

ecta high-level position on the Digital Networks Act

Who ecta represents

ecta, the european competitive telecommunications association (www.ectaportal.com), represents those alternative operators who, relying on the pro-competitive EU legal framework that has created a free market for electronic communications, have helped overcome national monopolies to give EU citizens, businesses and public administrations quality and choice at affordable prices. ecta also broadly represents those operators who are driving the development of an accessible Gigabit society, who are making significant investments in fixed, mobile and fixed wireless access networks that qualify as Gigabit Networks, and who demonstrate unique innovation capabilities.

Why competition matters for Europe

ecta members are united in their belief that an inclusive electronic communications sector, embracing a multitude of participants, both large and small, and nurturing a diverse array of products and services, is essential to empower the entire European economy and unleash its innovative potential in the digital realm. In other words, diversity in telecoms is essential to guarantee Europe's competitiveness.

A balanced approach to the DNA

The Digital Networks Act is an important opportunity to modernise the EU framework for electronic communications and to support resilient, high-quality and future-proof digital infrastructure across Europe. ecta supports the overall objective of a more coherent and effective framework for connectivity. At the same time, the DNA should preserve the foundations that have enabled competition, investment and consumer choice in European telecoms markets. In ecta's view, the right approach is a moderate and constructive one: simplify where possible, harmonise where justified, but maintain effective safeguards for competition, legal certainty and ensure workable national implementation where market realities differ.

What ecta welcomes

ecta welcomes three core elements of the proposal. First, the continued application of ex ante access regulation remains essential. Market failures are still present and require both current and forward-looking remedies, so the Significant Market Power regime continues to play a necessary role. Second, ecta supports the removal of sector-specific rules on the designation of universal service providers and the related financing mechanisms. Third, ecta welcomes the preservation of key consumer protection measures, including number portability, switching and transparency of offers, which remain vital to effective

competition and consumer trust. [ecta](#) also welcomes greater harmonisation, while stressing that B2B customers are distinct from consumers and should not be subject to consumer rules. There are important differences between the needs of consumers and those of business and government users. This results in differences in the corresponding networks and services deployed and used to meet their respective needs. It also structurally affects, among others, resilience and security, market structure and competition, the need for, and specifications of, wholesale access, and the contractual arrangements with retail customers. [ecta](#) recalls that business markets remain highly concentrated across Member States from the supply side.

Horizontal governance and legal-certainty concerns

At the same time, [ecta](#) has a number of cross-cutting concerns about the institutional design of the proposal. In particular, the extensive reliance on implementing and delegated acts risks reducing legal certainty, limiting political scrutiny and postponing key policy choices to secondary legislation. [ecta](#) therefore believes that their use should be significantly limited and that, where appropriate, BEREC should instead be entrusted with developing guidance or common positions. [ecta](#) is also concerned by the shift in the balance of powers in areas such as spectrum, numbering, security and resilience, and questions whether subsidiarity has been applied appropriately throughout the proposal. Where BEREC is consulted, the Commission should be required to follow its opinion. Likewise, where consultation is foreseen, it should be conducted on the basis of a draft text of any implementing measure, recommendation or similar instrument.

Priority 1: Preserve an effective competition and remedies toolbox for NRAs and ensure effective access regulation

A first substantive priority for [ecta](#) is to preserve an effective competition and remedies toolbox for national regulatory authorities. [ecta](#) recommends clarifying the status of the Recommendation on relevant product and service markets and making it binding in practice (Art 72), because if a market is removed from the Recommendation, or if the Recommendation itself is removed, despite persistent market failures, there is no mechanism to compel an NRA to intervene. Where commercial agreements are taken into account in forward-looking market analysis (Art 73), those agreements should have demonstrated their effectiveness over a meaningful period, for example at least three years. Before publishing SMP guidelines, the Commission should consult publicly on a draft text (Art 76). More broadly, NRAs should retain a full toolbox of remedies without hierarchy, as they remain best placed to assess national market circumstances (Art 77). Transparency and non-discrimination obligations are important, but in a number of cases they are not sufficient on their own to address market failure. Furthermore, it would be inappropriate to amend or withdraw obligations without first conducting a prior market analysis.

That same logic applies to access regulation. [ecta](#) recalls that price control, including cost orientation, remains an essential remedy and does not imply below-cost pricing (Art 79). The application of the WACC allows an appropriate return that reflects the investment risk profile of an efficient operator. Cost-oriented regulation should therefore remain available where justified on all access products.

If spectrum is the lifeblood of mobile operators, duct access is the lifeblood of infrastructure competition. Accordingly, where duct access or other civil-engineering access is available, it should be imposed as a first priority and should include cost orientation (Art 80). At the same time, the availability of passive access should not become a precondition for effective regulation. Where network architecture choices make passive access technically impossible, this should not result in the absence of regulation. In such areas, sufficiently robust alternative access obligations along the ladder of investment may be required in order to avoid regulatory gaps and ensure consistent competitive outcomes.

Dark fibre and other passive and active remedies should be treated as complements, not substitutes.

[ecta](#) welcomes the objective of greater harmonisation of access remedies, especially for business markets. However, the relevant provisions in the DNA legislative proposal (Art 81), including Recital 207, are not sufficiently clear to allow a proper assessment on the merits. As currently drafted, they could lead to existing wholesale access products, or NRA-notified proposals, being replaced by harmonised products. The specifications, access points, quality and pricing of these harmonised access products would remain unknown until well after the adoption of the DNA. [ecta](#) therefore considers that harmonised access products should either be specified more clearly in the Regulation, including through a stronger role for BEREC following market consultation on a draft text, or these provisions should be deleted.

