Network Fees Consultation response

About Us

1. Digital Future for Europe is a Coalition bringing together startups, scaleups and tech associations from across Europe's digital frontrunner nations. Our members represent the diversity of European tech, ranging in size from less than 10 employees to more than 250 in areas as varied as transport, energy and life sciences. Together we work to issue reports on the state of European tech, with our publications and policy positions being informed by the experiences of our coalition members.

Why are we responding to this consultation?

2. Resilient connectivity architecture is important to ensure that prosperity is spread, our members frequently highlight how important having the right infrastructure is to their operations. The EU Commission's Digital Decade report outlined a series of 5G infrastructure rollout targets: 1) Commercial launch of 5G services in at least one major city in all EU countries by the end of 2020, 2) 5G in Urban areas & along main transport paths by the end of 2025, 3) 5G coverage of all populated areas.[1] Ahead of the "State of the Digital Decade" report due in 2023, limited data exists on progress towards these goals, but warnings have been issued by network infrastructure providers that progress towards these goals may be hindered by lack of investment.[2] Limitations or interruptions in connectivity may have negative knock-on implications for start-ups and scaleups across Europe who rely on these services.

3. Where the internet was previously made up of separate verticals, it has since diversified, becoming a very integrated ecosystem. A 2022 GSMA report estimated the internet value chain is growing at a rate of 15% per year, as more innovation moves more activities online that were previously only done offline.[3] As more critical assets and activities are moved online, the operation of the internet becomes more central to the day-to-day operation of small businesses, economies and individuals. The provision of unfettered internet access is central to the operations of small businesses in Europe who rely on high performance computers and superfast connections to develop new and existing products. This is an argument of particular salience to the current speed of the development of Artificial Intelligence. Many small businesses in this sector cannot afford to build and train their own AI models and subsequently rely on open source generative models, upon which they build

[1] https://digital-strategy.ec.europa.eu/en/policies/5g-digital-decade
[2] https://etno.eu//downloads/news/europes%20digital%20decade%20plans%20gigabit%20networks%20roll-out.pdf
[3] https://www.gsma.com/publicpolicy/wp-content/uploads/2022/05/Internet-Value-Chain-2022-1.pdf

new tools and products, but that can only be accessed online. The rising cost of starting and operating a new business in Europe has already placed limiting factors on the progress of many start-ups, who rely on the integrated nature of the internet to develop and trade new products. Limiting their ability to do so would only serve to further dampen innovation in Europe.

4. Competition across the internet value chain, specifically across network providers is beneficial in this space. Competition has decreased prices and given consumers and small businesses greater ability to adapt to their requirements. The internet value chain is a symbiotic relationship between telcos, content providers and other players, where all parties benefit as connectivity and volume of content are expanded[4]; more demand for internet services boost revenue and incentivises investment. In 2012, the Body of European Regulators for Electronic Communicators highlighted that "requests for the data flow usually stems not from the content and application providers but from the retail Internet access provider's own customer (who "pulls" content provided by the CAPs, and from whom the ISP is already deriving revenues). Ultimately, it is the success of the CAPs which lies at the heart of the recent increases in demand for broadband access (i.e. for the ISPs' very own access services)"[5]. The proposal of a new network fee to be levied on CAPs would, in our view, limit competition, limit investment incentives, reduce quality of service, and raise prices for end-users - including our members and by extension their customers and clients. .

What are our biggest concerns?

5. **The issue is getting tied up with Digital Sovereignty:** The consultation opens up with the statement that there is "a growing requirement for strategic autonomy, security and sovereignty regarding key enabling technologies in the electronic communications area". While national security must never be jeopardised, future growth and prosperity depends on internationalism - this is particularly true in the tech sector - the european software vs hardware customer base is a global one, in 2022, European exports of high-tech products totalled €446 billion, a rise of 16% compared to 2021[6]. Research shows businesses prize reliability, cost and security above factors such as the nationality of the firm[7]. For the EU to compete it needs to be an open not a closed market and signals like this are important for investment/talent attraction etc. A 2022 Digital Future for Europe report clearly outlined the challenges businesses face in restricted, closed markets.[8] Focus instead should be on

[4]https://researchictsolutions.com/home/wp-content/uploads/2022/11/RIS-Europe-FINAL.pdf
[5]https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC_preliminary-assessment-payments-CAPs-to-ISPs_0.pdf#page=15
[6]https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230510-2#:~:text=In%202022%2C%20the%20EU%20imported,16%25%20compared%20with%202021).
[7]https://awsdigitaldecade.publicfirst.co.uk/
[8]https://www.digitalfutureforeurope.com/wp-content/uploads/Growing-Europes-Next-Unicorns-compressed.pdf

strengthening the single market to reduce barriers and increase harmonisation, this would enable European businesses, particularly SMEs, to attract the best talent, boosting their capacity and turnover.

6. **OTTP services are just the tip of the iceberg:** Streaming and cloud services are clearly the target for these proposals after intense lobbying but demand ultimately comes from consumers and businesses not the providers. New technologies e.g. AI, connected devices, the metaverse (a lot of it open source) are maturing and startups/scaleups want to build on them, integrating them into their businesses/products and services. Placing a tax on these technologies could have a chilling effect on investment as barriers to their use are raised. EU net neutrality rules indicate that consumers should be able to access content and services of their choice, in a non-discriminatory manner, and that all traffic should be treated equally.[9] We believe that the proposed levy would go against the principles of net neutrality. This would negatively impact many small businesses, who risk being deprioritized in the wake of larger internet traffic generators, with better service and higher speeds given to those who can afford them Additionally, the potential thresholds introduced for these fees may discourage small businesses from scaling up,limiting innovation investment and their subsequent economic contribution.

7. **This proposed model has not worked in the past:** In 2016, the South Korean government implemented a "sending party pays" policy that required Internet Service Providers to compensate one another for the traffic exchanged between them.[10] Faced with these bills, KT, one of the Internet Service Providers, attempted to recover this money by charging Facebook for the internet traffic generated by their data storage cache. In response, Facebook disabled their cache in KT's network, rerouting South Korean users to caches overseas. Whilst Facebook was able to reroute users in this manner, smaller content providers were unable to do so and continued to have 'network usage fees' imposed on them. As such, in addition to large service providers merely leaving the country to avoid the fees, users were subject to a degraded experience online and the content providers that were forced to remain in the country were forced to redirect investments away from their products and services. The proposed European levy risks alienating content providers, pushing them and any investments in them and the European economy overseas, further hindering progress towards the EU's Digital Decade targets.

[9]https://etno.eu/news/8-news/738-europe-s-digital-decade-plans-gigabit-networks-roll-out-and-the-fair-contribution-debate.html
[10]https://www.internetsociety.org/blog/2022/09/sender-pays-what-lessons-european-policy-makers-should-take-from-south-korea/