



**2023/0046(COD)**

15.6.2023

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act) (COM(2023)0094 – C9-0028/2023 – 2023/0046(COD))

Committee on Industry, Research and Energy

Rapporteur: Alin Mituța

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

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

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

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

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act) (COM(2023)0094 – C9-0028/2023 – 2023/0046(COD))**

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

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0094),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0028/2023),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of ... <sup>1</sup>,
  - having regard to Rules 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

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

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Proposal for a REGULATION OF THE EUROPEAN	Proposal for a REGULATION OF THE EUROPEAN

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<sup>1</sup> OJ C ... / Not yet published in the Official Journal.

PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of deploying gigabit electronic communications networks *and* repealing Directive 2014/61/EU (Gigabit Infrastructure Act)

PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of deploying gigabit electronic communications networks, ***amending Regulation (EU) 2015/2120 and*** repealing Directive 2014/61/EU (Gigabit Infrastructure Act).

Or. en

## Amendment 2

### Proposal for a regulation

#### Recital 1

*Text proposed by the Commission*

(1) The digital economy has been changing the internal market profoundly over the last decade. The Union's vision is 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 almost all sectors of a modern and innovative economy. It is of strategic importance to social and territorial cohesion and overall for the Union's competitiveness and digital leadership. Therefore, people as well as the private and public sectors should have the opportunity to be part of the digital economy.

*Amendment*

(1) The digital economy has been changing the internal market profoundly over the last decade. The Union's vision is a digital economy that delivers sustainable economic and social benefits based on excellent and secure connectivity for everybody and everywhere in Europe, ***while helping to achieve Union target for climate neutrality by 2050.*** A high-quality digital infrastructure based on very high capacity networks underpins almost all sectors of a modern and innovative economy. It is of strategic importance to social and territorial cohesion and overall for the Union's competitiveness and digital leadership. Therefore, people as well as the private and public sectors should have the opportunity to be part of the digital economy.

Or. en

## Amendment 3

### Proposal for a regulation

#### Recital 2

(2) The rapid evolution of technologies, the exponential growth in broadband traffic and the increasing demand for advanced very high-capacity connectivity have further accelerated during the COVID-19 pandemic. As a result, the targets laid down in the Digital Agenda in 2010<sup>31</sup> have mostly been met, but they have also become obsolete. The share of households having access to 30 Mbps internet speeds 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 of the European Parliament and of the Council<sup>32</sup> for ensuring connectivity and widespread availability of very high capacity networks. Therefore, in the Decision (EU) 2022/2481 of the European Parliament and Council<sup>33</sup>, the EU set updated targets for 2030 that better correspond to the expected connectivity needs of the future where all European households should be covered by a gigabit network, with all populated areas covered by 5G.

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<sup>31</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 19.05.2010, COM(2010)245.

<sup>32</sup> 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, 17.12.2018, p. 36).

<sup>33</sup> 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

(2) The rapid evolution of technologies, the exponential growth in broadband traffic and the increasing demand for advanced very high-capacity connectivity have further accelerated during the COVID-19 pandemic. As a result, the targets laid down in the Digital Agenda in 2010<sup>31</sup> have mostly been met, but they have also become obsolete. The share of households having access to 30 Mbps internet speeds 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 of the European Parliament and of the Council<sup>32</sup> for ensuring connectivity and widespread availability of very high capacity networks. Therefore, in the Decision (EU) 2022/2481 of the European Parliament and Council<sup>33</sup>, the EU set updated targets for 2030 that better correspond to the expected connectivity needs of the future where all European households should be covered by a gigabit network, with all populated areas covered by ***next-generation wireless high-speed networks with a performance of at least equivalent to that of 5G.***

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<sup>31</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 19.05.2010, COM(2010)245.

<sup>32</sup> 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, 17.12.2018, p. 36).

<sup>33</sup> 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

*Justification*

*Alignment with the Digital Decade targets as provided by the Decision (EU) 2022/2481.*

**Amendment 4**

**Proposal for a regulation**

**Recital 3**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 5**

**Proposal for a regulation**

**Recital 6**

*Text proposed by the Commission*

(6) A major part of the costs of deploying very high capacity networks can be attributed to inefficiencies in the roll-out process related to: (i) the use of existing passive infrastructure (such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions); (ii) bottlenecks related to the coordination of civil works; (iii) burdensome administrative procedures to grant permits; and (iv) bottlenecks in in-building deployment of networks, which lead to high financial barriers, particularly

*Amendment*

(6) A major part of the costs of deploying very high capacity networks can be attributed to inefficiencies in the roll-out process related to: (i) the use of existing passive infrastructure (such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions); (ii) bottlenecks related to the coordination of civil works **carried out by network operators or public authorities**; (iii) burdensome **and lengthy** administrative procedures to grant permits; and (iv) bottlenecks in in-building



in rural areas.

deployment of networks, which lead to high financial barriers, particularly in rural areas.

