

Meta's Supplemental Comments to the European Commission's Exploratory Consultation on *The future of the electronic communications sector and its infrastructure*

Meta supports the EU's goals of improving connectivity and promoting a competitive single market. Since 2017, we have invested more than €90 billion of capex and opex in global digital infrastructure, including billions of euros in Europe. And we invest tens of billions of euros in our apps and platforms every year to facilitate the hosting of content that creates the demand that allows telcos to charge for internet access. Content and application providers (CAPs) and telcos play complementary roles in the ecosystem - our investment in content drives the revenue and business model of telcos, and our investment in complementary infrastructure reduces their costs.

However, the incumbent telcos' proposal to extract even higher profits by imposing an arbitrary network fee on the companies bringing investment and innovation to the internet is unjustified and dangerous. Proposals for network fees have been widely and repeatedly rejected. There is no evidence of a funding or capacity problem that would justify network fees. Moreover, allowing some telcos to charge twice for the same infrastructure - already charging consumers for internet access while requiring discriminatory network fees from certain CAPs - will harm net neutrality, the structure of the open internet, and consumers without any guarantee of more investment in networks.

We are also concerned that the Commission's consultation fails to ask fundamental questions necessary to determine whether additional network investment is in fact needed and, if so, whether it is in the public interest to require CAPs to subsidise select incumbent telcos for network costs. Network fees cannot be considered without first exploring whether there is a proven market failure or investment gap, or without properly examining reasonable expectations about future network capacity and equipment needs. It also needs to be considered whether network fees can be guaranteed to actually be invested into networks, rather than diverted to shareholder profits or outside Europe or used to cross-subsidise non-network aspects of a telco's business. These are just some examples of fundamental questions that need to be addressed.

Even more troubling, the Commission makes fundamental assumptions that are incorrect, incomplete, or unsupported, including that "*massive investments*" in networks are needed for new technologies. We and others see no credible evidence of an investment gap in either fixed network capacity or mobile coverage. The development of existing and emerging internet services, including the metaverse, will not require telcos to grow capital expenditures beyond historical levels for greater network investment. Europe's fixed (i.e. FTTH) network capacity, which carries the majority of traffic and is easily upgradeable, is more than enough to supply demand for internet services for the foreseeable future. 5G network costs are also proving much less expensive than previously thought, and the EU's goal of 100% 5G coverage should be achievable by 2030. Also, CAPs are investing in complementary infrastructure that brings traffic closer to users and improves the quality of experience, including investing over €800 billion in global digital infrastructure from 2011 to 2021. The Commission must not prejudge the necessity of network fees.

Moreover, network fees are not a real or sustainable solution for any challenges that European telcos may be facing. Before moving forward with a radical and unprecedented private subsidy model, it is important for the EU to consider other, more established models that have the potential to incentivise infrastructure investments and create beneficial efficiencies.

I. The Telcos' Subsidy Proposal Will Harm Net Neutrality and Consumers Without Any Guarantee Of More Investment In Networks.

Except for the incumbent telcos who would receive subsidies, there is widespread stakeholder agreement of the harms of network fees.

1. **Network fees would contravene net neutrality principles.** It is not in the public interest to charge different rates to different CAPs for carrying traffic, i.e. depending on the origin of the data/content. The Commission is also clearly considering that the popularity of the service would be a factor in assessing any fees. Discrimination of this type would be contrary to core net neutrality principles and fundamentally undermine the open internet. A broad range of stakeholders, including civil society, academia, industry bodies, and regulatory experts have emphasised that network fees would harm net neutrality: *“Let’s imagine you are watching your favorite online show and it suddenly stops or slows down because your hired internet service provider wants to get paid – or get paid more – for the content you are watching, even though you, as a consumer, have already paid for that content and access to the entirety of the internet. That’s a Net Neutrality violation.”*¹

Indeed, the telco call for subsidies further demonstrates the need for strong net neutrality protections. We and others are concerned that the telco response to demand for their services is to attempt to impose new conditions on use of networks that would ultimately harm consumers,² rather than focusing on innovation and efficiency.

