regimes that could hinder innovation and investment.

However, the DNA should maintain safeguards necessary for the advancement of satellite. IMT spectrum should be reserved exclusively for telecommunications operators, acknowledging their essential function in providing public mobile services. If satellite is to function as a network of last resort both for resilience and emergencies as well as to eliminate total not-spots, this capability needs to be part of an overarching approach by mobile operators and work in tandem with network planning. In cases where spectrum sharing with satellite operators is contemplated, such arrangements should be determined through commercial agreements.

5. Single Market

5.1 Governance and Institutional Arrangements

Vodafone supports a reform of the current institutional framework and governance model under the EECC through the recasting of the EECC into the Digital Networks Act. While BEREC's experience on fixed regulation has brought positive outcomes for the telecommunications sector, the existing decentralised structure, reliant on National Regulatory Authorities (NRAs) and coordinated through BEREC, is increasingly misaligned with the needs of a dynamic, borderless digital single market. A new governance model is required to ensure consistency, efficiency, and competitiveness across the European Union.

Harmonisation is essential to enable seamless service provision and to foster innovation and investment at scale. The current governance model under the EECC, which relies on decentralised enforcement by National Regulatory Authorities (NRAs) and coordination through BEREC, has led to significant regulatory fragmentation across Member States. This divergence in interpretation and application of EU rules creates legal uncertainty for providers and undermines the integrity of the digital single market.

For businesses operating across borders, this fragmentation results in duplicated compliance efforts, inconsistent consumer protections, and delays in the rollout of innovative services. It also hampers the EU's ability to act swiftly and cohesively in response to emerging digital challenges. A harmonised regulatory approach is essential to ensure that all European consumers and businesses benefit equally from the digital transition, regardless of their location.

Through bringing the EECC into the DNA it will recast the Directive into a regulation which will provide greater certainty and less varied application of the rules across markets. The DNA also should establish clear governance structures. Specifically, the DNA should create a clear two-tier governance structure:

- **An EU-level Digital Regulatory Authority (DRA)** tasked with overseeing harmonised regulatory principles and the implementation of rules for cross-border and pan-European services. It would act as a central point of implementation, ensuring consistency in rulemaking and enforcement across the EU. This authority would also be well-positioned to engage with global digital policy developments and represent the EU's interests on the international stage.
- **National Regulatory Authorities** would retain responsibility for domestic consumer protection, local network oversight including fixed regulation, and market-specific issues.

This model would streamline regulatory processes, reduce duplication, and ensure consistent application of EU rules. The proposed changes align with the EU's broader digital policy objectives, including the Digital Markets Act (DMA) and Digital Services Act (DSA), which already establish centralised oversight mechanisms. A similar approach in the telecoms sector would ensure coherence and reinforce the EU's digital leadership.

The competences of any new DRA would need to be carefully assessed, to ensure there is no duplication of authority and that this approach does not create any regulatory gaps. A two-tier model would allow providers to operate more efficiently across borders and ensure that all digital service providers, whether traditional telcos or OTTs, are subject to the same regulatory obligations. Irrespective of the model adopted, the end-goal for the Commission should be to achieve the effect of a one-stop-shop in the digital communications sector, taking lessons from the benefits this has brought in adjacent markets.

5.2 Spectrum

Europe's mobile operators have spent around €120bn acquiring spectrum licences[7], and need to renew them typically every 10-15 years, usually at great cost and subject to much uncertainty. This quasi-tax –

[7] CRA Report on Mobile Spectrum License Duration and MNOs Investment Decisions

which derives from inconsistent and unpredictable auction and renewal rules – is not applied to tech companies using alternative technologies to deliver connectivity. This tilts the playing field against locally licenced telecoms operators resulting in significant constraints on their ability to invest.

