

JOINT STATEMENT ON THE FUTURE OF EU TELECOMS REGULATION

9 November 2023

BEUC - The European Consumer Organisation and ecta, the European competitive telecommunications association, express their concerns and observations on the current discussions regarding the future regulatory framework governing the EU telecoms sector.

We are worried by statements made by the Presidency of the Council of the European Union and the European Commission¹ following the Informal Telecommunications Council on 23-24 October 2023, which call for a “review and update [of] the regulatory and competition policy paradigm in the electronic communications sector” along with the announcement of a new legislative proposal, a ‘Digital Networks Act’. These statements, when taken together with calls from former monopolist telecoms companies to reduce competition and suggestions to create a few, so-called ‘European champions’”, are a warning sign for the EU telecoms market.

Competition has underpinned success of EU telecoms market

EU telecoms regulation has been a success story for the past three decades. Fair and competitive markets, combined with effective ex-ante regulatory measures, have been the driving force behind investments, positive innovation and consumer benefits in telecoms. This pro-competitive EU legal framework successfully has created a free market for electronic communications, helped overcome national monopolies and ultimately presented EU consumers and businesses with quality and choice at affordable prices.

The resulting diversity of market players, both large and small, has been paramount for encouraging innovation at a time when the EU’s economy is digitalising. This diversity is essential for ensuring that the needs of consumers, businesses and public administrations are met.

However, the announced aims of a ‘Digital Networks Act’ to enable the creation of “happy few European champions” would run contrary to the achievements of the past decades.

European champions not the solution

The suggested “paradigm shift”² would have detrimental impacts on competition, on the EU internal market and on consumers’ interests. It would also undermine the principles enshrined in the European Electronic Communications Code (EECC).

¹ Informal Ministerial Meeting on Telecommunications in León (Spain), Press conference by Nadia Calviño, Spanish First Deputy Prime Minister and Minister for Economic Affairs and Digital Transformation, and Thierry Breton, European Commissioner for Internal Market (24 October 2023), available here: <https://audiovisual.ec.europa.eu/en/video/I-247943>

² Thierry Breton, LinkedIn post: [‘A ‘Digital Networks Act’ to redefine the DNA of our telecoms regulation](#) (10 October 2023).

BEUC³ and ecta⁴ have consistently underlined that market deregulation and weakening of competition will disproportionately enhance the market power of telecom incumbents over other market players to the detriment of these companies and of consumers. We have recently raised these concerns in the context of the Commission's proposed '*Recommendation on regulatory promotion of Gigabit connectivity*', concerns which were shared by the Body of European Regulators for Electronic Communications (BEREC).⁵

BEUC and ecta recall that the ultimate driver for investments and innovation is competitive pressure. The European pro-competitive and inclusive regulatory framework continues to deliver in terms of deployment of very high-capacity infrastructure and the availability of affordable offers for European consumers and businesses, which have been hallmarks of a competitive telecoms market. This is evident if we compare the EU with its global peers. For example, the United States is lagging behind the EU with reduced competition, limited consumer choice and high retail prices.

Although we recognise that the objective to provide high-quality, affordable and accessible connectivity to consumers, especially those most vulnerable, should remain the cornerstone of the Digital Single Market, we urge caution on the solutions currently being discussed to achieve it.

For these reasons, we strongly reject the narrative employed by incumbent telecom operators and apparently supported by the Commission that market fragmentation "holds them back"⁶ and that there is a need for market deregulation and less competition.

Fair competition must not be confused with market fragmentation.

Promoting the emergence of 'EU champions', which will be drawn from the biggest former monopolists, will be to the detriment of effective and sustainable competition and is contrary to the fundamental principles of EU competition law. The experience of our members shows that less competition only leads to less investment and poorer consumer welfare, not the opposite.

The solutions to the EU's Digital Decade Policy Programme 2030

The most efficient way to deliver on the new objectives of the Digital Decade is to ensure that the existing telecoms regulatory framework is fully implemented across the EU. Implementation of the European Electronic Communications Code is still delayed in many Member States.

We also support the BEREC recommendations⁷ for the Commission to prioritise alternative policy measures that can maximise efficiency, reduce market entry barriers and stimulate competition, such as the Gigabit Infrastructure Act proposal, which is still being negotiated by EU legislators. The proposal introduces crucial measures to remove administrative barriers and reduce costs, including certain and short permit release times, and tacit administrative approval for permit-granting including rights of way.

Should the European Commission wish to proceed with any structural changes to the European Regulatory Framework, our organisations recall that any regulatory intervention should be strictly based on evidence and necessity, in line with the European Commission's Better Regulation Principles, including a comprehensive impact assessment and an inclusive public consultation on any policy proposals.

Moreover, pursuing full connectivity must always be in line with the principles of effective competition and consumers welfare. Any new policy or legislative measure, such as the so-called 'Digital Networks Act' must not

³ BEUC letter, '[BEUC's views on the Commission's draft Gigabit Recommendation](#)' (30 May 2023).

⁴ Ecta press release, '[ecta warns against undermining the European model with the proposed EC Recommendation on the regulatory promotion of Gigabit Connectivity](#)' (31 January 2023).

⁵ BEREC opinion, '[Opinion on the draft Gigabit Recommendation](#)' (5 May 2023).

⁶ Thierry Breton, LinkedIn post: <https://www.linkedin.com/pulse/digital-networks-act-redefine-dna-our-telecoms-thierry-breton/>

⁷ BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-preliminary-assessment-of-the-underlying-assumptions-of-payments-from-large-caps-to-isps>

question the primary objectives of the EU legal framework for electronic communications enshrined in the EECC of “promoting competition, the internal market and the safeguard of end-user interests”.⁸

BEUC is the umbrella group in Brussels for 45 independent consumer organisations from 31 countries. Its main role is to represent them to the EU institutions and defend the interests of European consumers. BEUC’s daily work involves making sure the EU takes policy decisions that improve the lives of consumers. This covers a range of topics including competition, consumer rights, digital rights, energy, enforcement, financial services, food, health, safety, sustainability and trade policy.

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 represents at large those operators who are driving the development of an accessible Gigabit society, who represent significant investments in fixed, mobile and fixed wireless access networks that qualify as Very High Capacity Networks and who demonstrate unique innovation capabilities.

⁸ Directive (EU) 2018/1972 (European Electronic Communications Code), Recital 23. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972>