

Gigabit Infrastructure Act

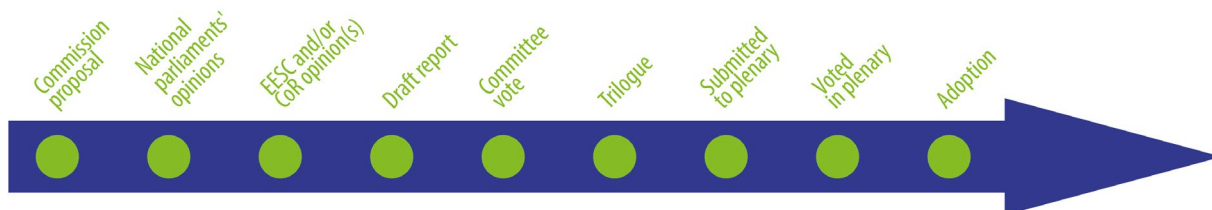
OVERVIEW

The EU's digital decade connectivity target is designed to ensure that by 2030 a fixed gigabit network of a very high capacity (1 Gbps) will be covering all EU households and that all populated areas will have 5G. This would enable the deployment of a high-quality digital infrastructure underpinning almost all sectors of a modern and innovative economy, while also ensuring that citizens and business can reap the benefits of the internet of things, machine-to-machine technologies, cloud computing and big data.

In April 2024, the EU co-legislators signed the Gigabit Infrastructure Act (GIA), a regulation that reviewed and replaced the Broadband Cost Reduction Directive. The regulation should facilitate and encourage the provision of networks of a very high capacity by promoting the joint use of existing physical infrastructure and enabling a more efficient deployment of new physical infrastructure, so that such networks can be rolled out faster and at a lower cost. The GIA was published in the *Official Journal of the European Union* on 8 May 2024 and entered into force on 11 May 2024. It will be fully applicable from November 2025.

Proposal for a regulation laying down measures to reduce the cost of deploying gigabit electronic communications networks and repealing directive 2014/61/EU

<i>Committee responsible:</i>	Committee on Industry, Research and Energy (ITRE)	COM(2023) 0094 23.02.2023
<i>Rapporteur:</i>	Alin Mituța (Renew, Romania)	2023/0046(COD)
<i>Shadow rapporteurs:</i>	Angelika Winzig (EPP, Austria) Beatrice Covassi (S&D, Italy) Niklas Nienass (Greens/EFA, Germany) Johan Nissinen (ECR, Sweden) Georg Mayer (ID, Austria) Elena Kountoura (The Left, Greece)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Regulation 2024/1309 OJ L, 2024/1309, 8.5.2024	



Introduction

The EU is in the middle of a [digital revolution](#) that is transforming our approach to work and communication, as well as improving living standards and economic output. The internet of things, artificial intelligence (AI), advanced robotics and augmented reality are examples of technologies driving this revolution. However, such technologies require significant investment in telecoms infrastructure to keep up with the increasing bandwidth needs and to guarantee future-proof broadband quality. To enable access to digital services for all citizens and businesses, the European Union (EU) needs a highly performing digital connectivity infrastructure that is based on very high capacity networks¹ (VHCNs). Examples of these networks include optical fibre technologies in a fixed network (e.g. fibre-to-the-home (FTTH)) and 5G for innovative wireless/mobile systems. European Commission Executive Vice-President [Margrethe Vestager](#), in charge of the EU's digital portfolio, noted that 'Gigabit networks are the stepping stone to our digital transformation. They can provide innovative services, more efficient business operations and smart, sustainable, digital societies. Our connectivity is crucial to deliver these opportunities to everyone in Europe'.