2. **Network fees may require CAPs to reduce investment in their services or raise prices, which would be detrimental to consumers.** CAPs may be forced to reduce their investment in their content and apps - and in complementary infrastructure that reduces telco costs and improves the quality of experience for the user - commensurate with any network fees paid, resulting in lower quality digital services for consumers.³ Reduced investment in content hurts the creative community, the telcos who monetize content to sell broadband, and consumers that want diverse, high quality content. Oxera, in a report for the Dutch Ministry of Economic Affairs and Climate, observes that *“Subscriber-funded operators, such as Netflix, are assumed to pass on a*

¹ Allied for Startups, [How does introducing Network Fees endanger Startup Ecosystems?](#) (2023) (“Startups Letter”); see also accessnow et al., [Joint Industry, NGO, Consumer, Telecom, MEPs and Rightsholder Statement Against Network Fees](#) (2023) (“Joint Letter”) (MEP letter: network fees “risks unprecedented impacts to net neutrality”); epicenter.works et al., [34 Civil Society Organizations from 17 Countries Letter](#) (2022) (p. 1: “Charging Content and Application Providers for the use of internet infrastructure would undermine and conflict with core net neutrality protections in the European Union”); BEUC, [BEUC preliminary position on possible introduction of network infrastructure fees](#) (2022) (“BEUC Position on Network Fees”) (p. 4: “The introduction of a differentiated regime which applies only to the major online platforms, defined on the basis of the volume of their Internet data traffic, would raise concerns of potential incompatibility with the principle of net neutrality”); BEREC, [BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs](#) at 5 (2022) (“BEREC Preliminary Assessment”); Francois Alfonsi et al., [54 MEPs Letter](#) (2022); European VOD Coalition, [Position paper on net neutrality](#) (2022); Association of Alternative Telecom Operators, [Position of the AOTA on fairshare](#) (2022).

² [54 MEPs Letter](#) at 2: “In Germany, universities saw a huge increase in online learning traffic as a result of the pandemic. But Deutsche Telekom refused to handle this additional traffic without compensation from universities, and as a result the German Research Network became effectively unusable.”

³ Content providers, rightsholders, NGOs, and others are concerned that network fees could result in consumers having “access to less content, as content companies would have less funds available to invest in content and distribution.” [Joint Letter](#) at 2. European commercial television companies observe: “More money paid in network fees would in fact mean less money to invest in content, which in turn means less content available or lower quality content. **This is unacceptable.**” ACT, [TV & VoD statement on network fees](#) (2022). German private media association VAUNET says the network fee proposal “endangers media pluralism and the existing high quality of media offerings in Europe, [and] creates disadvantages for consumers.” VAUNET, [“Sending network party pays” - a model that endangers media pluralism](#) at 1 (2022). See also Analysys Mason, [The Impact Of Tech Companies’ Network Investment On The Economics Of Broadband ISPs](#) (2022) (“Analysys Mason Report on Tech Investment”).

significant proportion of the levy through higher prices to their customers.”⁴ The “*threat of a two-tiered internet*” also creates a disincentive to experimentation and new service development in Europe, which would disadvantage EU consumers and businesses relative to their global peers.⁵

3. **Network fees would reduce network investment to the detriment of consumers.** Network fees would incentivise telcos to reduce network investment, creating a capacity constraint that would allow them to demand more and more network fees. We already see evidence of telcos not willing to partner with CAPs on co-investments and technologies that will help optimise network traffic (e.g. caching, CDN infrastructure)⁶ and instead request payments to terminate traffic. Subsidies would also reduce the need for telcos to anticipate consumer demand and make timely investments in next generation network technologies that make their network better and more valuable for consumers. Additionally, Analysys Mason found that network fees “*would reduce the ability and incentive for CAPs to invest in infrastructure that brings content closer to end users.*” These would be bad outcomes for consumers - under the current, commercially negotiated system, both telcos and CAPs “*are incentivized to be efficient, resulting in investments that reduce costs and improve the quality of experience for end users.*”⁷
4. **There is no guarantee that network fees will be invested where it is required in networks, or reduce retail prices, and stakeholders are concerned that subsidies will be diverted to shareholder profits or invested outside of Europe.** MVNOs observe: “*Given that many large telecom companies have already financed their investment projects and enjoy sizeable profits, it is unclear how a ‘financial contribution’ will be used by them for the benefit of the network.*”⁸ And think tank ECIPE has expressed concern that “*Europe’s telcos are funnelling industry cash into exorbitant dividend pay-outs and expansions in profitable markets overseas*” and the network fee proposal “*will merely lead to higher dividends and further share buybacks, as well as diminished connectivity and legal challenges.*”⁹
5. **Network fees would enable integrated telcos to increase costs for their competitors.** The largest European telcos operate online content services that would not be subject to network fees.¹⁰ The Commission should consider the potential competitive distortion and harm to net neutrality.
6. **Network fees reduce telco incentives to innovate.** Subsidies are easier for telcos than earning profits on the basis of competing and innovating. Nothing is stopping telcos from launching the next popular digital service. But telcos have little incentive to do so if they can simply benefit from subsidies from the companies that are bringing investment and innovation to the internet.
7. **Network fees would upend the entire system for how the internet was developed and has thrived.** For example, European IXPs see network fees as “*detrimental for the entire Internet*

⁴ Oxera, [Proposals for a levy on online content application providers to fund network operators](#) at 21 (2023).

