

19.05.2023

EGDF response to the exploratory consultation on the future of the electronic communications sector and its infrastructure

About EGDF

1. **The European Games Developer Federation e.f. (EGDF)**¹ unites 23 national trade associations representing game developer studios based in 22 European countries: Austria (PGDA), Belgium (FLEGA), Croatia (CGDA), Czechia (GDACZ), Denmark (Producentforeningen), Finland (Suomen pelinkehittäjät), France (SNJV), Germany (GAME), Italy (IIDEA), Netherlands (DGA), Norway (Virke Produsentforeningen), Poland (PGA and IGFP), Portugal (APVP), Romania (RGDA), Serbia (SGA), Slovakia (SGDA), Spain (DEV), Sweden (Spelplan-ASGD), Switzerland (SGDA), Turkey (TOGED) and the United Kingdom (TIGA). Through its members, EGDF represents more than 2 500 game developer studios, most SMEs, employing more than 45 000 people.
2. **The games industry** represents one of Europe's most compelling economic success stories, relying on a strong IP framework, and is a rapidly growing segment of the creative industries. There are around 4 600 game developer studios and publishers in the EU, employing over 74 000 people². In 2021, Europe's video games market was worth €23bn, and the industry has registered a growth rate of 22% over 2020 in key European markets³. The European digital single market is the third-largest video game market globally.
3. **A reliable high-speed internet connection plays a critical role in modern infrastructure.** As more public services are becoming accessible online, and sometimes exclusively so, it is imperative to ensure universal and non-discriminatory Internet access for both citizens and businesses. The pandemic demonstrated the importance of internet access in securing access to culture and made visible the essentiality of better internet infrastructure and unlimited data plans. The European Digital Single Market area can only become a global leader in innovations and secure digital growth and jobs if a high level of non-discriminatory connectivity is ensured throughout Europe. Rather than imposing network fees that create new barriers to market access, the Commission should concentrate on transforming the European Digital Single Market into a pioneering testbed for the next generation of mobile content and services.

¹ For more information, please visit www.egdf.eu

² EGDF-ISFE 2020 European games industry insights report

https://www.egdf.eu/wp-content/uploads/2022/09/ISFE_EGDF-report2022_V08-05092022_45FIXED.pdf

³ ISFE-EGDF 2021 Key Facts

<https://www.isfe.eu/wp-content/uploads/2022/08/FINAL-ISFE-EGDFKey-Facts-from-2021-about-Europe-video-games-sector-w eb.pdf>

Network fees are not a solution.

4. **Network fees are not a solution to the underlying market and policy failures at the member state level.** The substantial disparities in the challenges related to telecommunication markets among EU member states highlight the absence of a systematic issue that the Commission can address with one-size-fits-all EU-level intervention. For instance, Finland has a thriving landscape of healthy competition among Internet Service Providers (ISPs), successful government subsidies for broadband expansion, and prompt delivery of 5G spectrum licenses. Thanks to these efforts, Finland has achieved a telecommunications market where nearly everyone can access fast and affordable unlimited mobile data plans. However, the situation in other member states, such as Belgium, is considerably bleaker.
5. In regions where the competition between ISPs flourishes, there is no significant shortage of investment in network infrastructure, rendering network fees unnecessary. Instead, the European Commission should concentrate on supporting member states in addressing their unique national challenges and fostering improvements at the domestic level.
6. **European game developers, publishers and platforms actively invest in telecommunication services, contrary to the claims often made by ISPs.** These content application providers invest in European telecommunication services such as Content Delivery Networks (CDNs) and data centres. Additionally, they invest in green game design solutions that minimise unnecessary network traffic.
7. **It is crucial to acknowledge that the demand for faster internet services is driven by cultural and artistic content rather than the other way around.** Introducing network fees poses a significant risk of creating a destructive cycle. First, these fees would increase prices for digital content and services in Europe. Higher prices would reduce the demand for such digital offerings, subsequently diminishing the need for faster internet connections. As a result, network fees could potentially lead to a situation where the EU lags behind the global market in both the adoption of new and innovative data-intensive services and the quality of European internet infrastructure.
8. By imposing network fees, there is a genuine danger of impeding the growth and competitiveness of the European digital market, ultimately hindering the market uptake of cutting-edge services and the advancement of the European internet infrastructure.
9. **It is imperative to recognise that European consumers and small and medium-sized enterprises (SMEs) would bear the burden of network fees, despite arguments suggesting that these fees would target large multinational internet giants.** In reality, these giants possess a market position that enables them to pass on the costs along the value chain, ultimately to European consumers and SMEs who rely on their services. Consequently, this would result in more expensive services for European consumers and impose new financial barriers for European SMEs seeking to access European digital single markets.
10. Secondly, the European Union (EU) has dedicated significant efforts to foster competition in mobile application ecosystems, particularly through the Digital Markets Act that enables game developers, publishers and platforms to open their own third-party application stores in mobile

