



The European Local Fibre Alliance sees significant issues remaining for the transposition of the new European telecommunications framework, while principally welcoming political agreement on its main aspects

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On 5 June 2018, a political compromise on the proposed European framework for electronic communications (Telecoms Code) has been struck between the European Commission, the European Parliament and the Council after more than half a year of intense negotiations. The European Local Fibre Alliance (ELFA) recognises the considerable efforts that have been made towards achieving an overall workable compromise, especially given the divergent national interests of Member States in the Council. With competitive fibre deployment at the core, ELFA hence principally welcomes the agreement but maintains significant reservations regarding many of the new complex and bureaucratic rules.

From the perspective of European local fibre operators, the following provisions deserve special attention during the transposition of the new Directive:

Co-investment provisions (Art. 74 and 76bis):

We welcome the Commission's idea to promote co-investment between former monopolistic players (operators with significant market power, SMP) and alternative network operators to achieve comprehensive fibre deployment throughout Europe. The maintained fibre benchmark in an otherwise technology-neutral definition of new very high capacity (VHC) networks is particularly welcome in this regard, as is the requirement to actually cooperate, i.e. conclude agreements, open the network without discrimination and fulfil various other conditions that safeguard competition before the regulatory safety net is taken away. Regulatory holidays and other unconditional deregulation leading to a likely re-monopolisation of the market are off the table but should not be reintroduced through the backdoor when transposing the new framework.

Symmetrical obligations (Art. 59(2))

With a view to opening infrastructure bottlenecks, notably inside buildings, the Commission had proposed to extend access obligations to all (including non-dominant) market players. ELFA members have criticised this approach of symmetric obligations, as it threatens to considerably hamper fibre deployment in rural areas across the EU. In this vein, we welcome the strong preconditions for the use of symmetrical obligations and the exceptions for small and local projects whose viability may be at risk as well as for operators that open their networks. However, Member States still need to make sure that these new rules work to the benefit of comprehensive fibre deployment in their respective market environments.

Oligopoly regulation (Art. 61):

The introduction of regulatory measures to address the emergence of oligopolistic market structures in a select few EU countries was another prominent topic in the new Telecoms Code. We welcome that negotiators ultimately decided against introducing new untested concepts, which could risk undermining the current legal framework, but relied instead on the European



Commission's recently adapted SMP Guidelines, which it clarified to take full account of this trend.

ELFA and its members would like to take the opportunity to congratulate the negotiators and look forward to continuing the work on this important file during the national transposition process.

The EUROPEAN LOCAL FIBRE ALLIANCE (ELFA) is the shared voice from alternative public and private local fibre operators calling for an ambitious European Digital agenda including the acceleration of fibre deployment in Europe to power very high capacity (VHC) networks. ELFA finds that competition is a key driver of higher investments in fibre networks in Europe and provides the greatest benefits for European citizens and businesses.

About ELFA:

- Our vision is to create sustainable fibre-based infrastructures in both urban and rural areas across Europe
- Members are committed to the use of these infrastructures for the economic and social development of communities for the benefit of European citizens and businesses

Members of ELFA take part in many of more than 300 fibre projects in Europe covering over 50 million households and 20 million connections (IDATE, 2016).