Or. en

## Amendment 6

### Proposal for a regulation

#### Recital 9

*Text proposed by the Commission*

(9) Measures aiming to make using public and private existing infrastructures more efficient and reduce costs and obstacles in carrying out new civil engineering works should contribute substantially to ensuring a fast and extensive deployment of very high capacity networks. These measures should maintain effective competition without harming the safety, security and smooth operation of the existing infrastructure.

*Amendment*

(9) Measures aiming to make using public and private existing infrastructures more efficient and reduce costs and obstacles in carrying out new civil engineering works should contribute substantially to ensuring a fast and extensive deployment of very high capacity networks, ***in particular in rural, remote or scarcely populated areas or in transport corridors***. These measures should maintain effective competition without harming the safety, security and smooth operation of the existing infrastructure.

Or. en

## Amendment 7

### Proposal for a regulation

#### Recital 10

*Text proposed by the Commission*

(10) Some Member States have adopted measures to reduce the costs of broadband roll-out, including by going beyond the provisions of Directive 2014/61/EU. However, those measures are still very different across Member States and have led to different results across the Union. Scaling up some of those measures across the Union and taking new reinforced

*Amendment*

(10) Some Member States have adopted measures to reduce the costs of broadband roll-out, including by going beyond the provisions of Directive 2014/61/EU. However, those measures are still very different across Member States and have led to different results across the Union. Scaling up some of those measures across the Union and taking new reinforced

measures 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 utility companies. The differences may also raise barriers to entry for new undertakings providing or authorised to provide public electronics communications networks or associated facilities, as defined in Directive (EU) 2018/1972 ('operators'). These differences may also close off new business opportunities, hindering the development of an internal market for the use and deployment of physical infrastructures for very high capacity networks. Moreover, the measures notified in the national roadmaps and implementation reports adopted by Member States under Commission Recommendation (EU) 2020/1307<sup>35</sup> neither cover all the areas of Directive 2014/61/EU nor address all issues in a consistent and complete manner. This is despite how essential it is to take action across the whole roll-out process and across sectors to achieve a coherent and significant impact.

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<sup>35</sup> Commission Recommendation (EU) 2020/1307 of 18 September 2020 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 (OJ L 305, 21.9.2020, p. 33).

measures 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 utility companies. The differences may also raise barriers to entry for new undertakings providing or authorised to provide public electronics communications networks or associated facilities, as defined in Directive (EU) 2018/1972 ('operators'). These differences may also close off new business opportunities, hindering the development of an internal market for the use and deployment of physical infrastructures for very high capacity networks. Moreover, the measures notified in the national roadmaps and implementation reports adopted by Member States under Commission Recommendation (EU) 2020/1307<sup>35</sup> neither cover all the areas of Directive 2014/61/EU nor address all issues in a consistent and complete manner. This is despite how essential it is to take action across the whole roll-out process and across sectors to achieve a coherent and significant impact. ***Member States should be encouraged to continue implementing the connectivity toolbox best practices that facilitate the implementation of this Regulation in line with the minimum harmonisation principle.***

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<sup>35</sup> Commission Recommendation (EU) 2020/1307 of 18 September 2020 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 (OJ L 305, 21.9.2020, p. 33).

Or. en

## Amendment 8

### Proposal for a regulation

#### Recital 11

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

(11) This Regulation aims to strengthen and harmonise rights and obligations applicable across the Union to accelerate the roll-out of very high capacity networks and cross-sector coordination. Due to the persistent fragmentation of electronic communications markets in individual national markets, undertakings providing or authorised to provide electronic communications networks are unable to achieve economies of scale. This can have a strong downstream effect on cross-border trade and services provision, since many services can only be provided where an adequately performant network is in place across the Union. While ensuring an improved level playing field, this Regulation does not prevent national measures in compliance with Union law that serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure by complementing the rights and obligations laid down in this Regulation. For example, Member States could extend provisions on civil works coordination also to privately funded projects or require that more information on physical infrastructure or planned civil works is provided to a single information point in electronic format, provided that they do not violate Union law including the provisions of this Regulation.

