Position Paper of ANGA The Broadband Association (Der Breitbandverband e.V.) on the European Commission's Call for Evidence preparing a Digital Networks Act (DNA)

Introduction and Summary

On 6 June the European Commission published a call for evidence on the preparation of a "Digital Networks Act" (DNA). The initiative is supposed to lead to a legislative procedure introducing a regulation on the regulatory framework of telecoms networks and services. The draft for such regulation is expected to be presented by the Commission in Q4 of this year. The call for evidence follows the Commission's white paper on 'How to master Europe's digital infrastructure needs?' from 2024. ANGA submitted a position paper to the Commission at that time.

The DNA initiative is accompanied by the evaluation of the European Electronic Communications Code (EECC) that is due in November of this year. The Commission suggested in several public statements that both initiatives might be merged, resulting in a Digital Networks Act replacing the current EECC directive.

Competition drives competitiveness

One of the main objectives of the Commission in the current legislature is to strengthen Europe's competitiveness in the world. The Commission proclaims the DNA-procedure to be an "opportunity to simplify and further harmonise the legal framework, with a view to reinforce competitiveness and to foster a more integrated single market" regarding telecoms regulation.

Already in its White Paper on the Future of Connectivity, the European Commission considered the need for creating pan-European "telecommunications champions" through market consolidation in order to enhance international competitiveness. De-regulating incumbents by shifting from the well-known system of SMP-regulation as a default to "symmetric regulation first" will – so the assumption by the Commission –foster this process.

This approach by the Commission ignores the fact that, particularly in Germany – the biggest economy in the EU –, fiber roll-out is being driven primarily by alternative network operators – not by the incumbent Deutsche Telekom. Deregulating the latter would pose a serious threat to this positive development.

Achieving the Digital Single Market

Achieving the Digital Single Market requires the de-fragmentation of existing rules. Despite the unified legal framework (European Electronic Communications Code – EECC), implementation remains nationally fragmented: Different rules for spectrum allocation, emergency call forwarding, consumer protection, or numbering prevent economies of scale and uniform services for businesses and consumers. This hinders the development of a true European telecommunications single market. However, SMP based market regulation still needs room for customized remedies in different member states as long as real SMP is prevailing. A fully harmonized or even symmetric approach ignoring market power will harm existing competition and undermine alternative fibre roll-out.

Copper decommissioning as a driver for fiber roll-out

ANGA supports the Commission in their approach to include a legally binding requirement in the DNA that obliges incumbents to act in a non-discriminatory way during copper switch-off.

This could be achieved by including an obligation for incumbents to switch-off their copper networks where an alternative network – usually a fiber network – offers adequate access and end-user products on mainly comparable terms as the incumbent itself offers for switch-off and migration to its own fibre network – no matter who operates such network. Non-discrimination requires that the incumbent switches off its copper networks not only in its own areas of fiber roll-out but also in areas where a competitor has built out a fiber network.

However, it must be noted that new rules – e.g. as part of the DNA – will likely come too late. Already on an optimistic assumption the legislative procedure will likely take two years and will be followed by transposition periods. Therefore, the legal changes should be accompanied by guidelines or a switch-off toolbox that support and encourage NRAs to take action in the meantime (e.g. through an updated Gigabit Recommendation with best practices).

Improve the Investment Climate

Regulatory uncertainty and a lack of market opportunities are causing capital to flow out of the sector. This stifles investment in digital infrastructure and slows down digital transformation. Creating reliable conditions for fair competition and investment – including predictability and a clear way forward for the copper switch off – must be a top priority for the EU legislator in the course of the development of the DNA. To increase certainty for investors, the main goal should be to sustain the current regulatory framework instead of changing market conditions and possibly supporting the SMP operators.

