Association for Competitive Technology

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Feedback of

Association for Competitive Technology

(Transparency Reg. # 72029513877-54)

Square de Meeus 35,

1000 Brussels, Belgium

to the

European Commission

regarding the

Consultation on the Digital Networks Act

I. Introduction

The Association for Competitive Technology (hereafter 'ACT') welcomes the opportunity to submit comments to the European Commission's consultation on the Digital Networks Act (DNA).

ACT 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 ACT represents—which we call the app economy—is valued at approximately €95.7 billion and is responsible for more than 1.4 million jobs in the European Union (EU).[1]

II. Support for Simplification and Investments

ACT welcomes the objectives of the proposed Digital Networks Act to modernise Europe's digital infrastructure framework, support long-term investment in connectivity, and reduce fragmentation across the Single Market. In particular, we support the proposal's simplification efforts, including the reduction of administrative burdens for small and medium-sized enterprises (SMEs). Simplified rules can support SMEs and startups' growth and development by improving legal certainty, reducing compliance costs, and facilitating cross-border operations and innovation.

However, simplification must not come at the expense of core safeguards that have enabled innovation and competition online.

We are therefore concerned by some proposed changes and we encourage the Commission to ensure that SMEs are not negatively affected:

- The merger of the European Electronic Communications Code (EECC), the Body of European Regulators for Electronic Communications (BEREC) Regulation, and parts of the Open Internet Regulation should not weaken Net Neutrality protections;
- Legal certainty for SMEs and developers should be preserved throughout the transition to the new framework.
- Simplification efforts should benefit the entire digital ecosystem and not solely large telecom operators.

We welcome the affirmation under Article 93 that the proposal preserves open internet access. This safeguard is essential and should remain fully enforceable without reinterpretation that could

[1] *See* 220912_ACT-App-EU-Report.pdf.

allow discriminatory application. In this context, ACT supports strong Open Internet protections, believes that they promote innovation, competition, and consumer choice. It is critical that policies set in the DNA do not weaken the safeguards that the Open Internet Regulation provide.

III. Concerns regarding Dispute Resolution Mechanisms (Article 188 – 189)

ACT shares concerns about the provisions introducing a framework for commercial negotiations between large traffic generators and providers of electronic communications, including the related dispute resolution mechanisms under Articles 188, 189 of the proposal. While we support voluntary cooperation across the connectivity ecosystem, any framework that could facilitate indirect network fees or mandatory compensation obligations imposed on Content and Application Providers (CAPs) would risk distorting the internet ecosystem and disproportionately harming SMEs.

Internet traffic is requested and generated by end users, not by the content and application providers that deliver the services those users choose to access. End users already pay their network operators for the connectivity they use, and ACT members already pay separately for their own access to electronic communications networks. Any mechanism that channels mandatory compensation from traffic generators to network operators would function as a network usage fee assessed at the edge of the network and cannot be avoided by describing a proposed DNA mandate as a 'dispute resolution procedure'. The Commission is proposing an adjudicatory process that can impose payment terms, which clearly would operate as a *de facto* mandate that would be used to introduce network fees.

Even if SMEs and startups are formally excluded from the direct scope of such mechanisms, small businesses would still be indirectly affected through cost pass-through from larger traffic generators, cloud providers, platforms, or intermediaries on which they rely. This could create additional financial burdens and legal uncertainty across the wider digital ecosystem and value chain.

In practice, such measures risk undermining European competitiveness and reducing the ability of startups, scaleups, and SMEs to innovate, scale, and compete effectively within the Single Market. The impact would extend well beyond the largest market actors and could negatively affect the broader digital value chain.

It is therefore important to recognise that there is no clear evidence justifying additional regulatory intervention in this area. Feedback provided during the Commission's previous consultations and call for evidence, including ACT's own response to the Commission's 2024 White Paper consultation, demonstrated significant stakeholder concerns regarding the introduction of network contribution schemes or dispute resolution mechanisms between traffic generators and telecom operators.

In addition, BEREC has consistently concluded[2] that the Open Internet framework remains fit for purpose and that there is no demonstrated market failure requiring further intervention. The current internet ecosystem has continued to support increasing traffic volumes, innovation, and investment without the need for additional payment mechanisms.

IV. Concerns regarding the Cooperation Framework (Article 191 – 193)

ACT is also concerned by the ecosystem cooperation framework and voluntary conciliation mechanism established under Articles 191-193. These provisions introduce a formal structure for negotiations and disputes in a market that has repeatedly been found to function effectively without regulatory intervention.

While described as voluntary, the framework risks institutionalising commercial disagreements and creating incentives to generate disputes that could subsequently be used to justify further regulatory intervention. These measures would risk passing the cost to startups, scaleups, and SMEs which are part of the digital chain, resulting in a negative impact that would harm competition and market growth.

The Commission should ensure that simplification efforts do not result in new layers of governance, uncertainty, or administrative burden. The needs of startups and SMEs should remain at the centre of the legislative process, and any future framework should include safeguards against indirect economic impacts and downstream costs for smaller businesses.

V. Conclusion

To conclude, ACT supports the Commission's ambition to strengthen Europe's digital infrastructure and promote a more integrated and competitive Digital Single Market. Simplification, harmonisation, and investment in advanced connectivity infrastructure are important objectives that can benefit Europe's economy, businesses, and consumers.

However, the DNA should avoid introducing mechanisms that create uncertainty, distort the internet ecosystem, or indirectly shift costs onto startups and SMEs. Europe's competitiveness depends not only on infrastructure investment, but also on preserving an open, innovation-friendly environment where smaller businesses can grow and compete fairly. ACT reiterates that the

[2] BEREC, Report on the IP-IC ecosystem (BoR (24) 177), January 2025

Commission should focus on enhancing competition among Electronic Communications Network (ECNs) by lowering barriers to entry and expansion for network providers (consistent with the simplification and investment objectives that the DNA rightly pursues), which will drive operators to expand reach, improve quality, and invest in next-generation infrastructure based on end user requirements.

As the legislative process moves forward, we encourage the co-legislators to address these concerns and keep the needs of startups and SMEs at the core of discussions. While SMEs may not be directly targeted by the proposed framework, they are not sufficiently protected from indirect economic exposure and downstream costs resulting from commercial negotiation mechanisms between larger market actors.

The final text should therefore include stronger safeguards to ensure that SMEs are protected from unintended financial and operational burdens. Simplification efforts under the DNA should remain focused on reducing barriers for innovators and smaller businesses rather than introducing new layers of uncertainty across the digital ecosystem.

Sincerely,

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