⁵ See [Startups Letter](#).

⁶ For example, “*Deutsche Telekom peers only with Tier 1 backbone operators. It only offers transit to CAPs and does not allow any on-net CDN servers.*” WIK Consult, [Competitive conditions on transit and peering markets](#) at IX (2022).

⁷ [Analysys Mason Report on Tech Investment](#) at 46.

⁸ MVNO Europe, [MVNO Europe expresses concerns about discussion on potential network investment contributions to finance telecom infrastructure](#) (2022).

⁹ Hosuk Lee-Makiyama, ECIPE, [Sender-Pays: Rethinking incentives for infrastructure investments](#) (2022).

¹⁰ DT offers [MagentaTV](#), Vodafone offers [Vodafone TV](#), Orange offers [TV channels](#) and a [VoD platform](#), Telefónica offers [video streaming](#), and TIM offers [TIMvision](#).

ecosystem” because they would “replace the current market-based model for interconnection with a highly regulated interconnection market in which administrative rules rather than technical necessity or a high-quality internet for the European citizens becomes the primary determinant of interconnection decisions.”¹¹ Meta has bilateral voluntary peering arrangements with all major ISPs and telcos in Europe where they exchange traffic to the mutual benefit of stakeholders and users.

8. **The failure of South Korea's policy is a warning to policy makers.** Starting in 2016, South Korea began requiring ISPs to compensate each other if there was a specified imbalance in traffic exchanged between ISPs. ISPs then sought network fees from CAPs to cover such costs. Although held out as a path for the EU to follow,¹² the European Parliamentary Research Service (among many others) found that: “[r]eports and expert views, with some exceptions, tend to agree that the South Korean experiment is failing.”¹³ South Korea was found to have the highest - and still increasing - latency in the OECD in 2020,¹⁴ “market observers report a decline in diversity of online content and expect rising prices for end users for content,”¹⁵ and transit costs are greatly inflated - more than eight times higher in Seoul than in Paris.¹⁶ Unsurprisingly, proposals to double down on this failure by more explicitly mandating network fees have not advanced. In fact, hearings on new network fee proposals were met with a public outcry, including a petition by “tens of thousands of domestic users [who] believe that telecommunications companies are harming the rule of network neutrality by demanding CPs pay network fees”¹⁷ and by concerns of content creators. Europe should not follow South Korea down a path that is harmful for connectivity, content, and consumers.

II. The Commission Has Not Asked Basic Questions Necessary To Determine Whether There Is An Actual Need For Substantial Additional Network Investment.

¹¹ Euro-IX, [fair share debate and potential impact of SPNP on European IXPs and Internet ecosystem](#) at 2 (2022); see also Dr. Komaitis et al., [29 Internet Experts Letter](#) (2023) at 1; [BEREC Preliminary Assessment](#) at 14.

¹² Orange, [A call for large content platforms to contribute to the cost of the European digital infrastructure that carries their services](#) (2022).

¹³ EPRS continues that Korea’s experiment is leading to “reduced diversity of online content, slower digital transformation, higher prices for end users buying internet content, a decline in internet service quality and a decrease of investment in network infrastructure.” EPRS, [Network cost contribution debate](#) (2023). See also Internet Society, [South Korea’s Interconnection Rules](#) (2022) (SPNP “has profound negative effects on the openness, global reach and trustworthiness of the Internet in South Korea,” leading in particular to: “Inefficient infrastructure and traffic flows, leading to high costs and low quality of content services. Misplaced investments supporting outdated models for content delivery, leading to long-term stagnation in the service development and evolution in South Korea. Higher barrier to entry, especially for newcomers and new applications/services, impeding innovation and service offerings. Shifting away from a general purpose network service by ISPs, affecting the network neutrality principle.”); Carnegie Endowment for International Peace, [Korea’s Challenge to the Standard Internet Interconnection Model](#) (2021) (“the cost of transit in Seoul is typically eight to ten times that of major European network hubs like London and Frankfurt. Elsewhere in Asia, technological improvements in optical fiber network technology and vigorous competition are leading the cost of transit to fall about 20 percent per year. That is simply not happening in Korea, in part due to the added costs imposed by these interconnection fees.”); epicenter.works, [Net Neutrality: Myths from the Telecom Industry and Responses from Civil Society](#) (2022) (“According to OECD figures the latency in the experienced internet quality [in Korea] has deteriorated significantly over the past years. ... more South Korean business are raising their voice about the challenges the new regulatory environment brings, particularly for latency sensitive services like gaming and video calls.”); [BEUC](#), the [European VOD Coalition](#), [vzbv](#), and [Allied for Startups](#) have also expressed significant concern about Korea’s SPNP model.