In Detail: The Commission's Call for Evidence preparing the Digital Networks Act

Problem description

The Commission describes several issues that have let them to starting the CfE initiative preparing the DNA. While ANGA agrees with some of the Commission's findings we disagree with others especially with its findings on the competitive situation in the fixed market and its conclusions drawn from this basis:

De-Fragmentation of regulation

"The EECC as a directive has shown limits regarding time-to-market (with a transposition delay up to 4 years) and level of harmonisation (primary focus on national markets). The achievement of the single market has been also hampered by practices of some Member States going beyond EU rules, deepening market fragmentation and increasing overall regulatory burden. The transposition of directives into national law has been often accompanied by additional layers of rules resulting in overregulation"

It is true that the transposition of the EECC (and its predecessors) has led to fragmentation of legal rules between member states. We see this as one of the major problems hampering the achievement of the Digital Single Market. We suggest to fully harmonize in several legal areas: spectrum allocation, emergency call forwarding, consumer protection, numbering. In these areas, shifting from a directive to a regulation seems the right way forward.

As regards other areas, i.e. access regulation, we see the need to maintain the possibility of different approaches in different member states. The market and competition situations in member states still vary considerably. Here, one size does NOT fit all!

Consequently, replacing the EECC with a regulation – DNA – needs to be handled carefully.

- We have to prevent a situation that harmonizes access regulation for the price of hindering NRAs from ensuring competition in their respective national markets and
- We have to avoid increasing hurdles for most NRAs by setting a regulatory framework that assumes a market environment that does not reflect reality.

Thus a recommendation to scrutinize markets usually characterized by competition problems in some member states is essential. Otherwise, it is self-evident that most NRAs will choose a "do nothing" approach regardless of SMP findings.

Need to attract investment in fiber roll-out

"The electronic communication sector in the EU lacks innovation and investments. Barriers to operate cross-border and scale up persist and hold back the deployment of very high-capacity networks and the technological transformation towards cloud-based networks and services."

Indeed, there is a big need for investment into fiber roll-out in order to achieve the EU's connectivity targets. BUT: It is not the lack of cross-border activities of network operators that holds back those investments. What investors need to invest in fiber is a stable and predictable regulatory and investment framework. Big shifts in regulation scare investors – so does the uncertainty associated with the ongoing discussions. Hence, the Commission's approach to shift from SMP-regulation as default to "symmetric regulation first" does not help the investment climate – it poisons it. We will further discuss this issue below.

"The regulatory framework remains complex and it is increasingly unfit for market and technological changes, e.g. as regards: (i) differing obligations imposed by national regulators to address market failure, (ii) a lack of proactive measures to foster copper switch-off, (iii) a lack of legal clarity of the Open Internet Rules concerning the regulatory treatment of innovative services, and (iv) challenges in the cooperation between the various digital players in the digital infrastructure ecosystem."

Yes, the legal framework is complex, and yes, full harmonization in certain areas is the right way forward (s.a.). But not in all areas: The different remedies imposed by NRAs to address market failure were and are still necessary to address national market situations individually, especially with regards to those markets with active former state monopolists which still hold dominant positions or regain market shares. More on the subject in the section below.

The lack of proactive measures to foster copper switch-off is indeed one of the most relevant factors hampering fiber roll-out. As said above, investments need predictability. The knowledge when and under which parameters the copper network will be switched off is a fundamental predicament for investment decisions. We will elaborate on the subject further in the section below.

The Commission's objectives and policy options and ANGAs take

The Commission suggests several policy options in its Call for Evidence paper addressing the above described problems. ANGA will elaborate on those in the following.

Simplification

- *re-focussing Universal Service obligations on affordability aspects*
- *reduce existing reporting obligations (up to 50%) and remove unnecessary regulatory burdens*
- *merging into the DNA various directly related legislative instruments (e.g. EECC, BEREC Regulation, Open Internet Regulation, Radio Spectrum Policy Programme)*
- *propose a simplified authorisation regime and a reduced and more harmonised set of common conditions, so that operators can more easily operate cross-border, and further coordination and common implementation of other applicable requirements for providers (e.g. security and law enforcement)*
- *harmonization of e.g. end-user protection*

Firstly, we support the Commission's finding that simplification of several processes would reduce the costs of doing business in the EU, especially regarding bureaucracy. Therefore,we fully encourage the European Commission to reduce reporting obligations. The harmonization of end-user protection seems to be useful as the Member States, e.g. Germany, developed even more legal guidelines, which are costly and reduce the financial resources of investing network operators.

