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ComReg response

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1 Introduction

- 1.1 The Commission for Communications Regulation (**'ComReg'**) is Ireland's statutory regulator for electronic communications, postal services and the management of radio spectrum. ComReg's role is to promote competition, protect end-users, encourage investment and innovation, and ensure that Ireland's communications networks and services operate effectively in the interests of consumers, businesses and society. ComReg works within the framework established by Irish and EU legislation. ComReg is, or will soon be, additionally responsible for aspects of the regulation of cybersecurity, network resilience, data, AI, and consumer protection.
- 1.2 ComReg welcomes the opportunity to respond to the Department of Culture, Communications and Sport's (**'DCCS'**) public consultation on the European Commission's (**'EC'**) proposed Digital Networks Act (**'DNA'**). The DNA proposal represents the most significant reform of the European electronic communications regulatory framework since the adoption of the European Electronic Communications Code (**'EECC'**).
- 1.3 ComReg notes that, while it is framed as an Act, the DNA is currently at draft stage and is therefore still subject to significant discussion, and amounts at this point to a set of proposals. **Any and all references to the DNA throughout this Response should therefore be construed as referring to the proposals set out in the DNA, which have not yet been finalised.**
- 1.4 The DNA has potentially far-reaching implications for national regulatory authorities (**'NRA(s)'**), Member States, operators and end-users. The proposal covers a broad range of areas, including spectrum management, resilience, market authorisation, numbering, competition and access regulation, fibre migration, consumer protection, governance, and environmental sustainability.
- 1.5 While ComReg welcomes a number of elements of the DNA, including measures relating to resilience, environmental sustainability, fibre migration and the retention of key aspects of the existing regulatory framework, we also have serious concerns regarding aspects of the proposals relating to spectrum management, consumer protection, numbering, competition and regulatory governance.
- 1.6 ComReg remains committed to engaging constructively with DCCS, the EC, BEREC and other stakeholders to ensure that any future framework continues to promote competition, investment, innovation and strong protections for end-users, while delivering effective and proportionate regulation across the EU.

2 Executive Summary

- 2.1 ComReg welcomes the opportunity to respond to the DCCS consultation on the DNA.¹ The DNA is a welcome opportunity to revisit how regulation can best deliver for consumers, businesses, and operators in Europe's digital economy.
- 2.2 The EECC, and, prior to it, the set of Directives adopted in 2002, has been instrumental in liberalising telecommunications markets within the EU and enabling and sustaining the progressive development of competition across the telecommunication value chain. Moving towards a single market in the delivery of telecommunications has supported significant investments in infrastructure rollout and connectivity to the benefit of end-users.
- 2.3 Ireland's transition to gigabit connectivity continues, with significant positive developments in the rollout and availability of 5G and fibre connectivity, and the adoption by end users of new technologies at affordable prices.
- 2.4 There are a number of elements to welcome in the DNA:
- (a) Retention of existing objectives relating to end-user protection and the internal market, as well as the introduction of new objectives promoting resilience and sustainability of electronic communications networks and services ('**ECNS**');
 - (b) The objective of accelerating fibre deployment through a structured copper switch-off process and the greater responsibility given to Member States and NRAs in planning and overseeing the transition;
 - (c) Retention of the core Significant Market Power ('**SMP**') framework and the continued use of symmetric access regulation, including provisions allowing NRAs to impose access obligations on their own initiative where justified; and
 - (d) Addition of environmental sustainability to the regulatory framework and measures that encourage the deployment of more energy-efficient digital infrastructure and contribute to EU climate goals.
- 2.5 However, ComReg has serious concerns regarding certain other proposals contained in the DNA, particularly in respect of:
- Radio spectrum and numbering;

¹ [Public Consultation on the Digital Networks Act Proposal](#).

- Consumer protection;
- Competition, networks, and access regulation; and
- General authorisation ('GA') conditions and single passport.

2.6 ComReg has been active in articulating these concerns to the relevant stakeholders, including through its involvement with BEREC,² which in June 2026 issued a set of 19 thematic papers setting out its views on key aspects of the DNA.³ The positions taken by BEREC largely reflect those of ComReg.

2.7 Given the significance of the proposed reforms, ComReg welcomes the opportunity to appraise DCCS of its concerns, particularly in relation to spectrum management, consumer protection, competition, numbering and regulatory governance. ComReg considers that the DNA can achieve its objectives of promoting investment, resilience and sustainability without weakening the elements of the existing framework that have delivered positive outcomes for consumers and businesses. ComReg is ready to engage further with DCCS and remains available for continued dialogue on the issues raised by the DNA proposals.

2.1 Spectrum

2.8 The DNA spectrum management proposals amount to a fundamental departure from the current framework which functions well and is underpinned by the promotion and safeguarding of effective competition as a key standalone objective across the broad range of spectrum management decisions. Competition delivers many consumer benefits: EU) consumers enjoy consistently lower mobile broadband prices than the USA and South Korea, and broadly comparable affordability to Japan.

2.9 ComReg has **fundamental concerns about the negative impacts of the DNA spectrum proposals on competition, innovation and consumer welfare** (e.g. potential for increased prices) and their compatibility with, *inter alia*, the requirements of objective justification, subsidiarity and proportionality. These concerns have also recently been called out in the:

² Body of European Regulators for Electronic Communications.

³ [BEREC position papers on the Digital Networks Act proposal | BEREC](#)

- BEREC and RSPG⁴ opinions on radio spectrum which express concerns about the DNA's spectrum proposals and the underlying evidentiary base, particularly the introduction of **indefinite licences and automatic renewals**, which adversely affect competition, noting that competition remains a key driver for investment and consumer welfare; and
- Joint declaration of the Italian and French enterprise ministries of 5 May 2026⁵ which expressed their ***“strong concerns about the negative impact of this proposal with regards to spectrum management,”*** stating that ***“The by default obligation to deliver infinite spectrum licenses could significantly affect competition in the telecom sector”***.

2.10 Under the DNA's 'shared competence' proposal, spectrum would be treated as a common European resource rather than as a national resource of Member State competence, as is the currently the case. Member State discretion over a valuable strategic State asset and public resource will be seriously constrained by the heavy-handed and disproportionate centralisation measures proposed by the EC. The proposals essentially expropriate a highly valuable strategic national resource from Member States and privatise it in the hands of existing licensees based on the DNA's unevidenced assumption (at Recital 101) that investment will increase with longer and indefinite licence durations.

2.11 ComReg's key concerns with the DNA spectrum proposals are:

- (a) **Indefinite/Unlimited licences for incumbents, automatic renewals for finite licences and for existing rights granted prior to the DNA coming into force**, which
- (i) weakens market contestability, competition and innovation,
 - (ii) limits the ability of ComReg to address market developments and use market-based approaches to introduce updated obligations, including coverage and competition-related conditions,
 - (iii) leads to more administrative decisions which increases the likelihood of increased litigation,
 - (iv) would have a significant impact on spectrum fees collected by ComReg on behalf of the State, including ComReg's ability to fund itself, and fund any State-led targeted connectivity

⁴ Radio Spectrum Policy Group.

⁵ [A Shared European Digital Agenda: Joint Declaration by Ministers Adolfo Urso and Anne le Hénanff](#)

measures in a similar manner to the very successful National Broadband Plan (**'NBP'**) project, and

- (v) represents a fundamental departure from the decades of hard-earned spectrum management practice, expertise and experience developed in Ireland and the EU;
- (b) **A softening of competition**, as the DNA proposes to downgrade the existing objective of promotion of competition from a standalone regulatory objective to a means of ensuring the provision of affordable, high-quality services. This fails to recognise competition's pivotal role in supporting competitiveness, investment, innovation and welfare;
- (c) **The many EC centralisation proposals** where the EC would grant itself decision-making powers on many important spectrum management aspects, including on licence duration and fees methodology, by way of the numerous proposed implementing acts and the proposed obligatory Union radio spectrum single market procedure in Article 31 DNA where the EC would have a veto on Member State draft decisions. This raises subsidiarity issues, reduces national flexibility and increases complexity.
- (d) **Increased complexity and legal uncertainty** arising from a surfeit of DNA proposals including the:
 - (i) need to make more administrative decisions given the DNA's indefinite licence and renewal proposals (e.g. in relation to spectrum fees),
 - (ii) proposed new complex and burdensome obligations to carry out a competition assessment for numerous spectrum management measures, including the ability to issue a limited duration licence, a decision not to automatically renew limited duration rights, or a decision to renew subject to different conditions,
 - (iii) proposed obligatory Union radio spectrum single market procedure in Article 31 DNA, and
 - (iv) numerous proposed implementing acts for which little to no visibility or regulatory certainty is provided (in contrast to delegated acts which better respect the oversight role of Parliament and Council).

2.12 Additionally, **ComReg queries the evidentiary base and the claimed problem issue** and agrees with BEREC that

“The current EU telecoms framework is working well, and the European telecommunications sector is doing much better than the DNA would have us believe. The sector shows strong competitive dynamics, has affordable prices, improving coverage and solid financial conditions, though performance varies among MS.”⁶

- 2.13 ComReg's serious concerns regarding the DNA's spectrum management proposals are set out in further detail below in Section 6.

2.2 Consumer Protection⁷

- 2.14 ComReg is responsible for regulating communications services in Ireland including, but not limited to, postal services, premium rate services, electronic communications networks ('ECN') and services ('ECS'), emergency call answering and public warning communications, and radio spectrum. We have new roles in respect of accessibility requirements for end users and physical resilience. Additionally, we expect to be assigned further responsibilities, including cybersecurity and access to, and use of, data.
- 2.15 ComReg operates within the statutory framework provided by Irish and EU law. Our work to serve the interests of users impacts every Irish home and business. Communications services have become essential to modern life. People depend on them to work, access public services, contact emergency services, manage their finances and stay connected to family and society. ComReg has a strong end-user protection mandate, and we provide support for thousands of ECS end-users each year.
- 2.16 The specific end-user protections in place in Ireland today have been developed and refined by ComReg in response to real harms, complaints, customer service issues and other market failures experienced by end-users over decades. These measures are a proportionate application of protections to specifically address national issues and end-user harms not addressed by industry, or where a risk arises that they would not be addressed by industry.
- 2.17 ComReg has intervened to address these issues by providing information and tools, and by introducing necessary protections on issues relating to contracts, billing, switching, service failures, outages and service provider conduct, for example. ComReg's experience as Ireland's communications regulator consistently shows that end-users continue to face issues relating to a range of

⁶ BoR (26) 104, [BEREC's position on the General Spectrum issues of the DNA](#), 23 June 2026, at p.2.

⁷ While addressing the impacts for consumers this section also addresses the rights of other categories of end-users, including businesses.

matters, and we regularly take necessary compliance actions in relation to a variety of service providers to uphold end-user rights. ComReg is concerned that removal of existing necessary protections in Ireland will undermine and undo the advances made and leave end-users worse off.

- 2.18 ComReg welcomes the DNA's retention of the regulatory objectives of end-user protection and sectoral end-user measures, and the introduction of new objectives of promoting competitiveness, resilience and environmental sustainability of ECNS, although the proposal to downgrade the existing objective of promotion of competition from a standalone regulatory objective is concerning. ComReg supports the DNA proposal to modernise the EU connectivity framework and to support resilient, sustainable and high-quality digital networks. ECS end-users should continue to benefit from sector-specific measures that complement general consumer protection law.
- 2.19 However, ComReg is greatly concerned that the DNA end-user proposals, which aim to simplify and harmonise ECS regulations, could result in lower protections for Irish end-users and impair ComReg's ability to protect end-users effectively. This arises from a number of aspects, in particular the extent of harmonisation, which would prevent Ireland from retaining certain existing end-user protection measures, or introducing new measures to address issues which are specific to the Irish market. ComReg highlights to DCCS its concerns that neither the Minister nor ComReg will be able to adequately protect end-users in the Irish market, should these proposals be implemented.
- 2.20 There is insufficient evidence to support the contention that removing established protections or limiting the ability of NRAs to exercise discretion to intervene when necessary, will produce better outcomes for end-users. ComReg is particularly concerned that NRAs may have limited ability to respond if new national issues emerge or if market developments create unforeseen risks for end-users, which is especially important for vulnerable users and those at risk of digital exclusion. The consequences can be significant, particularly for end-users who rely heavily on connectivity, undermining efforts to ensure equitable access to digital services. This makes robust regulatory protections as important today as ever. Simplification, while welcome in principle, must be focussed on what is truly unnecessary regulation. If regulation is necessary in order to address an identified harm, then removing it is deregulatory, and the rationale and justification for that deregulation must be clearly established and considered. Characterising regulation as 'gold-plating', 'fragmentation', a 'burden', or 'excessive' assumes an absence of need for a given regulation. Proposals to deregulate must be reasoned, specific and considered on the merits. Seeking 'regulatory pullback', or simplification, in a generalised non-specific way could lead to significant end-user harm.