Finally, [ecta](#) believes the proposal should preserve the logic of the EECC in relation to commitments and the broader institutional balance. Commitments should clearly be treated as remedies that follow a finding of SMP, not as a means to reopen market analysis and conclude that the market would become effectively competitive because of the commitments themselves (Art 83). In that context, [ecta](#) recommends reintroducing EECC Annex IV on the criteria for assessing co-investment offers.

[ecta](#) also considers that price control should remain available to address wholesale-only undertakings where justified, for example where they hold a monopolistic position in certain areas or control non-replicable assets. More generally, [ecta](#) recommends maintaining the balance of powers provided for under the EECC and strengthening it in some areas, notably by requiring the Commission to review its position where BEREC does not share it, and by strengthening the obligation on NRAs to take Commission comment letters into account (Art 85).

Priority 2: Manage the transition from copper to fibre

A second priority is the transition from copper to fibre. [ecta](#) welcomes the objective of accelerating fibre migration, while recognising that implementation should remain tailored to national circumstances. In this context, [ecta](#) recommends incorporating the migration safeguards set out in the Commission Recommendation of 6 February 2024 on the regulatory promotion of gigabit connectivity, in particular as these contain safeguards for competition that are lacking in the DNA legislative proposal. The DNA should also more explicitly prevent distortions of competition in business markets, including in relation to back-up lines and other critical business services. Where an obligation to connect is imposed in the transition to fibre (Art 71), the conditions for doing so should be clarified, and the text should make explicit that such measures may require State aid support under the applicable rules.

Symmetric measures (Art 69 and 71), applied across all rungs of the ladder of investment, remain a useful complement to asymmetric regulation in addressing local bottlenecks, and should not be intended to replace the SMP regime where market failure persists. Cost orientation must remain available where necessary also in the context of symmetric regulation. [ecta](#) also recalls that symmetric measures under Article 69 are fundamentally different from the Gigabit Infrastructure Act: Article 69 is a market-regulation tool designed to address market bottlenecks, whereas the GIA is a deployment-facilitation instrument.

Priority 3: Preserve a level playing field in spectrum policy

A third priority concerns spectrum policy (Art 13, 16, 18, 25, 29, 32 and 39). [ecta](#) supports a more coherent spectrum framework, but it should remain technology-neutral, investment-friendly, sufficiently flexible to reflect national market conditions and, most importantly, ensure a level playing field in the market. Operators should remain free to deploy the technology of their choice in any band, and the shortcomings seen in the assignment of so-called specific 5G bands should not be repeated. Greater coordination may improve predictability, but overly synchronised auctions across Member States could stretch scarce human and financial resources over too short a period. The sequencing of renewals for harmonised spectrum also requires clarification. In addition, spectrum fees should be set at levels that ensure efficient assignment and use while supporting investment in deployment, quality and innovation. Excessive spectrum fees ultimately reduce operators' ability to invest in networks. [ecta](#) also supports the principle that pro-competitive spectrum measures should be based on a prior market assessment but considers that linking them to the Article 73 SMP market-analysis framework is inappropriate because that framework serves a different purpose and time horizon.

As regards satellite spectrum, [ecta](#) recommends including wholesale access among the conditions applicable to the authorisation and use of the different satellite spectrum bands. [ecta](#) further underlines that any D2D use of MNO spectrum should only take place

on a voluntary, contractual and Member State-by-Member State basis, with the agreement of the MNO concerned. There should be no harmonised band for D2D on MNO spectrum; if needed, D2D should be accommodated within existing MSS bands. [ecta](#) also stresses that the new MSS regime must not become a regulatory backdoor allowing satellite operators to compete with mobile networks under more favourable spectrum or regulatory conditions. A full level playing field must be preserved, and strong, rapid protection of MNOs against interference under Article 45 must be guaranteed.

Priority 4: Keep competition at the heart of the DNA

A fourth priority is to ensure that competition remains at the heart of the framework. The proposal should not downgrade the promotion of competition from a general objective to a mere instrument for delivering other goals (Art 3(1)(e)). Competition should remain a fully fledged objective in its own right as has been the case in all previous EU telecoms legislation. This matters not only for end-users, but also for Europe's broader competitiveness: competition is a primary condition for efficient investment, innovation and high-quality services. [ecta](#) supports the objectives of resilience and sustainability. However, and in the interest of simplification, [ecta](#) considers that other instruments are better suited than the DNA to achieve these objectives. Accordingly, [ecta](#) suggests deleting Articles 4 to 7 since they overlap heavily with existing legislation such as NIS2 and CRA, and with the CSA2 legislative proposal.

Priority 5: Take account of the specific situation of B2B markets

Business and government users have distinct connectivity needs; B2B markets remain highly concentrated and require tailored safeguards for competition, access, resilience, security and service quality.

Conclusion

[ecta](#) supports a modern and workable Digital Networks Act that strengthens Europe's digital infrastructure while preserving the regulatory fundamentals that make competition and investment possible. The proposal should remain moderate, proportionate and grounded in market reality. In particular, it should preserve competition as a core objective, ensure stronger legal certainty, respect an appropriate balance of powers, maintain an effective remedies toolbox for NRAs, and promote fibre and spectrum policies that genuinely support long-term investment and innovation.

[ecta](#) looks forward to engaging constructively with the European Parliament and the Council throughout the legislative process in order to ensure that the final legislative framework strengthens effective and sustainable competition, supports Europe's digital ambitions, and provides the basis for innovation, investment and user choice. To that end, [ecta](#) will submit amendments reflecting the considerations outlined above.
