

FREE MODEM ALLIANCE

Subject: Free Modem Alliance - Response to the European Commission's call for evidence on the GBER Review – Ares (2025)5678166

Dear representatives,

The Free Modem Alliance (FMA) is a purpose-driven coalition bringing together stakeholders from across the telecommunications value chain: electronic communications operators, manufacturers, distributors, terminal equipment installers, and consumers. Its mission is to promote the principles of Open Internet, the freedom to choose Internet access devices, and user control over private local networks. Since its inception, the FMA has been actively advocating for “modem freedom”—the right of users to select and use their own modems and routers without undue influence from major operators, in line with the Open Internet Regulation (EU) 2015/2120.

The review of GBER offers a timely opportunity to address a significant issue in article 52c “*Connectivity vouchers*”. Paragraph 4 of the article lists, among the eligible costs, not only “*the monthly fee*” and “*the standard set-up costs*” but also “*the necessary terminal equipment for the end users to use the broadband services with the speeds specified in paragraph 3*”.

The current inclusion of terminal equipment within the scope of a “*connectivity vouchers*” appears problematic from a legal and regulatory perspective, a source of serious competitive distortions for the terminal equipment market, and detrimental to end users’ rights.

We recall that the core provision of the Open Internet Regulation, (EU) 2015/2120 – namely article 3 – states that “*end-users shall have the right to (...) use terminal equipment of their choice, irrespective of the end-user’s or provider’s location or the location, origin or destination of the information, content, application or service, via their internet access service*”.

Terminal equipment does not form part of the connectivity service and belongs to a distinct market from Internet access services. As is known, the provision of connectivity services in the EU Member States is subject to a general authorization regime, in compliance with Chapter 2 of the EECC. On the contrary, terminal equipment, including modem and routers can be sold by a far larger number of economic players. While ISPs usually do offer their end users bundled services, comprising terminal equipment, the end users remain free to use and purchase it from many other sources (e.g. electronics retail chains, computer stores, D2C manufacturers, IT service and maintenance companies, and even supermarkets).

If a voucher acts as a bundled subsidy for both connectivity services and terminal equipment, in a way that forces the end-user to acquire the subsidized equipment from the ISP, and from the ISP alone, it generates significant competitive distortion, unduly favoring ISPs and

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presso avv. Gabriele Matteo Fiorentini, Bastioni di Porta Volta 11, 20121 - Milano, Tel: 3405501045

Email: g.fiorentini@freemodemalliance.it - PEC: gabriele.fiorentini@milano.pecavvocati.it

Sito Internet: www.freemodemalliance.it

discriminating against all other players of the TTE market. The current text of article 52c does not prevent this outcome, and, on the contrary, appears to directly favor it; nor do the current pro-competitive provisions in paragraphs 6 and 7 appear adequate to prevent such distortion.

The concern raised here is not theoretical; it stems from the practical experience of the first connectivity voucher for families, implemented in Italy during 2020–2021¹ (prior to the inclusion of Article 52c in the GBER). That initiative explicitly bundled the provision of Internet access services with terminal equipment, restricting the retail supply of subsidized devices to ISPs. At the time, the FMA shared with the European Commission a dedicated position paper², as submitted to the Italian authorities, along with its English translation³.

Today, Italy is preparing a new connectivity voucher for families⁴ (this time based on the GBER) which again includes terminal equipment and expressly limits access, as service providers, to ISPs (“operatori TLC”). This inclusion appears to stem directly from the Italian Government’s concern to ensure compliance with the current text of the GBER.

The FMA therefore invites the Commission to revise Article 52c, in order to address the competitive concerns outlined above.

Yours sincerely,

Milan, 6 October 2025

Avv. Gabriele M. Fiorentini
Coordinator of the Free Modem Alliance
EU Transparency Reg. n. 012728850867-18

¹ <https://bandaultralarga.italia.it/scuole-voucher/progetto-voucher/>

² v. FMA, *Position Paper Piano voucher per la connettività in banda ultra larga – Criticità competitive connesse all’abbinamento di apparecchiature di collegamento a internet (CPE)*, 16/03/2021 (second revision), accessible at the following url:

https://www.freemodemalliance.it/wp-content/uploads/2024/01/Position-Paper_Piano_voucher_per_la_connettivita_in_banda_ultra_larga-Criticita_competitive_connesse_all_abbinamento_di_apparecchiature_di_collegamento_a_internet_CPE_v.-2.pdf

³ Accessible at the following url:

https://www.freemodemalliance.it/wp-content/uploads/2024/01/ENG_Position_Paper_Piano_voucher_per_la_connettivita_in_banda_ultra_larga-Criticita_competitive_connesse_all_abbinamento_di_apparecchiature_di_collegamento_a_internet_CPE.pdf

⁴ v. <https://www.infratelitealia.it/archivio-news/notizie/consultazione-voucher-famiglie-2025>

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