



ELFA Position on the European Telecommunications Code and Broadband Targets

1. Achieving competitive markets should be the main goal of regulation

In focusing on the one-sided stimulation of investments by incumbent operators (having significant market power, SMP), the Code endangers the objective of promoting effective and sustainable competition. ELFA is convinced that competitive markets are the best mechanism to ensure the efficient and fast rollout of fibre networks to the building or home (FTTB/H). Almost two decades of liberalised telecoms markets have provided compelling evidence that competition is the best incentive to promote investment. We strongly believe that maintaining and strengthening competition should therefore be the primary goal of any regulation in the telecoms sector.

Measures like “regulatory holidays” subject to weak safeguards (if any) as proposed in Art. 74, deregulation in case of planned commercial access offers (throughout the proposal, e.g. Art. 71(2)), limiting the analysis of competition to the retail level (throughout the proposal, e.g. Art. 3(3)(f)), or new and extensive symmetrical regulatory obligations (Art. 59(2)) undermine the SMP regime as the key principle of telecoms regulation. At the same time these measures discriminate against competitors that have invested large amounts over the past years in fibre deployment. ELFA therefore strongly recommends to refrain from changing the regulatory system and to maintain and strengthen instead what has worked in the past: the promotion of effective and sustainable competition.

2. Fibre rollout must be driven by market solutions

The members of ELFA are willing and able to face competition and therefore object to any centralised, government-controlled planning of network rollout by the national regulatory authorities as suggested in Art. 22 of the Code. It is our firm belief, that competition is always superior to any kind of planned economy. However, awarding public funds should follow a fair and non-discriminatory process and focus on the rollout of sustainable fibre infrastructures up to the premises. It is therefore paramount to limit Art. 22 to improving the knowledge of existing networks, to better coordinate the application of state aid for these infrastructures.

3. Connectivity objective and broadband targets need to be based on fibre-based infrastructures

The new definition of very high capacity connectivity as proposed in Arts. 3(2) and 2(2) in conjunction with Recital 13 needs to be maintained and strengthened. It sets a performance benchmark based on fibre infrastructures, while remaining neutral regarding technologies that are able to comply with it (including FTTB/H, cable and 5G technologies). Any priority between connectivity and the other regulatory objectives (competition, consumer interest, internal market) needs to be avoided in order not to jeopardise the achievements of the framework.

Whereas the Code looks at performance in a comprehensive manner (also including uplink bandwidth, resilience, packet loss, latency and jitter) and therefore adopts a clear perspective towards future applications such as connected cars or e-health, the new broadband targets in the Gigabit Society Communication unfortunately focus only on download speeds, notably a general 100 Mbps download target by 2025. This does not correspond with current forecasts, suggesting that an average user might require 1 Gbps downstream and 600 Mbps upstream by 2025 (WIK 2016). The short-sighted



narrow approach of the broadband targets compromises the rollout of very high-performance FTTB/H networks, which is economically viable only in the long run. Therefore, the European Parliament in its own-initiative report should set a fibre-based infrastructure target for all European citizens and businesses by 2025. ELFA is convinced that this can only result in promoting FTTB/H deployment on a large scale. Its members are highly committed to achieving this goal.

4. A “one-size-fits-all” approach should be avoided

National telecoms markets are based on different local deployment conditions, technological implications, business models, as well as corresponding concepts of regulation by national regulatory authorities. Since market players have made long-term commitments in accordance with these established approaches, it is important that the Code accounts for these established concepts supporting existing and future investments. Imposing practices that work only in certain Member States to the whole Union irrespective of national differences constitutes a rigid impracticable approach that would cause a high degree of uncertainty among investors. By way of example, whereas access to civil engineering facilities such as ducts may have enhanced infrastructure-based competition in some Member States (notably PT, ES), it cannot be the sole or primary remedy as proposed in Arts. 70 and 71, because such ducts simply do not exist across the EU. Instead of prioritising certain remedies and hence giving preference to specific business models in specific Member States, the entire regulatory toolbox should be at the disposal of the national regulatory authorities.

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 to citizens and businesses.

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).

