ARTICLE 19 Submission on the Digital Networks Act (COM(2026) 16)

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Introduction

ARTICLE 19 is an international human rights organisation that works to protect and promote freedom of expression and access to information worldwide. Through its Global Digital Programme, ARTICLE 19 engages in internet infrastructure governance, spectrum policy, technical standards development and digital regulation processes, including at ICANN, IETF, IEEE, CEN/CENELEC, ETSI and ITU.

ARTICLE 19 supports efforts to strengthen Europe's digital infrastructure and improve connectivity across the Union. Robust, resilient and affordable connectivity is essential for participation in modern society and for the exercise of fundamental rights.

The Digital Networks Act (DNA) introduces structural changes that reshape the governance of connectivity resources, redefine relationships between regulators and market actors, and create new mechanisms capable of influencing how networks interconnect, how spectrum is controlled, and how power is distributed across the digital ecosystem. It also introduces new governance structures, new procedures and new centralised powers.

They influence who can participate in connectivity markets, who can reach users, under what conditions information flows, and how future infrastructure development is governed.

These issues matter to ARTICLE 19 because freedom of expression depends not only on legal protections for speech, but also on the critical communications infrastructure that facilitates the free flow of information.

A diverse, open and resilient internet requires infrastructure diversity, independent oversight and meaningful opportunities for new actors to enter and compete. In our current contribution, the DNA is evaluated not only as telecom legislation but also as infrastructure governance legislation. This has direct consequences on concentration, dependency, democratic oversight, and freedom of expression.

This submission identifies seven key concerns:

- regulatory intervention without demonstrated market failure;
- regulatory expansion presented as 'simplification';
- concentration and infrastructure lock-in;
- centralisation and erosion of independent oversight;
- infrastructure dependency and the limits of the DNA's 'strategic autonomy' framework;
- satellite governance and the concentration of infrastructural power; and
- risks to infrastructure diversity and freedom of expression.

1. Regulatory intervention without demonstrated market failure

The DNA introduces significant interventions into parts of the connectivity ecosystem that have not been shown to suffer from systematic market failure. This matters because interconnection forms part of the technical and economic foundation of the open internet.

This concern is particularly evident in Articles 191–193, which establish a framework for "ecosystem cooperation" and a voluntary conciliation mechanism between actors across the broader connectivity ecosystem. The proposal introduces formal mechanisms intended to facilitate cooperation between electronic communications providers and actors operating in adjacent digital markets. Yet, the proposal does not clearly establish why existing commercial arrangements are incapable of producing efficient outcomes. These formal mechanisms will favour large network operators, incentivise differentiated treatment of network traffic, and exert pressure on content providers to enter into paid agreements. This raises concerns for net neutrality and access to information.

The Commission's preparatory materials framed these provisions around perceived challenges in cooperation across the digital ecosystem rather than around identified failures of existing interconnection markets. Regulatory intervention is generally justified where there is evidence that existing market arrangements are not functioning effectively or that current regulatory tools are insufficient to address a specific problem. However, in this case, the Commission has not clearly demonstrated that interconnection markets are failing, nor that existing mechanisms are unable to resolve disputes or facilitate cooperation. BEREC similarly noted that the rationale, scope, and expected practical application of the ecosystem cooperation provisions remain unclear and require further clarification. Taken together, these concerns raise questions about whether the proposed framework is sufficiently evidence-based and proportionate to the problems it seeks to address.

ARTICLE 19 is particularly concerned that undefined concepts such as "fair and proportionate use of network resources" could create pressure for traffic-based compensation models or other mechanisms that alter existing interconnection incentives. Although the DNA does not explicitly introduce network fees, the proposed framework risks creating a pathway through which commercial disputes will become increasingly subject to regulatory intervention. Large network operators have an incentive to trigger and sustain these disputes as high traffic volumes can be framed as a basis for compensation claims. This can lead to the degradation of specific traffic flows and the condition of quality of service based on commercial agreements, outcomes that are fundamentally incompatible with the principles of net neutrality.