- 2.21 ComReg strongly supports a competitive and innovative telecommunications sector, and agrees that any duplication within the statutory framework, should it exist, is unproductive. However, we believe that the new statutory framework should maintain existing levels of end-user protection and ensure that the pursuit of commercial efficiencies does not come at the expense of the end-users whom the regulatory framework ultimately exists to serve.
- 2.22 As a Directive, the EECC empowers Member States to implement measures and specifications to give effect to these provisions. This is not the case with the DNA, which is a directly-effective Regulation. It would therefore not be possible under the DNA to retain Member State implementing measures made under the EECC and, in many instances, there will be no replacement. Consequently, end-user rights in Ireland will be reduced and settled positions may now require interpretation by the courts. The narrative regarding the DNA is that end-user protection remains largely unchanged compared to the EECC. This is not the case, however, in the Irish context.
- 2.23 The end-user provisions of the EECC are **already subject to maximum harmonisation** with limited exceptions. However, the DNA proposals in respect of further harmonisation will reduce the current level of harmonised end-user protection rules:
- **Reduction in actual end-user protections** under the DNA compared with the EECC;
 - **Reduction in the categories of end-users** that are protected;
 - Changing the implementation mechanism for existing obligations by placing them directly on service providers, leading to the **removal of specifications already in place** under the EECC, resulting in legal and regulatory uncertainty and inconsistency;
 - No provision is made in the DNA for Member States to address **emerging issues**, as is the case in the EECC; and
 - The DNA would give rise to a **cliff edge for end-user protections**, when consumer protections under the GA and end-user protections in the EECC implementing domestic legislation fall away upon adoption. There are no adequate saving or transitional provisions to support implementation of the harmonised framework and to avoid a cliff edge and lacuna in end-user protection during the transition period.
- 2.24 ComReg's serious concerns regarding the proposals for end-users contained in the DNA are set out in greater detail at Section 8 below.

2.3 Competition, networks, and access regulation

- 2.25 ComReg welcomes the DNA's objective of accelerating fibre deployment by means of a structured copper switch-off ('**CSO**') process and supports the enhanced role for Member States and NRAs in managing the transition. The proposed timetable is broadly consistent with ComReg's existing approach, but greater clarity is needed regarding end-user safeguards during migration.
- 2.26 However, the DNA does not clearly provide for retail-level obligations on providers that have direct relationships with end-users. To ensure a smooth transition to fibre, both network operators and retail service providers should be responsible for informing customers, maintaining service continuity, and supporting vulnerable users and critical services. Alternatively, Member States should retain powers to impose such protections.
- 2.27 ComReg welcomes the preservation of the core SMP framework but is concerned that several proposals could reduce regulatory certainty, increase administrative burdens, and weaken the effectiveness of regulation. In particular, ComReg opposes the removal of the EC obligation to maintain a Recommendation on Relevant Markets, which would create uncertainty in relation to competition analysis and market reviews, reduce guidance or discretion for NRAs, and make it more difficult to justify NRA interventions.
- 2.28 ComReg is not convinced that the proposed hierarchy of SMP remedies is workable. Requiring NRAs to follow a rigid sequence of remedies undermines their ability to tailor interventions to identified competition problems and local market conditions. The prioritisation of harmonised access products which have not yet been defined, together with ambiguities surrounding pricing remedies and access obligations, risks significant legal and regulatory uncertainty.
- 2.29 ComReg **strongly opposes** the proposed extension of the EC's unilateral veto powers to NRA decisions on remedies. Together with the removal of the standalone objective of promoting effective competition, the removal of the mandatory Recommendation on Relevant Markets, the prescribed hierarchy of remedies, and the prioritisation of harmonised access products, these changes shift the framework away from a flexible, principles-based model and reduce NRA's ability to respond effectively to national and local market conditions.
- 2.30 ComReg's views regarding the DNA proposals for markets and competition are set out in greater detail at Section 7 below.

2.4 Numbering

- 2.31 ComReg opposes the DNA's proposal to shift numbering from a predominantly national competence to a centrally-managed EU competence. NRAs have decades of practical experience managing numbering efficiently, imposing numbering conditions, and addressing national market needs, while the EC lacks comparable operational experience. Centralised handling of numbering by the EC would greatly restrict ComReg's ability to efficiently specify numbering conditions. Moreover, the DNA presents no evidence to justify greater harmonisation or the introduction of pan-European numbers, noting the absence of an impact assessment, clear use cases, demonstrated market demand, or economic rationale. Numbering should remain a national competence and any proposed move towards pan-European numbering should be supported by a full regulatory impact assessment.

2.5 General Authorisation conditions and Single Passport

- 2.32 The DNA's move to a fully harmonised General Authorisation ('GA') framework would significantly reduce NRA discretion by replacing broad categories of authorisation conditions with a fixed list of conditions. This would prevent ComReg from specifying necessary additional requirements to protect end-users and support market resilience. In particular, ComReg could lose the ability to set detailed rules governing orderly exit from the market, a tool it currently uses to ensure that providers cease operations in a way that protects customers and safeguards continuity of service.
- 2.33 Separately, the Single Passport proposals could significantly weaken ComReg's ability to enforce regulatory obligations on providers offering services in Ireland, but authorised in another Member State. Under the proposal, enforcement responsibility would largely rest with the NRA in the Member State of notification, potentially requiring ComReg to rely on another NRA to address breaches affecting Irish consumers and markets. This could create incentives for jurisdiction or forum shopping, with service providers choosing to establish themselves in Member States perceived as having less burdensome regulatory oversight. ComReg therefore seeks assurance that the NRA in the Member State where services are provided will retain ultimate authority to take timely enforcement action for breaches within its jurisdiction.

2.6 Environmental sustainability

- 2.34 ComReg welcomes the inclusion of environmental sustainability as an explicit objective in the DNA and supports measures that promote deployment of

energy-efficient digital infrastructure and contribute to the EU's climate objectives. In line with BEREC,⁸ ComReg considers that the DNA would benefit from clarity and consistency in its use of the term 'sustainability', distinguishing between environmental sustainability and other concepts such as economic sustainability, service continuity or market viability.

- 2.35 Like BEREC, ComReg supports proposals for NRAs to facilitate investment in more sustainable networks, improve traffic efficiency, and collect data on environmental sustainability. However, the DNA must specify the scope of NRA objectives and tasks relating to environmental sustainability. Greater clarity is needed regarding NRA responsibilities and BEREC's role in developing common approaches to environmental sustainability, reducing the risk of divergent national practices and supporting a coherent Single Market approach.

⁸ BoR (26) 88_8 [BEREC's Position on the Sustainability Provisions of the DNA](#), 2 June 2026.

3 Part I – Scope, Objectives and Definitions (Articles 1-3)

- 3.1 ComReg welcomes the approach taken by the EC in the DNA proposal to preserve the existing regulatory objectives of connectivity, protection of end-users' rights, and the development of the internal market, alongside new objectives on the resilience and sustainability of ECNS. However, ComReg considers that some objectives and principles set out in the EECC that are central to the functioning of the telecommunications sector have been lost in the proposed transition to the DNA and should be reinstated.

3.1 Promotion of competition

- 3.2 The promotion of competition is a self-standing regulatory objective under Article 3(2)(b) EECC. Under Article 3(1)(e) DNA, the promotion of competition is downgraded to a mere instrument for ensuring the provision of services to all end-users, diminishing its significance. Competition drives investment in innovative connectivity solutions, and the sector's overall competitiveness is itself a product of competitive dynamics. Thus, promotion of competition should be retained as a standalone objective, as is currently the case under the EECC. ComReg also proposes that a new objective of reinforcing the competitiveness of the connectivity sector and industry at large be clearly linked to effective competition, which constitutes a key prerequisite for it.

3.2 Promotion of efficient investment and innovation

- 3.3 ComReg shares BEREC's concern⁹ that the DNA no longer requires NRAs to "*promote efficient investment and innovation in new and enhanced infrastructures [...]*", as currently provided for in Article 3(4)(d) EECC. The reason for this omission is unclear when this principle fosters viable infrastructure deployment, and ComReg urges that the concept of 'efficient investment' be reinstated in the DNA.

3.3 Ambiguity and legal uncertainty

- 3.4 While the terms "*electronic communications*", "*electronic communications networks*", "*electronic communications services*", and a range of related terms are, with some amendments, carried forward from the EECC into the DNA proposal, the term "*digital network*", which gives the DNA its title and which the

⁹ BoR (26) 88_3, [BEREC's position on the Objectives of the DNA](#), p.3.

BEREC Office would adopt to become the Office for Digital Networks ('**ODN**'), is not defined. This leaves a definitional void that risks introducing ambiguity and legal uncertainty into its scope of application. ComReg accordingly welcomes BEREC's recommendation to adopt a principle-based, technology-neutral definition of "*electronic communications networks*", consistent with existing EU digital legislation.¹⁰

¹⁰ BoR (26) 88_5, [BEREC's position on the scope of the DNA](#), p.5.

4 Part II – Resilience (Articles 4-8)

- 4.1 The EC introduces resilience as a main area of focus in the DNA, emphasising the role of ECNS in ensuring continuity of connectivity during natural or man-made disruptions, crises, or force majeure events. ComReg welcomes measures to further strengthen resilience and preparedness, including provisions for greater cooperation in Europe and measures to reduce or avoid dependencies. Due to the interdependencies between the Network and Information Systems Directive ('**NIS2**') and the DNA, it is important that these legislative files are implemented in a cohesive manner.
- 4.2 ComReg highlights that provisions on resilience in critical communications could lead to close, more continuous supervisory requirements for NRAs due to the requirement for uninterrupted availability of critical and emergency communications during crises. The additional requirement and potential expansion of mandate may also require additional resources for ComReg. ComReg also notes that the term "*critical communications*" at Article 5(2) DNA is not defined, creating uncertainty around its scope and application.
- 4.3 ComReg seeks clarification on how the requirements at Article 5 DNA on uninterrupted availability of critical and emergency communications would apply in practice, including incident reporting, thresholds, and compliance measurement. Clarity is also needed on how the DNA is to be reconciled with differing ECNS incident reporting thresholds defined at Member State level for NIS2, particularly if it will be an all-encompassing, aligned Union-level act.
- 4.4 The DNA should not interfere with a Member State's existing ability to put in place any legislation regarding information gathering and associated incident reporting thresholds which inform national coordination recovery efforts.
- 4.5 Article 7 DNA requires NRAs to collect information on ECNS and transmit it to the ODN. Given the potential sensitivity of this data, there are significant risks associated with its collection and handling which should be considered.

5 Part III – Single Market Authorisation and Passporting (Articles 9-12)

- 5.1 The DNA proposes a number of significant changes to the current GA regime, including, but not limited to, refining the scope of networks and services subject to GA, a Single Passport regime allowing providers to operate across multiple Member States, and fully harmonised conditions for GA.
- 5.2 Article 9 DNA defines the types of network and service providers covered by the GA framework.¹¹ By specifying a set of potential GA provisions, the DNA narrows the GA compared to the EECC, which sets out categories of GA conditions. ComReg will therefore be unable to exercise its regulatory discretion to specify GA conditions within specified categories, or add to the list of conditions beyond what is specified in the DNA. This risks depriving ComReg of a key tool it can use to protect end-users and assure market resilience.
- 5.3 ComReg is unclear as to the justification for this narrowing of scope, which accordingly limits ComReg's capacity to specify certain aspects of operator conduct under the GA regime such as, for example, further specification of how operator exit is to be conducted in an orderly fashion which prioritises the rights of end-users. While ComReg acknowledges that a level of harmonisation may be appropriate, this should not be at the expense of NRA effectiveness. ComReg therefore suggests that the EC could provide clarity to NRAs by issuing a recommendation which, in the case of national level divergences, could be subject to a notification process similar to that currently operated under Article 32 EECC to assure that national level measures are consistent with consolidation of the internal market.
- 5.4 Like the EECC, the DNA excludes number-independent interpersonal communications services ('**NI-ICS**') from the scope of the GA regime. Noting that emergency calls may be implemented over NI-ICS, and given that Article 2(39) DNA defines "*emergency communication*" as communication by means of interpersonal communications services ('**ICS**') between an end-user and the public safety answering point ('**PSAP**'), that exclusion could give rise to compliance measuring and incident reporting issues.

