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Call for feedback on the proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act)

Dear Ms. Reyners Fontana,

Dear Sir or Madam,

The German Broadband Association, BREKO, welcomes the opportunity to comment on the recently published proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act). We share the European Commission’s motivation to increase the speed of fibre deployment and therefore reach the EU’s connectivity goals of full Gigabit connectivity until 2030. The Gigabit Infrastructure Act addresses a number of important issues – with this in mind, it is vital that regulatory interventions do not hinder the efficient roll-out of fibre infrastructures or create new barriers for investment. In its current form, the GIA will not reach its goals, but instead fibre deployment will be slowed down significantly. The proposed measures will not live up to the Commission’s expectations to speed-up fibre deployment but will lead to slowed down deployment, the strategic duplication of networks and increase the market power of the SMP operator, especially in the German market.

On this background, we would like to share our contributions on the proposal, with particular attention to physical infrastructure access (PIA), avoiding strategic network duplication, transparency requirements related to the Single Information Point (SIP) and permit granting procedures.

1. Legal Instrument and Legal Effect

In general, BREKO supports EU-wide requirements enabling an accelerated and more cost-effective deployment of gigabit electronic communications networks. Nevertheless, the currently chosen legal instrument in the form of a regulation is neither proportionate nor adequate from our point of view. Different deployment stages among Member States are not a result of different implementations of the BCRD but are mainly based on different starting points in the Member States (quality & structure of copper suitable for VDSL/Vectoring; existence of extensive duct network up to individual houses; acceptance of extensive aerial/facade deployment). These cannot be negated by the proposed instruments in BCRD or GIA respectively. As a regulation the GIA would not allow Member States enough leeway to implement measures in line with the subsidiarity and proportionality approach.

We strongly appeal to the Commission to change the legal instrument to the form of a directive since it would allow Member States to respond to specific national emerging challenges in a more targeted way. In contrast to regulations, directives are not directly applicable according to Art. 288(3) TFEU but must be transposed into national law by the Member States. This gives Member States some room for manoeuvre to account for national and sectoral circumstances, as well as the time to set stricter requirements, if necessary. The direct applicability of regulations, on the other hand, would unnecessarily exclude the decision-making powers of Member States in the present case and may lead to an ineffective response to specific national challenges.

This is especially relevant in view of the particularities of the German market. While the fibre rate in Germany still is relatively low in comparison to other Member States, we see strong investments in the market. Around 70% of deployment is done by alternative network operators[1], a much higher rate than in many other countries in the EU. Alternative operators in Germany often deploy their own ducts, therefore the importance of issues like duct access by the incumbent is not comparable to other Member States, as well. These particularities of the German market must be taken into account by the Commission – not only by the specific rules in the GIA but also by a Directive that requires a national transposition.

[1] BREKO Market Study, https://www.brekoverband.de/site/assets/files/24389/breko_marktanalyse_2022.pdf, p. 15

2. Access to existing physical infrastructure (Art. 3)

In our view, the most critical element of the new GIA concerns Art. 3 and the access to existing physical infrastructure (PIA). The commissions' assumptions that shared use of existing physical infrastructure or PIA may accelerate fibre deployment might be true with regards to markets in which all buildings can already be accessed through existing physical infrastructure especially when it concerns utility infrastructures. In national markets in which physical electronic communications infrastructure to every building does not yet exist, extensive and costly civil works are required to build physical infrastructure which can host a fibre network. PIA presents a significant deterrent to such infrastructure investments. Thus, PIA does not in fact accelerate the deployment of fibre networks to every building but effectively disincentivizes much needed infrastructure investments in these national markets, due to the fact that the GIA mandated PIA can render any business-case for these large investments unviable.

While we generally welcome that there are certain conditions in which operators can refuse access to specific physical infrastructure, these conditions do not go far enough. Art. 3, para. 3 lit. f states that the refusal of PIA is, in the case of viable alternative means, limited to wholesale physical access. This limitation to physical access products would lead to an unnecessary and resource-wasting strategic duplication of fibre networks. The new rules would render many current and future deployment projects unprofitable, slow down widespread fibre deployment and therefore threaten the ambitious connectivity goals in Europe and Germany. Especially in the German market, we see a large number of small and alternative operators for whom strategic network duplication would be detrimental to their ability to create a sustainable business case. Given the importance of those operators regarding the achievement of EU-wide gigabit connectivity, a weakened competition with less investment incentives would slow down fibre deployment significantly. In Germany, Deutsche Telekom (DT) as the SMP operator already threatens to strategically duplicate fibre networks in many cases nationwide. The new rules on physical infrastructure access would increase the incumbent's possibilities and lead to an operational monopoly by the SMP operator, while at the same time diminishing first mover advantages of alternative network operators. Today, DT only demands passive access to offer an active network with large scale effects, as part of their "commitment model". The rules in Art. 3 would strengthen the SMP power of DT and make it impossible for alternative operators to compete in the retail market, therefore leading to serious detriments for fair competition and network deployment.