¹⁴ OECD Publishing, [Broadband Networks of the Future](#) at 50 (July 2022).

¹⁵ WIK Consult, [Competitive conditions on transit and peering markets](#) at IX (2022).

¹⁶ ITIF, [Consumers Are the Ones Who End Up Paying for Sending-Party-Pays Mandates](#) (2022).

¹⁷ Yoon So-Yeon, [Tumultuous network usage fee debate is clear as mud as public sentiment turns](#) (2022).

The Commission has not asked fundamental questions that would create a fulsome record to determine whether there is a market problem and if network fees are the appropriate response. Here are key questions that were omitted and our preliminary answer, though a complete, public examination of each is needed before network fees can even be considered.

Is there a market failure? If so, what is the evidence?

No. Europe's telcos are profitable;¹⁸ their cost of capital is low;¹⁹ there is money for investment, including dedicated (and not exhausted) public funds for network upgrades,²⁰ and our estimate is that since 2010, Europe's operators invested approximately €320 billion outside of Europe or on non-core domestic telecom assets; data traffic growth is normal and good for telcos;²¹ and Europe's network has more than enough potential to address demand for the metaverse and other internet services for decades to come.²²

Are substantial new, additional investments in network infrastructure needed? Why?

We and others see no credible evidence of an investment gap in either fixed network capacity or mobile coverage.²³

Moreover, the variation by Member State in fibre rollout,²⁴ 5G coverage,²⁵ and telco profitability²⁶ suggests that there is not clearly an EU-wide investment problem to be solved, to the extent there is any problem at all. France, Spain, Portugal, and Sweden enjoy nearly full fibre coverage, for example.²⁷ This also means that if network fees are required, and those costs passed to consumers, French, Spanish, Portuguese, or Swedish citizens - or citizens of any other country where fibre is widely deployed - will be subsidising German fibre rollout because of Deutsche Telekom's and Vodafone's lagging fibre rollout. Similarly, while 72% of the EU's population is covered by 5G, citizens of countries like Denmark, Italy, and the Netherlands with near 100% coverage will be subsidising 5G rollout in countries with lower 5G coverage such as Belgium or Hungary.²⁸

Why should other industries subsidise basic operation costs for large, incumbent telcos?

There is no evidence to show that telcos need subsidies from other industries for network investments.

¹⁸ The telecom sector in Western Europe has EBITDA margins of 26.4% (wireless) and 32% (other), compared to the average of 11.7% for the 94 sectors observed. Research ICT Solutions, [Competition and Investment in the Internet Value Chain in Europe](#) at 3 (2022) ("RIS Internet Value Chain Report").

¹⁹ The telecom sector in Western Europe had a cost of capital of 3.0% (wireless) and 2.9% (other), compared to an average of 4.0% for the 94 sectors observed. [RIS Internet Value Chain Report](#) at 3.

²⁰ See our response to Question 19. Also, BEREC: "Not all European ISPs support the suggestion made by the larger incumbent operators calling for a financial contribution from large CAPs. Rather, other network operators and/or ISPs (like smaller and medium-sized network operators/ISPs), which are also actively investing in high-capacity networks have expressed concerns about the large ISPs' proposals. They mention that there is sufficient capital available for investments in fibre networks, especially by private investors." [BEREC Preliminary Assessment](#) at 5.

²¹ [BEREC Preliminary Assessment](#) at 4 ("internet traffic has grown steadily over the years. ... [T]here has been no fundamental change in the general growth tendency compared to 2012."); Deutsche Telekom, [Outlook & Financial strategy](#) ("Europe: The positive trend of recent years in the traditional communications markets of our Europe operating segment will continue in the next years. Growth is being driven by a further increase in demand for mobile data and broadband and pay TV lines.").

²² See Meta, [Network Fee Proposals Are Based on a False Premise](#) (2023) ("Meta Network Fee Post").

²³ *Id.*

²⁴ See FTTH Council Europe, [European FTTH/B Market Panorama 2023](#) at 15 (Apr. 19, 2023) ("FTTH Council Europe Report"); Analysys Mason, [Full-fibre networks in Europe: state of play and future evolution](#) at 5-8 (May 3, 2023) ("Analysys Mason Europe Fibre Report").