##### *Amendment*

(11) This Regulation aims to strengthen and harmonise rights and obligations applicable across the Union to accelerate the roll-out of very high capacity networks and cross-sector coordination. Due to the persistent fragmentation of electronic communications markets in individual national markets, undertakings providing or authorised to provide electronic communications networks are unable to achieve economies of scale. This can have a strong downstream effect on cross-border trade and services provision, since many services can only be provided where an adequately performant network is in place across the Union. While ensuring an improved level playing field, this Regulation does not prevent national measures in compliance with Union law that serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure by complementing the rights and obligations laid down in this Regulation. For example, Member States could ***shorten the deadlines to grant permits necessary for deployment***, extend provisions on civil works coordination also to privately funded projects or require that more information on physical infrastructure or planned civil works is provided to a single information point in electronic format, ***or expand the provisions on access to existing physical infrastructure to privately owned buildings***, provided that they do not violate Union law including the provisions of this Regulation.

Or. en

## Amendment 9

### Proposal for a regulation Recital 14

#### *Text proposed by the Commission*

(14) To improve the deployment of very high capacity networks in the internal market, this Regulation should lay down rights for undertakings providing public electronic communications networks or associated facilities (including undertakings of a public nature) to access physical infrastructure regardless of its location under fair and reasonable terms consistent with the normal exercise of property rights. The obligation to give 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.

#### *Amendment*

(14) To improve the deployment of very high capacity networks in the internal market, this Regulation should lay down rights for undertakings providing public electronic communications networks or associated facilities (including undertakings of a public nature) to access physical infrastructure regardless of its location under fair and reasonable terms consistent with the normal exercise of property rights. ***At the same time, it is important to ensure that the access providers have a fair return on investment, which reflects the relevant market conditions and, in particular in the case of providers of associated facilities, their different business models. Therefore, the access price offered by providers of associated facilities may be assumed to be fair and reasonable when they operate as a wholesale only model which offers only passive access to more than one host public electronic communications operator at comparable conditions. In cases where access is provided through a contract agreed before the date of entry into force of this Regulation, and the price has already been negotiated and agreed, or included in the contract, the price should not be required to comply with fair and reasonable terms.*** The obligation to give 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.

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 15

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

(15) In particular, taking into account the fast development of providers of wireless physical infrastructure such as ‘tower companies’, and their increasingly significant role as providers of access to physical infrastructure suitable to install elements of wireless electronic communications networks, such as 5G, the definition of ‘network operator’ should be extended beyond undertakings providing or authorised to provide electronic communications networks and operators of other types of networks, such as transport, gas or electricity, to include undertakings providing associated facilities, which thus become subject to all the obligations and benefits set out in the Regulation, except the provisions regarding in-building physical infrastructure and access.

##### *Amendment*

(15) In particular, taking into account the fast development of providers of wireless physical infrastructure such as ‘tower companies’, and their increasingly significant role as providers of access to physical infrastructure suitable to install elements of wireless electronic communications networks, such as 5G, the definition of ‘network operator’ should be extended beyond undertakings providing or authorised to provide electronic communications networks and operators of other types of networks, such as transport, gas or electricity, to include undertakings providing associated facilities, which thus become subject to all the obligations and benefits set out in the Regulation, except the provisions regarding in-building physical infrastructure and access. ***In order to ensure continuity of service and predictability for the planned deployments of associated facilities, owners of land where associated facilities have been or will be installed, should be required to negotiate access to land with undertakings providing or authorised to provide those associated facilities under fair and reasonable terms and conditions, including price, in accordance with national contract law.***

Or. en

## Amendment 11

### Proposal for a regulation

#### Recital 17

*Text proposed by the Commission*

(17) In the absence of a justified exception, physical infrastructure elements owned or controlled by public sector bodies, even when they are not part of a network, can also host electronic communications network elements and should be made accessible to facilitate installing network elements of very high capacity networks, in particular wireless networks. Examples of physical infrastructure elements are buildings, 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. It is for Member States to identify specific buildings owned or controlled by public sector bodies in their territories where access obligations cannot apply, for example, for reasons of architectural, historical, religious or natural value.

*Amendment*

(17) In the absence of a justified exception, physical infrastructure elements owned or controlled by public sector bodies ***or any entity exclusively entrusted with performing tasks on their behalf***, even when they are not part of a network, can also host electronic communications network elements and should be made accessible to facilitate installing network elements of very high capacity networks, in particular wireless networks. Examples of physical infrastructure elements are buildings, 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. It is for Member States to identify specific buildings owned or controlled by public sector bodies in their territories where access obligations cannot apply, for example, for reasons of architectural, historical, religious or natural value. ***In order to bridge the digital coverage gap between rural and urban areas, and to ensure connectivity in remote and scarcely populated areas, in limited situations, the requirements to provide access to existing physical infrastructure should be extended to commercial buildings under one of the following conditions: there is no very high capacity network deployed in the area and there is no proven plan that it will be deployed within a year from the moment of when the network operator intends to request access; there is no available existing physical infrastructure in the area owned or controlled by network operators or public sector bodies which is technically suitable to host elements of very high capacity networks; or the requesting operator proves that it has failed to obtain State aid to cover that area, or to find a suitable co-investor to deploy physical infrastructure.***