Given the fact that the acceleration of strategic duplication of networks is not a goal of the GIA or its predecessor the BCRD, the rules and regulations must safeguard actual fibre roll-out as well as the necessary infrastructure investments. The acceleration of fibre roll-out requires a regulatory framework that incentivizes first-mover infrastructure investments.
Many of the problems regarding strategic duplication of fibre networks could be solved by only obligating network operators to meet reasonable requests for access when no viable alternative is offered. In order to safeguard the strong fibre momentum in the market, it is indispensable that the reasons for refusal include virtual access products like bitstream access as well. The currently proposed exclusion of bitstream access as a viable alternative does not reflect market realities. Bitstream access is a widely used and requested form of access that, given its high added value, is much less invasive regarding the respective business case of network operators owning or controlling physical infrastructure. Furthermore, NRAs especially the German BNetzA have frequently referred to bitstream-access as an essential access product. Bitstream access has and will continue to be a crucial wholesale access product which undoubtedly does not interfere with the GIA's goals. Thus, the apparent exclusion of an essential access product does not contribute to the goals of the GIA. It does however considerably limit network operators owning or controlling physical infrastructure.

In addition, the current rules would allow undertakings to choose freely which operator they request access from. This could lead to situations, for example in the case of larger company groups, where the request for PIA has to be met by the subsidiary utility company, despite the subsidiary telecommunications company already offering network access. Whenever PIA is requested, the undertaking making the request should therefore demonstrate that they already checked that no company offers access in the area they want to deploy in. This would not only lead to less strategic duplication of networks, but also increase the amount of voluntary access. Companies would be strongly incentivised to offer access to their networks when the rules ensured a stronger take-up of their offers by undertakings. This solution would therefore lead to less strategic duplication of networks and more voluntary offers without any negative effects like delayed deployment.

In any case, companies that are offering their networks as part of a "wholesale only" business models must be excluded from the obligations to grant access to physical infrastructure, considering they already fully open their networks to other operators/ISPs and therefore support fast deployment, a

strong competition and avoid the strategic duplication of networks.
Lastly, the list of criteria for refusals of access must be an open and allow for additions by Member States to make sure national particularities can be taken into account.

The fact that the European Commission also recognises the risk of worsening investment conditions through an expansion of physical access is shown in Art.3 para. 2. Here, the Commission attempts to ensure an appropriate price level through various requirements for price regulation. For example, access charges are linked to a number of aspects that should be taken into account, like the business models of operators and the impacts on competition.
These requirements for price regulation seem to be based on the idea that the negative effects of limiting the investment to only passive wholesale products could be offset by higher access prices. However, this idea falls short because it does not take into account the existing price regulatory environment. Prices for physical access and passive wholesale products must fit into the overall structure of price regulation without creating cost squeezes. Moreover, effective safeguards regarding investment incentives must not be reduced to access pricing considering the effect of such extensive symmetric PIA obligations towards investments incentives. The effect PIA obligations have on investments cannot be offset through access pricing which NRAs would have to decide on in the future. We acknowledge that the Commission's considerations outline that NRAs or dispute resolution bodies would have to factor in the respective business cases, this approach however still entails considerable uncertainties for infrastructure investors regarding both, existing and future investments. Comprehensive rights of refusal, including bitstream access as a viable alternative, are necessary to constitute effective safeguards with sufficient legal clarity and predictability. Furthermore, given the invasive nature of the proposed symmetric obligations, adequate and proportionate rights of refusal are required.

Considering the current developments regarding wholesale in Germany, especially the so-called commitment model of Deutsche Telekom has to be factored in.
Since Deutsche Telekom has agreed on the commitment model with a term of 10 years (plus a follow-up term of 3 years) and the BNetzA refuses to regulate the commitment model, long-term parameters are set here which do not allow investment-friendly prices for physical access and passive access products. Therefore, the Commission's plan to flank the restriction on physical wholesale services with investment-friendly price regulation cannot work to accomplish the goals of the GIA.

