PSC Europe

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The Digital Network Act call for evidence

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OPERATION	NAME	ORGANISATION	DATE
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Consultation	X
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PSCE feedback to the digital Network Act call for evidence

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

Feedback (4000 chars limit)

PSCE fully supports the initiative to develop the Digital Networks Act.

We particularly welcome the consideration to include more than only the economic considerations which have been the focus of the innovation drive for mobile communication until recently. The limited deployment of 5G across Europe provides a clear example of the failure of economic market drivers to take on the outcome of significant investment in mobile innovation and standardisation of 5G. The prospect of 6G will surely follow a similar path if only economic factors are considered. The EECC must also be adapted to the new technology evolution that is moving fast and provides the necessary tools and mechanisms to provide Europe with an adaptable and flexible thus protective legal environment.

Here, all dimensions of safety, security, resilience and sustainability should be considered. Key Values to improve societal resilience aspects must be understood and become as important qualitative drivers to complement the traditional view on economic quantitative values. This builds the need for critical digital network infrastructure resilience.

Continued innovation must continue at pace, with the deployment environment suitable for agile and continuous upgrade, as innovation matures to improve societal resilience for Europe. Digital networks must be continuously updated to address and mitigate new challenges which may compromise our networks, services and information exchange.

At PSCE we focus on the continued improvement of mobile communication to support those who work tirelessly to keep us safe and secure. Our responders work to keep us safe when disaster hits, in the fight against crime and terrorism, and with more challenges posed with war zones around the periphery of Europe. This includes the increasing risks posed by the climate change as the past years have demonstrated.

European responders are today using 20–25-year-old narrowband mobile radio technology. It is now time to build new capabilities to leverage the commercial scale of state-of-the-art mobile communication technology, sharing multimedia, enhancing the crucial audio communication, and providing enhanced shared situational awareness. This facilitates more efficient response of all responders across all disciplines and regions in the face of disaster, and in their fight against crime and terrorism.

In increasingly challenging times for our community, it's crucial that our digital networks are fit for purpose, improving societal resilience, building secure and resilient connectivity and services.

The DNA must support establishment of the European Critical Communication System (EUCCS). EUCCS will provide a more resilient and secure mobile communication capability. Building on EUCCS, this capability will offer more resilient and secure services for all users, for critical infrastructures that keep us moving (eg rail and automotive) and that provide energy, and of course for consumers and business users.

The management of spectrum must be more agile and harmonised across Europe. This has left our public safety community without harmonised spectrum for the realisation of EUCCS. Civil protection and public safety must be strengthened to meet all these challenges.

Beyond this new mission critical communication mobile networks and its standardised services, this is also the platform for onboarding cutting edge technologies like AI providing further benefit in situation awareness and decision making. Only when all first responders have the access to the same and necessary information, can the responses and decision on the responses be deployed in a consistent and efficient way. However, new technologies like cloud-based infrastructures and AI are often also met with some hesitation due to security perspectives and data ownership, but they also represent a huge opportunity as AI can be also a tool to detect and defend mission critical systems from attacks.

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European Commission

CALL FOR EVIDENCE
FOR AN EVALUATION AND IMPACT ASSESSMENT RUN IN PARALLEL

This document aims to inform the public and stakeholders about the Commission's work so they can provide feedback on the intended initiative and participate effectively in consultation activities.

We ask these groups to provide views on the Commission's understanding of the problem and possible solutions, and to give any relevant information that they may have, including on the possible impact of the different options.

TITLE OF THE INITIATIVE	Digital Networks Act
LEAD DG (RESPONSIBLE UNIT)	Directorate-General for Communications Networks, Content and Technology (Unit B1 - Electronic Communications Policy, Implementation and Enforcement)
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE TIMETABLE	Q4 2025
ADDITIONAL INFORMATION	Policy | Connectivity

This document is for information purposes only. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described, including its timing, are subject to change.

