

**GSMA**

**Response to the European  
Commission's Call for Evidence  
on the Digital Networks Act**

**11 July 2025**

## 1. Introduction

The European members of the GSMA welcome the publication of the European Commission's Call for Evidence on the Digital Networks Act (DNA).

Europe's telecom sector increasingly trails behind other developed economies in terms of the availability of state-of-the-art digital infrastructure, while facing mounting global competition and massive investment gaps. To address this loss of competitiveness, a fundamental reset of the regulatory framework for the digital communications sector is required. The DNA should restore the European telecom sector's incentives to invest and innovate, in order to ensure that Europe meets its objectives on connectivity, digitalization, and competitiveness. Simplifying the framework, enhancing harmonisation, reducing the regulatory burden and ensuring a more competitive, balanced and fair digital environment should be at the top of the Commission's DNA action plan. The plan should prioritise speed and agility, and it should be based around the following core principles:

- 1) Competitiveness
- 2) Regulatory simplification
- 3) Harmonisation / Completion of the Digital Single Market

We believe that the future DNA should establish a radically simplified regulatory framework that offers appropriate incentives for investment and innovation and supports the implementation of the EU's strategic vision and objectives. This vision emphasizes the importance of widespread, secure and advanced connectivity infrastructure, which is crucial and strategic for the EU's resilience, security, global competitiveness, digital ambitions and prosperity. Enabling telecom operators to reach scale is critical to foster the significant investment needed. To achieve this, a fundamental overhaul of today's framework is necessary. The upcoming reform must have the underlying aim of improving long-term investment capacity to enable the sector to deliver on important public policy objectives such as providing reliable, super-fast and future-ready connectivity for consumers and businesses. We urge EU policy makers to be ambitious in striving to benefit EU citizens and businesses.

In this context, the scope, aims, and objectives of the DNA should be significantly broader than those currently set out in the European Electronic Communications Code (EECC). This is necessary to resolve the fundamental obstacles that the European connectivity sector is facing and appropriately reflect the evolution of the digital ecosystem, to ensure a fairer functioning of the internet value chain. The DNA should secure a level playing field and ensure that operators can reach fair agreements for the services they provide, supported by rules that treat comparable services equally.

The DNA should take the form of a Regulation to ensure swift implementation and maximum harmonization across Member States, avoiding fragmentation and guaranteeing consistent rules throughout the EU.

## 2. European Commission's suggested objectives and policy options

### 2.1 Simplification

*Regulations must be made fit for purpose in the modern digital ecosystem and ensure an effective rebalancing of the sector. The new framework should be ambitious and focused on the creation of an environment that drives investment and innovation. It should enhance sustainable competitiveness whilst reducing the significant compliance costs created by complex, overly prescriptive, disproportionate and duplicative regulation.*

*We fully endorse the European Commission's ambition to cut existing reporting obligations. However, this effort should extend beyond reporting and encompass a more substantial strategic review of the sectoral regulatory framework, with a view to streamlining rules that are no longer essential or justified—particularly where horizontal rules already ensure compliance. Below, we comment on the policy options suggested by the European Commission under the "Simplification" pillar.*

- (i) The harmonization of rules across EU Member States is necessary to facilitate potential future cross-border operations and to ensure a European digital single market. We therefore welcome the proposal to further harmonise end-user protection (c.f. proposal (iii)), and we also believe that the DNA should significantly simplify existing rules.

Only very limited sector-specific rules should remain in the EECC/DNA, to avoid unnecessary duplication of regulatory and reporting obligations – such as is the case with the horizontal regulatory framework for consumer protection.

Furthermore, we support the proposal to reduce existing reporting obligations. In our view, this should not necessarily be limited to a 50% cap, but should apply to the fullest extent possible and necessary to achieve simplification. It is important that this reduction should not be limited to reporting obligations as such, but to all areas where sector-specific regulation is no longer justified, not proportionate or overlaps with horizontal rules, such as consumer protection. In addition, we consider that the provisions of the EECC that are designed to protect end-users are not suitable for the business market.

