

Luxembourg, 28 June 2024

Consultation on the White paper “How to master Europe’s digital infrastructure needs?”

A. Introduction

This document represents FEDIL’s input to the consultation on the White Paper “How to master Europe’s digital infrastructure needs?”

[FEDIL, the Voice of the Luxembourg’s Industry](#), is a multisectoral business federation, founded in 1918, giving a voice to industrialists and entrepreneurs and fostering economic activity in Luxembourg. Representing more than 700 members, FEDIL is today a driving force in the Luxembourg ecosystem.

FEDIL would like to thank the European Commission for the initiative. FEDIL members appreciate the opportunity to express their perspectives on the White Paper. Although the European Commission did not prioritize the challenges outlined in the White Paper, FEDIL members recognize that each challenge is important for achieving the objective.

Finally, we would like to note that the White Paper is based on a number of hypotheses and declarations which raise questions, in the sense that they do not reflect the reality in all Member-States. As a matter of fact, we would like to draw the attention of the Commission to the fact that it is proven that operators from a small Member State such as Luxembourg can satisfy the challenges and objectives set in the context of the Digital Decade program.

B. Comments

❖ Pillar II: COMPLETING THE DIGITAL SINGLE MARKET

Scenario 4: “In order to address the converged electronic communications connectivity and services sector and to ensure that its benefits reach all end-users everywhere, the Commission may consider broadening the scope and objectives of the current regulatory framework to ensure a regulatory level playing field and equivalent rights and obligations for all actors and end-users of digital networks where appropriate to meet the corresponding regulatory objectives; given the likely global magnitude and impact of the technological developments and of any possible regulatory changes, a reform of the current framework needs to be properly assessed in terms of the economic impact on all actors as well as debated broadly with all stakeholders.”

- First and foremost, FEDIL considers it essential to conduct an impact assessment of the proposed measures, while also accounting for the national specificities of each Member State. At this stage, it is challenging to take a definitive position on the different proposals and fully comprehend the benefits and consequences of broadening the regulation.

- Secondly, we believe that a broadening of the current regulatory framework to create a convergence of underlying rules for digital actors and end-users needs to be examined further. The relationship described in the paper between digital and telecoms services omits some critical diverging elements, making rules foreseen for telecoms unfit for the digital market.
- Additionally, in our opinion, the critical issue of the Digital Divide should be prioritized and addressed in a pragmatic way. High-speed broadband coverage is key for both citizens and businesses, but it is essential to make it fully inclusive. While the Digital Decade goal of Gigabit connectivity is a reality in Luxembourg, it is far from being achieved in many rural or isolated areas in Europe. The basic requirements of connecting under-connected regions in Europe ought to be that of meaningful connectivity for the users, and cost-efficiency for infrastructure stakeholders and service providers. Connectivity can further be improved and scaled to Gigabit connectivity or more, as infrastructure and capabilities are improved or built across Europe with widespread adoption, and with the arrival of new technologies to provide this connectivity.

Scenario 5: *“In order to address technological and market developments and the resulting need to change the regulatory paradigm and ensure less burden for companies and more efficient service delivery, while continuing to protect vulnerable end-users and promote territorial coverage, the Commission may consider:*

