

ABOUT THE ACT

The Association of Commercial Television and Video on Demand Services in Europe ([ACT](#)) is the voice of commercial television and video on demand services in Brussels. We directly represent 26 commercial broadcasters and their video on demand services operating across the European Union and beyond. Our members finance, produce, promote, and distribute content and services that reach millions of Europeans across all platforms. They provide European citizens with high-quality, trusted news and information that supports democratic engagement, and they curate a rich audiovisual experience reflecting Europe's cultural and linguistic diversity.

ACT supports investments in digital infrastructure that enables European citizens to access deliver high-quality audiovisual content. The DNA has the potential to support this legitimate goal. It also takes into account a number of issues that are important for the media industry, notably with regard to must carry and spectrum. We therefore thank the Commission for recognizing the audiovisual sector's important role and contribution to the EU internal market. However, the DNA must not undermine principles fundamental to European regulation: net neutrality, support to media pluralism and cultural diversity, and fair competition. Several provisions in the DNA put these principles at risk.

NETWORK FEES / CONCILIATION FACILITY

Article 192's "Conciliation facility" is presented as a neutral tool. But could also become a formal mechanism for telco operators to pressure audiovisual media services (AVMS) into arbitration to extract payments. This would amount to a *de facto* network fee - a tax on high bandwidth services for delivering content that consumers request - even if not labelled as such.

The introduction of a conciliation facility, even if voluntary, is unnecessary, disproportionate and unjustified. There is no evidence of market failure that would support regulatory intervention in interconnection arrangements. BEREC and the Commission have repeatedly confirmed that commercial interconnection markets function well. Traffic growth has stabilized following the COVID-19 pandemic spike and there is no capacity crisis requiring intervention. Moreover, telco operators already have strong negotiating leverage and often charge ACT members for data traffic through bilateral agreements, demonstrating that existing commercial tools are sufficient. As it stands, we do not believe the proposed text offers sufficient safeguards for parties such as content providers that they would not be strong armed by internet service providers into such mechanism.

Telco operators have been transparent about their intentions and have publicly endorsed dispute resolution mechanisms as a path to achieving "fair-share" payments from content providers. The conciliation facility gives telcos formal leverage to pressure AVMS into arbitration and force financial transfers. This amounts to a network fee even if not explicitly labeled as such - creating the very outcome that has been repeatedly rejected by policymakers, regulators, and stakeholders across Europe.

The impacts of such a mechanism would be severe and far-reaching. The fundamental premise underlying network fees is wrong: AVMS do not "generate" traffic - users request content and already pay telco companies for broadband access. Introducing network fees would fundamentally undermine net neutrality principles and would force European consumers to pay twice: once for their internet connection, and again through higher subscription prices when costs are inevitably

passed on to content services. In South Korea, a sender-party-network-pays principle requiring payments to telcos forced online services off-shore, reduced network investment, increased video latency, harmed local application providers, and slowed internet service for Korean consumers.

Network fees would be particularly damaging for Europe's audiovisual sector. AVMS already face substantial European and national cultural investment obligations and levies that often represent double-digit percentages of their revenues. Any additional financial burden would directly reduce the sector's ability to finance European works and meet these commitments. Article 192, supported by articles 191 and 193, therefore creates a fundamental policy contradiction: the Commission seeks to strengthen European content production and cultural diversity, yet network fees would undermine the very sector responsible for producing and delivering this content. The competitive impact would be equally problematic. Video-sharing platforms and social networks compete directly with AVMS for audiences and advertising revenue but face no equivalent cultural obligations. Network fees would deepen these regulatory asymmetries, placing AVMS at a further disadvantage.

ACT therefore calls on policy makers to reject any form of network fee, indirect or direct, and on the deletion of Articles 191, 192 and 193 and all associated provisions.

MUST CARRY

Must carry rules ensure that essential radio and television channels are always available to citizens on the networks they rely on most. This guarantees universal access to trusted news, cultural programming, and public-interest content, which is particularly important for media pluralism, democratic participation and accessibility.

The DNA preserves the existing must-carry regime. Article 113 allows Member States to impose obligations on networks used as the principal means for receiving radio and television broadcast channels. ACT welcomes this continuity. The current system allows obligations to be imposed where justified, ensure they remain reasonable, proportionate and transparent, and provides for periodic review to account for technological and market developments.

ACT calls on policy makers to maintain the existing must-carry regime in Article 113 and preserve full subsidiarity in its application.

SPECTRUM

Spectrum is a strategic and irreplaceable asset for the broadcasting sector. 30% of all TV channels in Europe are carried on Digital Terrestrial Television (DTT), and for local and regional services this rises to 49%. DTT provide universal, reliable access to trusted news, democratic debate and emergency information without commercial or technical barriers. This justifies the specific regime for broadcasting services, notably with regard to articles 16 (net neutrality), 21 (individual licenses) and 30 (auctions).

Member States are best placed to manage their spectrum. Subsidiarity is therefore paramount on this matter. ACT cautions against excessive centralization of spectrum management at EU level and welcomes the continued recognition of the necessity to protect media pluralism and cultural and linguistic diversity. This ensures that Member States can continue to prioritize broadcasting in

spectrum allocation when justified.

ACT calls on policymakers to maintain subsidiarity when it comes to spectrum management and the specific regime for the attribution of spectrum to broadcasting services, given the cultural, linguistic and public-interest nature of broadcasting services.