- Regulation must be made fit for purpose in the modern digital ecosystem and ensure an effective rebalancing of the sector. The new framework should have the overriding objective to create an environment, which drives investment and innovation. It should be focussed on achieving regulatory certainty and commercial outcomes, whilst reducing the significant compliance costs created by complex, overly prescriptive, disproportionate and duplicative legal rules. We therefore endorse the European Commission's initiative to streamline current reporting obligations. While not strictly bound to a 50% reduction, we advocate for simplification wherever feasible. Likewise, we support eliminating redundant regulatory requirements for providers of business-to-business (B2B) and IoT services.
- Universal Service Obligations: USO should be repealed as it is outdated and no longer relevant in terms of affordability and availability.
- Access Regulation: The SMP regime must remain in place at least until a successful fibre migration has delivered sustainable infrastructure competition. The focus should remain on Market 1 (where SMP is still found in 24 Member States) and Market 2 (with SMP in 15 Member States).
- Technical Regulations: Revise emergency communication requirements in order to adjust them to new technologies, to a new ecosystem and to changed user behaviour. Its application should be extended to all communications services and a transition to EU level specification of provider obligations relating to configuration, routing, and location information should take place.
- Authorisation: The General Authorisation and other relevant authorisation processes should be centralised, with all notifications being made in a uniform manner. Additionally, the scope should be expanded to all digital service providers and B2B services should be carved out.
- End User Rights: Simplify and harmonise existing rules, sector-specific rules can be moved into horizontal frameworks.
- The B2B market should not be in the scope of the definition 'end-user'.
- ePrivacy: Recast limited ePrivacy provisions into the DNA (e.g. those not sufficiently addressed elsewhere like an updated/clarified principle of confidentiality of communications) and repeal the ePrivacy directive.

Level Playing Field

- *creating effective cooperation among the actors of the broader connectivity ecosystem giving the empowerment of NRAs/BEREC to facilitate cooperation under certain conditions and in duly justified cases*
- *clarification of the Open Internet rules concerning innovative services, e.g. by way of interpretative guidance, while fully preserving the Open Internet principles*

Comparable services must be governed by similar rules to avoid competitive distortions. This can be achieved through a combination of limiting existing tech exemptions from regulation and streamlining legacy regulations. This should result in an integrated and proportionate regulatory framework for all providers of digital communication services.

- Open Internet Regulation: In advance of a DNA, the Commission should issue guidance on how the current framework including a non-exhaustive "whitelist" of use cases assumed to be compliant under the current rules and clarify B2B out of scope. Through a DNA, recast OIR into the DNA and redraft to be principles-based and innovative. B2B should explicitly be carved out.
- Interconnection: DNA provisions should apply to all digital service providers to ensure that they operate on a level playing field with telecoms operators. This would critically encompass the

interconnection, interoperability and switching obligations. The dispute resolution mechanism should apply to all digital service providers.

- Satellite: Satellite authorisation should be harmonised and centralised on EU level. It must be ensured that all relevant providers are subject to the authorisation requirements, creating a level playing field.

Access Regulation

Change in regulatory paradigms

"propose to apply ex-ante regulation (i.e. access conditions at national level) after the assessment of the application of symmetric measures (e.g. Gigabit Infrastructure Act or other forms of already existing symmetric access) only as a safeguard, following a market review based on the existing three criteria test and a geographic market definition, and subject to the review of the Commission, BEREC and other NRAs, with the Commission retaining veto powers;"

The white book on connectivity on the issue:

In particular, NRAs should monitor the degree of infrastructure competition, potentially defining separate geographic markets and limiting ex ante regulation to the areas where it is still needed or applying differentiated remedies, ensuring their appropriateness and proportionality. In particular, where symmetric and harmonized regulation offered by standard remedies would not be sufficient and market failures would still persist, a safety net allowing continued ex-ante local regulation could be maintained.

The Commission insinuates that there is sufficient competition in gigabit infrastructures that would (possibly) justify the reduction of the regulation of companies with significant market power (SMP regulation). That is neither the case in Germany nor in a number of other member states. In Germany, we see clear re-monopolisation tendencies in the fixed networks sector: Deutsche Telekom is still increasing its already high market share in the German DSL market from 53 per cent ten years ago to currently almost 60 per cent according to the latest VATM market study, 25 years after liberalisation. Additionally, c. 70% of all connections are operated via DT's infrastructure. European-wide, in 20 Member States, incumbents still carry over 40% of all internet connections.[1]

It is clear that the former monopolists try to leverage their acquired and maintained market power from the old copper to the new fibre world. Therefore, **now is not the time to deregulate the companies that still hold significant market power** in the fixed network sector. Instead, it is necessary to discuss which regulatory instruments are suitable to effectively control the significant market power in a future fibre world and to strengthen infrastructure competition.

