Telenor Group position

in response to the European Commission's call for evidence on the Digital Networks Act

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telenor group

1 Introduction

Telenor welcomes the recognition that a cutting-edge, secure and resilient European connectivity infrastructure and the related technology and service ecosystem are critical for Europe's competitiveness, security and strategic autonomy. The importance of high-speed digital networks for the competitiveness of the European economy has been widely recognized, as well as the enabling potential of digital solutions in supporting the green transition.[1]

Moreover, secure and resilient digital networks are foundational for national and European security. Commercial telecom networks serve as critical infrastructure, relied on by citizens, businesses and the public sector for basic societal functions. They are also used for military and civil defence purposes and must function reliably during peace, crisis and war.

While in the past decade coverage and ever lower consumer prices of connectivity were the main policy priorities, today's expectations are much more complex: societies need not only ubiquitous, very high-speed connectivity at an affordable price but also green, secure and resilient networks with very high availability. This requires changes to the regulatory paradigm to ensure that European telecom operators are incentivized to deliver the networks that fulfil our societies' needs and that investments can be made efficiently.

The challenges were laid bare by the reports of Mario Draghi and Enrico Letta. Europe is trailing other global regions in advanced connectivity and cannot regain its competitiveness without best-in-class digital infrastructure. The recommendations were equally clear: Europe needs modernised merger and connectivity policies that place a stronger emphasis on increasing investment, innovation and resilience. The Digital Networks Act (**DNA**) is an important opportunity to translate these recommendations into policy.

At the same time, it should be recognised that achieving these ambitions cannot rely on the telecom sector alone. Other industries across Europe should also be encouraged to harness state-of-the-art, secure, and sustainable connectivity solutions to boost European innovation and strengthen security. In addition, the transition to fibre and 5G technologies can reduce energy consumption and environmental impact, reinforcing Europe's climate and sustainability objectives across all sectors.

2 The policy objectives of the new Digital Networks Act

Telenor supports the Commission's proposal to broaden the list of policy objectives underpinning the regulatory framework with environmental sustainability, industrial competitiveness and economic security.

In addition to broadening the policy objectives, it is important to recognize the implications of established policy objectives such as the promotion of investments and the completion of

[1] Telenor and Carbon Trust joint report "Unlocking Green Opportunities: ICT's Role in Nordic Climate Action": https://iot.telenor.com/wp-content/uploads/2024/05/Telenor-IoT-Climate-Enablement-Report_2024_Summary.pdf

the single market for the security and resilience of networks. Reinforcing the investment and single market objectives would strengthen operators' ability to invest in the security and resilience of networks and to do so efficiently.

In particular, Europe's ambition to secure strategic autonomy in critical digital infrastructure depends on an investment environment that supports scale, innovation, and cross-border delivery. Regulation should therefore be guided by a hierarchy of objectives where long-term resilience, environmental performance, and competitiveness are systematically considered.

Sustainability, resilience and competitiveness are mutually reinforcing. More efficient and modernised infrastructure contributes to lower emissions and higher service reliability. Likewise, network resilience is a precondition for economic stability and public trust in digital services. By embedding these objectives in the DNA's core architecture, Europe can ensure that its regulatory model is fit for purpose in an era defined by geopolitical volatility, climate urgency and continued digital transition.

3 Policy options

3.1 Simplification

Telenor supports the European Commission's ambition to streamline and modernise the regulatory framework for digital connectivity in Europe. The proposed elements of the DNA point in the right direction, however the DNA should be more ambitious in fostering a more investment-friendly, secure, and efficient telecoms ecosystem.

The removal of outdated, unnecessary or disproportionate regulatory obligations should be a general objective of telecom regulation, not limited to specific segments. Nonetheless, we welcome the proposal to review obligations applied to business-to-business (**B2B**) and machine-to-machine (**M2M**)/IoT services. These segments operate under different competitive conditions than traditional end-user markets. A more proportionate approach would foster innovation in industrial digitalisation and reduce compliance burdens.

