



### **ETNO PRIORITIES FOR EU POLISH PRESIDENCY**

1<sup>st</sup> July 2011

ETNO represents Europe's leading e-communications services and networks providers, accounting for a total turnover of €250 billion and one million employees. Through their significant investment in new fixed and mobile high speed broadband networks and innovative services, ETNO members are key players in achieving the objectives of the Digital Agenda.

Through this manifesto, ETNO wishes to reflect on the progress made toward achieving the ambitious Digital Agenda targets and to flag areas for possible policy action which could help pave the way towards success.

#### **The role of NGA and the Investment Challenge**

Through the "Europe 2020 Strategy" (EU2020) and the Digital Agenda policy programme, the European Union recognises the importance of investment in fast and ultra-fast Internet access, or next generation access networks (NGA), to achieve the overall policy objective of "smart, sustainable and inclusive growth." It is estimated that NGA – via fixed and mobile connections – could create around one million jobs in Europe and spur broadband-related growth in economic activity to an amount exceeding €850 billion. NGA will enable innovative value-added services (from cloud computing to e-health), efficiency gains and the creation of new web-based industries, thus serving as a catalyst for growth, productivity and job creation. Fostering widespread private sector deployment of NGA is therefore a prerequisite for the success of the DAE and the EU2020. Against this backdrop, NGA has remained an underlying theme of ETNO's advocacy efforts and is a key priority.

#### **Broadband for all**

As leading e-communications operators in Europe, ETNO member companies already account for two thirds of total high speed broadband deployment. Through their notable investment, ETNO members have contributed to bringing current generation broadband to up to 94% of the total population and to 80% of the population in rural areas. Through public-private partnerships, ETNO members throughout the EU and beyond actively contribute to bringing high speed connectivity to populations in non-densely inhabited areas, thereby bridging the digital divide. Nevertheless, the availability and penetration of high-speed broadband is quite limited in comparison with the US and Japan/Asia.

The size of the investment required in NGA in Europe is estimated by the Commission at between €8 and €8 billion to achieve the 30Mbps coverage (using a mix of VDSL and next generation wireless) and between €181 and €268 billion to achieve 50% of households at 100Mbps. The scale of this investment and the goal of universal coverage require a balance to be struck between private investment and EU and Member States' resources, the expenditure of which should be carefully targeted to complement and not to crowd-out private investment. The use of EU or national public funds is best placed to deploy broadband in remote and rural areas, where service roll out is not commercially viable.

ETNO has stated its view, supported by a large number of industry players, that the universal service obligation is not an appropriate instrument to achieve the policy objective of broadband for all and that the EU should not therefore prescribe the inclusion of broadband within the set of services under the obligation of universal provision. The Citizens' Rights Directive adopted in December 2009 already enables Member States to extend universal service to broadband at defined speeds. Such decisions should be adopted by Member States in accordance with strict criteria and certainty about financing and cost calculation should be given to market players and specifically to the designated universal service providers. As noted by the Commission, since broadband networks widely benefit the society and the economy as a whole and not just the telecoms sector, it would not be fair to ask the telecoms sector to solely bear the cost of deployment of these networks in those regions where commercial investments are not viable.

ETNO members would like to take this opportunity to restate their commitment to deploy high speed access networks wherever it is commercially viable, within a policy framework that encourages and acknowledges the high risk investments. To maximise the reach of commercially-driven NGA deployment, Europe requires framework conditions conducive to private sector investment.

### **Towards a more investment-conducive regulatory environment**

In the field of economic regulation, this requires a targeted and proportionate regulatory approach reflecting the changes in competitive dynamics which result from the move to NGAs. Some national regulators work on solutions to promote competition and consumer choice irrespective of who owns or builds a high-speed access line to the customer. Such 'symmetric' regulation has been strengthened in the revised EU Directives adopted by the European Parliament and the Council in December 2009 and represents important progress in regulatory practice. The new framework also emphasises that regulation should reflect varying degrees of competition within a national territory ('geographic segmentation'). Commercial agreements between operators should take precedence over enforcing a strict access price regulation on new fibre networks wherever possible to allow for differentiated offers that benefit different groups of consumers.

Moreover, price regulation should remain predictable and economically sound. To drive down wholesale prices for access products on the copper network during the transition to NGA networks, as some are calling for, would undermine the NGA investment case. It would lead customers to stay on the existing, cheaper platform instead of fostering take-up of the new NGA network and make fibre a less attractive investment in absolute terms, if returns on network investment in European markets would drop further.

These findings were highlighted in a recent study conducted by Plum Consulting for ETNO.

