

BRIEFING

BRIEFING FOR ROBERTO VIOLA

MEETING WITH ORANGE'S [REDACTED]

Protection of personal data

Context of the meeting

- You are meeting Orange's [REDACTED] (CV can be found in annex 1). The meeting will be on WebEx on 3 May from 15:45 to 16:45. It has been rescheduled several times since end of last year.

[REDACTED]

[REDACTED]

[REDACTED]

Protection of commercial interests

- This briefing is structured around 3 main chapters: (1) Digital Decade: A New Deal, including information on RAN sharing, OTTs' fair share, (2) Market situation including background information on Spain, Belgium and (briefly) France, the review of Access recommendations and few defensives on WACC, and finally (3) support on innovation, including information on CEF/ RRF/ IPCEI OPEN Ran, Telco cloud, submarine cables.

1. DIGITAL DECADE: A NEW DEAL

1.1. Context and Orange's position:

- The 2030 Policy Programme –“Path to the Digital Decade” (“DDPP”), was adopted by the College on 15th September.

[REDACTED]

[REDACTED]

Ongoing decision making process

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

Protection of commercial interests

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

- [REDACTED]

1.2. Suggested LTT

Vision for the Digital Decade

- The Digital Decade promotes a renewed digital ambition for the EU to be digitally sovereign in an open and interconnected world. The EU must be able to make its technological choices independently. We need to master the technologies that guarantee respect for digital rights and principles.
- Progress on digital infrastructure and especially connectivity is a prerequisite for the digitalisation of businesses and public services. The Digital Decade aims to extend the objectives of Gigabit society from 2025 to 2030. At the end of the decade, we want to achieve gigabit connectivity for all businesses and households in the EU and 5G mobile coverage of all populated areas in the Union, including rural areas.
- The policy programme identifies the timely availability of spectrum as a key enabler to reach the Digital Decade targets. This requires transparency, predictability and legal certainty to maximise investments, as well as sufficient flexibility to allow for innovation and efficient use of the spectrum.
- Europe's digital transformation is a common effort. Cutting-edge European capabilities require a critical mass of funding and alignment of all actors.
- The policy programme "Path to the Digital Decade" puts in place a novel governance framework based on an annual cooperation mechanism with Member States to discuss collective progress, take joint and targeted action and invest in large-scale projects with other public and private stakeholders.
- Multinational projects are an important element of this framework. [REDACTED]
- The Commission will support Member States in identifying and implementing such projects to ensure broad participation and successful implementation. [REDACTED]
- Regarding connectivity, there are already EU initiatives designed to establish the **right conditions for private investment**, such as the **European Electronic Communications Code**. Timely transposition is critical, this is why the Commission has launched infringements proceedings against 18 Member States.
- Further initiatives, such as **the review of the Broadband Cost Reduction Directive** and of the **NGA and Non-discrimination and Costing Recommendations**, could address co-investments and network infrastructure sharing and provide renewed steer for continuous pro-investment regulatory approaches. Another way to increase private investment would be to develop new business opportunities from vertical industry users and provide strategic public support to 5G venture financing.

1.3. RAN Sharing

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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LTT

- Your support for the Smart Networks and Services towards 6G initiative is welcome and should be organised in such a way as to promote the emergence of European players in the cloud and edge fields. [REDACTED]
- However, diversification should not be limited to the Radio Access Network (RAN) or to the telecommunications sector. It has a much broader dimension, especially as mobile infrastructure moves from software to cloud and virtualisation.

- [REDACTED]

Ongoing decision making process

Spain

- The MNOs have reached several network sharing agreements. These agreements included RAN sharing, site sharing and multi-operator passive sharing.

■ [Redacted]

- Lastly, agreements include measures in order to facilitate and optimize deployment in specific locations such as stadiums, commercial centres, high-speed railway, etc.

OTT's fair share contribution to network investments

Orange's position

■ [Redacted]

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commercial
interests

■ [Redacted]

■ [Redacted]

■ [Redacted]

2 [Redacted]

- [REDACTED]
- **Digital Principles** in Chapter II: Solidarity and inclusion declares commitment to (...) *developing adequate frameworks so that all market actors benefiting from the digital transformation assume their social responsibilities and make a fair and proportionate contribution to the costs of public goods, services and infrastructures, for the benefit of all Europeans*".

In their open letter published in the Financial Times on 14/02 CEOs of Orange, Vodafone, DT and Telefonica referred to this principle and called on legislators to urgently introduce rules at EU level to make it a reality.

