EU telecoms support competitive data and cloud markets, call for innovation-conducive rules in the Data Act

Brussels, 24 February 2022 – ETNO, the Association representing Europe's leading telecom operators, supports the objective of fostering data sharing in the single market that underlies the proposed Data Act regulation issued by the European Commission yesterday. Very-high-speed connectivity will enable the rapid growth of the Internet of Things, and new streams of data coming from millions of sensors connected over 5G will need to be exploited.

Enabling the sharing and reuse of these data sets is thus a cornerstone of the telco sector's idea of digital leadership for Europe. However, it is crucial that the measures introduced by the Data Act avoid adverse effects on competition and innovation. Improvements may be necessary for the regulation to bring real value for EU citizens, companies, and public administrations.

Transparency and fairness in business-to-business and IoT data sharing

Connectivity providers are key enablers of IoT ecosystems for people and businesses, from smart devices to industry 4.0. Data exchanges should continue to be primarily based on voluntary agreements that address the specific needs of contractual parties, subject to general contract and competition law.

Actions that facilitate data access by users of connected products, and that increase transparency and fairness in data marketplaces, are welcome. Contractual parties that suffer from a weak negotiation position or face complex arrangements, such as in data co-creation models, stand to benefit from greater clarity on respective rights and obligations. We stress that fairness and non-discrimination provisions should remain strongly anchored in the principle of freedom of contract.

Need for sustainable business-to-government data sharing cooperation

Telecommunications operators have a long history of cooperation with public administrations, typically by providing insights based on aggregated and anonymised network data to tackle epidemics, natural disasters, environmental pollution, and other societal challenges. Collaboration will undoubtedly continue in the context of our sector's social commitment. Separately, it is important to think of cooperation also in terms of opportunities and ways to strengthen Europe's data economy.

In this context, public-private collaboration – which is generally based on voluntary contractual agreements – should ensure fair compensation on investments made. For this cooperation to flourish, and not just in crisis situations, it is crucial that data sharing agreements are based on reasonable terms in order to offer long-term sustainable solutions, including the possibility for operators to achieve a fair return on investments made in collecting and generating data insights.

We appreciate the public authorities' need to make sure they have access to the data required to respond to exceptional circumstances. The analytical solutions that already today are offered by telecom operators and other players can inform authorities' decision-making in most public policy fields, with benefits in terms of cost efficiency and quality of the insights.

Where there is a clear market failure that justifies regulatory intervention, mandated B2G data access should be considered as a measure of last resort and for a strictly circumscribed set of exceptional needs, to avoid crowding-out the innovative solutions available in the market.

Opening up possibilities in the cloud and edge market

Edge cloud computing and cloud-based mobile infrastructure are two key investment challenges for the future of the telecom sector.

The dependency on very few cloud giants that dominate the global cloud market has raised concerns about vendor-lock-in, bargaining power, privacy, and transparency. The Data Act's propositions regarding switching, interoperability, and safeguards against undue access to non-personal data by foreign jurisdictions could create opportunities for a more competitive cloud and edge market in Europe, where more cloud services are offered in line with EU values.