This concern is shared by a broad coalition of stakeholders who have warned against introducing regulatory structures that could evolve into indirect sender-side payment regimes. **Regulatory intervention should remain tied to evidence of market failure rather than assumptions about desirable market outcomes.** Currently, there is no clear evidence of such a failure. BEREC has consistently found that the European IP interconnection market functions competitively and efficiently, with no indication of systematic congestion, abuse of market power, or other structural problems requiring regulatory intervention. Concerns should be addressed when they arise, and through targeted measures designed to remedy clearly identified harms. The creation of new governance and conciliation mechanisms for a market that is already operating effectively risks institutionalising regulatory processes that are neither necessary nor proportionate. This can also create a pathway for future interventions that could alter the established balance of the Internet interconnection ecosystem.

2. Regulatory simplification vs. regulatory expansion

A defining narrative of the DNA is ‘simplification’ or in other words: deregulation. However, several aspects of the proposal suggest the opposite dynamic.

The DNA introduces:

- ecosystem cooperation procedures;
- voluntary conciliation mechanisms;
- new spectrum single-market procedures;
- Single Passport arrangements;
- EU-level satellite authorisation frameworks;
- new preparedness structures;
- expanded responsibilities for the Office for Digital Networks;
- extensive future implementing acts.

BEREC explicitly questions whether many of these measures achieve the stated objective of ‘simplification’ and notes that several provisions introduce additional complexity without clear added value. This is not merely an administrative concern; increasing procedural complexity tends to favour actors with substantial legal, regulatory and financial capacity: large operators can absorb compliance costs; smaller operators, local providers, community networks and alternative connectivity models often cannot.

As a result, complexity itself may become a mechanism through which market participation becomes more difficult for smaller actors. **The DNA therefore risks simplifying administration for large cross-border actors while increasing practical barriers for others.**

3. Concentration and infrastructure lock-in

The DNA repeatedly favours actors that already possess scale, infrastructure assets, spectrum resources, and regulatory capacity, with the clearest example being spectrum governance. The proposal introduces very long-duration spectrum rights combined with quasi-automatic renewal mechanisms intended to improve investment certainty.

While investment certainty is important, spectrum remains a finite public resource. Long-duration rights with limited opportunities for reassessment risk transforming temporary usage rights into de facto permanent control over critical infrastructure inputs. This creates lock-in effects. Future entrants face greater barriers, regulators lose flexibility, alternative allocation models become more difficult to pursue, and technological evolution becomes harder to accommodate. The proposal, therefore, risks freezing future communications ecosystems around present market structures.

Long-term exclusive rights prevents the development of other technologies that inherently require access to spectrum including new LEO satellite entrants, Wi-Fi technologies, low access networks, and a range of connectivity models. This can reduce competition, limit innovation, and make communications infrastructure less responsive to future developments. EU regulators will lose these newer opportunities to adapt to new technologies, entrants, and changing public needs should spectrum lock-in occur.

The same tendency appears in the proposed ‘Single Passport’. The proposal primarily benefits actors capable of operating on a continental scale. Similarly, the ecosystem cooperation framework within the proposal creates processes that favours large actors with extensive regulatory, legal, and administrative resources able to navigate complex processes. This effectively equates competitiveness with scale and consolidation. Yet even analyses broadly supportive of the DNA acknowledge that Europe can achieve scale through interoperability, wholesale access, virtualisation, and shared-infrastructure models rather than through further

concentration of ownership and control. Privileging organisational scale over alternative pathways to efficiency and innovation risks reinforcing existing market structures instead of fostering a more diverse, competitive, and resilient communications ecosystem. **Competitiveness should not be confused with concentration.**

4. Harmonisation should not become centralisation

The DNA repeatedly presents harmonisation and centralisation as complementary objectives. However, these concepts should be distinguished. Harmonisation concerns common rules. Centralisation concerns where power is exercised.

