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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of deploying gigabit electronic communications networks (Gigabit Infrastructure Act)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

A high quality digital infrastructure is an increasingly important cornerstone of the overall economy, taking its place alongside electricity, gas, water and transport networks. Excellent and secure connectivity for everybody and everywhere in Europe is becoming a prerequisite to deliver sustainable economic and social benefits based on modern online services and fast internet connections.

Given the fast advances of digital technologies, significant network investments are required to keep up with the increasing bandwidth demands. The 2020 Communication on 'Shaping Europe's Digital Future'[1] estimated that for digital infrastructure and networks alone the Union has an investment gap of EUR 65 billion per year and, in that context, announced a revision of the 2014 Broadband Cost Reduction Directive[2] (BCRD).

Indeed, a major part of network deployment costs can be attributed to inefficiencies in the roll-out process related to the use of existing passive infrastructure (such as ducts, cabinets, and antenna installations), difficulties related to coordination of civil works, burdensome administrative permit granting procedures and bottlenecks concerning in-building deployment of physical infrastructure. That is why, in order to facilitate and incentivise network roll-out, the Commission proposed in 2013 the Broadband Cost Reduction Directive with harmonised measures to reduce the cost of deploying high-speed electronic communications networks[3] in all such areas.

In the meantime, the digital agenda targets that were at the basis of the BCRD have mostly been met but, at the same time, have become obsolete. The share of households having access to 30 Mbps has increased from 58.1% in 2013 to 90.1% in 2021. However, given the increased need of businesses and citizens for very high capacity fixed and mobile connectivity, the availability of only 30 Mbps is no longer future-proof. It is also not aligned with the new objectives set out in Directive (EU) 2018/1972 (European Electronic Communications Code – 'the Code'[4]) for ensuring connectivity and widespread availability of very high capacity networks ('VHCN'). Moreover, the Council Conclusions on Shaping Europe's Digital Future of 9 June 2020 stressed that the COVID pandemic demonstrated the increased need for fast and ubiquitous connectivity and called for a package of additional measures to support current and emerging network deployment needs, including boosting the measures provided for under the BCRD. Therefore, in its Communication entitled '2030 Digital Compass: the European way for the Digital Decade'[5], the Commission set updated targets for 2030 that better correspond to the expected connectivity needs of the future. Those

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1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Shaping Europe's digital future, COM/2020/67 final;

2 Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks; OJ L 155, 23.5.2014, p. 1–14.

3 Networks capable of delivering broadband access services of at least 30 Mbps.

4 Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code; OJ L 321/36.

5 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2030 Digital Compass: the European way for the Digital Decade, COM/2021/118.

targets were then reflected and refined in the Digital Decade Policy Programme[6] which sets out a governance structure including monitoring and a close cooperation mechanism between the Commission and the Member States to ensure the Union achieves its objectives and digital targets by 2030.

The present proposal for a 'Gigabit Infrastructure Act', which is a REFIT initiative[7], aims to address the shortcomings of the BCRD and contribute to the cost efficient and timely deployment of VHCN necessary to meet the increased connectivity needs[8].

- **Consistency with existing policy provisions in the policy area**

The proposal is part of the regulatory framework for electronic communications and is consistent with the several legislative and non-legislative instruments which are also part of that framework[9]. In particular, the proposal is consistent with other instruments supporting the achievement of fixed and mobile connectivity targets in the Union (i.e. the European Electronic Communications Code). While the Code mainly provides, except in specific cases, for the possibility to impose obligations on electronic communications operators with a dominant position - significant market power (SMP) - in a given electronic communications market, the current proposal addresses undertakings operating an electronic communications network or utilities, irrespectively of whether they hold SMP.

The proposal is also in line with the Recommendation on a Connectivity Toolbox adopted in September 2020 and aimed at reducing the cost of deployment of VHCN and ensuring timely access to 5G radio spectrum. The subsequent 'Connectivity Toolbox'[10] agreed by Member States in March 2021 includes 22 best practices related to network cost reduction, which have, to a large extent, been taken into account for the revised measures proposed here.

Moreover, the proposal is consistent with the recent Commission proposal for a Union Secure Connectivity Programme[11] which aims to facilitate broadband access by satellite to areas that

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6 Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 , OJ L 323, 19.12.2022, p. 4–26.

7 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12463-High-speed-broadband-in-the-EU-review-of-rules_en

8 The market offer has responded to increasing demand for quality and fast internet by bringing optical fibre closer and closer to the user, and current and even more future 'very high capacity networks' require performance parameters which are equivalent to those that a network based on optical fibre elements at least up to the distribution point at the serving location can deliver.

9 In addition to the Code, the Commission Recommendation (EU) 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code; C/2020/8750 (OJ L 439, 29.12.2020, p. 23–31), the Commission Recommendation of 20 September 2010 on regulated access to Next Generation Access Networks (NGA) (2010/572/EU) (OJ L 251, 25.9.2010, p. 35) and the Commission Recommendation of 11 September 2013 on consistent non-discrimination obligations and costing methodologies complement the regulatory framework, the last two being currently reviewed (2013/466/EU) (OJ L 251, 21.9.2013, p. 13–32), the latter two are in the process of being reviewed.

10 Common Union Toolbox for Connectivity pursuant to Commission Recommendation (EU) 2020/1307 on a common Union toolbox for reducing the cost of deploying very high capacity networks and ensuring timely and investment-friendly access to 5G radio spectrum to foster connectivity in support of economic recovery from the COVID-19 crisis in the Union; C/2020/6270; OJ L 305, 21.9.2020, p. 33–41.

11 Proposal for a Regulation of the European Parliament and of the Council establishing the Union Secure Connectivity Programme for the period 2023-2027; 15.02.2022; COM(2022) 57; 2022/0039 COD, for which a political agreement was reached on 17 November 2022.

lie beyond the reach of other fixed and mobile electronic communications network infrastructure.

Finally, the proposal is coherent with funding initiatives to support broadband networks deployment in rural and other less well served areas, including the digital part of the Connected Europe Facility (CEF and CEF Digital)[12], post-COVID recovery funds[13] and national State Aid initiatives[14]. The new Guidelines on State aid for broadband networks[15], recently adopted, also contribute to accelerate and extend broadband deployment by clarifying when public support is in line with competition rules.

- **Consistency with other Union policies**

The proposal is consistent with the climate targets of the European Green Deal[16], enshrined into the "European Climate Law"[17] by the Council and Parliament in June 2021. Digital connectivity infrastructure is essential for achieving the twin digital and green transition, which are main priorities for the Commission. Digital infrastructures will play a key role in the transition to a green economy, as they are important enablers of energy efficiency in other sectors. Furthermore, the major building renovation wave[18] by 2030 triggered by the Green Deal objectives represents a huge opportunity for achieving synergies and ensuring high performance in-building infrastructure, including fibre-ready physical infrastructure and fibre wiring. This will diminish the inconvenience for building owners and/or tenants and ensure a more efficient use of national and Union funds available for major renovation of building stock.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this proposal is Article 114 of the Treaty on the Functioning of the European Union (TFEU), which is the same legal basis as applied to the Broadband Cost Reduction Directive, which this proposal repeals. This is justified by the purpose of the current proposal which is to bring further harmonisation to the electronic communications markets in the Union, improving the conditions for the establishment and functioning of the internal market.

- **Subsidiarity (for non-exclusive competence)**

Experience acquired with the implementation of the BCRD has demonstrated that the objective of providing the Union with full high-speed broadband coverage could not be

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12 https://hadea.ec.europa.eu/programmes/connecting-europe-facility_en

13 https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en#example-of-component-of-reforms-and-investments

14 Report on Implementation of Broadband State Aid https://op.europa.eu/en/publication-detail/-/publication/d6b8368d-f3dd-11ea-991b-01aa75ed71a1/language-en

15 Communication from the Commission, Union Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks of 12 December 2022, C(2022) 9343 .

16 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The European Green Deal; (COM(2019) 640 final).

17 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'); (OJ L 243, 9.7.2021, p. 1–17).

18 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Renovation Wave for Europe - greening our buildings, creating jobs, improving lives; (COM/2020/662 final).

achieved by Member States alone within a reasonable time and with the highest possible savings of private and public investment nor with a directive. In addition, some provisions of the European Electronic Communications Code, namely Article 44, partially overlap with the BCRD and there is a need to streamline by amending the BCRD. Achieving Gigabit coverage by 2030 also requires concerted efforts by all Member States. The measures that Member States have adopted so far to incentivise network deployments and, in particular, to reduce the cost and timeframe of deployments differ greatly, sometimes even within the same Member State. Moreover, the considerable scope for exclusions or exemptions across a wide set of circumstances and Member States and the lack of up-front guidelines or common principles on various measures provided by the BCRD, diminished considerably its expected EU added value.

The current patchwork of rules creates barriers to cross-border investment, thereby limiting the freedom to provide electronic communications networks and services and affecting the functioning of the internal market, in particular for inherently cross-border applications such as connected and autonomous driving which need ubiquitous VHCN, and fails to achieve economies of scale for electronic communications operators and other stakeholders (equipment manufacturers, civil engineering companies, etc.). The problems encountered to accelerate high-speed broadband deployment, or future VHCN deployments, are common to most if not all Member States. Reducing costs and streamlining administrative procedures are also common factors that are essential in addressing these problems. This legal instrument does not affect the procedural autonomy of the Member States to allocate competences internally.

- **Proportionality**

The proposal complies with the principle of proportionality and represents a focused policy intervention with an intensity proportionate to its objectives of promoting very high capacity networks in line with the European Electronic Communications Code and of achieving the Digital Decade 2030 target of coverage with next-generation wireless high-speed networks with performance at least equivalent to that of 5G and gigabit networks[19]. The key benefit of the proposal is that it will allow for more efficient planning and investment deployment processes (and thus very substantial economies of scale) for public electronic communications network operators. Moreover, the economies of scale and associated savings would go beyond the electronic communications sector and would spread to other industries (e.g. equipment manufacturers, construction companies, etc.).

These benefits are reached with the minimum possible administrative burden. Obligations are limited to a specific set of elements of the network infrastructure where significant cost savings can be expected (e.g. cables are excluded from the definition of physical infrastructure and therefore from the access and transparency obligations established in this instrument)[20] and the proposed rules introduce proportionate adjustments (e.g. the option to refuse access requests subject to specific conditions). The fact that the proposal provides for

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19 Article 4(2)(a) of the Digital Decade Policy Programme 'all end users at a fixed location are covered by a gigabit network up to the network termination point, and all populated areas are covered by next-generation wireless high-speed networks with performance at least equivalent to that of 5G, in accordance with the principle of technological neutrality'.

20 The importance of physical infrastructure (often referred to as civil engineering) for network deployment also emerges from the European Electronic Communications Code, where Article 73 provides that the imposition of obligations of access to civil engineering in accordance with Article 72 (access to civil engineering) alone might be considered by the national regulatory authority as a proportionate means to promote competition and best end-user' interest.

some exceptions whereby some obligations do not apply in certain circumstances (e.g. regarding access to certain categories of buildings owned or controlled by public sector bodies for reasons of architectural, historical or natural value, or the provision of information related to those buildings) contributes to ensuring the proportionality of the proposal and provides the appropriate flexibility needed to reflect national circumstances. Furthermore, the proposed measures for digitalisation of the relevant administrative procedures allow Member States to reuse and expand the existing digital services and platforms at local, regional or national level that serve the same purpose and comply with this regulation.

- **Choice of the instrument**

On the basis of the experience acquired with the transposition and implementation of the BCRD and the limitations showed by its minimum harmonisation nature to tackle the persistent identified problems, the instrument proposed is a regulation.

