

Digital Networks Act:

A competitiveness
reset beyond Europe's
telecom sector

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1.

Executive Summary

The European Union is at a key moment in its reform agenda, with a clear focus on strengthening competitiveness, resilience, and technological sovereignty. Initiatives such as the proposed Digital Networks Act (DNA) reflect the growing recognition that Europe's regulatory framework must evolve effectively to keep pace with technological developments and shifting market dynamics. In this context, Europe's capacity to attract investment, foster innovation, and reduce external technological dependencies will largely depend on the strength, scale and long-term sustainability of its digital ecosystem, with the telecommunications sector serving as a foundational pillar.

The DNA is a last opportunity to modernize the EU telecoms regulatory framework and reinforce the sector's capacity to invest, innovate and compete. As a major investor in digital infrastructure and provider of connectivity services and technological solutions, the telecom sector plays a central role in Europe's digital transformation. It supports economic growth, industrial competitiveness, security, and social cohesion, while also contributing to Europe's technological sovereignty through sustained investment in advanced connectivity networks, cloud-edge infrastructure, AI, and cybersecurity capabilities.

Telefónica supports the assessment of the challenges and stated objectives of the DNA proposal, particularly the spectrum reforms introducing longer licence durations, renewal by default and stronger EU coordination on pricing, as these measures improve legal certainty and investment incentives. However, the current proposal is not yet sufficiently simplified, proportionate, or future proof. Targeted and pragmatic improvements are still needed to ensure that the DNA delivers to its objectives.

Telefónica identifies the following five key priorities in which regulatory certainty and predictability need to be strengthened in order to foster investment and innovation, and to promote a balanced digital ecosystem that advances Europe's connectivity and technological ambitions:



Telefónica's key priorities for the Digital Networks Act

PRIORITY	TELEFÓNICA'S POSITION	POLICY ASK
1. Spectrum 	Ensure a stable, long-term and investment-friendly spectrum framework.	Amend provisions to ensure immediate application to licences expiring before 2035 and narrow exceptions to automatic renewal.
2. Access Regulation and Copper Switch-Off 	Enable market-driven copper to fiber migration. Move away from cost orientation by default in wholesale markets.	Remove any mandatory EU-wide copper switch-off deadline and guarantee that a competitive wholesale access product is provided, abandoning cost orientation prices in voice termination and in access to physical infrastructure markets.
3. Open Internet Regulation (OIR) & ePrivacy 	Modernise open internet rules and remove outdated sector-specific privacy constraints that limit innovation.	Amend OIR to enable 5G innovation and fully repeal ePrivacy Directive.
4. Conciliation Mechanism 	Address structural asymmetries in bargaining power between telecom operators and large traffic generators.	Replace voluntary conciliation with binding negotiation and dispute resolution mechanism to engage in negotiations on fair and reasonable terms.
5. Security and Resilience 	Avoid overlapping obligations.	Align with horizontal frameworks (NIS2/CER) and remove duplicative sector-specific obligations in the DNA.

2.

Telefónica's Key Priorities for the Digital Networks Act (DNA)

Europe's ambitions on gigabit connectivity, 5G/6G competitiveness, resilience and technological sovereignty require a regulatory framework that provides certainty and supports long-term investment. In this context, the proposed DNA represents the opportunity to advance these objectives and modernize the EU telecom framework.

This section assesses the DNA proposal across five strategic areas that, from Telefónica's perspective, are critical to strengthening the sector's investment capacity and contribution to Europe's industrial policy goals: 1. spectrum; 2. access regulation and copper switch-off; 3. open internet and ePrivacy; 4. conciliation mechanism for a balanced ecosystem; and 5. security and resilience. It outlines the main elements of the proposal, identifies key opportunities and challenges, and sets out Telefónica's policy priorities and asks.

1. SPECTRUM

The strategic relevance

Spectrum is the essential resource that enables mobile networks to function, allowing data to be transmitted wirelessly and making 5G, and future 6G, services possible. As all digital connectivity depends on access to spectrum, the way it is assigned directly determines the quality, speed, resilience and reliability of Europe's networks. Efficient and predictable spectrum policy is therefore critical to unlock investment in next-generation infrastructure and services based on network slicing, foster innovation and ensure Europe's digital competitiveness and consumer welfare through greater choice and enhanced services.

