ARTICLE 19 Submission to the European Commission on the Digital Networks Act (DNA)

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Introduction

ARTICLE 19 is an international human rights organization that works to protect and promote the right to freedom of expression. With regional offices in East Africa, West Africa, South Asia, East Asia, Europe, Central America, South America, and MENA, we champion freedom of expression at the national, regional, and international levels. The work of ARTICLE 19's Digital Programme focuses on the nexus of human rights, Internet infrastructure, and Internet governance. We actively participate in forums across the Internet governance and standards landscape, including the Internet Corporation of Assigned Names and Numbers (ICANN), the Internet Engineering Task Force (IETF), the Institute of Electrical and Electronics Engineers (IEEE), and the Internet Governance Forum (IGF). Our Global Digital Programme works to embed human rights principles in internet infrastructure governance and policy, including connectivity models, spectrum allocation, and network design.

This submission was prepared by the Global Team Digital (GTD) at ARTICLE 19, who leads the organisation's engagement with spectrum regulation, internet standards and rights-based connectivity. Since 2021, GTD represented ARTICLE 19 at the International Telecommunication Union – Radiocommunication Sector (ITU-R), the Institute of Electrical and Electronics Engineers' 802.11 Working Group for wireless local area networks (IEEE 802.11), and the European Telecommunications Standards Institute (ETSI), focusing on the regulation of terrestrial and satellite services.

We welcome the opportunity to respond to the Commission's call for evidence and wish to raise several concerns regarding the current framing of the Digital Networks Act (DNA). This submission is structured in two parts: first we outline three concerns we see with the DNA as it stands today, including an analysis of how these concerns have negative implications for **human rights, network diversity, and regulatory balance** in the internet connectivity framework across the EU. Then we make four recommendations to protect core public interest values—such as net neutrality, regulatory independence, and inclusive access—while offering concrete improvements to ensure the DNA supports a resilient and rights-respecting connectivity framework.

Problem 1: Proposed dispute resolution mechanism for interconnection: undermining Net Neutrality and Open Internet

The DNA proposes the establishment of a formal dispute resolution mechanism for interconnection agreements, particularly as part of its broader goal to simplify and harmonise access regulation and clarify Open Internet rules. We believe this mechanism risks opening the door to interconnection payments or other indirect "network fee" schemes, since such mechanism would provide large telecom operators with procedural tools to extract fees from Content and Application Providers (CAPs) under the pretext of

dispute resolution. This threatens the well-established practice of settlement-free peering, a cornerstone of the EU's open interconnection model, and introduces legal and economic uncertainty for digital services that rely on stable, voluntary agreements. The risks associated with this dispute resolution mechanism is why similar proposals have been rejected in previous public consultations and in evaluations by the Body of European Regulators for Electronic Communications (BEREC), the independent and technically competent EU body that has consistently upheld evidence-based regulation in the connectivity sector.

In particular, the potential introduction of Quality of Service (QoS) differentiation raises serious concerns. Although QoS mechanisms are often framed as technical enablers for managing latency-sensitive applications (e.g., telemedicine or remote surgery), in practice, their inclusion in regulation can legitimize traffic discrimination and enable tiered service models, creating a two-speed internet, where users or services that pay more receive better quality, while others are relegated to a lower standard of access.

Such differentiation is contrary to the principle of net neutrality and undermines the universal and non-discriminatory nature of internet access. The European Union has enshrined net neutrality in several legislative frameworks, most notably in the Open Internet Regulation (Regulation (EU) 2015/2120), which establishes the rights of end-users to access and distribute information and content of their choice without discrimination, restriction, or interference, regardless of the source or destination. Evidence from other jurisdictions, such as the U.S. under prior FCC rules, shows that QoS provisions—when left loosely defined—can be exploited by dominant ISPs to throttle or prioritise traffic based on commercial incentives. Moreover, the inclusion of QoS in the DNA without strict safeguards may encourage commercial arrangements that resemble "zero-rating" schemes or paid prioritisation, both of which have been challenged or deemed incompatible with EU law under the BEREC Guidelines on the Implementation of the Open Internet Regulation, particularly the 2022 update to the Net Neutrality Guidelines.

The risk is especially acute in environments where vertical integration between network operators and content providers exists, enabling preferential treatment of affiliated services. For example, AT&T in the United States has previously offered zero-rated access to its own streaming platforms, while data from competing services counted against users' data caps—an approach that attracted significant criticism under earlier net neutrality frameworks. It leads to market distortion, hinders innovation by smaller players, and erodes user choice.

QoS mechanisms must not be used to justify any form of access discrimination; all services must remain equally accessible to end-users unless justified by legitimate, proportionate, and transparent technical necessity, subject to oversight by BEREC and national regulators.

The Open Internet Regulation (2015) already provides a clear and tested framework. Rather than reinforcing this framework through effective enforcement, the DNA risks undermining it by introducing overlapping and ambiguous procedures. The Commission should avoid duplicative mechanisms that could inadvertently legitimise fee-based models in violation of net neutrality principles.

Problem 2: Centralisation of Regulatory and Spectrum Power: Risks to Oversight and Market Diversity

The DNA suggests merging several legal instruments—including the EECC, BEREC Regulation, and Open Internet Regulation—into a single legislative act and enhancing the Commission's governance role vis-à-vis BEREC and the Radio Spectrum Policy Group (RSPG). We would strongly caution against such a structural simplification. Without clarity on institutional independence, it could significantly weaken much

needed regulatory oversight. Bodies like BEREC play a critical role in interpreting and upholding net neutrality and fair competition across the European Union. Enhancing the Commission's decision-making powers while reducing the legal autonomy of these bodies risks centralising authority in ways that may be more susceptible to political and industry pressures.