markets. However, implementing network fees could quickly nullify these achievements. While industry giants like Apple and Google may have no trouble paying such fees, they would impose significant financial and regulatory barriers on European SMEs aiming to challenge these giants by establishing their third-party application stores.

11. Thirdly, the European consumer protection framework requires companies operating in European consumer markets to provide software updates for consumers. Now the Commission is considering introducing a compulsory fee for delivering those obligatory updates to consumers.
12. **Implementing network fees would potentially force game platforms to support their competitors financially.** It is important to note that numerous European Internet Service Providers (ISPs) extend their services beyond telecommunication services and operate their own video-on-demand platforms or digital game distribution platforms. Consequently, network fees could result in a scenario where cultural content distribution platforms operating in Europe are forced to financially support their direct competitors, who also happen to be ISPs. This would pose a clear conflict of interest and can disrupt fair competition within the digital market.
13. **Network fees would reduce the pressure for investment in R&D and new business modes.** During the 2022 energy crisis, Finnish ISP Elisa launched an ambitious EU-funded R&D project to transform their mandatory backup energy storages into a distributed energy storage (DES) service. Elisa's DES solution enables them to store electricity during periods of low cost and utilise it during times of high demand when prices soar. They can also sell surplus energy back to energy markets during price surges.
14. Likewise, the emergence of edge cloud technologies allows telecommunication operators to offer multi-access edge computing (MEC) services or establish localised data centres within their networks. These advancements present innovative opportunities for telcos to diversify their services and enhance the overall user experience.
15. If network fees were to cover the investment costs associated with telecommunication infrastructure, European telecommunication companies would lack the financial incentive to invest in groundbreaking R&D efforts and explore these transformative services.
16. **The upcoming implementation of the OECD digital taxation framework holds the potential to provide more funding for EU member states to invest in their telecommunication infrastructure.** Currently, OECD countries are making notable progress on the OECD Pillar 1 agreement, which aims to redistribute a considerable portion of the corporate tax revenue generated by multinational internet giants. This redistribution would redirect the tax revenue from the companies' country of registration to the countries where their users are located. Should member states choose to do so, they can utilise this additional tax revenue to invest in strengthening their telecommunication networks.
17. **To unleash the full potential of electronic communication infrastructure, the Commission must shift its focus away from network fees** and instead prioritise the following crucial aspects:
 - a. **Access to reliable internet infrastructure through healthy competition and public support.** The Commission should focus on supporting its member states to overcome their unique national challenges. For instance, countries like Finland have successfully fostered healthy competition among telecommunication companies, resulting in reliable

and affordable unlimited mobile and broadband data connections for all. At the same time, although high-speed internet connections are decisive for economic success, innovations, the transfer of knowledge and participation in society, some EU member states like Germany and Belgium are still lagging behind when it comes to comprehensive coverage, international standards and technical possibilities causing significant challenges for industry and consumers alike.