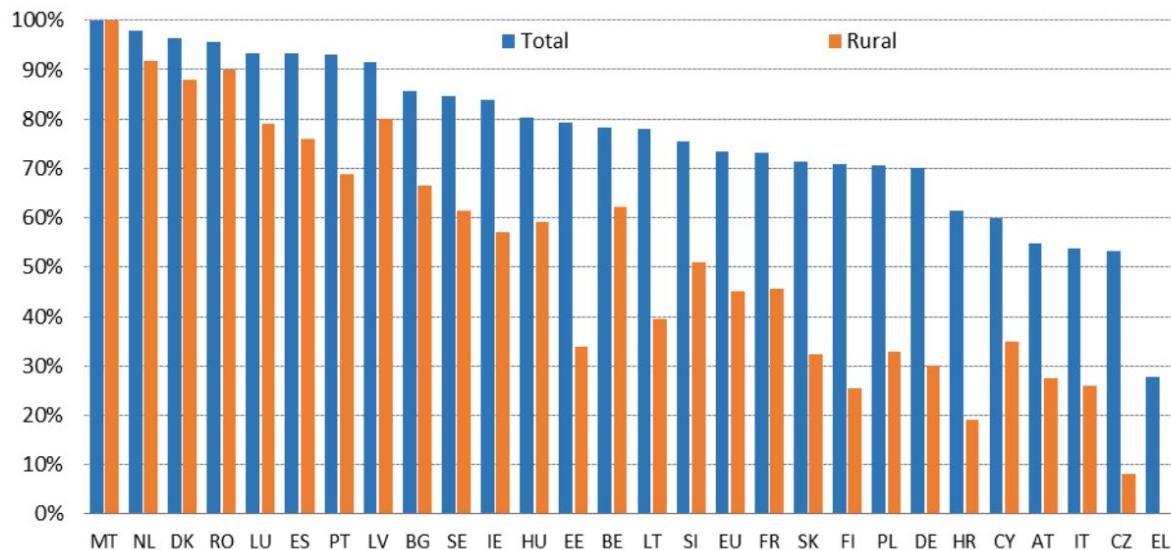
Besides boosting digital services, investment in telecommunications technologies also ensures growth, competitiveness and sustainability of the EU economy. The international telecommunication union (ITU)'s [analysis](#) of more than 200 studies on broadband impact notes that a 10 % increase in broadband penetration yields a 0.25-1.5 % GDP increase. Similarly, the Organisation for Economic Co-operation and Development (OECD) [estimates](#) that a 10 % increase in broadband penetration can raise labour productivity by 1.5 %. A European Investment Bank [study](#) suggests that doubling broadband speeds could yield a 0.3 % growth in GDP. In terms of sustainability, fixed [FTTH](#) networks (FTTH) and wireless/mobile [5G technologies](#) with cell towers linked to a fibre connection/base (known as backhaul) seem to be the most climate-friendly technologies for reducing CO₂ emissions and energy consumption compared to legacy networks (e.g. copper/DSL). These VHCNs could contribute to achieving the climate goals set in the [European Green Deal](#) and the twin digital and green transitions identified as the EU's top priorities.

Household **coverage** and service subscription **take-up** in deploying VHCNs will be key to ensuring fast and reliable internet access for a thriving digital ecosystem. The EU digital decade strategy [defines](#) two targets for broadband connectivity by 2030: providing 1 gigabit speed (1 Gbps) fixed coverage for all households and implementing 5G in all populated areas. According to a [study](#) for the European Commission, an estimated amount of approximately €174 billion² in infrastructure investment is needed to achieve these targets. A [key factor](#) slowing down the rollout of the gigabit broadband network is the high cost of deploying the underlying infrastructure, particularly when building all network elements from scratch. According to the Commission, civil engineering works (e.g. roadworks to lay down fibre networks) [account](#) for up to 80 % of the total cost of full fibre deployment. However, once the network is in place, increasing its capacity is relatively inexpensive, as no changes to the network architecture are required, only equipment upgrades. The deployment of new VHCNs either by reusing existing physical infrastructure or coordinating civil engineering works, could reduce deployment costs by €14.5 billion.³

The Commission's first [report](#) on the state of the digital decade, published in 2023, shows that the EU needs to do more to achieve the digital decade connectivity targets. In terms of VHCN⁴ deployment, 73 % of EU homes were already served by fixed VHCNs and 81 % of populated areas with wireless/mobile 5G by mid-2022. Fixed VHCN coverage [varies](#) among Member States due to their differing regulatory objectives, market structures and technology choices (e.g. early deployment of FTTH or the possibility to upgrade existing cable networks to data-over-cable-service interface specification – DOCSIS 3.1). For example, front-runners in deploying VHCNs are Malta (with 100 % coverage), followed by the Netherlands, Denmark, Romania, Luxembourg, Spain, Portugal, and Latvia (with above 90% coverage). Greece is one of the poorest performers, with only 28 % coverage. VHCN coverage across the EU also varies significantly depending on whether the

household is located in an urban or rural area. The drastic underperformance of rural areas in this regard highlights the presence of regional disparities in digital opportunities.

Figure 1 – Fixed VHCN coverage (% of EU-27 households), mid-2022



Source: European Commission staff working document: [Digital Decade Cardinal Points](#), 27.9.2023.

However, there is more work to be done to increase take-up. According to the report, only 13.8% of EU households subscribe to a network ensuring 1 Gbps speed. The 2023 [report](#) from the Global System for Mobile Communications Association (GSMA) shows that 11% of mobile connections across the EU were based on 5G in 2022 and forecasts that this rate will grow to 87% in 2030.