A regulation answers the best to the imperative to accelerate the network deployment needed to fit Europe for the digital age and will achieve the greatest impact in terms of the advancement of Gigabit network deployment, as it is directly applicable to all Member States. Especially in the rapid evolving digital economy, putting swiftly into practice measures reducing the burden for businesses and public authorities is vital. Conversely, a directive would require time for Member States to transpose it into national law, thereby delaying the entry into application of the provisions proposed and jeopardising the achievement of the 2030 objectives. While a directive would not have horizontal direct effect, a Regulation will have direct effect, which is important for rules that mostly apply in commercial relations between providers of electronic communication networks and network operators.

The Commission puts forward a proposal for a regulation, a Gigabit Infrastructure Act, to prevent further divergences hampering the provision of the relevant services within the internal market, as well as to guarantee uniform rights and obligations for businesses across the internal market. This is necessary to provide legal certainty and transparency for all relevant economic actors.

The proposal repeals the BCRD, whose shortcomings mainly resulted from its minimum harmonisation nature and the number of optional provisions, which led to a very fragmented and minimalistic implementation. It is expected that a regulation, covering all substance areas with more straightforward rules, should overcome those shortcomings while remaining proportionate and still leaving certain flexibility to the Member States as regards specific provisions to reflect very specific national circumstances.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The evaluation report of the BCRD accompanying this proposal shows that the BCRD was only partially effective and efficient in delivering on its general and specific objectives, which nevertheless remain relevant. Implementation to date shows broadly good performance on the other three analysed criteria: relevance, coherence and EU added value.

Overall the BCRD has had a positive effect on the deployment of high-speed broadband (nearly 100,000 km of re-use of duct and aerial infrastructure). Where effectively applied, the BCRD can accelerate deployment of high-speed broadband projects by some months, save between 10-30% in deployment costs and proportionally increase network coverage.

The biggest progress relates to access to existing physical infrastructure and the related transparency measures, while there has been less progress as regards permit granting, coordination of civil works and access to in-building infrastructure. Moreover, the outcome is uneven across the Union and, even in areas of action with more effectiveness, it does not fully satisfy the imperative of faster and more efficient roll-out of electronic communications networks with impact on the functioning of the internal market.

Current BCRD provisions need to be stregthened to be better aligned to current and future connectivity needs and Union prioritites and fully reflect market and tecnology developments. Persisting barriers for rollout of electronic communications networks, the lack of uniform and digitalized administrative procedures or the insufficiently effective Single Information Points ('SIPs') still hinder the potential impact of cost reduction measures to foster a more cost efficient and fast deployment of networks across the Union. High deployment costs for VHCN, including Fibre-to-the-Home ('FTTH') and mid-band 5G, undermine deployment incentives and viability of new deployments. The lack of coordination between the various authorities competent for granting permits, the multiplicity of permits needed for network deployment, the lack of electronic procedures for permit applications and the overall non-respect of the deadline to grant deployment-related permits, including those for rights of way, have slowed down network deployment considerably across the Union.

- **Stakeholder consultations**

A literature review, information on the implementation of current policies, analyses of previous monitoring and evaluation activities and reports, input from stakeholders and dedicated support studies were baseline sources of information.

In addition, stakeholders were consulted through:

- stakeholder feedback for the Roadmap/Inception Impact Assessment (19 June 2020 – 17 July 2020);
- a public consultation (2 December 2020 – 2 March 2021) based on a broad questionnaire covering both backward and forward looking aspects;
- thematic online stakeholders' participatory workshops held in January and February 2021;
- BEREC's opinion on the revision of the Broadband Cost Reduction Directive covering both backward and forward looking aspects;
- bilateral meetings, including with market stakeholders and their associations as well as local and regional authorities; and
- in the course of the preparation of the support study, the dedicated workshops organised by the consultants in June 2021 and January 2022 and ad hoc survey/consultation.

Stakeholders stress that high quality connectivity played a vital role during the pandemic and the economic recovery.

A large group of operators and most business associations recall the need for further harmonization and regulation at Union level, especially regarding administrative procedures such as permit granting to overcome market fragmentation, whereas a smaller number of operators indicate the need for allowing Member States leeway to implement and enforce Union legislation. Public authorities, including BEREC, favour measures at Union level while calling for proportionality in the extent of harmonisation and indicating some areas where

measures at national level could be best placed (e.g. guidance on access conditions). Some public authorities expressed certain reservations regarding additional burden and costs in terms of transparency and digitisation measures.

Most respondents consider that the BCRD established a good framework for improving efficient deployment of electronic communications networks and the measures covered by the Directive are perceived as relevant. However, there is a general heterogeneity in stakeholders' views regarding to what extent the BCRD has been effective to achieve its general objective of reducing the cost and increase the speed of network deployment.

Stakeholders stressed the relevance of availability of suitable physical infrastructure, including the non-network elements owned or controlled by public authorities for an efficient network deployment, in particular for 5G deployment. They also called for guidance regarding fair and reasonable terms and conditions as well as on the application of criteria to refuse access requests to prevent undue refusals on the grounds of availability of viable alternative means of access.

A vast majority of stakeholders indicated that coordination of civil works may reduce deployment costs. While BEREC considered beneficial the extension of the obligation to coordinate to all (publicly and privately financed) network deployment projects, many stakeholders argued against such an extension.

The majority of stakeholders considered that the availability of constantly updated minimum information, including information on geo-referenced location and on route, via the SIP on planned civil works and physical infrastructure is relevant to network deployment. Public authorities, including the local ones, call for flexibility in reusing and enhancing the successful digital tools already in place in various Member States, some of them commonly serving also other sectors.

A large majority of stakeholders, both public authorities and network operators, agree that simplified permit granting procedures, with permit applications submitted electronically, would facilitate network deployment.

Stakeholders also called for enhancing the current in-building infrastructure related provisions, including raising the ambition from high-speed to VHCN/fibre and proposing an obligation for building owners to deploy and give access to in-building fibre wiring.

- **Collection and use of expertise**

The Commission relied on a dedicated support study prepared by ICF, WIK & EcoAct[21], which assessed the effect of measures adopted under the BCRD and took into account where relevant the effect of other measures related to the reduction of the cost of high-speed broadband deployment adopted at national level. The study also supported the preparation of an impact assessment on the potential policy options to accompany this initiative. Moreover, the roadmaps and implementation reports submitted by the Member States in the context of the Connectivity Toolbox[22], which included a set of 39 best practices aiming at improving network deployment and prompt access to 5G spectrum, provided valuable information regarding most appropriate measures and their take-up. Finally, the Commission relied on

21 VIGIE 2020-0647 [ADD LINK]

22 https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=75185

other sources of information identified through literature review, including several studies[23] and reports[24].

- **Impact assessment**

The executive summary of the impact assessment and the positive opinion of the Regulatory Scrutiny Board can be found on the Commission's website[25]. The following policy options were considered by the impact assessment:

Option 0: Baseline

The no-change of the BCRD option means no additional measures beyond the existing ones. It implies that the current BCRD and related regulatory and non-regulatory instruments continue to be implemented as now. This approach could be complemented by sharing of good practices, stimulated by exchange initiatives (e.g. Connectivity Toolbox). It is assumed that, under the no-change option, this work would continue but the observed fragmentation would persist, the network deployment would not be as effective and efficient as it could be and the 2030 connectivity targets would be at risk.

Option 1: Update, clarify and align (minimalistic approach)

This option proposes the alignment with the Code (VHCN scope instead of high-speed networks), makes mandatory some currently voluntary measures (transparency, permit granting) and clarifies certain provisions with the view to align different interpretations across Member States (such as permits or publicly financed projects subject to civil works coordination as well as that the fact that assets subject to SMP or state aid obligations are excluded from parallel BCRD access obligations). This option relies on the consideration that a slightly revised directive, coupled with the continued implementation of the Connectivity Toolbox best practices and the rest of the electronic communications regulatory framework would enhance its implementation, in particular by partly addressing the problems of lack of or incomplete information about existing physical infrastructure and of delays in and high cost of permit granting procedures.

Other possibilities to enhance the removal of barriers, leading to a faster and more efficient deployment of electronic communications networks as identified in the evaluation report and public consultation will not be realised.

Option 2: Extend and strengthen, exclude VHCN from obligations

This option includes th elements proposed in Option 1, but in the form of a regulation, and, in addition, it extends the scope of access obligations to include publicly controlled/owned (non-network) physical infrastructure (unless in cases where it would be disproportionate) and strengthens obligations on permit granting (e.g. interim deadlines, national permit exemptions, parallel processing of permits and rights of way, etc.). Contrary to Options 3 and

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23 Such as the Study on implementation and monitoring of measures under the BCRD (SMART 2015/066); White paper on EU broadband Plan challenges and opportunities, Analysis Mason 2019 (link).

24 Such as the 2020 Summary Report of Best Practices - Outcome of phase 1 of the work of the Special Group for developing a common Union Toolbox for connectivity (link); 2018 European Commission report on the implementation of the Broadband Cost Reduction Directive (link); BEREC report on the Implementation of the Broadband Cost Reduction Directive (link); BEREC report on pricing for access to infrastructure and civil works according to the BCRD (link).

25 Link to the IA and RSB opinion.

4, this option exempts VHCN from access and civil works coordination obligations to address investment incentive problems (e.g. unviable network replication).

Option 3 (preferred option): Extend and strengthen with partial harmonisation

Option 3 would largely maintain the measures included in Option 2 – in the form of a regulation (including the enlargement of the scope of the obligation to grant access to non-network publicly owned assets and permit measures) but instead of providing for an exemption for VHCN infrastructure, it would define clearer rules on key aspects of access to physical infrastructure and civil works coordination (such as 'fair and reasonable' access conditions, alternative means of access or cost apportioning for coordinated civil works) and would address the problem of unviable overbuild by better specifying grounds for refusal of access to physical infrastructure or when requests for coordination of civil works could be considered unreasonable, limiting them to more specific circumstances compared to Option 2. Such rules would be accompanied by guidance at Union level to ensure a consistent application and a harmonized approach to similar problems. This option would also establish consistent rules and processes on permit granting at national level supported by a 'one-stop-shop' based on a single national digital entry point, establish permits tacit approvals where possible, and limit permit fees to administrative cost. Deployments subject to exemptions from permit granting would be specified at Union level and consistency of permit processes ensured at national level, thereby addressing the problems of high complexity, timeframes and costs to obtain permits in a more harmonised manner.

To improve transparency conditions and access to information, Option 3 would expand information requirements on existing physical infrastructure unless in cases where it would be disproportionate as well as on planned civil works (proactive notification of all planned civil works) and require both sets of information to be available in respective digital format/platforms, and if possible interconnected. Finally, in order to address problems of lack of, or access to, suitable in-building infrastructure, this option would mandate fibre-ready in-building infrastructure and fibre in-building in every new (or majorly renovated) household as well as standardisation of in-building physical infrastructure at national level and guidance on access to in-building infrastructure at Union level.

Option 4: Extend and strengthen with full application to private assets and full harmonisation

Option 4 would entail maximum Union level harmonisation. The regulation would include all the measures in Option 3 and extend access and transparency obligations to private non-network operators' assets (e.g. commercial buildings) and obligations of civil works coordination also to projects which are not publicly funded. This option would mandate the establishment of a combined single digital platform for existing physical infrastructure, planned civil works and, optionally, permit granting procedures. Finally, this option would mandate standardisation of in-building physical infrastructure at Union level (compared to standardisation at national level in Option 3).

Considering all the assessment criteria, Option 3 is likely to better fulfill the objectives of the instrument and provides the greatest degree of added value at Union level, while ensuring Member States have a role in identifying the specific cases in which obligations may not apply in their territories, e.g. because they would fall in categories established by the regulation where obligations may not apply for several reasons, or because they would result to be disproportionate . Option 3 therefore appears to best balance short term implementation costs with medium term benefits, and to limit unnecessary regulatory burdens.