In addition, there is also a real risk of a capacity crunch on mobile. There is a fierce debate in relation to the future use of the Upper 6GHz spectrum band. This is the only viable new band for use by mobile to meet ever-increasing demand. However, the tech industry is lobbying hard for this band as it could support future bandwidth-hungry services such as mixed reality glasses. This would leave the European mobile industry having to foot the bill (which they cannot afford) for the network densification that will be required in the absence of additional spectrum. Tech companies would further benefit over the European mobile industry because they will then utilise this capacity to sell their own services.

Europe also puts its mobile operators at an investment disadvantage compared to other network providers (and MNOs in some other markets) because fixed term spectrum licences with hard end dates (rather than perpetual licences) artificially curtail operators' investment horizons and create uncertainty around business continuity and the risk of stranded assets. The existing framework therefore puts telecom providers using mobile technologies and licensed spectrum at a disadvantage compared to rivals with no such renewal, discouraging investment as well as secondary market spectrum trades and hindering consolidation (including cross-border).

While fixed-term spectrum licences may have played a useful role when the sector was in its infancy, and its longer-term prospects were uncertain, and mobile spectrum may have needed to be repurposed to a better use in the future, this is no longer the case, and there is no foreseeable alternative use for today's mobile spectrum bands.

It is therefore appropriate to do what some markets (notably the UK and the US) have done, and reverse the balance of probabilities – that mobile networks will need their existing spectrum bands for the foreseeable future, and the role of licensing should be to preserve perpetual right of access, until some point where regulators may feel it is appropriate to introduce a sunset arrangement for ultimate return of frequencies.

Therefore, the DNA should embrace a move to perpetual licences, with sufficient safeguards to ensure ongoing efficient use and for MNOs to have unhindered long-term investment horizons. The DNA proposal should be bold in this issue and call for all new licences to be indefinite or automatically renewed if licence conditions are met. The spectrum licence could be withdrawn e.g. with 5-year notice in case of indefinite license / not renewed in cases where the spectrum is not used, or the licence conditions are not met.

With competition thriving in the mobile sector, innovation takes place naturally without the need for the regulator to intervene and change licence uses. As a principle, licences should be flexible and not mandate or favour concrete services or technologies, relying on secondary market transactions and competition among licensees to provide incentives to innovate and ensure the long-term efficient use of spectrum.

Finite licenses and regular auctions are commonly justified by the possibility to enable market changes and transfer the spectrum right to more valuable uses. However, in practice they have become a tool to extract value from the sector, at the cost of risking investments and service continuity in the country. Typically, if market changes create value, they could happen through mergers and acquisitions, which may be supported by spectrum trade and lease when needed. Predictability of holdings would facilitate such market changes without risking investment and service continuity.

A switch to indefinite licences should critically cover existing licences as well as new. Waiting until expiration to do the transition, possibly in a re-auction, raises significant uncertainties for the operators running and managing the networks, and ultimately harms investment and end users. The simpler and most effective way to do the transition is to include in a single process the renewal of all bands harmonised for wireless broadband, rather than only those that are close to expiration.

Additionally, through the recasting of spectrum rules from the EECC to the DNA, the reference to competition in paragraph 1 and paragraph 2 b should be deleted. As a principle, longer licence durations and certainty of tenure should be acknowledged as positive for competition and innovation. The current references create uncertainty and can be abused by regulators to unduly impose shorter durations or deny licence extensions, significantly impacting operators' ability to upgrade and expand networks in already highly competitive markets. Care needs to be taken that licensing interventions by authorities do not actually introduce distortions (as can happen with set asides) nor do they emphasise one particular measure of competition (for example, increasing the number of competitors in a market does not necessarily lead to an increase in competition per se – the recent UK merger is a case in point, where competition is expected to increase in moving from four players to three). Excessive focus on intra-generational competition has significantly harmed the competitiveness of European MNOs on a global scale and limited their ability to make necessary investments in next generation in order to provide leading networks that can foster innovation and overall economic growth.