Existing situation

In its [strategy for the digital decade](#), the Commission has outlined its [vision](#) for the new strategic digital objectives of the EU for 2030. These include connectivity targets to provide a fixed gigabit network (1 Gbps) to all EU households and ensure 5G coverage in all populated areas by 2030. These 2030 connectivity targets build on the 2020-2025 targets⁵ laid out in the [gigabit society](#) and [5G action plan](#) communications of 2016. The Commission argues that, given the current rate of network development, meeting growing user demand would be impossible without setting these new targets.

The European Electronic Communications Code ([EECC](#)) establishes common rules for regulating electronic communications networks and services, such as telephony and internet broadband connections, in the EU. The [main goal](#) of the EECC is to 'promote deployment, access to and take up of very high capacity networks'. This [concept](#) mainly pertains to a certain range of fixed and mobile network infrastructure.⁶

The Broadband Cost Reduction Directive ([BCRD](#)), adopted in 2014, is the EU's main instrument for lowering entry barriers and costs related to network deployment, which it does through harmonised rules on access to the physical infrastructure of all utilities needed to build broadband networks (e.g. ducts, poles, masts, etc.). The directive also addresses the coordination of civil works, sets requirements for in-building wiring and introduces guidelines for 'high-speed-ready' wiring (at least 30 Mbps) in new building construction and major refurbishments. However, the BCRD has certain [shortcomings](#) that have been addressed in the GIA.

In September 2020, the Commission published a non-binding recommendation on a [connectivity toolbox](#), calling on Member States to agree on a set of best practices to boost the deployment of and investment in VHCNs. The [connectivity toolbox](#), which was approved by Member States in March 2021, consists of 22 examples of best practice aimed at lowering VHCN network deployment

costs. Examples include tacit approval for permit granting, streamlined permit granting procedures for civil engineering works, and possibilities for discounts on spectrum fees in exchange for operator commitments to support mobile 5G deployments.

In addition, many funding initiatives support the deployment of broadband networks in rural, remote and other less well served areas, such as the [Connected Europe Facility](#) (CEF Digital), COVID-19 [recovery funds](#) and [national State aid](#) initiatives.

In its [gigabit recommendation](#) from February 2024, the Commission provided guidelines to national regulatory authorities on matters such as pricing flexibility for VHCN deployment⁷ and how to smoothly conduct copper decommissioning (i.e. the migration from the legacy copper network to fibre). Also in February, the Commission published its [telecoms white paper](#), with which it launched a consultation on the EU's digital infrastructure needs. The paper analyses the challenges the EU is facing in the rollout of connectivity networks, among them low investment, a fragmented approach to radio spectrum and the lack of a single telecoms market. It also presented possible scenarios going forward. The consultation is open for feedback until 30 June 2024.

Parliament's starting position

In its [resolution](#) of 1 June 2017 on Internet connectivity for growth, competitiveness and cohesion: European gigabit society and 5G, the Parliament welcomed the connectivity targets for a gigabit society. It also called on the Commission to tackle the digital divide and create a coherent timetable and 5G financing strategy in line with the EECC. Parliament called for an investment-friendly regulatory environment, a coherent EU spectrum strategy and the acceleration of the EU's 5G standardisation efforts. Emphasising the positive impact that 5G could have on EU societies in terms of education, health, culture, cohesion and employment, the Parliament called for the development and improvement of digital skills, and demanded that the Commission produce an annual review of the 5G action plan to report on progress made and make recommendations.

In a [resolution](#) of 3 May 2022 on artificial intelligence in a digital age, the Parliament emphasised the need for substantial updates to the EU's digital infrastructure. Currently, only 25% of people in the EU have access to a 5G network, in stark contrast to the 76% of people in the United States with such access. The Parliament also noted that the EU lacks sufficient high-performance digital infrastructure with interoperable data spaces, high transmission rates and volumes, reliability and short delays. It also warned that the absence of 5G rollout in urban areas and the limited access to fixed ultra-fast broadband networks could undermine the functioning of AI. Parliament therefore urged the implementation of the BCRD to facilitate network deployment.

Council and European Council starting position

In its [conclusions](#) of June 2020 on Shaping Europe's Digital Future, the Council emphasised that the COVID-19 pandemic highlighted the necessity for fast and ubiquitous connectivity. The Council called on Member States to develop, in close cooperation with the Commission, a set of best practices aimed at reducing network deployment costs and facilitating the rollout of VHCN, including fibre and 5G.