A. Political context, problem definition and subsidiarity check

Political context

As laid out in the Letta, Draghi and Niinistö reports, and in the Commission's Communication A Competitiveness Compass for the EU, a cutting-edge digital network infrastructure is critical for the future competitiveness of Europe's economy, security and social welfare. The availability of high-quality, reliable and secure connectivity for end-users as well as for key economic sectors is a must. Driven by the increasing importance of performance and security requirements for such services, digital networks are undergoing a technological transformation where cloud and edge computing capabilities are becoming an integral part of connectivity infrastructure. A modern and simplified legal framework that incentivises the transition from legacy networks to fibre, 5G and cloud-based infrastructures as well as an increased scale through service provision and cross-border operation is key. This was first explored in the Commission's 2024 White Paper - 'How to master Europe's digital infrastructure needs?'. The adoption of a Digital Networks Act (DNA), planned for Q4 2025 under the Commission's 2025 Work Programme, and accompanied by the review and evaluation of the European Electronic Communications Code (EECC) and related legal acts, is an opportunity to simplify and further harmonise the legal framework, with a view to reinforce competitiveness and to foster a more integrated single market.

Evaluation

Article 122(1) of the EECC requires that the Commission reviews the functioning of this Directive, since its applicability as of 21 December 2020, and in particular Articles 61(3), 76, 78 and 79. In addition, Article 122(2) requires that the Commission reviews the scope of universal services considering social, economic and technological developments. Furthermore, Article 123 requires that the Commission reports on the application of provisions concerning end-user rights.

The review of the EECC will assess its functioning in view of the current objectives and its suitability to fit the most important new challenges identified. In the most relevant areas, it will reflect on the evaluation criteria of relevance, effectiveness, efficiency, EU added value and coherence.

Problem the initiative aims to tackle

The EU connectivity sector is still fragmented along national borders, so that end-users and EU operators cannot reap the full potential of the single market. The EECC as a directive has shown limits regarding time-to-market (with a transposition delay up to 4 years) and level of harmonisation (primary focus on national markets). The achievement of the single market has been also hampered by practices of some Member States going beyond EU rules, deepening market fragmentation and increasing overall regulatory burden.

The regulatory framework has largely delivered as regards consumer benefits and competition in the sector following its liberalisation 30 years ago. However, as described in the White Paper - 'How to master Europe's digital infrastructure needs?' and highlighted in the Letta and Draghi reports, the electronic communication sector in the EU lacks innovation and investments. Barriers to operate cross-border and scale up persist and hold back

the deployment of very high-capacity networks and the technological transformation towards cloud-based networks and services. Two root causes of the fragmentation into national markets are that (i) the conditions attached to the general authorisation vary across Member States and (ii) spectrum assignment procedures and conditions are only loosely coordinated by a voluntary and non-documented peer review process, while investments are not always sufficiently incentivised through assignment conditions.

In addition, increasing demand to access the EU satellite market coupled with a fragmented non-harmonised authorisation procedure risk leading to discrimination between operators, forum shopping and barriers to development of cross-border satellite services resulting in missed benefits in terms of enhanced network resilience, coverage, life-saving services.

Besides, the regulatory framework remains complex and it is increasingly unfit for market and technological changes, e.g. as regards: (i) differing obligations imposed by national regulators to address market failure, (ii) a lack of proactive measures to foster copper switch-off, (iii) a lack of legal clarity of the Open Internet Rules concerning the regulatory treatment of innovative services, and (iv) challenges in the cooperation between the various digital players in the digital infrastructure ecosystem.

Finally, on governance, the past 15-year experience has shown the limitations of the existing governance system with the Body of European Regulators for Electronic Communications (BEREC) and the Radio Spectrum Policy Group (RSPG) having an advisory role vis-à-vis the Commission, and limited role to contribute to furthering the single market.

Basis for EU action (legal basis and subsidiarity check)

Legal basis

The DNA is planned to be based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), whose objective is the establishment and functioning of the internal market by enhancing measures for the approximation of national rules.