- o *measures to accelerate copper switch-off (such as a target in 2030, aligned to the Digital Decade target for Gigabit connectivity, and support for copper-fibre switch-over from 2028);*
- o *a change to access policy in view of full fibre environment, by proposing a European wholesale access product and recommending no markets for presumptive ex ante regulation while maintaining a safety net for NRAs to keep regulation if the “3 Criteria Test” is met (reverse burden of proof). In the alternative, only markets for civil infrastructure might be considered for regulation ex ante (as the most persistent bottleneck), combined with the implementation of lighter access regulation (no price regulation or pricing flexibility) along the lines of the recently adopted Gigabit Recommendation.”*
- It is worth highlighting that in Luxembourg, the mandatory phase-out of copper infrastructure has been coordinated by the national regulator in collaboration with the concerned parties. All operators have committed to the outlined plan to achieve the phase-out of copper by 2030, making Luxembourg on track with this plan. The copper switch-off is directly linked to the availability of fibre or other technologies on a national basis. The timeframe proposed by the Commission is globally in line with the timetable of the Luxembourg operators to foresee a coverage close to 100% by 2030.
- Concerning the "European wholesale access product" proposal, we think it would be appropriate for the Commission to provide further clarification to fully comprehend its plan for practical implementation.
- Our members are however concerned about the proposal to ensure that end users in remote and rural areas in Europe have access to the “best available technologies”, as it represents a significant departure from the principles of the “European Electronic Communications Code” (the Code) and its neutrality. As new non-terrestrial technologies are being made available in a competitive fashion, we consider that contributions to specific networks only (e.g. fiber networks) may distort competition in a manner that will not be consistent with EU State aid rules.

Scenario 6: *“In order to facilitate the single market and building scale for activities of all players, the Commission may consider:*

- *a more integrated governance at Union level for spectrum that would allow, where necessary, for greater harmonisation of spectrum authorisation processes and thereby create the conditions for market scale necessary for pan-EU operators to attain larger investment capacity; the Commission may also consider solutions for more aligned authorisation and selection conditions, or even single selection or authorisation processes, for terrestrial and satellite communications and other innovative applications that make clear cases for fostering the development of the single market;*
- *a more harmonized approach to authorisation (through the possible establishment of “country of origin” principle for certain activities less connected to consumer retail markets and local access networks). “*
- Even though the paper proposes a European approach to spectrum allocation, we would like to highlight that Luxembourg's national authorities are allocating all frequencies in an efficient manner.
- Scenario 6 raises serious concerns among FEDIL members as they do not see the need of having an integrated governance of spectrum at European level.
Firstly, we are of the opinion that the proposal to centralize spectrum allocation does not take sufficiently into consideration the national specificities.
Secondly, in addressing spectrum harmonization, we believe it is more appropriate to focus on harmonizing the spectrum usage within a band at the European level especially regarding synchronization on a cross-border level (based on the designation of a type of service, as was done by the RSCoM in many instances) rather than the spectrum governance itself.
Thirdly, we believe it is not appropriate for the European Union, particularly the European Commission, to select winners for access to spectrum, especially when this may contradict ITU filing priorities.
Additionally, there seems to be a lack of distinction between different types of spectrums, particularly in terms of whether it can be shared or not. For example, in the case of satellite systems operating above 10 GHz, spectrum can be shared among satellite players without inherent limitations.
Therefore, such considerations raise significant questions about the practical enforcement of a European authorization and management mechanism, especially when Member States are left to set fees or conduct auctions. This approach appears disproportionate and will likely lead to complications.
- Moreover, from the perspective of mobile terrestrial networks, the deployment of mobile networks cannot be solved solely through spectrum allocation at the EU level. We believe there are numerous other dependencies that need to be addressed, such as EMF regulations, which present significant challenges to network deployment. Additionally, issues like construction authorization, including obtaining building permits, must be addressed as priority concerns before tackling the spectrum problem.
- We are of the opinion that, in practical terms, a license is granted to provide rights to wireless or satellite operators, but it is also subject to conditions and limits. It is a highly technical process and requires ongoing monitoring of market developments. This is something that can only be effectively managed at the national level. It raises questions about how to reconcile the aspiration for a political initiative at the EU level with the practical realities on the ground. Our members do not favor a single EU authorization process.
- In relation to the harmonized approach to authorization for matters other than spectrum, there are indeed service areas where EU harmonisation could be reinforced. For example, despite the Code significantly simplifying compliance requirements by

listing maximum conditions under a general authorization regime that EU Member States can impose upon network / service providers, obligations such as building lawful interception capabilities, data retention, cybersecurity and reporting obligations remain very nationally specific and burdensome for pan-EU players.