On 22 November 2021, the Council published a [progress report](#) on the proposal for a decision establishing the path to the digital decade 2030 policy programme. The Commission reminded Member States of the importance of finalising the adoption of this proposal, ideally in the first half of 2022, to enable the first annual monitoring cycle and the establishment of the first European Digital Infrastructure Consortium (EDIC) by 2023.

At its [meeting](#) of 25 March 2021, the European Council stressed the need to enhance the EU's digital sovereignty and for the Council to promptly review the Commission's communication on the [2030 digital compass](#) with a view to preparing the related digital policy programme. The European Council identified this communication as a crucial step towards mapping out the EU's digital

development for the next decade, and called on the Commission to use all available instruments in the area of industrial, trade and competition policy.

Preparation of the proposal

As part of its task to evaluate the BCRD, the Commission outsourced a [study](#) to support the preparation of the [impact assessment](#) (IA), which was published together with the proposal. To collect stakeholders' opinions on the impact of possible policy options, the Commission organised an [open public consultation](#), workshops, surveys and expert interviews. It also made special efforts to gather the views of small and medium-sized enterprises. The Body of European Regulators for Electronic Communications (BEREC), an EU-wide group of telecom regulators, published its [opinion](#) on the revision of the BCRD in March 2021. The BCRD review is part of the Commission's [REFIT programme](#) included in the Commission's [2020 work programme](#).

Study evaluating the BCRD

Published in 2023, the abovementioned [study](#) for the Commission analysed various key aspects of the BCRD. The study emphasises that the **high cost of deploying gigabit infrastructure** and the **complex and lengthy procedures to obtain permits and access to sites** required for network deployment are major challenges for electronic communications network (ECN) operators looking to deploy FTTH or other fixed gigabit solutions (e.g. fixed wireless access – FWA). For instance, deploying FTTH in most rural areas costs almost double compared to densely populated areas. Complex permit procedures can also hinder the deployment of VHCNs and the thousands of small cells needed for full 5G coverage. While the study acknowledges that the current BCRD already includes measures to address these issues,⁸ it points out that the many **optional measures** and **exemptions** in the BCRD,⁹ along with the unclear definition of a '**fair and reasonable**' price for access to existing physical infrastructure, have jeopardised national approaches and produced mixed results.

The study also links the lack of progress in granting permits for VHCN deployment to the **large number of authorities involved** in the procedure (e.g. municipalities and environment authorities) and the **lack of consistency** in granting procedures at local and regional levels. There is furthermore a **mismatch** between the current BCRD objective of 'high-speed broadband' (30 Mbps) and the EU gigabit connectivity goal (1 Gbps), which could lead, among other things, to inadequate specifications for new in-building infrastructure. The study recommends that a review of the BCRD should set itself the goal of: i) reducing the cost of fixed and wireless VHCN deployment;¹⁰ and ii) streamlining and digitising administrative procedures required for network deployment.¹¹ The study estimates that failure to take action at the EU level to improve sharing and coordination of efforts for infrastructure deployment would require a substantial investment of €145 billion to deploy FTTH to 90 % of households in the EU. Moreover, it would prevent the EU from achieving the target of universal gigabit broadband availability by 2030.

Open public consultation

The Commission's [open public consultation](#) (OPC) ran from 2 December 2020 to 2 March 2021 and gathered replies from 96 participants, including ECN operators, local and regional authorities, national regulatory authorities, EU consumer associations and citizens. The majority of responses came from Germany (22 %) and Belgium (13 %). The OPC sought to gather stakeholders' views on the overall functioning of the BCRD and on ways to align it with technological, market and regulatory developments to ensure a more efficient and faster deployment of VHCNs. Most stakeholders, including ECN operators, agreed that simplified permit-granting procedures (e.g. electronic submission of permit applications) would help with network deployment. They also suggested that having regularly updated and georeferenced minimum information on existing physical infrastructure or planned civil engineering works would facilitate network rollout.

BEREC opinion on the BCRD review

In its [opinion](#) of March 2021, BEREC suggested a number of changes to the directive to improve the conditions for the deployment and take-up of VHCNs. Specifically, BEREC suggested expanding the obligation for the provision of access to physical infrastructure also to operators of other infrastructure suitable for hosting VHCNs. BEREC recommended making improvements to the dispute settlement process and setting up a single information point, where essential information on existing physical infrastructure (e.g. location and type of infrastructure) could be made available. Additionally, BEREC advised caution when considering changes to the scope of the rights and obligations under the BCRD when transitioning from high-speed ECNs to VHCNs. They noted that networks that do not qualify as VHCNs could still contribute to the EU's connectivity goals, but would not receive the cost reductions for network deployment envisaged under the current BCRD.