The removal of unnecessary or disproportionate regulatory obligations should not be limited to specific segments but should be a general policy objective. Irrespective of market type or technology, all regulatory requirements should be regularly reviewed to ensure that they remain justified, proportionate, and aligned with policy objectives such as investment, innovation, resilience and competitiveness.

- (ii) Given the current level of competition, the range of commercial offers and the deployment and coverage of both fixed and mobile networks, the Universal Service Obligation (USO) is no longer justified as it was over 20 years ago, neither from the perspective of availability nor with regard to affordability, and should consequently be repealed. Today's market features a huge variety of offers that match the needs of consumers and contribute to the objectives of the USO. For the limited number of vulnerable, low-income consumers across the EU, who cannot afford commercial offers, we consider that the most efficient way to address the issue is public intervention through the provision of direct subsidies, such as vouchers. This method allows consumers freedom to select their preferred operator for redeeming the vouchers. Finally, in terms of accessibility, there is sufficient protection under the horizontal European Accessibility Act.
  
- (iii) Regarding the proposal to merge into the DNA various directly related legislative instruments (e.g. EECC, BEREC regulation, OIR, RSPG) we believe that the DNA should remain focussed on regulatory simplification by eliminating outdated and duplicative regulations, and reducing reporting obligations. It should ensure a level playing field by restoring balance in the internet value chain, enabling operators to reach fair agreements and ensuring that similar services provide the same level of protection irrespective of the service provider. Therefore, we call for a future-proof DNA that is based on these objectives, and directly and equally applied across all Member States.
  
- (iv) The notification duty and related obligations under the General Authorisation (GA) regime should be harmonised and applied uniformly to all providers of electronic communication networks and services across the EU. This can help to ensure consistent regulatory application and facilitate cross-border operations by reducing complexities from differing national regulations. However, harmonised authorisation alone will not address all barriers to operational scale. Diverging national requirements – particularly those linked to national security – continue to restrict the cross-border deployment of shared infrastructure, systems, and personnel. The DNA must also facilitate structured coordination between Member States and the Commission in order to address legal and administrative obstacles to cross-border deployment. A truly integrated single market for connectivity depends on addressing these practical constraints.

Importantly, the sector needs legally and economically viable conditions to offer cross-border services without undermining investment incentives for infrastructure (i.e., 5G and fibre networks). Regulatory interventions that would force providers into offering cross-border services or would *de facto* result in a form of access regulation would have the opposite effect to incentives for investment. Consequently, the EU should

refrain from introducing new obligations or measures such as “European Access Products” which, we believe, would be unjustified and disproportionate, and could create more favourable conditions for non-EU providers, to the detriment of European investing operators.

## **2.2 Spectrum policy**

*The proposals outlined in the DNA Call for Evidence reflect an important and necessary evolution of EU spectrum policy. Below, we comment on the policy options suggested by the European Commission under the “Spectrum” pillar.*

- (i) The call to strengthen the peer review procedure, ensure timely authorisation through an evolving roadmap, and set common national authorisation procedures is particularly welcome. To support these objectives, improvements to the peer review mechanism could include introducing an appeal process for operators and a notification system to the European Commission, similar to the existing framework for market analysis. These steps would contribute to network investments through greater transparency, predictability, and efficiency in spectrum management and assignment procedures.
- (ii) The proposal to extend licence durations and facilitate easier renewals is aligned with the need for increased investment certainty. Transitioning towards indefinite licences, or at a minimum extending licence terms to 40 years with tacit renewal conditions, would significantly support long-term network planning and deployment. Additionally, the adoption of auction designs that prioritise spectrum efficiency and incentivise investment would better align spectrum assignment with the EU’s Digital Decade targets and the introduction of 6G.
- (iii) The European Commission’s proposal to enable more flexible authorisation models could foster innovation by licensees as long as it results in lower barriers to commercially driven flexible use, rather than in obligations that hinder the capacity of mobile network operators to efficiently provide services. Along the same lines, any proposal to facilitate requests for spectrum harmonisation should support commercially justified initiatives. A clear EU roadmap is needed for spectrum availability, and harmonisation efforts should focus on the timing of availability and technical and economic usage conditions, rather than imposing uniform national assignment procedures or timetables. Member States should retain flexibility to assign spectrum based on market demand, but should be required to allocate spectrum efficiently in key harmonised bands for nationwide mobile networks. We propose the enhanced use of cost-benefit analysis tools to support EU spectrum harmonisation decisions.
- (iv) Regarding EU sovereignty in relation to cross-border coordination and interference management, we believe that the existing process is largely sufficient and that Member