- b. **Ensuring fast, affordable, and unlimited internet access for all:** Europe is lagging behind other continents in deploying 5G networks. However, globally, the adoption of data-intensive mobile 5G services, such as cloud-based gaming, is hindered by data caps and exorbitant prices. Therefore, by pushing European telecommunication providers to offer unlimited mobile data plans to all, the Commission can make the European Digital Single Market a pioneering testbed for next-generation mobile content and services. This approach would provide a distinct advantage to European businesses. It is not a coincidence that the first commercial mobile cloud-based mobile game streaming services were introduced in Finland, where cheap unlimited mobile data plans are the norm.

Network neutrality must be protected

18. **It is vital to protect network neutrality.** Network neutrality serves as a cornerstone of the free movement of digital goods, services and knowledge. Moreover, it stands as a fundamental pillar of innovation within the game and many other sectors. Protecting network neutrality and upholding the principle of non-discrimination within the digital realm is vital for ensuring fair competition, encouraging innovation, and safeguarding the interests of independent European content creators. By steadfastly opposing the erosion of network neutrality through network fees, the EU can uphold a level playing field and foster an environment conducive to the continued growth and diversity of the digital ecosystem.
19. **The Commission's plans to undermine network neutrality through network fees face constitutional and legal challenges within member states and present the potential for significant market access barriers for European content creators.** Any relaxation of network neutrality through network fees poses a grave risk of dividing European digital single market area along national mobile and broadband networks. This scenario would easily grant Internet Service Providers (ISPs) the power to deliberately throttle the provision of digital services that compete with their own offerings or make them financially unsustainable. Consequently, this would create new barriers to access to culture and the free movement of innovative digital services and knowledge within the EU.
20. Furthermore, in the past, before the EU enhanced its network neutrality rules, certain ISPs imposed restrictions or reduced the availability of online games that consume substantial bandwidth. This resulted in an imbalanced landscape where independent content producers were in a weaker position than those directly affiliated with network operators. Such a development could pave the way for the most dominant media content companies to strengthen their already dominant positions within the media market. Therefore, the non-discriminatory character of networks must stay as the main element of European Internet politics and market access fees, like the planned network fee, must not be introduced.

Network fees must not undermine efforts to minimise European CO2 emissions

21. **The Commission must not undermine its efforts to reduce the environmental impact of European industries by adopting a too-narrow perspective when evaluating the environmental footprint of the European digital economy.** The Commission must recognise the potential adverse effects of network fees on the sustainability efforts of the European digital economy. It is crucial to align policies and incentives with the overarching objective of minimising environmental impact. By doing so, the EU can effectively contribute to the fight against climate change while fostering a digitally advanced and sustainable digital industry landscape.
22. **While the CO2 footprint of network technologies is a critical factor, it should always be considered within the broader context of the environmental footprint of the digital services that rely on the telecommunication network.** Different use cases may necessitate different approaches to achieve environmental friendliness. For instance, in certain scenarios, performing computing tasks on the device level is more eco-friendly than relying solely on cloud-based solutions. In contrast, in other cases, cloud computing coupled with network delivery is the more environmentally sustainable option.
23. **ISPs, and game developer studios, publishers and platforms actively invest in green computing initiatives.** On the network level, green computing enables energy-efficient, and thus also cost-efficient, network and server technologies, thereby reducing the overall carbon footprint. At the same time, content creators carefully analyse which aspects of games should be processed on the device level and which should be handled on the cloud back end to minimise the carbon footprint of games.
24. **The proposed network fees can create economic incentives that minimise the use of green cloud technologies.** This may inadvertently increase the carbon footprint of games, contradicting the EU's strategic goals of combatting climate change by reducing the carbon footprint of European industries.

For more information, please contact:

Jari-Pekka Kaleva
Managing Director, EGDF
jari-pekka.kaleva@egdf.eu