Efforts to reduce administrative burdens more broadly, including reporting obligations, are also welcome. A systematic review to eliminate duplication and focus on strategic, outcome-oriented reporting would increase efficiency and free up resources to invest in network resilience, innovation, and climate action.

Telenor agrees that the Universal Service Obligation (**USO**) regime should be rethought. In mature and well-functioning, competitive markets, obligations aimed at ensuring basic service availability are increasingly redundant. Rather than maintaining legacy supply-side mandates, support for affordability can be more effectively and fairly provided through targeted public instruments.

We also see merit in exploring the consolidation of existing legislative instruments into the DNA, particularly from a simplification and coherence perspective. However, this must be coupled with a review of the merits of these regulations. Merging existing regulations unchanged into a single instrument will not, in itself, deliver meaningful simplification benefits.

In this context, it is equally important to recognise that some legacy legislation has outlived its relevance. The ePrivacy Directive, in particular, is no longer fit for purpose in today's digital

ecosystem. The Directive imposes constraints that limit the adoption of artificial intelligence and advanced analytics, including for purposes such as network optimisation, service personalisation, and cybersecurity. It also hampers efforts to detect and prevent fraud and other malicious activity by restricting the processing of communications data in cases where such processing would serve the legitimate interests of users and align with broader public policy objectives. Its continued application creates regulatory asymmetries most notably by placing obligations on telecom operators that do not apply to functionally equivalent digital services. As part of a broader effort to simplify and modernise the framework, the Directive should be repealed.

As the principle of confidentiality of communications remains fundamental, it should be applied to all communications services in a horizontal and technology neutral manner through integrating it into the GDPR or the DNA. The overly restrictive rules on the processing of communications metadata should be repealed. The GDPR will apply to such data processing, allowing a risk-based approach and ensuring robust safeguards.

The proposal for a more harmonised and simplified authorisation regime is particularly relevant for operators like Telenor with multi-country operations. The current fragmentation of national authorisation regimes and divergent general conditions present real barriers to cross-border scale and operational efficiency. In addition, national regulations, often linked to security, resilience, or national autonomy objectives, further restrict the use of shared systems, cross-border personnel, and centralised network functions). For instance, security clearance requirements for personnel remain fully national and make it impossible to mobilise skilled staff rapidly across borders during incidents. In addition, asset localisation requirements and restrictions on cross-border remote access limit the ability to deploy shared systems or offer seamless services across multiple Member States.

These constraints make it difficult to achieve operational scale, deploy best-in-class facilities across Member States, or utilise scarce expert resources efficiently. Greater harmonisation, including mutual recognition and harmonised conditions, would enable the kind of integrated service delivery that the single market aims to support. The DNA should therefore provide a foundation for a more enabling environment for cross-border network and service provision.

In particular, network providers that operate or intend to operate networks in more than one Member State should have the right to operate and manage networks across borders in compliance with the DNA. This right is essential to allow telecom operators to:

- Deploy shared and centralised network functions and facilities (e.g. security operation centres) across Member States;
- Optimise resources by enabling cross-border use of expert personnel; and
- Build more resilient networks through redundant infrastructure and dynamic routing that spans borders.

The national competent authorities of affected Member States should enable such cross-border operations by establishing, where necessary under relevant national regulations, a set of common requirements applicable to cross-border operators.

Recognising that certain national requirements fall outside the scope of EU harmonisation, the DNA provides an important opportunity to promote coordination among Member States and encourage the establishment of common requirements for cross-border operations. This

approach would allow operators to meet high and consistent security standards without facing conflicting or duplicative obligations. It would also support both the operational efficiency and the resilience of Europe's connectivity infrastructure.

