

GIGAEurope Response to the White Paper "How to master Europe's digital infrastructure needs?"

June 2024

The European Commission's endeavour to modernise the regulatory framework for connectivity across the EU is a significant step in shaping the continent's digital future. The White Paper "*How to master Europe's digital infrastructure needs?*" illustrates the structural challenges and most pressing issues that impact the competitiveness and productive evolution of the European connectivity sector. As we evaluate the digital landscape, it is imperative to address the complexities arising from technological advancements, industry fragmentation, and macro-investment challenges. This Response outlines GIGAEurope's insights on key issues and offers recommendations to pave the way for a robust and forward-looking connectivity policy framework.

Key Points and Recommendations

1. Holistic Approach to Consolidation:

Recognising the necessity of achieving the right scale for European telecom players, merger policies must evolve. Beyond competition and price metrics, policies should consider broader consumer welfare aspects like network quality and resilience.

Recognising the importance of achieving the right scale for European telecom players, GIGAEurope calls for a holistic approach to consolidation policies. While competition and price metrics are essential considerations, policymakers must also prioritise broader consumer welfare aspects such as network quality and resilience. Hence moving away from focussing on static efficiencies equating consumer welfare to low prices, to dynamic, non-price efficiencies. Enabling in-market consolidation can foster investment incentives while safeguarding consumer interests. This way we can create a vibrant and competitive telecoms market that serves the needs of European citizens and businesses, enabling the telecoms sector to deliver on its ambition to roll out super-fast networks.

2. Preserving Technology Neutrality:

Future regulations must uphold technology neutrality to efficiently achieve the Digital Decade targets. Fostering competition among all Gigabit technologies and thus preserving this principle ensures the best connectivity solutions for European homes and businesses.

GIGAEurope underscores the importance of preserving technology neutrality in all future regulations. This principle serves as the cornerstone for achieving the ambitious targets of the Digital Decade agenda. By fostering market-based competition among all Gigabit technologies, including fibre, Hybrid Fibre Coax/DOCSIS 3.1, 4.0, and 5G, we can ensure the deployment of the most efficient and effective connectivity solutions across Europe. Infrastructure competition remains pivotal in driving investment in very high-capacity networks, thereby fuelling the continent's digital transformation.

3. Deregulation and Removing Barriers to the Digital Single Market:

Deregulation of sector-specific legislation and a switch from ex-ante to ex-post controls are essential to accommodate market dynamics and competition realities. A future policy framework should also incentivise targeted harmonisation. This will allow operators to benefit from economies of scale and overcome fragmented regulatory conditions. For instance, streamlining spectrum management across the EU is essential.

GIGAEurope applauds the Commission's recognition that effective infrastructure competition has reduced the need for ex-ante regulation, resulting in a significant decrease in relevant markets from 18 to 2 over the last two decades. Emphasising the importance of efficient legislation, GIGAEurope advocates for increased reliance on ex-post controls to accommodate evolving market dynamics, such as the emergence of network companies and service companies replacing vertically integrated operator models. There should be no need for ex-ante regulation and a one-size-fits-all relevant market identification in the future, as the 3-criteria test provides national regulators with an effective tool to prevent market distortion. Regulatory interventions must be balanced and proportionate to foster innovation and spur investment while ensuring legal certainty. Overregulation risks deterring investment and jeopardising the EU's Digital Decade connectivity goals. GIGAEurope calls for a review of EU regulations to eliminate barriers to investment in essential networks and infrastructures, preventing fragmentation of the Single Market by Member States through sectoral regulations. Furthermore, it underscores the need for consistent implementation of the Code across the EU to promote infrastructure-based competition in a technology-neutral manner.

The realisation of a true Digital Single Market hinges on the removal of barriers that hinder seamless connectivity across EU Member States. Fragmented regulatory conditions, particularly in spectrum management, pose significant challenges to achieving economies of scale for operators. GIGAEurope advocates for harmonised policies that incentivise investment and streamline regulatory processes. By harmonising, for example, annual spectrum fees, ensuring the availability of new harmonised spectrum bands, and establishing clear spectrum roadmaps, we can create a conducive environment for network deployment and innovation. However, the harmonisation of timing for auctions or even simultaneous auctions would have an opposite effect, as each Member State experiences different national circumstances, and assignment dates should be decided according to the market demand.

