



EUROPEAN PARLIAMENT

2009 - 2014

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*Plenary sitting*

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**A7-0455/2013**

10.12.2013

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on measures to reduce the cost of deploying high-speed electronic  
communications networks  
(COM(2013)0147 – C7-0082/2013 – 2013/0080(COD))

Committee on Industry, Research and Energy

Rapporteur: Edit Herczog

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks**

**(COM(2013)0147 – C7-0082/2013 – 2013/0080(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0147),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0082/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 10 July 2013<sup>1</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A7-0455/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation Title 1**

*Text proposed by the Commission*

Proposal for a  
**REGULATION** OF THE EUROPEAN

*Amendment*

Proposal for a  
**DIRECTIVE** OF THE EUROPEAN

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<sup>1</sup> OJ C 327, 12.11.2013, p. 102.

PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of  
deploying high-speed electronic  
communications networks

(Text with EEA relevance)

PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of  
deploying high-speed electronic  
communications networks

(Text with EEA relevance)

*(This amendment applies throughout the text. adopting it will necessitate corresponding changes throughout.)*

## Amendment 2

### Proposal for a regulation

#### Recital 1

*Text proposed by the Commission*

(1) The digital economy is changing the Single Market profoundly. With its innovation, speed and reach across borders it has the potential to take Single Market integration to a new level. The Union's vision is a digital economy that delivers sustainable economic and social benefits based on modern online services and fast Internet connections. A high quality digital infrastructure underpins virtually all sectors of a modern and innovative economy and is of strategic importance to social and territorial cohesion. Therefore, all citizens **and businesses** must have the opportunity to be part of the digital economy.

*Amendment*

(1) The digital economy is changing the Single Market profoundly. With its innovation, speed and reach across borders it has the potential to take Single Market integration to a new level. The Union's vision is a digital economy that delivers sustainable economic and social benefits based on modern online services and fast Internet connections. A high quality digital infrastructure underpins virtually all sectors of a modern and innovative economy and is of strategic importance to social and territorial cohesion. Therefore, all citizens **as well as the private and public sectors** must have the opportunity to be part of the digital economy.

## Amendment 3

### Proposal for a regulation

#### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) Whereas information and communication technologies are at the core of the digital society and today account for approximately 20% of the***

*Union's annual growth in productivity, 4.5% of Europe's GDP and generate 25% of private investment in R&D, potentially constituting an extraordinary contributor to growth and employment.*

**Amendment 4**  
**Proposal for a regulation**  
**Recital 2**

*Text proposed by the Commission*

(2) Acknowledging *the importance of high-speed* broadband rollout, Member States *have endorsed the ambitious* broadband targets set out in Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'The Digital Agenda for Europe- Driving European growth digitally'<sup>29</sup> ('the Digital Agenda'): *100% broadband coverage by 2013 and increased speeds of 30MBps for all households, with at least 50% of the households subscribing to Internet connections above 100MBps by 2020.*

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<sup>29</sup> COM (2010)245; see also see also the Digital Agenda review, COM (2012) 784 final.

*Amendment*

(2) Acknowledging *that high-speed* broadband rollout *is crucial in order for* Member States *to meet their commitments regarding the* broadband targets set out in Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'The Digital Agenda for Europe- Driving European growth digitally'<sup>29</sup>('the Digital Agenda'. *This Communication stipulates that by 2020 all Union citizens should have access to internet speeds of above 30 Mbps and 50% or more of Union households should subscribe to internet connections above 100 Mbps. However, given the rapid evolution of technologies that lead to even faster internet connections, and the increasing demand for e-services, those targets should be considered to be an absolute minimum and the Union should aim for more ambitious broadband targets.*

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<sup>29</sup> COM (2010)245; see also see also the Digital Agenda review, COM (2012) 784 final.

**Amendment 5**  
**Proposal for a regulation**

## Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) Whereas estimates are that 50 billion devices will be connected to the Internet by 2020 and global data traffic is expected to grow 15 times by the end of 2017; this exponential growth in broadband traffic will require ambitious policies at Union and Member State level to increase the capacity in both our fixed and mobile networks, if Europe is to achieve more growth, competitiveness and productivity.***

## Amendment 6 Proposal for a regulation Recital 3

*Text proposed by the Commission*

*Amendment*

(3) The Digital Agenda has also identified the need for policies to lower the costs of broadband deployment in the entire territory of the Union, including proper planning and coordination ***and reducing*** administrative burdens.

(3) The Digital Agenda has also identified the need for policies to lower the costs of broadband deployment in the entire territory of the Union, including proper planning and coordination, ***better regulation, reduction in*** administrative burdens, ***and the promotion of cross-sectoral, convergent use of synergies in existing communications infrastructure, including modern broadcasting technology infrastructure***

## Amendment 7

### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) Whereas reducing the costs of deploying high-speed electronic communications networks would also contribute to achieving the digitisation of***



*the public sector allowing, beyond the reduction in costs for public administrations and more efficient services to be provided to citizens, a digital leverage effect on all sectors of the economy.*

## Amendment 8

### Proposal for a regulation

#### Recital 5

*Text proposed by the Commission*

(5) The rolling out of high-speed fixed and wireless electronic communications networks across the Union requires substantial investments a significant portion of which is represented by the cost of civil engineering works.

*Amendment*

(5) The rolling out of high-speed fixed and wireless electronic communications networks across the Union requires substantial investments a significant portion of which is represented by the cost of civil engineering works. ***The abandonment of (some) cost-intensive civil engineering work can contribute to effective broadband delivery.***

## Amendment 9

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) A major part of these costs can be attributed to inefficiencies in the rollout process related to the use of existing passive infrastructure (***such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions***), bottlenecks related to co-ordination of civil works, burdensome administrative permit granting procedures, and ***bottlenecks*** concerning in-building deployment of networks.

*Amendment*

(6) A major part of these costs can be attributed to inefficiencies in the rollout process related to the use of existing passive infrastructure, bottlenecks related to co-ordination of civil works and concerning in-building deployment of networks, burdensome administrative permit granting procedures, ***high financial barriers and lack of feasible business plans in respect of broadband deployment in rural areas.***

**Amendment 10**  
**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) Measures aiming at increasing efficiency in the use of existing infrastructures and at reducing costs and obstacles in carrying out new civil engineering works should provide a substantial contribution to ensure a fast and extensive deployment of high-speed electronic communications networks while maintaining effective competition.

*Amendment*

(7) Measures aiming at increasing efficiency in the use of existing infrastructures and at reducing costs and obstacles in carrying out new civil engineering works should provide a substantial contribution to ensure a fast and extensive deployment of high-speed electronic communications networks, ***encourage the replacement of obsolete networks and the upgrade to 'next generation access'*** while maintaining effective competition, ***without adversely affecting the safety, security and smooth operation of the existing public infrastructures.***

**Amendment 11**

**Proposal for a regulation**  
**Recital 9**

*Text proposed by the Commission*

(9) ***This Regulation*** aims at providing some minimum rights and obligations applicable across the Union in order to facilitate the rollout of high-speed electronic communications networks and cross-sector coordination. While ensuring a minimum level playing field, this should be without prejudice to existing best practices and measures adopted at national and local level entailing more detailed provisions and conditions as well as additional measures complementing those rights and obligations, in accordance with the subsidiarity principle.

