Europe's Digital Decade plans, gigabit networks roll-out and the fair contribution debate

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Europe has set very ambitious connectivity targets and aims at connecting all Europeans to 5G and fibre networks by 2030. In order to achieve such targets, the EU must accelerate the pace of roll-out and ensure that enough financial resources are available for to the telecom sector to do so.

In this context, the European Commission already has in place several funding and policy programmes to support connectivity. In addition, the Commission is now working on potential solutions that address the "fair and proportionate contribution" by tech companies to infrastructure. This was outlined in the declaration on "European Digital Rights and Principles" and in recent statements by EVP Vestager and Commissioner Breton. Solutions in this field should respect the EU Open Internet principles. However, critics point to the fact that previous Commissioners had dismissed such mechanism and invited telecom operators to change their business model instead.

These were the main highlights of **ETNO**'s event "*Europe's Internet Ecosystem: Is Everybody Contributing Their Fair Share?*" (16.5.2022), moderated by **MLex** Editor-in-Chief Lewis Crofts. A full recording of the event is available here.

Below, you find the key highlights from the interventions by the speakers, including **Rita Wezenbeek** (European Commission), **Konstantinos Masselos** (BEREC), **Christian Borggreen** (CCIA Europe), **Wolfgang Kopf** (Deutsche Telekom AG) **Dimitri Kallinis** (Axon Consulting), and **Lise Fuhr** (ETNO).

They included extensive comments on the Axon Partners Report, which was presented by **Alfons Oliver Altés**, Partner, Axon Consulting.

Rita Wezenbeek, Director Connectivity, DG Connect, European Commission

- The Axon Report on the European Internet Ecosystem is welcome and it constitutes one of the relevant inputs on how the challenge of the investment needed to finance the gigabit networks should be addressed going forward.
- The issue at stake is investment and the financing of infrastructure. In the discussion on this objective it is important to mention: existing funding tools and regulatory action, practical aspects and the fairness issue.
- On **funding**, the main instruments are the Recovery and Resilience Facility, the Connecting Europe Facility Digital, Connecting Europe Broadband Fund (CEBF), Invest-EU and others. This also links to the importance of demand-side measures: a digitalized society drives demand in Very High Capacity Networks. The Commission is also working to update the Broadband State Aid Guidelines to facilitate the use of national funds.

- On **regulatory action**, the Commission is working to spur investment via the implementation of the European Electronic Communications Code, revision of Access Recommendations, and the upcoming Connectivity Infrastructure Act.
- On the **fair contribution**, in the European Digital Rights and Principles the European Commission proposed a principle that all market actors benefitting from the digital transformation should make fair and proportionate contribution to the cost of infrastructure. It is part of our reflection in the context of investment.
- The Axon study highlights as the 'root cause' of the difficulty of ISPs to finance the networks against the background of the growing volume of data the possible imbalances in market power in negotiations for peering markets and, on the other hand, the asymmetry in regulatory playing field.
- On the **Open Internet** principle, it was also restated in the European Digital Rights and Principles declaration and we want to maintain it. This said, net neutrality in principle does not affect the interconnection level and it allows reasonable traffic management. Also, if you have a contractual agreement that foresees a payment and you want to hold the other part accountable for that agreement, net neutrality in principle allows for this.
- The compatibility of certain measures with the Open Internet Regulation raises delicate issues and in the approach we take they will need to be carefully addressed and analyzed, including with our legal service.
- This said, we are at the beginning of the debate and there are several **questions** to be addressed: why is it that consumers are seemingly 'underpaying' for the investments that are being made to their benefit? Is this likely to change with new business models and 5G? What about the argument that tech services drive demand in high speed connectivity? What drives the costs for fixed and mobile infrastructures, is it driven by subscriptions or by data volume? What are the large platforms investing in data centers and other infrastructures? What is the proportion?

Konstantinos Masselos, Vice-Chair, BEREC

- Europe has very ambitious gigabit fixed connectivity and 5G targets. At the same time, we aim at becoming climate neutral by 2050, including through the deployment of new networks that contribute to such objective.
- Where are we today with respect to the **connectivity objectives** then? We are lagging behind other areas in the world. According to the latest European Commission report, in June 2020 42.5% of households were covered by fibre, but we have a low proportion of subscribers.
- There is a similar situation on the 5G side, where we are behind on China, South Korea, US and Japan on metrics such as base stations (especially 5G standalone). The same for capital expenditure, revenues and subscribers.
- In this context, we need to both create a more investment-friendly environment and stimulate demand. BEREC is committed to work towards this.
- As to the **internet ecosystem**, we see the trend of traffic growth mainly due to gaming, social media and video streaming, but also cloud services. BEREC is working on this, to ensure we have open digital markets.
- There will be soon a BEREC report on the internet ecosystem, which will be published for public consultation in June this year. We recognize that big tech companies are the most relevant actors in

both client and service side of the ecosystem and that they recently invested in some elements of the network, such as submarine cables and Content Delivery Networks.

