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## **Input regarding future EU regulation in the telecommunications sector**

*Call for evidence: Digital Networks Act*

*Delivered by Teleindustrien (Telecom Industry Association Denmark)*

Europe is facing a serious situation with an increased threat level, which means it is necessary across all areas of society to prioritize investments in security and resilience.

The telecom sector is no exception. It is essential to prioritize investments in network security and resilience so that companies can manage both cyberattacks and physical attacks on infrastructure.

At the same time, to strengthen our competitiveness and support the green transition, it is vital to make substantial investments in the expansion of digital infrastructure, improved 5G and fiber coverage, and increased network capacity.

With the growing investment pressure in the area of security – and given that access to capital is not unlimited – there is a risk that necessary investments in security may come at the expense of investments in digital infrastructure, thereby undermining investments that could enhance European competitiveness and support the green transition.

To strengthen European competitiveness and stimulate overall investments, regulation of the telecom sector should therefore be revised and simplified. Common European regulatory frameworks should support market consolidation, enable economies of scale, strengthen security, and promote innovation.

The goal of the common European telecom regulation and the expected new **Digital Networks Act (DNA)** should be to establish a simplified, incentive-driven regulatory environment that supports the EU's strategic goals for digital infrastructure and increases investment.

### **Stimulate Investments**

Stimulating investments and strengthening European competitiveness should be an explicit goal of the DNA, including ensuring equal conditions for all players, both traditional telecom providers and "over-the-top" services. Scale is essential to promote investments and ensure that Europe can compete globally.

### **Prioritized topics include:**

#### **a. Revision of EU merger guidelines (promoting consolidation and scale):**

Strengthening digital infrastructure in the EU and Denmark requires increasing investments and strong players who can ensure the necessary robustness and security in the networks. Greater consolidation of network infrastructure in the sector can help create economies of scale and establish the conditions for the necessary investments to future-proof this critical societal infrastructure.

The existing EU merger rules focus narrowly on consumer prices and do not consider other vital factors such as investments in increased infrastructure security, which are also beneficial to consumers and society.

Therefore, it is recommended that the European Commission's guidelines on interpreting the EU merger regulation be revised to ensure that merger assessments include a holistic approach, taking into account investment in increased security, sustainability, and innovation – equally with consumer prices.

**b. High spectrum fees and time-limited licenses**, which vary significantly between Member States, reduce mobile operators' ability to earn returns on their investments and negatively affect the market. There is a need for more harmonized and predictable spectrum policies across Europe. Furthermore, national governments should not charge for spectrum rights in ways that maximize revenue from the sector.

### **Simplification of Regulation**

EU regulation should be adapted to the modern digital landscape to encourage investment and innovation without creating unnecessary complexity and burdens. The regulation must be simplified to reduce compliance costs and make it easier to invest in new technologies. Unnecessary and complex requirements should be removed, and uniform rules should be ensured across the EU.

The telecom industry increasingly experiences overlapping general and sector-specific regulations.

**c. A new guiding principle in telecom regulation should be to avoid new burdensome regulation.** Regulation should be clear and predictable, with a general goal of avoiding sector-specific rules unless absolutely necessary.

**d. The extensive universal service regulation should be phased out as much as possible.** Given the current level of competition and availability of both fixed and mobile networks, the universal service regulation is no longer justified, as it was more than 20 years ago.

**e. Sector-specific end-user regulation should be limited.**

The revision of EU telecom regulation should aim to simplify and harmonize existing consumer protection rules. The starting point should be that horizontal consumer protection laws provide sufficient protection, and only in exceptional cases should sector-specific regulation apply. For example, specific requirements such as number portability could remain, while other aspects like disclosure obligations, billing information, and consumer terms should be governed by general consumer regulation.

**f. The specific data protection rules in telecom (ePrivacy Directive) should be abolished.**

Data protection in telecom should fall under the general horizontal data protection rules (like GDPR). The sector-specific approach in the ePrivacy Directive creates regulatory asymmetry, places unnecessary burdens on telecom companies, and hinders innovation. Its fragmented implementation across Member States causes legal uncertainty and impedes the adoption of innovative services such as GSMA's Open Gateway initiative, which supports innovation and fraud prevention. The principle of confidentiality of communications from the ePrivacy Directive should be preserved and integrated into a harmonized legal framework covering all communication providers, technologies, and use cases.

**g. Net neutrality / open internet regulation should be revised and made more flexible.**

Current interpretation and application of net neutrality rules limit the ability to fight digital economic fraud and hinder innovation and the development of services requiring special quality-of-service or traffic management standards.

According to article 3 in the EU open internet regulation (REGULATION (EU) 2015/2120), internet service providers are not allowed to block access to specific content, unless it is necessary to (litra b) preserve the integrity and security of the network, of services provided via that network, and of the terminal equipment of end-users.

Internet service providers are not allowed to protect its customers and block access to fraudulent content – unless the service provider establishes an opt out solution for the customer. This is an administrative and technical burdensome solution, that prevents service providers from protecting the consumers the best way possible.

**Harmonization**

Telecom providers should be able to roll out networks and provide services more quickly and efficiently across Europe, enabling them to scale their business and investments.

**h. Licensing requirements vary widely between Member States.**

Some countries require specific registration to operate a telecom company; others have general authorization regimes. The EU should aim to establish a simpler and unified authorization model that allows providers of communication services to easily notify and register their operations.

To ensure a level playing field it is necessary to establish minimum requirements for registration of service providers at a national level. This will ensure that no service providers or technical solutions goes “under the radar” in relation to the national regulatory authorities.

**i. Numbering rules should be harmonized.**

There are different national rules on using fixed-line numbers in cross-border service offerings, and on how traffic from such numbers should be delivered. This regulatory fragmentation complicates efforts to combat fraud and spoofing. Common rules for the use of national fixed-line numbers abroad should be established.

**j. Level playing field among providers:**

Although existing regulation has tried to equalize the treatment of number-based and number-independent services, technical and market developments have led to significant differences in how various communication services are regulated.

A focus should be placed on ensuring that all communication service providers are subject to the same regulation, and that it is enforceable on equal terms across providers.

**k. Fair contribution from major content providers:**

Agreements on data traffic exchange, including any payment, should be commercially negotiated. However, it may be appropriate to require parties in the market to negotiate such agreements. Currently, telecom companies and tech giants are not obligated to negotiate data exchange arrangements. If parties cannot reach an agreement, a dispute resolution mechanism should be in place.