3.2 Spectrum reform

We support the main objectives of the call for evidence on spectrum management, namely, to promote timely availability of spectrum, to lengthen license duration, to facilitate efficient and flexible spectrum use, and to address cross-border interference issues. We also agree with strengthening the peer review process provided they do not slow down spectrum assignment processes materially. We would like to highlight some points that we believe are crucial to ensure the effectiveness and added value of the proposed measures.

We strongly support the Commission's efforts to lengthen the duration of mobile spectrum licenses. Long-term licenses provide the stability and predictability necessary for operators to make significant investments in infrastructure and innovation. We consider that a minimum of 40 years' duration, combined with easier renewal mechanisms would help to achieve these goals and free resources from both operators and authorities.

In addition, we endorse the strengthening of the peer review process for spectrum assignment management. Such a mechanism would ensure that best practices are shared and adopted across member states, leading to more efficient and effective use of spectrum resources. Peer reviews can also help identify and address any disparities or inefficiencies in spectrum management, fostering a more harmonized and competitive European mobile market. However, it is important that this process does not introduce delays for member states that are ready to proceed with spectrum assignments, particularly those pursuing early deployment of new technologies.

To support these objectives, improvements to the peer review mechanism could include introducing an appeal process for operators with a limited scope (e.g. set-asides and auction design) and a notification system to the European Commission, similar to the existing framework for market analysis.

Further, we support the establishment of a level playing field for satellite constellations and emerging satellite-based Direct-to-Device (D2D) players entering the EU market. These services have the potential to complement terrestrial networks by providing ubiquitous connectivity directly to end-user devices. However, to ensure fair competition and the optimal use of spectrum resources, operators of satellite and D2D services must comply with a consistent set of obligations comparable to those applied to terrestrial mobile networks. This should include alignment on, inter alia, privacy, lawful intercept, national security, and other relevant regulations. Consistent and predictable requirements in these areas are essential to prevent regulatory arbitrage, protect users, and maintain trust in Europe's connectivity ecosystem.

Finally, with regard to other policy proposals concerning spectrum, we refer to our response to the European Commission's public consultation on the White Paper consultation on mastering Europe's digital infrastructure needs[2].

[2] European Commission's White Paper - Telenor Group

3.3 Level playing field

Electronic communications networks and services form part of a rapidly converging and complex digital ecosystem that requires a new take on regulation. The relationship between the different players in the ecosystem is characterised by simultaneous cooperation and competition. At the same time, the current regulatory framework creates competitive distortions that disadvantage providers of traditional electronic communications networks and services compared to other actors in the digital ecosystem. This carries negative implications for their ability to innovate and compete, and as a result, for European competitiveness.

To facilitate innovation by all actors participating in the digital ecosystem, it is necessary to ensure fairness through creating a regulatory level playing field between telecom operators and other relevant players in the value chain such as over-the-top communications services, cloud providers, content delivery networks (**CDNs**), submarine cables operators etc.

As a first step, it is important to remove outdated sector-specific rules, such as the 2002 ePrivacy Directive (for more on this, please refer to Section 3.1.).

In general, we support a regulatory approach that favours horizontal regulation as opposed to sector specific regulations. This would prevent scenarios where different standards apply to telecoms and digital services, creating unjustified regulatory imbalances. For instance, there is no good reason why different rules should apply to contracts for electronic communications services under the EECC and online streaming services under the Consumer Rights Directive. While some limited consumer protection rules that are specific to telecom services (e.g. number portability) should be maintained in the DNA, contracts should be governed by the horizontal consumer protection acquis.

Where sector specific rules are still necessary, e.g. access to emergency communication, those should apply in a technology-neutral manner to all types of electronic communications services, irrespective of the underlying business model.

Telenor agrees that it is necessary for the Commission to clarify certain aspects of the Open Internet Regulation (**OIR**) in order to provide legal certainty and thereby support service innovation by telecom operators. Commission guidance should confirm that the OIR is aimed at fostering innovation by all actors in the Internet value chain, including ISPs. The ability to provide specialised services should be facilitated unless there is demonstrable consumer harm.