*Amendment*

(9) ***While respecting the subsidiarity and proportionality principle, this Directive*** aims at providing some minimum rights and obligations applicable across the Union in order to facilitate the rollout of high-speed electronic communications networks and cross-sector coordination. While ensuring a minimum level playing field, this should be without prejudice to existing best practices and measures adopted at national and local level entailing more detailed provisions and conditions as well as additional measures complementing those rights and obligations, in accordance with the subsidiarity principle. ***Another aim is to promote openness and effective competition in the field of network***

*services.*

**Amendment 12**  
**Proposal for a regulation**  
**Recital 11**

*Text proposed by the Commission*

(11) It can be significantly more efficient for electronic communications network operators, in particular new entrants, to re-use existing physical infrastructures, including those of other utilities, in order to roll-out electronic communications networks, in particular in areas where no suitable electronic communications network is available or where it may not be economically feasible to build-up a new physical infrastructure. Moreover, synergies across sectors may significantly reduce the need for civil works due to the deployment of electronic communications networks and therefore also the social and environmental costs linked to them, such as pollution, nuisances and traffic congestion. Therefore this Regulation should be applicable not only to electronic communications network providers but to any owner or holder of rights to use extensive and ubiquitous physical infrastructures suitable to host electronic communications network elements, such as physical networks for the provision of electricity, gas, water and sewage, heating and transport services.

*Amendment*

(11) It can be significantly more efficient for electronic communications network operators, in particular new entrants, to re-use *suitable* existing physical infrastructures, including those of other utilities, in order to roll-out electronic communications networks, in particular in areas where no suitable electronic communications network is available or where it may not be economically feasible to build-up a new physical infrastructure. Moreover, synergies across sectors may significantly reduce the need for civil works due to the deployment of electronic communications networks and therefore also the social and environmental costs linked to them, such as pollution, nuisances and traffic congestion. Therefore this Regulation should be applicable not only to electronic communications network providers but to any owner or holder of rights to use extensive and ubiquitous physical infrastructures suitable to host electronic communications network elements, such as physical networks for the provision of electricity, gas, water and sewage *and drainage systems*, heating and transport services.

**Amendment 13**  
**Proposal for a regulation**  
**Recital 12**

*Text proposed by the Commission*

(12) In view of their low degree of differentiation, physical facilities of such networks can often host at the same time a wide range of electronic communications network elements, including those capable of delivering broadband access services **at speeds of at least 30 Mbps** in line with the technological neutrality principle, without affecting the main service conveyed and with minimum adaptation costs. Therefore a physical infrastructure that is intended to only host other elements of a network without becoming itself an active network element, can be in principle used to accommodate electronic communications cables, equipment or any other element of electronic communications networks, **regardless of its actual use or its ownership**. Without prejudice to the pursuit of the specific general interest linked to the provision of the main service, synergies across network operators should be encouraged in order to contribute at the same time to achieving the targets of the Digital Agenda.

*Amendment*

(12) In view of their low degree of differentiation, physical facilities of such networks can often host at the same time a wide range of electronic communications network elements, including those capable of delivering broadband access services **high-speed and ultra high-speed** in line with the technological neutrality principle, without affecting the main service conveyed and with minimum adaptation costs. Therefore a physical infrastructure that is intended to only host other elements of a network without becoming itself an active network element, can be in principle used to accommodate electronic communications cables, equipment or any other element of electronic communications networks, **in the absence of any security concerns or future business interests of the owners of the infrastructure**. Without prejudice to the pursuit of the specific general interest linked to the provision of the main service, synergies across network operators should be encouraged, **including the integration of all available technologies**, in order to contribute at the same time to achieving the targets of the Digital Agenda.

**Amendment 14**

**Proposal for a regulation**

**Recital 13**

*Text proposed by the Commission*

(13) While this **Regulation** should be also without prejudice to any specific safeguard needed to ensure the security and integrity of the networks as well as to ensure that the main service provided by the network operator is not affected, general rules in

*Amendment*

(13) While this **Directive** should be also without prejudice to any specific safeguard needed to ensure the **safety**, security and integrity of the networks as well as to ensure that the main service provided by the network operator is not affected,

national legislation prohibiting network operators to negotiate access to physical infrastructures by electronic communications network providers could prevent the establishment of a market for access to physical infrastructures and should therefore be abolished. At the same time, the measures provided in this Regulation are without prejudice to the possibility of the Member States to render the provision of infrastructure access by utilities operators more attractive by excluding revenues stemming from this service from the basis for the calculation of end-users tariffs for their main activity or activities, in accordance with applicable EU law.

general rules in national legislation prohibiting network operators to negotiate access to physical infrastructures by electronic communications network providers could prevent the establishment of a market for access to physical infrastructures and should therefore be abolished. At the same time, the measures provided in this Regulation are without prejudice to the possibility of the Member States to render the provision of infrastructure access by utilities operators more attractive by excluding revenues stemming from this service from the basis for the calculation of end-users tariffs for their main activity or activities, in accordance with applicable EU law.

## Amendment 15

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) When electronic communications networks providers request access in a specified area, network operators should make available an offer for the shared use of their facilities under fair terms and conditions, including price, unless access is refused based on objective reasons. Depending on circumstances, several elements could influence the conditions under which such access is granted, such as: any additional maintenance and adaptation costs; any preventive safeguards to be adopted to limit adverse impacts on network security and integrity; any specific liability arrangements in the event of damages; the use of any public subsidy granted for the construction of the infrastructure, including specific terms and conditions attached to the subsidy or provided under national law in compliance with Union law; any constraints stemming

##### *Amendment*

(15) When electronic communications networks providers request access in a specified area, network operators should make available an offer for the shared use of their facilities under fair terms and conditions, including price, unless access is refused based on objective reasons. Depending on circumstances, several elements could influence the conditions under which such access is granted, such as: any additional maintenance and adaptation costs; any ***impact on capacity and performance linked to the provision of the main service***; any preventive safeguards to be adopted to limit adverse impacts on network ***safety***, security and integrity; any specific liability arrangements in the event of damages; the use of any public subsidy granted for the construction of the infrastructure, including specific terms and conditions attached to

from national provisions aiming at protecting the environment, public health, public security or to meet town and country planning objectives.

the subsidy or provided under national law in compliance with Union law; ***the ability to deliver or provide infrastructure capacity to meet or service public service obligations***, any constraints stemming from national provisions aiming at protecting the environment, public health, public security or to meet town and country planning objectives. ***The incremental costs that would arise when performing future civil works on a network, irrespective of who initiated the works, and that would be generated by the presence of elements of electronic communications networks, can be allocated to the undertakings to which those elements of electronic communications networks belong.***

**Amendment 16**  
**Proposal for a regulation**  
**Recital 16**

*Text proposed by the Commission*

(16) In the event of disagreement in commercial negotiation on technical and commercial terms and conditions each party should be able to call on a dispute resolution body at national level to impose a solution to the parties, in order to avoid unjustified refusals to deal or the imposition of unreasonable conditions. When determining prices for granting access, the dispute resolution body should take into account the investments made on the physical infrastructure. In the specific case of access to physical infrastructures of electronic communications network operators, the investments made in this infrastructure may directly contribute to the objectives of the Digital Agenda for Europe and downstream competition may be influenced by free-riding. Hence, any access obligation should take into account the economic viability of these investments based on any time schedule for the return on investment, any impact of access on