States bordering third countries have established mechanisms to deal with issues bilaterally. However, enhanced information exchange within the EU and a fallback option of EU support upon the request of an affected Member State (e.g. similar to the RSPG process) would be useful in respect of scenarios in which a Member State faces difficulties in reaching bilateral agreements.

- (v) Establishing a level playing field for satellite constellations delivering services within the EU market would help ensure fair competition, the optimal use of spectrum resources across services and technologies, and the avoidance of interference.

Overall, the policy focus should be on fostering investment, efficient spectrum use, and a sustainable, competitive digital infrastructure ecosystem.

### **2.3 Level-Playing Field and Fairness in the Connectivity Ecosystem**

*The DNA should focus on levelling the regulatory playing field and ensuring a fair and balanced relationship between traditional telecommunication providers and other players of the digital ecosystem. This will help to support innovation and investment into networks, ensuring the adoption of high-capacity networks, maintaining sustainable competition, and delivering benefits to consumers, businesses and the public sector.*

*In today's digital network ecosystem, several large technology players are offering equivalent and competing (so-called "over-the-top") communications services or complementary services. But despite their rapidly increasing role in the telecoms value chain, these players are not regulated in the same way as telcos are. Hence, we believe that the principle of "same service, same rules" should be implemented, throughout the DNA. This means also that key principles ensuring openness in the internet ecosystem should be extended to a broader group of players.*

*Additionally, the connectivity ecosystem in Europe has significantly changed. Large commercial content and application providers (CAPs) and Content Delivery Networks (CDNs) operate global private backbone and delivery networks and account for over 70% of the world's total internet traffic, as well as offering many services that compete with telecom providers.<sup>1</sup> These CAPs enjoy overwhelming bargaining power vis-à-vis EU telecom operators when negotiating for the provision of IP data transport services. This negotiating position is strengthened by the fact that they can decide to use other routes to deliver their traffic at the expense of cost and quality for the network operators and their end users – while operators are forced to continuously build-out network capacity as a result of growing data traffic generated by these players, bearing generally over 85% of the necessary investments<sup>2</sup>. These dual imbalances are unsustainable and need to be addressed through legislation. This would also create an incentive for a more diligent approach towards data traffic*

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<sup>1</sup> Karlson, "The State of the Network", (2024).

<sup>2</sup> [Mobile-Infrastructure-Investment-Landscape-1.pdf](#)

generation. To support network investment as well as net-zero goals, it is important to incentivize data optimization through measures like stream-saver solutions based on screen size (e.g. codecs) and enabling data-saving modes by default, along with consumer education.

Regarding the two specific policy options suggested by the European Commission in the Call for Evidence, under the “Level-Playing Field” pillar:

- (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”

We strongly believe that the DNA should be modernised to ensure a fairer functioning of the internet value chain. As such, it should include an obligation for large CAPs to negotiate with Electronic Communications Service (ECS) providers fair and reasonable prices for interconnection and IP data transport services with the possibility of activating a dispute resolution mechanism in case negotiations fail. Such a mechanism should empower a national competent authority, at the request of either party, to issue a binding decision – based on guidance on fair and reasonable terms to be provided by the European Commission – to resolve disputes between large CAPs and ECS providers.

- (ii) “Clarification of the Open Internet rules concerning innovative services, e.g. by way of interpretative guidance, while fully preserving the Open Internet principles”

As the current interpretation and application of the Open Internet rules are making innovation and investment more difficult, further guidance from the European Commission would be welcomed, particularly if developed independently from the DNA, allowing for a swifter adoption process. Obtaining clarity – through an EC Recommendation with regard to the application of the Open Internet Regulation (OIR) to these developing areas – is critical for the future development of the European telecoms market, including in relation to the swift and efficient delivery of 5G (including network slices), network cloudification and related supported use cases across the EU. The Recommendation should be in the form of a non-exhaustive list of services that should be considered as specialised services. In addition, we believe that B2B use cases should be excluded from the scope of the OIR, which could be done by a change to the definitions in the EECC/DNA.