- However the analysis proves that there are **competition dynamics** that need to be carefully considered because they might create problems. A small number of digital platforms seem to have reached a position allowing them to shape the market.
- In this context, the EU **Open Internet** Regulation is an important part of the current legislative framework. As BEREC, we are engaged in following implementation very closely, to ensure that ISPs do not exploit their position as gatekeepers of internet traffic termination.
- BEREC has also done work on IP interconnection traffic, and the latest update of the study was in 2017, which contained no recommendation to regulate back then.
- As to the **Work Programme 2023**, we strongly consider repeating our study on IP interconnection practices, in which we can always consider the fair share problem that we are discussing today. We can also consider also experiences like the one in South-Korea and analysis of CDN markets.
- Any regulation should consider end users and ensure that the quality of service and the level of prices are in their interest.
- As I read it, the Axon proposal foresees a **role for regulators and BEREC**. I want to confirm that we are very active in following digital platforms, such as the DMA, whereby we have also a role in the implementation. Similarly, BEREC can play a very active role in the IP interconnection discussion.
- BEREC is ready to apply any intervention needed to ensure that Europe's digital targets are finally met.

Christian Borggreen, VP & Head of Office, CCIA Europe

- I am sure many of you will agree that it is hard not to feel a sense of deja-vu because ETNO's proposal is of course not new. It has been debated before, it has been rejected before.
- When we last had this debate the then European Commissioner, **Neelie Kroes**, opposed the idea.
- She explained that the situation of European telcos is not the 'fault' of OTTs and that in fact, it is internet services that drive demand for telecom services. And this is a good thing for telcos.
- This remains true today. The real problem - which the AXON report briefly mentions - is that telcos struggle to **charge their own customers** for their data consumption. ETNO's demand for payments at both ends of the cable is misguided for several reasons.
- First of all, as BEREC has noted, it is the telcos' customers that request data, that pull data. And this understanding of how the Internet works and where the data demand is coming from is central to this debate.
- Secondly, the proposal would conflict with EU neutrality rules and create new competition risks. EU **net neutrality** rules guarantee that consumers can access the content and services of their choice, in a non-discriminatory manner, and that all traffic is treated equally. The very idea of charging some online services and not others is, by definition, discriminatory.
- BEREC warned a decade ago, that ETNO's similar proposal ran "the real risk shifting the balance of negotiating leverage between market participants and inducing an abuse of market power by telecoms carriers."

- What happens if an online service cannot pay what a telco demands? Will the telco slow down the service or remove it from the Internet? Hopefully, Europeans will not be forced to give up popular streaming and online messaging services for the telcos' own services.
- The traffic ETNO wants to tax includes traffic from the wider European economy. "Google traffic" includes data from the many organisations that Google supports, such as Wikipedia. And many European companies, such as Spotify, use cloud services provided by the companies the AXON report calls out.
- So many European organizations would end up paying this new EU **internet tax**. Tech companies already seek to minimize the amount of traffic they send in response to a user request. YouTube videos for instance, already match users' available bandwidth. And the industry has for decades been developing data compression techniques.
- And these efforts continue. And finally, tech firms already spend heavily on network infrastructure, on subsea cables, caching, CDNs, data centres, etc. to help bring content and services closer to end-users.
- And they are investing billions in innovative content and services, which in turn drive demand for telcos' services.
- Conclusion: ETNO's demand has been debated before, and it has been rejected before. The real problem is that telcos struggle to charge their own customers for their data consumption. Hopefully, regulators will analyze this very carefully and consult all stakeholders given the many likely side effects.