¹¹ The DNA proposes that the GA regime will apply to both public and non-public ECN used, wholly or mainly, for the provision of publicly available electronic communications or information society services; and public availability electronic communications services, with some exceptions. As [BEREC](#) has noted, this may amount to an extension of the scope of the GA provisions to certain new categories of providers (at p.2).

- 5.5 Article 10 DNA introduces the Single Passport regime, under which providers operating in multiple Member States need only notify the NRA of one of the Member States where they intend to provide ECNS. This NRA becomes the ‘Member State of notification’, which will be responsible for enforcing GA conditions, except in cases where, as set out in Article 11(5) DNA, the conditions “*may have a serious negative impact in its territory on the grounds of national security or public interest*” for the Member State in which those services are provided (‘Member State of destination’).
- 5.6 ComReg is strongly concerned that the Single Passport mechanism will impact the ability of the NRA in the Member State of designation to engage in enforcement action against a provider operating in that Member State. This would limit ComReg’s **ability to enforce the GA conditions in Ireland**. This would amount to the *de facto* introduction of a principle similar to the ‘country of origin’ proposal in the EC’s 2024 White Paper,¹² and would create incentives for forum shopping.¹³ We also highlight the uneven supervisory burden this may introduce among NRAs and additional bureaucratic procedures that may impact the ability of NRAs to ensure timely compliance with GA conditions given the need, for example, to administer a fees and funding regime in respect of an entity operating in another Member State. Such procedures include the complex chain of institutional interactions this could entail, such as the:
- Transmission of information from the notifying NRA to the ODN,
 - Transmission of information from the ODN to the NRAs of all Member States of destination, and
 - Need for mutual assistance from the notifying NRA in the day-to-day enforcement of obligations.

¹² COM(2024) 81 final [WHITE PAPER How to master Europe's digital infrastructure needs?](#), p.27.

¹³ BoR (26) 88_1, [BEREC's position on the General Authorisation regime in the DNA](#), p.3.

6 Part IV – Resources (Radio Spectrum and Numbering)

6.1 Radio Spectrum (Articles 13-35)

6.1 Whilst ComReg is concerned by many aspects of the DNA's radio spectrum proposals, this assessment focuses on the following key articles of concern:

- **Article 24 DNA:** Duration of Rights
- **Article 25 DNA:** Renewal of individual rights of use for harmonised radio spectrum
- **Article 31 DNA:** Union radio spectrum single market procedure
- **Article 32 DNA:** Competition

6.2 The DNA spectrum management proposals are a fundamental departure from the current framework which functions well, and where the promotion and safeguarding of effective competition is a key standalone objective across the broad range of spectrum management decisions. The current framework also strikes an appropriate balance between EU-level spectrum harmonisation (where appropriate and justified) ¹⁴ and national discretion to effectively manage the use of this valuable, scarce public resource, and to respond to specific national circumstances. For example, EU consumers benefit from consistently and considerably lower mobile broadband prices than consumers in the USA and South Korea, and broadly comparable prices to Japan. ¹⁵

6.3 **First**, under the DNA proposal, spectrum would be treated as a **common European resource** under 'shared competence', rather than as a Member State competence, as under the current framework. Member State discretion over a valuable strategic State asset and public resource will be seriously constrained by the heavy-handed and disproportionate centralisation measures proposed in the DNA, including:

¹⁴ Currently, radio spectrum is an exclusive resource of Member States, albeit that certain aspects are harmonised at European level (e.g. technical harmonisation decisions) and Member States have considerable discretion to tailor their decisions to meet national circumstances.

¹⁵ BoR (26) 36, [Europe's Telecom Reality Check, Draft BEREC Fact finding report on connectivity, competition and regulatory highlights in different jurisdictions](#), 12 March 2026.

- the granting of decision-making powers to the EC on many important aspects of spectrum management, including duration and fees methodology, by way of numerous proposed implementing acts for which little to no visibility or regulatory certainty is provided (in contrast to delegated acts which better respect the oversight role of Parliament and Council); and
- the proposed obligatory Union radio spectrum single market procedure in Article 31 DNA.

6.4 **Second**, and in relation to **duration of spectrum rights of use** (Article 24 DNA), all spectrum usage rights for ECNS would “*in principle*” be granted for an **unlimited or indefinite period** where such indefinite rights are subject to ‘regular’ reviews (including coverage and quality of service (**‘QoS’**) obligations) (Article 24(1) DNA), and are also said to be revocable.

- In relation to such ‘regular’ reviews ComReg observes that these cannot be carried out earlier than **20 years** after such rights are granted and are, furthermore, subject to the EC veto process proposed in Article 31 DNA.
- In relation to the revocation of indefinite rights, the DNA appears to **exclude** any mechanism to revoke mobile licences granted for an unlimited duration. An express exception applies within the first 40 years for any revocation of individual rights for wireless broadband (i.e. a mobile licence) which have been granted for an unlimited duration, following which Article 195 DNA is deemed to apply (Article 24(2) DNA). However, Article 195(2) DNA provides that “*Competent authorities may restrict or withdraw rights of use for radio spectrum, **other than those granted for an indefinite period of time...***”.

6.5 Additionally, the remaining provisions of Article 24 DNA are of serious concern:

- while rights of a definite duration for ECNS are possible, a **market analysis/competition assessment** would now be required¹⁶ (Article 24(3));
- a wireless broadband licence (i.e. a mobile licence) would be granted for a **minimum duration of 40 years, double** the current minimum period of 20 years (fifteen years and potentially a further five years) (Article 24(4)); and
- where rights for harmonised spectrum are granted for a limited period, they are **subject to the renewal provisions** of Article 25 DNA.

¹⁶ Currently, licence durations are determined having regard to (i) the objectives in Article 55(2) EEC (ii) the need to ensure competition (iii) effective and efficient use of spectrum and (iv) the promotion of innovation and efficient investments, including by allowing for an appropriate period for investment amortisation (Article 49 EEC).

- 6.6 **Third**, in relation to **renewal of individual rights for harmonised spectrum** in Article 25 DNA, the EC proposes that any individual rights for harmonised spectrum of limited duration are **automatically renewed** (for similar duration and with similar conditions) **upon request by the rights holder** (Article 25(1)).
- 6.7 By derogation from this presumption of automatic renewal, an NRA may decide to not automatically renew for certain stated reasons, including the need to promote, or avoid any distortion of, competition (Article 25(2) DNA). However, in relation to this particularly important objective, the DNA requires that any decision not to renew is made at least 5 years in advance of licence expiry and, additionally, it requires a market analysis to be conducted in accordance with Article 32 DNA (which is burdensome and would add significant complexity for NRAs, stakeholders and their advisors).
- 6.8 Furthermore, the proposal would limit the ability of the NRA to conduct a new selection procedure **only** in circumstances where:
- there is evidence of credible market demand from undertakings **other than those holding rights of use in the band concerned**; and
 - where the NRA has established that the number of infrastructures that can be economically sustained in the market is higher than the number of incumbent operators (Article 25(2)(f) DNA).
- 6.9 The market information an NRA requires to carry out such an assessment may not even exist 5 years out from expiry, changes quickly, and operators and potential entrants have more information than the NRA themselves. Therefore, it is not clear to ComReg how it can effectively carry out an Article 32 DNA assessment, let alone carry out such an assessment at least 5 years in advance of licence expiry in relation to a decision not to renew, noting that actual and potential market participants and technologies can change considerably during that time. There are similar difficulties with conducting the forward-looking assessment requirement of the Article.
- 6.10 Overall, ComReg considers that this process will result in increased burden and complexity, regulatory uncertainty and increased legal risk.
- 6.11 Furthermore, the **proposed automatic presumption of renewal would apply even to rights of use for harmonised spectrum that were granted before the coming into force of the DNA** and that expire within a period of time *at least 7 years* after that date (Article 25(5) DNA). In relation to the proposed automatic renewal of existing rights of use, ComReg observes that:

- the words “*at least*” suggest that this provision would apply to **all** existing rights for harmonised spectrum of finite duration, as they would expire either within or after the 7-year period identified;
- it would appear to apply even where, at the time such existing rights were granted, the possibility of renewal was explicitly excluded (e.g. multi-band spectrum award (**MBSA**) 1, 3.6 GHz and MBSA2 licences); and
- for existing rights where the possibility of renewal was explicitly excluded, this proposal runs completely counter to the current position set out in Article 50(1) EEC¹⁷ and the substantive national decisions and subsequent licensing frameworks for such existing rights.

6.12 As DCCS will observe, these constitute **seismic** changes to the current framework where:

- limited duration rights of use are granted by most NRAs;
- no default duration is prescribed (except regulatory predictability for the holders of the rights over a period of 20 years (fifteen years and potentially a further five years));
- renewal is at the discretion of the Member State/NRA; and
- re-award of expiring limited duration rights is the norm.

6.13 The proposal also represents a fundamental departure from the decades of hard-earned spectrum management practice, expertise and experience developed in Ireland and in many EU Member States (e.g. see below in respect of RSPG and BEREC opinions).

6.14 **ComReg has fundamental concerns about the DNA spectrum proposals** and their compatibility with, *inter alia*, the requirements of objective justification, subsidiarity and proportionality. ComReg also highlights the increased complexity and legal risks, longer timeframes, and lack of regulatory certainty and predictability that would likely result, particularly in respect of the numerous proposed, and as of yet, undefined implementing acts and the potential EC veto, which stand in marked contrast to the stated goals of the DNA of simplification, faster decision-making, and greater regulatory predictability.

6.15 In relation to the **objective justification** for the proposals, ComReg is unaware

¹⁷ “National regulatory or other competent authorities shall take a decision on the renewal of individual rights of use for harmonised radio spectrum in a timely manner before the duration of those rights expired, except where, at the time of assignment, the possibility of renewal has been explicitly excluded.” (Emphasis added).

of any credible evidence that the current practice of granting mobile licences of finite 20-year durations (with no possibility of renewal) is materially deficient in the context of the factors set out in the EEC (e.g. *“promote innovation and efficient investments, including by allowing for an appropriate period for investment amortisation”*), noting, among other things, that such durations provide for two to three refreshes of technologies where asset lives are generally in the order of 7 years. In addition, the EC’s claims that the (failings of) the current framework (e.g. in relation to licence duration and renewals) has led to significantly poorer 5G coverage in Europe or slower 5G standalone deployment relative to other jurisdictions do not withstand scrutiny.¹⁸

- 6.16 Since the EC is proposing such a fundamental shift in approach to licence durations and renewals, it is incumbent upon it to provide reliable evidence that longer durations (e.g. the DNA proposes 40 years and/or indefinite) do, in fact, both incentivise and result in greater and more efficient investments. In that regard, ComReg observes that a recent empirical study conducted by Charles River Associates for the UK regulator Ofcom¹⁹ (a country with indefinite licences) found that **there was no robust empirical evidence to suggest that longer licence durations induce operators to invest more in their networks or to improve their service quality**. This is not surprising. The upfront and on-going prices paid by operators for spectrum rights in awards (and re-awards) provide real, enduring incentives to quickly and efficiently make the capital investments to generate returns and so justify the spectrum fees paid. Furthermore, the argument made by operators that the prices paid in spectrum awards (and re-awards) would otherwise be spent on investments is unconvincing for the same reason - it ignores the fact that **incentives** to invest are likely materially lower when one has a right of use of indefinite duration, compared to a finite but sufficiently long period within which to recoup spectrum fee investment.
- 6.17 In addition, while revenue maximisation is not (and should not be) an objective in designing spectrum awards, this does not mean that Member States should not receive a fair return on the exploitation of a valuable, scarce **public** resource by commercial operators for profit. This is particularly so when such returns can be, and have been, used by Member States for targeted measures to obtain desired outcomes (e.g. coverage, QoS etc.) beyond what the market would commercially deliver. We have seen how effective this approach can be with fixed broadband in Ireland with the very successful NBP project.

