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Feedback of

ACT | The App Association
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Rue Belliard 40,
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to the

European Commission

regarding its

Digital Networks Act

I. Introduction

ACT | The App Association (hereafter ‘App Association’) welcomes the opportunity to submit comments to the European Commission’s consultation on the upcoming Digital Networks Act.

The App Association is a policy trade association for the **small business technology developer community**. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Today, the ecosystem the App Association represents—which we call the app economy—is valued at approximately €86 billion globally and is responsible for more than 1.3 million jobs in the European Union (EU).¹

II. Digital Networks Act

- Simplification

We support the Commission’s efforts to simplify and harmonise the EU’s regulatory landscape. We welcome the Commission’s recognition that simplified rules should particularly enable small and medium-sized enterprises (SMEs) to contribute to the ecosystem. This goal aligns with our longstanding advocacy for a digital single market that lowers entry barriers and empowers small innovators. Simplification can be a powerful tool to reduce compliance costs, accelerate market entry, and enable innovation across borders. However, we urge that these efforts be designed inclusively and without removing protections like obligations on dominant telecoms to provide fair access. SME service providers, developers, and innovators also experience regulatory complexity, and they stand to benefit from proportionate reporting obligations, streamlined cross-border rules, and legal clarity, particularly in relation to Open Internet and interoperability requirements. Simplification measures should not focus only on reducing regulatory burdens for large telecom and infrastructure providers. While important, these reforms must be complemented by simplification that is directly meaningful for SMEs.

Regarding the different simplification actions highlighted in the call for evidence, we welcome the objective of reducing existing reporting obligations (up to 50 per cent) and to remove unnecessary regulatory burdens. We acknowledge the intent to simplify the EU’s regulatory framework, but we urge caution when considering the consolidation of key legislative instruments such as the EECC, BEREC Regulation, and the Open Internet Regulation into a single Act. These instruments serve distinct purposes and contain critical safeguards, especially for Net Neutrality, that must not be diluted or reinterpreted in the process. Simplification must not come at the cost of transparency, legal clarity, or protections for SMEs. We recommend that any consolidation effort be carried out making sure that essential principles, such as open internet access, remain intact and enforceable.

¹ See <https://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-the-EU-2020.pdf>.

We also strongly support the development of advanced electronic communication networks (ECNs) and technological innovations. We believe that these developments are essential for the growth and competitiveness of our SME app developer members. App developers need their customers to have access to a reliable infrastructure facilitated by robust connectivity provided by wireless spectrum (using protocols such as Bluetooth, 4G, 5G, Wi-Fi, and other connectivity standards) to support consumers' seamless use of state-of-the-art services. Further, for reaching consumers and integrating businesses and systems in the cloud, app developers depend on communications infrastructure that facilitates seamless high-bandwidth connections. Data accessibility is crucial to people's everyday lives and for enterprise operations, as it helps European consumers access online platforms and services. Therefore, we fully support the Commission's ambitions in strengthening Europe's ECN. However, we hope that this vision will be pursued in a way that supports competition, innovation and simplification and not through a dispute resolution mechanism.

- Level playing field

We acknowledge the infrastructure and technological challenges of the current European telecommunications market need attention and resolution. In the context of the discourse around the level playing field and cooperation, we are concerned with the dispute resolution mechanism proposed by the European Commission.

As stated in the Plum report 'Exploring the negative impacts of legally mandated dispute resolution in IP interconnection', mandated dispute resolution mechanisms would incent some large internet service providers (ISPs) to trigger disputes to earn fees to deliver traffic requested by their customers. By multiplying disputes and counting on the precedent-setting dimension of disputes resolution, they hope for the new norm in Europe to become paid peering if enough cases go their way.²

The App Association opposes such a proposal, which could lead to content and application providers (CAPs) having to pay network fees that would then be passed on to SMEs. We believe that providers of ECNs should invest in the future of connectivity infrastructure. As the main custodians of the necessary infrastructure, they have a responsibility to ensure access to their services, and the necessary innovation for the improvement of connectivity. We caution the European Commission against imposing network development contribution obligations through the dispute resolution mechanism to CAPs, as they generally provide different services than telecom providers.

Any undue disruption of existing pro-competitive market dynamics would impose an additional burden and negatively impact our members, who currently use the integrated electronic communications system as the foundation of their businesses. Even if only the largest CAPs were required to be part of the dispute resolution mechanism, this approach would still affect smaller businesses as they rely heavily on larger providers, especially when operating on digital platforms. Whether imposed directly or indirectly, this financial burden would have a negative effect on these

² Exploring the negative impacts of legally mandated dispute resolution in IP interconnection. Plum Consulting. June 2025, page 3.

small enterprises' growth and competitiveness, making it more difficult for them to innovate and provide customers with special services.

The entire digital ecosystem would be impacted by the enactment of a network fee requirement on CAPs. European SMEs in sectors such as manufacturing, healthcare, or the financial sector would all face higher costs to use cloud services.³ Not only that, according to the Plum report, small and medium-sized content providers are more likely to use transit to reach ISP networks than the largest content providers, as they do not have their own large global networks and therefore the ability to establish widespread peering. A dispute resolution regime that negatively affects transit will harm SMEs more than the largest content providers.⁴ This would make it more difficult for our members to innovate and compete in Europe.

