



## JOINT STATEMENT

### PRELIMINARY CONCERNS REGARDING THE EUROPEAN COMMISSION'S WHITE PAPER ON EU DIGITAL INFRASTRUCTURE NEEDS

16 May 2024

The undersigned organisations, supporting an **open internet** and a **competitive telecommunications market** in the European Union, express their concerns and observations on the current discussions on the future of the EU telecoms sector regulatory framework.

Following the publication of the European Commission's White Paper on "*How to master Europe's digital infrastructure needs*"<sup>1</sup> (the "White Paper"), and ahead of the upcoming Telecommunications Council of 21 May 2024, the signatories **call on EU Member States to take a pro-competitive, consumer centric approach** and oppose any proposals for premature and unjustified changes to the EU telecommunications regulatory framework.

We are especially concerned that the European Commission's White Paper, in **its proposed scenario 5, second bullet point 2**, suggests "recommending no markets for presumptive ex ante regulation". This would amount to a **removal of obligations for former monopolist Telecoms incumbents**, measures which would result in reduced competition, hinder rollout of high-capacity infrastructure and limit the availability of affordable options for European consumers and businesses.<sup>2</sup>

Moreover, we express our concern that the White Paper **still entertains the idea of network usage fees**<sup>3</sup>, mentioning the possibility of introducing "dispute resolution mechanisms" for the IP

<sup>1</sup> White Paper - [How to master Europe's digital infrastructure needs?](#), 21 February 2024.

<sup>2</sup> BEUC, ecta [joint call on EU ministers to reject push for deregulation, reduction of competition and consumer welfare in EU telecoms](#), 10 April 2024.

<sup>3</sup> CCIA, [White Paper on Europe's Digital Infrastructure Needs: Europe's Open Internet Still At Risk](#), 8 April 2024.

interconnection market, a measure initially proposed by representatives of telecoms operators back in 2022 as one of the possible “direct contribution mechanisms” for the (in)famous ‘(un)fair share’.

Indeed, in **scenario 4**, the White Paper suggests “broadening the scope and the objectives” of the European Electronic Communications Code (the “Code”), “to ensure a regulatory level playing field and equivalent rights and obligations for all actors and end-users of digital networks”. This suggests a potential extension of the Code to cloud providers, including them in the scope of the Code’s arbitration mechanism (Article 26 of the Code). Given the different nature of cloud providers and telecom operators, this extension is not only unjustified but would risk introducing network usage fees.

Following a lengthy debate in 2023, the majority of stakeholders clearly rejected such an idea<sup>4</sup>, given its counterproductive effects for **competition and net neutrality**. EU telecoms regulators in BEREC have clearly stated that there is no market failure to address, as the IP interconnection market functions properly<sup>5</sup>, and that such measures “would not only be unjustified [...] but would also endanger the way the internet works and likely breach net neutrality rules”<sup>6</sup>.

We therefore regret such considerations of the European Commission in the White Paper and in various public statements since its publication, including that “rules on interconnection should apply to everyone”<sup>7</sup>, or that “an arbitration mechanism could be foreseen”.

We call on EU ministers to take a **pro-competition, positive innovation, and consumer centric approach**, strongly opposing any policy scenario that may result in legal uncertainty and detrimental consequences for European consumers, businesses and the open internet.

Moreover, we reiterate that any regulatory intervention within the EU telecoms market should be guided by a strict **evidence-based approach**, in line with the European Commission’s **Better Regulation** Principles, including a comprehensive impact assessment and an inclusive public consultation on any policy proposals. Any new policy or legislative measure should not question the primary objectives of the EU legal framework for electronic communications enshrined in the Code of “promoting competition, the internal market and the safeguard of end-user interests”<sup>8</sup>.

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<sup>4</sup> CCIA, [Network Fees Rejected: What Stakeholders Responded to the EC Consultation](#), 26 May 2023.

<sup>5</sup> BEREC [preliminary assessment of underlying assumptions of payments from large CAPs to ISPs](#), 7 Oct. 2022.

<sup>6</sup> BEREC [input to the EC’s exploratory consultation on the future of the electronics communications sector and its infrastructure](#), 19 May 2023.

<sup>7</sup> [Keynote address by Roberto Viola](#) at 12th BEREC Stakeholder Forum, 26 March 2024.

<sup>8</sup> Directive (EU) 2018/1972 ([European Electronic Communications Code](#)), Recital 23.

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- ASIC, Association des Services Internet Communautaires (H472708392)
- Allied for Startups (634665118544-37)
- Digital Poland Association (301568252628-11)
- MVNO Europe (458563610807-24)
- BEUC - The European Consumer Organisation (9505781573-45)
- Test-Achats/Testaankoop (694466214317-80)
- ZPS, Zveza potrošnikov Slovenije (127396426409-40)
- epicenter.works - for digital rights (881375334337-75)
- EDRI, European Digital Rights (16311905144-06)
- Electronic Frontier Foundation (805637038375-01)
- Chaos Computer Club (528430345796-18)
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