The existence of a single market does not automatically require the continuous transfer of authority from independent regulators to centralised institutions. Greater coordination across Member States can be achieved without removing responsibilities from national regulatory authorities or creating new governance institutions whose added value remains unclear. Independent regulators are not administrative obstacles to market integration. National regulatory authorities and BEREC act as institutional safeguards by providing technical expertise, accountability, and responsiveness to national and local conditions. Their independence also helps limit the risks of political interference and commercial capture. Any proposal to centralise regulatory powers should demonstrate a clear and proportionate benefit. The DNA does not yet provide sufficient evidence that the proposed transfer of responsibilities would improve outcomes in a way that outweighs the loss of regulatory independence and flexibility.

ARTICLE 19's believes that regulatory independence has direct implications for freedom of expression. Independent oversight helps ensure that communications governance remains evidence-based and insulated from concentrated political or economic power. **Consistency is a legitimate objective, but consistency should not come at the expense of institutional diversity and accountability.**

5. Strategic autonomy requires reducing dependency, not merely scaling infrastructure

The DNA frequently invokes strategic autonomy and competitiveness. ARTICLE 19 supports these objectives. However, strategic autonomy should not be measured solely by the size of networks or market actors. It also requires reducing systemic dependencies by preserving infrastructure diversity, interoperability, and the availability of alternative connectivity pathways.

The contemporary digital ecosystem is increasingly characterised by concentration across multiple layers:

- cloud infrastructure;
- submarine cables;
- content delivery networks;
- satellite systems;
- digital platforms.

A strategy focused primarily on scale risks reproducing the very dependencies it seeks to overcome.

The DNA contains relatively few mechanisms aimed at reducing infrastructural dependency itself; instead, many provisions assume that concentration and resilience are compatible objectives. This assumption deserves closer scrutiny: a larger infrastructure ecosystem is not

necessarily a more autonomous one; a resilient ecosystem is not merely one that can scale, it is one that can continue functioning when dominant actors fail, withdraw or exercise disproportionate influence. For this reason, **strategic autonomy should be evaluated not only through investment and deployment metrics but also through indicators of concentration, dependency and systemic resilience.**

6. Satellite governance and concentrated infrastructural power

The DNA places growing emphasis on satellite connectivity as part of Europe's digital future. Satellite systems can improve resilience, extend connectivity, and support emergency communications. However, they also create new governance challenges: the global satellite ecosystem is becoming increasingly concentrated, with a small number of actors controlling connectivity provision, launch capacity and orbital resources. These actors increasingly perform functions traditionally associated with public communications infrastructure, creating a new form of infrastructural dependency.

The challenge is no longer simply whether states can regulate networks; it is whether democratic institutions can retain meaningful oversight of privately controlled global connectivity infrastructures on which societies increasingly depend.

Strategic autonomy should not be measured solely by the availability of satellite connectivity; it should also be measured by the extent to which societies retain meaningful democratic oversight over the infrastructures upon which they increasingly rely.

7. Infrastructure diversity and freedom of expression

The most significant concern raised by the DNA is not any individual provision, but the cumulative governance model that emerges from the proposal: it repeatedly prioritises scale, harmonisation, consolidation and centralisation. Much less attention is given to preserving infrastructure diversity.

Infrastructure diversity refers to the existence of multiple operators, multiple access models, multiple interconnection pathways and multiple governance institutions. This diversity is not merely an economic objective; it is a democratic safeguard.

Freedom of expression depends not only on legal protections for content but also on the availability of diverse pathways through which information can be created, distributed, and accessed. Community networks, independent ISPs, regional operators, wholesale providers and future entrants all contribute to a more open and resilient information environment.

When infrastructure becomes increasingly concentrated, risks associated with dependency, exclusion, and economic gatekeeping increase; these effects are often cumulative and difficult to reverse. **For this reason, infrastructure diversity should be recognised as a public-interest objective alongside competitiveness, resilience and sustainability.**

Recommendations

ARTICLE 19 recommends that legislators substantially revise the Digital Networks Act to ensure that competitiveness objectives are pursued in ways that preserve contestability, infrastructure diversity, democratic accountability, independent oversight and the conditions necessary for freedom of expression and access to information.