- Orange, Telefonica, DT and Vodafone have commissioned a study with Frontiers (info from a meeting with Telefonica on 20 April), which will look into the costs of transmitting content through the access network. The study has been published [here](#).
- Today (2 May), ETNO just published a report, prepared by Axon Partners, on "[Europe's internet ecosystem: socio-economic benefits of a fairer balance between tech giants and telecom operators](#)".

LTT

- We have heard a lot of voices from the operators raising the issue of fair share. My services are open to discuss this topic and listen to the arguments o both sides.

[REDACTED]

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- We look forward to receiving further information, in particular figures regarding the cost generated by the big content providers and the description of the network traffic. I noted that both ETNO as well as Orange together with Telefonica, DT and Vodafone have just issued 2 reports on this topic. My services will closely examine them.

Defensives

- ***Should big tech platforms contribute to the network costs/costs of infrastructures that European telco operators bear?***

[REDACTED]

Protection of commercial interests and ongoing decision making process

[REDACTED]

[REDACTED]

Where private investments are not able to bridge the investment gap, financing needs may be addressed by the **use of EU or national public funds**.

As an example, Member States have invested at least 20% of their Recovery and Resilience Facility (RRF) grants and/or loans on Digital projects. Connectivity projects obtained the lions' share of their budget, addressing comprehensive deployment of 5G and fibre, including support to 5G corridors and backbones connecting digital capacities. For instance, 20 Member States are currently planning RRF investments in digital connectivity for a total amount of around €15 bn (approx. €10 bn in VHCN and € 5bn in 5G), with some Member States aiming to finance each between ca. 10% up to 20% of the investments needs as estimated by the EIB to reach the 2025 objectives.

With a budget of more than € 2 bn, **CEF Digital** will accelerate 5G deployment to support Connected and Automated Mobility applications across Europe, building the "nervous system" of the future pan-European 5G infrastructure. It will also promote best practices for the fast deployment and take up of 5G in local smart communities.

The **Connecting Europe Broadband Fund - CEBF** has a volume of € 555 million and is investing in broadband projects with a focus on greenfield FTTH projects and rural areas. CEBF will unlock additional investments between €1 billion and € 1,7 billion. The CEBF is a clear example of how Financial Instruments supported by public investment can help developing our digital policies and to close the investments needs estimated by the EIB

Finally, network investments needs should be considered in light of the wider context of **various political and regulatory initiatives**, such as the targets set in the Digital Decade, which identify policy goals and regulatory measures responding to the increased reliance of business and citizens on top quality digital infrastructure. To support the ambitious connectivity targets, the Commission has set out a pro-investment regulatory framework in the European Electronic Communications Code, 2020 Relevant Markets Recommendation and the Connectivity Toolbox. A number of upcoming initiatives such as the review of the Broadband Cost Reduction Directive and of the Access Recommendations are also aimed at setting the right conditions for timely and more efficient network deployment that supports operators.

[REDACTED]

- ***In light of the Declaration on Digital Principles, will the Commission develop legislation to ensure that market players benefiting from infrastructures make a fair and proportionate contribution to their costs?***

[REDACTED]

[REDACTED] Before developing any kind of rules, it is important to anticipate and well reflect based on facts, data, and good understanding of the situation. We will therefore enter into a dialogue with the market participants to get an up-to date picture on contributions and payments or their absence.

BACKGROUND

- [REDACTED]

Ongoing decision making process

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [Redacted]

- [Redacted]

2. MARKET SITUATION

2.1. Orange's position

- [Redacted]

Protection of
commercial
interests

- [Redacted]

- [Redacted]

- [Redacted]

- [REDACTED]
- [REDACTED]
- [REDACTED] Ongoing decision making process
- [REDACTED]
- [REDACTED] Protection of commercial interests
- [REDACTED] Ongoing decision making process

2.2. Suggested LTT

Divergence between regulatory approaches in Spain and France

- Spain is one of the EU countries where fibre deployment and infrastructure competition are the most advanced, and it is not illogical from our point of view that this should result in a gradual lifting of regulation.
- France is also experiencing a strong momentum for fibre deployment, which has however appeared later than in Spain. In the context of the French market analyses notified at the end of 2020, [REDACTED] Ongoing decision making process
- France also differs from other Member States for its extensive use of symmetrical regulation. The European Electronic Communications Code aims to clarify the role of symmetrical regulation and its relationship with the regulation of SMP operators. This should allow for greater consistency as national rules are examined under the Code.

Spanish broadband markets review/Economic Replicability Test

[REDACTED]

[REDACTED]

Protection of commercial interests

Ongoing decision making process

[REDACTED]

[REDACTED]

[REDACTED]

Ongoing decision making process

[REDACTED]

[REDACTED]

Protection of commercial interests

[REDACTED]

Ongoing decision making process

[REDACTED]

Other market developments in Spain

- [REDACTED]

Protection of commercial interests

- We would also like to know what effects, if any, LaLiga's new agreements with Telefónica and DAZN, as well as the subsequent non-exclusive distribution agreement between DAZN and Telefónica, would have for the market in general and for Orange in particular.