Impact assessment

As mentioned earlier, the Commission conducted an impact assessment (IA) on the proposal, in which it concluded that costs could be reduced and VHCN deployment could be accelerated by: i) optimising deployment and re-use of physical infrastructure; and ii) drawing up consistent, streamlined and digitalised administrative procedures for network deployment across the EU. The IA analysed four policy options to help achieve the digital decade connectivity targets by 2030, as follows:

- **Option 1:** make very limited changes to the BCRD to extend its scope to VHCN;
- **Option 2:** extend the scope of the BCRD to VHCNs, extend access to public non-network physical infrastructure assets, and improve permit-granting procedures for network deployment;
- **Option 3:** building on the previous option, introduce new rules addressing a number of issues. Some rules would clarify how access to physical infrastructure (e.g. in-building wiring) would happen. Others would lay out the procedures for the coordination of civil engineering works (e.g. georeferenced information). Yet others would strengthen the permit-granting procedures and mandate the installation of in-building fibre with the creation of a national fibre-ready label for certain types of buildings through standards;
- **Option 4:** building on the previous option, extend access obligations and civil engineering work obligations to all private operators and mandate an EU fibre-ready label through standards.

All options except the first one would require a new regulation instead of a directive. Option 3 prevailed as the preferred choice, as it appeared to best balance short-term implementation costs with medium-term benefits, while keeping unnecessary regulatory burdens to a minimum and limiting greenhouse gas emissions from the electronic communications sector.

The IA was submitted to the Regulatory Scrutiny Board (RSB) on 16 February 2022 and [received](#) a positive opinion with reservations on 18 January 2023. The RSB requested that the initiative clearly demonstrate the incremental value of the proposed gigabit infrastructure act (GIA), by specifying the various factors influencing VHCN rollout and explaining the importance of 5G standards. The RSB also noted that the trade-offs between infrastructure sharing needs and the risk of excess capacity (overbuild) should be considered in greater detail. Furthermore, the RSB observed that the cost-benefit analysis of the environmental impacts of the initiative (e.g. reduction of CO₂ and other greenhouse gas emissions) needs greater clarity and more convincing arguments, to allow a better understanding of the effects.

The changes the proposal would bring

Principles and objectives

The [proposed regulation](#), published in February 2023, sought to facilitate and accelerate VHCN rollout by promoting shared use of existing physical infrastructure and enabling more efficient deployment of new physical infrastructure. This approach would allow for quicker and more cost-effective rollout of these networks. According to the Commission, a directly applicable act, such as the proposed regulation, would be better suited to achieving the 2030 connectivity target than the current directive. The proposal would therefore replace the BCRD.

Main provisions

Broader scope and access to existing physical infrastructure

Article 3 of the current BCRD gives ECN operators the right to access the physical infrastructure¹² of utilities, such as electricity networks, as well as that of other telecoms operators, for the purpose of deploying high-speed broadband (30 Mbps).

The proposed GIA regulation updated the scope of the current directive, moving from the deployment of high-speed broadband network (30 Mbps) to the deployment of VHCNs (e.g. FTTH and 5G – article 1). The definitions of network operator and physical infrastructure in article 2 were extended to include **providers of associated facilities** (e.g. tower companies – 'TowerCos') and **'any other assets, including street furniture'**, such as street lights, street signs, traffic lights, billboards, bus and tram stops, and metro stations (e.g. supporting small cells deployment for 5G).

The proposal introduced an access obligation to physical infrastructure that is not part of a network but is **'owned or controlled' by public sector bodies** – **'public non-network assets'** (article 3), such as public administration buildings, with an exception for certain categories of buildings (e.g. reasons of public security, safety or health). As far as the conditions for access to existing physical infrastructure are concerned, the proposal expanded the current requirement for access to be provided under **'fair and reasonable terms and conditions, including price'**, by adding that access providers should be presented with a 'fair opportunity' to recover their costs, and that the potential impact that the request for access could have on the operator's business – for instance, through the infrastructure investment that needs to be made – should be taken into consideration.

The GIA proposal allowed Member States to establish a **specific body to coordinate requests for access** to physical infrastructure owned or controlled by public sector bodies (article 3.4). This body would be tasked with: i) providing legal and technical advice during the negotiation of access terms and conditions; and ii) facilitating the provision of information through the single information point (SIP).