- **Regulatory fitness and simplification**

The measures proposed support the REFIT agenda and address the objectives of simplification and reduction of administrative burden. Several of the proposed changes aim to make rules and procedures more clear, streamlined and simple, allow parties to easily understand their rights and obligations and seek to promote synergies (see for example on coordination proposed with the renovation of buildings to improve energy performance). The proposal also foresees guidance at Union level (access to physical infrastructure, including in-building physical infrastructure, and some criteria for access and civil works coordination rules), which should facilitate the consistent implementation of relevant provisions as well as the resolution of potential disputes.

The proposal involves certain short term overall costs mainly for administrations, linked to the establishment of consistent permit granting procedures and of digital entry points/platforms for the processing of permits and provision of, and access to, information. However, once these are established, it is expected to lead to yearly administrative cost savings for electronic communications network operators (estimated amount approximately €40m per annum) resulting from further facilitated access to network and public non-network physical infrastructure (approximately €24m per annum) and from processing of permit applications (approximately €15m per annum), as well as for public authorities including municipalities (no estimates). These benefits can possibly be extended to other sectors (beyond electronic communications) in case the permit platforms are also implemented and used by these sectors, as is the case already in several Member States. Moreover, building companies would benefit from standards on in-building infrastructure and wiring which should guarantee a more efficient 'Fibre-to-the-Home' pre-equipment of new and majorly renovated buildings (no estimate)[26].

- **Fundamental rights**

The proposal takes full account of the rights and principles recognised in the Charter of Fundamental Rights of the European Union. In particular, the proposed measures are consistent with Article 16 (freedom to conduct a business), Article 17 (right to property), and Article 37 (environmental protection).

4. BUDGETARY IMPLICATIONS

The proposed Regulation has no implications for the budget of the Union.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Monitoring of the implementation will be on the basis of a report on the implementation of the Regulation to be submitted to the European Parliament and the Council four years after the date of entry into force. This report will include a summary of the impact of the measures provided and an assessment of progress towards achieving its objectives, including whether and how the Regulation could further contribute towards achieving the connectivity targets set out in the Digital Decade Policy Programme 2030 . To this end, the Commission may request information from the Member States on the basis of relevant indicators and a periodic data collection mechanism, which will be established through the Communications Committee.

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- **Detailed explanation of the specific provisions of the proposal**

Article 1 – Subject matter and scope

Article 1 updates the scope of the 2014 Directive with regard to the deployment of electronic communications networks, i.e. from high-speed to VHCN to match the new ambition of the Code and the Digital Decade connectivity objectives.

Article 2 – Definitions

This Article contains definitions in addition to those specified in the Code, including VHCN. It extents the concept of 'physical infrastructure' to include public non-network assets and introduces a new definition of 'in-building fibre wiring' along with a change from 'high-speed-ready' to 'fibre-ready' in-building physical infrastructure. Also, taking into account the emergence of providers of wireless physical infrastructure such as « tower companies », the definition of 'network operator' is also extended to undertakings providing associated facilities, which thus become subject to certain obligations and benefits provided by the regulation. It also amends the definition of 'permit' to reflect the sometimes multiple decision-layers for permit granting and clarifies that civil works refer to 'deployment of elements of VHCN' for easier reference along the text.

Article 3 – Access to existing physical infrastructure

Article 3 extends the access obligation to physical infrastructure which is not part of a network but is owned or controlled by public sector bodies, while allowing for exceptions for certain categories of buildings (e.g. for reasons of public security, safety and health) and introduces an optional body to coordinate access requests of public assets.

It clarifies the reasons for refusal of access and avoids duplication of access obligations when already imposed under the Code/state aid rules on the same assets.

It provides for the possibility that the Commission issues guidance on the application of access provisions.

Article 4 – Transparency concerning physical infrastructure

Article 4 mandates the provision of minimum information on existing physical infrastracture by network operators and public sector bodies owning or controlling physical infrastructure, including geo-referenced information, via the SIP in electronic format.

The access to this minimum information could be limited, for example, for security reasons or for certain categories of buildings. Similarly, the obligation to provide minimum information could not apply when the obligation would be disproportionate based on a cost-benefit analysis.

Article 5 – Coordination of civil works

Article 5 clarifies that the obligation to coordinate civil works relate to civil works which are 'fully/partially financed by public means'.

It provides that the requests for coordination of civil works should at least be filed two months (instead of one month) before the submission of the final project and specifies when a request to coordinate civil works can be considered unreasonable.

It provides for the possibility that the Commission issues guidance on the application of civil works coordination provisions.

Article 6 – Transparency concerning planned civil works

Article 6 provides for the right of access to minimum information for all (public and private) planned civil works carried by network operators via the SIP in electronic format, including geo-referenced information.

Such access could be limited, for example, for network security, national security or business secrets. The transparency obligation could not apply in certain circumstances, e.g. in case of emergency or for national security reasons.

It provides for the earlier and proactive provision of minimum information on planned public civil works by all network operators via the SIP to facilitate the potential coordination of civil works.

Article 7 – Permit granting procedures

Article 7 introduces a new principle of national consistency of the rules governing the conditions and procedures applicable for granting permits and rights of way. It makes mandatory the submission of the applications in electronic format via the SIP while the relevant digital tools should allow for an electronic submission of applications and support the whole process of permit granting.

It mandates the Commission to define by way of implementing act the categories of deployments that will be exempted from permits.

It enhances transparency by not considering admissible permit applications for civil works for which the minimum information provided for in Article 6 has not been made available via the SIP.

It introduces several measures aiming at ensuring permits and rights of way applications are dealt with within the legal deadlines, e.g. a shorter period to consider the application complete, tacit approval or compensation for damages caused by non-compliance with the deadlines.

Finally, it establishes that fees for permits/rights of way cannot go beyond the administrative costs.

Article 8 – In-building physical infrastructure and fibre wiring

Article 8 mandates in-building physical infrastructure, access points as well as in-building fibre wiring for new and majorly renovated buildings, including also for buildings at the end-user's location when they are renovated for the purposes of improving energy efficiency. Exemptions are enhanced to address the possible lack of proportionality for specific locations based on a cost-benefit analysis.

It introduces the obligation for Member States to adopt relevant national standards/technical specifications and certification mechanisms to demonstrate the compliance with those standards/technical specifications and qualify for the now mandatory 'fibre-ready label', which is conditional on the issuance of the building permit.

Article 9 – Access to in-building physical infrastructure

Article 9 establishes a right for public electronic communications network providers to terminate their networks up to the access point and to access existing in-building physical infrastructure. It also provides for refusal of access to in-building physical infrastracture on the basis of fair, reasonable and non-discriminatory terms and conditions, including price.

It provides for the possibility that the Commission issues guidance on the application of provisions for access to in-building infrastracture.

Article 10 Digitalisation

Article 10 provides for a single national digital entry point and the access to digital tools, especially when there is more than one SIP or when information is lying elsewhere but not only, allowing the exercise of rights and compliance with obligations set out in this Regulation.

Article 11 – Financial support

This provision promotes the use of Union funding for setting-up and promoting SIPs, single national digital entry points and related digital tools.

Article 12 – Dispute settlement

This provision ensures that any party is entitled to refer a dispute to a competent national dispute settlement body, which shall resolve the dispute within shortened deadlines and issue a binding decision.

Article 13 – Competent bodies

Article 13 introduces additional requirements inspired by the Code's institutional provisions, such as the impartiality and independence from public sector bodies that own/control physical infrastructure, the structural separation for DSBs and SIPs and on the exercise of powers and resources of the competent authorities, as well as enhancing the transparency regarding their tasks.

It also provides for more detailed requirements regarding the right to appeal, building on similar provisions in the Code.

Articles 14-18 – Final provisions

Articles 14 – 15 contain final provisions including on penalties, monitoring and reporting obligation by setting up relevant indicators and a data gathering mechanism through the Communications Committee.

Article 16 includes transitional measures where necessary (continuation of the application of some current provisions) in view of the upgrade of the scope to VHCN and delayed application of some provisions. Articles 17 – 18 include provisions for repeal and entry into force.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of deploying gigabit electronic communications networks (Gigabit Infrastructure Act)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article [114] thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[27],

Having regard to the opinion of the Committee of the Regions[28],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The digital economy has been changing the internal market profoundly over the last decade. With its innovation, speed and reach across borders it has taken internal market integration to a new level and has the potential to go even further in the future. The Union's vision is that of a digital economy that delivers sustainable economic and social benefits based on excellent and secure connectivity for everybody and everywhere in Europe. A high quality digital infrastructure based on very high capacity networks underpins virtually all sectors of a modern and innovative economy and is of strategic importance to social and territorial cohesion and overall for the Union's competitivity and digital leadership. Therefore, all citizens as well as the private and public sectors must have the opportunity to be part of the digital economy.

(2) Given the rapid evolution of technologies, the exponential growth in broadband traffic and the increasing demand for advanced very high capacity connectivity that have been further accelerated during the COVID pandemic, the targets laid down in the Digital Agenda in 2010 have mostly been met but, and at the same time, become obsolete. The share of households having access to 30 Mbps has increased from 58.1% in 2013 to 90% in 2022. Availability of only 30 Mbps is no longer future-proof and not aligned with the new objectives set in Directive (EU) 2018/1972 (European Electronic Communications Code) for ensuring connectivity and widespread availability of very high capacity networks. Therefore, in the Decision of the European Parliament and Council establishing a Digital Decade Policy Programme 2030, the Union set updated targets for 2030 that better correspond to the expected connectivity needs of the future: that all European households will be covered by a Gigabit network, with all populated areas covered by 5G.

(3) To achieve these targets, there is a need for policies to lower the costs of and speed up the deployment of very high capacity fixed and wireless networks in the entire territory of the Union, including proper planning and coordination and the reduction of administrative burdens.

(4) Reducing the costs of deploying very high capacity networks and ensuring the digitalisation of related administrative procedures would also contribute to accelerating the digitisation of the public sector, allowing a digital leverage effect on all sectors of the economy, in addition to the reduction in costs for public administrations and increased efficiency of services provided to citizens.

(5) Directive 2014/61/EU, which was adopted in response to the need for policies to lower the costs of broadband deployment, included measures on infrastructure sharing, civil

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27 OJ C , , p. .

28 OJ C , , p. .

works coordination and the reduction of administrative burden. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council called in its Conclusions on Shaping Europe's Digital Future of 9 June 2020 for a package of additional measures to support current and emerging network deployment needs, including Directive 2014/61/EU.

(6) In order to boost investment in very high capacity networks, in September 2020, the Commission issued Recommendation (EU) 2020/1307 on a common Union toolbox for reducing the cost of deployment of very high capacity networks and ensuring timely access to 5G radio spectrum. In March 2021, Member States, in close cooperation with the Commission, agreed on a set of best practices, incorporated into the 'Connectivity Toolbox', including several best practices related to reducing the costs and increasing the speed of deploying very high capacity networks.

(7) The roll-out of very high capacity networks, as defined in Directive (EU) 2018/1972, across the Union requires substantial investments, a significant proportion of which is represented by the cost of civil engineering works. Sharing physical infrastructures, thereby limiting the need for cost-intensive civil engineering works would make advanced broadband roll-out more effective.

(8) A major part of the costs of deployment of very high capacity networks can be attributed to inefficiencies in the roll-out 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 coordination of civil works, burdensome administrative permit granting procedures, and bottlenecks concerning in-building deployment of networks, which lead to high financial barriers, in particular in rural areas.

(9) While the measures contained in Directive 2014/61/EU did contribute to less costly deployment of high-speed electronic communications networks, they should be strengthened in order to further reduce costs and speed up network deployment. In particular, mandatory fibre-ready in-building physical infrastructure and in-building fibre wiring in newly constructed and majorly renovated buildings, access to publicly-owned or controlled physical infrastructure when it is not part of a network, more efficient coordination of civil works, accessible and easy provision of information on existing physical infrastructure and planned civil works through digital tools, and further streamlined permit granting procedures can significantly contribute to cost reduction.