Telenor welcomes the Commission's objective to create effective cooperation among the actors of the broader connectivity ecosystem and to empower NRAs and BEREC to facilitate cooperation. We propose that the DNA introduce the dispute resolution process recommended by the Draghi report. Such a process should be aimed at ensuring the swift resolution of disputes between ISPs and large content and application providers (**CAPs**) by a dispute resolution body, in case the parties are not able to reach a commercial agreement, for example, on IP interconnection within a reasonable period. A binding dispute resolution mechanism would help restore balanced bargaining power between the parties, ensure that negotiations do not result in stalemates that could negatively affect service quality and incentivize CAPs to use network resources efficiently.

3.4 Access regulation & governance

We welcome the revision of the regulatory framework for access, reflecting the significant developments of technology and market realities since the adoption of the EECC. Copper-based state network and service monopolies that the pro-competitive access regime was originally designed to address have been replaced by competing networks and offerings of competitive connectivity services.

While some areas in Europe now experience competition both between service providers and different overlapping networks, in other areas there is still a lack of competition between networks. Therefore, Telenor welcomes this process where policymakers find proper solutions for a regulatory framework for access that focus on addressing the remaining challenges in an agile and proportionate manner.

There are interdependencies between preventing bottlenecks, safeguarding competition and enabling investment and technological rollout and preserving qualitative, secure and resilient networks. To meet the 2030 EU connectivity targets, increased focus should be placed on to creating the right deployment incentives for Very High Capacity Networks (VHCNs), which subsequently also enables a higher service quality for end-users.

Regarding the prevention of new bottlenecks, it is necessary to clearly define what constitutes a bottleneck in the current context. A safety net regulation should focus on areas where neither the duplication of networks is feasible in the long term, nor the provision of competitive services to end-users can be ensured by commercial or other arrangements.

We support the view that a vicinity with at least two overlapping fixed broadband networks (homes passed) cannot be regarded as a bottleneck area. The application of this criterion should be recommended to NRAs. In areas identified with non-replicable bottlenecks (less than two overlapping and competing networks) a modified 3-criteria test can be relevant, and geographical analysis becomes pivotal to focus residual regulation on the persistent bottleneck.

Telenor does not support the introduction of pan-EU harmonized access product(s) with pre-defined technical characteristics as a default remedy for SMP operators. Such a measure is counterintuitive, as it lacks proper definition, does not target a common market failure, risks undermining investment incentives, and it will also likely lack SMP operators and scale. Telenor therefore believes the idea of mandating a harmonized pan-European access product needs a fundamental rethink or should be scrapped entirely.

Regarding the transition from copper to fibre, Telenor recognises the benefits of accelerating fibre deployment and supports policy measures that facilitate this. However, the timing of a copper switch-off date should remain at the technical and commercial discretion of the network operator. Telenor has voluntarily abandoned its copper network in Norway and endorses a more predictable and streamlined procedure that seeks to support what is a very complex transition. However, we question whether public policy setting common and ambitious switch-off dates is an effective tool for enabling enhanced fibre investments. Policy should focus on enabling and incentivising transition, rather than prescribing uniform timelines.

In terms of enhanced EU governance, the discretion of NRAs to intervene needs to be balanced with the development of consistent regulatory practices and the uniform application of the regulatory framework both within Member States and at the European level. This calls for a structured approach to collecting and disseminating best practices, while maintaining oversight of the proportionality of remaining regulatory interventions.

The European Commission should play an enhanced role in monitoring and developing best practices. It should be notified of national decisions regarding network access regulation and provide guidance to ensure that new rules are applied consistently. With the potentially broader scope of the DNA, enhanced coordination roles for BEREC, RSPG and NRAs could also be foreseen both on digital single market topics, and on issues related to the functioning of the internet value chain.