Practical need for EU action

The initiative will have significant added value compared to action taken at Member States level. Strengthening European competitiveness requires access to fast, secure, and resilient digital infrastructure. In a context where the digital connectivity landscape is changing rapidly with convergence of telecom, satellite, cloud and edge technology, driven by virtualisation and AI, the EU will only be able to achieve those objectives through a more harmonised legal environment across the EU that avoids inconsistent national administrative practices or implementation conditions that limit the opportunities of the single market.

Experience with the EECC shows that Member States have not been able to address the sectoral challenges timely, due to the long time needed for transposition of the Code into national law. In addition, the transposition of directives into national law has been often accompanied by additional layers of rules resulting in overregulation.

Overall, the scale of the problems in the digital ecosystem requires a legislative initiative at EU level because they have increasingly an EU dimension, and can be more efficiently resolved at Union level, leading to overall greater benefits, more accelerated and harmonised implementation, and lower costs than if Member States acted alone.

B. Objectives and policy options

To support the Union's policy objectives of consumer welfare, industrial competitiveness, security and resilience and environmental sustainability, the DNA aims to incentivise all market players to innovate and invest in advanced connectivity and promote an ecosystem of connectivity and computing infrastructures enabling the AI continent.

Simplification: The DNA (i) will aim to reduce existing reporting obligations (up to 50%) and to remove unnecessary regulatory burdens (e.g. requirements for providers of business-to-business services and IoT services) and re-focussing Universal Service obligations on affordability aspects; (ii) could entail merging into the DNA various directly related legislative instruments (e.g. EECC, BEREC Regulation, Open Internet Regulation, Radio Spectrum Policy Programme); and (iii) could propose a simplified authorisation regime and a reduced and more harmonised set of common conditions, so that operators can more easily operate cross-border, and further coordination and common implementation of other applicable requirements for providers (e.g. security and law enforcement). Further harmonisation potential lies, inter-alia, in end-user protection.

Spectrum: The DNA could propose (i) to strengthen the peer review procedure, ensure timely authorisation of spectrum on the basis of an evolving roadmap and set common procedures and conditions for the national authorisation of spectrum (ii) longer license duration and easier renewals, and to gear spectrum auction designs towards spectrum efficiency and network deployment as basis for the early introduction of 6G; (iii) flexible authorisation including spectrum sharing (in line with competition law principles) and facilitate requests for

spectrum harmonisation; (iv) to reinforce EU sovereignty and solidarity regarding harmonisation of spectrum, and when addressing cross-border interferences from third countries; and (v) to establish a level playing field for satellite constellations used for accessing the EU market.

Level Playing Field: The DNA could include (i) creating effective cooperation among the actors of the broader connectivity ecosystem giving the empowerment of NRAs/BEREC to facilitate cooperation under certain conditions and in duly justified cases; and (ii) a clarification of the Open Internet rules concerning innovative services, e.g. by way of interpretative guidance, while fully preserving the Open Internet principles.

Access Regulation: The DNA could propose (i) to apply *ex-ante* regulation (i.e. access conditions at national level) after the assessment of the application of symmetric measures (e.g. Gigabit Infrastructure Act or other forms of already existing symmetric access) only as a safeguard, following a market review based on the existing three criteria test and a geographic market definition, and subject to the review of the Commission, BEREC and other NRAs, with the Commission retaining veto powers; (ii) to simplify and increase predictability in the access conditions by introducing a pan-EU harmonised access product(s) with pre-defined technical characteristics, which would be a default remedy imposed on operators with significant market power if competition problems were identified; and (iii) to accelerate copper switch-off by providing a toolbox for fibre coverage and national copper switch-off plans, and by setting an EU-wide copper switch-off date as default, along with a derogation mechanism to protect end-users with no adequate alternatives.