Regulatory framework

The proposed Digital Networks Act introduces more stable long-term framework through indefinite licence durations, renewal by default and stronger EU coordination on spectrum pricing, including clearer, investment-oriented guidance on fees and reserve prices with a long transitory period.



Strengths and challenges

The spectrum provisions of the DNA enhance legal certainty and support sustained mobile network investment towards 6G, while helping address the negative impact of high and divergent spectrum costs on 5G rollout and Europe's digital competitiveness.

However, the effectiveness of this framework is at risk. The proposed 7 year transition period and the lack of clarity on how the new regime applies to the more than 500 licenses expiring before 2035 would dilute the benefits of the proposal by adding uncertainty and costly reauctioning. In addition, the wide range of exceptions to the "renewal by default" rule undermines legal certainty and investment incentives. Finally, while spectrum sharing can play a role, any mandatory mechanism must remain exceptional and preserve operators' priority rights to avoid eroding spectrum value.

Telefónica's Position

Telefónica supports a stable, long-term and investment-friendly spectrum framework, including the shift towards indefinite licenses with renewal by default and stronger EU-level coordination on spectrum pricing. The new framework should apply immediately to licences expiring before 2035, including through temporary extensions where necessary. Any exceptions to renewal by default should be strictly limited and objectively justified.

Policy Asks:

- Ensure immediate application of the new framework to licenses expiring before 2035.
- Narrow and clarify exceptions to automatic renewal.
- Reinforce EU guidance on pro-investment spectrum pricing (fees and reserve prices).
- Limit mandatory spectrum sharing to exceptional cases of clear and lasting underuse while preserving priority rights.



2. ACCES REGULATION AND COPPER SWITCH-OFF

The strategic relevance

The migration from copper to fibre networks is a key step in Europe's digital transformation. This transition enables faster, more reliable and energy-efficient connectivity for citizens and businesses and is essential to achieving gigabit connectivity across the EU. However, copper switch-off strategies must be carefully coordinated with the effective availability of fibre infrastructure and equivalent wholesale access conditions. Forced copper decommissioning could undermine wholesale and retail competition, particularly in markets such as Germany, where fibre rollout levels remain limited, and the market has yet to reach a state of effective competition.

Regulatory framework

The proposed Digital Networks Act keeps traditional Significant Market Power (SMP)-based access framework but introduces binding timelines for copper switch-off (including an EU-wide end date of 2035) and expands regulatory regime with the introduction of an EU harmonised access product that will be defined at a later stage.

Strengths and challenges

Experience across Member States, like Spain and Norway, shows that copper switch-off can be successfully delivered without prescriptive regulatory deadlines, with several countries already progressing in the same direction.

A deadline for copper switch-off risks disregarding national market conditions, fibre maturity and operational realities (e.g., housing structures, planning rules and connections costs), with direct impacts on end-user services. It will also create significant risks for competition, as wholesale customers relying on copper could be required to migrate without control over timing, costs or commercial flexibility. Large-scale migrations add substantial operational complexity, including network reconfiguration, customer equipment replacement and cross-industry coordination, increasing the risk of service disruption, higher costs and reduced consumer choice, particularly in markets with lower fibre (FTTH) penetration.

In addition, the DNA largely maintains the traditional Significant Market Power (SMP)-based regulatory approach of the European Electronic Communications Code (EECC) that is increasingly misaligned with current market realities. Applying the same ex ante SMP framework where cost orientation is kept, risks reflecting legacy market structures rather than today's more dynamic and competitive environment, potentially leading to unnecessary regulatory intervention and weaker investment incentives. The introduction of a remedy based on an EU harmonised access product, will introduce higher level of technical complexity without clear improvements for the sector.



Telefónica's Position

Telefónica supports a gradual, market-driven and investment-led copper switch-off (CSO) process, without a mandatory EU-wide deadline, ensuring effective wholesale competition and consumer choice. Access regulation should first assess the adequacy of existing frameworks, including the Gigabit Infrastructure Act (GIA) and rely on ex-post competition law, before introducing obligations. Regulatory intervention is foreseen only as a safety net where wholesale commercial agreements are not available, while avoiding EU harmonised wholesale product obligation that implies high uncertainty. Cost-orientation as a price control mechanism for wholesale markets should be avoided, mainly in voice termination and physical infrastructure access.