(10) Measures aiming at increasing efficiency in the use of public and private existing infrastructures and at reducing costs and obstacles in carrying out new civil engineering works should provide a substantial contribution to ensuring a fast and extensive deployment of very high capacity networks while maintaining effective competition, without adversely affecting the safety, security and smooth operation of the existing infrastructure.

(11) Some Member States have adopted measures intended to reduce the costs of broadband roll-out, including going beyond the provisions of Directive 2014/61/EU. However, those measures remain very different across the Member States and have led to different outcomes across the Union. Scaling up some of those measures across the Union and reinforcing measures of Directive 2014/61/EU could significantly contribute to the better functioning of the digital single market. Moreover, differences in regulatory requirements and inconsistent implementation of Union rules sometimes prevent cooperation across utilities and may raise barriers to entry for new

undertakings providing or authorised to provide public electronics communications networks or associated facilities, referred to hereinafter also as operators, as defined in the Code and new business opportunities, hindering the development of an internal market for use and deployment of physical infrastructures for very high capacity networks. Finally, the measures notified in the national roadmaps and implementation reports adopted at Member State level pursuant to Recommendation (EU) 2020/1307 do not cover all the areas of the Directive and do not address all areas in a coherent and complete manner, whereas it is essential to take action across the whole roll-out process, and across sectors, in order to achieve a coherent and significant impact.

(12) This Regulation aims at strengthening and harmonising rights and obligations applicable across the Union in order to accelerate the roll-out of very high capacity networks and cross-sector coordination. Due to the persistent fragmentation of electronic communications markets into individual national markets, electronic communications operators are unable to realise scale effects, which has a strong downstream effect on cross-border trade and services provisions, since many services can only be provided where an adequately performant network is in place across the Union. While ensuring an enhanced level playing field, this Regulation is without prejudice to national measures on access, civil works coordination, transparency and digital tools entailing more detailed provisions and conditions as well as complementing the rights and obligations set out in this Regulation, in accordance with the subsidiarity principle, provided they are not in conflict with this Regulation.

(13) In the light of the *lex specialis* principle, when more specific regulatory measures in conformity with Union law apply, those should prevail over the rights and obligations provided for in this Regulation. Therefore, in order to ensure legal certainty, this Regulation should be without prejudice to Directive (EU) 2018/1972 and Commission Directive 2002/77/EC[29], including national measures adopted pursuant to that regulatory framework, such as specific symmetric or asymmetric regulatory measures.

(14) It can be significantly more efficient for operators, in particular new entrants, to re-use existing physical infrastructure, including that of other utilities, in order to roll out very high capacity networks or associated facilities, 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 very high capacity networks and therefore also the social and environmental costs linked to them, such as pollution, nuisances and traffic congestion. Therefore, this Regulation should apply not only to operators but to any owner or holder of rights to use, in the latter case without prejudice to any third party's property rights, extensive and ubiquitous physical infrastructure 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.

(15) With a view to improving the deployment of very high capacity networks in the internal market, this Regulation should lay down rights for undertakings providing public electronic communications networks, including those that have a public nature, to access physical infrastructure irrespective of its location under fair and reasonable terms consistent with the normal exercise of property rights. The obligation to give

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[29] Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002, p. 21).

access to the physical infrastructure should be without prejudice to the rights of the owner of the land or of the building in which the infrastructure is located.

(16) In view of their low degree of differentiation, the physical facilities of a network can often host a wide range of electronic communications network elements at the same time, including those capable of delivering broadband access services at speeds of at least 100 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, such as in the case of dark fibre, can in principle be used to accommodate electronic communications cables, equipment or any other element of electronic communications networks, regardless of its actual use or its ownership, in the absence of any security concerns or prejudice to the future business interests of the owner of the infrastructure. The physical infrastructure of public electronic communications networks can in principle also be used to accommodate elements of other networks, and therefore in appropriate cases public electronic communications network operators may offer access to their networks for the deployment of other networks. Without prejudice to the pursuit of the specific general interest linked to the provision of the main service, synergies across network operators should at the same time be encouraged in order to contribute to achieving the targets of the Digital Decade Policy Programme.

(17) Absent a justified exception, physical infrastructure elements owned or controlled by public sector bodies, such as buildings, or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations, even when they are not part of a network, can also host electronic communications network elements and should be made accessible in order to facilitate the instalment of network elements of very high capacity networks, in particular wireless networks. This builds on the precedent established by Article 57 of Directive (EU) 2018/1972 for installation of small wireless access points. In line with the principle of subsidiarity, where access obligations may not apply for certain buildings owned or controlled by public sector bodies, such as for reasons of architectural, historical, religious, or natural value, it is for Member States to identify those specific buildings in their territories.

(18) While this Regulation should be without prejudice to any specific safeguard needed to ensure safety and public health, the security and integrity of the networks, in particular that of critical infrastructure, as defined by national law, and to ensure that the main service provided by the network operator is not affected, in particular in networks used for the provision of water intended for human consumption, general rules in national legislation prohibiting network operators from negotiating access to physical infrastructures by undertakings providing or authorised to provide electronic communications networks or associated facilities could prevent the establishment of a market for access to physical infrastructure. Such general rules should therefore be abolished. At the same time, the measures set out in this Regulation should be without prejudice to the possibility for Member States to incentivise the provision of infrastructure access by utilities operators by excluding revenues stemming from the access to their physical infrastructure from the basis for the calculation of end-user tariffs for their main activity or activities, in accordance with applicable Union law.

(19) In order to ensure legal certainty and avoid disproportionate burdens on network operators resulting from two access regulatory regimes applied simultaneously on the same physical infrastructure, physical infrastructure subject to access obligations

imposed by national regulatory authorities pursuant to Directive (EU) 2018/1972 or access obligations resulting from the application of Union state aid rules should not be subject to access obligations set out in this Regulation. However, this Regulation should be applicable when a national regulatory authority has imposed an access obligation under Directive (EU) 2018/1972 which limits the use that can be made of the physical infrastructure subject to the obligation, for instance when an operator planning to connect base stations would request access to existing physical infrastructure regulated in the market for access to wholesale local access.

(20) In order to ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure may not be technically suitable due to specific circumstances concerning infrastructures for which access has been requested, such as lack of currently available space or due to future needs for space which are sufficiently demonstrated, for instance by publicly available investment plans. Similarly, in specific circumstances, sharing the infrastructure may jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or may endanger the provision of services that are primarily provided over the same infrastructure. Moreover, when the network operator already provides viable alternative means of wholesale physical access to electronic communications networks that would meet the needs of the access seeker, such as dark fibre or fibre unbundling, access to the underlying physical infrastructure may have an adverse economic impact on its business model, in particular that of wholesale-only operators, and incentives to invest while possibly entailing an inefficient duplication of network elements. This is without prejudice to the application of wholesale access obligations under State aid rules. It is noted that, under a State aid measure, the Commission may exceptionally accept, under certain circumstances, that a Member State limits the provision of certain wholesale access products to cases of reasonable demand from an access seeker, when the Member State demonstrates on the basis of the specific characteristics of the intervention that the provision of each of these access products would disproportionately increase investment costs without delivering significant benefits in terms of competition.

(21) With a view to facilitate the reuse of existing physical infrastructure, where operators request access in a specified area, network operators and public sector bodies that own or control physical infrastructure should make an offer for the shared use of their facilities under fair and reasonable terms and conditions, including price, unless access is refused for objective and justified reasons. Public sector bodies should offer access also under non-discriminatory terms and conditions, including price. Depending on the 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 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 the subsidy or provided under national law in compliance with Union law; the ability to deliver or provide infrastructure capacity to meet 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.

(22) In order to ensure that the investments made in physical infrastructure of public electronic communications networks or associated facilities directly contribute to the

objectives of the Digital Decade and to avoid opportunistic behaviours, any obligation of access to existing physical infrastructure or coordination of civil works should fully take into account the economic viability of those investments based on their risk profile, any time schedule for the return on investment, any impact of access on downstream competition and consequently on prices and return on investment, any depreciation of the network assets at the time of the access request, any business case underpinning the investment, in particular in the physical infrastructures used for the provision of very high capacity network-based services, and any possibility previously offered to the access seeker to co-deploy.

(23) In order to facilitate access to physical infrastructure owned or controlled by public sector bodies, which for instance may lack sufficient resources, experience or the necessary technical knowledge to engage in negotiations for access with operators, a body could be appointed to coordinate the access requests, provide legal and technical advice through the negotiation of access terms and conditions, as well as the provision of relevant information regarding such physical infrastructure via the single information point. The coordinating body could also support public sector bodies in preparing model contracts and the monitoring of the outcome and the timing of the access requests process as well as of potential disputes that may arise on access to physical infrastructure that public sector bodies own or control.

(24) With a view to ensure consistency of approaches, the Commission should closely cooperate with BEREC in order to provide guidance regarding access to physical infrastructure, including on the application of fair and reasonable terms and conditions, the criteria that the national dispute settlement bodies should follow when settling disputes, the circumstances meeting the conditions in which it would be reasonable for operators to refuse access to physical infrastructure on the basis that they provide a viable alternative means of access which is offered under fair and reasonable terms and conditions, and on the technical aspects which would render physical infrastructure unsuitable for the deployment of very high capacity networks. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.

(25) In order to effectively plan the deployment of very high capacity networks and to ensure the most effective use of existing physical infrastructures suitable for rolling out such networks and of planned civil works, operators should be able to have access to minimum information concerning physical infrastructures and planned civil works in the area of deployment. Such minimum information is a pre-requisite to assess the potential for using existing physical infrastructure or coordinating the planned civil works in a specific area, as well as to reduce damage to any existing physical infrastructures. In view of the number of stakeholders involved, covering both public and privately financed civil works as well as existing physical infrastructure, and in order to facilitate access to that information, also across sectors and borders, the entities subject to transparency obligations should proactively (rather than upon request) provide and maintain updated such minimum information via the single information point in order to simplify requests to access such information and enable operators to express their interest in accessing physical infrastructure or coordinating civil works, for which timing is critical. The minimum information on planned civil works should be provided via the single information point as soon as the information is available to the concerned network operator and, in any event and where permits are required, no later than three months prior to the first submission of the permit request to the competent authorities.

(26) The minimum information should be made available promptly via the single information point under proportionate, non-discriminatory and transparent terms, so that operators can submit their requests for information. The single information point should consist of a repository of information in electronic format, where information can be accessed and related requests be made fully online by way of digital tools, such as webpages, digital applications, digital platforms or other, allowing access to minimum information in electronic format, including making related information requests, subject to limitations to ensure network security and integrity, in particular that of critical infrastructure, national security, or to safeguard legitimate operating and business secrets. The single information point should consist of a repository of information, but it does not have to necessarily store the information provided that it ensures that links are available to other digital tools where the information is stored. The single information point may provide for additional functionalities, such as facilitating access to additional information or supporting the process of requests to access existing physical infrastructure or coordinate civil works.

(27) The discretion that Member States retain to allocate the functions of the single information point to more than one competent body should not affect their ability to effectively fulfil these functions. Where more than one single information point is established in a Member State, all single information points should be easily accessible, by electronic means, via a single national digital entry point consisting of a common user interface ensuring seamless access to the single information points. The single information point should be fully digitised and provide easy access to the necessary digital tools, such as web portals, digital platforms, digital applications or other, that allow for the exercise of rights and the compliance with the obligations set out in this Regulation by network operators and concerned public bodies, including access in an efficient manner to the minimum information regarding existing physical infrastructure and planned civil works, as well as electronic administrative procedures for granting permits and rights of way and related information on the applicable conditions and procedures. As part of this minimum information, the single information point should facilitate the provisioning of geo-referenced information on location of the existing physical infrastructure and planned civil works. To facilitate this process, Member States may provide for automated digital tools for the submission of the geo-referenced information and conversion tools to the supported data formats, which could be made available to network operators and public sector bodies responsible to provide this information via the single information point. Furthermore, where the geo-referenced location is available via other digital tools, such as the INSPIRE geo-portal pursuant to Directive 2007/2/EC, the single information point should provide a user-friendly access to the relevant information.