Keeping the "possibility" for NRAs to regulate if needed will not be a sufficient safeguard to protect competition and incentivize fiber investments. Such a "safeguard" would require NRAs to fulfill their obligations entirely to prevent market distortions due to significant market power – and to act accordingly, i.e. thoroughly regulate SMP operators, ensuring access to their assets at a reasonable price and doing all that in due time. Based on our past experience, we do not believe that such a system works in Germany:

Even under the existing framework that includes the relevant market recommendation, BNetzA repeatedly demonstrated its reluctance to regulate Deutsche Telekom to the extent necessary, i.e. to prevent market distortions. This experience is well substantiated by the market developments outlined above.

However, the paradigm shift envisioned by the Commission requires that NRAs pro-actively and properly do their job– which is at least questionable. In addition, the Commission has been unable to handle situations where NRAs failed to do so. Therefore, the "safeguard" approach will be ineffective and

[1] VATM Market Analysis 2025: https://www.vatm.de/wp-content/uploads/2025/05/VATM-Marktstudie-2025.pdf.

dangerous to competition. It should therefore be rejected. Its danger is clearly demonstrated by the so-called “regulation light” approach implemented in Germany for fibre access (FTTH) in 2022. Wholesale competition is at a very low level and does not have any momentum compared to the positive trend of copper access and it’s thriving competition more than 20 years ago.

Effectvive access regulation remains important for the future fiber deployment. The intention to roll-it back is based on a completely wrong assessment of the fixed market and will result being a heavy burden on the CfE and the white paper as a whole. It would seriously relativize the many correct findings and descriptions of problems otherwise contained in the papers.

The Commission’s approach is to strengthen a small number of already dominant operators and incentivizing the creation of pan-European telecoms operators. The objective is to make the EU more competitive in an international setting. What the Commission ignores is that in many EU countries, and especially in Germany, fibre roll-out is conducted to a large extent by alternative operators – many of which are mid-sized and highly specialised businesses – and not the incumbents. They serve citizens, public institutions and small, regional and large businesses alike.

This positive dynamic in the telecoms market would be hampered or even completely undermined by de-regulating the ex-monopolists and treating all telecoms operators similarly following a symmetric approach.

Therefore, the following must apply:

- **Asymmetric (SMP) regulation must be maintained.** Abandoning it at this point would be counterproductive and would jeopardize investments by alternative network operators.
- **The existing rules are not the problem – their implementation is.** The SMP framework is methodologically sound but is inadequately applied. Premature deregulation – as seen in Romania – has shown that it can cement monopoly structures.
- **Ex-post competition law is insufficient.** Proceedings take too long and cannot prevent market distortions. That is why ex-ante access regulation remains essential.
- **There is no need for a "one-size-fits-all" solution.** Market structures vary significantly across Europe. Blanket deregulation would weaken competition in many countries.

A paradigm shift in regulation should only occur once genuine, sustainable commercial access agreements are in place across the market – and once legacy copper networks have been shut off.

Until then, **Markets 1 and 2** in the EU market recommendation must be preserved, and national regulatory authorities such as **BNetzA** must be strengthened. In particular, BNetzA must advance the planned copper switch-off in a **competition-friendly** and non-discriminatory manner.

SMP regulation remains an indispensable tool for safeguarding competition in a gigabit future. Premature deregulation would solidify or even expand dominant market positions and slow down the rollout of alternative networks.

The Commission must commit to the **consistent enforcement of the existing rules**.

Correlating topic: Relevant market recommendation

White book on connectivity on the relevant market recommendation:

As the markets subject to ex-ante regulation and the number of operators designated as having SMP have diminished in view of the progressing deployment of competing network infrastructures, it is right time to explore the possibility of not recommending at the EU level any market for ex-ante regulation.