¹⁸ BoR (26) 104, [BEREC’s position on the General Spectrum issues of the DNA](#), 23 June 2026.

¹⁹ [Spectrum Licence Duration and Capital Investment - An empirical assessment](#), Charles River Associates (prepared for Ofcom), 9 February 2023.

- 6.18 The above factors may explain why, given that licences of indefinite duration and automatic renewals are possible under the existing (and previous) regulatory framework, such approaches have seen limited adoption in the EU.
- 6.19 **ComReg is also fundamentally concerned about the potential negative effects on competition, innovation, and, ultimately, consumer welfare, particularly with respect to increased prices,** noting again that EU consumers benefit from consistently lower mobile broadband prices than in the USA and South Korea, and broadly comparable affordability to Japan.
- 6.20 ComReg's strong concerns stem largely from the proposed use of indefinite licences and automatic renewal by default (including retrospective renewals for existing licences), as well as the centralised approach to spectrum management, which would give the EC additional and extensive powers to decide on many important spectrum management aspects (e.g. licence duration, fees) that affect national telecoms markets, and severely diminish Member States' discretion and ability to effectively address national circumstances. This includes, but is not limited to, using market mechanisms, such as auctions, to assign spectrum and reliably determine spectrum fees, or to set licence obligations (e.g., coverage) to meet national circumstances.
- 6.21 In that regard, ComReg welcomes the June 2026 publication of the BEREC and RSPG expert opinions, which raise strong and similar concerns on the DNA radio spectrum proposal and the underlying evidentiary base.²⁰ These expert opinions express concern that the DNA's spectrum proposals, particularly the introduction of indefinite licences and automatic renewals, will adversely affect competition, noting that effective competition remains a key driver for investment and consumer welfare. They also note that the DNA's centralised approach calls into question its:
- (a) effectiveness, given that the current regulatory framework is working well and has proven successful;
 - (b) proportionality, particularly in light of the stated objective of simplification, given that in many respects, the DNA would increase the administrative burden and regulatory complexity for both businesses and Member States; and
 - (c) compatibility with the subsidiarity principle.

²⁰ ComReg Document 26/48, [ComReg welcomes expert opinions raising concerns on the spectrum proposals in the Digital Networks Act \(DNA\)](#), 28 July 2026; RSPG26-015 FINAL, [Radio Spectrum Policy Group Opinion on "The Digital Networks Act" proposal](#), 16 June 2026; and BoR (26) 104, [BEREC's position on the General Spectrum issues of the DNA](#), 23 June 2026.

- 6.22 ComReg also observes that in May 2026, two Member States, France and Italy, expressed their “*strong concerns about the negative impact of this proposal with regards to spectrum management,*” adding that “*indefinite spectrum licenses could significantly affect competition in the telecom sector*”.²¹
- 6.23 Additionally, ComReg notes that, prior to the publication of the DNA, both BEREC²² and many Member States,²³ including Ireland, publicly supported the current regulatory framework and cautioned against major changes (e.g., increasing licence duration for a mobile license beyond 20 years), submitting that “*the overall competence of Member States for frequency policy and management shall be maintained*”. ComReg supports these views.
- 6.24 **With respect to indefinite licences and automatic renewals, ComReg** further observes that these proposals essentially expropriate a highly valuable national resource from Member States and privatise it in the hands of existing licensees based on the DNA’s unevidenced assumption that investment will increase with longer or indefinite licence durations.
- 6.25 Competition between operators (both in the relevant markets and for spectrum rights), market-determined spectrum fees (upfront and ongoing), and licence obligations remain key drivers of investment. ComReg again reiterates the findings of the Charles River Associates study set out at paragraph 6.16 above.
- 6.26 ComReg strongly believes that the DNA’s indefinite licence and automatic renewal proposals weaken market contestability, competition, and innovation, and limit the ability of NRAs to address market developments and use market-based approaches to introduce updated obligations, including coverage and competition-related conditions. In particular:

²¹ [A Shared European Digital Agenda - Joint Declaration by Ministers Adolfo Urso and Anne le Hénañff](#) signed 5 May 2026.

²² BoR (25) 101, [BEREC Input to the European Commission’s Call for Evidence on the Digital Networks Act](#), 11 July 2025.

²³ [Non-paper of Austria, France, Germany, Hungary, Italy and Slovenia;](#)
[Non-paper on the Digital Networks Act \(DNA\) by Czech Republic, Finland, Ireland, Latvia, Luxembourg and Slovenia.](#)

- There would be very limited or no opportunities for new market entrants (i.e. new innovative players), or even for the rebalancing of existing spectrum rights between current operators²⁴ (i.e. to better promote competition or to take account of, for example, new technologies, current market conditions, updated business plans and strategies);
- It would also not be possible to use market mechanisms, such as auctions, to assign existing spectrum, which would lead to more administrative decisions (e.g., on fees or on coverage), thereby substantially and unnecessarily increasing complexity and legal risk;²⁵ and
- With no market mechanisms available to reassign spectrum upon expiry or to reliably determine the price for spectrum rights in the EU, the ability to accurately administratively determine spectrum fees would be severely curtailed - as the pool of the most relevant benchmark data within the EU would evaporate – and, with the EC setting the fees methodology, it is likely that spectrum fees would fall considerably below current market-determined levels thereby undermining efficient use of spectrum. This would also have a significant impact on spectrum fees collected by ComReg on behalf of the State,²⁶ including ComReg's ability to fund itself.

6.27 ComReg considers the retrospective application of the automatic renewal provision to existing rights due to expire at least seven years after the date of entry into force of the DNA hugely problematic, as it fundamentally changes the basis on which existing rights of use were granted (i.e. finite with no expectation of automatic renewal). Had operators known that such rights were being issued, effectively, indefinitely based on automatic renewals, then operators would arguably have bid differently in the spectrum award process. This proposal also infringes the rights of third parties (i.e. not the incumbent right holders) who could have expected rights to become available for re-award at licence expiry (e.g. see Article 50(1) EEC). Moreover, it would entrench the current distribution of spectrum rights between existing operators in all currently assigned bands across EU mobile markets, irrespective of whether such distributions optimally promote competition or ensure efficient use of spectrum.

²⁴ Noting that the proposals would permit an NRA to conduct a new selection procedure for existing rights only where there is evidence of credible market demand from undertakings other than those holding rights of use in the band concerned.

²⁵ See, for example, Ofcom's administrative setting of fees for mobile licenses, where, following protracted litigation, it was required to return £218 million plus interest: [Vodafone & others v Ofcom](#).

²⁶ For example, the spectrum fees from the last three awards of spectrum suitable for mobile services were €448m (in the MBSA2 award of 2022), €78m (in the 2017 3.6 GHz band award) and €854m (in the 2012 MBSA1 award). See [Spectrum Awards | Commission for Communications Regulation](#).

6.2 Use of Spectrum by Satellite (Articles 36-45)

- 6.28 The DNA proposes a centralised framework at EU level for the management and authorisation of satellite networks and communication services and the use of satellite spectrum granted by the EC. These networks and services would not require authorisation from any Member State, despite the fact that nearly all satellite network authorisations require coordination at national and international level. While the development of pan-European satellite networks and services could offer benefits in terms of enhanced connectivity across the EU and reduce dependence on non-EU providers, the proposed framework raises several concerns:
- The significant transfer of competence from Member States to a more centralised approach to satellite network authorisation and spectrum use risks limiting Ireland's sovereignty in areas currently within national competence, raising subsidiarity concerns as well as limiting the ability of Ireland and other Member States to manage security, defence, and spectrum-related priorities;
 - The scope of the proposed framework remains unclear. The relevant definitions and provisions do not clearly specify whether it extends beyond large-scale satellite communications services providing end-user connectivity within harmonised frequency bands, as the relevant definitions and provisions, including Article 37 DNA, lack sufficient precision;
 - The proposals represent a substantial governance change, requiring significant expertise in the ODN and newly proposed Radio Spectrum Policy Body ('**RSPB**') and additional coordination in reporting dealings with the International Telecommunications Union ('**ITU**') to all Member States; and
 - This would increase administrative workload, introduce unnecessary complexity and, potentially, cause undue delay within an already well-established ITU coordination process. The proposal also risks adding further layers of coordination and compliance to an already complex regulatory landscape, running counter to the EC's stated objective of simplification.
- 6.29 ComReg agrees with BEREC's opinion²⁷ that the DNA satellite spectrum proposal is, in its current form, excessively centralising:

²⁷ BoR (26) 108, [BEREC's position on the Satellite Spectrum issues of the DNA](#), p.2.

- Licensing related to the frequency use of national satellite networks and ground station operations should remain at the national level to ensure a flexible, rapid, innovation friendly, and growth-supporting environment, while allowing consideration of local specificities. Satellite ground stations require both national and international coordination, which prevents a fully centralised EU-level licensing procedure, and
- Any further harmonisation should follow a targeted and proportionate ‘softer harmonisation’ approach focussed on EU-level minimum conditions and enforcement mechanisms, particularly in bands where spectrum is scarce, while still preserving national authority and existing frameworks and tools.

6.3 Numbering Resources (Articles 46-52)

- 6.30 Article 93 EEC Directive treats numbering primarily as a national resource, subject only to limited coordination at EU level. By contrast, Article 46 DNA reclassifies numbering as a “*common Union resource*”, bringing it within the shared competence of the EC and Member States. The proposed Article 47 DNA also introduces a new framework for pan-European numbering resources, governed by the creation of a new Union-level numbering strategy and plan.
- 6.31 ComReg does not agree with this fundamental shift in governance towards a centralised, Union-level approach to numbering. While BEREC recognises, some harmonisation and coordination at EU level can be beneficial,²⁸ in ComReg’s view, no justification has been provided for **increased** harmonisation or pan-European numbering: there is no impact assessment (despite its likely impact on the economy and administration), no identified use cases, no economic justification, and very little demand, if any. The DNA does not address the coexistence of national and pan-European numbering services, raising broader competition concerns as pan-European numbers may advantage their providers over national providers. No analysis of this effect has been provided, and ComReg considers that a Regulatory Impact Assessment (‘**RIA**’) is needed. BEREC shares this concern, noting that numbering management is not addressed in the EC’s impact assessment, and pointing to limited demand for non-national numbers and the closure of the European Telephony Numbering Space (‘**ETNS**’) in 2008 due to lack of interest.²⁹
- 6.32 Requiring pan-European numbers to originate, route and terminate EU-wide presents a substantial technical challenge, given the heterogeneity of Member States’ numbering plans (open, closed, and hybrid plans require different

²⁸ BoR (26) 100, [BEREC’s position on Numbering provisions in the DNA](#), p.3.

²⁹ *Ibid.*

dialling rules within national networks). Practical implementation challenges would also arise. For example, the cross-border nature of pan-European numbers may increase fraud risk (e.g., through calling line identification ('**CLI**') spoofing), given that existing national safeguards are currently designed around single-jurisdictional numbering ranges. The DNA also does not clarify how number portability (preserved as an end-user right in Article 100 DNA), currently built around national systems, would work for pan-European numbers.

6.33 ComReg further notes that, as set out by BEREC,³⁰ existing EECC mechanisms already address many of the objectives pursued by the DNA, including:

- Non-geographic EU-wide numbers,
- Extraterritorial numbering databases,
- Common numbering plans between Member States,
- Implementing acts, where unmet cross-border demand exists.

³⁰ *Ibid.*, at pp.2-3.

7 Part V – Transition to Fibre, Markets Functioning and Competition

7.1 Transition to Fibre Networks (Articles 53-61)

- 7.1 The DNA proposes deadlines for the switch-off of legacy copper networks on a two-phase, area-by-area, basis, as part of the EC's goal to foster fibre connectivity. In the first phase, by end of 2035, Member States must complete copper switch-off ('**CSO**') in areas where at least 95% of premises are passed by a fibre network and affordable, comparable retail connectivity services are available to end-users. CSO must be completed in the remaining areas, with some exceptions, by the end of 2039. Member States must also prepare a national fibre transition plan and notify it to the EC by October 2029.
- 7.2 ComReg welcomes the greater, active role for Member States and NRAs to structure and lead the CSO process. The EC's proposal is broadly consistent with ComReg's own 2023 CSO decision,³¹ insofar as CSO areas correspond to exchange areas.³² However, under ComReg's CSO Decision, the notice period for switch-off may only commence once 100% of in-scope premises within that local exchange area have been passed by modern infrastructure.
- 7.3 While ComReg welcomes the change to the overall CSO regime, the DNA proposals relating to safeguards for end-users (Article 59 DNA) are unclear. In particular, it is not clear to what extent Member States and NRAs have the flexibility to impose requirements on operators and providers at the retail level to ensure the protection of end-users before, during, or after a future CSO. Article 60 DNA applies specifically to operators, but there may be a gap regarding obligations on providers holding the direct relationship with end-users, as also cited in BEREC's position on migration and CSO.³³
- 7.4 End-user benefits of gigabit connectivity, which include faster, more reliable, and secure services, should encourage end-users to migrate to fibre where

³¹ [Framework for the Migration from Legacy Infrastructure to Modern Infrastructure](#), D09/23.