(28) In order to ensure proportionality and security, the provision of information about existing physical infrastructure via the single information point may not apply where such infrastructure is not technically suitable for the deployment of very high capacity networks, for example due to specific circumstances concerning infrastructures for which access might be requested, such as lack of currently available space or future needs for space or other technical aspects which are sufficiently demonstrated, taking also into account any guidance the Commission may issue in that respect, or in case of critical national infrastructure, as defined by national law. In addition, the provision of information about existing physical infrastructure via the single information point could, in very specific cases, be burdensome or disproportionate for network operators and public sector bodies, for example where mapping of relevant assets is not yet available and it would be very costly to map or where access requests are expected to

be very low or almost inexistent in certain areas of a Member State or in respect to certain specific physical infrastructure. Where it appears that the provision of information is disproportionate based on a detailed cost-benefit analysis, network operators should not be obliged to provide such information. Member States should conduct such detailed cost-benefit analysis based on a consultation with relevant stakeholders regarding demand for access to existing physical infrastructure and updated regularly. The consultation process and its outcome should be made public and the specific physical infrastructure that would be exempted from this obligation notified to the Commission.

(29) In order to ensure consistency, the competent bodies performing the functions of the single information point, the national regulatory authorities in the fulfilment of their tasks under Directive (UE) 2018/1972 or other competent authorities, such as national, regional or local authorities in charge of cadastre or Directive 2007/2/EC (INSPIRE), as appropriate, should consult and cooperate with each other: (i) to minimise the efforts in complying with transparency obligations on network operators and public sector bodies, including the undertakings designated with significant market power (SMP operators), to make available information about their physical infrastructure; (ii) where a different data-set on physical infrastructure of the SMP operator is required, to establish useful interlinks/synergies between the SMP-related database and the single information point, as well as to establish, proportionate common practices of data collection and data provision in order to deliver results which are easily comparable and (iii) to seek the most appropriate solutions, in light of the national circumstances, to ease the accessibility by third parties to the information regarding the physical infrastructure. If regulatory obligations are modified or withdrawn, the parties affected should be able to agree on the best solutions to adapt the gathering and provision of physical infrastructure data to the newly applicable regulatory requirements.

(30) The transparency obligation for the coordination of civil works may not apply to civil works for reasons of national security or in case of an emergency, for example civil works performed in case of risk of a public danger as a result of degradation processes to civil engineering and their associated installations which are caused by natural or man-made destructive factors and that are needed in order to ensure their safety or their obliteration. For reasons of transparency, Member States should notify the type of civil works falling under those circumstances to the Commission and publish it via the single information point. In addition, if the request is reasonable, in particular if needed in view of the possibility to share existing physical infrastructures, operators should be granted the possibility to make on-site surveys and to request information concerning planned civil works under transparent, proportionate and non-discriminatory conditions and without prejudice to the safeguards adopted to ensure network security and integrity, protection of confidentiality, as well as operating and business secrets. Advanced transparency of planned civil works via single information points for planned civil works should be incentivised, in particular for areas of greatest utility, by redirecting authorised operators to such information whenever available, and should be enforced by making permit granting requests subject to prior publication of information regarding planned civil works via the single information point.

(31) In order to ensure significant savings and minimise inconveniences to the area affected by the deployment of new electronic communications networks, regulatory constraints preventing as a general rule the negotiation among network operators with a view to coordinating such works in order to deploy also very high capacity networks should be prohibited. In the case of civil works not financed by public means, this Regulation

should be without prejudice for the stakeholders' possibility to conclude civil works coordination agreements according to their own investment and business plans and their preferred timing.

(32) Civil works fully or partially financed by public means should aim to maximise the positive collective outcome, by exploiting the positive externalities of those works across sectors and ensuring equal opportunities to share the available and planned physical infrastructure in view of deploying very high capacity networks. While the main purpose of the civil works financed by public means should not be adversely affected, timely and reasonable requests to coordinate deployment of elements of very high capacity networks, ensuring for example the coverage of any additional costs by the requesting party, including those caused by delays, and the minimisation of changes to the original plans, should be met by the network operator carrying out directly or indirectly, for example through a sub-contractor, the civil works concerned under proportionate, non-discriminatory and transparent terms. Such provisions should be without prejudice to the right of the Member States to reserve capacity for electronic communications networks even in the absence of specific requests, with a view to meeting future demand for physical infrastructures to maximise the value of civil works, or to adopt measures entailing similar rights to coordinate civil works for operators of other types of networks, such as transport, gas or electricity.

(33) In some cases, in particular for deployments in rural or scarcely populated areas, the obligation to coordinate civil works might put at risk the financial viability of such deployments and eventually disincentivize investments carried out under market terms. Therefore, a request to coordinate civil works made to a public electronic communications network provider may be considered unreasonable under specific circumstances. This should in particular be the case if the requesting undertaking providing or authorised to provide electronic communications networks did not express its intention to deploy very high capacity networks in that area, whether as green-field deployment, upgrades or extensions of networks, in case there had been a forecast or invitation to declare intention to deploy very high capacity networks in designated areas pursuant to Article 22 of Directive (EU) 2018/1972, or a public consultation in the application of Union state aid rules. If more than one of these forecasts, invitations and/or public consultations have occurred, only the lack of expression of interest in the most recent occasion covering the period during which the request for coordination of civil works is made should be considered. With a view to ensure the possibility to access the deployed infrastructure in the future, the public electronic communications network provider performing the civil works should guarantee that it would deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission in that respect. This is without prejudice to the rules and conditions attached to the assignment of public funds and the application of State aid rules.

(34) With a view to ensure consistency of approaches, the Commission should closely cooperate with BEREC in order to provide guidance, as regards the application of provisions on civil works coordination, including on apportioning the costs associated with the coordinated deployment, the criteria to be used by the dispute settlement bodies to settle disputes on civil works coordination and the criteria for ensuring sufficient capacity to accommodate foreseeable future reasonable needs in cases where coordination of civil works is refused. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidelines.

(35) Effective coordination can help reducing costs and delays as well as deployment disruption that can be caused by problems on site and the need for remedial or unsuccessful works and redesign. One example where coordination of civil works can entail clear benefits are the cross-sector projects to deploy 5G corridors along transport paths, such as road, rail and in-land waterways, which can often also require design coordination or co-design based on early cooperation between the participants in the concerned projects. The co-design may entail that the concerned parties agree in advance on physical infrastructure deployment paths, on the technology and equipment to be used, prior to the effective coordination of civil works. Therefore, the request for coordination of civil works should be filed as soon as possible.

(36) A number of different permits concerning the deployment of elements of electronic communications networks or associated facilities may be necessary, including digging, building, town planning, environmental and other permits as well as rights of way, in order to protect national and Union general interests. The number of permits and rights of way required for the deployment of different types of electronic communications networks or associated facilities and the local character of the deployment may entail the application of a variety of procedures and conditions that cause difficulties in the deployment of the networks. Therefore, to facilitate their deployment, all rules on the conditions and procedures applicable to the granting of permits and rights of way should be streamlined and consistent at national level. While preserving the right of each competent authority to be involved and maintain its decision making prerogatives in accordance with the subsidiarity principle, all information on the procedures and general conditions applicable to granting permits for civil works and rights of way should be available via the single information point. This could reduce complexity and increase efficiency and transparency, for all operators in general and in particular for new entrants or smaller operators not active in that area. Moreover, operators should have the right to submit their permits and rights of way requests in electronic format via the single information point. Those undertakings should also be able to retrieve information in electronic format about the state of their requests and whether they are granted or refused.

(37) To ensure that permit granting procedures do not act as barriers to investment, and that they do not have an adverse effect on the internal market, Member States should ensure that a decision on whether or not to grant permits concerning the deployment of elements of very high capacity networks or associated facilities should in any case be made available at the latest within four months from the receipt of the submission of a complete permit 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. Competent authorities should not restrict, hinder or make economically less attractive the deployment of very high capacity networks or associated facilities, namely by preventing that procedures for granting permits and rights of way proceed in parallel, where possible, or requiring operators to obtain one type of authorization before they can apply for other types of authorizations. Competent authorities should justify any refusal to grant permits or rights of way within their competence, on the basis of objective, transparent, non-discriminatory and proportionate criteria and conditions.

(38) In order to avoid undue delays, the completeness of the permit request shall be determined by the competent authorities within fifteen days from its receipt. Unless the competent authority has invited the applicant to provide any missing information within that period, the permit request should be deemed complete. For reasons of

equal treatment and transparency, the competent authorities should not consider admissible permit requests for civil works for which the minimum information required by this Regulation has not been made available via the single information point within three months prior to the first submission of the request for permit to the competent authorities. Where, in addition to permits, rights of way are also required for the deployment of elements of very high capacity networks, competent authorities should, by way of derogation from Article 43 of Directive (EU) 2018/1972, grant such rights of way within four months upon receipt of the request. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within six months in accordance with Article 43 of Directive (EU) 2018/1972. Operators that suffered damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right for compensation.

(39) In order to streamline permit granting procedures, thus facilitating and accelerating the deployment of very high capacity networks, the Commission should provide for exemptions for permits. These exemptions, which should be defined at Union level by way of an implementing act, could be applied to various categories of infrastructure, such as masts, antennae, poles, underground cables, under certain pre-defined conditions, for which building permits, digging permits or other types of permits may be initially required. They could also be applied to technical upgrades of existing maintenance works or installations and to small-scale civil works such as trenching or to renewals of permits.

(40) In order to ensure that the procedures for the granting of such permits and rights of way are completed within reasonable and effective deadlines, following the example of certain modernising and good administrative practice initiatives undertaken at national level, it is necessary to establish principles of administrative simplification, *inter alia* through the limitation of the obligation of prior authorisation to cases in which it is essential and through the introduction of the principle of tacit authorisation by the competent authorities after a certain period of time elapsed. Moreover, the categories of deployments exempted from permits under Union law should no longer be subject to permits under national law.

(41) In order to facilitate the deployment of elements of very high capacity networks, the procedure for considering any request for permits required for the deployment of such elements should be without prejudice to any commercial agreements. Any fee related to a permit or right of way should be limited to the administrative costs related to the processing of the permit granting procedure.

(42) The achievement of the Digital Decade targets requires that by 2030 all end users at a fixed location are covered by a Gigabit network up to network termination point and all populated areas are covered by next generation wireless high-speed networks with at least 5G equivalent performance, in accordance with the principle of technological neutrality. The existence of Gigabit networks up to the end-user should be facilitated while ensuring at the same time technological neutrality, in particular by fibre-ready in-building physical infrastructure. Given that providing for mini-ducts during the construction of a building has only a limited incremental cost while equipping buildings with Gigabit infrastructure may represent a significant part of the cost of Gigabit network deployment, all new buildings or buildings subject to major renovation should be equipped with physical infrastructure, allowing the connection of end-users with Gigabit speeds. In order to ensure that every household in the Union has access to Gigabit connectivity, newly constructed or majorly renovated buildings

should also be equipped with in-building fibre wiring. In order to roll out Gigabit networks, new multi-dwelling buildings and multi-dwelling buildings subject to major renovation should be equipped with an access point, accessible to one or more undertakings providing or authorised to provide public electronic communications networks. Moreover, building developers should foresee that empty ducts are provided from every dwelling to the access point, located in or outside the multi-dwelling building. Major renovations of existing buildings at the end user's location related to measures to enhance energy performance pursuant to Directive 2010/31/EU[30] provide a modernization opportunity for creating synergies by equipping those buildings also with fibre-ready in-building physical infrastructure, in-building fibre wiring and, in case they are multi-dwelling buildings, an access point.