The current EU Market Recommendation has proven its value. The vast majority of national regulatory authorities (NRAs) continue to identify dominant market positions and regulate accordingly. This clearly shows that the markets defined in the recommendation remain relevant – removing them would not be justified.

Such a removal would significantly increase the burden on NRAs, for example through mandatory three-criteria tests, higher evidentiary requirements, and greater legal uncertainty. The goal of simplifying procedures would clearly be missed. Instead, it would lead to delays and reduced legal clarity.

The current recommendation already allows NRAs to **deregulate based on the situation in the specific member state**. Several Member States have made successful use of this option – there is no general need for adjustment.

Given the current market and competition situation, particularly with the resurgence of **Deutsche Telekom**, the creation of a regulatory vacuum due to the elimination of the market recommendation would be highly detrimental.

The EU Market Recommendation should therefore remain unchanged. It enables **effective regulation where necessary** and **targeted deregulation where possible**. A paradigm shift would only make sense **after the complete switch-off of copper networks as long as SMP operators have not shifted their market power from the copper to the fiber world**.

Pan-EU harmonized access product

"propose to simplify and increase predictability in the access conditions by introducing a pan-EU harmonised access product(s) with pre-defined technical characteristics, which would be a default remedy imposed on operators with significant market power if competition problems were identified;"

White book on connectivity on a pan-EU harmonized access product:

This tool should support the emergence of pan-European operators. competition can be still preserved by providing for virtual access to lower the barriers for rolling out pan-European networks on a virtual basis.

From ANGA's perspective, the consistent and uniform implementation of existing rules is essential for completing the Digital Single Market. This applies not only to sector-specific telecommunications regulations but also to consumer protection provisions.

Skepticism regarding an EU-wide standardized wholesale product: We view the introduction of a union-wide uniform access product critically in its current form. It contradicts the goal of reducing regulation, as it could create new obligations if it is not strictly bound to the finding of SMP. Moreover in most member states and markets more than "one" simple access product will be necessary to ensure the current level of competition and in particular as SMP remedy.

At present, it is difficult to assess the concept, as key design elements remain unclear (e.g., physical access, bitstream, VULA, pricing, asymmetric or symmetric?). Here, the European Commission should clarify, why a symmetric standardized wholesale product should solve all the problems responsible for market failure at a national level and which are caused by a SMP operator. Why should all providers solve the market failure, while they are not responsible. Furthermore, as the national conditions differ within the EU, there is not one wholesale product in every market, which is widely used. The one-size fits all approach seems to be not the right one to address national difficulties.

Potential for standardized products in the case of SMP operators: For operators with significant market power (SMPs), mandatory standardized wholesale products can be appropriate – particularly to address existing distortions of competition, such as those observed in the business customer market in Germany. Uniform requirements for access products of the SMP operator could help create fair competitive conditions.

However, it is crucial that such an obligation applies **only** to SMP operators. For non-dominant providers, a mandatory standard would result in disproportionate effort. In these cases, the market should determine adoption through voluntary alignment with established standards.

Toolbox for copper switch-off plans

"propose to accelerate copper switch-off by providing a toolbox for fibre coverage and national copper switch-off plans, and by setting an EU-wide copper switch-off date as default, along with a derogation mechanism to protect end-users with no adequate alternatives. Measures will include safeguards to protect vulnerable end-users, e.g. in the switch-off of legacy infrastructure and in the area of Universal Service."

White book on connectivity on copper switch-off:

The copper switch-off process requires close monitoring. NRAs should ensure that the design of the switch-off process by the operator with significant market power (SMP), in particular as regards its timing and agenda, does not allow strategic behaviour that would risk weakening competition at wholesale or retail level. Some operators, at least initially, would not switch off copper (in particular, if it is supplemented by vectoring, which enables higher quality of broadband services – though falling significantly below VHCN performance). It cannot be excluded that some operators try to switch over customers from copper to fibre via lock-in strategies that would undermine the business case of FTTH alternative operators. Operators would lower FTTH wholesale prices in view of competing FTTH entry in order to keep wholesale customers. Therefore, the regulatory incentives for the switch-off, in particular on temporary copper price increase during the switch-off phase as proposed in the Gigabit Recommendation, should be accompanied by sufficient safeguards to preserve competition (similar to those provisionally agreed under the Gigabit Infrastructure Act81 (GIA) and described in next section).

