

Early BEREC Assessment of the Digital Networks Act

30 March 2026

On 21 January 2026, the European Commission published its proposal for a Digital Networks Act (DNA), a regulation aiming at updating the objectives and relevant regulatory tools of the legislative framework for electronic communications. The proposal underscores the importance of regulatory simplification and predictability to which Member States, national regulatory authorities (NRAs) and other competent authorities (OCAs), as well as the Body of European Regulators for Electronic Communications (BEREC), the Radio Spectrum Policy Body (RSPB), the Office for Digital Networks (ODN) and the European Commission, should adhere.

BEREC shares the ambition of the DNA to strengthen the internal market and enable resilient, sustainable and affordable connectivity for Europe, through a framework as simple and predictable as possible and at least as efficient as the existing one. Nevertheless, BEREC has doubts about the effectiveness of the proposals in this regard, as several key provisions of the DNA add unnecessary layers of complexity, without bringing clear added value to the current framework, nor reaching the aims of regulatory simplification and predictability; this is also evidenced by the wide range of implementing acts envisaged across several areas.

BEREC is hereby providing its preliminary high-level views - gained by its member NRAs on the ground, through years of implementation of the current framework - on the main areas covered by the proposal. BEREC reserves the right to refine or expand upon any of its views, as expressed herein, and to raise any additional points as may be necessary or appropriate in light of ongoing analysis, and stands ready to support the co-legislators with its regulatory expertise and to collaborate on targeted improvements to the legislative text.

Regarding the new regulatory objectives, BEREC broadly welcomes them, in addition to the existing objectives addressed by the European Electronic Communications Code (EECC)¹ of promoting connectivity and access to very-high-capacity networks (VHCNs), competition, contributing to the development of the internal market and protecting the interests of the citizens of the EU.

On the proposed new objective to reinforce the competitiveness of the connectivity sector in the Union, BEREC acknowledges the key role that fast, reliable and secure networks can play. At the same time, BEREC is firmly convinced that sector competitiveness is best

¹ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

supported through the existing objective of promoting effective competition and predictable regulation, which are crucial investment and innovation drivers. It is therefore concerning that the proposed rewording of this longstanding objective would downgrade the promotion of competition from a regulatory objective in itself to a means for ensuring the provision of affordable, high-quality services - Article (3)(1) (e) - failing to recognise its pivotal role in supporting the sector's overall competitiveness.

The DNA also recognises a central role to the new objective of preparedness and resilience. BEREC supports the ambition to address current and future threats to connectivity infrastructure, while noting that certain aspects, including the cooperation among the various institutional actors involved and the interplay with relevant horizontal legislation, still require further clarification, including in terms of cumulative requirements on network providers.

The new role relating to the pursuit of sustainability is also welcome. It will however be necessary to complement the provisions, for instance, via BEREC guidelines in relation to the collection and the assessment of sustainability-related data and information, as well as the criteria and methodologies to be applied to make them fully operational and to ensure consistency, comparability and legal certainty.

Regarding end-user protection, although confirmed as a regulatory objective in principle, its treatment in the DNA raises serious concerns and needs further analysis to avoid the loss of existing well-functioning protections.

Finally, BEREC notes that the proliferation of objectives compared to the existing EECC may increase regulatory complexity. It also entails a greater need to strike an appropriate balance among these objectives, implying a margin of discretion for both NRAs and the Commission. In this context, it may be observed that the scope for discretion appears comparatively broader at Union level, while the exercise of discretion by NRAs may, in certain instances, be significantly constrained by specific provisions of the DNA.

Turning to the scope of the DNA, the European Commission's preliminary reflections aimed to ensure that the scope of the regulatory framework was still fit for purpose, and the objectives were not jeopardized. BEREC welcomed in principle those considerations, having likewise identified key technical and market developments.

Such a prospective approach is reflected primarily in the new provisions on "ecosystem cooperation" (Articles 191—193), which envisage BEREC guidelines on collaboration

between undertakings in electronic communications and adjacent markets, as well as a voluntary, non-binding conciliation mechanism between such undertakings. While BEREC supports the broader perspective on digital markets, it notes that the rationale, scope and expected practical application of these provisions require further clarification.