The DNA also proposes a more harmonised authorisation regime and common conditions to enable cross-border service provision. However, without safeguards, this could result in a one-size-fits-all regulatory model that disproportionately impacts small and medium-sized enterprises (SMEs). Rather, the DNA should adopt a tiered system of obligations based on the size, impact and risk of the operator, in line with the approach in the EU telco rules, as well as the more recently adopted Digital Services Act and Digital Markets Act.

In parallel, the DNA outlines several proposals to change spectrum governance, including strengthening peer review procedures, streamlining authorisation, extending license durations, simplifying renewal processes, and aligning auction design with spectrum efficiency and early "6G" deployment. While these measures may improve legal certainty for large operators, they will certainly pose significant risks if not counterbalanced by safeguards. Longer licenses and simplified renewals, for instance, may facilitate spectrum hoarding, reducing regulators' ability to adapt allocations to emerging technologies or public interest needs. Without clear performance obligations or periodic reviews, public spectrum resources may remain underutilised.

An auction-centric allocation framework presumes that market mechanisms lead to optimal spectrum use. However, this assumption ignores the critical role of non-commercial and public-interest actors[1]. Furthermore, it overlooks actual usage patterns: over 80% of data traffic occurs indoors and is carried via Wi-Fi networks, which depend on unlicensed or shared spectrum. Prioritising exclusive spectrum allocation for mobile services, particularly in anticipation of 6G, risks reinforcing centralised connectivity models that marginalise community networks, public Wi-Fi, and alternative strategies essential to underserved areas.

Finally, the assumption that 6G requires new spectrum allocations—before technical standards have been defined—risks premature regulatory commitments that may lock the EU into suboptimal outcomes.

Problem 3: Reductionist View of Universal Service and Disproportionate Burden on Smaller Operators

The DNA's proposal to refocus Universal Service Obligations (USOs) narrowly on affordability fails to capture the multidimensional nature of meaningful connectivity. Access to the internet is not only a matter of price, but also of service quality, accessibility, regional availability, and digital inclusion for marginalised, unconnected or underconnected groups. Reframing USOs through an affordability-only lens may result in policy blind spots— particularly for rural, remote, and underserved areas where the lack of infrastructure or

[1] Walker, M. Near Future Requires additional Unlicensed Spectrum, Informed (2025) https://www.cablelabs.com/blog/near-future-requires-additional-unlicensed-spectrum?utm_source=chatgpt.com DSA, How to realize the full potential of 6GHz Spectrum (2020) https://dynamicspectrumalliance.org/wp- content/uploads/2020/11/DSA-How-to-realise-the-full-potential-of-6-GHz-Spectrum-Whitepaper.pdf and ISOC, Unleashing Community Networks, innovative licensing approaches (2018) https://www.internetsociety.org/resources/2018/unleashing-community-networks-innovative-licensing-approaches/

inclusive service offerings remains a structural barrier.

At the same time, the DNA risks reinforcing structural inequalities by imposing uniform regulatory obligations that disproportionately burden small and medium-sized enterprises (SMEs), community networks, and public-interest operators. Smaller actors already face a significant regulatory burden relative to their size and resources. The prospect of expanding obligations—without parallel simplification or support mechanisms—could result in the effective exclusion of these actors from cross-border service provision and market participation.

The current EU framework has delivered substantial benefits in terms of consumer rights, competition, and innovation, particularly through the flexibility it grants national regulators to tailor obligations to national contexts. A one-size-fits-all approach, as implied in the DNA's push for harmonised authorisation and reporting regimes, risks undermining this delicate balance. Network businesses tend to be locally anchored due to their physical infrastructure footprint; the lack of pan-European providers is not merely a regulatory shortcoming but a consequence of economic geography. The assumption that removing national-level variations in authorisation, or reporting, will automatically produce pan-European service operators is misguided and potentially harmful.

To achieve a resilient and inclusive digital ecosystem, the DNA must maintain a flexible and proportionate regulatory model—one that upholds the full spectrum of universal service commitments and actively supports the participation of smaller, decentralised actors who bring innovation, local responsiveness, and competition to the EU connectivity landscape.

Recommendations:

While we recognise the importance of ensuring a resilient, competitive, and inclusive digital infrastructure in Europe, the current framing of the Digital Networks Act (DNA) risks consolidating market power, weakening regulatory safeguards, and undermining net neutrality and infrastructure diversity.

We would urge the European Commission to **refocus the DNA through a set of evidence- based, proportional, and rights-aligned adjustments**:

- **Safeguard net neutrality and open interconnection,** by rejecting mandatory interconnection dispute mechanisms and QoS-based differentiation. Reinforce the Open Internet Regulation through consistent enforcement rather than duplicative or ambiguous procedures.

- **Preserve institutional balance and regulatory independence,** by ensuring that BEREC, RSPG, and national regulators retain their authority and autonomy. Avoid excessive centralisation of governance powers within the European Commission.

- **Promote inclusive and adaptive spectrum governance,** through mechanisms that prevent spectrum hoarding, support periodic license reviews, and protect the role of shared and unlicensed spectrum. Avoid premature spectrum allocations tied to undefined 6G standards.

- **Adopt a flexible, proportionate regulatory model,** that maintains the full scope of Universal Service Obligations (beyond affordability) and protects small and public-interest actors. Reject a one-size-fits-all approach in favour of tiered

obligations that support innovation and local access.

The Digital Networks Act has the potential to modernise Europe's infrastructure strategy—but only if it reflects the full complexity of the ecosystem and prioritises the public interest. We call on the European Commission to engage in a meaningful dialogue with civil society, regulators, SMEs, and public interest actors to co-design a framework that truly delivers resilient, open, and rights-respecting digital connectivity across the Union.

We welcome further engagement on all of the above. Please don't hesitate to get in touch.
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