Finally, the Commission's proposal of a restriction to passive wholesale products as a substitute for duct access ignores the different market developments in the individual member states. Wholesale access to the physical infrastructure can be an adequate means of promoting infrastructure-based competition in markets in which the roll-out of FTTB/H is largely completed. However, even then it would have to be borne in mind that in an increasingly mature market, different players fulfil different roles in the market / in deployment and are involved at different stages of the value chain (e.g., wholesale only providers). However, a corresponding state of expansion does not exist, at least in Germany, so that a restriction of companies investing in deployment to upstream services at a lower value-added level will set significant negative incentives for the expansion of fibre networks.

BREKO Recommendation for Amendments to the Commission Proposal[2]

Article 3

[…]

1. Upon written request of an operator, public sector bodies owning or controlling physical infrastructure or network operators shall meet all reasonable requests for access to that physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of very high capacity networks or associated facilities. Public sector bodies owning or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions. Such written requests shall specify the elements of the physical infrastructure for which the access is requested, including a specific time frame. Network operators shall meet request **provided that no viable alternative is offered. Such request shall be in writing and specify the elements of the project for which access is requested, including a specific time frame, and shall be accompanied by an up-to-date extract from the single information point indicating any availability of another physical infrastructure. In the event of availability, the request shall set out the reasons why the available alternative is not viable.** ~~Such written request shall specify the elements of the project for which the access is requested, including a specific time frame.~~

[…]

3. ~~**Network operators and public sector bodies owning or controlling physical infrastructure may refuse access to specific physical infrastructure based on one or more of the following conditions:**~~ **Member States shall require that every refusal of access be based on objective, transparent, and proportionate criteria, such as:**

a) there is a lack of technical suitability of the physical infrastructure to which access has been requested to host any of the elements of very high capacity networks referred to in paragraph 2;
b) there is a lack of availability of space to host the elements of very high capacity networks or associated facilities referred to in paragraph 2, including after having taken into account the future need for space of the access provider that is sufficiently demonstrated;
c) the existence of safety and public health concerns;
d) concerns for the integrity and security of any network, in particular critical national infrastructure;
e) the risk of serious interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure; or

[2] The recommended amendments in this position paper are adapted to the legal instrument of a Directive (the preferred instrument in our view, see section 1 of this paper). However, if the Commission decides for a Regulation in the end, some formulations would have to be adapted to fit this instrument.

f) the availability of viable alternative means of wholesale physical access **or virtual access products like bitstream access** to electronic communications networks provided by the same network operator and suitable for the provision of very high capacity networks, provided that such access is offered under fair and reasonable terms and conditions.

g) the strategic duplication of existing fibre networks that offer an open, non-discriminating access to their networks.

In the event of a refusal to provide access, the network operator or the public sector body owning or controlling physical infrastructure shall communicate to the access seeker, in writing, the specific and detailed reasons for such refusal within 1 month from the date of the receipt of the complete request for access.

3. Definitions (Art. 2), Coordination of civil works (Art. 5)

We concur with the decision of the European Commission that the obligation to coordinate civil works is not extended to privately financed deployment, but only to cases which are fully or partially financed by public means. An extension to private deployment projects would have significantly threatened the European deployment goals by leading to a strategically destructive duplication of networks.

In our understanding, privately funded projects by utilities with municipal participation are excluded from the obligations in Art. 5 as well. However, given that the GIA will be a regulation and not a directive, which means there will be no more national transposition, a more precise definition of public sector bodies in Art. 2. In particular, Art. 2 para. 5 is absolutely necessary and should state more explicitly that utility companies do not count as public sector bodies.

In addition, in BREKO's view, the coordination of civil works should be limited further, meaning specifically that VHC networks are excluded from Art. 5. Otherwise, deployment competition would be tilted towards the incumbent operator. With the transparency requirements in Art. 6, SMP operators would have strong advantages against alternative network operators when it comes to planning their anti-competitive strategies including potential strategic network duplication. While in theory, both SMP operators and alternative network operators have the same rights and obligations, in reality, it will be only the SMP operators that decide to strategically duplicate networks and that would

therefore benefit from the increased transparency obligations. If alternative operators would have to inform the SMP operator where they deploy networks, but could only refuse the access in certain circumstances, this would lead to significant distortions in the market, which could be avoided by excluding VHC networks from Art. 5/6.