Furthermore, BEREC notes that the DNA does not introduce a definition of “digital networks” that would explicitly widen the current notion of ECNs, despite acknowledging in recital 5 the necessity “*to take account of the evolution from electronic communications networks to digital networks*”. BEREC recommends developing definitions consistent with other digital legislative acts.

On a general note, while the European Commission acknowledges the strong national and regional specificities of the electronic communications markets, the legislative proposal introduces elements that point towards increased centralisation in certain areas, with a shift of regulatory competences from NRAs to the European Commission and from BEREC to the ODN, without being clear on the specific conditions that would effectively apply, considering that in most cases these conditions are to be defined only by the European Commission through implementing acts. For each element of this trend, it is necessary to evaluate whether such centralisation would be workable in practice and would effectively contribute to a more functional internal market. In this context, BEREC considers that the rationale and expected benefits of such an approach would benefit from further clarification and supporting evidence, to ensure that it contributes to simplification, predictability and effective regulation. It will also be important to preserve the necessary regulatory and supervisory powers of NRAs, which are best placed to address any specific national market conditions.

A centralisation trend arises in the case of General Authorisation where the proposal raises concerns in several respects. BEREC has doubts as to whether the new Single Passport mechanism could streamline the current sectoral processes which are straightforward at present.

In particular, while BEREC stands ready to contribute, including through the development of a binding notification template, as envisaged by Article 10(3) of the DNA proposal, in BEREC’s view, utmost attention should be paid to the enforcement side, as the Single Passport mechanism - by concentrating enforcement powers in the NRA of the Member State of notification - risks paving the way for forum shopping and asymmetric distribution

of supervisory responsibilities across Member States. Unlike in other areas of the internal market (e.g. media services or e-commerce), the provision of electronic communications services is closely linked to local infrastructures, radio spectrum, consumer protection and national law enforcement.

Moreover, the required coordination mechanisms (among NRAs, ODN and contact points) risk undermining timely and efficient enforcement, implying time consuming bureaucratic procedures and delays in decision-making. BEREC also underlines that destination NRAs must retain the ability to levy administrative charges to safeguard regulatory independence, ensure adequate resources, and avoid disproportionate cost-shifting by cross-border providers.

BEREC is not convinced that the drawbacks are outweighed by the limited benefit of allowing providers to notify the beginning of the activity in only one Member State and, in its view, the new regime is likely to add operational complexity, administrative burden and legal uncertainty in the markets.

This is also the case for the proposals around radio spectrum regulation and management, many of which require deeper analysis and careful consideration.

The Commission's approach – inter alia, treating spectrum as a common European resource under shared competence, introducing spectrum rights of indefinite duration, establishing a common approach for spectrum fees and creating a single EU-level satellite authorisation framework - marks a substantial shift to the current approach. Such centralisation dynamics cast doubt on the effectiveness of the proposed measures and their proportionality in achieving the general objectives set out in Article 3 and the declared simplification goal, as well as in terms of their compatibility with the subsidiarity principle. Along this line, also, the proposed single market procedure, which includes a Commission veto, does not seem justified and proportionate.

Furthermore, the proposal seems to favour the position of present rights holders, thereby weakening market contestability and hindering the currently functioning competitive dynamics in access to spectrum resources, to the detriment innovation, efficient spectrum use and long-term consumer benefits.

Among valuable proposals, BEREC notes the intention to provide more clarity on its role in the market shaping aspects of spectrum assignment, which may constructively support competent authorities in their spectrum assignment duties, where necessary. Also

continuing to develop roadmaps on radio spectrum together, where appropriate, with national radio spectrum roadmaps could further strengthen a shared EU wide vision of upcoming spectrum resources. Furthermore, the proposed codification of spectrum sharing is expected to maximise the efficiency of radio spectrum assignments, although careful consideration must also be paid to the administrative burden imposed on spectrum licence holders and administrations.

