

## FEEDBACK

### European Commission Call for evidence on “Digital Networks Act”

1 July 2025

The European Magazine Media Association (EMMA) and the European Newspaper Publishers' Association (ENPA), representing the vast majority of European publishers of newspapers, magazines, periodicals and specialised press, including in digital, appreciate this opportunity to provide feedback on the European Commission's Call for evidence on the forthcoming legislative proposal for a Digital Networks Act (DNA).

We note, and welcome, the clarification in the Call that the DNA will take into account the stakeholders' feedback to the 2024 White Paper 'How to master Europe's digital infrastructure needs?', and to the 2023 exploratory consultation on the future of the electronic communications sector and its infrastructure. On both occasions, EMMA-ENPA provided feedback expressing key concerns which we believe should be duly heeded during the DNA's ongoing drafting stage.

**Our comments will focus on the DNA objective referred in the present Call of incentivising “all market players” to “invest in advanced connectivity”.** This objective has been recurrently highlighted by the Commission over the past few years throughout the various consultation stages on European digital networks. In this regard, we recall that the 2024 White Paper also read (under Scenario 4) that, in order to guarantee “a regulatory framework conducive to more investment in very high-capacity networks”, consideration could be given to 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”.

Regrettably, the present Call does not provide any details on how financing issues will be concretely tackled in the DNA – whether in line with the aforementioned White Paper's Scenario 4 proposals or otherwise. This appears to suggest that the conclusions of the forthcoming dedicated study will be key in this determination. However, the overlap in the envisaged timings of publication of the study and the DNA may effectively prevent stakeholders from commenting in a meaningful manner on concrete policy options prescribed in the former beforehand. We call for full transparency regarding any potential options being considered under the DNA's financing chapter.

Notwithstanding this lack of clarity, it clearly transpires from the Call that the objective of putting in place a framework conducive to investment in digital infrastructure by “all market players” remains on the table. Fully in keeping with our previous feedback, **EMMA-ENPA would oppose the potential imposition under the DNA, directly or indirectly and under any form, of a “fair contribution by all digital players”** – an option advanced in the 2023 exploratory public consultation. Indeed, this possibility was reinforced by the 2024 White Paper's clear statement that “the stable bedrock of any future regulation” addressing Pillar II objectives is the 2022 [European Declaration on Digital Rights and Principles for the Digital Decade](#) which called for “adequate frameworks” ensuring that market actors make “a fair and proportionate contribution” to the costs of public infrastructures.

Finally, we call on the Commission to **refrain from introducing via the DNA, as advocated by the telecom operators<sup>1</sup>, a dispute resolution mechanism implementing a so-called**

---

<sup>1</sup> Connect Europe, *Response to the Public Consultation on the European Commission's White Paper "How to Master Europe's Digital Infrastructure Needs?"*, June 2024. <https://connecteurope.org/news/connect-europe-calls-transformative-connectivity-policies-secure-europes-competitiveness>.

**“fair share” settlement regime** whereby content and application providers would be required to pay telecom companies mandatory fees for delivering traffic.

**EMMA-ENPA fully reiterates below, in general lines, its arguments against any potential introduction – directly or indirectly – of any “fair contribution” framework. These arguments are further detailed in our reply to the 2023 exploratory consultation (enclosed herewith and to which we would like to refer the Commission, as an important complement to the present feedback):**

- Any “direct payments” mechanism towards telecom providers would amount to an unjustified “double billing” for the same service and endanger the EU law net neutrality principle enshrined in Regulation (EU) 2015/2120 of equal and non-discriminatory treatment of traffic.
- Any “fair contribution” obligation would impact EU media’s sustainability, innovation capacity, competitiveness and pluralism, regardless of whether it is directly imposed or indirectly bears upon media companies – the latter case should (large) traffic generators subject to any form of fair share regime seek to offset their contributions by passing on the charges to their (business) users, including media companies.
- Particularly in the absence of any identified market failure, [as recognised](#) by the Body of European Regulators for Electronic Communications (BEREC) in 2022, any such contribution is ungrounded on a coherent policy rationale, risking decisively aggravating already existing imbalances in the digital economy and in the EU internal market.

## ANNEX

### FEEDBACK

#### European Commission consultation on “The future of the electronic communications sector and its infrastructure”

19 May 2023

***Imposing unjustified “fair contribution” obligations would endanger net neutrality, impact consumers, potentially conflict with national (constitutional) laws and negatively affect media companies – and media pluralism***

The European Magazine Media Association (EMMA) and the European Newspaper Publishers' Association (ENPA), representing the vast majority of European publishers of newspapers, magazines, periodicals and specialised press, including in digital, appreciate this opportunity to provide feedback on the European Commission's exploratory consultation to gather views on the potential developments of the connectivity sector and its infrastructure. Whilst this feedback should not be understood as EMMA-ENPA's final official position and does not preclude individual feedback from its members also being provided to this consultation and/or at later stages, we wish to hereby share our initial comments.