As an alternative to excluding VHC networks, we propose that similarly to Article 3, companies should not be obligated to coordinate their civil works if a viable alternative is offered. In our view, the preference of voluntary offers over the complete freedom of choice for the requesting operators would bring many advantages like avoiding the strategic duplication of fibre networks.

BREKO Recommendation for Amendments to the Commission Proposal:

Article 2

[…]

(5) 'bodies governed by public law' means bodies that have all of the following characteristics:

a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
b) they have legal personality;
c) they are financed, in full or for the most part, by state, regional or local authorities or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by state, regional or local authorities or by other bodies governed by public law;

Utilities with municipal participation do not fall under the definition of 'bodies governed by public law'.

Article 5
[…]

2. Member States shall ensure that every network operator performing ~~directly or indirectly~~ civil works, **for which financing (i) is clearly allocated to a designated network deployment activity and (ii) solely consists of public means**, meets any reasonable request to coordinate civil works on transparent and nondiscriminatory terms, made by undertakings providing or authorised to provide public communications networks with a view to deploying elements of high-speed electronic communications networks.
Privately financed civil works carried out by utilities with municipal participation do not fall under the scope of Article 5 para. 2. The deployment of Very High Capacity Networks is exempt from the obligations to meet requests for coordination of civil works.

alternative proposal:
Member States shall ensure that every network operator performing ~~directly or indirectly~~ civil works, **for which financing (i) is clearly allocated to a designated network deployment activity and (ii) solely consists of public means**, meets any reasonable request to coordinate civil works on transparent and nondiscriminatory terms, made by undertakings providing or authorised to provide public communications networks with a view to deploying elements of high-speed electronic communications networks, **provided that no viable alternative is offered. Such request shall be in writing and specify the elements of the project for which access is requested, including a specific time frame, and shall be accompanied by an up-to-date extract from the single information point indicating any availability of another physical infrastructure. In the event of availability, the request shall set out the reasons why the available alternative is not viable.**

4. Transparency obligations (Art. 4, Art. 6)

The GIA introduces several new or extended transparency obligations for network operators, which are not only an unnecessary burden for many smaller companies, but also risk being detrimental to the security of European critical infrastructure. The security and resilience of critical infrastructure are increasingly important for the EU, member states and companies alike – especially regarding the current geopolitical situation. In this context, it is of utmost importance that networks – electronic communications networks and utility networks alike – do not become more vulnerable by excessive transparency obligations.

BREKO welcomes that the current proposal in general acknowledges the necessity to ensure security of critical infrastructure. Nevertheless, we see with concern the extension of transparency obligations the Commission has proposed. More precisely, the Commission's proposal provides that data on physical infrastructure as well as on planned civil works are submitted georeferenced. Providing data on critical infrastructure in a georeferenced way would increase the risk of sabotages and physical attacks of critical infrastructure massively.

The Commission should be aware that transparency does not serve as an end in itself but must be carefully weighed against the necessity of keeping critical infrastructure resilient. Recent attacks against public infrastructure demonstrate the need to protect telecommunications networks and utility networks more, not less. Current EU initiatives like the Cyber Resilience Directive and the NIS 2 Directive underline these efforts and should not be foiled by excessive obligations to reveal sensitive information. The ambitious connectivity goals of the EU can require secure and resilient networks as a solid basis.

As a consequence, the Commission must make sure that requirements to communicate additional information on networks go hand in hand with the Union's security standards. Therefore, the Commission should refrain from obliging network operators to deliver georeferenced data to the Single Information Point. Especially considering the fact that network operators must contact each other bilaterally anyways in order to discuss practical realisation of the desire to co-use existing physical infrastructure or co-deploy electronic communications infrastructure, a more abstract presentation of existing physical infrastructure and responsible contact persons should be more than sufficient.

Moreover, the Commission should ask the Member States to establish sound verification and access concepts in order to prevent misuse of data on critical infrastructure.

