

The Consumer Voice in Europe

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Cc: Attaché of the Working
Party on Telecommunications
and Information Society

By email

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Brussels, 10 April 2024

Subject: Telecoms Council informal meeting 11-12 April – BEUC, ecta joint call on EU ministers to reject push for deregulation, reduction of competition and consumer welfare in EU telecoms

Dear Deputy Permanent Representative,

On behalf of **BEUC - The European Consumer Organisation** and **ecta, the european competitive telecommunications association**, we would like to express our preliminary observations on the recently published European Commission **White Paper "How to master Europe's digital infrastructure needs"**¹ and the current discussions regarding the future regulatory framework of the EU telecoms sector, ahead of the Informal Meeting of EU Telecoms Ministers on 11-12 April 2024 in Louvain-la-Neuve.

We are concerned that the **White Paper opens the door for measures aimed at reducing competition** (removal of obligations on dominant former monopolist Telecoms companies). Furthermore, the Commission's White Paper proposal to reopen the European Electronic Communications Code (EECC), in conjunction with the current calls from former monopolists to **pursue market deregulation and reduce competition**, clashes with the existing pro-competitive framework and stands at odds even with the most basic principles of EU Competition Law. We explain below in detail why **your country should oppose this change of regulatory approach**.

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¹ White Paper - *How to master Europe's digital infrastructure needs?* 21 February 2024: <https://digital-strategy.ec.europa.eu/en/library/white-paper-how-master-europes-digital-infrastructure-needs>

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Competition has underpinned the success of the European telecoms market and consumer welfare and remains a critical prerequisite for Europe's overall competitiveness

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 framework successfully created a free market for Telecoms, helped overcome national monopolies and ultimately presented consumers and businesses with quality and choice at affordable prices.

The announced aims to create more market concentration² would run contrary to the achievements of the past decades. The resulting diversity of market players has been paramount for encouraging innovation at a time when the EU economy is digitalising. Looking ahead, **this diversity is essential to ensure that the needs of consumers and businesses are met** and to guarantee Europe's competitiveness.

The scenarios outlined in the White Paper prioritise deregulation and competition reduction to the detriment of consumers and competitors

We are especially concerned that the White Paper, in its *proposed Scenario 5, bullet point 2*, calls for "recommending no markets for presumptive ex ante regulation".³ Ministers should be very clear on the implications of such a proposal: **it could lead to the complete removal of wholesale access obligations on the dominant former monopolist Telecoms companies**, potentially enabling them to refuse wholesale access to their networks, which in many cases remains essential for the existence of meaningful competition. **The consequences of such a scenario are clear**: enabling former monopolists to increase retail prices to **raise their profitability without regard to the impact** on consumers, businesses and public administrations.

Moreover, by definition, this scenario necessarily leads to a review of the *Commission Recommendation on relevant markets susceptible to ex-ante regulation* ('Relevant Markets Recommendation'), a non-legislative measure where the Commission is not bound to take into consideration the Member States and the European Parliament views in the context of a proper legislative procedure⁴. We recommend ministers to **strongly reject any intentions to push through such a review** before the Commission **presents its proposals on reviewing the EEC** (Article 122 EEC requires a Commission report by 21 December 2025), or even **before the presentation of the Commission's announced legislative proposal** (so-called 'Digital Networks Act').

By offering a potential review of the 'Relevant Markets Recommendation', a more far-reaching review of the EEC and a potential 'Digital Networks Act' proposal, the White Paper is effectively proposing to support and strengthen specific former monopolist companies. **This would have harmful effects on competition, the EU internal market and consumers' interest**. It would also undermine the principles enshrined in the EEC. Further market concentration would likely undermine the deployment of very high-capacity infrastructure and the availability of affordable offers for European consumers, businesses and public administrations. This is evident if we compare the EU with its global competitor peers. For example, the United States is lagging behind the EU having less competition, limited

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consumer choice and high retail prices.⁵

² Press conference by Margrethe Vestager, Executive Vice-President of the European Commission, and Thierry Breton, European Commissioner, on the Connectivity package on digital networks and infrastructure, 21 February 2024: <https://audiovisual.ec.europa.eu/en/video/I-252895>

³ White Paper, page 36.

⁴ The Commission does not have a legal obligation to involve the Council and the European Parliament in this review, as the procedure provides only for a public consultation and a BEREC opinion, which is non-binding.

⁵ Manifesto, A Vision for an Innovative, Competitive, Inclusive, and Greener Europe, ecta. https://www.ectaportal.com/images/Press_Releases/ecta_manifesto-2024_final.pdf

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For these reasons, **we strongly reject the narrative** 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', to be drawn from the biggest former monopolists, would 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, less innovation and poorer consumer welfare, not the opposite.

The solutions to address the digital infrastructure needs

While recognising that the objective of providing high-quality, affordable, and accessible connectivity to consumers, especially those most vulnerable, should remain the cornerstone of the Digital Single Market, we maintain that the most efficient approach to achieve this goal is by ensuring **full implementation of the existing telecoms regulatory framework across the EU.** Should the European Commission wish to proceed with structural changes to the EU regulatory framework, our organisations recall that any regulatory intervention should be strictly based on evidence and necessity, in line with its Better Regulation Principles, including a comprehensive impact assessment and an inclusive public consultation.

Moreover, pursuing full connectivity must always be in line with the principles of effective competition and consumer welfare. Any new policy or legislative measure must not question the primary objectives of the EU legal framework for electronic communications enshrined in the EEC of "promoting competition, the internal market and the safeguard of end-user interests".⁶

Conclusion: support a pro-competitive and consumer-centric regulatory framework that is essential for Europe's overall competitiveness

Already in November 2023, BEUC and ecta expressed their concerns⁷ on the announced objectives of such a potential proposal for a potential 'Digital Networks Act'. The publicly stated objectives of the Commission for a regulatory review to empower a few "European Champions" at a time where **a growing trend for deregulation and reduction of competition** in the EU telecoms market **is already taking hold, reflecting in dire consequences for consumers** (increasing prices, deteriorating quality of service, lack of investment and slow deployment of connectivity, especially in remote areas), **would only stand to aggravate this problem.**

We therefore recommend EU ministers to take a firm stance in their discussion of the Commission's White Paper, in favour of a **pro-competitive and consumer-centric regulatory framework** for EU telecoms, while decisively **opposing proposals for further deregulation and reduction of competition.**

Yours sincerely,

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Director General, ecta

⁶ European Electronic Communications Code, Recital 23. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972>

⁷ BEUC / ECTA Joint Statement on the Future of EU Telecoms Regulation, 9 November 2023: https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-146_Joint_Statement_on_the_future_of_EU_telecoms_regulation.pdf