



ITRE Committee
European Parliament
60 Rue Wiertz
B-1047 Brussels
BELGIUM

28 July 2017

Re: the European Electronic Communications Code (EECC)

Dear Member of the European Parliament,

BusinessEurope supports the Commission's intention to recast the existing framework for electronic communications through the proposal for a European Electronic Communications Code (EECC). We believe this should achieve a competitive and investment-friendly framework for very high capacity networks, the backbone of Europe's digital economy.

The implications of this proposal expand beyond telecommunications. Among other things, it will impact the future of European manufacturing, connected driving, Internet of Things (IoT) and healthcare. This review must help Europe address strategic challenges: we need to launch 5G on a large scale and develop new innovative services and applications to serve European consumers and businesses.

Europe's high-speed connectivity needs are growing exponentially. To extrapolate all of the economic and social benefits digital offers and to regain global digital leadership, greater private investment is needed in Europe's digital infrastructure. These investments should be incentivised in all possible technologies that will increase very high capacity networks by allowing various investment models.

This will require massive investments from the private sector. Achieving a Gigabit society and reaching the Commission's ambitious connectivity targets set for 2025 is estimated to require around 660 billion EUR investment in very high capacity fixed and mobile networks.

That is why Europe needs a forward-looking and supportive EECC that leads to the **acceleration of investment** in digital connectivity favouring **competition, sustainable infrastructure**, better coordinated **spectrum management**, effective **consumer choice** and a **light-touch, innovation friendly** approach to regulation.

BusinessEurope welcomes the objectives of the proposed EECC. However, the co-legislators need to improve the current proposal so that it supports the development of technologies and competition in a way that boosts the roll-out of very high capacity networks, while remaining technology-neutral and future-proof. Obligations should be simplified to enable consistency and legal certainty while creating greater regulatory uniformity, investment and innovation to enable new services.

To build and operate such networks, investors require **clear and reliable rules**. Departing from the initial objectives of this proposal, suggestions of expanding micro-regulation will create less predictability and less investment confidence.

In the field of end user rights and universal service, this proposal should **simplify and decrease related national and sector specific regulation** if ineffective or obsolete in practice.

Long term, harmonised rules of access to and efficient use of spectrum as a scarce resource is key to enable the rapid and wide deployment of 5G connectivity in Europe and the technologies it could enable. Regulatory certainty and stability is needed in this area to ensure predictable investment. The fragmented nature of spectrum policy, eg. in terms of licensing and awarding, has been instrumental in Europe losing the lead in mobile broadband to other regions. While the power to award licenses to use spectrum bands should remain with Member States.

To turn Europe into a Gigabit society, Member States must coordinate, develop and implement 5G Actions Plans, as proposed by the Commission. Frequency bands for deployment of 5G devices and services needs to be freed up. Sufficient license durations, transparent awarding procedures as well as flexible and competitive secondary markets to trade and lease licenses have to ensure a predictable spectrum landscape for investors and operators.

In the B2C situation, consistent standards of consumer protection for equivalent services should guarantee user transparency. At the same time, it should be made clear that business users are removed from the scope in this regard. It is all too often that B2B providers have to comply with consumer protection measures for no demonstrable reason.

Further to this, to ensure consistency with the Commission's stated objectives, the following provisions have to be reconsidered:

- The definition of "*electronic communications services*" and "*conveyance of signal*" is too broad and includes machine-to-machine services (M2M). This creates significant legal uncertainty and could hamper innovation at a time when industry is shifting with the emergence of the Internet of Things and Industry 4.0. It should be made clear that only services consisting wholly of the conveyance of signals are covered and not services such as M2M. It should also be clarified that private networks remain fully out of scope of the EECCs, including any M2M transmissions. Getting this right will be also crucial for the ePrivacy Regulation, which relies on the EECC's definitions.
- Cost orientation remains a default option to price wholesale remedies. The role and nature of price intervention needs to be reassessed, particularly in relation to new network elements so that all operators, including new entrants are encouraged to invest with confidence, promoting sustainable infrastructure based competition.



- The new rules on co-investment could be beneficial to enhance the deployment of very high capacity networks within a competitive market environment. However, the regulatory incentives foreseen for other investment models should apply more broadly to include other forms, including single investor and joint venture deployments of new network elements.
- Vertically separate undertakings should be regarded as investment facilitators and their related provisions should not be weakened in the legislative process. A fair, competitive environment for all business models should be ensured.
- Finally, the modernisation of Universal Service still leaves room for national fragmentation. It is essential that Universal Service obligations are funded exclusively by the public budget to avoid market distortion or overcharging in this sector.

BusinessEurope stands ready to support the update to Europe's telecommunications framework in order to incentivise investment that our digital infrastructure greatly needs. If you wish to learn more about the information above, please do not hesitate to get in touch.

Yours sincerely,

Markus J. Beyrer