Policy Asks:

- Preserve flexibility for market-led migration processes while removing mandatory CSO date in a manner that the competition is not undermined.
- Assess the adequacy of the GIA before imposing additional SMP obligations.
- Move away from cost-orientation by default, including for voice termination markets and access to physical infrastructure.
- Avoid imposing a mandatory EU-harmonised access product without clear evidence of market benefit.



3. OPEN INTERNET REGULATION (OIR) AND ePRIVACY

The strategic relevance

Ensuring a regulatory environment that enables innovation, investment and digital leadership has become a strategic priority for Europe, particularly as the digital economy evolves towards advanced 5G standalone services, cloud-based architectures and AI-driven applications. In this context, the regulatory framework in particular the open internet regulation and ePrivacy Directive specifically addressed to the communication sector play a critical role in shaping Europe's ability to foster data-driven innovation, enable new digital services, and close the innovation gap with other global regions, while safeguarding consumer rights and sustaining its technological competitiveness.

Regulatory framework

The Open Internet Regulation (OIR) remains mainly unchanged under the Digital Networks Act. At the same time, the ePrivacy Directive is not repealed and continues overlapping with the horizontal GDPR framework. While the DNA partially relocates certain provisions from the ePrivacy framework, the substantive obligations remain largely in place.

Strengths and challenges

The current framework is increasingly misaligned with technological and market developments. The Open Internet Regulation (OIR), unchanged under the DNA, does not reflect the shift towards 5G standalone and advanced digital services. This reduces legal certainty and limits operators' ability to innovate and monetise new use cases with the consequent limitations for businesses and the wider economy.

Rigid traffic management rules and restrictive considerations of specialised services constrain commercial flexibility and the deployment of differentiated quality services. This undermines investment in advanced 5G capabilities and weakening Europe's global digital competitiveness. It also risks widening the innovation gap with other regions, such as the US and China, and losing track in the innovation race.

At the same time, maintaining the ePrivacy Directive alongside the GDPR perpetuates regulatory duplication. Designed for a 2002 communications context, it is no longer fit for today's data-driven, cloud-based and AI-enabled ecosystem. Its overlap with GDPR creates legal uncertainty, regulatory asymmetries between ecosystem's players and an uneven level playing field, constraining innovation in the Digital Single Market.



Telefónica's Position

Telefónica believes that the DNA should modernise open internet rules to support innovation while ensuring proportionate consumer safeguards. At the same time, the ePrivacy Directive should be fully repealed and replaced by a horizontal framework such as the GDPR.

Policy Asks:

- Modernize the OIR to enable innovative 5G SA services and differentiated quality offerings.
- Streamline unnecessary restrictions on traffic management.
- Fully repeal the ePrivacy Directive.
- Integrate confidentiality of communications into horizontal EU legislation such as GDPR, ensuring technology neutral, cross sector and future proof protection.



4. CONCILIATION MECHANISM

The strategic relevance

Europe's connectivity ecosystem has significantly changed over the last 20 years with a massive increase in data traffic and a transformation in the architecture of the Internet. This has led to a growing structural imbalance between telecom operators and a small number of very large content and application providers (CAPs). While telecom operators continue to invest heavily in the deployment, operation and resilience of high capacity networks, a limited group of large traffic generators accounts for more than 70% of global internet traffic yet makes no meaningful contribution to the underlying network costs. This imbalance together with OIR weakens operators' ability to negotiate fair commercial and technical terms and undermines sustainable investment at scale, putting network quality, resilience and Europe's digital competitiveness at risk.

Regulatory proposal

The Digital Networks Act introduces a voluntary conciliation mechanism between telecom operators and large traffic generators to address disputes related to network usage and contributions to keep pace with fit for purpose networks. It also proposes BEREC to issue guidelines to apply industry practices and facilitate technical and commercial cooperation.

Strengths and challenges

The DNA rightly acknowledges the increasing impact of major CAPs on network infrastructure, which represents an important step forward. However, the proposed approach falls short of effectively addressing this structural issue, as it relies on a voluntary conciliation mechanism without binding obligations.

