EECC: current policy options will not deliver fibre and 5G to EU citizens

Brussels, 19 March 2018 – ETNO, the Association representing Europe's leading telecom operators, called today on the European Commission and on legislators to urgently fix the current text of the Electronic Communications Code.

Lise Fuhr, ETNO Director General, said: "*Unless negotiations swiftly address investment-depressing measures, the EECC will further worsen the network investment climate in Europe. This would be at odds with the original objective of addressing the investment gap and ensuring that all the 500 million European citizens get access to 5G and fibre networks in an inclusive and timely fashion*".

As negotiations advance, a series of very important issues still remain to be decided and legislators should maintain focus on the initial ambition: provide better connectivity to all Europeans through increased investment in ultrafast networks.

Regulation of fibre networks

Introducing incentives for investment in very-high-capacity networks, together with a new spectrum policy, were the central pillars of this reform. The Commission aimed at breaking Europe's wait-and-see approach to network investment, by finally stimulating all players, small and big, to invest in the deployment of Very High Capacity Networks. The Commission proposal on incentivizing fibre investment needs to be further strengthened by including other forms of commercial offers next to co-investment and granting regulatory certainty for the lifetime of the network.

Moreover, we also fear that the final text, far from encouraging successful co-investment models, will make them practically unviable by imposing access offers on top of co-investment terms.

Geographic Surveys of network deployments

Geographic surveys of network roll-out should be a tool to help Member States to ensure connectivity across their territory and they should not hamper competition. Texts currently under consideration would not only deter investment, but also distort the market dynamics of network planning and deployment by threatening operators with fines when they adapt their plans to provide higher quality connectivity to end-users.

This, when applied to investors who come in as second, could result in a lock down of "digital exclusion areas", effectively granting a monopoly to the first network for an undetermined period of time, to the detriment of both investment and competition.

Oligopolies

In an unprecedented move, investors from across the world spoke up to ring the alarm bell on further oligopoly regulation. If introduced, it would circumvent a long standing competition practice based on case law and introduce further uncertainty for all those investing in network roll-out. For this reason, we believe that a new regulatory concept on joint dominance, not foreseen in the design of the Code, must not become part of the new Framework. Similarly, we urge legislators to ensure that symmetrical regulation is to be proportional to address situations where the duplication of specific critical infrastructure elements is proven not to be viable and it should be applied with no distinction amongst players. Any possible extension of symmetric regulation and the proposals to define a sector-specific concept of joint-dominance must not become a *de facto* backdoor to introduce an oligopoly-like regulation.

Universal Service Obligations

Universal Service Obligations (USO), which are and should remain a social safety net, must benefit citizens at risk of exclusion and should be funded from the state budget. In this context, private investment remains the pillar of high-speed broadband deployment and public funding should not crowd-out commercial deployment. Mechanisms linking the minimum quality of USO services to the national average would de facto lead to distorting competition.

For media inquiries: Alessandro Gropelli, Director of Communications, +32 476 94 18 39