- Regarding the first bullet point, we understand that the proposal from the European Commission seeks to reconsider the role of the CEPT, which currently coordinates spectrum management and harmonization in Europe. Our members, EU satellite operators, are highly satisfied with how spectrum is managed by the CEPT¹. It is regarded as an excellent body and forum, unique globally, and considered a model by other regions. Under the existing institutional mechanism, the EU can always adapt the CEPT deliverables to the EU specifics, by the adoption of EC decisions on spectrum that are mandatory amongst the 27 Member States. Therefore, even for satellite systems or service areas where EU sovereignty is at stake, we do not believe it is appropriate or legitimate to modify what we perceive as a successful system. We are not in favor of changing it.
- On the investments side, we raise doubts about the notion that large operators should increase their investments. In the context of Luxembourg, pan-European operators may not see Luxembourg as an attractive market for investing in 5G networks, especially considering that areas outside of Luxembourg-City are perceived by them as rural. As a result, the deployment of 5G networks would likely be limited to only a few cities, rather than being widespread as is the current situation in Luxembourg. The consequence of this would be that the services offered to the end-customers would be of lower quality than is the case today, which will have a negative impact on the country's economy as a whole. (N.B.: There are currently no white spots in Luxembourg, whereas this is a problem in almost all large EU Member States, even if the operators in these countries are larger and should have much more investment capacity according to the original rationale of Scenario 6).

Scenario 7: *“The Commission may consider facilitating greening of digital networks through promoting the timely switch-off of copper networks and the move to a full fibre environment and a more efficient use of networks (codecs) throughout the Union territory.”*

- Since European legislation is rooted in technology neutrality, it is commendable to discuss transitioning from copper to fiber. However, it's essential to acknowledge that there are other technologies besides fiber, such as cable and satellite, which are equally significant. Therefore, it would be beneficial to include a clarification in this scenario that the proposal does not aim to hinder the expansion of other technologies. We therefore caution against policies that are not technology/infrastructure neutral, or that may not respond to end users' demands and will have the unintended consequences of distorting the internal market.

❖ **Pillar III: SECURE AND RESILIENT INFRASTRUCTURES FOR EUROPE**

General comments

- While we appreciate the approach to enhance the security and resilience of submarine cable infrastructure, particularly in light of the current geopolitical context, we question why the focus is limited to this aspect of infrastructure without considering satellite systems as well which role is critical when submarine cables are sabotaged or damaged

¹ European Conference of Postal and Telecommunications Administrations.

by accident or due to natural disasters (e.g.: <https://spacenews.com/global-communications-under-attack-optical-satellite-networks-bolster/>).

- Furthermore, we observe that there is no specific scenario addressing quantum and post-quantum technologies. These are significant topics encompassing more than just cable infrastructure, although these technologies pose serious risks for cyber-security. It is noticeable that some FEDIL members contribute to EU programs to deploy cybersecurity solutions that are precisely based on quantum, e.g. the EAGLE-1 project² to develop and implement quantum key distribution (QKD).

Scenario 9: *“The Commission may consider establishing a CPEI (Cable Projects of European Interest) list and related labelling system by a Delegated Act under the Connecting Europe Facility.”*

- We are curious about the Commission's intentions with this proposal. Specifically, we wonder whether the Commission plans to fund one or several projects and what types of projects might be required. Will it involve cable infrastructure to support connectivity within the single market, or international cables, such as those connecting to the United States, to enhance and reinforce connectivity as part of the global gateway? Alternatively, will the focus be on international perspectives for Europe, connecting to various parts of the world, or solely on the single market? Some clarification on these matters is needed.

² [SES-led EAGLE-1 Onboards TNO and Airbus to Deliver Ground Station for Quantum Key Distribution | SES](#)