



## **GSMA Contribution to the Digital Single Market Strategy Consultation March 2015**

As providers of Europe's mobile digital infrastructure, GSMA members invested 155 billion euros up to 2014 in the essential networks that will be the foundation of the Digital Single Market. It is estimated that around 170 billion euros more could be invested up to 2020. The mobile and fixed infrastructure investors provide the means by which digital will be diffused across all parts of Europe's economy and society.

The GSMA supports President Juncker's objective of creating a truly-connected Digital Single Market, and his intention of adding more ambition to the on-going reform of telecoms rules and wider single market measures. Therefore we welcome this first opportunity to contribute, and look forward to working with the Commission and other policy makers, legislators and stakeholders over the period to come.

For this initial submission, we would like to state what we believe should be the priorities for the Digital Single Market Strategy (DSM) as it relates to ensuring the necessary mobile infrastructure investment is realised. Put simply, we believe:

- EU policy action is urgent to deliver a modern, simplified and future-proof framework because the number and type of players in the market, as well as communication services available, makes that market unrecognisable compared to when the current rules were set
- Policy needs genuinely to be pro-investment, giving unequivocal signals as well as taking action where appropriate
- Consumers have to trust that the same level of protection of their rights and privacy is applicable on each and every occasion they engage with digital services, whoever provides it; where the same or equivalent service is offered, the same rules should apply

### **There is an urgent need for a future-proof, simplified and modern policy framework**

EU policy action is needed urgently to modernise and simplify the electronic communications framework. Considering the incredible pace of change in this industry, notably in terms of innovation in services, networks and competition, a delay of up to five years before implementation of new rules, as is the risk, would be far too long.

The prevailing EU Telecoms Framework legislation was passed more than 10 years ago, when the Internet was still in its infancy. The Framework has therefore become obsolete in many aspects. Its implementation also exhibits limitations in terms of harmonisation and/or complexity. For a truly-connected Digital Single Market to happen, the EU digital sector deserves a modern, future-proof and well-founded framework, which should be put in place as soon as possible. A slight updating of the Framework will not be sufficient. A broad and thorough review of the electronic communications framework is needed.

### **Pro-Investment**

Secondly, the EU, through the DSM and forthcoming Framework Review, should encourage the roll-out of modern communication infrastructures by establishing a simplified, pro-investment regulatory framework that supports the significant investments planned by the industry. The new framework should provide for fewer and less complex rules, and should become effective as soon as possible.

For one thing, this means the EU persevering with seeking ways to reform Europe's fragmented and inconsistent approach to spectrum policies, which puts a brake on mobile infrastructure growth.

The EU should recognise that there are out-dated and unnecessary layers of regulation, and focus on the broader citizen interest by supporting investment in connectivity.

### **Same services, same rules**

The growing range of innovation and uses opened up by the internet over the last two decades has been of great benefit to consumers. An increasing number of communications services are today available to consumers, both over the internet and through the traditional mobile and fixed networks. These services run alongside similar services provided by telecom/network operators. Clearly the resulting situation in terms of digital-services regulation demands a fresh look in order to ensure consistent and proportionate protection and rules.

As the electronic communication regulatory framework dates back to a time of 'internet infancy', it does not therefore cover many services now available on the internet. As a result, some digital services today are regulated as 'electronic communication services' (operators' services), others as 'information society services' (covering most internet services). Each category is subject to very different rules.

Indeed, the European Commission has begun to take this issue into account, for example, by considering some elements of a cross-sectoral (horizontal) approach on both the draft General Data Protection Regulation and the draft Network Information Security Directive. This has offered a consumer-focused starting point for legislation, and should be taken forward into the digital single market review, when looking both at the barriers to trade and the need to ensure consumers are fully protected in the digital world.

Consistency in consumer protection must be a priority focus area. While all consumer protection rules should prove their effectiveness at proportionate cost to all market players, it is clearly fundamental for the Digital Single Market that people can trust it. Therefore a modernisation of the EU consumer protection acquis cannot be done separately from the review of the Telecom Framework. This is a prerequisite for stimulating the take up of digital that will ultimately deliver a truly-connected Digital Single Market.

People need to be able to rely on consistent consumer protection and privacy standards and experiences, irrespective of the technologies, infrastructure, business models and data flows involved, and of who provides a service or where a company may be located. Thus, the EU needs to 'think outside of the box' when it comes to policy-making in the space where once only 'telecommunications' companies operated. This should ensure that the scope of a coherent European Consumer law encompasses all commercial digital services, regardless of the provider or the means by which those

services are provided to customers. Moreover, it should be done in a proportionate, 'light touch' way, which both protects the customer and encourages digital innovation.

We look forward to engaging with the DSM.

#### **About GSMA**

The GSMA represents the interests of mobile operators worldwide. Spanning 219 countries, the GSMA unites nearly 800 of the world's mobile operators, as well as more than 200 companies in the broader mobile ecosystem, including handset makers, software companies, equipment providers, Internet companies, and media and entertainment organisations. The GSMA also produces industry leading events such as the Mobile World Congress and Mobile Asia Congress.

For more information, please visit Mobile World Live, the online portal for the mobile communications industry, at [www.mobileworldlive.com](http://www.mobileworldlive.com) or the GSMA corporate website at [www.gsma.com](http://www.gsma.com).