

The Reform of the European Telecom Framework: The Digital Network Act

Innocenzo Genna
EU Advisor for Namex

RIPE 87
Rome 30 November 22, 2023

The opinions expressed in this presentation are personal and do not represent the position of associations where the Author holds management responsibility

ABOUT ME

- Innocenzo Genna, public affairs advisor on EU telecoms and Internet policy
- EU advisor for Namex, the Rome Internet Exchange
- Former executive of various European digital-related associations such ECTA, EuroISPA, MVNO Europe, European Internet Forum. Previously: general counsel of the Tiscali group, partner of Ughi & Nunziante law firm
- 15+ years expertise in policy, regulation and market entry cases in the telecoms and Internet sector

Commission's achievements in the present mandate (2019-2024)

- Main legislative work done for Internet, Data and Digital:
 - Platforms (DSA, DMA)
 - Data Act
 - Eidas
 - Artificial intelligence (pending)
- Telecom agenda more marginal:
 - Implementation of the European telecom Code (2018)
 - Gigabit Infrastructure ACT
 - Access recommendation
 - The hype: fair share
- Overall results:
 - Regulation is now more balanced for OTT and telcos
 - Increasing deregulatory trends in telecoms

How “fair share” ended up

- Agenda of DG Connect in 2022 and 2023 has been monopolised by fair share, until Breton gave up at Telecom Council in Léon (October 2023)
- Why fair share did not succeed (for now):
 - Stakeholders’ reactions were diversified:
 - Most big/medium-sized telcos in favour, with distinction
 - Small ISPs, MVNOs, IXPs, broadcasters, against
 - OTT and platforms against (of course)
 - Internet community, digital activists, also against
 - The European consultation provided disappointing results
 - Beside Breton, other EU commissioners (Vestager, Von der Leyen) were quite prudent vis-à-vis fair share
 - Berec delivered a very detailed negative opinion
 - Majority of Member States in the Council declared to be skeptical or contrary

From fair share to the new telecom framework

- Fair share and telecom reform (Telecom Act) were announced together in 2022
 - Tactical reasons?
 - Telecom reform as a Plan B?
- Commissioner Breton declared that the current European framework is oldfashioned because it deals with copper (!!!)
- European consultation (about «the future of the sector») dealt with both subjects, although more focussing on fair share
- Remarkably, the telecon reform starts from the same controversial subjects of the aborted fair share:
 - There is an investment «gap» to achieve the 2030 connectivity objectives?
 - There is «crisis» in the telecom sector?
 - there is too much competition in the telecom market, or too many operators?
 - What's the role of regulation?
 - Are net neutrality rules too heavy or unbalanced?

From Telecom Act to Digital Network Act

- DG Connect (Breton) intended to propose an important telecom reform, the Telecom Act
- The main pillar was «fair share», which was rebutted
- Then, instead of a legislative reform at the end of 2023, in October 2023 a White Paper was announced, with the aim to guide the next reform, called Digital Network Act (DNA)
- The DNA will focus on:
 - Industrial policy in critical infrastructures:
 - submarine cables
 - Investments smart networks and cloud
 - Regulatory policy:
 - Investments in the telecom sector
 - Operators's consolidation and Telecom Single Market
 - Review of the telecom regulatory framework
 - «Long tail» of fair share

The regulatory core of the DNA

- Is there «too much» regulation or competition?
 - Is there a crisis or need to intervene? Not everyone agrees
- Are net neutrality rules still fit for purpose?
 - Interpretation and implementation may vary
- Geographic fragmentation, absence of panEuropean operators
 - too many operators in the EU?

Conclusions

- Deregulation in telecom markets and (potential) relaxation of antitrust rules may lead to increased consolidation at domestic level, with an overall reduction of operators in the market;
- Fair share «long tail»:
 - dominant ISPs may be tempted to refuse or require increasing compensation for interconnection, in order to keep alive the fair share debate;
 - European Code interconnection rules may be revised, with potential impact on peering markets.
- Net neutrality rules, although formally still valid and unchanged, may be interpreted and/or applied differently

THANK YOU

Innocenzo Genna
Brussels
inno@genna.eu

<http://radiobruzelleslibera.com/>
www.innocenzogenna.com