*Amendment*

(16) In the event of disagreement in commercial negotiation on technical and commercial terms and conditions each party should be able to call on a dispute resolution body at national level to impose a solution to the parties, in order to avoid unjustified refusals to deal or the imposition of unreasonable conditions. When determining prices for granting access, the dispute resolution body should take into account the investments made on the physical infrastructure, ***the potential for leakage of State aid, the views of any relevant economic regulators for the infrastructure sectors concerned and all additional costs involved in enabling the access.*** In the specific case of access to physical infrastructures of electronic communications network operators, the investments made in this infrastructure may directly contribute to the objectives of the Digital Agenda for Europe and downstream competition may be

downstream competition, any depreciation of the network assets at the time of the access request, any business case underpinning the investment done, in particular in recently built physical infrastructures used for the provision of high-speed electronic communications services, and any possibility offered to the access seeker to co-deploy.

influenced by free-riding. Hence, any access obligation should take into account the economic viability of these investments based on any time schedule for the return on investment. ***Dispute resolution bodies should also be mindful of any impact of access on capacity and performance in the provision of the main service***, any impact of access on downstream competition, any depreciation of the network assets at the time of the access request, any business case underpinning the investment done, in particular in recently built physical infrastructures used for the provision of high-speed electronic communications services, and any possibility offered to the access seeker to co-deploy.

## **Amendment 17**

### **Proposal for a regulation**

#### **Recital 20**

##### *Text proposed by the Commission*

(20) Where disputes concerning access to the information on the physical infrastructures in view of deploying high-speed electronic communications networks arise, the single information point should be able to solve such disputes by means of a binding decision, without prejudice to the possibility of any party to refer the case to a court.

##### *Amendment*

(20) Where disputes concerning access to the information on the physical infrastructures in view of deploying high-speed electronic communications networks arise, the ***competent*** single information point should be able to solve such disputes by means of a binding decision, without prejudice to the possibility of any party to refer the case to a court.

## **Amendment 18**

### **Proposal for a regulation**

#### **Recital 26**

##### *Text proposed by the Commission*

(26) Achieving the targets of the Digital Agenda requires that the infrastructure rollout is brought close to the end-users

##### *Amendment*

(26) Achieving the targets of the Digital Agenda requires that the infrastructure rollout is brought close to the end-users

location, while fully respecting the principle of proportionality as regards any limitation brought to the right of property in view of the general interest pursued. Existence of high-speed electronic communications networks up to the end-user should be facilitated while ensuring at the same time technological neutrality, in particular by high-speed-ready in-building physical infrastructure. In view of the fact that providing for mini-ducts during the construction of the building has only a limited incremental cost while retrofitting buildings with high-speed infrastructure may represent a significant part of the cost of high-speed network deployment, all new or majorly renovated buildings *should* be equipped with physical infrastructure, allowing the connection of end-users with high-speed networks. In order to roll-out high-speed electronic communications network, moreover, new multi-dwelling buildings, as well as majorly renovated multi-dwelling buildings *should* be equipped with an access or concentration point, by which the provider may access the in-building network. In practice, this would mean that building developers should foresee that empty ducts are provided from every dwelling to a concentration point, located in or outside the building. There may be cases such as new single dwellings or categories of major renovation works in isolated areas where the prospect of high-speed connection is considered, on objective grounds, too remote to justify the additional costs of deploying in-house high-speed-ready physical infrastructures and/or a concentration point.

location, while fully respecting the principle of proportionality as regards any limitation brought to the right of property in view of the general interest pursued. Existence of high-speed electronic communications networks up to the end-user should be facilitated while ensuring at the same time technological neutrality, in particular by high-speed-ready in-building physical infrastructure. In view of the fact that providing for mini-ducts during the construction of the building has only a limited incremental cost while retrofitting buildings with high-speed infrastructure may represent a significant part of the cost of high-speed network deployment, all new or majorly renovated buildings *may* be equipped with physical infrastructure, allowing the connection of end-users with high-speed networks. In order to roll-out high-speed electronic communications network, moreover, new multi-dwelling buildings, as well as majorly renovated multi-dwelling buildings *may* be equipped with an access or concentration point, by which the provider may access the in-building network. In practice, this would mean that building developers should foresee that empty ducts are provided from every dwelling to a concentration point, located in or outside the building. There may be cases such as new single dwellings or categories of major renovation works in isolated areas where the prospect of high-speed connection is considered, on objective grounds, too remote to justify the additional costs of deploying in-house high-speed-ready physical infrastructures and/or a concentration point.



## Amendment 19

### Proposal for a regulation Recital 26 a (new)

*Text proposed by the Commission*

*Amendment*

***(26a) A new Union broadband-ready label should be introduced for buildings and apartments to help buyers and renters to identify buildings with access to a high-speed electronic communications networks. The Union broadband-ready label should be a voluntary label promoting high-speed readiness of in-house infrastructures.***

## Amendment 20

### Proposal for a regulation Recital 30

*Text proposed by the Commission*

*Amendment*

(30) Whatever body be designated by the Member State for dispute settlement, it should ensure impartiality and independence vis-à-vis the parties involved. Also, the designated authorities should have appropriate resources and sanctioning powers in the event of lack of compliance with the decisions adopted.

(30) Whatever body be designated by the Member State for dispute settlement, it should ensure impartiality and independence vis-à-vis the parties involved. Also, the designated authorities should have appropriate ***competences***, resources and sanctioning powers in the event of lack of compliance with the decisions adopted.

## Amendment 21

### Proposal for a regulation Article 2 – paragraph 2 – point 1

*Text proposed by the Commission*

*Amendment*

(1) ‘network operator’ means an electronic communications network provider as well as an undertaking providing a physical infrastructure intended to provide: a service of production, transport or distribution of gas, electricity, including public lighting, heating, water, including disposal or

(1) “network operator” means an electronic communications network provider as well as an undertaking providing a physical infrastructure intended to provide: a service of production, transport or distribution of gas, electricity, including public lighting,

treatment of waste water and sewage;  
transport services, *including railways,  
roads, ports and airports*;

heating, water, including disposal or  
treatment of waste water and sewage,  
*drainage systems and* transport services;

## Amendment 22

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 2

*Text proposed by the Commission*

(2) ‘physical infrastructure’ means **any** element of a network which is not active such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles and their associated facilities;

*Amendment*

(2) “physical infrastructure” means **the** element of a network which is not active such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles and their associated facilities, **with the exception of elements used for the carriage of drinking water intended for human consumption.**

## Amendment 23

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 3

*Text proposed by the Commission*

(3) ‘high-speed electronic communications network’ means an electronic communication network which is capable of delivering broadband access services **at speeds of at least 30 Mbps.**

*Amendment*

(3) ‘high-speed electronic communications network’ means an electronic communication network which is capable of delivering broadband access services **of 100 Mbps and 1Gbps where possible and above.**

## Amendment 24

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 10 a (new)

*Text proposed by the Commission*

*Amendment*

**(10a) ‘open networks’ means networks where service providers and network**

*owners are separate and where service providers have access to retail customers over the network on non-discriminatory terms.*

**Amendment 25**  
**Proposal for a regulation**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. Every network operator shall have the right to offer access to its physical infrastructure in view of deployment of elements of high-speed electronic communications networks.

