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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Review of the EU regulatory framework for electronic communications networks and services
- Orientation debate

The Digital Single Market Strategy (DSM) aims to maximise the positive impacts of digital technologies in creating jobs and growth, while protecting competition and consumers. As part of the strategy, the Commission's intention is to complement the telecoms regulatory environment with new legislative and non-legislative initiatives in 2016 to bring the Digital Single Market to the level of ambition needed to respond to the challenges faced today.

Telecoms regulatory framework devised in 2002 and revised in 2009, combined with the application of EU competition rules, have been instrumental in ensuring that markets operate more competitively, bringing lower prices and better quality of service to consumers and businesses. Moreover, effective competition is also a key driver for investments and innovation.

Two major open issues, the roaming surcharges for travellers in the internal market and ensured access to an open internet, have recently been addressed by the adoption of a new EU regulation.

However, the world has changed a lot since the last review. Electronic communications networks and services have been undergoing significant structural changes characterised by progressive transition from copper to fibre, mainly via hybrid networks (FTTC), and by more complex competition, with the convergence of fixed and mobile networks and the rise of retail bundles as well as emergence of new online players (so called OTTs) along the value chains, which challenge the established role of Telcos and Cablecos in providing vertically integrated communications/audiovisual services in addition to broadband/internet access, and not least changing end-user expectations and requirements.

At the same time societies have become increasingly dependent on broadband networks and demand for capacity is growing year on year. Connectivity has become crucial as almost all activities in our economy depend on it – not only communications, but increasingly other areas, from smart homes, health services to entertainment, cars and transport and agriculture. Some stakeholders consider that the current framework is not sufficiently supporting the transition towards high-capacity Next Generation Access (NGA) networks fit to meet future needs, and the huge investments required, especially in rural areas. Currently, only 68% of Europeans have access to Next Generation Access networks, with only 25% of rural homes covered. As a result there is a risk that not only a number of citizens are partially deprived from what the digital market can offer, and that also wider economic players are prevented from deploying some of their most innovative services in the entirety of the internal market.

Given that all activities in the digital economy depend on the availability for all citizens throughout Europe of fast and secured connectivity infrastructures, the vision of ubiquitous, high-speed, high-capacity networks as a necessary component for global competitiveness lies at the heart of the DSM. Therefore the connectivity vision requires a broader reflection during the framework review, taking into account current and future needs of citizens, businesses and the public sector. In this vision all Europeans are connected to the internet everywhere by ensuring the fullest possible coverage of areas where citizens live, work, gather and travel in the EU with high-speed and high-quality connectivity, at affordable prices.

Wireless broadband is an increasingly important source of connectivity. Global standards and sufficient and timely available spectrum for the next generation (5G) wireless networks will be key for the rollout of novel digital services as of 2020. 5G has a potential of serving many more user communities than today and have a true societal dimension, supporting the requirements of an array of business sectors like health, energy, transport and other. To respond to this ambition and to realize its potential, Europe will need to ensure its proper and efficient roll-out. At the same time other wireless technologies such as WiFi and satellite should also be considered as part of the equation.

Further to developments in access technologies and connectivity needs, rapid change is taking place as to how communications services are supplied and consumed. Given the existence of a wider range of choices of communication services for end-users the question is what type of regulation is needed in this new environment. Is there a possibility for a simplification in regulating various communication services? In terms of a scope, possible simplification should also consider to what extent we still need sector-specific rules and to what extent we can rely on horizontal legislation such as general consumer protection rules or other horizontal legislation.

Many rules of the current regulatory framework are centred on the definition of electronic communications services. Therefore the regulatory regimes which are currently applied to telecoms providers and to online providers differ considerably, according to a criterion which may no longer be very relevant in the eyes of the consumers of these services. Consequently, the issue of a level playing field has been raised, with some stakeholders calling for a re-evaluation of the existing provisions with a view to ensuring that the activities of providers of competing services would fall under the same obligations and rights.

Questions:

1. Do you agree that connectivity to the next generations of high capacity networks, fixed and mobile, should be a common aim, to make sure that all citizens and business can take advantage of the digital economy? How to make sure that such connectivity is available not only in urban areas, but also in rural and less densely populated areas?
2. Given the variety of market players and business models providing communications services to end-users, what is the most efficient way to ensure that equivalent services are treated equally while ensuring high level of consumer protection?
3. In your view, what are the top priorities for the review of the regulatory framework in the context of the digital single market?