Additionally, a centrally managed satellite authorisation regime, although with merit in principle, must be assessed carefully regarding its scope and for national implications, – including in terms of security, ensuring common EU-level requirements, while preserving enough flexibility for Member States to safeguard their own interests and specific needs. BEREC stresses the importance for the satellite authorization framework to be aligned with the framework established by the ITU-R rules, to avoid disrupting the established ITU-R systems and prolonging the ITU procedures.

A centralisation trend can be identified also in the field of numbering, where numbering resources are qualified by the DNA as a “common Union resource”.

BEREC acknowledges that harmonization in the field of numbering may have merit in certain respects, such as how national numbering plans are built on the general recommendations of the ITU or current efforts by other international working groups like the CEPT/EEC². At the same time, BEREC considers that the DNA proposals on numbering would benefit from further clarification, in particular as regards key concepts such as a “union numbering plan” and “pan-European numbering resources”. A relevant reasoning, a structured analysis of the foreseeable demand and use cases, and an economic justification for the proposed changes are also missing, as well as an assessment of the practical benefits that are expected for end-users. Such analysis would be of utmost importance because the conceptual preparation, operational introduction and ongoing operation of a pan-European numbering space would involve enormous expenditures for the NRAs, but especially for electronic communications operators in Europe.

² CEPT: European Conference of Postal and Telecommunications Administrations
EEC: Electronic Communications Committee

In the field of access regulation, BEREC agrees with the Commission's analysis whereby the key pillars of the current regulatory framework should be retained, including the SMP regime, thereby avoiding any disruptive deregulatory intervention.

In this respect, while formally preserving the core structure of the existing framework, the DNA proposes several changes to the tools and mechanisms currently available to NRAs, alongside elements of increased centralisation compared to the current internal market processes, which do not seem thoroughly justified with a view to the internal market goal, nor in line with the principles of proportionality and subsidiarity.

While welcoming the pursuit of simplification, BEREC believes that such concept should not be mistaken for deregulation, thus adversely impacting on competition and efficient long-term connectivity investment. In this respect, the DNA removes the obligation for the Commission to adopt a Recommendation on Relevant Markets (RRM), leaving it open-ended, which could signal that imposing or maintaining ex-ante obligations becomes exceptional, despite the current RRM still being in force for now and thus requiring full consideration by NRAs. The RRM has proved to be an effective tool to foster competition and allows for flexibility in tailoring obligations to remedy the specific market problems identified at Member State level. The removal of the obligation to publish a RRM on relevant markets may therefore prove detrimental to protecting the infrastructure-based competition successfully achieved so far, raise the burden of proof for NRAs that decide to regulate and negatively affect regulatory predictability.

Furthermore, Article 77 introduces a sequencing system for NRAs when imposing remedies, whereby a progressive incremental burdensome assessment is required by NRAs to escalate from imposing "light" remedies – such as obligations of transparency and non-discrimination – to the more comprehensive ones. BEREC questions the need for a "hierarchy of remedies" and is of the view that the proportionality principle is sufficient.

Regarding the obligation to grant access to an EU harmonized access product, BEREC notes that regulation would depend on a product where the technical and economic specifications are yet to be defined, creating significant uncertainty. Furthermore, due to the significant heterogeneity of wholesale models across Member States, an EU-wide specification seems impractical in the short to medium term.

Concerning the internal market procedures set out in Article 85, a new European Commission veto power over several remedies seems unjustified, as it would encroach on

an area that has, until now, remained under the NRAs' responsibility, given their extensive knowledge of their respective national markets. Furthermore, the proposal moves away from a principle-based approach whereby NRAs have to justify their regulatory proposals, to an approach where the criteria applied by the European Commission, when exerting its veto power on remedies, are not clear, thus resulting in legal uncertainty. Such an approach would unduly constrain the necessary regulatory discretion afforded to NRAs and limit their ability to tailor remedies to national market conditions, to the detriment of legal certainty, and ultimately competition, investment and innovation.