²⁵ European Commission, [5G Observatory Quarterly Report 17](#) at 24-25 (2022).

²⁶ See [RIS Internet Value Chain Report](#) at 3-5.

²⁷ [FTTH Council Europe Report](#) at 15.

²⁸ [5G Observatory Quarterly Report 17](#) at 24-25.

Telcos ignore fundamental reasons they invest in networks, and how they benefit from CAPs, when they claim that CAPs are the primary beneficiaries of their network investments.²⁹ This ignores: benefits to telcos for investing in their own core business; benefits to consumers from better bandwidth and quality of service; and benefits to all participants on the internet, consumer or business, from more people being online, including a growing creator community with an economy worth an estimated €230 billion,³⁰ and SMBs that benefit from the greatly expanded marketplace for their goods and services provided by globally available apps.³¹

What investments do CAPs make in their apps and platforms? How have CAP investments in their apps and platforms benefited telcos and the internet ecosystem?

Meta invests tens of billions of euros every year in our apps and platforms to facilitate the hosting of content. Billions of people go online every day to access this content, creating the demand that allows telcos to charge people for internet access. Our investment in content literally drives the revenue and business model of telcos.

What is the impact of additional data on networks?

Telcos tell investors that they profit from growth in demand for data,³² and tell investors that while traffic has increased, “*Capital intensity has absorbed this*” and “*Cost per GB has fallen faster.*”³³ Also, incremental traffic costs are low,³⁴ and the “*cost of network upgrades that are necessary to handle an increased IP traffic volume are very low when compared to the total network costs.*”³⁵

Traffic levels in telco networks measured against capacity - what is the telcos’ average network capacity utilisation for the past 30 years?

We and others see no credible evidence of a capacity crunch. BEREC observed that even during COVID peaks, “*no major congestion issues have ever been reported by NRAs to BEREC.*”³⁶ Internet traffic has grown steadily for years and “*the internet has proven its ability to cope with increasing traffic volumes.*”³⁷

How is traffic primarily delivered today to end-users?

Network fees would upend the widely preferred settlement-free peering model. Studies estimate that more than 99% of Internet peering agreements are informal, and usually settlement-free.³⁸

²⁹ European Commission, *Exploratory Consultation, The future of the electronic communications sector and its infrastructure* at 39 (2023) (“Consultation”) (incumbent telcos “call for the need to establish rules to oblige [CAPs] who generate enormous volumes of traffic to contribute to the electronic communications network deployment costs. In their view, such contribution would be ‘fair’ as those CAPs and digital players would take advantage of the high-quality networks but would not bear the cost of their roll-out.”).

³⁰ Davit Kirakosyan, *Goldman Sachs estimates creator economy TAM of \$250 billion* (2023).

³¹ A 2020 survey found 7 in 10 businesses in the EU using Meta apps and technologies are exporting to other countries, compared to the 5 in 10 of companies not using Meta apps and technologies. Copenhagen Economics, *Empowering the European Business Ecosystem* at 12 (2020).

³² See Deutsche Telekom, *Outlook & Financial strategy*; Telefónica, *Mobile data, how is Telefónica Europe capturing this growth opportunity* (2010) (“Surging demand for mobile data is the clear driver for future growth....”).

³³ Vodafone, *Vodafone Technology Investor Briefing* at 38 (2021) (cost per GB has fallen “>70%” from FY17 to FY21).

³⁴ BEREC has “shown that competition and technological progress have led to declining per unit costs for data traffic, thereby allowing the internet to cope with increasing traffic volumes.” *BEREC Preliminary Assessment* at 9. We estimate that the cost per bit is less than a quarter of what it was five years ago. See *Meta Network Fee Post*. And an Ericsson 5G report observes that the traffic cost per gigabyte delivered “declines as user traffic increases because traffic grows more than investment does, reducing the cost of each additional GB delivered.” Ericsson, *Understanding the Economics of 5G Deployments* at 12 (2020).

³⁵ *BEREC Preliminary Assessment* at 10.

³⁶ BEREC, *BEREC Summary Report on the status of internet capacity, regulatory and other measures in light of the Covid-19 crisis* at 1 (2021).

³⁷ *BEREC Preliminary Assessment* at 3.

³⁸ Internet Society, *Old Rules in New Regulations - Why “Sender Pays” Is a Direct Threat to the Internet* (2022).

Expectations of traffic levels measured against capacity in 10 years, what type of equipment is necessary, and what will that cost?