*Amendment*

1. Every network operator shall have the right to offer access to its physical infrastructure in view of deployment of elements of high-speed electronic communications networks, ***while ensuring the safety and security of the network; reciprocally, electronic communications network operators shall have the right to offer access to their physical infrastructure with a view to the deployment of other networks, provided that the deployment has the approval of the owners and the authorities responsible.***

**Amendment 26**  
**Proposal for a regulation**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

2. Upon specific written request of an undertaking authorised to provide electronic communications networks, any network operator shall have the obligation to meet all reasonable requests for access to its physical infrastructure under fair terms and conditions, including price, in view of deploying elements of high-speed electronic communications networks.

*Amendment*

2. Upon specific written request of an undertaking authorised to provide electronic communications networks, any network operator shall, ***subject to the availability of network capacity,*** have the obligation to meet all reasonable requests for access to its physical infrastructure under fair terms and conditions, including price, ***on condition that no problems will arise in connection with the security and safety of the network and bearing in mind the principle of reciprocity,*** in view of

deploying elements of high-speed electronic communications networks. ***The obligation of network operators to meet all reasonable access requests under fair terms and conditions should be without prejudice to their obligation to respect Union rules on State aid in case of government funded or guaranteed investment in infrastructure.***

***The authorities involved should harmonise their principles for setting terms and conditions and hold consultations with the network operators or their associations by [Publications Office: please insert the exact date: entry into force of this Regulation + 12 months].***

#### **Amendment 27**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. This provision is without prejudice to the right of landowners and private property owners to decide how to administer and manage their assets.***

#### **Amendment 28**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

Every refusal of access shall be based on objective criteria, ***which may relate in particular to:***

***3. Every refusal of access shall be based on objective criteria, such as:***

## Amendment 29

### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

*(aa) safety and public health concerns;*

## Amendment 30

### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 – point a b (new)

*Text proposed by the Commission*

*Amendment*

*(ab) the security of critical national infrastructure;*

## Amendment 31

### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) availability of space to host the elements referred to in point (a);

(b) **current and future** availability of space to host the elements referred to in point (a);

## Amendment 32

### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) integrity and security of any network already deployed;

(c) integrity, **safety** and security of any network already deployed;

## Amendment 33

### Proposal for a regulation

### Article 3 – paragraph 3 – subparagraph 1 – point d

*Text proposed by the Commission*

(d) the risk of **serious** interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure;

*Amendment*

(d) the risk of **clear** interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure;

### Amendment 34

#### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 – point e

*Text proposed by the Commission*

(e) the availability of alternative means of wholesale physical network infrastructure access provided by the network operator and suitable for the provision of high-speed electronic communications networks.

*Amendment*

(e) the availability **or planned availability under published deployment plans** of alternative means of wholesale physical network infrastructure access provided by the network operator and suitable for the provision of high-speed electronic communications networks.

### Amendment 35

#### Proposal for a regulation

#### Article 3 – paragraph 3 – point ea (new)

*Text proposed by the Commission*

*Amendment*

**(ea) the proportional usage of the available space, so that a network operator that owns the physical infrastructure could reserve space for its own future investments.**

### Amendment 36

#### Proposal for a regulation

**Article 3 – paragraph 3 – subparagraph 1 – point eb (new)**

*Text proposed by the Commission*

*Amendment*

***(eb) the high risk for the physical safety of workers accessing infrastructures other than those they were originally trained to operate with;***

**Amendment 37**

**Proposal for a regulation**

**Article 3 – paragraph 3 – subparagraph 1 – point ec (new)**

*Text proposed by the Commission*

*Amendment*

***(ec) the proportional usage of the available space, so that a network operator that owns the physical infrastructure could reserve space for its own future investments.***

**Amendment 38**

**Proposal for a regulation**

**Article 3 – paragraph 3 – subparagraph 1 – point ed (new)**

*Text proposed by the Commission*

*Amendment*

***(ed) the planned availability of alternative means of wholesale physical network infrastructure access, in the case national plans for the deployment of European Rail Traffic Management System exist.***

**Amendment 39**

**Proposal for a regulation**

**Article 3 – paragraph 3 – subparagraph 1 – point ef (new)**

*Text proposed by the Commission*

*Amendment*

***(ef) conditions whereby granting access to underground transport systems could result in disruption to long-term investment and upgrades and/or result in travel disruption with a disproportionate economic impact.***

#### **Amendment 40**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 3 – subparagraph 1 – point eg (new)**

*Text proposed by the Commission*

*Amendment*

***(eg) exclusive contractual arrangements exist between network operators and their customers ;***

#### **Amendment 41**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

The network operator shall state the reasons for any refusal within ***one month*** from the written request for access.

The network operator shall state the reasons for any refusal within ***three months*** from the written request for access.

#### **Amendment 42**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. The national dispute settlement body referred to in paragraph 4 shall, taking full account of the principle of proportionality, issue a binding decision to resolve the dispute initiated pursuant to paragraph 4, including ***the determination of fair*** terms, conditions and prices where appropriate,

5. The national dispute settlement body referred to in paragraph 4 shall, taking full account of the principle of proportionality, issue a binding decision to resolve the dispute initiated pursuant to paragraph 4, including ***a recommendation on*** terms, conditions and prices where appropriate,



within the shortest possible time frame and in any case within four months, without prejudice to the possibility of any party to refer the case to a court. Any price set by the dispute settlement body shall take into account the impact of the requested access on the business plan underpinning the investments made by the network operator to whom access is requested, in particular in case of recently built physical infrastructures used for the provision of high-speed electronic communications services.

within the shortest possible time frame and in any case within four months, without prejudice to the possibility of any party to refer the case to a court. Any price set by the dispute settlement body, ***State aid law, national infrastructure output statement, Member State infrastructure funding agreement and PSO contract*** shall take into account the impact of the requested access on the business plan underpinning the investments made by the network operator to whom access is requested, in particular in case of recently built physical infrastructures used for the provision of high-speed electronic communications services. ***In taking its decisions the national dispute settlement body shall also take into account the economic viability of those investments based on any time schedule for the return on investment, any impact of access on capacity and performance, any impact of access on downstream competition, any depreciation of the network assets at the time of the access request, and any possibility offered to the access seeker to co-deploy.***

## Amendment 43

### Proposal for a regulation Article 3 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***5a. If tasks have to be carried out which are connected with the shared use of the infrastructure, they may only be carried out by the network operator or by a party to which the network operator has contracted the task out.***

**Amendment 44**  
**Proposal for a regulation**  
**Article 4 – paragraph 1**

*Text proposed by the Commission*

In order to request access to physical infrastructure in accordance with Article 3, every undertaking authorised to provide electronic communications networks shall have the right to access, upon request, via a single information point, the following set of minimum information concerning the existing physical infrastructure of any network operator:

- (a) location, route and geo-reference coordinates;
- (b) size, type and current use of the infrastructure;
- (c) name of the owner or of the holder of rights to use physical infrastructure and a contact point.