In addition, as regards the procedural timeline, Article 73(1) DNA provides that NRAs shall complete market analyses within one year, which may be too short a timeframe for more complex market analyses.

Regarding copper switch-off (CSO), overall BEREC appreciates the European Commission's consideration of its inputs, as provided in its recent progress report on migration and copper switch-off³, both as regards the timing for completing the switch-off, and the provision for exceptions; in BEREC's view NRAs and Member States' active role is necessary in this field. However, BEREC notes that it is very important not to distort competition when implementing CSO, which depends on the details of the process (e.g., if any compensations for CSO will have to be made) which are not yet clear.

Significant aspects remain to be duly investigated, including the applicable regime for Member States that are already advanced in their migration and CSO processes and the allocation of responsibilities between NRAs and Member States on several aspects – also considering the need to preserve the NRAs' independence. Further factors to be considered include the timing and administrative hurdles of the intermediate steps and final switch off date, the role of HFC-networks⁴ and other gigabit-capable networks (e.g. FTTB where last drop is based on LAN) as an alternative for fibre and the suitability of the sustainability conditions as in Article 57, especially taking into account the national specificities for certain Member States. It would therefore be appropriate to address not only the switch-off of copper networks, but also the broader regulatory and practical conditions required to ensure an effective migration to fibre. A key gap in the current DNA proposal concerns the treatment of in-building copper networks. While the regulation outlines general principles for

³ BoR (25) 66

⁴ Hybrid Fibre-Coaxial networks

CSO at national level, it remains silent on whether legacy in-building copper wiring should be included in the definition of copper areas or in the assessment of migration readiness.

Finally, BEREC agrees with the provisions confirming the current symmetric regulation measures as a recognised and integral part of the EU regulatory framework alongside the SMP framework. Nevertheless, BEREC considers that the DNA provisions, in particular Article 69 DNA, need to be further improved to better achieve the goals of simplification, while providing essential tools for agile regulation in a full fibre environment. BEREC also shares the Commission's approach to maintain and update the innovative regulatory provisions introduced by the EECC for SMP operators offering commitments, as well as for SMP operators active at wholesale level only; such provisions endow NRAs with useful intervention tools that they can flexibly use, based on the national situation at stake.

Turning to Open Internet, BEREC welcomes that the end-user right to access and distribute content and to use applications and terminal equipment of their choice is confirmed, together with strict net neutrality obligations subject only to "narrowly defined and proportionate exceptions" and "robust supervision by national regulatory authorities, complemented by BEREC reporting and guidelines".

BEREC also welcomes that the current transparency measures are maintained to ensure an Open Internet access. Nevertheless, BEREC flags with concern that the DNA proposals imply that Member States would lose the opportunity to keep or introduce additional monitoring, information provision or transparency obligations. The narrower scope for end-user protection, considering the replacement of the notion of "end-user" with the more limited one of "consumer" in e.g. Article 96 on transparency, is also somewhat concerning.

Lastly, in relation to specialised services, it is essential to recall that, under the existing regulatory framework, BEREC is currently preparing guidelines on 5G and network slicing; such initiative would contribute to give clarity to market players within a time frame compatible with the market expectations. Should the Commission wish to adopt implementing acts in this field, BEREC therefore suggests envisaging its involvement in the process.

Concerning end users' protection, BEREC welcomes the DNA's recognition of the enduring need for sector-specific end-user protection, given the specificity of the electronic communications sector. BEREC also recognises the importance of out-of-court dispute

resolution and the discretion granted to Member States to decide how dispute resolution procedures are shaped and whether the NRAs are the competent authorities.

The choice of a Regulation as the legal instrument implies a more uniform application of rules across the Union, with the stated aim of standardising and simplifying sector-specific safeguards across the Union, notably for the benefit of cross-border operators. However, this may undermine the existing national protections, without putting in place appropriate provisions to replace the national measures that would lose their legal basis in the EECC. By excessively constraining Member States' ability to adapt regulation to specific national end-user protection needs, the proposal may ultimately weaken end-user protection.