Europe should be lauded for its progress in installing fibre to the premises, which, given its lifespan of over 30 years, is a cornerstone of access technology and a ‘once in a generation’ investment.³⁹ Looking ahead, Europe’s fixed network capacity, with easily upgradeable fibre deployments, is more than enough to supply demand for the metaverse and other internet services for decades to come.⁴⁰

For any proposed subsidies, what measures would be necessary to ensure that any such subsidies would serve public, rather than private, objectives?

Subsidies are not the solution to any financial challenges telcos are facing, and other means of incentivising investment and creating efficiencies should be considered. But if required, strong regulatory oversight is needed for any telcos taking subsidies (see Section V).

III. Many Assumptions Made In The Consultation Are Incorrect Or Unsupported. The Commission Must Not Prejudice The Necessity Of Network Fees.

The network fee proposal should be abandoned. Reevaluation and consultation on these key assumptions would be needed before network fees can even be considered:

1. The Commission states, with no evidence, that “*Massive investments in network infrastructure are needed in order to accommodate and integrate new technologies.*”⁴¹ This is incorrect. Europe’s fixed network capacity, with easily upgradeable fibre deployments, is more than enough to supply demand for the metaverse and other internet services for decades to come.⁴²
2. The Commission appears concerned that improved connectivity will actually harm telcos: “*New performance will enable critical use cases and the connection of objects. These developments will likely have a significant impact on the business model of providers of electronic communications networks.*”⁴³ The “*significant impact*” will be greater revenue and profit for telcos.⁴⁴
3. The Commission also appears concerned that telcos will be negatively impacted by future traffic growth.⁴⁵ This seems directly contrary to the stipulated objectives of the Digital Decade targets that aim for the digital transformation of businesses with 75% of EU companies using Cloud/AI/Big Data, grow scale-ups and financing to double EU unicorns and more than 90% of SMEs to reach at least a basic level of digital intensity. It also raises the prospect of Europe’s next

³⁹ See [Meta Network Fee Post](#). See also [FTTH Council Europe Report](#); [Analysys Mason Europe Fibre Report](#).

⁴⁰ See [Meta Network Fee Post](#).

⁴¹ Consultation at 3.

⁴² [Meta Network Fee Post](#) (“*The development of the metaverse will not require telecom operators to grow capital expenditures for greater network investment. That’s because metaverse adoption for the foreseeable future will continue to be driven predominantly through Virtual Reality (VR). Almost all VR content is currently consumed over fixed networks through Wi-Fi. These fixed networks are already established across the majority of Europe, and carry almost 20 times the traffic of mobile networks. We know from our own data that over three-quarters of Meta’s traffic in Europe is delivered through fixed networks.*”).

⁴³ Consultation at 2.

⁴⁴ See, e.g. RCR Wireless News, [The benefits of deploying an outstanding 5G network: Deutsche Telekom Germany](#) (2023) (highlighting how strong growth reported by DT Germany was driven by their “*commitment to deploying an award-winning network throughout Germany*” that would allow DT Germany to “*offer multiple benefits to end users, including cloud gaming and other new consumer applications.*”).

⁴⁵ See Consultation at 39.

tech unicorn being forced to subsidise its largest telcos. And telcos tell investors that they profit from growth in demand for data.⁴⁶ Indeed, the actual risk for telcos may be the indications that traffic growth is in fact slowing.⁴⁷

4. The Commission says CAPs “generate” data traffic and asks about the threshold at which a company can be considered a “*large traffic generator (‘LTG’)*.”⁴⁸ But traffic is requested and thus “generated” by telco customers, not CAPs. Those customers pay telcos to access what content they want, when they want it, and for how long, meaning that telco customers control the volume of data that runs through networks at any given time. Network fees would “*effectively be a fee on consumer behaviour and choice.*”⁴⁹

Continuing to consider network fees without thorough examination of these assumptions, and the questions in Section II, contradicts the EU’s high standard for evidence-based rulemaking embodied in the EU Better Regulation framework,⁵⁰ and ignores the concerns about the proposal from Member States and European officials and their calls for a careful, deliberative process should network fees be considered.⁵¹ Considering the radical and unprecedented nature of the network fee proposal, and the many potential harms, asking how network fees could be designed without examining whether they are necessary at all will fuel recent criticism that the questionnaire is “*slightly tendentious.*”⁵² Moreover, a fulsome examination would show clearly that network fees are unjustified and would be harmful.

Nevertheless, if the Commission continues to consider network fees, it should test these assumptions, and explore the questions in Section II, through a detailed impact assessment and a new, public consultation on any substantive initiative, as called for by the Better Regulation framework.⁵³

IV. Contrary To Telcos’ Claims, Meta And Other CAPs Make Substantial Investments To Make The Internet Ecosystem More Reliable And Efficient.