Considering the national circumstances and the connectivity targets set in the Digital Decade, achieving a copper switch-off for 80% subscribers in the EU by 2028 and the remaining 20% by 2030 seems appropriate.

From ANGA's perspective, a new legal regulation of the copper network switch-off is not strictly necessary to ensure that the process is non-discriminatory and competition-neutral. Art. 81 of the EECC and national law already provide room for action by the NRAs**. ANGA strongly advocates for the German NRA – BNetzA – to make use of this possibility** by setting up rules on how Deutsche Telekom has to ensure non-discriminatory decommissioning of their copper networks.

However, ANGA supports the Commission in their consideration to include a legal rule in the DNA requiring incumbents to do exactly that – behave non-discriminatory in the course of copper switch-off. That can be achieved by including an obligation for incumbents to switch-off their copper networks where an alternative network – usually a fiber network – offers adequate access and end-user products – no matter who operates such network on mainly comparable terms as the incumbent offers for switch-off on its own fibre network. Non-discrimination requires that the incumbent switches-off their copper networks not only in their own fiber roll-out areas but also in areas where a competitor has built out a fiber network.

In addition, a **revision of the Gigabit Recommendation** should be considered to ensure that NRAs can effectively and timely prevent anticompetitive outcomes during the migration process; i.e. are not reliant on the DNA being into force too late to take full for the copper switch-off. In doing so, the Commission should in particular publish **best practices** that ensure competition is effectively protected and promoted during the migration.

Governance

enhanced EU governance with sufficient administrative and regulatory capacity (consultative or decision-making competences), through enhancing respective roles of BEREC, BEREC Office and RSPG to address various pan-European tasks and further the digital single market.

We see room for a certain extent of governance centralization at the EU level: While BEREC's experience on fixed regulation has brought positive outcomes for the telecommunications sector, the existing decentralised structure, reliant on National Regulatory Authorities (NRAs) and coordinated through BEREC, is increasingly misaligned with the needs of a dynamic, borderless digital single market. A new

governance model is required to ensure consistency, efficiency, and competitiveness across the European Union.Through bringing the EECC into the DNA it will recast the Directive into a regulation which will provide greater certainty and less varied application of the rules across markets. The DNA also should establish clear governance structures. Specifically, the DNA should create a clear two-tier governance structure:

- **On EU-level,** oversight of harmonised regulatory principles and the implementation of rules for cross-border and pan-European should take place. This would act as a central point of implementation, ensuring consistency in rule-making and enforcement across the EU. Additionally, this would also ease to engage with global digital policy developments and to represent the EU's interests on the international stage.
- **National Regulatory Authorities** would retain responsibility for domestic consumer protection, local network oversight including fixed regulation, and market-specific issues.

Further aspects relevant in the EECC review/DNA debate

The descriptions of problems, objectives and policy options described by the Commission in the CfE do not pick up on all issues sketched out in the white paper. ANGA wants to highlight one/some further aspects worth discussing in the course of the DNA procedure.

Fair Contribution debate

In its white paper on the future of connectivity the Commission states:

"Commercial negotiations and agreements could possibly be further facilitated by providing for a specific timeline and by considering the possibility for requests for dispute resolution mechanisms, in case commercial agreements could not be found within a reasonable period of time. In such case, NRAs or (in cases with a cross-border dimension) BEREC could be solicited, as they have the necessary technical knowledge, and important experience in dispute resolution and in assessing market functioning."

Most of the data traffic from the largest traffic generators (LTGs) entering the networks of EU network operators appears to occur on the basis of settlement-free peering and settlement-free transit. This creates a fundamental issue: LTGs are not contributing to network costs, even though they significantly benefit from the investments made in these networks. ANGA has been criticizing this imbalance for years.

The return on capital for many network operators in the EU is below their cost of capital – a clear sign of a structurally inadequate investment environment. A key cause is regulation that obliges operators to maintain networks at all times without providing fair compensation for the associated costs.

OTT (over-the-top) services consume around half of the network capacity but have so far not contributed to infrastructure costs. A sustainable financing model for digital infrastructures requires a fair distribution of costs among end users, network operators, and content providers.