³² In March 2021, Eircom issued a white paper outlining its intention to switch-off its copper network. ComReg began work on a framework regarding the Migration from Legacy Infrastructure which included a Call for Inputs, Consultation and finally a Decision ([D09/23](#)) issued in November 2023. This Decision outlined various requirements for Eircom, including a Switch-off Proposal which must be submitted to ComReg for approval before CSO can begin. As of July 2026, Eircom has yet to submit a Switch-off Proposal regarding Migration from Legacy Infrastructure.

³³ BoR (26) 88_12, [BEREC's position on Migration and Copper Switch-off \(Articles 53-61\) of the DNA](#), pp.10-11.

available. It is imperative that end-users benefit from migration to fibre and have a smooth and seamless CSO transition (e.g., they are adequately made aware, in advance, about a CSO and prepared for a CSO deadline before any withdrawal of copper-based ECS). It is also important that Retail Service Providers (**'RSP(s)'**), which have a direct relationship with their customers, plan how they migrate their customers and how they address the needs of those customers potentially at risk of adverse impacts on migration (e.g., vulnerable end-users or those with specific requirements). End-user information is of the utmost importance for a successful CSO process and information obligations should be extended to all parties involved. ComReg agrees with the BEREC proposal for end-user protection³⁴ that:

- (a) Obligations be explicitly placed on both operators and RSPs to ensure clear and timely information, continuity of service, and the effective migration of copper-based end-users and users of critical services to functionally equivalent alternatives; or, in the alternative,
- (b) Member States should be granted the necessary powers to introduce and enforce such measures.

7.2 Access to Land (Articles 62-64)

- 7.5 ComReg has reviewed these provisions and, noting they remain largely unchanged from the EECC, has no observations to make.

7.3 Interconnection (Articles 65-71)

- 7.6 The DNA largely preserves the existing approach to symmetric access regulation as an objective, proportionate, and non-discriminatory regulatory tool to address high and non-transitory economic or physical barriers to replication (i.e. to building competing infrastructure). The proposal maintains the ability for NRAs to impose symmetric access, on request, both to in-building wiring and at key concentration or distribution points to address local bottlenecks. ComReg welcomes Article 69(5) DNA which enables NRAs to impose such obligations on their own initiative, where justified to secure the policy objectives of Article 3.
- 7.7 ComReg also welcomes Article 71 DNA, which allows NRAs to oblige fibre-to-the-home (**'FTTH'**) operators to connect, upon request from end-users, households passed by their fibre network where CSO has been mandated. Where more than one operator is present in an area, the NRA may impose the connection obligation on only one of the providers (based on transparent,

³⁴ *Ibid.*

proportionate, and non-discriminatory criteria). Further clarification is necessary here, as it is unclear whether the one operator restriction is per CSO area or per household. As also noted by BEREC, the phrase “*is present in an area*” is unclear, as several operators may be present in an area without any overlap in footprint, with regard to actual premises passed by those operators.³⁵

- 7.8 Finally, the DNA retains obligations on NRAs to notify the EC, BEREC, and other NRAs of symmetric access measures, and the EC will continue to have the ability to veto symmetric access beyond the first concentration point. However, under the DNA, this veto will no longer require BEREC’s support (double-lock veto, Article 33(5)(c) EECC). As discussed further below in respect of Article 85 DNA, **ComReg strongly objects to the extension of the EC’s veto power on most remedies**. ComReg and BEREC agree that the EC should not have a unilateral veto position on remedies based on symmetric measures, given the extent of technical and local knowledge held by NRAs. In crafting remedies to address identified competition harms, ComReg (and other NRAs) has regard to a level of technical expertise and local knowledge which assure that remedies appropriately have regard to national-level circumstances while preventing the anti-competitive exercise of their market position by operators designated with SMP. Removing this unnecessary veto will simplify the telecoms framework and reduce the administrative burden.³⁶

7.4 Markets and Competition (Articles 72-86)

- 7.9 ComReg welcomes the preservation of the core SMP framework in the DNA, which supports competition, investment, and end-user benefits in terms of lower prices, higher quality, and variety of choice. However, ComReg is concerned that several of the proposed changes will reduce regulatory predictability, increase the burden on NRAs, and decrease the effectiveness of access regulation.
- 7.10 The DNA removes rules on co-investment in Very High-Capacity Network (‘**VHCN**’) infrastructure (Article 76 EECC), as well as the EC’s obligation to adopt a Recommendation on Relevant Markets (‘**RRM**’) (Article 72 DNA). ComReg welcomes the simplification of the VHCN framework, as application of the rules was complex, but has concerns about the removal of the requirement to adopt an RRM. The RRM identifies electronic communications product and services markets that justify *ex ante* SMP regulation. Under the DNA, the EC would assess whether such a recommendation is needed and could, at its

³⁵ BoR (26) 88_11, [BEREC’s position on the Symmetrical Regulation of the DNA](#), p.5.

³⁶ *Ibid.*

discretion, leave the imposition of *ex ante* market regulation open-ended. ComReg echoes BEREC's concern that *ex ante* regulation could, as a result, be interpreted as exceptional, despite the justified regulation of markets.³⁷ This could potentially reduce legal *and* market certainty and predictability (which are key principles supporting investment in telecoms networks, which are long-term in nature), as well as remove important methodological guidance for NRAs. The current wording in Article 64(1) EECC should be maintained: the EC should remain obliged to adopt and update an RRM. Additionally, the revised recommendation should retain the wholesale local access ('WLA') and wholesale dedicated capacity ('WDC') markets, including guidance on when physical infrastructure access ('PIA') could be regulated on a standalone basis.

- 7.11 Should an RRM not be adopted by the EC, resulting in no markets being considered susceptible to *ex ante* regulation at EU level (following an EC assessment resulting in a zero markets Recommendation), the evidentiary burden to justify (and defend before the courts) national measures would substantially increase for an NRA identifying market failures requiring regulation, leading to longer, more complex market analysis processes.
- 7.12 The DNA also introduces a hierarchy, of SMP remedies. Under Article 77(1) DNA, NRAs must first examine whether existing regulation, competition law, and relevant commercial agreements already address competition concerns. Additionally, Article 77(2) DNA introduces the obligation for NRAs to consider voluntary commitments offered by SMP operators under Article 83 DNA (discussed further below). Following that, under Article 77(4) DNA, NRAs must first consider transparency and non-discrimination obligations, followed by access to passive networks (including dark fibre), and then EU-harmonised access products which may include local access products. Only with "*substantiated justification*" may NRAs impose other access obligations, including active or virtual access to specific network elements and services.
- 7.13 Remedies are designed to address concerns identified by market analysis in a proportionate and efficient manner, tailored to national or local circumstances. **ComReg has serious concerns that introducing a rigid sequence of remedies introduces excessive complexity and creates significant legal and regulatory uncertainty.** The proposal limits ComReg's capacity and flexibility to design the most adequate remedy, or remedies, to address issues identified in a market analysis without any likely countervailing simplification benefit. Imposing remedies in a set, predetermined order risks severing the logic of the obligations from the market analysis and among the remedies themselves, which often need to be imposed together as they are

³⁷ BoR (26) 88_7, [BEREC's position on access regulation \(market analysis\) of the DNA](#), p.2.

complementary. NRAs may also be required to impose a higher remedy before reaching the one that addresses the identified competition problem, resulting in excessive regulatory intervention.

7.14 It is unclear whether Article 77(4) DNA mandates transparency and non-discrimination obligations in the absence of an accompanying access obligation. ComReg shares BEREC's view that this risks weakening these remedies, given that many SMP operators are vertically integrated.³⁸ Without a mandated access product, a vertically integrated SMP operator retains full discretion over whether to offer any wholesale product. Transparency and non-discrimination obligations could only attach to a product of the operator's choosing, or none at all. ComReg agrees with BEREC that, for these first-stage remedies to be effective, they must correspond directly to specific findings in the market analysis and attach to an access remedy.

7.15 The hierarchy of remedies requires NRAs to impose EU-harmonised access products (described in Article 81 DNA) when access beyond passive infrastructure is needed. ComReg states that their precise specification must be informed by input from the EC *and* BEREC, given the significant effort that will be needed at EU level to define this product. ComReg cautions against prioritising the imposition of harmonised access products (which are not yet specified) over the obligation to provide access to, and use of, specific network elements and associated facilities under Article 78 DNA. Harmonised access products should remain in the NRA toolbox, but should not be prioritised over other access remedies.

7.16 Article 79 DNA states that

"A national regulatory authority may, in accordance with Article 77, impose obligations relating to cost recovery and price control, including obligations for cost orientation of prices and obligations concerning cost-accounting systems, for the provision of specific types of interconnection or access, in situations where a market analysis indicates that a lack of effective competition means that the undertaking concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users."

7.17 However, Article 77 DNA states

*"In addition to the obligations referred to in the fourth subparagraph of this paragraph, where obligations laid down in Articles 77 to 84 are **not appropriate**, national regulatory authorities may impose the obligation of*

³⁸ BoR (28) 88_9, [BEREC's position on SMP Remedies \(incl. Harmonised Access Products\) of the DNA](#), p.5.

accounting separation, the obligation of price control and cost accounting obligations.”

These formulations, which are fundamental to SMP regulation, appear inconsistent and unworkable.

- 7.18 Article 83 DNA introduces the obligation for NRAs to consider voluntary commitments offered by the SMP operator to address identified competition problems. ComReg welcomes the simplification via consolidation of the procedures for voluntary separation and other commitments into one process. However, it is unclear to ComReg how this framework would operate in practice, particularly within the timeline of the market analysis process, given the greater emphasis placed on voluntary commitments throughout the SMP designation and remedy selection process. We are concerned that the commitments procedure risks inviting negotiation in place of regulation, or could be exploited by SMP operators to cause further delay. ComReg agrees with the BEREC recommendation that the commitments procedure should be reshaped so as not to incentivise SMP operators to delay timely *ex ante* regulation.³⁹
- 7.19 Article 85 DNA extends the EC’s unilateral veto powers on most remedies, except access to passive networks and EU-harmonised access products. Under Articles 32-33 EECC, the EC can veto market definition and SMP designation but can only issue non-binding recommendations on remedies. **ComReg does not agree with the extension of EC veto powers to NRA decisions on remedies.** This proposal threatens to replace NRAs’ technical and market-specific assessments with a centralised EC decision, absent clear legal standards. This risks introducing legal uncertainty and constraining our ability to respond to local market realities to the detriment of end-users. We echo BEREC’s proposal to remove the EC’s veto power on remedies.⁴⁰
- 7.20 A further point is that Article 73 DNA introduces the requirement that, prior to CSO, NRAs shall conduct reviews of relevant markets covering at least the areas affected by CSO. It is not clear why this provision is necessary, given that a market analysis will, by its nature reflect market developments such as CSO and ignores the likelihood that the process of CSO will take many years. ComReg additionally notes, as set out by BEREC, that the requirement under Article 73(1) DNA to conduct a market review within one year is impracticable and unlikely to allow sufficient time for a comprehensive market review.⁴¹

³⁹ *Ibid.*, p.8.

⁴⁰ *Ibid.*, p.9.

⁴¹ BoR (26) 88_7, [BEREC’s position on access regulation \(market analysis\) of the DNA](#), p.4.