Section 4 of the questionnaire suggests the potential introduction of a “fair contribution by all digital players”, structured via either a “mandatory mechanism of direct payments” to providers of electronic communications networks (ECN) or an “EU/national digital contribution or fund”. Our comments will focus on this matter.

We would like to underscore that the vast amounts of high-quality online content produced by media companies and other content creators are a key driver of consumer demand for state-of-the-art – and more costly – Internet packages providing for higher broadband and data caps. This effort by media companies requires considerable, sustained investments in innovative, quality content which are also a guarantor of media pluralism in the EU. This firmly positions our members as active, significant contributing actors in the economic operation of the EU digital infrastructure, also benefiting ECN providers. Any contribution obligation directly imposed or indirectly bearing upon media companies would affect their ability to carry out those critical investments. This would not only hinder media's viability and competitiveness, with a major impact on the EU's media pluralism and diversity, but the detrimental effects on quality content production would also directly undermine the demand for developing a more robust EU digital infrastructure. In the process, it would put at risk the net neutrality principle, enshrined in EU law under [Regulation \(EU\) 2015/2120](#), of equal and non-discriminatory treatment of traffic (incl. data packets). **We therefore call upon the Commission to refrain from proposing the introduction of a “fair contribution” under any of the two options advanced in section 4 of the questionnaire.**

***Media companies and other content creators are active, significant contributing actors in the EU digital infrastructure's economic operation.***

***Any contribution obligation directly imposed or indirectly bearing upon media companies will impact the EU media's sustainability and pluralism, whereas the detrimental effects on quality content production directly undermine the demand for developing a more robust EU digital infrastructure.***

Particularly in the absence of any identified market failure<sup>1</sup>, any such “fair contribution” would constitute a measure ungrounded on a solid and coherent policy rationale that would

<sup>1</sup> As recognised by the Body of European Regulators for Electronic Communications (BEREC) in its 2022 [preliminary assessment](#) of the underlying assumptions of payments from large CAPs to ISPs.

negatively and unfairly affect – indeed, condition – the choices available to and the behaviour of consumers, who are the ones legitimately determining content and therefore traffic demand. It also risks decisively aggravating already existing imbalances in the digital economy and in the EU internal market. Ultimately, it can also translate into a direct, disruptive intervention in the value creation of EU media and creative industries in the internal market, greatly affecting content providers’ ability to carry out critical investments in innovation and quality media content without which media pluralism and diversity are compromised.

Imposing on European companies, including media companies and other content providers, a “direct payments” mechanism towards ECN providers, following a Sending-Party-Network-Pays (SPNP) model, represents an unjustified additional payment – implicitly a “double billing” for the same service endangering the EU’s net neutrality principle of equal and non-discriminatory treatment of traffic which ensures that both new and established services may reach users under equal conditions. For instance, a large traffic generator (LTG) may, if carrying out direct payments, be potentially led into a de facto better traffic treatment position compared to that of other, smaller companies – including those providing competing services. The more indirect effects of introducing a contribution obligation under any of the envisaged options also appear to be overlooked. Indeed, even in hypothetical scenarios whereby only the main LTGs are in scope – regardless of whether they carry out direct payments or contribute into a fund –, this could trigger other forms of “double billing” with equally negative effects since LTGs may seek to offset the new charges by passing them on directly or indirectly to their consumers and business users. The resulting financial burdens of this implicit double payment can further condition consumer behaviour and have a negative impact on households’ ability to continue benefiting from, inter alia, professional and high-quality media content offers – both familiar and new ones –, thereby also contributing to a reduction in media diversity in the EU. As for companies, it may also trigger significant increases in distribution costs, including media service providers that resort to LTGs to help distribute their content, thereby hampering their ability to reach consumers and threatening their sustainability, particularly in the case of smaller companies.

***A “direct payments” mechanism towards ECN providers represents an unjustified “double billing” for the same service and endangers the net neutrality principle of equal and non-discriminatory treatment of traffic.***

***Any of the envisaged forms of contribution risk negatively impacting consumers and the sustainability of media companies.***

Finally, we draw attention to the possible conflicts of a mandatory contribution obligation under any of the envisaged options with national (constitutional) laws preventing the imposition of fees or taxes where these may entail detrimental effects, including discriminatory ones, on the distribution of media content, including online press content.

***The potential conflicts with national (constitutional) laws of any envisaged contribution that may entail detrimental effects on the distribution of media content must not be overlooked.***

In light of the above, we urge the Commission to refrain from mandating under EU law any forms of “fair contribution” unsupported by any identified market failure, endangering net neutrality, and whose potentially detrimental, even discriminatory effects would not only be in conflict with national (constitutional) laws but significantly impact media companies – and thereby media pluralism and diversity in the Union. Thus, it would also run directly contrary to the goals pursued by EU initiatives such as the European Democracy Action Plan and the European Media Freedom Act (EMFA).