It should be noted that the current article does not even ensure the regulatory predictability for the holders of the rights beyond a period of at least 20 years. Some Member States have interpreted 49.4 as a possibility to shorten the duration of the new licences to expire at the same time as licences they have issued in other bands earlier. This has led to significantly shorter licence durations.

All licences awarded in a competitive tender in spectrum bands harmonised in the EU for mobile broadband services should either have an indefinite duration or, if fixed term, licensees should be able to request their licences to be converted to perpetual at any point during the fixed licence term, and this should be granted subject to continuing to meet licence obligations. (The UK already supports the conversion of fixed licences to perpetual). NRAs should always have the option to withdraw the licence, with five years' notice, if the licence conditions have not been met (as per Art 19).

Spectrum Fees and Scarcity

IMT bands are subject to disproportionately high fees compared to other services such as Wi-Fi, broadcasting, or satellite - even when services can be substitutable. This reflects a failure to rebalance spectrum allocations in line with demand, creating artificial scarcity and inflating auction prices. As a result, mobile operators face punitive costs that drain investment capacity and distort competition.

Spectrum fees now account for up to 50% of mobile network investment budgets. This is unsustainable. Some governments have come to rely on these fees as a revenue stream, ignoring the long-term damage to infrastructure investment and service quality.

Article 42 of the EECC rightly states that fees should ensure efficient spectrum use. But without reallocation, this principle leads to excessive costs for MNOs. Until rebalancing is achieved, Member States must distinguish between setting fees based on opportunity cost and ensuring fair, sustainable spectrum access. Reserve prices should be transparent and harmonised across the EU. Where uncertainty exists, reverse auctions could help balance affordability with service quality, as they ensure that the winning bids meet minimum service quality right at the affordable costs for respective MNO.

The DNA must explicitly prohibit revenue maximisation as a goal in spectrum fee setting. Administrative fees should reflect either the opportunity cost of spectrum or, where that cannot be reliably calculated, the cost of spectrum management. Regulators should also consider allowing spectrum payments in the form of network investment commitments.

Competition and Market Structure

There is no evidence of insufficient competition in EU mobile markets. Yet some Member States misuse competition concerns to impose unjustified obligations, restrictions, or spectrum reservations. These measures often backfire, leading to higher prices and degraded service quality.

Spectrum caps should be set at reasonable levels - typically 40% - to ensure three viable players per market. Europe already has robust competition tools (SMP, antitrust). Additional mobile-specific measures are unnecessary and counterproductive.

Any market-shaping interventions under Article 67(2) must be based on rigorous analysis and transparent consultation. Measures should only be imposed if all criteria are met. This criteria is:

a. high and non-transitory structural, legal or regulatory barriers to entry are present
b. there is a market structure which does not tend towards effective competition within the relevant time horizon, having regard to the state of infrastructure-based competition and other sources of competition behind the barriers to entry
c. competition law alone is insufficient to adequately address the identified market failure(s).

Peer Review and Authorisation Flexibility

The peer review process must be strengthened, made mandatory, and opened to stakeholder input. Results should be published, and a formal appeal mechanism introduced to address flawed award designs without delaying well-structured processes. The RSPG's role should be limited to issuing opinions, not overseeing the process.

Spectrum sharing, trading, leasing, and roaming should be encouraged - but only through commercial agreements. Article 47 must be revised to prevent NRAs from imposing obligations in these areas. References to competition and market entry should be replaced with a focus on investment.

Harmonisation and Sovereignty

Assignment, use, and deployment conditions must be harmonised across Member States to ensure predictability and investment certainty. Political decisions - such as universal coverage mandates - must be grounded in realistic investment assessments.

Satellite

Satellite is poised to transform mobile service availability. Vodafone's partnership with AST SpaceMobile will form a European satellite provider which will enable direct-to-device mobile broadband in uncovered areas. National regulators should expedite spectrum sharing approvals and allocate the 2GHz MSS band (available from 2027) for pan-European satellite-mobile services.