### **The Evolving Internet Business Model and the Open Internet**

In addition to the NGA investment challenge, ETNO members also face an investment challenge linked to the economic model for delivering Internet traffic. Recent traffic growth figures and mid-term forecasts for future growth raise serious challenges related to the viability of the current Internet model going forward. Internet traffic delivered via fixed networks is growing at 35% per annum and via mobile networks at 107%, underpinned by new, more capable devices, such as 'smartphones,' and bandwidth-hungry services. Above all, video content is having a dramatic effect on Internet usage overall, which increases the burden on existing network capacity. The transport of additional Internet traffic, however, does not lead at present to additional revenues for connectivity providers which would underpin the needed investments.

There is therefore a need to establish new business models that better align investment incentives with technological and market developments and create additional value for consumers. To this end, it is necessary to achieve a balance of interests of all stakeholders, including content rights owners, online services providers, providers of enabling technology and network connectivity, device manufacturers and end users.

In the face of technological and business developments, ETNO remains committed to an open Internet where end-users have access to the services, applications and content of their choice.

As reiterated by the recently adopted European Commission Communication on the Open Internet, Europe's competition framework and the EU Directives for electronic communications guarantee the openness of the Internet, increase transparency for consumers and provide flexibility for innovation in networks and business models. ETNO members seek to co-operate with national authorities and BEREC to ensure that the provisions of the new framework become effective in practice.

ETNO fully shares the EU Commission's view that "...regulation should avoid deterring investment, or innovative business models, lead to a more efficient use of the networks and to creating new business opportunities".

### **Radio Spectrum Policy Programme**

Mobile broadband networks are playing a key role in bridging the digital divide and meeting the broadband targets of the Digital Agenda, by allowing lower-cost broadband coverage in remote and rural areas as well as in indoor environments.

ETNO members applaud the support given by the European Parliament in its first reading of the European Commission's proposal for the harmonized allocation of the 800 MHz band to mobile services throughout Europe by January 2013. ETNO also welcomes the European Parliament's call for an assessment by January 2015 of additional suitable frequency bands that will help in providing affordable wireless services. .

ETNO calls on the EU Member States to support this approach and for the Council of Ministers

to work towards the adoption of the Radio Spectrum Policy Programme by end-2011.

### **The Digital Single Market for Online Content**

ETNO members make a continued commitment to the “Digital Single Market” by developing new business models which make innovative services and solutions increasingly available online. ETNO members believe that increased availability of attractive legal content at reasonable terms and conditions is the best tool to combat online violations of copyright. Moreover, in light of the market situation and the aforementioned challenges, ETNO believes that creating conditions conducive to investment in the Internet eco-system and refraining from unduly restricting commercial freedom in the Internet is critical to success. ETNO members firmly believe in the need to foster an internal market for digital content and services so that Europe can increase its competitiveness..

In this context, ETNO calls for an open and supportive policy approach to new economic models in the Internet, where the EU’s “Intellectual Property Rights (IPR) Strategy” may play a significant role. In this context, the maintenance of limitations on the liability of Internet intermediaries is of the utmost importance. Any review of e-commerce, copyright and intellectual property right legislation should in no case modify the fundamental provisions aimed at avoiding the imposition on intermediaries of disproportionate and unjustified obligations, such as ex-ante monitoring of content transmitted through networks and services; rather, ETNO is supportive of a legislative reform of collective rights and a licensing policy aimed at overcoming the current fragmentation of the markets and at increasing transparency in the management of rights. This would facilitate a single market for online content.

### **Data Protection**

ETNO is calling for the current review of the Data Protection Directive to result in a ‘level playing field’ for all players targeting EU citizens and commercial freedom, thus allowing new business models to emerge. Although basic principles of the existing legislation remain valid, their interpretation, application and enforcement have not resulted in the harmonised framework and level playing field necessary to establishing certainty for data controllers and individuals.

Trust and confidence is necessary for users to embrace new broadband services and is a critical factor for the success of the Digital Agenda. EU citizens’ personal data should be granted the same level of protection, regardless of the geographical location or the economic sector of the service provider. This is critical to secure Europe’s competitive status.

In summary, ETNO calls for an EU privacy framework that guarantees users’ high standards of data and privacy protection while at the same time encouraging innovation in today’s digital environment.

Equally, the ongoing review of the data retention framework should result in a more harmonised approach across Member States, as well as a reduction of the minimum retention period and a reinforcement of cost reimbursement obligations.

## **Conclusion**

As main innovators and investors in high-speed networks and services, ETNO members have a key role to play in providing European households and businesses with fast and ultra-fast broadband access by 2020. With this commitment secured, we now look for support in terms of the appropriate policy framework which provides sufficient flexibility and acknowledgement of the unique challenges faced by our industry.