(43) There may be cases where the prospect of equipping a building with fibre-ready in-building physical infrastructure, an access point or in-building fibre wiring is considered, on objective grounds, disproportionate in terms of costs, namely for new single dwellings or buildings undergoing major renovation works, based on objective elements such as tailor-made cost estimates, for economic reasons linked also to their location, or for urban heritage conservation or environmental reasons, such as for specific categories of monuments.

(44) In order to help prospective buyers and tenants identify buildings that are equipped with fibre-ready in-building physical infrastructure, with an access point and with in-building fibre wiring and that therefore have considerable cost-saving potential, and in order to promote the fibre readiness of buildings, Member States should develop a compulsory 'fibre-ready' label for buildings equipped with such infrastructure, with an access point and with in-building fibre wiring in accordance with this Regulation.

(45) Public electronic communications network providers deploying Gigabit networks in a specific area could achieve significant economies of scale if they could terminate their network to the building access point, irrespective of whether a subscriber has expressed explicit interest for the service at that moment in time, but provided that the impact on private property is minimised, by using existing physical infrastructure and restoring the affected area. Once the network is terminated at the access point, the connection of an additional customer is possible at a significantly lower cost, in particular by means of access to a fibre-ready vertical segment inside the building, where it already exists. That objective is equally fulfilled when the building itself is already equipped with a Gigabit network to which access is provided to any public communications network provider which has an active subscriber in the building on transparent, proportionate and non-discriminatory terms and conditions. That may in particular be the case in Member States which have taken measures on the basis of Article 44 of Directive (EU) 2018/1972.

(46) In order to contribute to ensuring availability of Gigabit networks to end users, new buildings and majorly renovated buildings should be equipped with fibre-ready in-building physical infrastructure, with in-building fibre wiring and, in the case of multi-dwelling buildings, with an access point. Member States should have a degree of flexibility to achieve this aim. In that respect, this Regulation does not seek to harmonise rules on related costs, including on the recovery of costs of equipping buildings with fibre-ready in-building physical infrastructure, in-building fibre wiring and an access point.

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(47) In line with the subsidiarity principle and with a view to taking national circumstances into account, Member States should adopt the standards and/or technical specifications necessary for the purpose of equipping newly constructed or majorly renovated buildings with fibre-ready in-building physical infrastructure and with in-building fibre wiring and to equip new or majorly renovated multi-dwelling buildings with an access point. These standards and/or technical specifications should set at least the building access point specifications, fibre interface specifications; cable specifications; socket specifications; specifications of pipes or micro-ducts; technical specifications needed to prevent interference with electrical cabling, and the minimum bend radius. Member States should also establish certification schemes for the purpose of demonstrating compliance with the standards and/or technical specifications as well as for qualifying for the 'fibre-ready' label. These certification schemes should make the issuance of building permits conditional upon compliance of the relevant new building or major renovation works project requiring a building permit with standards and/or technical specifications on the basis of a qualified test report. Moreover, to avoid an increase in red tape related to the certification scheme established by this Regulation, Member States should take into account the procedural requirements applied to certification schemes pursuant to Directive 2010/31/EU on the energy performance of buildings, considering also the possibility to enable the combined launch of both request procedures.

(48) In view of the social benefits stemming from digital inclusion and taking into account the economics of deployment of very high capacity networks, where there is neither existing passive or active fibre-ready infrastructure serving end-users' premises nor alternatives to providing very high capacity networks to a subscriber, any public communications network provider should have the right to terminate its network to a private premise at its own costs, provided that the impact on private property is minimised, for example, if possible, by reusing the existing physical infrastructure available in the building or ensuring full restoration of the affected areas.

(49) The requests for access to the in-building physical infrastructure would fall under the scope of this Regulation, whereas the requests for access to fibre wiring would fall under the scope of Directive (EU) 2018/1972. Moreover, access to in-building physical infrastructure may be refused if access to in-building fibre wiring is made available on fair, reasonable and non-discriminatory terms and conditions, including price.

(50) With a view to ensure consistency of approaches, the Commission should closely cooperate with BEREC in order to provide guidance on the terms and conditions of access to in-building physical infrastructure. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidelines.

(51) With a view to foster the modernisation and agility of administrative procedures and to reduce the cost and the time of procedures necessary for the deployment of very high capacity networks, the functions of the single information point should be performed fully online. To this end, the single information point should provide easy access to the necessary digital tools, such as web portals, digital platforms, digital applications or other, that allow for access in an efficient manner to the minimum information regarding existing physical infrastructure and planned civil works, as well as the possibility to make the related access to information requests. Such digital tools should also allow to access the electronic administrative procedures for granting permits and rights of way and related information on the applicable conditions and procedures.

Where more than one single information point is established in a Member State, all single information points should be easily and seamlessly accessible, by electronic means, via a single national digital entry point which shall consist of a common user interface ensuring access to the digitised single information points. The single national digital entry point should facilitate the businesses' interaction between operators and competent authorities performing the functions of the single information points.

(52) Member States may rely on, and where necessary enhance, digital tools, such as web portals, digital platforms, digital applications or other, which might already be available at local, regional or national level to perform the functions of the single information point provided they comply with the obligations set out in this Regulation, including their access by way of a single national digital entry point and the availability of all the functionalities set out in this Regulation. In order to comply with the "once-only", data minimisation and accuracy principles, the Member States may integrate more digital platforms or applications supporting the single information points, as appropriate. For example, the digital platforms or applications supporting the single information points on existing physical infrastructure might be interconnected or fully or partially integrated with the ones related to planned civil works. Furthermore, Member States may also interconnect or fully or partially integrate such digital platforms or applications with the ones supporting the single information points concerning the permit granting, as appropriate.

(53) In order to ensure the effectiveness of the single information points provided for by this Regulation, Member States should ensure adequate resources as well as the availability of relevant information concerning a specific area at the single information points at an optimal level of aggregation where valuable efficiencies may be ensured in view of the tasks assigned, including at the local cadastre. In that regard, Member States could consider the possible synergies and economies of scope with the Points of Single Contact within the meaning of Article 6 of Directive 2006/123/EC of the European Parliament and of the Council[31] and other planned or existing e-government solutions with a view to building on existing structures and maximising the benefits for users. In the same vein, the Digital Single Gateway provided for in Regulation (EU) 2018/1724[32] should provide links to the single information points.

(54) In the event of a disagreement during the commercial negotiation on technical and commercial terms and conditions regarding access to physical infrastructure or coordination of civil works, each party should be able to call on a dispute settlement body at national level to impose a solution on the parties, in order to avoid unjustified refusals to deal or the imposition of unreasonable conditions. When determining prices for granting access or cost-sharing for coordinated civil works, the dispute settlement body should ensure that the access provider and network operators planning civil works have a fair opportunity to recover their costs incurred in providing access to their physical infrastructure or coordinating their planned civil works respectively, taking into account the appropriate Commission guidance and any specific national conditions and any tariff structures put in place to provide a fair opportunity for cost recovery taking into account any previous imposition of remedies by a national

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31 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

32 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1–38)

regulatory authority. In so doing, the dispute settlement body should also take into account the impact of the requested access or coordination of planned civil works on the business plan of the access provider or network operators planning civil works respectively, including the investments made or planned by them, in particular investments related to the physical infrastructure to which the request refers to.

(55) With a view to avoid delays in network deployments, the national dispute settlement body should settle the dispute in a timely manner and, in any event, within four months from reception of the request to settle the dispute in the case of disputes arising in connection with access to existing physical infrastructure and within one month when it concerns transparency concerning physical infrastructure, coordination of planned civil works and their related transparency measures. Exceptional circumstances justifying a delay in the settlement of a dispute may include reasons that are outside the control of the dispute settlement bodies, such as a lack of sufficient information or documentation which is indispensable to take a decision, including the views of other competent authorities that need to be consulted, or the high complexity of the file.

(56) Where disputes concerning access to the physical infrastructure or planned civil works or to information thereof with a view to deploying very high capacity networks arise, the dispute settlement body should be able to resolve such disputes by means of a binding decision. In any case, decisions of such body should be without prejudice to the possibility of any party to refer the case to a court or to conduct a prior or parallel conciliation mechanism to the formal dispute settlement, which could take the form of a mediation or an additional round of exchanges.

(57) In line with the principle of subsidiarity, this Regulation should be without prejudice to the possibility of Member States to allocate regulatory tasks to the authorities best suited to fulfil them in accordance with the national constitutional system of attribution of competences and powers and with the requirements set out in this Regulation. In order to reduce the administrative burden, Member States may maintain the competent bodies already appointed pursuant to Directive (EU) 2014/61/EU. Information on the tasks allocated to the competent body or bodies should be published via the single information point and notified to the Commission, unless already done pursuant to Directive (EU) 2014/61/EU. The discretion that Member States retain to allocate the functions of the single information point to more than one competent body should not affect their ability to effectively fulfil these functions.

(58) The designated national dispute settlement body and the competent body performing the functions of the single information point should ensure impartiality, independence and structural separation vis-à-vis the parties involved, should exercise their powers impartially, transparently and in a timely manner and should have the appropriate competences and resources.

(59) Appropriate, effective, proportionate and dissuasive penalties should be provided for by Member States in the event of lack of compliance with this Regulation or with a binding decision adopted by the competent bodies, including cases where a network operator or public sector body knowingly or grossly negligently provides misleading, erroneous or incomplete information via the single information point.

(60) Since the objectives of this Regulation aiming at facilitating the deployment of physical infrastructures suitable for very high capacity networks across the Union cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt

measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(61) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and in particular the right to privacy and the protection of business secrets, the freedom to conduct business, the right to property and the right to an effective remedy. This Regulation has to be applied in accordance with those rights and principles.

(62) A period of six months between entry into force and application aims to allow appropriate time to Member States to ensure that their national legislation does not contain any obstacles to the uniform and effective application of this Regulation. The period of six months between the entry into force and the application of this Regulation is without prejudice to the more specific rules in this Regulation regarding delayed application of specific provisions as specified therein. Member States shall withdraw national provisions overlapping with this Regulation or contradicting it by the time it starts to apply. As regards adopting new legislation during this period, it follows from Article 4(3) TEU that Member States have a duty of sincere cooperation not to take action that would conflict with prospective Union legal rules.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation aims to facilitate and stimulate the roll-out of very high capacity networks by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be rolled out at lower cost and faster.

2. If any provision of this Regulation conflicts with a provision of Directive (EU) 2018/1972 or Directive 2002/77/EC the relevant provision of those Directives shall prevail.

3. Member States may maintain or introduce measures in conformity with Union law which contain more detailed provisions than or go beyond those set out in this Regulation, with the exception of Article 3(4) and (7), Article 4(4), Article 5(2) and (4), Article 6(2) and Article 8(7).

Article 2

Definitions

For the purposes of this Regulation, in addition to the definitions set out in Directive (EU) 2018/1972, the following definitions apply:

(1) 'network operator' means an undertaking providing or authorised to provide public electronic communications networks or associated facilities as well as an undertaking providing a physical infrastructure intended to provide:

(a) a service of production, transport or distribution of:

(i) gas;

(ii) electricity, including public lighting;

(iii) heating;

(iv) water, including disposal or treatment of waste water and sewage, and drainage systems;

(b) transport services, including railways, roads, ports and airports;

(2) 'physical infrastructure' means

- any element of a network which is intended to host other elements of a network without becoming itself an active element of the network, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, antenna installations, towers and poles, as well as buildings, or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations or,

- where they are not part of a network, and are owned or controlled by public sector bodies, buildings, or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations.

Cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption as defined in point 1 of Article 2 of Council Directive 98/83/EC[33] are not physical infrastructure within the meaning of this Regulation;

(3) 'civil works' means every outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure;

(4) 'public sector body' means a state, regional or local authority, a body governed by public law or an association formed by one or several such authorities or one or several such bodies governed by public law;

(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; and

(c) they are financed, in full or for the most part, by the State, or 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 the State, regional or local authorities or by other bodies governed by public law;

(6) 'in-building physical infrastructure' means physical infrastructure or installations at the end-user's location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;

(7) 'in-building fibre wiring' means optical fibre cables at the end-user's location, including elements under joint ownership, intended to deliver electronic communication services and connecting the building access point with the network termination point;

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[33] Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

(8) 'fibre-ready in-building physical infrastructure' means in-building physical infrastructure intended to host optical fibre elements;

(9) 'major renovation works' means building or civil engineering works at the end user's location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof, and requiring a building permit;

(10) 'permit' means the explicit or implicit decision or set of decisions taken simultaneously or successively by one or several competent authorities that are needed for an undertaking to carry out building or civil engineering works necessary for the deployment of elements of very high capacity networks;

(11) 'access point' means a physical point, located inside or outside the building, accessible to one or more undertakings providing or authorised to provide public electronic communications networks, where connection to the fibre-ready in-building physical infrastructure is made available.

Article 3

Access to existing physical infrastructure

1. Network operators and public sector bodies owning or controlling physical infrastructure shall have the right to offer to operators access to their physical infrastructure with a view to deploying elements of very high capacity networks or associated facilities. Public electronic communications network operators shall have the right to offer access to their physical infrastructure for the purpose of deploying networks other than electronic communications networks.

2. Upon written request of an operator, network operators or public sector bodies owning or controlling physical infrastructure 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 bodies owing or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions, including price. Such written requests shall specify the elements of the physical infrastructure for which the access is requested, including a specific time frame.

3. When determining prices for granting access on fair and reasonable terms and conditions, network operators and public bodies owning or controlling physical infrastructure shall take into account the following:

(a) The need to ensure that the access provider has a fair opportunity to recover the costs it incurs in order to provide access to its physical infrastructure, taking into account specific national conditions and any tariff structures put in place to provide a fair opportunity for cost recovery; in the case of electronic communication networks also considering any remedies imposed by a national regulatory authority;

(b) The impact of the requested access on the entity's business plan, including investments in the physical infrastructure to which the access is requested.

(c) In the specific case of access to physical infrastructure of undertakings providing or authorised to provide public electronic communications networks or associated facilities, the economic viability of those investments based on their risk profile, any time schedule for the return on investment, any impact of access on downstream competition and consequently on prices and return on investment, any depreciation of the network assets at the time of the access request, any business case

underpinning the investment at the time it was made, in particular in the physical infrastructures used for the provision of connectivity, and any possibility previously offered to the access seeker to co-invest in the deployment of the physical infrastructure, notably pursuant to Article 76 of the Code, or to co-deploy alongside it.

4. Network operators and public sector bodies owning or controlling physical infrastructure may refuse access to specific physical infrastructure based on the following criteria:

(a) the 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) the lack of availability of space to host the elements of very high capacity networks referred to in paragraph 2, including after having taken into account the future needs for space of the entity to which access is requested, that are sufficiently demonstrated;

(c) safety and public health concerns;

(d) integrity and security of any network, in particular of 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

(f) the availability of viable alternative means of wholesale physical 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.

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 requesting undertaking, in writing, the reasons for such refusal within one month from the date of the receipt of the complete request for access.

5. Member States may establish a body to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, provide legal and technical advice through the negotiation of access terms and conditions, and facilitate the provision of information via the single information point.

6. Physical infrastructure shall not be subject to the obligations set out in this Article to the extent that such physical infrastructure is already subject to access obligations imposed by national regulatory authorities pursuant to Directive (EU) 2018/1972 or resulting from the application of Union state aid rules.

7. Access obligations provided for in this Article may not apply to certain categories of buildings owned or controlled by public sector bodies, for reasons of architectural, historical or natural value, or of public security, safety and health. Member States shall identify such buildings in their territories based on duly justified and proportionate reasons. Information regarding such buildings shall be published via the single information point and notified to the Commission.

8. This Article shall be without prejudice to the right to property of the owner of the physical infrastructure in cases where the network operator or the public sector body is not the owner, and to the right to property of any other third party, such as landowners and private property owners.

9. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the application of the provisions referred to in this Article.

Article 4

Transparency concerning physical infrastructure

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

(a) geo-referenced location, and route;

(b) type and current use of the infrastructure; and

(c) an up-to-date contact point.

Such minimum information shall be accessible promptly, under proportionate, non-discriminatory 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 if necessary in view of the security of certain buildings owned or controlled by public sector bodies or of the security of the networks and their integrity, of national security, public health or safety, or for reasons of confidentiality or operating and business secrets.

2. Network operators and public sector bodies shall make available the minimum information referred to in paragraph 1, via the single information point and in electronic format, by [DATE OF ENTRY INTO FORCE + 1 YEAR]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new element of minimum information referred to in paragraph 1.

3. Upon specific request of an operator, network operators and public sector bodies shall meet reasonable requests for on-site surveys of specific elements of their physical infrastructure. Such request shall specify the elements of the physical infrastructure concerned with a view to deploying elements of very high capacity networks. On-site surveys of the specified elements of the physical infrastructure shall be granted under proportionate, non-discriminatory and transparent terms within one month from the date of receipt of the request, without prejudice to the limitations pursuant to paragraph 1.

4. The obligations provided for in paragraphs 1 to 3 may not apply in case of critical national infrastructure as defined under national law. The same obligations shall not apply in the case of physical infrastructure which is not technically suitable for the deployment of very high capacity networks or in specific cases where the obligation to provide information about existing physical infrastructure pursuant to paragraph 1, first sub-paragraph, would result to be disproportionate account taken of the specific physical infrastructure in light of a detailed cost-benefit analysis conducted by Member States and based on a consultation with relevant stakeholders. Any such exceptions shall be published via the single information point and notified to the Commission.

5. Operators that obtain access to information pursuant to this Article shall take appropriate measures to ensure respect for confidentiality, and operating and business secrets.

Article 5

Coordination of civil works [work in progress]

1. Any network operator shall have the right to negotiate agreements concerning the coordination of civil works with operators with a view to deploying elements of very high-capacity networks or associated facilities.

2. Any network operator when performing or planning to perform directly or indirectly civil works, that are either fully or partially financed by public means, shall meet any reasonable written request to coordinate these civil works on transparent and non-discriminatory terms, made by operators with a view to deploying elements of very high-capacity networks or associated facilities.

Such request shall be met provided that:

(a) this will not entail any additional costs, including because of additional delays, for the network operator that initially envisaged the civil works in question, without prejudice to the possibility of agreeing on the apportioning of such costs between the parties concerned;

(b) this will not impede control over the coordination of the works;

and

(c) the request to coordinate is filed as soon as possible and in any case at least two months before the submission of the final project to the competent authorities for permit granting if the granting of a permit is necessary.

3. When a request is made to a public electronic communications network provider to coordinate civil works in an area which has been subject to:

(a) a forecast of the reach of broadband networks, including very high-capacity networks, pursuant to Article 22(1) of Directive (EU) 2018/1972;

(b) an invitation to declare the intention to deploy very high-capacity networks pursuant to Article 22(3) of Directive (EU) 2018/1972; or

(c) a public consultation in application of Union state aid rules;

such request may be deemed unreasonable if the requesting undertaking providing or authorised to provide electronic communications networks failed to express its intention to deploy very high-capacity networks in that area in any of the most recent procedures among those listed above covering the period during which the request for coordination is made. If a request to coordinate is considered unreasonable on this ground, the public electronic communications network provider refusing the coordination of civil works shall deploy physical infrastructure with sufficient capacity to accommodate foreseeable future reasonable needs for third party access.

4. The obligations provided for in this Article may not apply to civil works which are limited in scope, such as in terms of value, size or duration, or in the case of critical national infrastructure. Member States shall identify the type of civil works considered to be limited in scope or related to the critical national infrastructure based on duly justified and proportionate reasons. Information regarding such types of civil works shall be published via the single information point and notified to the Commission.

5. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission

may, in close cooperation with BEREC, provide guidance on the application of the provisions referred to in this Article.

Article 6

Transparency concerning planned civil works

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 the single information point the following minimum information concerning planned civil works related to its physical infrastructure for which a permit is envisaged, or for which no permit is necessary, as soon as the information is available to the network operator and, in any event and where a permit is required, not later than three months prior to the first submission of the request for permit to the competent authorities:

(a) the geo-referenced 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 submission of the final project to the competent authorities for permit granting, where applicable; and

(e) an up-to-date contact point.

Operators shall have the right to access the minimum information referred to in the first sub-paragraph via the single information point in electronic format. The request for access to information shall specify the area in which the requesting operator envisages deploying elements of very high-capacity networks or associated facilities. Within one week from the date of the receipt of the complete request of information, the requested information shall be made available under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited only when considered necessary in view of the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets.

2. The obligations provided for in this Article may not apply to information regarding civil works limited in scope, such as in terms of value, size or duration, or in the case of critical national infrastructure, of emergency or for reasons of national security. Member States shall identify, based on duly justified and proportionate reasons, the civil works which would be considered limited in scope or concern critical national infrastructure, as well as the emergencies or the reasons of national security that would justify not being subject to the obligation to provide information. Information regarding such civil works shall be published via the single information point and notified to the Commission.

Article 7

Permit-granting procedure

1. Competent authorities shall not unduly restrict, hinder or make economically less attractive the deployment of any element of very high capacity networks or associated facilities. Member States shall ensure that any rules governing the conditions and procedures applicable for granting permits and rights of way required for the deployment of elements of very high capacity networks or associated facilities are nationally consistent.

2. All information concerning the conditions and procedures applicable for granting permits and rights of way, including any information concerning exemptions as regards some or all permits or rights of ways required under national or Union law, shall be available via the single information point in electronic format.

3. Any operator shall be able to submit, via the single information point in electronic format, applications for permits or rights of way as well as to retrieve information about the state of its request, including if it has been granted or refused.

4. The competent authorities shall consider inadmissible permit requests for civil works for which the minimum information provided has not been made available via the single information point pursuant to Article 6, within 15 working days from the receipt of the submission of the permit request.

5. The competent authorities shall grant or refuse such permits within four months from the date of the receipt of a complete permit request, the completeness of which shall be determined by the competent authorities within fifteen days from the receipt of the submission of the permit request and, unless the competent authority has invited the applicant to provide any missing information within that period, the permit request shall be deemed completed. This is 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, including of appeal proceedings, in accordance with Union law or national law in compliance with Union law. Exceptionally, in duly justified cases, the four months deadline may be extended. Any extension shall be the shortest possible in order to grant or refuse the permit. Member States shall define the reasons justifying such an extension, publish them in advance via the single information point and notify them to the Commission. Any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.

6. By way of derogation from Article 43 of Directive (EU) 2018/1972, where rights of way over or under public or private property are required for the deployment of elements of very high capacity networks or associated facilities in addition to permits, competent authorities shall grant such rights of way within the four month period upon receipt of the request.

7. Without prejudice to paragraph 5, in the absence of a response by the competent authorities within the applicable period provided for in paragraph 5 upon receipt of a complete permit request, the permit shall be deemed to have been granted. This shall also be the case, *mutatis mutandis*, for rights of way required for the deployment of elements of very high capacity networks or associated facilities.

8. The Commission shall, by means of an implementing act, specify categories of deployments of elements of very high capacity networks or associated facilities that shall not be subject to any permit required for the deployment of elements of very high capacity networks. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 118(4) of Directive (EU) 2018/1972 and no later than [ENTRY INTO FORCE + 18 months].

9. Competent authorities shall not subject the deployment of elements of very high capacity networks or associated facilities specified under paragraph 8 to any individual town planning permit or other individual prior permits. By way of derogation, competent authorities may require permits for the deployment of elements of very high capacity networks or associated facilities on buildings or sites of architectural, historical or natural value protected in accordance with national law or where necessary for public safety reasons.