Publicly available information should be reduced to a minimum – additional details can then be exchanged bilaterally between companies. Especially the requirement to publish detailed information

on planned civil works (Art. 6 para. 1) is very critical. Instead of leading to positive effects, this will make strategic duplicating networks for the SMP operators significantly easier. In the German market, the strategic duplication of fibre networks is one of the main issues that's slowing down the widespread deployment of fibre networks. We are observing many cases where the incumbent operator Deutsche Telekom is announcing the deployment in a specific area, leading to alternative operators withdrawing from this area, as their business model would no longer be sustainable. With a nationwide register on planned civil works, this detrimental dynamic would be strongly enforced: SMP operators could easily use the information on civil works to push the strategic duplication of fibre networks which would slow down a widespread deployment significantly. The proposed solutions regarding national dispute settlement bodies would be of no help here: Fending off the strategic duplication of networks would need to be repeated for each deployment project individually. This would not only lead to significant bureaucratic hurdles for companies deploying fibre networks, but also strongly disincentivise fibre deployment. The German market especially is strongly driven by investors. If investors were to see that the new rules lead to a strategic duplication of networks, they would withdraw their money from the market, which would in turn slow down fibre deployment significantly. Given the importance of the German market for Europe, the European connectivity goals could no longer be reached without strong investors.

BREKO Recommendation for Amendments to the Commission Proposal:

Article 4

1. In order to request access to physical infrastructure in accordance with Article 3, any operator shall have the right to access, upon request, the following minimum information on existing physical infrastructure in electronic format via a single information point:

a) ~~**georeferenced**~~ location and route;
b) type and current use of the infrastructure;
c) a contact point.

Such minimum information shall be accessible promptly, under proportionate, nondiscriminatory and transparent terms and, in any event no later than 15 days after the request for information is submitted.

Any operator requesting access to information pursuant to this Article shall specify the area in which it envisages deploying elements of very high capacity networks or associated facilities.

Access to the minimum information may be limited ~~**only where necessary**~~ to ensure the security of **critical infrastructure as defined under Directive (EU) 2022/2555,** certain buildings owned or controlled by public sector bodies, the security of the networks and their integrity, national security, public health or safety, or for reasons of confidentiality or operating and business secrets. **Member States shall establish a verification and access concept in order to prevent misuse of data by unauthorised persons or companies.**
[…]

Article 6

1. In order to negotiate agreements on coordination of civil works referred to in Article 5, any network operator shall make available in electronic format via a single information point the following minimum information:

a) the ~~**georeferenced**~~ location and the type of works;
b) the network elements involved;
c) the estimated date for starting the works and their duration;
d) the estimated date for submitting the final project to the competent authorities for granting permits, where applicable;
e) a contact point.

The network operator shall make available the information referred to in the first subparagraph for planned civil works related to its physical infrastructure. This must be done as soon as the information is available to the network operator and, in any event and where a permit is envisaged, not later than 3 months prior to the first submission of the request for a permit to the competent authorities.
[…]
Access to the minimum information may be limited ~~**only to the extent necessary**~~ to ensure the security of **critical infrastructure as defined under Directive (EU) 2022/2555,** the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets. **Member States shall establish a verification and access concept in order to prevent misuse of data by unauthorised persons or companies.**
[…]

5. Permit granting procedures (Art. 7)

BREKO generally welcomes the new rules on permit granting procedures in the GIA. On the regional, national, and European level, we have been strongly pushing for simplified, faster and digital solutions. Today, slow and inconsistent permit granting procedures are still amongst the major bottlenecks for fibre deployment in Germany. We welcome that the proposed new rules laid out in Art. 7 include clear deadlines, unified procedures, and a push for digital processing via Single Information Points (SIP). The SIP should be the central contact point for all rules and permits that concern fibre deployment – including, among others, environmental permits, heritage conservation, and building rights.

In order to accelerate permit granting procedures, the deadlines set out in the GIA should be shortened. The deadline for competent authorities to refuse applications for permits should be shortened from 15 to 10 days and the deadline for refusal or acceptance of a permit itself should be shortened from 4 to 2 months. Such streamlining of the permit granting procedures would have massive effects on the acceleration of fibre deployment.

It is crucial that the new measures are implemented on national, regional, and local levels as soon as possible to significantly increase the speed of fibre deployment. Due to the federalist structure in Germany, however, the new rules in the GIA likely won't have strong effects, as it is the responsibility of the municipalities to speed up and simplify procedures. The Commission could aid a stronger implementation by requiring the Member States to provide specific funds for the digitalization and simplification of permit granting procedures to support the local and municipal bodies.

Regarding the timely information on civil works, we see the risk of strengthening the SMP operators and leading to a strategic duplication of networks in the context of co-deployment, as stated in section paragraph 4 of this position paper. The provision of information on planned civil works should not be a condition for the granting of permit applications as it is currently foreseen in in Article 7 para. 4.