Lastly, the Body of European Regulators for Electronic Communications (BEREC)'s preliminary assessment of the assumptions underlying the payments made by the large content CAPs to ISPs⁵ shows that the internet has proven its ability to cope with increasing traffic volumes, changes in demand patterns, technology, business models, as well as relative market power between market players. The study points out that the cost of network upgrades required to handle increased IP traffic volumes is minimal compared to total network costs. The traffic is demanded and therefore 'caused' by customers of ISPs. Fixed access networks are largely insensitive to traffic, and their costs are covered by customer subscriptions over time. Therefore, the mechanism for funding investment should remain as it is today, namely a subscription fee paid to operators, which may need to increase as connectivity coverage is extended.

- Access to regulation

While we recognise the Commission's intention to improve access to critical infrastructure through the three proposed options, we are concerned that none of the Commission's related proposals adequately address the risks and realities faced by SMEs. Even where obligations are nominally placed on dominant operators, there is a significant risk that the costs of compliance, network upgrades, or structural adjustments will be passed through, either directly or indirectly, to smaller market participants. This would ultimately burden the very innovators the Digital Network Act (DNA) aims to empower.

However, if a choice must be made, Option (i), applying ex-ante regulation only where market problems are proven, is the most proportionate and consistent with a market-based, innovation-driven approach. We emphasise that the current framework has generally delivered well for consumers, developers, and connectivity providers alike. The digital ecosystem has supported growth, cross-border services, and a high degree of innovation without requiring additional access regulation or intervention. We see no clear evidence of market failure that would justify new

³ Exploring the negative impacts of legally mandated dispute resolution in IP interconnection. Plum Consulting. June 2025, page 3.

⁴ Exploring the negative impacts of legally mandated dispute resolution in IP interconnection. Plum Consulting. June 2025, page 23.

⁵ See <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-preliminary-assessment-of-the-underlying-assumptions-of-payments-from-large-caps-to->

obligations on operators, which risk being distorted or passed through to CAPs, ultimately affecting SMEs, the core of our membership.

While Option (ii) seeks to harmonise access conditions, we are concerned that default access products may become rigid, misaligned with SME needs, and prone to creating administrative complexity or favouring large enterprises. Similarly, Option (iii), proposing an EU-wide copper switch-off date, raises risks for underserved or rural SMEs who may lack timely access to fibre alternatives and could face service disruption or increased costs.

In line with our position on the White Paper, we urge the Commission to:

- Preserve the balance of the current ecosystem, which supports infrastructure investment without distorting value chains.
- Avoid regulatory overreach that imposes costs (even indirectly) on SMEs or limits their service agility.
- Ensure that any future access remedies are based on real evidence of harm, proportionate in scope, and designed with SME participation in mind.
- And most importantly, to promote competition and the completion of the Digital Single Market through innovation-friendly, market-based approaches. We fully support investment in advanced ECNs, but this must be achieved in a way that preserves openness, avoids distortions, and empowers SMEs to grow and contribute to Europe's digital future.

- Governance

We support the DNA's intention to enhance EU-level governance, but caution that any centralisation of authority must maintain transparency, stakeholder inclusivity, and SME representation. We recognise the valuable role that BEREC has played over the years as a competent, balanced, and independent voice in guiding telecom policy across the EU. We would therefore support efforts under the DNA to enhance BEREC's role.

That said, any expanded powers for BEREC, the BEREC Office or the RSPG should be accompanied by clear safeguards for SME inclusion and accountability. In particular, we would also caution against giving BEREC arbitration powers for the dispute resolution as this would move it beyond its current advisory and coordination mandate. In short, we welcome a stronger BEREC, provided it remains inclusive, independent, and guided by principles of fair competition, open access, and innovation.

III. Conclusion

In conclusion, we believe that advancing electronic communication networks and fostering technological innovations are crucial for the growth and competitiveness of SMEs within the app ecosystem. Delivering cutting-edge services to customers and smoothly integrating enterprises into the cloud depend on a robust and expansive infrastructure.

We believe simplification is the right step forward and appreciate the Commission highlighting the different approaches to simplification which are all welcomed by our SME members. The App

Association supports a proportionate, evidence-based approach to access regulation. We do not see market failures that justify new obligations and caution against measures that could shift costs to SMEs or undermine innovation. At the governance level, we value BEREC's role and support strengthening its capacity, provided transparency and SME inclusion are maintained.

Regarding the level playing field, there is already cooperation between all the actors in the ecosystem and introducing a dispute resolution mechanism would only lead to network fees and unintentionally affecting SMEs and consumers. It would lower resilience and innovation therefore we urge the Commission to reconsider such approach. If the objective is to increase infrastructure funding, we believe this is not the right approach.

The App Association appreciates the opportunity to provide its views to the European Commission and commits to collaborating in an effort to promote a competitive ecosystem. We remain fully available for any further discussions or inquiries you may have. We look forward to continued collaboration and meaningful dialogue.

Sincerely,



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