However, IMT spectrum should only be allocated to telecommunications providers, recognising their critical role in delivering public mobile services. Where spectrum sharing with satellite providers is considered, it should be governed by commercial negotiations.

Annex 1 – Proposals for Simplification through a Digital Omnibus

To unlock the full potential of the EU's digital single market, a comprehensive simplification of telecoms regulatory processes is essential. This should be part of a bold and ambitious Digital Omnibus package. We anticipate that the following reforms could be prioritise through an Omnibus ahead of the DNA finalisation. These reforms are also reflected in our call for evidence given the DNA process is running in parallel to a Digital Omnibus being proposed:

Topic	Measure	Outcome
1. Open Internet Regulation (OIR)	Issue guidance on how the current framework would apply to new and innovative use cases including a non-exhaustive 'whitelist' of use cases assumed to be compliant under the current rules.	Greater clarity provided for operators to be able to develop and invest in specialised services, particularly those that are slicing-based. Reduction of regulatory fragmentation and cost.
2. Open Internet Regulation (OIR)	Issue guidance which clarifies that B2B services are not within the scope of the existing OIR. Or update regulation to apply to "consumers" as opposed to "end-users".	Maintain consumer protections whilst providing greater opportunities for operators to better manage traffic to meet business-specific high-bandwidth use cases that are separate from basic consumer internet access services.
3. ePrivacy Directive	Recast limited ePrivacy provisions into relevant legislation and repeal the ePrivacy Directive. This would be in advance of bringing ePrivacy into the DNA.	Harmonised and flexible legal framework for processing of comms data and metadata. Necessary for TelCos to process network data to optimise our networks, improve cybersecurity and develop new products and services.
4. End User Rights	Repeal requirements which are either covered by horizontal rules or ones for which a market failure hasn't been identified.	Removal of duplicative and unnecessary regulatory burden being faced by TelCos across both sector-specific law and horizontal law will ensure that consumers continue to receive the same high level of protections while balancing the disproportionate and costly obligations that burden TelCos.
5. IoT	Implement an IoT carve-out in relation to legacy numbering rules in advance of holistic review of IoT regulations in the DNA.	Provide clarity that regulations which are not relevant in the provision of IoT services do not apply. This is primarily rules associated with numbering which have no relevance in an IoT context. This would stop these rules – which are fragmented across Member States – from being a barrier to IoT services being offered on a pan-EU basis.

More challenging asks – although are areas which would have a major beneficial impact on the sector

Topic	Measure	Outcome
6. Wholesale roaming	Repeal regulated wholesale rates given market data (from BEREC) indicates market prices are at the competitive level.	Simplification of wholesale roaming process will send a strong signal that *ex ante* regulatory obligations will only be imposed and maintained where there is evidence of market failure.
7. Universal Service Obligations (USO)	Repeal USO.	Elimination of redundant regulation, allowing regulatory costs to be reinvested into the network. This is crucial to increase investment and innovation.

Justification

These inclusions to the Digital Omnibus are needed to:

- **Accelerate cross-border service deployment**, ensuring that consumers and businesses enjoy seamless, high-quality telecommunications services regardless of national boundaries.
- **Reduce administrative burdens and compliance costs**, enabling companies to reallocate resources toward innovation, infrastructure upgrades, and improved customer experiences.
- **Foster a more dynamic and competitive market** by creating a predictable, transparent regulatory environment that lowers barriers to entry and encourages investment from both incumbents and new players.
- **Deliver a material reduction in excessive, sector-specific regulation**. Where such rules remain necessary, they must be proportionate, future-proof, and aligned with the overarching objective of incentivising innovation and investment in secure, resilient digital infrastructure and services

Open Internet Regulation (OIR)