- 7.21 Article 86 DNA introduces the ability for NRAs to adopt provisional measures, valid for up to eighteen months, where urgent action is needed to safeguard competition or protect end-users. ComReg welcomes this provision, as it provides some legal clarity on the use of provisional measures.
- 7.22 The DNA proposes to delete Article 77 EECC. ComReg is of the view that its retention in some form should be considered, particularly if it were to focus on access to enduring bottlenecks such as access to physical infrastructure, and if the threshold criteria for its use were lowered from those currently in the EECC.
- 7.23 Overall, while the SMP framework has been formally preserved, the proposed changes detailed above, including the:
- Removal of the objective to promote effective competition (see **Part I**);
 - Removal of the mandatory RRM;
 - Introduction of a proscribed hierarchy of remedies imposed;
 - Prioritised, undefined harmonised access product; and
 - EC veto on remedies

move this framework away from a principles-based model.⁴² ComReg cautions against any measures that remove NRAs' flexibility to tailor remedies to national and local market conditions in favour of a centralised, rigid EU-level model that may only create gaps between national realities (e.g., technical or commercial differences) and decisions made at EU level.

⁴² BoR (28) 88_9, [BEREC's position on SMP Remedies \(incl. Harmonised Access Products\) of the DNA](#), p.4.

8 Part VI – Services

8.1 Universal Service Obligations (Articles 87-92)

- 8.1 The DNA clearly envisages that public policy tools will be used to address any gaps, where the relevant market is not commercially served. The first port of call by the Member State is the introduction of a public policy tool other than the universal service public policy tool. Universal service is the measure of last resort. It is only on an exceptional basis that universal service obligations (**'USO(s)'**) shall be used.
- 8.2 Public policy tools are, in principle, recognised to be more cost-effective and less market-distortive than USOs. Where a USO is used it is to be funded using State/EU funding.⁴³ Under the DNA, State Aid rules will be used to regulate funding of USO, rather than using bespoke net cost regimes, as has previously been the case.⁴⁴
- 8.3 Designation is replaced by entrustment procedures.⁴⁵ Article 90 DNA envisages that it is only on an exceptional basis that USOs may be imposed by Member State using an act of entrustment. Member States may decide to impose universal service entrustment only where public policy tools or other measures *"did not provide the desired effect"*.
- 8.4 The EC may specify the criteria and methodology for:
- (a) defining adequate internet access service (**'IAS'**), including the bandwidth necessary for social and economic participation in society referred to in Article 87 DNA in light of national conditions, and
 - (b) establishing whether the retail prices of the services are affordable for consumers with low income or special social needs.

⁴³ **SGEI Package** - adopted in 2012, this package of rules clarifies how to apply the Treaty articles specifically to public service compensation.

⁴⁴ [Report on Consultation and Decision on the costing of universal service obligations: Principles and Methodologies](#) 31 May 2011. Document Number:11/42; Decision Number: D04/11.

⁴⁵ A European entrustment procedure (often referred to as an **act of entrustment** EU law (pursuant to Article 106(2) TFEU),) is a formal mechanism used within the EU to officially task an entity—such as a public agency, private firm, or non-profit organization—with the management and delivery of a Service of General Economic Interest (**'SGEI'**).

This procedure stems from the 2003 [Altmark judgment](#) of the Court of Justice of the European Union, which established that compensation for public services does not constitute illegal state aid if specific, transparent criteria regarding the entrustment are met.

- 8.5 Where an implementing act is adopted by the EC, it becomes legally binding on Member States. The use of implementing acts by the EC is not mandatory.
- 8.6 Article 88 DNA requires NRAs to monitor the evolution and level of retail prices annually (but is silent on whether this refers to the calendar year). The focus in the DNA is now on the contract rather than the connection, if the consumer requests to limit to voice only.
- 8.7 Technology neutrality is not as central in the DNA proposal as it is in the ECCC. The DNA expresses clear preference for fibre as it is seen as able to support AI and cloud-based networks. Satellite is seen as important, particularly in the context of resilience. The Member State is to specify the quality standards and legislation will be required to do so.
- 8.8 The DNA proposes to replace the term “*adequate internet access*” with “*adequate broadband internet access service*”; to remove the reference to services that it must at least support; and to replace the BEREC “*Best Practices Report*” with “*BEREC Guidelines*”.
- 8.9 Article 87 DNA proposes to define adequate internet access in light of:
- (a) minimum bandwidth enjoyed by the majority of consumers in their territory;
 - (b) taking account of BEREC guidelines; and
 - (c) bandwidth necessary for social and economic participation in society.

8.2 Open Internet Access (Articles 93-94)

- 8.10 ComReg welcomes the retention of net neutrality as a fundamental principle and notes that the DNA largely preserves the substantive provisions of the Open Internet framework. However, the recitals of the Open Internet Regulation play an important interpretative role in ensuring legal certainty and consistent application of the rules, and ComReg supports their inclusion in the DNA.
- 8.11 ComReg supports the removal of the current requirement on NRAs to publish annual Open Internet monitoring reports. However, with respect to the reporting obligations introduced under Article 94 DNA, ComReg considers there is a need to clarify the expected scope of the data to be collected by NRAs from providers of ECNS to the public, including providers of IAS. Further clarification may be needed as regards the specific definitions of the relevant indicators to be reported by internet service providers, in particular with respect to speed-related indicators such as normally available speeds.

- 8.12 ComReg welcomes the retention of existing transparency obligations that support Open Internet access. However, it considers that Member States should retain the ability to maintain or introduce additional monitoring, information provision, or transparency measures where justified to address national circumstances.
- 8.13 Further clarification is also required on the replacement of the broader concept of “*end-user*” with the narrower concept of “*consumer*” in certain provisions, including Article 96 DNA. The enforcement framework should ensure that Open Internet protections remain fully effective for all relevant users.
- 8.14 With regard to specialised services under Article 93(6) DNA, ComReg considers that any future implementing acts should take account of existing regulatory expertise and guidance in this area, including ongoing work on emerging technologies such as 5G network slicing. While the DNA proposes empowering the EC to adopt implementing acts, any such acts should complement rather than duplicate or undermine existing guidance. If implementing acts are adopted, they should be informed by having the utmost regard to a formal BEREC opinion to ensure consistency with established regulatory practice and technical expertise.

8.2.1 Internet Ecosystem and IP Interconnection

- 8.15 ComReg considers that the Open Internet framework should be coherent across the digital value chain, ensuring that protections are not undermined by developments in other layers of the internet ecosystem. In this regard, there may be merit in monitoring developments beyond connectivity services where risks to openness, access or competition may arise.
- 8.16 ComReg considers that the internet protocol (‘IP’) interconnection ecosystem continues to function effectively through commercial arrangements and market-based outcomes. Ongoing monitoring of market developments, including traffic growth and infrastructure investment, remains important to identify emerging concerns at an early stage. Any future regulatory intervention should be evidence-based, proportionate, supported by robust impact assessment, and demonstrated to address a clearly identified market failure.

8.3 End-User Rights (Articles 95-114)

- 8.17 ComReg and BEREC⁴⁶ welcome the retention of sector-specific end-user protection rules, as horizontal regulation cannot address all the sector-specific

⁴⁶ BoR (26) 88_15, [BEREC’s position on end-users’ rights of the DNA](#), June 2026.

issues that may arise, especially for vulnerable end-users, and micro and small enterprises. The sector-specific rules have proven to be necessary and effective in safeguarding end-users' rights. This strengthens transparency and protects end-users, enabling them to confidently engage in the market and with their service provider throughout the customer journey.

- 8.18 In this context, ComReg has **serious concerns** on behalf of end-users in Ireland regarding the DNA proposals for end-user rights.
- 8.19 Although maintaining end-user protections is confirmed as an objective in principle in the DNA, ComReg considers that the use of a regulation rather than a directive to achieve harmonisation and simplification will inevitably result in **a loss of end-user protection** at Member State level, and of Member State discretion. The move to centralise end-user matters at EU level will require extensive analysis of national end-user protections with a view to revoking any measures that breach the maximum harmonisation requirements of the DNA and will, in most cases, remove Member State discretion when addressing new or emerging issues. This is a significant concern. BEREC has previously advocated for flexibility at Member State level to account for national market circumstances and to enable prompt reaction to specific market developments.
- 8.20 While the choice of a regulation as the legal instrument implies a more uniform application of rules across the EU, and that end-users will have the same rights across the EU, ComReg is concerned that the proposal will result in lower levels of protection for some citizens and, ultimately, weaken end-user protection. Indeed, one failure of the impact assessment carried out at EU level is to compare the provisions of the EECC (a directive) with those of the DNA (a regulation), without taking into account the range of transposing measures at national level that build upon generally stated obligations in the EECC. Many of these implementing measures now stand to be lost by the use of a regulation as the legal instrument.
- 8.21 While noting the focus on cross-border service provision in the DNA, it is important that there is no 'cliff edge' for existing end-user protections in the interim and that the net outcome is a positive one for end-users. Enabling end-users to benefit from competition and protecting them while they do so are long-established principles in the sector. These principles should not now be considered a threat to the conditions to do business. End-user protection complements, rather than conflicts with, competition and how they are balanced is critical to ensuring the ongoing effectiveness of rights of all end-users.
- 8.22 In respect of universal service, public policy tools are the *de facto* method to address any universal service gaps, where the relevant market is not

commercially served. Where USO is used (via entrustment acts), it is to be funded using State/EU funding.

8.23 ComReg has concerns about the effectiveness of the proposals on end-user protection. These concerns primarily relate to:

1. **Harmonisation and a lack of clarity regarding Member States' ability to legislate**
2. **Apparent lowering of end-user protection**
3. **Removal of consumer protections from the General Authorisation regime**
4. **Absence of necessary transitional and saving provisions**
5. **Copper switch-off (CSO)**

8.3.1 **Harmonisation and lack of clarity on Member State ability to legislate**

8.24 The use of a regulation as the legal instrument reflects the intention to harmonise ECNS at EU level. In that light, the EC has affirmed that the DNA proposals **do permit** Member States to legislate on anything which is not the subject matter of any DNA article, but these rules cannot conflict with the DNA or other EU legislation.

8.25 Nevertheless, clarity is needed that the maximum harmonisation provisions of the DNA do not mean that Member States are prevented from legislating generally in respect of an issue addressed by the Article subject matter, unless the issue is specifically and precisely regulated by the DNA. Specifically, clarity is needed on the following:

- A. Is it the specific provisions within the DNA article itself or the subject matter addressed by the articles that is the subject of maximum harmonisation? For example, are Member States to interpret the Transparency provision (Article 96 DNA) as meaning that only Member State rules relating to the publication of the Annex IV information in the specific circumstances are subject to maximum harmonisation, or must any measure at national level that touches on the general issue of transparency (including those that relate to the transparency of matters other than the information in Annex IV), and that is not addressed expressly by another article of the DNA, now be withdrawn at Member State level? A further example is whether a transparency measure related to QoS (which is not the subject of any express provision in the DNA end-user rights provisions apart from the IAS provisions triggering consumer law remedies in Article 97(4) DNA) is to be considered incompatible with the DNA.

Are Member States **permitted** to legislate to introduce possible national end-user protection measures and/or maintain national end-user protection measures where already introduced, on the **form and location of** information for end-users (which is not prescribed in Article 96 DNA) consistent with the DNA objective of protecting the interests of citizens and goals in recitals (including 258, 264, 265 and 274) to strengthen transparency and QoS for end-users?

Irish legislation protects consumers and other end-users (including microenterprises, small enterprises and not-for-profit organisations) by means of the introduction of requirements for providers of IAS and publicly available ICS to have, *inter alia*, a customer charter strengthening transparency of information. A charter provides end-users with one easily accessible and comparable place ('one-stop-shop') to get information.

A further example is that national legislation in Ireland provides for consumer protection through the specification of requirements on providers in respect of minimum QoS standards in relation to outage information provided by service providers to their customers. It is beneficial for consumers to receive information from their provider on service outages, particularly in challenging situations such as storms, which are increasing in regularity. ComReg would welcome clarity on whether such a transparency measure (such as the above existing measures in Ireland) is compatible with Article 96(2) DNA.

- B. Does scope remain at national level to legislate to address specific local (national) issues or to address emerging end-user harms in a timely manner? If so, what are the boundaries of this scope? These matters are too important for there to be any ambiguity.