The undertaking requesting access shall specify the area concerned in view of deploying elements of high-speed electronic communications networks.

Access to the minimum information for the specified area shall be granted ***forthwith*** in electronic form under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited by the single information point only when considered necessary in view of the security of the networks and their integrity or operating and business secrets.

*Amendment*

In order to request access to physical infrastructure in accordance with Article 3, every undertaking authorised to provide electronic communications networks shall have the right to access, upon ***a justified request with a view to developing better future telecommunication services***, via a single information point, the following set of minimum information concerning the existing physical infrastructure of any network operator ***provided this does not affect the safety, integrity and security of the network***:

- (a) location, route and geo-reference coordinates;
- (b) size, type and current use of the infrastructure;
- (c) name of the owner or of the holder of rights to use physical infrastructure and a contact point.

The undertaking requesting access shall specify the area concerned in view of deploying elements of high-speed electronic communications networks ***and the undertaking shall therefore gain access only to the data of that specific geographical area.***

Access to the minimum information for the specified area shall be granted ***promptly*** in electronic form under proportionate, non-discriminatory and ***fully*** transparent terms ***respecting the principle of confidentiality. Single information points shall inform the network operator concerned about the exchange of information.***

Access to the minimum information may be limited by the single information point

The single information point shall ensure that access to the minimum information pursuant to this paragraph is available by [Publications Office: please insert the exact date: entry into force of this Regulation + 12 months] at the latest.

only when considered necessary in view of the security of the networks and their integrity or operating and business secrets ***and when considered necessary with a view to protecting fundamental public and individual interests in accordance with national law,***

The single information point shall ensure that access to the minimum information pursuant to this paragraph is available by [Publications Office: please insert the exact date: entry into force of this Regulation + 12 months] at the latest.

***If existing infrastructure is not considered technically suitable to deploy high-speed electronic communications networks, Member States may provide exemptions from the obligations laid down in paragraph 1. Such measure shall be notified to the Commission and reasons duly given with all interested parties given the opportunity to comment on the draft measure.***

## Amendment 45

### Proposal for a regulation

#### Article 4 – paragraph 1 – subparagraph 3

##### *Text proposed by the Commission*

Access to the minimum information for the specified area shall be granted forthwith in electronic form under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited by the single information point only when considered necessary in view of the security of the networks and their integrity or operating and business secrets.

##### *Amendment*

Access to the minimum information for the specified area shall be granted forthwith in electronic form under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited by the single information point only when considered necessary in view of the security of the networks and their integrity or operating and business secrets. ***With a view to safeguarding national security and the security and the integrity of certain elements of, and or areas on a network, Member States may decide to exempt certain areas from the obligation***

***to grant the set of minimum information in electronic form. In those cases the access to minimum information may be limited to an examination in the offices of the network operator. Any such measure shall be notified to the Commission.***

**Amendment 46**  
**Proposal for a regulation**  
**Article 4 – paragraph 2**

*Text proposed by the Commission*

2. Every public sector body holding in electronic format the minimum information referred to in paragraph 1 concerning the physical infrastructure of a network operator by reason of its tasks shall make it available to the single information point by electronic means before [Publications Office: please insert the exact date: entry into force of this Regulation + 6 months]. Any update to this information and any new minimum information referred to in paragraph 1 received by the public sector body shall be made available to the single information point within one month from the receipt.

*Amendment*

2. Every public sector body holding in electronic format the minimum information referred to in paragraph 1 concerning the physical infrastructure of a network operator by reason of its tasks shall make it available to the single information point by electronic means before [Publications Office: please insert the exact date: entry into force of this Regulation + 6 months]. Any update to this information and any new minimum information referred to in paragraph 1 received by the public sector body shall be made available, ***respecting the principle of confidentiality***, to the single information point within one month from the receipt. ***Single information points shall inform the network operator concerned about the exchange of information.***

**Amendment 47**  
**Proposal for a regulation**  
**Article 4 – paragraph 3**

*Text proposed by the Commission*

3. Where the minimum information referred to in paragraph 1 is not held by public sector bodies in accordance with paragraph 2, any network operator shall make available upon specific request of the

*Amendment*

3. Where the minimum information referred to in paragraph 1 is not held by public sector bodies in accordance with paragraph 2, any network operator shall make available upon specific ***written***

single information point the minimum information referred to in paragraph 1 on its physical infrastructure in electronic format within one month from the request. The network operator shall make available to the single information point any update of the minimum information provided within one **month** from the actual modification of the physical network which changes that minimum information.

request of the single information point **for an area concerned by a possible high-speed deployment by an undertaking authorised to provide electronic communications networks** the minimum information referred to in paragraph 1 on its physical infrastructure in electronic format within one month from the request. The network operator shall make available to the single information point any update of the minimum information provided within one **year** from the actual modification of the physical network which changes that minimum information. **The procedures for making available or updating the information shall ensure that the network operator does not bear the costs associated with these operations.**

#### **Amendment 48**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Subject to limitations with a view to the physical security of the networks or operating and business secrets, the single information point may offer private individuals access to the minimum information for a specified area upon request or via its website. While the single information point may give access with or without charging an administration fee to individuals, this information shall be free-of-charge for a property or land owner of a location requested or property owners adjacent to the specified area.**

#### **Amendment 49**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 4**

*Text proposed by the Commission*

4. Where minimum information referred to in paragraph 1 is not available via the single information point, network operators shall provide access to such information upon specific written request of an undertaking authorised to provide electronic communications networks. The request shall specify the area concerned in view of deploying elements of high-speed electronic communications networks. Access to information shall be granted within **one** month from the written request under proportionate, non-discriminatory and transparent terms, without prejudice to limitations pursuant to paragraph 1.

**Amendment 50**  
**Proposal for a regulation**  
**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. Upon specific written request of an undertaking authorised to provide electronic communications networks, network operators shall meet reasonable requests for in-site surveys of specific elements of their physical infrastructure. The request shall specify the elements of the network concerned in view of deploying elements of high-speed electronic communications networks. In-site surveys of the specified network elements shall be granted under proportionate, non-discriminatory and transparent terms within one month from the written request, without prejudice to limitations pursuant to paragraph 1.

*Amendment*

4. Where minimum information referred to in paragraph 1 is not available via the single information point, network operators shall provide access to such information upon specific written request of an undertaking authorised to provide electronic communications networks. The request shall specify the area concerned in view of deploying elements of high-speed electronic communications networks. Access to information shall be granted within **six** month from the written request under proportionate, non-discriminatory and transparent terms, without prejudice to limitations pursuant to paragraph 1. ***The procedures for making the information available shall ensure that the network operator does not bear the costs associated with that operation.***

*Amendment*

5. Upon specific written request of an undertaking authorised to provide electronic communications networks, network operators shall meet reasonable requests for in-site surveys of specific elements of their physical infrastructure. The request shall specify the elements of the network concerned in view of deploying elements of high-speed electronic communications networks. In-site surveys of the specified network elements shall be granted under proportionate, non-discriminatory and transparent terms within one month from the written request, without prejudice to limitations pursuant to paragraph 1. ***The party making the request shall bear all the costs involved in organising and carrying***

*out the on-site survey.*

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 4 – paragraph 6 – subparagraph 1 – introductory part**

##### *Text proposed by the Commission*

Upon specific written request of an undertaking authorised to provide electronic communications networks, any network operator shall make available the following set of minimum information concerning on-going or planned civil works related to its physical infrastructure for which a permit has been granted, a permit granting procedure is pending or first submission to the competent authorities for permit granting is envisaged in the following **six** months:

- (a) the location and the type of works;
- (b) the network elements involved;
- (c) the estimated date for starting the works and their duration;
- (d) a contact point.