- The OIR introduces unknowable compliance risks and limits operators' ability to deploy dynamic network solutions that would benefit consumers and businesses.
- This regulatory uncertainty acts as a deterrent to long-term investment and creates barriers to innovation.
- OIR's prescriptive nature is stifling innovation at a time when Europe's digital growth depends on it. The lack of consistent interpretation across markets further complicates compliance.
- Beneficial use cases are often deemed non-compliant, despite their clear advantages. As a result, consumers are deprived of innovative offerings that could improve their digital experience.
- In addition, the OIR only applies to telecoms operators. Equivalent rules do not apply across the digital ecosystem even though the majority of a consumer's internet experience is outside the control of telecoms operators. This hands a significant innovation example to digital companies outside the scope of the OIR rules

ePrivacy

- The ePrivacy Directive is outdated, overlaps significantly with the GDPR, and hinders innovation, particularly in areas such as the adoption of Open Gateway.
- The principle of confidentiality of communications should be preserved within a harmonised legal framework that applies consistently across all communications providers and ecosystems.
- Regulatory reform is essential to establish a level playing field with technology companies regarding data processing and to ensure that rules governing the use of communications data and

metadata are both harmonised and adaptable, enabling the development of innovative, data-driven services.

End-User Rights

- The electronic communications sector is subject to extensive end-user rights obligations, including transparency requirements, contract limitations, and switching mechanisms such as number portability.
- However, their implementation has revealed several issues. National gold-plating of the EECC has led to unjustified regulatory divergence and the rules impose disproportionate burdens, particularly around detailed contract disclosures with limited consumer benefit.
- End-user rules are often misapplied to business services, where such obligations are unnecessary; they apply only to traditional ECS providers and they duplicate protections already provided under horizontal EU consumer and advertising law.
- Collectively, these shortcomings create significant compliance burdens, hinder cross-border service delivery, especially for business offerings, and distort competition with unregulated digital service providers.

IoT

- IoT services are typically machine-to-machine (M2M), low-bandwidth, and often cross-border. Yet, they are still subject to rules designed for person-to-person communication, primarily rules associated with numbering. These are ill-suited to the nature of IoT services and are a barrier to Pan-EU services given that numbering rules are applied differently in Member States.
- The effect of numbering rules applying to IoT services is that they are *de facto* treated in the same way as regulated person-to-person communications services, requiring local licences, reporting obligations, and country-specific fees. IoT platforms must comply with a patchwork of national rules on data retention, cybersecurity, and lawful interception. These vary widely and create compliance uncertainty, especially for cross-border services.
- A carve-out would accelerate cross-border service deployment, reduce compliance costs, and allow operators to reinvest in innovation, infrastructure and pan-EU connectivity platforms.

Wholesale Roaming

- The wholesale roaming framework was introduced concurrently with the mandated Roam Like at Home (RLAH) regime to address initial uncertainties regarding its impact on various operators. This framework included access obligations and maximum wholesale rate caps to ensure market stability during the transition.
- Now, eight years since the implementation of RLAH, a substantial body of evidence, largely informed by BEREC's monitoring, demonstrates that the wholesale roaming market operates effectively.
- Commercially negotiated rates have consistently remained well below the regulated ceilings across all services and years. This evidences a well-functioning market and removes the rationale for continued wholesale price regulation.
- The market is demonstrably competitive, and technological advancements have significantly broadened access options for smaller operators and MVNOs.
- In parallel, transparency obligations should be eliminated. These have evolved into a complex and burdensome set of formal requirements that impose high compliance costs while offering limited practical benefit to consumers.

Universal Service Obligations (USO)

- The EU's USOs, embedded in the European Electronic Communications Code (EECC), aim to ensure all end-users have access to essential digital services. These remain valid policy objectives. However, the landscape has evolved.
- The digital market has transformed, with many more beneficiaries, including large tech firms, who do not contribute to the USO regime.
- Other policy frameworks now address USO goals more effectively. Telecoms operators also have a strong record in ensuring affordability and accessibility beyond regulatory burdens e.g. social tariffs.
- The current USO framework is outdated, distorts competition, and no longer delivers on its original intent.