8.3.2 Apparent lowering of end-user protection

- 8.26 The EC has confirmed that it does not want to significantly lower consumer protection while seeking to achieve harmonisation and simplification. Unfortunately, it appears that the EC has chosen proposals that fall short of these objectives, in particular when dealing with national end-user protection provisions addressing specific issues.
- 8.27 In Ireland, GA conditions are in place to protect consumers. In addition, regulatory measures have been taken to implement and fulfil the requirements of the EECC, and the Universal Service and Users' Rights Directives prior to that. Some of these measures are a long time in place. The DNA would:

- remove the consumer protection conditions attached to the GA (see point 3);
- remove certain areas that were previously the subject of direct requirements at EU level (e.g. publication requirements related to QoS);
- disapply certain existing protections from certain categories of business end-users who have protection under the EECC; and
- remove the legal basis for measures taken at national level to fulfil the requirements of the Directives referenced above, even in circumstances where the general obligation remains in the DNA.

8.28 While simplification and the desire to remove ‘gold plating’ have been referenced as justifications, these cannot apply equally to all the end-user protections put at risk or entirely removed by the DNA. Clarity is needed on what steps have been taken to ensure that the body of consumer protection law across Member States that stands to be lost by this proposal is a positive development and consistent with the EC’s stated aim that consumer protection is not significantly lowered. As noted, the impact assessment carried out in this regard at EU level does not adequately engage with these issues.

8.29 By way of example, Article 105 EECC requires providers to notify end-users of any change in their contractual conditions. Heretofore, Member States could specify requirements for providers regarding contract change notification such as format, order and content of the required Regulatory Notification to ensure notification by providers to their customers in a clear and comprehensible manner on a durable medium. This benefits end-user by enabling them to make informed decisions, engage with the switching process and ensure regulatory notifications are accessible. The DNA proposal may lower end-user protection in relation to this key (and other) end-user rights. ComReg also notes that only consumers (and not other end-users, such as micro and small enterprises) are to be subject to the requirements around contract change notifications.

8.30 The rationale of the EECC is that smaller business end-users are comparable to consumers in terms of bargaining power and, therefore, they should be similarly protected. This position has now changed without sufficient justification. In ComReg’s view, this is a clear reduction in end-user protection.

8.31 It seems that a choice has been made by the EC that harmonisation and simplification justify the removal of end-user protections in the interests of competition. ComReg is concerned that taking the position that everything must be tied back to these general aims of harmonisation and simplification assumes that they have net benefits overall; in the end-user context, evidence should establish the net benefits that warrant a reduction in end-user protection.

8.3.3 Removal of end-user conditions from the General Authorisation lowering of protection

- 8.32 As set out at paragraph 5.2, the DNA proposes to generally reduce the scope of the GA, including removing consumer rules. The EC has noted that the DNA focuses on harmonisation. Attaching conditions to the GA is an important tool by which consumer protections not otherwise covered by law can be inserted as conditions of carrying on business in the ECS sector in the State.
- 8.33 In Ireland, GA conditions are in place to protect consumers. The DNA would remove such conditions and prevent their reimposition. ComReg is concerned that these protections are not lost and that, if removed by the DNA, they are instead provided for in national legislation. The EC should provide its rationale for determining that consumer protections are, *in toto* and across all Member States, no longer necessary and which consumer protections specifically amount to so-called 'gold-plating', as set out at p.7 of the DNA. In this regard, key consumer protections feature in Ireland as GA conditions and they are quite removed from what might be considered gold-plating.
- 8.34 For example, in Ireland one of the conditions in the GA to protect consumers relates to the exit of a network or service provider from the market. These GA conditions protect consumers by requiring the provider to:
- (a) notify ComReg, in writing, as soon as possible that exit is imminent;
 - (b) notify its consumers (as applicable), in writing, as soon as possible that exit is imminent;
 - (c) upon request from ComReg, provide any information ComReg considers necessary; and
 - (d) use all reasonable endeavours to ensure that the effect of any cessation of service is minimised.

These conditions have proven critical in cases of domestic provider exit.

- 8.35 The proposed Single Passport System for authorisation raises questions as to whether ComReg may enforce breaches of the DNA that occur in Ireland in all cases, and if so, in how this will be permissible in practice. For example, a provider authorised in France providing services in Ireland may be subject to enforcement proceedings in France for breaches that occurred in Ireland. This new departure raises fundamental questions around end-user protection and the ease and speed of enforcement action for breaches occurring in the State. ComReg seeks confirmation that final decisions on enforcement will remain with the Member State / NRA in the state of service provision.

8.3.4 Absence of transitional provisions from current to new regime

8.36 We expect that the EC does not intend to cause uncertainty for industry or end-users during the implementation of the DNA. However, it appears this may not be achieved without specific saving and transitional provisions.

8.37 It is unclear how the EC proposes to ensure that there will be a smooth transition from the current regime across Member States to the new regime in a manner that avoids lacunae, uncertainty, and a 'cliff edge' for end-user rights. For example, will the EC consider principles such as:

- Allowing Member States to maintain existing end-user national provisions until relevant implementing acts have been enacted;
- Where no such implementing acts are intended, expressly allowing the retention of existing Member State provisions that are consistent with provisions of the DNA that are retained from the EECC;
- Providing for additional implementing acts, particularly for areas where specification of further implementing detail at national level is permitted under the EECC or where it may be necessary to properly implement an obligation directly imposed in the DNA on providers. The contract change notification example is relevant here. Arising from a lack of transparency and comprehensibility in contract change notifications ComReg specified requirements for their format and content so that end-users were properly notified of contractual changes in an appropriate form and in sufficient time to exercise their rights. The use of a regulation for the DNA would remove the legal basis for these requirements and unwind the now well-established rules around the format and content of these notifications. It is unclear why such a protection should be lost in pursuit of 'harmonisation' or how this generally stated aim justifies such a retrograde step on this issue; and
- A regulation is directly effective and does not require transposition at national level. Where there are gaps in a regulation it is not always possible to fill them absent express and specific power to do so. The loss of the ability to attach consumer protection conditions to the GA compounds this problem. Certain complementary definitions and provisions have been added in transposing provisions for the EECC (such as key concepts relating to headline obligations) which are unavailable in the case of a regulation. For example, in Ireland, with respect to emergency communications the following are provided for in the transposing provisions of the EECC Regulations:⁴⁷

⁴⁷ S.I. 444/2022.

- (a) definition of “*most appropriate PSAP*”;
- (b) the fact that eCalls are emergency communications; and
- (c) that 999 is an alternative emergency number.

8.38 Such legislative gaps will need to be filled by national legislation. These are the more straightforward examples, however. In other instances, provisions are stated in very general terms, sometimes without accompanying definitions. It will be difficult in practice to determine whether such generally stated terms can be defined at national level, consistent with the maximum harmonisation requirements of a regulation. The DNA needs to either be specific or allow the flexibility for Member States to specify the details. Anything in between risks creating significant legal uncertainty and a framework that results in frequent litigation. Clarity is needed on how the EC intends to address such matters absent an express power in the DNA for Member States to do so. This issue is compounded by the loss of the power to protect consumers via the GA.

8.39 ComReg welcomes the retention of a specific provision (Article 111(1) DNA) for specification of requirements at the national level to ensure equivalent access and choice for end-users with disabilities. In Ireland, ComReg imposed such measures pursuant to its powers under Regulation 17 of the Universal Service Regulations⁴⁸ which continues in effect under Regulation 94 of the EECC Regulations implementing Article 111 EECC. This is a rare example in the DNA where necessary Member State discretion is expressly retained.

8.40 Finally, ComReg has concerns regarding the mandate of NRAs as provided for in Article 115(1)(h) DNA which describes its role as “*contributing*” to end-user protection rather than giving it a clear mandate to supervise and enforce.

8.3.5 Copper switch-off (CSO)

8.41 Regarding CSO, ComReg notes the proposals at Article 59 DNA relating to safeguards. However, it remains unclear to what extent Member States and NRAs have flexibility to impose requirements on operators and providers at the retail level to ensure protection of end-users before, during or after a future CSO. Article 60 DNA applies specifically to operators, and there may be a gap regarding obligations on providers holding the direct relationship.

⁴⁸ S.I. 337/2011.

9 Part VII – Governance

9.1 Part VII – Governance (Articles 115-180)

- 9.1 BEREC currently functions under a two-tier structure, with BEREC holding regulatory cooperation competencies as an independent body with no legal personality, and the BEREC Office providing it with administrative and professional support. The DNA proposes to rename BEREC's supporting office to the Office for Digital Networks ('**ODN**'), which will support both an upgraded RSPB (formerly the RSPG) and BEREC. The proposal expands the role and involvement of the ODN to "*systematically support and contribute*" to the activities of BEREC and RSPB working groups. Key changes in this respect include the transfer of some of BEREC's tasks to the ODN, the ODN's involvement in BEREC's work beyond a purely supportive capacity, the participation of non-independent bodies in BEREC's working groups, and EC veto powers over staffing and financial matters.
- 9.2 ComReg is in favour of the EC proposal to retain BEREC in its current form. However, it is important that BEREC's currently effective two-tier structure is not weakened, and that BEREC, as an independent body, continues to hold competence in regulatory cooperation provided by member NRAs, while the ODN provides administrative and professional support. We therefore caution against measures that shift towards a more centralised agency model. For example, the proposal introduces new tasks for the ODN that go beyond the current administrative support role of the BEREC Office, such as preparing the Resilience Plan under Article 7 DNA and the Single Market Report under Article 146(2) DNA. The ODN's role is also expanded into BEREC's own work, with increased powers for the ODN Director, such as preparing for Management Board meetings without the Management Board Chair and participation in Plenary meetings. Under Article 121(4) DNA, BEREC is required to draw upon expertise in both NRAs and the ODN, and Article 140 DNA allows ODN staff to chair BEREC working groups (a role currently held by NRA experts). These changes amount to a significant expansion of the ODN's roles in areas appropriately reserved to the expertise of independent NRAs within BEREC.
- 9.3 ComReg also has concerns regarding the proposed strengthening of the EC's role regarding internal BEREC matters, including veto over financial and staff decisions pursuant to Article 154(2) DNA, the possibility to restrict the participation of members or participants at plenary meetings, and increased powers for the removal of the Director (Article 156 DNA). We are concerned that this veto could be used to undermine the independence of BEREC.

- 9.4 The DNA also significantly increases BEREC's workload, given its extensive reliance on BEREC guidelines as an implementation mechanism, which will require NRAs to factor this enhanced participation into work planning. The shift towards a more harmonised, EU-wide approach will also place greater importance on BEREC's output for Member States and will require the effective implementation and coordination of working groups to deliver those outputs effectively. ComReg echoes BEREC's caution that, in cases where voluntary implementing acts from the EC are envisaged on top of a mandate for BEREC to issue guidelines. However, to issues those acts, no BEREC opinion is required.⁴⁹ This may lead to divergences between the guidelines and implementing acts and thus lead to legal uncertainty.
- 9.5 The move from the RSPG to the RSPB significantly expands its remit and provides the opportunity for greater involvement in advising the EC. As with the updates to BEREC's tasks, this would likely require additional national resources to support working groups. In relation to tasks that seek to find common methodologies, (e.g. for reserve prices and annual fees in Article 29 DNA), ComReg highlights the risk for outcomes to converge towards approaches that amount to the lowest common denominator of 27 Member States that may not reflect Ireland's national circumstances. In addition, the extra tasks will require increased coordination and tighter timelines which would add administrative burden and reduce flexibility.
- 9.6 ComReg is also concerned that the DNA's proposed institutional and funding arrangements (which treat spectrum, administrative charges, and numbering as potential EU-level financing sources, notably for the ODN) risk undermining Ireland's (and other Member States') national funding models. We call for clear safeguards to ensure that EU-level financing does not constrain NRAs' independence, operational capacity, or budgetary autonomy. Questions also arise regarding the funding and fees required as part of the voluntary contributions towards the ODN.
- 9.7 Noting its conclusion that a future-proof framework should preserve NRA and BEREC independence, maintain a clear allocation of responsibilities, and match new tasks with adequate resources, ComReg agrees with BEREC's proposals to:⁵⁰
- (a) Preserve the two-tier structure by amending the DNA so the ODN retains a fundamental supportive role;

⁴⁹ BoR (26) 88_2, [BEREC's position on Governance matters in the DNA](#), p.6.

⁵⁰ *Ibid.*, pp.6-7.

- (b) Remove participation of other competent authorities in BEREC working groups, allowing *ad hoc* engagement at BEREC's discretion;
- (c) Avoid adding complexity in governance arrangements via overlapping responsibilities;
- (d) Move new competences (e.g., Preparedness Plan, Single Market Report) to the responsibility of BEREC, with support from the ODN;
- (e) Protect NRA funding so that EU-level financing does not divert resources or impair national NRAs' abilities to fulfil their regulatory obligations; and
- (f) Require financial impact assessments for any new tasks under the DNA, ensuring adequate resourcing at the national and EU level.