The DNA should not be assessed solely through the lenses of investment, deployment, and scale. It should also be assessed in terms of its effects on infrastructure concentration, dependency, market contestability, regulatory independence, and the long-term openness and resilience of the communications ecosystem:

Interconnection and ecosystem cooperation

- Remove or substantially revise Articles 191–193 unless a clearly demonstrated and evidence-based market failure can be identified.
- Avoid creating formal mechanisms that may evolve into indirect forms of network usage fees or undermine the economic and technical foundations of the open internet. Any future intervention should be subject to transparency obligations and independent review.
- Require systematic assessment of the potential effects of interconnection-related measures on competition, innovation, market entry, and freedom of expression.

Spectrum governance

- Reject indefinite, quasi-permanent or automatically renewable spectrum rights that reduce future opportunities for reassessment and reallocation.
- Ensure spectrum governance supports technological evolution by preserving opportunities for future entrants, local licensing models, shared-access frameworks, community-based uses, and innovative spectrum applications.

Regulatory governance and institutional independence

- Recognise regulatory independence as a public-interest safeguard that contributes to open, competitive and rights-respecting communications environments rather than viewing regulatory divergence as harmful fragmentation.
- Reassess provisions that transfer powers from national regulatory authorities and BEREC to centralised structures without evidence-based justification.

Infrastructure diversity and competition

- Explicitly recognise infrastructure diversity as a regulatory objective alongside sustainability, and investment, reflecting the role that multiple and complementary connectivity pathways play in reducing systemic vulnerabilities and strengthening long-term resilience.
- Assess concentration risks across the entire connectivity stack, including spectrum, access infrastructure, cloud services, satellite systems, interconnection markets and digital infrastructure services. This includes introduction proportionality safeguards that protect smaller operators, community networks, wholesale-only providers, neutral hosts, regional providers, and alternative connectivity models.
- Promote interoperability, open wholesale access and other mechanisms that allow scale to emerge without requiring concentration of ownership or control.

Strategic autonomy and infrastructure dependency

- Assess strategic autonomy not only through deployment and investment indicators but also through measures of concentration, dependency and systemic resilience.
- Incorporate infrastructure concentration and dependency risks into future resilience and preparedness assessments.
- Ensure that policies designed to increase scale do not unintentionally increase dependence on a small number of infrastructure actors.

Satellite governance

- Avoid regulatory arrangements that facilitate market access while overlooking the concentration of infrastructural power and dependency on a small number of satellite operators.

- Ensure that resilience objectives promote infrastructure diversity and multiple connectivity pathways, rather than increasing reliance on a single class of providers or technologies.

Fundamental rights and freedom of expression

- Incorporate freedom of expression and access-to-information considerations into assessments of infrastructure governance reforms. This should include how changes to communications infrastructure governance may affect the ability of users, communities and smaller providers to participate in digital communications environments.
- Recognise that diversity at the infrastructure layer contributes to media pluralism, democratic participation and information resilience.
- Ensure that future implementing acts and delegated measures are subject to transparency, accountability and fundamental rights scrutiny.

Conclusion

The Digital Networks Act is presented as a response to Europe's competitiveness challenge. Yet the deeper question raised by the proposal concerns the future governance of digital infrastructure itself. Throughout the DNA, scale is frequently treated as a proxy for competitiveness, centralisation as a proxy for efficiency and harmonisation as a proxy for resilience; these assumptions deserve closer scrutiny.

Europe's communications future will not be strengthened merely by creating larger actors, longer-lasting rights or more centralised governance structures; it will be strengthened by building infrastructure ecosystems that remain open, contestable, resilient and democratically accountable.

The internet's success has historically depended on distributed governance, interoperability and diversity: the DNA should ensure that efforts to improve competitiveness do not inadvertently undermine these foundations.

Europe requires stronger digital infrastructure, but it also requires safeguards against excessive concentration of economic power, regulatory authority and infrastructural dependency. Competitiveness, resilience and strategic autonomy should therefore be pursued in ways that reinforce infrastructure diversity, preserve independent oversight and protect the conditions that enable freedom of expression in the digital age.