

# DIGITAL NETWORKS ACT

COM(2024) 81 of 21 February 2024: White Paper – How to master Europe's digital infrastructure needs?

cepPolicyBrief No. 6/2024

## SHORT VERSION

### Context | Objective | Interested Parties

**Context:** According to the Commission, cutting-edge digital network infrastructure and services are the foundation for the future competitiveness of all sectors of the EU economy. This applies in particular to the development of numerous transformative digital technologies (e.g. Artificial Intelligence), as well as to addressing societal challenges, for example in the energy, transport and healthcare sectors. In February 2023, the Commission therefore launched a Consultation on the future of the connectivity sector and its infrastructure.

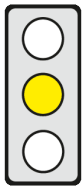
**Aim:** With this White Paper, the Commission wants to initiate an in-depth debate on the future of the connectivity sector and connectivity infrastructure. It is therefore presenting ideas for political and regulatory measures aimed at incentivising the development of digital networks, mastering the transition from old to new technologies and meeting the future connectivity needs of end users.

**Affected parties:** Companies in the digital sector, in particular companies in the telecommunications sector

### Brief Assessment

#### Pro

- ▶ A more harmonised radio spectrum policy could ensure more efficient use of spectrum, as well as increase planning security and the willingness to invest.
- ▶ An in-depth examination of the phasing out of network access regulation based on market power is appropriate. Regionalising network access regulation will enable more targeted regulation of monopolistic bottlenecks.
- ▶ The ICT sector could contribute to the sustainable transformation of other sectors. It should therefore be given greater consideration in the green taxonomy.

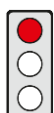


#### Contra

- ▶ The EU regulatory framework for electronic communications should not be overloaded with additional objectives as it risks giving rise to interference in market processes motivated by industrial policy, and the danger of further trade-offs.
- ▶ The date specified for the final decommissioning of copper cable networks – 2030 – has the hallmarks of a planned economy. It is the market players themselves who should decide if and when this will take place.
- ▶ The Universal Service has lost its practical relevance. Instead of expanding it further, it should be abandoned altogether.

### Adapting the objectives of the EU code on electronic communications [Long Version C.1.1]

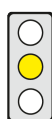
**Commission proposal:** The Commission wants to expand the list of objectives of the EU regulatory framework for electronic communications (EECC). The existing objectives – including the promotion of network roll-out, effective competition and the interests of end-users – are to be supplemented by the objectives of (1) sustainability, (2) industrial competitiveness and (3) economic security.



**cep-Assessment:** The list of objectives should not be expanded, even if this appears politically opportune at present due to technological and geopolitical developments. It risks giving rise to interference in market processes purely for industrial policy reasons, and it could also encourage the emergence of further trade-offs and unnecessarily delay decision-making processes.

## Radio spectrum policy [Long Version C.1.2]

**Commission proposal:** The Commission is making a new attempt to achieve greater harmonisation of European radio spectrum policy and the transfer of competences to EU level.



**cep-Assessment:** A more harmonised and coordinated radio spectrum policy has the potential for more efficient use of spectrum, as well as for greater planning security and willingness to invest, especially in the case of cross-border network operators. A stronger shift to the EU level, however, generally requires the Member States to have similar starting positions, and the telecommunications markets are still characterised by a large number of national particularities.

## Market-power-(in)dependent network access regulation [Long Version C.1.3]

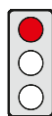
**Commission proposal:** Where appropriate, the Commission wants to phase out the sector-specific ex-ante regulation of network access, dependent on market power, and switch to a system of ex-post control only, by way of competition law. However, in the event of persistent market failure and subject to the “3 Criteria Test”, the national regulatory authorities will still be able to fall back on ex-ante regulation in geographically limited markets and where ex-ante regulation independent of market power is inadequate.



**cep-Assessment:** It is appropriate for the Commission to examine the expiry of network access regulation, dependent on market power, in more detail. The time to take the plunge and switch to ex-post control is when there are no longer any monopolistic bottlenecks on the telecommunications markets. The test should be carried out using an adapted 3 Criteria Test. Greater regionalisation of regulation would allow for more targeted regulation of monopolistic bottlenecks. In contrast, ex-ante regulation, independent of market power, is a flawed regulatory approach whose significance should not be further increased.

## Copper switch-off [Long Version C.1.4]

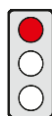
**Commission proposal:** The Commission is calling for all copper networks to be switched off by 2030 at the latest. The migration to fibre networks should be completed by then.



**cep-Assessment:** The date specified for the decommissioning of copper networks – 2030 – has the hallmarks of a planned economy. It is intended to influence the decision-making process of market players in such a way that certain political goals, such as the rapid roll-out of high-capacity networks, are achieved more quickly. It is the market players themselves, however, and not governments who should decide if and when decommissioning will take place.

## Universal Service obligations [Long Version C.1.5]

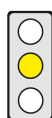
**Commission proposal:** The Commission is in favour of extending Universal Service obligations and also wants them to enable access to high-speed connections. It is examining the possibility of involving providers of number-independent interpersonal communications services in the financing of the Universal Service. It is also in favour of connectivity vouchers financed from state funds.



**cep-Assessment:** The Universal Service has lost its practical relevance due to almost complete network coverage. Instead of expanding it further, it should now be abandoned altogether. If it is nevertheless retained, there should be a complete move away from private-sector financing. Connectivity vouchers risk causing deadweight effects. It is also doubtful whether the cost-cutting potential of the vouchers will benefit the end users who are being targeted.

## Sustainable digital transformation [Long Version C.1.5]

**Commission proposal:** The Commission wants to use the "green taxonomy" to generate more incentives for investment in the communications sector. The aim is to make ICT more environmentally friendly ("green ICT") and support the environmental friendliness of other sectors ("ICT for green").



**cep-Assessment:** As already explained in several cep publications (see [cepAnalysis](#), [cepAdhoc](#) and [cepInput](#)), the Regulation on the green taxonomy should basically be rejected. However, since it is now in force, being applied and is unlikely to be abolished in the near future, there is no other way than to deal with it. Greater inclusion of the ICT sector in the green taxonomy seems justified in any case, as it could be an important enabler for the sustainable transformation of other sectors.