9.8 In addition, ComReg's view on the appropriate approach to governance matters strongly depends on the approaches and decisions taken in relation to other substantive parts of the DNA.

9.9 In respect of procedural matters, the voting rules proposal at Article 139 DNA for the Board of Regulators – providing for decisions being adopted by a simple majority of all members instead of two thirds majority – risks reducing the chance for discussion and agreement among BEREC NRAs, with the declared goal of fostering more single market-oriented decisions. ComReg's experience is that BEREC has not encountered difficulties under the current voting rules, which allow for the adoption of ambitious opinions and guidelines. The Article 139 proposals could also constrain collective decision-making and give rise to an institutional imbalance, conferring a privileged position on the EC (which, in effect has a right of veto because all decisions require the EC's positive vote) vis-à-vis other members and threatening BEREC's independence.

10 Part VIII – General and Final Provisions

10.1 Provision of Information, Surveys and Consultation Mechanism (Articles 181-185)

10.1 Articles 181 to 185 DNA relate to the provision of information to public authorities, harmonised information requests and reporting, and geographical surveys of broadband networks. While the DNA largely carries over the EECC framework, particularly on the provision of information (Article 181 DNA), it introduces several new elements, while also expanding on existing functions:

- new network resilience and environmental data collection responsibilities;
- the creation of an EU-wide framework to harmonise information requests and data sharing; and
- a more detailed and expanded scope for geographic surveys of broadband networks, including new applications for market analysis and CSO plans (Article 183 DNA).

10.2 Article 183(2) DNA states that:

“The geographical survey shall include a survey of the current geographical reach of availability (premises passed), readiness (premises connected) and take-up (premises activated, where service is live and functional) of each electronic communications network, where relevant, distinguishing between residential, business and public segments, within their territory, as required for the tasks of national regulatory or other competent authorities under this Regulation. The geographical survey shall also contribute to the application of State aid rules, if the relevant requirements are fulfilled.”

10.3 ComReg does not currently capture (residential, business, or public) premises type, and other NRAs may face further difficulties absent geo-coded postal identifiers, such as Eircodes. ComReg highlights BEREC’s recommendation that Article 183 DNA establish a clear legal basis to enable NRAs to easily access the granular information needed for conducting this analysis, including (but not limited to), address databases and information on premises types.⁵¹

⁵¹ BoR (26) 88_10, [BEREC’s position on information requests and geographical surveys of broadband networks of the DNA](#), p.6.

- 10.4 Article 183(12) DNA also requires NRAs to assess survey results and decide whether a market review is warranted:

“The national regulatory authority shall analyse the results of information gathered in the context of a geographical survey under this Article and decide whether there is a need to conduct a market review within the meaning of Articles 72 and 73. The national regulatory authority shall make publicly available the results of such analysis in a form of a report.”

- 10.5 Geographic surveys are designed to assess network coverage, whereas determining whether a market review is warranted requires a much broader analysis of competitive dynamics beyond network availability data. While the underlying geographic data already feed into market analysis, it is unclear why completion of the survey alone should trigger a market analysis process. ComReg agrees with the BEREC opinion⁵² that this should not be the case and that paragraph 12 of Article 183 DNA should be completely removed.

10.2 Harmonisation Procedures (Articles 186-187)

- 10.6 ComReg has reviewed these provisions and, noting they remain largely unchanged from the EECC, has no observations to make.

10.3 Dispute Resolution (Articles 188-190)

- 10.7 ComReg welcomes the retention of Member State discretion under Article 188 DNA to decide on the procedures to be applied for end-user dispute resolution and the competent authorities to do so.
- 10.8 ComReg does not support the proposed narrowing of the scope of users who may have access to dispute resolution solely to consumers (from the wider category of end-users). In ComReg’s experience, business end-users can and do have recourse to dispute resolution, particularly in the case of micro, small and medium sized enterprises who may lack the bargaining power of larger enterprises. This can be an important and accessible avenue for redress for them. The EECC affords Member States discretion to extend dispute resolution to end-users and Ireland exercises that discretion.
- 10.9 The interaction between Article 188 DNA and the horizontal alternative dispute resolution (‘**ADR**’) framework (Directive 2013/11/EU) should be clarified to avoid overlaps, inconsistencies or potential gaps in the protection of end-users.
- 10.10 The scope of the disputes that may be referred to dispute resolution should be

⁵² BoR (26) 88_7, [BEREC’s position on access regulation \(market analysis\) of the DNA](#), p.6.

clear (addressing the range of typical sectoral issues that arise) along with the processes and procedures that underpin the framework. ComReg supports proposals that advance these aims (noting that only complaint-handling procedures specific to IAS providers are actually addressed in the DNA).

10.4 Ecosystem Cooperation (Articles 191-193)

10.11 Articles 191-193 DNA introduce new provisions on ecosystem cooperation, including guidance to facilitate ecosystem cooperation (Article 191), a facility for voluntary conciliation (Article 192), and reporting requirements to review the functioning of ecosystem cooperation (Article 193). Components of the ecosystem include ECS providers, content and application providers (**'CAP(s)'**), software and AI developers, and network equipment and device manufacturers (Recital 402).

10.12 Article 191(1) DNA details that BEREC must prepare guidelines to facilitate ecosystem cooperation on:

“...technical and commercial matters related to the provision of electronic communications services or information society services in an efficient, economically sustainable and reliable way, as well as related to the provision of innovative products and services, to the benefit of end-users.”

10.13 The proposed voluntary conciliation facility under Article 192 DNA is part of the broader ecosystem cooperation set out above. Upon request, NRAs shall facilitate a conciliatory meeting between ECN providers or an ECN provider and another undertaking in the ECNS and closely related sectors on technical and commercial arrangements which are subject to the guidelines proposed in Articles 191 and 192 DNA and non-binding recitals 402-405.

10.14 BEREC set out its views on voluntary conciliation in the position paper⁵³ published in June 2026. BEREC considers that there is limited evidence of systemic market failures requiring intervention under the 'ecosystem cooperation' proposals. Accordingly, the proposals generate significant administrative burdens for both NRAs and operators, which appear disproportionate in light of the voluntary and non-binding nature of the procedure. BEREC therefore recommends reassessing the cooperation mechanism to avoid excessive rigidity and administrative burdens. BEREC considers that the proportionate default is continued monitoring, evidence gathering, and targeted intervention as needed.

⁵³ BoR (26) 88_5, [BEREC's position on the scope of the DNA](#), p.4.

- 10.15 ComReg and BEREC consider that the IP interconnect market is competitive and does not require intervention for the following reasons:
- (a) BEREC's 2024 Report⁵⁴ concluded that the IP interconnect market functions efficiently and effectively. The test for regulatory intervention does not therefore appear to be met;
 - (b) ComReg cautions against introducing an IP interconnect termination regime by the back door by means of this proposal. In the past, voice call and SMS termination markets were regulated to prevent overcharging by a network that controlled access to its users. Voluntary conciliation risks introducing by means of legislation a market failure which does not currently exist in the IP interconnect market, and which required ComReg to intervene in termination markets in the past; and
 - (c) Even if network operators could levy payment for network traffic, this would not amount to a meaningful contribution to network costs. ComReg considers that the costs of providing network access are appropriately financed and recouped from access fees paid by users.
- 10.16 The case for voluntary conciliation is not strong. ComReg does not consider that a conciliation mechanism of the type contemplated at Article 192 DNA is required to solve 'fair share'-type IP interconnection issues. ComReg does not, however, oppose the principle of a conciliation mechanism for issues other than IP interconnect or 'fair share'.
- 10.17 If the European Parliament and the EC intend to pursue a financial contribution from large traffic-generating undertakings towards network costs, ComReg notes that mechanisms other than conciliation are available, for instance:
- (a) requiring CAPs to contribute to Universal Service; or
 - (b) taxing CAPs and ring-fencing taxation revenue to extend coverage in rural areas or black spots.

10.5 Compliance and Right of Appeal (Articles 194-197)

- 10.18 In relation to Articles 194, 196, and 197 DNA, ComReg has reviewed these provisions and has no observations to make, other than to support the proposed deletion under Article 197 of Article 31(3) EECC.⁵⁵

⁵⁴ BoR (24) 177, [BEREC Report on the IP Interconnection ecosystem](#).

⁵⁵ Article 31(3) EECC reads "*Member States shall collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of*"

- 10.19 In relation to Article 195 DNA (Restriction or withdrawal of rights), while most of this article remains unchanged compared to the EECC, ComReg has concerns in respect of one addition. Article 195(2) proposes that **indefinite licences be excluded** from Competent Authorities' ability to restrict or withdraw rights of use for radio spectrum where needed to ensure the efficient and effective use of radio spectrum, or the implementation of technical harmonisation measures.
- 10.20 ComReg does not agree with this proposal and believes that the ability to restrict or withdraw radio spectrum rights should be available for all radio spectrum rights of use, irrespective of whether such rights are finite or indefinite. The proposed removal of this power would severely impact ComReg's ability to efficiently and effectively manage the radio spectrum resource, particularly given that Article 24 DNA also proposes that all radio spectrum rights should be indefinite by default.

10.6 Final Provisions (Articles 198-209)

Article	Title	Description
198	Exercise of the delegation	Sets out framework for EC's use of delegated powers, consultation requirements, and the process for scrutiny and entry into force of delegated acts
199	Committee procedure	Specifies EC to be assisted by Communications Committee and, for spectrum matters, the Radio Spectrum Committee
200	Exchange of information	Requires EC to share consultation outcomes with the Communications Committee, which facilitates coordination among Member States
201	Publication of information	Requires Member States to ensure easily accessible and regularly updated public information on the implementation of the DNA and coordinate sharing of that information with the EC
202 (NEW)	Use of European Business Wallets	Member States, NRAs, BEREC, RSPB, ODN and EC shall enable use of European Business Wallets ComReg's view ComReg has concerns with the reference to " shall enable and use " in this Article. This provision is vague and greater specificity is required. For example, ComReg seeks clarity on how an NRA is to enforce the obligation to "enable and use".
203	Notification and monitoring	NRAs must notify the EC of undertakings designated as having SMP and the obligations imposed
204	Review procedures	Establishes review cycle whereby BEREC reports after 36 months and every 3 years thereafter, and EC reviews after 60 months and every 5 years thereafter

decisions to grant interim measures. Member States shall provide such information, as well as the decisions or judgments, to the Commission and to BEREC upon their reasoned request."

205 (NEW)	Transitional provisions regarding contract summary template	Existing regulation on contract summary templates will continue to apply until the day of application of the implementing act under Article 95(2) DNA
206 (NEW)	Amendments to Regulation (EU) 2015/2120	Strips the open internet/net neutrality rules from Regulation (EU) 2015/2120 and leaves existing regulation as instrument for retail charges for intra-EU communications
207 (NEW)	Amendments to Directive 2002/58/EC	Moves ePrivacy out of old directive into DNA
208 (NEW)	Amendment to Decision No 676/2002/EC	This Article proposes an insertion into Decision 676/2002/EC that the EC can require Member States to adopt common positions for CEPT activities for technical implementing measures affecting the EU or Member States' security or technological sovereignty. ComReg's view ComReg does not agree with this proposal and agrees with the expert opinion of the RSPG,⁵⁶ which recommends that: <i>"EU Member States continue their work within the European Conference of Postal and Telecommunications Administrations (CEPT) in the well-established and proven manner. Extensive pre-coordination mechanisms would risk hampering the efficient input of the EU Member States to the work of CEPT."</i>
209	Repeal	Repeals previous legislation 6 months after date of entry of DNA
210	Entry into force and application	Sets entry into force (20 days after publication) and general application (6 months after entry into force) of DNA Phased implementation for specific provisions and existing authorisations: - Articles 38, 39, 40 (satellite spectrum): 12 months after date of entry - NRAs assigned GA continue until 6 months after date of entry - Satellite undertakings continue to hold rights until 36 months after date of entry - Handling notification and Single Passport procedure Article 115(1) point (a) shall apply from 12 months after date of entry - Competent authorities other than NRAs with GA competencies continue until 12 months after date of entry

⁵⁶ [Radio Spectrum Policy Group Opinion on the Digital Networks Act proposal](#), 16 June 2026, at paragraph 29.