There are also implications of this approach on any measures in place regarding equal access and choice for end-users with disabilities. Finally, on the protection of micro enterprises, the proposed approach shifts from mandatory provisions to dispositive provisions, which risks increasing misleading sales practices in these areas. Especially micro enterprises constitute a vulnerable group of end-users who regularly "opt out" their protection without knowing it.

BEREC underscores that the simplification of the legislative text does not necessarily lead to a simplified regulatory environment. On the contrary, with the concept of maximum harmonisation, in some instances, Member States may be restricted from addressing newly emerging issues or unique national market conditions.

As concerns the Universal Service regime, BEREC welcomes the continued role of Universal Services obligations as a safety net, while noting that a paradigm shift is introduced about the designation of undertakings and the calculation of a possible compensation for the provision of Universal Services, that the DNA text proposes to repeal in the light of the reduced scope of Universal Service obligations. The change concerns not only the calculation of compensation, but also the method of financing, i.e. no possibility of financing from market funds. According to the proposal, and with a view to enhancing Member States' flexibility in defining how to finance any Universal Service obligations, financing the provision of Universal Services should be possible, in line with relevant EU State aid rules.

Clarity would be needed on the scope of Universal Service, including the possible stipulations under Part VI of the DNA as a protective measure for affordable and adequate internet access service, the possibility for end-users in remote areas to subscribe to

standalone voice services, transitional arrangements for control of expenditure facilities, and the framework for designation of Universal Service provider(s), to avoid regulatory discontinuity and ensure consistent consumer protection. The removal of flexibilities provided for in the EECC that allow Member States to maintain certain existing USO elements also merits further assessment in accordance with Article 59(3) in the context of copper switch-off. BEREC indicates that abandoning the possibility of financing USO from public or market funds and limiting it solely to financing from the state budget in the form of state aid requires a more in-depth analysis. The obligation of all providers to offer special tariff options or packages in the event of a lack of affordability also requires detailed analysis.

On the institutional design, BEREC welcomes the proposal to move towards a more coherent set of NRAs' competences through an expanded and more clearly defined minimum list of tasks. Greater harmonization of NRAs' prerogatives and powers can facilitate more effective exchange and cooperation within BEREC.

BEREC also notes the new tasks entrusted to it as a Body, such as providing input on reviewing mergers with an EU dimension in the electronic communications sector, releasing guidance to facilitate an "ecosystem" cooperation between network operators and other undertakings active in the electronic communications market and in other closely related sectors, as well as cooperating with the newly established Radio Spectrum Policy Body.

Nevertheless, BEREC observes that certain substantive changes proposed in the DNA risk hindering the effective functioning of its current two-tier structure, whereby BEREC holds regulatory cooperation competences as an independent Body, and the ODN provides its administrative and professional support to it.

As a matter of fact, the proposal foresees an expanded role for the ODN compared to the current BEREC Office, including its stronger involvement in the functioning of BEREC, notably through participation in the substantive work of the BEREC Working Groups (the heart of the BEREC system, composed of NRAs' experts carrying out the technical work), which the ODN's staff would now be enabled to chair. Such an expansion to key areas traditionally under the remit of independent NRAs impacts the current BEREC layout and may jeopardize the BEREC rootedness in the expertise of its member NRAs in performing its own competences and tasks.

The proposal also raises concerns regarding BEREC's independence, insofar as it would allow the possibility for non-independent national bodies to access BEREC work, e.g., via

participating in Working Group meetings pursuant to Article 140(5), insofar as they are entrusted with sectoral competences at national level as “Other Competent Authorities”. In addition, the proposed strengthening of the Commission’s role within the Management Board, including by means of a veto power on financial and staff matters, risks creating an institutional imbalance and constraining collective decision-making.

BEREC therefore stresses the need to ensure that the new institutional layout preserves its independence and rootedness in the expertise of its member NRAs. In this context, any reinforcement of the ODN’s supportive role should not result in any limitation of the NRAs’ collective autonomy in defining the regulatory positions of the Body.