The request of an undertaking authorised to provide electronic communications networks shall specify the area concerned in view of deploying elements of high-speed electronic communications networks. Within **two weeks** from the written request, network operators shall provide the requested information under proportionate, non-discriminatory and transparent terms, without prejudice to limitations pursuant to paragraph 1.

##### *Amendment*

Upon specific written request of an undertaking authorised to provide electronic communications networks, any network operator shall make available the following set of minimum information concerning on-going or planned civil works related to its physical infrastructure for which a permit has been granted, a permit granting procedure is pending or first submission to the competent authorities for permit granting is envisaged in the following **four** months:

- (a) the location and the type of works;
- (b) the network elements involved;
- (c) the estimated date for starting the works and their duration;
- (d) a contact point.

***With the aim of protecting commercial secrets, the inventory of planned civil works shall not be integrated into the same database as that of the general infrastructure inventory.*** The request of an undertaking authorised to provide electronic communications networks shall specify the area concerned in view of deploying elements of high-speed electronic communications networks. Within **one month** from the written request, network operators shall provide the requested information under proportionate, non-discriminatory and transparent terms, without prejudice to limitations pursuant to paragraph 1. ***The undertaking authorised to provide electronic communications networks shall inform the network operator as soon as***

*possible of its wish to deploy a high-speed electronic communications network in the area in question and in any event within six weeks of receiving the information requested.*

## Amendment 52

### Proposal for a regulation Article 4 – paragraph 10

*Text proposed by the Commission*

10. Member States may provide for exemptions from the obligations provided for in paragraphs 1 to **5** in the case of **existing** physical infrastructures considered not technically suitable to deploy high-speed electronic communications networks. Such measures shall be duly motivated in this regard. The interested parties shall be given the opportunity to comment on the draft measures within a reasonable period. Any such measure shall be notified to the Commission.

*Amendment*

10. Member States may provide for exemptions from the obligations provided for in paragraphs 1 to **6** **when the information relates to critical national infrastructure and where making it available could easily highlight vulnerabilities** or in the case of physical infrastructures considered not technically suitable to deploy high-speed electronic communications networks. Such measures shall be duly motivated in this regard. The interested parties shall be given the opportunity to comment on the draft measures within a reasonable period. Any such measure shall be notified to the Commission.

## Amendment 53

### Proposal for a regulation Article 4 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

**10a. In all the cases listed in paragraphs 1, 2, 3, 4, 5 and 6, the undertaking requesting access to information should limit the number of persons having access to such data, guarantee the confidentiality**



*of the data, and shall not transfer it to any third-party.*

**Amendment 54**  
**Proposal for a regulation**  
**Article 5 – paragraph 1**

*Text proposed by the Commission*

1. Every network operator shall have the right to negotiate agreements concerning coordination of civil works with undertakings authorised to provide electronic communications networks in view of deploying elements of high-speed electronic communications networks.

*Amendment*

1. Every network operator shall have the right to negotiate agreements concerning coordination of civil works with undertakings authorised to provide electronic communications networks in view of deploying elements of high-speed electronic communications networks, ***as well as developing its own networks.***

**Amendment 55**  
**Proposal for a regulation**  
**Article 5 – paragraph 2**

*Text proposed by the Commission*

2. Every undertaking performing civil works fully or partially financed by public means shall meet any reasonable request from undertakings authorised to provide electronic communications networks in view of deploying elements of high-speed electronic communications networks for civil works coordination agreement on transparent and non-discriminatory terms, provided that this does not entail any additional costs for the initially envisaged civil works and that the request to coordinate is filed as soon as possible and in any case at least one month before the submission of the final project to the competent authorities for permit granting.

*Amendment*

2. Every undertaking performing civil works fully or partially financed by public means shall meet any reasonable request from undertakings authorised to provide electronic communications networks in view of deploying elements of high-speed electronic communications networks for civil works coordination agreement on transparent and non-discriminatory terms, provided that this does not entail any additional costs for the initially envisaged civil works and that the request to coordinate is filed as soon as possible and in any case at least one month before the submission of the final project to the competent authorities for permit granting. ***Undertakings authorised to provide electronic communication networks shall adequately contribute towards covering the costs of the work. If additional costs***

*arise, they too shall be borne by the undertaking which has made the request.*

## Amendment 56

### Proposal for a regulation

#### Article 5 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Every effort shall be made by undertakings performing civil works and undertakings authorised to provide electronic communications networks to coordinate civil works with those of energy distribution system operators in order to minimise the works needed and to install, maintain or upgrade ICT and energy infrastructures concurrently.***

## Amendment 57

### Proposal for a regulation

#### Article 6 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Every undertaking authorised to provide electronic communications networks shall have the right to access ***by electronic means via a single information point, upon request,*** any information concerning the conditions and procedures applicable for granting permits for civil works needed in view of deploying elements of high-speed electronic communications networks, including any exemptions applicable to such elements as regards some or all permits required under national law.

1. Every undertaking authorised to provide electronic communications networks shall have the right to access any information concerning the conditions and procedures applicable for granting permits for civil works needed in view of deploying elements of high-speed electronic communications networks, including any exemptions applicable to such elements as regards some or all permits required under national law.

## Amendment 58

### Proposal for a regulation Article 6 – paragraph 2

*Text proposed by the Commission*

2. Every undertaking authorised to provide electronic communications networks shall have the right to submit, **by electronic means via the single** information point, **applications** for permits required for civil works needed in view of deploying elements of high-speed electronic communications networks. **The single** information point shall facilitate and coordinate the permit granting process. In particular it shall ensure that the applications are forwarded to any competent authorities involved in granting the permits applicable to the civil works at stake as well as monitor compliance with the deadlines applicable in accordance with paragraph 3.

*Amendment*

2. Every undertaking authorised to provide electronic communications networks shall have the right to submit **applications via an** information point for permits required for civil works needed in view of deploying elements of high-speed electronic communications networks. **An** information point **designated by a Member State or local authority** shall facilitate and coordinate the permit granting process. In particular it shall ensure that the applications are forwarded to any competent authorities involved in granting the permits applicable to the civil works at stake as well as monitor compliance with the deadlines applicable in accordance with paragraph 3.

## Amendment 59

### Proposal for a regulation Article 6 – paragraph 3

*Text proposed by the Commission*

3. The competent authorities shall grant or refuse permits within **six** months from receiving a request, without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure which are applicable to the permit granting procedure in accordance with national or Union law. Any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.