Telcos fundamentally mischaracterize Meta and other CAPs as not contributing enough to European and global connectivity infrastructure. In fact, Meta and other CAPs have invested billions into complementary infrastructure in ways that serve EU connectivity and digital goals.

⁴⁶ See Deutsche Telekom, [Outlook & Financial strategy](#); Telefónica, [Mobile data, how is Telefónica Europe capturing this growth opportunity](#).

⁴⁷ According to ETNO, “[d]ata traffic growth slowed in 2021 after the disruptions of the pandemic” but may float to “20-25% per year.” But as of 2020 “growth rates of about 30% ha[d] been normal for years.” See ETNO, [State of Digital Communications 2023](#) at 6 (Jan. 2023); Stocker & Lehr, [Regulatory Policy for Broadband: A response to the ‘ETNO Report’s’ Proposal for Intervention in Europe’s Internet Ecosystem](#) at 27 (2022) (citing e.g. Feldmann et al., 2020; Leighton, 2020). Analysys Mason finds in 2023: “Whilst demand growth is by nature uncertain, recent growth in concurrent peak demand across mature networks in the last three years has been below 20%.” [Analysys Mason Europe Fibre Report](#) at 23. See also Ericsson, [Ericsson Mobility Report](#) at 23 (Nov. 2022) (mobile data growth in Western Europe in 2022 was 19%, but predicted CAGR for 2022-28 is only 18%).

⁴⁸ Consultation at 39, 59.

⁴⁹ [Joint Letter](#) at 2.

⁵⁰ European Union: [Better Regulations: guidelines & toolbox](#).

⁵¹ Danish Government, [Danish non-paper on the European Commission’s Public Consultation on the future of the electronic communications sector and its infrastructure](#) (2023) (“Denmark strongly opposes any measure by which large OTTs or other digital players are obliged to contribute to the cost of the deployment of networks.”); DerStandard, [Austria’s government against gigabit fee for Netflix and Co.](#) (2023); Government of the Netherlands, [Plans for charging Internet toll by large telecom companies feared to have major impact on European consumers and businesses](#) (2023); Denmark, Estonia, Finland, Germany, Ireland, The Netherlands, Sweden, [Call for a careful process in light of the current debate on OTTs](#) (2022); [54 MEPs Letter](#).

⁵² Deutscher Bundestag, [Criticism of the planned “compulsory levy” for Netflix and Co.](#) (2023).

⁵³ See [Better Regulations: guidelines & toolbox](#) and Section III, [Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making](#) (2016).

From 2011 to 2021, CAPs collectively invested over €800 billion in global digital infrastructure, including approximately €110 billion a year from 2018 to 2021.⁵⁴ These infrastructure contributions made by technology companies save telecom operators around €5 billion per year.⁵⁵ Meta's investments in infrastructure brings content closer to European users, thus saving European telcos hundreds of millions of Euros a year on network cost if they were to fetch content from farther locations.

Since 2017, Meta alone has invested more than €90 billion of capex and opex in global digital infrastructure, including billions of euros in Europe. In 2022 alone, we invested over €27 billion globally in digital infrastructure, with a capex to revenue ratio in line with or higher than that of major European telecom operators.⁵⁶

Through our investment with partners in submarine cables like Marea, Havfrue, Havhingsten, and Amitie,⁵⁷ transatlantic capacity has increased approximately fourfold since 2016. These investments, combined with other technical innovations that Meta has led, have fuelled significant demand growth for telco data services.

More capacity at a lower cost has benefited people and businesses on both sides of the Atlantic. For example, since 2019 the Marea cable has contributed approximately €16 billion each year to Europe's economy – and this will increase as other cables go live in 2024 and 2027.⁵⁸

We have also pioneered vital network investments connecting Europe to Africa, the Middle East and South Asia through landmark submarine cable projects including 2Africa and 2Africa Pearls.⁵⁹ To deliver these, we have partnered with a range of telecom operators, including Vodafone and Orange. In addition, Meta is a large customer of the European telecom industry. Since 2018, we have invested more than half a billion euros leasing or purchasing over one million kilometres of terrestrial fibre. In subsea, we partner with major European suppliers such as Alcatel Submarine Networks (ASN), which is currently building the largest cable in the world (2Africa and 2Africa Pearls) connecting Europe to Africa, the Middle East and Asia, and also building the Amitie cable connecting France and the U.K. to the U.S.