Wolfgang Kopf, Senior VP for Group Public and Regulatory Affairs, Deutsche Telekom AG

- Last week, the German Federal Statistical Office presented inflation figures. Inflation was at 7.4% in April, while telecom prices were down by 0.1%. This does not help to foster telecom investment.
- If we want to maintain the high level of **investment** we are heading for, and if we also want to maintain the level of service, there need to be some fixes to the current system.
- Now, things have changed over the years. I speak from the experience of Deutsche Telekom, which is a Tier 1 company. If we compare the **data traffic levels** in the period 2001-2003 with today, the level today is 70 times higher. We also see significant imbalances of traffic: we are carrying traffic, rather than exchanging it. This is one of the reasons why Tier 1 companies stopped investing in sea cables.
- ETNO companies invested €500bn in the past 10 years. In the same period, **sea cable investment** was just €20bn. This is 4% of what telcos invested.
- If I add 'cashing', I can do all sorts of calculations. But cashing is not part of telecom networks. As to networks the situation is clear: somebody pays, and somebody benefits. This is the main reason why we should discuss the fair contribution.
- If we look at data traffic levels and at expected increases, we will have a 30% per year increase of traffic. This number shows that we do not see the efficiencies in traffic compression claimed by those originating the traffic.
- As telecom operators, we are neutral to traffic and as telecom operators we do not question net neutrality. Under the **Open Internet** rules interconnection is not regulated. Somebody needs to pay for interconnection.

- If I look at interconnection **negotiations** nowadays, we are witnessing what happened in South Korea. Despite the payment principles anchored in the law, Facebook and Google started routing traffic through smaller channels. Then you have a quality problem.
- Let me make an example: in the midst of COVID, despite having a nice peering and transit contract which is very small money with Facebook, they stopped payment. We tried to sue them, but it took us one year just to get the lawsuit accepted in Ireland.
- I think this is a sign of excessive **market power** and if you can behave like that, you will continue to behave like that. The real point here is that we have a two-sided market. One market side is not working, and this is the reason why we should start addressing this.
- If you then look at the underlying economics, who's going to **pay and invest in 5G**? I think we need to address the other side of the market, and to make sure that we get further contributions to address this complete imbalance.
- We are not demanding that they pay for the whole bill. We think that addressing the old system of bilateral negotiations, for the sort of traffic we are carrying today, should be the starting point.
- We need a mechanism that foresees mandatory arbitration, so we don't spend years in that system. As a last resort, regulation could apply to set prices.

Dimitri Kallinis, Managing Partner, Axon Consulting

- I agree that the **Digital Decade objectives** for 2030 are really very ambitious. To achieve this target it is very challenging, considering the current economics and financials of European telcos.
- With the current trends it would be very difficult to assume that telcos alone, or within the current ecosystem, will be able to make the upgrades in the networks and the to develop the networks that are required for meeting these challenging objective.
- This is also to meet the sustainability and environmental objectives, that are also an important part of the picture.
- I also found quite interesting the debate around the prices in EU. I think this is the case in Europe, compared to for example the States, because of the competition.
- The EU framework launched in 2003, which has been very effective, has brought competition by alternative telco operators. The consumers have been enjoying very good price of a very good quality of service in Europe.
- I think it should be part of the debates about how we get to the connectivity targets that we have for 2030, who is going to pay for that and how should be expenses more fairly distributed among all the stakeholders.

Lise Fuhr, Director General, ETNO

- Europe has embarked on a historic challenge: bringing 5G and FTTH networks to all of its citizens.
- This challenge is about our ability to provide fresh socio-economic opportunities to Europeans, but also about the competitiveness of our Continent.

- This is why, in recent times, we have expressed our support as the European Commission published crucial documents, including its **2030 Digital Decade targets** and, more recently, the Digital Decade principles.
- In this context, a debate emerged on whether all actors in the digital ecosystem are contributing a so called "fair share" to digital networks. As our input to this debate, we have asked Axon Partners Group to work on a report on the European internet ecosystem
- I would like to clarify what the European telecom industry stands for.
- First, we stand for accelerating the deployment of **5G and fibre** networks. It is no mystery that, for different reasons, Europe today is not doing as well as it should. I am sure that the objective of bringing connectivity to all is a shared one.
- Second, we stand for predictable **Open Internet** rules. We wrote it black-on-white when presenting the report: any solution addressing the fair contribution should respect the EU Open Internet principles.
- Third, we stand for **fair digital markets**. Markets in which the technological realities of the internet, or the market position of certain players, do not interfere with fair commercial negotiations. If the EU Open Internet principles set the limits of the debate, then the DMA and concepts like "digital gatekeepers" set the broad inspiration for possible future solutions.
- Fourth, we stand for **dialogue**. This is our reason for having today's event. Technology companies are our competitors, but also our partners in the digital ecosystem.
- In addition, we are keen to hearing the views also from American stakeholders: I am following with interest debates in Washington D.C., including activities on the market power in digital markets and on whether tech companies should contribute to connectivity.
- Finally the ecosystem is broader, so we are reaching out to all the other stakeholders, from civil society to industry: the acceleration of 5G and fibre roll-out is too relevant not to discuss it with all stakeholders.