While this may constitute an initial step, voluntary processes do not correct the underlying asymmetry in bargaining power between telecom operators and large traffic generators, nor do they provide the regulatory predictability required to support long-term investment decisions. In addition, the involvement of BEREC and national regulators in a joint conciliation process risks increasing procedural complexity, legal uncertainty and delays, reducing the overall effectiveness of the mechanism.

Without a binding dispute resolution mechanism, it is unlikely that balanced negotiations will be restored or that investment conditions across the digital value chain will materially improve. As a result, incentives for network investment may be weakened, existing imbalances in commercial negotiations could persist, and additional pressure may be placed on network quality and resilience despite continued traffic growth.



Telefónica's Position

Telefónica calls for a binding and enforceable framework to address structural imbalances in the digital value chain, ensuring fair and predictable conditions for negotiation between telecom operators and large traffic generators, supported by a clear and effective dispute resolution mechanism that avoids procedural complexity and regulatory fragmentation.

Policy Asks:

- Replace voluntary conciliation with mandatory negotiations.
- Introduce binding dispute resolution mechanisms.
- Streamline governance arrangements to reduce procedural complexity.



5. SECURITY AND RESILIENCE

The strategic relevance

The telecom sector is essential to Europe's digital resilience, ensuring a trustworthy connectivity ecosystem that underpins economic activity, public services, and technological sovereignty. Operators are responsible for securing highly complex digital infrastructures and managing physical, logical, and supply chain risks across increasingly critical networks.

Regulatory proposal

The Digital Networks Act aims to strengthen cybersecurity and resilience in Europe by introducing new EU-level mechanisms, including additional reporting obligations, supply chain requirements, and a proposed "Union Digital Infrastructure Preparedness Plan" to be developed with involvement from the Body of European Regulators for Electronic Communications (BEREC) and the Office for Digital Networks (ODN). These provisions operate alongside existing horizontal cybersecurity frameworks, particularly NIS2 (*Network and Information Security Directive*) and CER (*Critical Entities Resilient Directive*).

Strengths and challenges

While the objective of reinforcing cybersecurity and resilience is fully supported, the current approach introduces significant challenges. The proposal creates overlapping sector-specific rules that duplicate and go beyond the established horizontal frameworks under NIS2 and CER, increasing regulatory complexity and uncertainty. It also introduces new EU-level competences that overlap with national authorities, adding legal and operational ambiguity. Linking authorisations or spectrum usage to supply chain compliance creates legal uncertainty particularly considering that both pieces of legislation are being negotiated simultaneously and may lead to unintended overlaps between regulatory regimes, practices and expertise.



Telefónica's Position

Telefónica supports the objective of strengthening cybersecurity and resilience but considers that the current proposal must be revised to avoid duplication and legal uncertainty, regulatory overlap and unnecessary burden.

Policy Asks:

- Remove sector-specific security and resilience provisions already covered by NIS2/CER.
- Avoid linking authorisations or spectrum rights to other regulations that are being negotiated in parallel.
- Clarify roles and responsibilities of EU and national authorities to prevent overlaps and uncertainty.
- Require prior technical consultation for any delegated or implementing acts.

3.

Conclusion

Telecoms are central to Europe's digital transformation, providing the networks that enable connectivity, innovation, AI, public services, economic growth and social cohesion. Achieving EU's goals such as next generation connectivity, greater tech sovereignty and global competitiveness, requires a regulatory framework that ensures long-term certainty, proportionality and strong investment incentives.

DNA can play a decisive role. To enable the sector to release its potential, DNA should ensure the timely and consistent application of the spectrum framework, avoid mandatory copper switch-off deadlines, and guarantee that a competitive wholesale access product is provided to preserve competition and consumer choice. At the same time, the EU telecom sector needs a modern and coherent regulatory framework that enables innovation, updates open internet and privacy rules and restores balance in the digital value chain through regulatory symmetry and a binding framework addressing structural imbalances with large traffic generators. With these targeted improvements, the DNA can become a key enabler of Europe's connectivity ambitions, supporting resilient networks, sustained investment and a competitive, innovative digital economy.



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