Streamlined and accelerated permit-granting procedures

Article 7 of the current BCRD requires Member States to provide information about the conditions and procedures for granting permits for civil engineering works for the deployment of ECN through a SIP. The directive: i) sets a default 4-month deadline for local authorities to either grant or refuse a permit from the date of receiving a complete permit request; ii) gives Member States the option to require that permit applications be submitted electronically; and iii) allows them to provide compensation if deadlines are not met. This allows Member States to decide whether ECN operators should be compensated if they suffer damage due to 'competent authorities' not meeting the permit-granting deadlines.

The GIA proposal simplified the licensing/authorisation procedures for the deployment of VHCN by, inter alia:

- requiring Member States to provide **consistent rules** governing the conditions and procedures applicable for granting permits, including rights of way;
- introducing a **tacit authorisation**, deemed to be granted in the absence of a response from the competent authority (tacit approval) within the 4-month period for issuing the license/authorisation, unless this period is extended;
- adding a **mandatory right to compensation** (rather than optional), for damage caused through non-compliance with the legal deadlines (e.g. competent authorities must confirm the completeness of a permit obligation within 15 days of receipt);
- setting the rule that the **fees** for such procedures cannot exceed the administrative costs;
- **enabling** operators to submit permit applications **online**.

Transparency: Going fully digital

Article 4 of the current BCRD requires Member States to ensure that network operators (e.g. electricity, gas, water, transport and telecoms) give ECN operators access to a minimum set of information¹³ regarding their physical infrastructure (e.g. location and type of work). Member States have the option to require public sector bodies holding information about physical infrastructure to make it available through a SIP.

The GIA proposal **obliged** network operators and public sector bodies that own or control physical infrastructure to publish information about existing and planned physical infrastructures suitable for the deployment of VHCNs via a **fully digitised SIP**. This transparency obligation would not apply to infrastructure considered critical for national security or where it would be disproportionate. Additionally, the proposal required that information on location and route must be **georeferenced** and should be provided in any event **no later than 15 days after the request** for information is submitted.

Article 5 of the current BCRD requires Member States to ensure that all network operators performing directly or indirectly civil works, either fully or partially financed by public funds, comply with reasonable requests (ones that do not entail any additional costs, including delays) to coordinate civil engineering works on transparent and non-discriminatory terms, made by telecom companies undertaking the rollout of broadband networks. Member States may provide guidelines on the allocation of the costs associated with the coordination of civil engineering works.

As regards the **coordination of civil engineering works**, the proposal established that any network operators carrying out civil engineering works that are wholly or partially publicly financed, would have to comply with all reasonable written requests to coordinate with other operators deploying VHCNs or other related facilities under fair, reasonable and non-discriminatory terms. It furthermore extended the deadline for requesting coordination of civil engineering works. Accordingly, the request should be filed at least 2 months before the submission of the final project to the competent authorities for permit granting. Information on such types of civil engineering works must be published via a SIP, and the Commission must be notified.

Article 10 of the proposal required that all the information collected in the **single information point** (e.g. on existing physical infrastructure or planned civil engineering works) should be made available in digital format, for instance, on web portals or digital platforms. This would allow entities to both exercise their rights and comply with their obligations set out in the proposal. To ensure network security (e.g. critical infrastructure), or to safeguard legitimate business secrets, the information made available through the digitised SIP may be restricted to certain parties.

Access to in-building physical infrastructure and fibre wiring

The GIA proposal maintained ECN operators' right to **access any existing in-building physical infrastructure** if duplication is technically impossible or economically inefficient. Additionally, it required that **all new and substantially renovated buildings must be fibre-ready** (rather than

high-speed ready, as in the BCRD), in terms of in-building infrastructure, access points and in-building fibre wiring. For these new and substantially renovated buildings, the proposal introduced a **mandatory fibre-ready label**, instead of the voluntary option in the current BCRD. Member States would be obligated to adopt technical standards and a certification scheme to underpin the label. These standards would set specifications for cable, socket, pipe and fibre interface types. This fibre-ready label would be a prerequisite for obtaining a building permit.

Advisory committees

The European Economic and Social Committee (EESC), which appointed Maurizio Mensi (Civil Society Organisations' Group – Group III) as rapporteur, published its mandatory [opinion](#) on 12 July 2023. The committee welcomed the Commission's proposal for a regulation and recognized that the sharing of existing infrastructure is crucial in achieving the goals of the EU Digital Decade 2030.

National parliaments

The [subsidiarity deadline](#) for national parliaments to issue an opinion on the proposal was 17 May 2023. Only one reasoned opinion, from the Italian Chamber of Deputies, was submitted. This opinion, inter alia, stresses that the decision to introduce a regulation, rather than amend the existing directive, should be reconsidered.