Governance: in order to reinforce the Single Market dimension, the DNA could consider an enhanced EU governance with sufficient administrative and regulatory capacity (consultative or decision-making competences), through enhancing respective roles of BEREC, BEREC Office and RSPG to address various pan-European tasks and further the digital single market.

C. Likely impacts

This initiative is expected to have the following likely impacts:

- Economic impact: potential innovation and investment into advanced digital networks and services that would reinforce competitiveness of the sector and the economy at large, as well as economic security and resilience. In particular the impact of the measures to incentivise cross-border operations and service provision will be assessed in line with the single market objectives. Simplified rules should in particular enable SMEs to contribute to the ecosystem.
- Social impact: benefits for citizens and consumers through availability of digital services, growth and jobs created in the EU, as well as maintaining sovereignty and societal resilience. Measures will include safeguards to protect vulnerable end-users, e.g. in the switch-off of legacy infrastructure and in the area of Universal Service.
- Environmental impact: by contributing to the wider use of connectivity for clean industrial solutions, as well as sustainability of the sector itself through latest-generation sustainable infrastructures and services, efficient use of networks and scarce resources like spectrum, better energy use and lower carbon footprint.

D. Better regulation instruments

Impact assessment and evaluation

An impact assessment, based on the evaluation of the EECC, supported by evidence collection and stakeholder input, will be carried out in 2025 to inform the Commission's proposal. It will be prepared in line with the Better Regulation guidelines. The impact assessment and the evaluation will also benefit from the findings of studies that the Commission has contracted to collect the necessary evidence. The contractors carrying out these studies will also engage with stakeholders through additional surveys, interviews or workshops.

Consultation strategy

The Commission is consulting widely to gather key information and ensure that the public interest is well reflected in the design of the DNA.

In addition to the publication of this Call for Evidence to gather feedback on the Commission's understanding of the problem, possible policy options and any relevant information on the impact of the different options considered, multiple consultation activities have been already carried out. The initiative will take into account the stakeholders' feedback to the White Paper - 'How to master Europe's digital infrastructure needs?' of February 2024, and to the exploratory consultation on the future of the electronic communications sector and its infrastructure, launched in February 2023. As the Commission has done extensive consultations in the past years, via the Exploratory Consultation and the White Paper, covering the scope of this initiative, no new separate public consultation will take place.

Input will also be gathered through three separate studies, which have already been awarded, covering the following areas:

- Regulatory enablers for cross border networks/ completing the single market.
- Access Policy including review of the Relevant Markets Recommendation, and review of access provisions of the EECC.
- Financing issues, including the future of the Universal Service.

As integral part of the studies, further interaction with stakeholders is envisaged through, e.g. interviews, questionnaires and workshops. The final report of the studies is planned to be published once finalised by the end of 2025. The Commission will also be supported, as appropriate, by BEREC and the RSPG, and through *ad hoc* workshops with national authorities. A synopsis report, summarising the results of all consultation activities, will be published as annex to the impact assessment.

Why we are consulting?

Through this consultation, the Commission would like to gather:

1. Stakeholders' views on the current and emerging problems related to (i) the lack of investments and innovation in the European electronic communications sector, (ii) the persistent fragmentation of the single market for electronic communications, and (iii) the complex regulatory framework for electronic communications,
2. Stakeholders' views on the possible policy approaches to address such challenges including available options, and their potential impact, and
3. Evidence and data underpinning those views.

Target audience

The consultation aims to gather the views of a variety of stakeholders. These include:

- Providers of electronic communications networks and services, including satellite operators and broadcasters.
- Value chain stakeholders (supply manufacturers, content and application providers, cloud providers, etc.).
- Member States, national regulatory authorities or other competent national authorities.
- European Union bodies.
- Public administrations (national and regional).
- Consumers, consumer organisations and users of connectivity services.
- Academic experts and research institutions.
- Non-governmental organisations.
- Citizens.

All stakeholders are invited to participate.