*Amendment*

3. The competent authorities shall grant or refuse permits within **a maximum of four** months from receiving a request **provided that all interested parties have been heard**, without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure which are applicable to the permit granting procedure in accordance with national or Union law. Any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.

**Amendment 60**  
**Proposal for a regulation**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. All newly constructed buildings at the end-user's location, including elements under joint ownership, for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation], **shall** be equipped with **a** high-speed-ready in-building physical infrastructure, up to the network termination points. The same obligation applies in the event of major renovation works for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation].

*Amendment*

1. All newly constructed **public** buildings at the end-user's location, including elements under joint ownership, for which applications for building permits have been submitted **six months** after [Publications Office: please insert the exact date of the entry into force of this Regulation], **should** be equipped with **neutral technology, after having been assessed as regards the cost effectiveness of equipping them with** high-speed-ready in-building physical infrastructure, up to the network termination points. **Those buildings or apartments shall then receive the Union 'broadband-ready label'**. The same obligation applies in the event of major renovation works for which applications for building permits have been submitted **six months** after [Publications Office: please insert the exact date of the entry into force of this Regulation].

**Amendment 61**  
**Proposal for a regulation**  
**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. All newly constructed multi-dwelling buildings, for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation], **shall** be equipped with a concentration point, located inside or outside the building, and accessible to electronic communications networks providers, whereby connection to the high-speed-ready in-building infrastructure is made available. The same obligation

*Amendment*

2. All newly constructed **public** multi-dwelling buildings, **including social housing**, for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation], **should** be equipped with a **neutral technology, after having been assessed as regards the cost effectiveness of equipping them with** concentration point, located inside or outside the building, and accessible to electronic

applies in the event of major renovation works concerning multi-dwelling buildings for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation].

communications networks providers, whereby connection to the high-speed-ready in-building infrastructure is made available. The same obligation applies in the event of major renovation works concerning multi-dwelling buildings for which applications for building permits have been submitted after [Publications Office: please insert the exact date of the entry into force of this Regulation] ***This also applies to all newly constructed buildings of public institutions containing significant collections of data such as libraries, archives, cultural institutions and institutions of higher education.***

## Amendment 62

### Proposal for a regulation Article 7 – paragraph 3

#### *Text proposed by the Commission*

3. Member States may provide for exemptions for categories of buildings, in particular single dwellings, or major renovation works, from the obligations provided for paragraph 1 and 2, when the cost of fulfilling those obligations is disproportionate. Such measures shall be duly motivated. The interested parties shall be given the opportunity to comment on the draft measures within a reasonable period. Any such measure shall be notified to the Commission.

#### *Amendment*

3. Member States may provide for exemptions for categories of buildings, in particular single dwellings, or major renovation works, from the obligations provided for paragraph 1 and 2, when the cost of fulfilling those obligations is disproportionate. Such measures shall be duly motivated. The interested parties shall be given the opportunity to comment on the draft measures within a reasonable period. Any such measure shall be notified to the Commission. ***Member States may also provide for exemptions from paragraph 2 in respect of access lines to end users in properties where business models with open networks are used.***

## Amendment 63

### Proposal for a regulation Article 8 – paragraph 1

*Text proposed by the Commission*

1. Every provider of public communications networks shall have the right to terminate its network at the concentration point, provided that it minimise the impact on the private property and at its own costs, in view of accessing the high-speed-ready in-building physical infrastructure.

*Amendment*

1. ***Prior to consent from the land or property owner and, if applicable, financial compensation***, every provider of public communications networks shall have the right to terminate its network at the concentration point, provided that it minimise the impact on the private property and at its own costs, in view of accessing the high-speed-ready in-building physical infrastructure.

**Amendment 64**

**Proposal for a regulation  
Article 8 – paragraph 1**

*Text proposed by the Commission*

1. Every provider of public communications networks shall have the right to terminate its network at the concentration point, provided that it minimise the impact on the private property and at its own costs, in view of accessing the high-speed-ready in-building physical infrastructure.

*Amendment*

1. Every provider of public communications networks ***in buildings without open networks with service competition*** shall have the right to terminate its network at the concentration point, provided that it minimise the impact on the private property and at its own costs, in view of accessing the high-speed-ready in-building physical infrastructure.

**Amendment 65**

**Proposal for a regulation  
Article 8 – paragraph 2**

*Text proposed by the Commission*

2. Every provider of public communications networks shall have the right to access any existing high-speed-ready in-building physical infrastructure on reasonable terms if duplication is technically impossible or economically

*Amendment*

2. Every provider of public communications networks shall have the right, ***in buildings which do not have open networks with competition to provide services***, to access any existing high-speed-ready in-building physical infrastructure on

inefficient. The holder of a right to use the in-building physical infrastructure shall grant access under non-discriminatory terms and conditions.

reasonable terms if duplication is technically impossible or economically inefficient. The holder of a right to use the in-building physical infrastructure shall grant access under non-discriminatory terms and conditions.

## Amendment 66

### Proposal for a regulation

#### Article 8 – paragraph 4

##### *Text proposed by the Commission*

4. In the absence of available high-speed-ready in-building infrastructure, every provider of public communications networks shall have the right to terminate its network equipment at the premise of a subscriber to a high-speed electronic communications service, subject to its agreement, provided that it minimises the impact on the private property and at its own costs.

##### *Amendment*

4. In the absence of available high-speed-ready in-building infrastructure, every provider of public communications networks shall have the right to terminate its network equipment at the premise of a subscriber to a high-speed electronic communications service, subject to its agreement, provided that it minimises the impact on the private property and at its own costs. ***If an agreement to terminate such network equipment is not reached, the subscriber or the public communication network provider may refer the dispute to the competent dispute settlement body.***

## Amendment 67

### Proposal for a regulation

#### Article 8 – paragraph 4 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***4a. Member States may grant exemptions from paragraphs 1 and 2 for access to retail customers in properties where open-network business models are applied.***

**Amendment 68**  
**Proposal for a regulation**  
**Article 9 – paragraph 1**

*Text proposed by the Commission*

1. The national regulatory authority which fulfils the tasks provided in Article 20 of Directive 2002/21/EC shall perform the function of the national dispute settlement body referred to in Article 3 (4), Article 4 (9), Article 5 (4) and Article 8(3), unless the Member State appoints other competent bodies.

*Amendment*

1. The national regulatory authority which fulfils the tasks provided in Article 20 of Directive 2002/21/EC shall perform the function of the national dispute settlement body referred to in Article 3 (4), Article 4 (9), Article 5 (4) and Article 8(3), unless the Member State appoints other competent bodies ***which are legally distinct and functionally independent of all network operators, especially in the field of water.***

***If the Member States decides to appoint the national regulatory authority which fulfils the tasks provided in Article 20 of Directive 2002/21/EC as the national dispute settlement body, that body shall be obliged to seek the opinion of the sector regulators before adopting any binding decision concerning the determination of fair terms, conditions or prices.***

**Amendment 69**

**Proposal for a regulation**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Any other national dispute settlement body appointed by Member States pursuant to paragraph 1 ***shall be legally distinct and functionally independent of all network operators. It*** shall have the power to impose on network operators appropriate, effective, proportionate and dissuasive sanctions in the event of breach of the obligations stemming from the decisions adopted when deciding the dispute.