Stakeholder views¹⁴

Regulation or directive?

In its [analysis](#) of the Commission's proposal, BEREC points out the advantages of a directive over a regulation. The EU regulator argues that a directive would ensure more flexibility to telecoms national regulatory authorities (NRAs) to address the specific regulatory and deployment conditions in their countries, which vary widely among EU Member States. Taking a similar approach, the [German broadband association](#) (Bundesverband Breitbandkommunikation e.V./BREKO), representing the majority of German fixed fibre network operators, would have preferred a directive rather than a regulation, to continue ensuring flexibility for Member States to adapt the framework to their individual needs.

In contrast, [CETIN](#), the leading wholesale provider of active and passive telecommunications infrastructure services in central and eastern Europe, agrees with the proposed choice of legal instrument. This decision is seen as providing more immediate benefits to the VHCN deployment process in light of the 2030 digital decade objectives.

Scope – TowerCos and rooftops

Vantage Towers AG, a European tower company active in several Member States, [argues](#) that including tower companies (TowerCos) in the scope of the regulation and imposing stringent new obligations on them for sharing infrastructure (such as fair and reasonable prices) would undermine future network rollout plans. According to Vantage Towers AG, there is no evidence that the TowerCos market is dysfunctional. In fact, as a neutral host, TowerCos already has a strong commercial interest in sharing its infrastructure with as many operators as possible.

On the other hand, [Liberty Global](#), a UK-Dutch-US multinational telecommunications company, supports extending access obligations to non-network physical infrastructure – such as buildings, street signs or streetlights – owned and controlled by public sector bodies. It also suggests that the list of physical infrastructure should explicitly include rooftops, which would further accelerate VHCN rollout.

Transparency requirement poses administrative burden and security concerns

BREKO advises against making the sharing of georeferenced information a mandatory transparency requirement for both existing physical infrastructure and planned civil engineering works, as it would greatly increase the risk of sabotage and physical attacks on critical infrastructure. CETIN proposes that the information sharing requirement should only apply to works offering viable coordination opportunities (such as municipal pavement reconstruction works and works that are fully or partially publicly financed).

Defining the 'fair and reasonable' access model

To avoid excessive pricing, the European Telecommunications Network Operators' Association ([ETNO](#)) asks for guidance on the rules stipulating that 'fair and reasonable' prices should be charged for access to infrastructure. The concept of 'fair and reasonable' should not have a disruptive effect on network operators already applying a business model based on renting infrastructure to third parties (e.g. TowerCos and wholesale-only operators). The European GSM Association ([GSMA](#)), representing mobile network operators, welcomes the Commission's proposal to issue guidance on the application of the provisions on access to physical infrastructure and to improve the definition of 'fair and reasonable' pricing.

Tacit approval for permit granting

BEREC is [against](#) including mandatory tacit approval for a right of way. In its view, giving private persons the right to allow major works on their premises (e.g. the construction of a mast) because an authority did not make a timely decision, is disproportionate. By contrast, ETNO and GSMA believe that tacit approval will prove effective and therefore welcome the provision.

Faster permit granting procedures and dispute settlement

[Digital Europe](#), representing the digital technology industry in Europe, suggests setting an even shorter timeline than the 4-month period required to issue the license/authorisation envisaged in the proposal. Liberty Global considers that the 4-month deadline under the proposal is an absolute maximum, and that Member States should be able to set shorter timelines.

Legislative process

In Parliament, the [file](#) was assigned to the Committee on Industry, Research and Energy (ITRE), which appointed Alin Mituța (Renew, Romania) as rapporteur. The ITRE committee adopted its [report](#) and decided to enter into interinstitutional negotiations in September 2023.

The report:

- shortened the time afforded to national authorities for taking a decision on whether to grant a permit from 4 to 2 months;
- emphasised the importance of adopting the proposal in the form of a regulation that gives Member States enough flexibility to set themselves more ambitious requirements than just the minimum ones;
- extended the requirements for providing access to existing physical infrastructure to commercial buildings. This would happen under limited and well-defined circumstances;
- added a provision on the abolition of fees for intra-EU calls made by end users (the Commission has not yet presented a proposal on capping these fees after the current capping provisions expired in May 2024).

The Council adopted its position in December 2023, making a number of amendments to the Commission's proposal.

- The notion of 'tacit approval' was deleted.
- An exception for a transitional period for smaller municipalities was included.
- The factors for establishing fair and reasonable terms and conditions for access were clarified.
- It was also clarified that not only fibre can be used to reach very high capacity in networks.
- A number of exceptions for critical national infrastructure were included.