2.3. BACKGROUND

[REDACTED]

[REDACTED]

Ongoing decision making process

- [REDACTED]

Main elements of the Spanish market review

- [REDACTED]

- NGA/VHCN networks are widely deployed by different national (and regional) operators throughout different modalities (standalone roll-outs, co-investment agreements, long-term wholesale commercial access agreements)

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Other market developments in Spain

- Reuters reported that Orange is currently in exclusive merger talks with its Spanish rival MasMovil with the aim of reducing the competitive landscape in a country whose poor performance has weighed on its results.

[REDACTED]

Protection of commercial interests

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

Investment and infrastructure deployment

- [REDACTED]
- [REDACTED]
- [REDACTED]

Ongoing decision making process

Regulatory development and competition decisions

- The transposition of the European Electronic Communications Code has been delayed and the Commission sent Spain a letter of formal notice on 4 February 2021 and a reasoned opinion on 23 September 2021. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

2.3.2. Market situation in Belgium

- The fixed broadband market is dominated by the territorial duopolies of Proximus/Telenet (Flanders) and Proximus/VOO (Wallonia). Orange Belgium increased its market share in recent years.
- [REDACTED]

Ongoing decision making process

[REDACTED]

- While Belgium made only marginal progress in the deployment of fixed VHCN networks in 2020, the situation is expected to improve significantly in the future thanks to the acceleration of private investments both in fibre and co-axial networks [REDACTED]

[REDACTED]

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- 5G offers are currently very limited [REDACTED] Regions, in particular Wallonia and Brussels, are modifying their EMF norms to allow for viable 5G rollout. Long awaited auctions for 5G bands will take place in June 2022.

2.3.3. Main elements of the French market review (mentioned by Orange)

[REDACTED]

Ongoing decision making process

[REDACTED]

2.3.4. Backup defensives on WACC

[REDACTED]



3. SUPPORT FOR INNOVATION (CEF/ RRF/ IPCEI OPEN RAN, TELCO CLOUD, SUBMARINE CABLES)

3.1. Suggested LTT

- The Commission is **reviewing the Broadband state aid guidelines**, to ensure that private investments into Gigabit networks are protected & to channel public support where it is most needed.



Ongoing decision making process

- Furthermore, **CEF2 DIGITAL** is our new flagship programme dedicated to connectivity, directly managed by the European Commission. The first calls have just been launched.



[REDACTED]

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[REDACTED]

The Industrial Data Alliance, the edge and the cloud

- We welcome Orange's involvement in the European Alliance for Industrial Data, Edge and Cloud. The Alliance aims to strengthen the position of European industry on edge and cloud technologies and to respond to the needs of sectors that need to process highly sensitive data.
- The Alliance will ensure a strategic vision of the sector's sovereignty, in particular by deepening the roadmap published in May 2021. In particular, it will support synergies between all available (public, private, EU and national) investment sources and across the value chain, including to advance strategic technology areas such as telco-cloud.

[REDACTED]

BACKGROUND

The European Alliance for Industrial Data, Edge and the Cloud

[REDACTED]

Personal data and protection of commercial interests

- Orange has been involved in the elaboration of the *European industrial roadmap on the edge and cloud* submitted on 7 May 2021 by 27 European companies to Commissioner Breton at a second round table by PDGs on the cloud: <https://digital-strategy.ec.europa.eu/en/library/today-commission-receives-industry-technology-roadmap-cloud-and-edge> . The first round table was held on 16 December 2020. [REDACTED]

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[REDACTED]

Ongoing decision making process

[REDACTED]

[REDACTED]

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Coordination and contributions

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- [REDACTED] (CNECT B1) [REDACTED] (Digital Decade and coordination)
- [REDACTED] (CNECT B1) [REDACTED] (OTTs Fair share)
- [REDACTED] (CNECT B3)
(Market situation in Spain, Access Recommendation)
- [REDACTED] (CNECT B3) [REDACTED] (WACC)
- [REDACTED] (CNECT B2) (Market situation in Belgium)
- [REDACTED] (CNECT B2) (Market situation in Spain, investment and Code transposition, RAN sharing)
- [REDACTED] (CNECT B5) [REDACTED] (Support for innovation: CEF, RRF, IPCEI O Ran, Telco cloud, submarine cables)
- [REDACTED] (CNECT E2) [REDACTED] (The Industrial Data Alliance, the edge and the cloud)

CV

[redacted]

Personal data

[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]