Towards a Modernised Framework

The White Paper and the ensuing public consultation present a unique opportunity to modernise Europe's regulatory environment for connectivity, by instituting forward-leaning policy frameworks. GIGAEurope reiterates the importance of simplified sector-specific regulations, enhanced predictability, and investment certainty, as it is paramount to Europe's industrial competitiveness. GIGAEurope supports the view that effective competition in advanced connectivity markets renders ex-ante regulation obsolete. In these markets, regulation should move to ex-post controls. GIGAEurope is doubtful about the development of a more EU-level access regulation toolkit, including horizontal EU-wide remedies (for example, virtual access). The proposal is ambiguous: phasing out ex-ante regulation while introducing a new type of regulation is inconsistent. There is neither a need nor a justification for such a new regulatory tool. It would not abide by the principles of appropriateness, proportionality, and legal certainty.

Overcoming Barriers to the Digital Single Market

Regulatory, administrative, and political barriers continue to impede the free movement of resources in the telecom sector. GIGAEurope advocates for a comprehensive review of regulations that hinder investment and encumber efforts to harmonise regulations across the EU-27. By reducing these barriers, we can harness the benefits linked to one of the EU's greatest assets – its Single Market. Moreover, greater operational efficiency and user uptake of advanced digital technologies will unlock the full potential of Europe's digital economy for citizens and businesses in Member States.

Policy Cornerstones for Competitiveness, Sustainability, and Security

Recognising the importance of scale is crucial for Europe's strategic interests and the broader socio-economic objectives encompassing sustainability and economic security. A comprehensive approach to all strategic connectivity aspects, including submarine cables and satellite-terrestrial integration, is imperative for Europe's digital sovereignty.

Scenarios for the Future Development of the Sector

The connectivity sector is evolving from 'a telco to a techco', where our industry is enabling and adapting to the new technologies and their needs. We see enormous potential in technologies such as AI and Network as a Service and look towards the business opportunities and efficiencies they could create. We hope the EU will stimulate investment in this area and allow the market to develop and flourish within the Digital Single Market.

We refer to two recent studies commissioned by Liberty Global to showcase the far-reaching benefits which these cutting-edge technologies offer over telecom networks:

- A 2024 study by Straits Research¹ found that the Network as a Service market is expected to grow annually by 33.2% CAGR through 2030, with ample use-cases for a range of sectors from healthcare to hospitality; and
- The "Wired for AI" 2024 report by EY² found that the telecoms sector could enable 70% of the possible efficiency gains from AI with network-dependent jobs.

For example, our member Telenet together with Nokia employed AI-powered image processing combined with edge computing to automate safety inspections at the port of Antwerp. They deployed an advanced situation awareness application that simultaneously leverages the power of standalone 5G, cloud, edge computing and AI-driven computer vision applications, to optimise remote operations of shipping vessels, tested in the port.

Concrete Action Steps

- ✓ A pro-investment rulebook should signal clear discontinuity with the past and address proven market failures.
- ✓ Enabling in-market consolidation can boost the creation of a genuine EU telecoms Single Market. This can foster investment incentives while safeguarding consumers.
- ✓ Effective harmonisation of spectrum, consumer rules, and security policies is vital for the telecoms Single Market.

¹ <https://straitsresearch.com/report/network-as-a-service-market>

² <https://www.libertyglobal.com/wp-content/uploads/2024/02/Wired-for-AI-EY-and-Liberty-Global-report.pdf>

- ✓ Ensuring a level playing field in the digital ecosystem and recognising the role of tech companies in connectivity are essential.

Europe's competitiveness in the digital age is tied to bold and concrete actions to reform its connectivity policies. GIGAEurope is committed to contributing to the public consultation process and urges the European Commission to inject ambition, specificity, and focus into its future action plan. Together, we have the tools to shape our modern digital ecosystem in a way that demonstrates EU leadership and lays the foundations for Europe's long-term prosperity and global competitiveness.