10. The permits and rights of way required for the deployment of elements of very high capacity networks shall not be subject to any fees or charges going beyond administrative costs as provided for, *mutatis mutandis*, in Article 16 of Directive (EU) 2018/1972.

11. Any operator which has suffered damage as a result of non-compliance with the deadlines applicable under paragraphs 6 and 7 shall receive compensation for the damage suffered, in accordance with national law.

Article 8

In-building physical infrastructure and fibre wiring

1. All newly constructed buildings at the end-user's location, including elements thereof under joint ownership, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS], shall be equipped with a fibre-ready in-building physical infrastructure, up to the network termination points, as well as with in-building fibre wiring. The same obligation applies in the event of major renovation works for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS].

2. All newly constructed multi-dwelling buildings, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS], shall be equipped with an access point. 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 [ENTRY INTO FORCE + 12 MONTHS].

3. All buildings at the end-users' location, including elements thereof under joint ownership, undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall be equipped with a fibre-ready in-building physical infrastructure, up to the network termination points, as well as with in-building fibre wiring. All multi-dwelling buildings undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall also be equipped with an access point. [ENTRY INTO FORCE + 12 MONTHS]

4. Member States shall adopt the relevant standards and/or technical specifications that are necessary for the implementation of the obligations provided for in paragraphs 1 to 3 before [ENTRY INTO FORCE + 9 months]. These standards and/or technical specifications shall set at least:

(a) the building access point specifications and fibre interface specifications;

(b) cable specifications;

(c) socket specifications;

(d) specifications of pipes or micro-ducts;

(e) technical specifications needed to prevent interference with electrical cabling, and

(f) the minimum bend radius.

5. Buildings equipped in accordance with the provisions of this Article shall be eligible to receive a 'fibre-ready' label.

6. Member States shall establish certification schemes for the purpose of demonstrating compliance with the standards and/or technical specifications referred to in paragraph 4 as well as for qualifying for the 'fibre-ready' label provided for in paragraph 5 before [ENTRY INTO FORCE + 12 months]. These certification schemes shall make the issuance of building permits provided for in paragraphs 1 and 2 conditional upon compliance of the relevant

building or major renovation works project requiring a building permit with standards and/or technical specifications provided for in paragraph 4 on the basis of a qualified test report.

7. The obligations provided for in paragraphs 1 to 3 shall not apply to certain categories of buildings, in particular single-dwelling buildings, or buildings undergoing major renovation works, in cases in which the fulfilment of those obligations is disproportionate, such as in terms of costs for individual or joint owners based on objective elements. The same obligations may not apply to certain types of building, such as specific categories of monuments, historic buildings, military buildings, buildings used for national security purposes, as defined by national law. Member States shall identify such categories of buildings based on duly justified and proportionate reasons. Information regarding such buildings shall be published via the single information point and notified to the Commission.

Article 9

Access to in-building physical infrastructure

1. Subject to the first subparagraph of paragraph 3, any public electronic communications network provider shall have the right to roll out its network at its own costs, up to the access point.

2. Subject to paragraph 3, any public electronic communications network provider shall have the right to access any existing in-building physical infrastructure with a view to deploying elements of very high capacity networks if duplication is technically impossible or economically inefficient.

3. Any holder of a right to use the access point and the in-building physical infrastructure shall meet all reasonable requests for access to the access point and the in-building physical infrastructure from public electronic communications network providers under fair and non-discriminatory terms and conditions, including price, where appropriate.

Any holder of a right under the first sub-paragraph may refuse access to in-building physical infrastructure where access to in-building fibre wiring is regulated or made available on fair, reasonable and non-discriminatory terms and conditions, including price.

4. In the absence of available fibre-ready in-building physical infrastructure, every public electronic communications network provider shall have the right to lay its network which terminates at the premises of the subscriber, subject to the agreement of the subscriber, provided that it minimises the impact on the private property of third parties.

5. This Article shall be without prejudice to the right to property of the owner of the access point or the in-building physical infrastructure in cases where the holder of a right to use that infrastructure or access point is not the owner thereof, and to the right to property of other third parties, such as landowners and building owners.

6. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the terms and conditions of the access to in-building physical infrastructure.

Article 10

Digitalisation of single information points

1. The single information points shall make available appropriate digital tools, such as in the form of web portals, digital platforms, digital applications or others, to allow the online exercise of all the rights and the compliance with all the obligations set out in this Regulation.

2. Operators shall be able to perform the following actions online via one or more single information points:

(a) access all minimum information regarding existing physical infrastructure and make related information requests, as provided for in Article 4 paragraph 1,

(b) access all information regarding planned civil works and make related information requests, as provided for in Article 6 paragraph 1,

(c) access all information concerning the conditions and procedures applicable for granting permits and rights of way, including any information concerning exemptions as regards some or all permits or rights of ways required under national or Union law, as provided in Article 7 paragraph 2, and links to the related online procedures established at Union or national level;

(d) submit applications for permits or rights of way as well as retrieve information about the state of their request and whether it is granted or refused, explicitly or tacitly, as provided for in Article 7 paragraph 3, and

(e) access any other information which shall be published via the single information point pursuant to this Regulation.

3. The digital tools set out pursuant to paragraph 1 shall allow making available the information referred to in Article 4 paragraph 1 and Article 6 paragraph 1, and provide information on procedures with regard to Union and national rules applicable to operators exercising or intending to exercise their rights and ensure compliance with the obligations derived from Union and national law in the field of deployment of electronic communications networks or associated facilities in the internal market. Such digital tools shall also enable interactions between operators and the competent authorities, with regard to the electronic procedures regarding permits as provided for in Article 7.

4. Member States shall set out a single national digital entry point, consisting of a common user interface ensuring seamless access to the digitized single information points.

5. Member States may interconnect or fully or partially integrate several digital tools supporting the single information points, as appropriate.

Article 11

Financial support

The costs derived from the set-up and promotion of the single national digital entry point, single information points and related digital tools needed to comply with provisions in Articles 4, 6 and 7 of this Regulation may be partly eligible for financial support from the general budget of the European Union, according to the eligibility criteria of the Union funding they are entitled to.

Article 12

Dispute settlement

1. In case of a dispute which may arise:

- where access is refused or agreement on specific terms and conditions, including price, has not been reached within one month from the date of receipt of the request for access under Article 3;

- related to the rights and obligations provided for in Articles 4 and 6, including where the information requested is not provided within 15 days after the request under Article 4 is submitted, and within one week after the request under Article 6 is submitted;

- where an agreement on the coordination of civil works pursuant to Article 5, paragraph 2 is not achieved within one month from the date of receipt of the formal request to negotiate;

- where agreement on access referred to in Article 9, paragraph 1 or 3 is not achieved within one month from the date of receipt of the formal request for access.

any party to such dispute shall be entitled to refer the issue to the competent national dispute settlement body established pursuant to Article 13.

2. Taking full account of the principle of proportionality, of Article 3(2) and Commission guidance, the national dispute settlement body referred to in paragraph 1 shall issue a binding decision to resolve the dispute, within the shortest possible time frame and in any case:

- with respect to requests under Article 3, within four months

- with respect to requests under Articles 4, 5, 6 and 9, within one month

from the date of the receipt of the request to settle the dispute, except in exceptional circumstances, without prejudice to the possibility of any party to refer the case to a court.

3. In disputes regarding access under Article 3, the national dispute settlement body may resolve the dispute by setting fair and reasonable terms and conditions, including price, where appropriate. Where the dispute relates to access to the infrastructure of an operator, and the national dispute settlement body is the national regulatory authority, the objectives set out in Article 3 of Directive (EU) 2018/1972 shall be taken into account, where appropriate.

4. The rules laid down in the present article are in addition to and without prejudice to the judicial remedies and procedures in compliance with Art. 47 Charter of fundamental rights of the Union.

Article 13

Competent bodies

1. Each of the tasks assigned to the national dispute settlement body shall be undertaken by one or more competent bodies, which can be an existing body.

2. The national dispute settlement body appointed by a Member State pursuant to paragraph 1 shall be legally distinct and functionally independent of any network operator, as well as of any public sector body owning or controlling physical infrastructure involved in the dispute. The national dispute settlement body may charge fees to cover the costs of carrying out the tasks assigned to it. Member States that retain ownership or control of network operators shall ensure effective structural separation of the functions related to the national dispute settlement procedures and of the single information point from activities associated with ownership or control.

3. All relevant parties shall cooperate fully with the national dispute settlement body.

4. The functions of the single information point referred to in Articles 3, 4, 5, 6, 7, 8 and 10 shall be performed by one or more competent bodies appointed by the Member States at

national, regional or local level, as appropriate. In order to cover the costs of carrying out those functions, fees may be charged for the use of the single information points.

5. The provisions in paragraph 2 shall apply *mutatis mutandis* to the competent bodies performing the functions of the single information point.

6. The competent authorities referred to in this Article shall exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they shall have adequate technical, financial and human resources to carry out the tasks assigned to them.

7. Member States shall publish the respective tasks to be undertaken by each competent body via the single information point, in particular where those tasks are assigned to more than one body or when the tasks assigned have changed. Where appropriate, these competent authorities shall consult and cooperate among each other on matters of common interest.

8. Unless already done pursuant to the same provision in Directive (EU) 2014/61/EU, Member States shall notify to the Commission the identity of each competent body in accordance with this Article for carrying out a function under this Regulation, and their respective responsibilities, by [DATE OF ENTRY INTO FORCE] and any modification thereof, before such designation or modification enters into force.

9. Any decision taken by any competent body referred to in this Article shall be subject to an appeal, in accordance with national law, before an appeal body that is independent of the parties involved and of any external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. That appeal body may be a court. The conditions and procedures provided for in Article 31 of Directive (EU) 2018/1972 shall apply *mutatis mutandis* to any appeal pursuant to this paragraph. This is without prejudice to the right of the parties to bring the matter before the national competent court.

Article 14

Penalties and compensation

Member States shall lay down rules on penalties, including, where necessary, fines and non-criminal predetermined or periodic penalties, applicable to infringements of any binding decision adopted by the competent bodies referred to in Article 13 of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided shall be appropriate, effective, proportionate and dissuasive.

Member States shall lay down rules on adequate financial compensation of persons suffering damage as a result of the exercise of the rights provided for in this Regulation.

Article 15

Report and monitoring

1. The Commission shall present a report to the European Parliament and the Council by [DATE OF ENTRY INTO FORCE + 5 YEARS] on the implementation of this Regulation. The report shall include a summary of the impact of the measures provided by this Regulation and an assessment of the progress towards achieving its objectives, including whether and how the Regulation could further contribute to achieving the connectivity targets set out in the Decision establishing a Digital Decade Policy Programme 2030.

2. To that end, the Commission may request information from the Member States, which shall be submitted without undue delay. In particular, Member States shall, in close cooperation with the Commission, through the Communications Committee established in Article 118 of

Directive (EU) 2018/1972, set out by [DATE OF ENTRY INTO FORCE + 1 YEAR] indicators to adequately monitor the application of this Regulation and the mechanism to ensure a periodic data gathering and reporting to the Commission thereof.

Article 16

Transitional measures

Member States shall ensure that the provisions of Directive 2014/61/EU continue to apply until the corresponding provisions of this Regulation apply.

National measures currently in place in the Member States shall continue to apply until the implementing act provided to be adopted according to Article 7(8) enters into application and until the Commission guidance referred to in Article 3(9), 5(5), 9(6) is adopted.

Article 17

Repeal

1. Directive (EU) 2014/61/EU is repealed with effect from [date of entry into force of this Regulation].

2. References to the repealed Directive shall be construed as references to this Regulation.

Article 18

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall apply from [six months after its entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*