*Amendment*

2. Any other national dispute settlement body appointed by Member States pursuant to paragraph 1 shall have the power to impose on network operators appropriate, effective, proportionate and dissuasive sanctions in the event of breach of the obligations stemming from the decisions adopted when deciding the dispute.



**Amendment 70**  
**Proposal for a regulation**  
**Article 9 – paragraph 3**

*Text proposed by the Commission*

3. The national regulatory authority which fulfils the tasks provided in Article 20 of Directive 2002/21/EC shall perform the functions of the single information point referred to in Article 4 and Article 6, unless the Member State appoints *other* competent *bodies*.

*Amendment*

3. The national regulatory authority which fulfils the tasks provided in Article 20 of Directive 2002/21/EC shall perform the functions of the single information point referred to in Article 4 and Article 6, unless the Member State appoints *another* competent *and functionally independent body in particular a body of the public sector at national or local level*.

## EXPLANATORY STATEMENT

The rapporteur believes that high quality digital infrastructure underpins virtually all sectors of the modern and innovative economy and society, where high-speed broadband infrastructure is a prerequisite for global competitiveness, and a pillar of the European digital single market, therefore, the rapporteur supports the aim of this regulation to reduce the cost of deployment of high-speed and ultra high-speed electronic communication networks by providing tools for more cost-efficient deployment of new physical infrastructure, reduced administrative burdens, joint use of existing infrastructures and harmonised civil engineering works.

The lack of synergies between different operators and owners of physical infrastructure, and the variety of local regulations that operators have to cope with, increased costs, time and complexities for getting permits and then of deploying, upgrading high-speed electronic communications networks. Hence, in the view of the rapporteur, while building on best practices of the Member States, and while supporting a new culture of access to high-speed broadband, this regulation also ensures that Member States continue to enjoy broad discretionary powers on organisational matters, and that local and regional authorities still play a major role in coordinating building works within their jurisdiction.

The rapporteur agrees with the complex approach to maximising synergies across networks with the regulation addressed not only to electronic communications network providers but to any owner of physical infrastructure suitable to host electronic communications network elements, such as electricity, gas, water, sewage, heating and transport services. In doing so, given that civil engineering works constitute the dominant part in overall network deployment costs, the rapporteur views as a major regulatory step forward the right of every network operator to offer or be offered (at a reasonable price and under fair conditions) access to its physical infrastructure, and finally to enable the relevant stakeholders to exploit synergies and reduce inefficiencies in the rollout, focusing on increased coordination, transparency and on harmonising minimum tools.

The rapporteur acknowledges that civil infrastructure access is not a ‘silver bullet’ which would solve acute competition problems in the telecommunication sector, nevertheless, access to civil infrastructure can considerably ease the roll-out of high-speed broadband networks by any operators. Consequently, the potential offered by faster network development based on the regulation can be fully exploited to develop cross-border public services, to create a growing, successful and vibrant pan-European market for the creation and distribution of legal digital content and online services, as well as giving consumers easy, safe and flexible access to digital content and service markets.

Also from the opportunities point of view, developing ICT services, both in the public and the private sector, should be used as a means of improving public services such as health care, public education and culture, public security, social services, and it can also boost economic activity of SMEs and stimulate their development. The rapporteur emphasises that broadband access and ICT should address the needs of all members of society, increase more citizens’ quality of life, improve their social and economic activities, and help to bridge the digital divide. Related to this, the rapporteur strongly points out that although there are clear commercial arguments for broadband in densely populated areas, special attention should be paid to encouraging private-sector investments in rural and remote areas, thus affordable broadband access must be ensured also in areas where the market fails.

From the financial point of view, the rapporteur is aware of the fact that the data collection, data provisioning and the establishment of the single information point do have significant costs, but recalls that it creates real European added value. This very labour intensive and quite costly mapping exercise can be an important mean of job creation in Europe, and for easing the financial burden of this exercise on the Member States and businesses EU funding should be made available. In the rapporteur's opinion, the significantly reduced budget of the ICT leg of the Connecting Europe Facility could be used for the objectives related to data generation and the single information point.

Finally, according to the rapporteur the measures proposed in the regulation appear to comply with the subsidiarity principle, given that reducing the cost of deploying high-speed electronic communications infrastructure requires EU action in order to improve conditions for the establishment and functioning of the internal market and remove barriers caused by the patchwork of rules and administrative practices at national and sub-national levels. The rapporteur feels that the proposed measures offer clear EU added value compared to isolated measures at national, regional or local level and also notes that a joint European approach to the issues in question offers added value by avoiding unnecessary duplication and enabling economies of scale. The rapporteur believes that the measures proposed by the regulation also comply with the proportionality principle, as they do recognise the primacy of commercial negotiations, do not unduly impair ownership rights, and do not go beyond what is necessary to reduce barriers of access to physical infrastructures.

## PROCEDURE

<b>Title</b>	Measures to reduce the cost of deploying high-speed electronic communications networks			
<b>References</b>	COM(2013)0147 – C7-0082/2013 – 2013/0080(COD)			
<b>Date submitted to Parliament</b>	27.3.2013			
<b>Committee responsible</b> Date announced in plenary	ITRE 16.4.2013			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ENVI 16.4.2013	IMCO 16.4.2013	TRAN 16.4.2013	CULT 16.4.2013
<b>Not delivering opinions</b> Date of decision	ENVI 25.4.2013	IMCO 29.5.2013	TRAN 22.4.2013	CULT 22.4.2013
<b>Rapporteur(s)</b> Date appointed	Edit Herczog 14.5.2013			
<b>Discussed in committee</b>	20.6.2013	18.9.2013	4.11.2013	
<b>Date adopted</b>	28.11.2013			
<b>Result of final vote</b>	+: -: 0:	43 6 1		
<b>Members present for the final vote</b>	Josefa Andrés Barea, Jean-Pierre Audy, Ivo Belet, Jan Březina, Giles Chichester, Jürgen Creutzmann, Pilar del Castillo Vera, Christian Ehler, Vicky Ford, Adam Gierek, Norbert Glante, Robert Goebbels, Fiona Hall, Edit Herczog, Kent Johansson, Romana Jordan, Krišjānis Kariņš, Philippe Lamberts, Bogdan Kazimierz Marcinkiewicz, Angelika Niebler, Vittorio Prodi, Miloslav Ransdorf, Herbert Reul, Teresa Riera Madurell, Jens Rohde, Paul Rübig, Amalia Sartori, Salvador Sedó i Alabart, Francisco Sosa Wagner, Konrad Szymański, Patrizia Toia, Evžen Tošenovský, Catherine Trautmann, Ioannis A. Tsoukalas, Claude Turmes, Marita Ulvskog, Vladimir Urutchev, Adina-Ioana Vălean, Alejo Vidal-Quadras			
<b>Substitute(s) present for the final vote</b>	Rachida Dati, Ioan Enciu, Roger Helmer, Jolanta Emilia Hibner, Gunnar Hökmark, Holger Kraemer, Werner Langen, Zofija Mazej Kukovič, Alajos Mészáros, Vladimír Remek, Silvia-Adriana Țicău			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Carl Schlyter			
<b>Date tabled</b>	10.12.2013			