A [provisional agreement](#) on the text was reached on 6 February 2024. The text was then endorsed by the Council's Permanent Representatives Committee on 16 February and by the ITRE committee on 22 February 2024. Parliament formally endorsed the GIA during its April II plenary session on 23 April 2024. Council formally approved the GIA on 29 April 2024. The [final text](#) was published in the *Official Journal of the European Union* on 8 May 2024. The GIA came into force on 11 May 2024. The main points of the agreed text are as follows:

- **Tacit approval for permit granting** – national authorities have 4 months to decide whether to grant a permit for the deployment of VHCN, after which, if no decision is made, the permit is considered granted. Member States can opt out of this tacit approval process by i) providing compensation under national law to operators who are harmed by delays in permit granting; or by ii) allowing operators to take the case to court or a supervisory authority.
- **Optional fibre-ready label for buildings** – Member States may introduce a fibre-ready label indicating whether a home is connected to a true fibre network. Fibre-ready certification is no longer a prerequisite for issuing a building permit as envisaged in the Commission proposal.
- **Plan to abolish retail price caps for intra-EU voice and SMS services** – the current provision on the retail price caps will be extended until 30 June 2032. However, fees for intra-EU calls for end-users will be abolished by 2029, subject to certain safeguards to be set out in an implementing act by the Commission after consulting BEREC.

The new rules will be directly applicable in all Member States 18 months after the regulation entry into force, with certain provisions applying slightly later.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

[Gigabit infrastructure act](#), EPRS, European Parliament, April 2024.

[A future-proof network for the EU: Full fibre and 5G](#), EPRS, European Parliament, April 2024.

[Path to 6G](#), EPRS, European Parliament, January 2024.

[Network cost contribution debate](#), EPRS, European Parliament, April 2023.

[Path to the digital decade programme](#), EPRS, European Parliament, February 2023.

OTHER SOURCES

[Measures to reduce the cost of deploying gigabit electronic communications networks](#) (gigabit infrastructure act), Legislative Observatory (OEIL), European Parliament.

ENDNOTES

- ¹ Article 2(2) of the EEC defines the term 'very high capacity network' as: 'Very high capacity network' means
- either an electronic communications network which consists wholly of optical fibre elements at least up to the distribution point at the serving location; or
 - an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency and its variation'.

- ² This figure includes deployment of fibre networks and the 5G coverage of major transport paths and does not take into account potential cost reduction thanks to the simultaneous deployment of fixed and mobile gigabit networks.
- ³ European Commission [staff working document](#), impact assessment gigabit infrastructure act, February 2023, p. 95.
- ⁴ Draft BEREC [guidelines](#) on very high capacity network, March 2023.
- ⁵ (i) Commercial introduction of 5G service in at least one major city in each Member State by 2020.
 (ii) 100 % of EU households with access to at least 100 Mbps download, upgradable to 1 Gbps and 100 % of socio-economic drivers (e.g. schools, businesses, research centres) with access to at least 1 Gbps at symmetrical speeds by 2025.
 (iii) Uninterrupted 5G coverage for all: 1) European urban areas, and 2) major terrestrial transport paths, by 2025.
- ⁶ [Including](#), for example, entirely fibre-based networks such as fibre-to-the-home (FTTH), mobile networks with fibre roll-out to the base station, coaxial cable with very high bit rate digital subscriber lines (e.g. able DOCSIS 3.1) and 5G.
- ⁷ No regulated wholesale access prices when the national regulatory authority (NRA) imposes certain non-discrimination obligations.
- ⁸ Measures to facilitate access to existing physical infrastructure from a range of network operators, to support civil works co-ordination, require 'high-speed ready' in-building infrastructure and to set limits on timeframes for permit granting and incentivise compliance with those timeframes.
- ⁹ e.g. processing of permit applications by electronic means or the provision of compensation in cases where deadlines are not met.
- ¹⁰ e.g. extend access obligations to include non-network infrastructure suitable to deploying ECN.
- ¹¹ e.g. tacit approval if the deadline for the permit granting is exceeded without a decision.
- ¹² Article 2(2) BCRD: 'physical infrastructure' – meaning any element of a network which is intended to host other elements of a network without becoming itself an active element of the network, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles; cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption, as defined in point 1 of Article 2 of Council Directive 98/83/EC – is not physical infrastructure within the meaning of this directive.
- ¹³ e.g. location and type of works, network elements involved, estimated date for starting the works and their duration, and a contact point.
- ¹⁴ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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