The current OIR protects all end-users, including large CAPs, which can misuse operators' networks. It can also make it more difficult for network operators to offer differentiated services to business customers. Additionally, it does not restrict key players like CDNs, certain content platforms, and operating systems (OS), despite their significant role in traffic delivery. Thus, the European Commission should consider extending existing open internet principles to these providers under the DNA.

## **3. Horizontal issues**

### **3.1 Repeal of the ePrivacy Directive**

An important issue in the EU's current telecom regulatory framework that is not mentioned in the Call for Evidence is the outdated ePrivacy Directive, which is over 20 years old and was last updated in 2009. Its sector-specific approach no longer fits the evolving technological and regulatory environment. It overlaps with the horizontal GDPR framework, creating unnecessary burdens and stricter data processing rules that limit innovation. This also results in regulatory imbalances as, today, not all digital service providers are subject to the same rules although despite offering the same or comparable services. In addition, inconsistent implementation across Member States causes legal uncertainty, hinders the rollout of innovative services at scale (such as the GSMA Open Gateway initiative), and weakens efforts to combat fraud.

We therefore call for the ePrivacy Directive to be repealed, with the exception of the core principle of confidentiality of communications. This principle should be preserved and integrated into a harmonised legal framework (such as the DNA or a similarly comprehensive EU initiative) that applies equally to all communication providers, technologies, and users. As for the rest, the GDPR would fully cover rules such as the processing of electronic communications data, offering robust safeguards and risk-mitigation measures.

### **3.2 Security**

One of the objectives of the DNA is to strengthen the EU's security and resilience. The telecom sector already has a mature security architecture, supported by a long-standing regulatory framework, recently updated through the NIS2 Directive. However, multiple overlapping security obligations – such as those from NIS2, DORA, the CRA, and national requirements – create legal uncertainty and regulatory inconsistency. This complicates investment planning and network deployment, especially for operators active in several EU countries, which seek consistent security policies across markets.

The Call for Evidence suggests that the DNA could promote greater coordination and harmonised implementation of security requirements, possibly through a revised authorisation regime. It is worth noting that the upcoming review of the Cybersecurity Act is already expected to streamline the EU's cybersecurity framework and reduce duplication in risk management and reporting obligations. A unified and coherent approach to regulating security in electronic communications is essential. Security obligations should be risk-based and take into utmost consideration their impact on innovation and service quality, scope, timeframe for application and funding requirements. We have submitted proposals to support this goal in the public consultation on the Cybersecurity Act review.

### **3.3 Satellite Direct-to-Device**

Supporting EU-driven collaboration on new technologies like satellite Direct-to-Device should be factored into the European Commission's considerations. Integration of diverse connectivity services holds potential to complement terrestrial networks and strengthen resilience. Their successful rollout depends on close collaboration between satellite providers, mobile operators, and device manufacturers. However, to ensure that the interests of European society and fair competition are protected, it is equally crucial that all providers, including those from third countries, comply with EU regulatory frameworks, especially with regards to security in electronic communications and ensure protection of terrestrial mobile frequencies and quality of service.

### **3.4 Environmental sustainability**

The DNA is not an appropriate mechanism to directly address sustainability challenges or corporate reporting obligations.

The European Commission should refrain from introducing additional layers to an already complex and demanding horizontal legal framework of reporting obligations. Adding to sector-specific rules would contradict the broader EU policy direction, particularly the Commission's sustainability Omnibus Simplification Package. The same goes for any ambition on the part of BEREC and/or national regulatory authorities to request additional data, as this would be inconsistent with the current simplification agenda and jeopardise the goal of competitiveness. All necessary data requirements are already covered by existing corporate and environmental reporting rules (such as CSRD, CDDD, RoHS, REACH, CBAM, ETS, EED, etc.) and publicly available.