We have also invested to build and deploy a Content Delivery Network (CDN), including an extensive European fibre network, enabling over 99% of user-requested content to be delivered more efficiently by Meta. We don't charge telcos for transporting this data traffic closer to them.

Additionally, the operations of our data centres and offices have already reached net zero emissions and are supported with 100% renewable energy through our strategy of adding renewables to the local grids, which also helps decarbonise the electricity system. Meta supported projects have added 540MW of new wind and solar energy to grids in Europe. Our goal is to reach net zero emissions across our global value chain in 2030.

⁵⁴ [Analysys Mason Report on Tech Investment](#) at 4-6.

⁵⁵ *Id.*

⁵⁶ [Meta Network Fee Post](#).

⁵⁷ For more information about these subsea cables, please see: Meta, [Microsoft and Facebook to build an innovative new subsea cable across the Atlantic Ocean](#) (2016); Meta, [Meta's subsea cable investments expected to contribute over half a trillion dollars to Asia-Pacific and European economies by 2025](#) (2022) ("Economic Impact of Meta's Subsea Cable Investments"); Meta, [Meta Partners with Aqua Comms and Bulk Fibre to Deliver Aluminum Conductor Powered Subsea Cable System](#) (2022); TeleGeography, [Submarine Cable Map - Amitie](#) (2023).

⁵⁸ See [Economic Impact of Meta's Subsea Cable Investments](#).

⁵⁹ Meta, [Building a transformative subsea cable to better connect Africa](#) (2020); Meta, [2Africa Pearls subsea cable connects Africa, Europe, and Asia to bring affordable, high-speed internet to 3 billion people](#) (2021).

V. Subsidies Are Not The Solution, And Other Models Should Be Considered. If Required, Strong Regulatory Oversight Is Needed For Any Telcos Taking Subsidies.

Network fees, regardless of whether through direct payments or a new fund, are not needed - we see no credible evidence of an investment gap, and Europe's telcos are profitable and continue to attract capital. A new fund would also be unnecessarily duplicative of the significant existing funds available to telcos for infrastructure, including hundreds of millions of euros in grants,⁶⁰ and mechanisms such as funding for Universal Service Obligations. A new fund could also harm previous and future private investments into digital infrastructure, for example because of overbuilding. Network fees in any form would harm net neutrality and consumers. Harms would include that, if network fee costs are passed to consumers, citizens of countries where modern networks are more widely deployed would be unfairly subsidising networks in other countries.

Before moving forward with a radical and unprecedented forced private subsidy model, it is important for EU telcos to consider other measures to incentivise infrastructure investments and create efficiencies. Such solutions could include telcos taking proactive steps to create more efficient businesses dedicated to network improvement. For example, telcos could cut shareholder dividends. Proximus recently announced offering fibre to 50% of Belgian households by 2025 and 95% by 2032, as well as 100% 5G deployment by 2025, funding this by reducing the dividend by 50%.⁶¹

If, despite the significant evidence to the contrary, network fees were nonetheless mandated, before awarding such subsidies, the Commission should first require a demonstration by any telco seeking subsidies that it has first engaged with CAPs in good faith to reach technical, non-subsidy solutions to any capacity concerns.

If subsidies were to be awarded, strong regulatory oversight over telcos that take subsidies would be needed, including a rigorous evaluation, monitoring, and certification process, and other specific and meaningful safeguards to ensure that any subsidies are used to promote additional network investment and not diverted to unintended purposes, such as to pay shareholder dividends, or cross-subsidisation, or otherwise subject to waste, fraud, or abuse. CAPs must also have the right to demonstrate the value created by CAP apps and content, and the extent to which any CAP infrastructure investments result in savings to telcos. The demonstrated value could result in subsidies being reduced or eliminated. The Commission could draw on established elements of the EECC USO framework for these oversight mechanisms, including requiring telcos to provide evidence of financial need and principles of transparency and minimising market distortion.⁶²

Any subsidies should be awarded by competitive tender to ensure availability to all network operators, not just the large, incumbent telcos. And to further limit distortion of network competition, incumbent operators receiving the functional equivalent of government bailouts should have additional restrictions imposed on them such as elimination of executive bonuses, caps on compensation, freezes on dividends, bans on stock buybacks, prohibitions on cross-subsidisation of certain business units, repayment of excess profits, and enhanced transparency to the public as to how funds are used.⁶³

⁶⁰ See our response to Question 19.

⁶¹ Andy Fry, *Proximus unveils bold growth strategy, but cuts dividends and IT spend* (2023).

⁶² See our response to Question 29.

⁶³ See, e.g., European Commission [COVID state aid framework](#).