Network operators are currently in a structurally weak negotiating position. The provision of capacity for data-intensive services often takes place without compensation, as content providers unilaterally transmit traffic without bearing any risks related to quality or access. Technical alternatives – such as using indirect routing or pursuing legal clarification – are usually impractical, costly, and not in the interest of end users.

The European Commission has recognized that **technical and commercial negotiations must take place on equal footing**. Mario Draghi also emphasized in his report that **the Commission should actively support commercial agreements for the transmission of data traffic**.

A current example of these challenges can be seen in the German market: So far, only Deutsche Telekom has pursued a paid peering strategy. The publicly discussed case between Meta and Telekom highlights the growing tensions: After direct connections were cut, all data traffic was rerouted through

third parties, and local caching was disabled. These developments underscore the urgent need for a regulatory framework that safeguards both net neutrality and investment incentives.

ANGA therefore reiterates its long-standing call for the introduction of a "Fair Contribution" obligation for LTGs.

The EU-wide rollout of Very High Capacity (VHC) networks is crucial for all social and economic sectors. Up to now, the investments necessary to achieve this have largely been made by network operators – and thus ultimately their customers – as well as, in part, by government subsidies. LTGs, however, are not contributing to the extent that society should expect from them. To fulfill their societal responsibility, LTGs should be obligated to participate in the financing of VHC networks. This participation must benefit all those investing in VHC networks – especially the many alternative fixed network operators.

The legal mechanism for such an obligation should ensure the following:

- **Mandatory agreements:** LTGs should be required to enter into contracts with all network operators, regardless of the operators' size or market power.
- **Contract negotiation:** Prices and other conditions should be negotiated between network operators and LTGs.
- **Non-discrimination through collective bargaining:** To ensure smaller operators are not disadvantaged – and to secure equal payment levels for both large and small operators – associations should be authorized to negotiate with LTGs on behalf of their members.
- **Dispute resolution mechanism:** In the event no commercial agreement can be reached, a binding dispute resolution process must be in place.
- **Traffic price monitoring:** If discrimination against smaller operators occurs, further measures should be considered (e.g., a uniform price per data unit).
- **Obligation to reinvest:** Network operators must be required to reinvest payments received from LTGs into the expansion of VHC networks.

ANGA proposes a threshold of 5% of a network operator's average annual peak-time traffic to qualify an entity as an LTG, calculated on a national level and aggregated across all operators within a Member State.

Intermediary data transmission providers, such as commercial CDNs (not private CDNs operated by LTGs for their own services) or transit providers, would not fall under this obligation, as they do not generate the traffic themselves or are not responsible for the content. However, LTG traffic routed via intermediaries would still count toward the LTG threshold in order to prevent circumvention.

Data traffic from cloud hosting providers would not count toward the LTG threshold either, since this traffic originates from content and application providers using cloud platforms to deliver their services – not from the LTGs themselves.

Finally, public service broadcasters would be excluded from the scope of the obligation. Private broadcasters would not be included either, as they generally do not meet the 5% traffic threshold.

Further relevant points from ANGAs point of view:

- **Consideration of the entire digital value chain** – a level playing field for all sector participants ("Same Service, Same Rule").
- **Streamline and enforce procedural rules and deadlines for market reviews.**
- **No reliance on symmetric regulation or ex-post interventions**, as these are unsuitable for fixed networks where dominance is present (i.e., also: **deletion of Article 61(3) of the EECC**).
- **Introduction of thresholds** that trigger immediate intervention by national regulatory authorities / a market review (Article 67 EECC).
- **No further excessive rules on consumer protection and universal service.**

ANGA The Broadband Association represents the interests of around 200 companies in the German broadband industry. The business association advocates for investment- and competition-friendly conditions vis-à-vis politicians, authorities and market partners.

The member companies include network operators such as Vodafone, Tele Columbus (PYUR), EWE TEL, NetCologne, M-net, wilhelm.tel and a number of technology suppliers. They provide a total of more than half of the households in Germany with television and broadband Internet.

In addition to the political and regulatory representation of interests, the association's statutory tasks include negotiations with copyright collecting societies. The member companies thus receive cost-effective model license agreements for the retransmission of television and radio programmes.