BREKO Recommendation for Amendments to the Commission Proposal:

Article 7

[…]

(4) The competent authorities shall, within ~~**15**~~ **10** working days from its receipt, reject applications for permits, including for rights of way, ~~**for**~~ which **are not complete.** ~~**the minimum information has not been made available via a single information point, pursuant to Article 6(1) first subparagraph, by the same operator which applies for that permit.**~~

(5) The competent authorities shall grant or refuse permits, other than rights of way, within **4** ~~**months**~~ **2 months** from the date of the receipt of a complete permit application.
The completeness of the application for permits or rights of way shall be determined by the competent authorities within ~~**15**~~ **10** days from the receipt of the application. Unless the competent authorities invited the applicant to provide any missing information within that period, the application shall be deemed complete.
The first and second subparagraph shall be without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure that are applicable to the permit-granting procedure, including appeal proceedings, in accordance with Union law or national law in compliance with Union law.
~~**By way of exception and based on a justified reason set out by a Member State, the 4 month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority on its own motion. Any extension shall be the shortest possible. Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.**~~
Any refusal of a permit or right of way shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.

6. In-building infrastructure (Art. 8, Art. 9)

We generally welcome the decision to establish fibre networks as the standard for in-building infrastructure in new and majorly renovated buildings. Only when fibre networks are deployed directly to the home, they can unleash their full potentials regarding speed, quality of connections and sustainability.

While we concur with the call to member states to standardize technical specifications as laid out in Art. 8 para. 4, it is crucial that the standardization process itself is led by the national standardization bodies, while the member state institutions like ministries only play a supporting role. The new rules to equip buildings with a fibre-ready in-building physical infrastructure must not lead to elevated fees for network usage by the housing industry.

In addition, Art. 8 para. 8 should clarify if the exceptions regard mobile network and/or fixed networks.

Lastly, BREKO proposes the introduction of a more detailed certificate for buildings, which works in a similar way to the currently existing energy certificates. These certificates could specify the level of connectivity of a building using different levels / “classes” (e.g., FTTP, FTTB, FTTH) and would therefore lead to stronger transparency for customers, that could make more informed decisions when buying or renting. The proposed certificates would also increase the incentives for the housing industry to deploy their networks with FTTH networks.

BREKO Recommendation for Amendments to the Commission Proposal:

(5) ~~Buildings equipped in accordance with this Article shall be eligible to receive a ‘fibre-ready’ label.~~ **Member States shall introduce the 'fibre-enabled' label for buildings equipped in accordance with this Article, indicating the level of deployment of the building, in order to enable owners or tenants of buildings or parts of buildings a comparison and assessment of their connectivity.**

(6) Member States shall ensure that network operators make information on the connection of buildings to the grid accessible through the Single Information Point.

(7) In order to contribute to the consistent implementation of the "fibre ready" label, BEREC shall issue a template for the consistent design of the label by the entry into force of this Regulation in the Member States. Member States shall ensure the implementation of this template.

(8) Member States shall ensure that before a building is sold, rented, leased or rented out, if a 'fibre ready' sign is available at that time in accordance with paragraph 5, it is presented at the latest at the time of the inspection. The obligation to present it shall also be satisfied by a clearly visible notice or clearly visible display during the inspection. If no inspection takes place, the seller, landlord, lessor or real estate agent shall immediately present the "broadband capable" sign or a copy thereof to the potential buyer, tenant, lessee or lessee. The "fibre ready" sign or a copy thereof shall be submitted without delay at the latest when the prospective purchaser requests its submission.

7. Conclusion / final remarks

In conclusion, the new Gigabit Infrastructure Act does not live up to the expectations of the sector to set the right conditions for faster and more efficient network deployment. On the contrary, the symmetric obligations and especially the exclusion of virtual access products as a viable alternative in Art. 3 will lead to a strategic duplication of fibre networks, which disincentivises especially alternative network operators as the drivers of fibre deployment in Germany and Europe. The proposed scope of PIA is not proportionate to the current rights of refusal. To reach its goals and in order to prevent a delay of the gigabit infrastructure deployment, which would risk maintaining the current digital divide between citizens in Europe, the GIA would need significant adjustments and improvements regarding access to physical infrastructure, coordination of civil works, transparency obligations and permit granting procedures. If the European Parliament and the Council fail to induce these changes, deployment will slow down significantly, and the European connectivity goals will likely not be reached in time.

Should you have any further questions, please do not hesitate to contact us at any time.

Yours sincerely,

Jonas Wöll
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Head of Regulatory Policy