**Amendment 12****Proposal for a regulation****Recital 20***Text proposed by the Commission*

(20) To ensure proportionality and preserve investment incentives, a network operator or public sector body should have the right to refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure for which access has been requested could be technically unsuitable due to specific circumstances, or because of lack of currently available space or future needs for space that are sufficiently demonstrated, for instance, in publicly available investment plans. To ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure. To avoid any potential distortion of competition or any possible abuse of the conditions to refuse access, any such refusal should be duly justified and based on objective and detailed reasons. For example such reasons would not be considered objective where an undertaking providing or authorised to provide electronic communications networks has deployed physical infrastructure thanks to civil works coordination with a network operator other than an electronic communications network operator and refuses to grant access based on an alleged lack of availability of space to host the elements of very high capacity networks which results from decisions made by the undertaking under its control. In such case, a competition distortion could arise if there is no other VHCN in the area concerned by the access request. Similarly, in specific

*Amendment*

(20) To ensure proportionality and preserve investment incentives, a network operator or public sector body should have the right to refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure for which access has been requested could be technically unsuitable due to specific circumstances, or because of lack of currently available space or future needs for space that are sufficiently demonstrated, for instance, in publicly available investment plans. To ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure. To avoid any potential distortion of competition or any possible abuse of the conditions to refuse access, any such refusal should be duly justified and based on objective and detailed reasons. For example such reasons would not be considered objective where an undertaking providing or authorised to provide electronic communications networks has deployed physical infrastructure thanks to civil works coordination with a network operator other than an electronic communications network operator and refuses to grant access based on an alleged lack of availability of space to host the elements of very high capacity networks which results from decisions made by the undertaking under its control. In such case, a competition distortion could arise if there is no other VHCN in the area concerned by the access request. Similarly, in specific

circumstances, sharing the infrastructure could jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or could endanger the provision of services that are primarily provided over the same infrastructure. Moreover, where the network operator already provides a 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 could have an adverse economic impact on its business model, in particular that of wholesale-only operators, and incentives to invest. It may also risk an inefficient duplication of network elements. The assessment of the fair and reasonable character of the terms and conditions for such alternative means of wholesale physical access should take into account, inter alia, the underlying business model of the undertaking providing or authorised to provide public electronic communications networks granting access *and* the need to avoid any reinforcement of the significant market power, if any, of either party.

circumstances, sharing the infrastructure could jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or could endanger the provision of services that are primarily provided over the same infrastructure. Moreover, where the network operator already provides a 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 could have an adverse economic impact on its business model, in particular that of wholesale-only operators, and incentives to invest. It may also risk an inefficient duplication of network elements. The assessment of the fair and reasonable character of the terms and conditions for such alternative means of wholesale physical access should take into account, inter alia, the underlying business model of the undertaking providing or authorised to provide public electronic communications networks granting access, the need to avoid any reinforcement of the significant market power, if any, of either party, *and the need to ensure a fair return on investment reflecting the relevant market conditions and business model in the case of the providers of associated facilities.*

Or. en

## Amendment 13

### Proposal for a regulation

#### Recital 23

*Text proposed by the Commission*

(23) Public sector bodies that own or control physical infrastructure may lack sufficient resources, experience or the necessary technical knowledge to engage

*Amendment*

(23) Public sector bodies that own or control physical infrastructure may lack sufficient resources, experience or the necessary technical knowledge to engage



in negotiations with operators on access. To facilitate access to these public sector bodies' physical infrastructure, a body **could** be appointed to coordinate the access requests, provide legal and technical advice for negotiating access terms and conditions, and make relevant information on such physical infrastructure available via a single information point. The coordinating body **could** also support public sector bodies in preparing model contracts and monitor the outcome and the length of time of the access requests process. The body could also help if disputes arise on access to physical infrastructure that public sector bodies own or control.

in negotiations with operators on access. To facilitate access to these public sector bodies' physical infrastructure, a body **should** be appointed to coordinate the access requests, provide legal and technical advice for negotiating access terms and conditions, and make relevant information on such physical infrastructure available via a single information point. The coordinating body **should** also support public sector bodies in preparing model contracts and monitor the outcome and the length of time of the access requests process. The body could also help if disputes arise on access to physical infrastructure that public sector bodies own or control.

Or. en

## Amendment 14

### Proposal for a regulation

#### Recital 24

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

(24) To ensure consistency of approaches among Member States, the Commission, in close cooperation with the Body of European Regulators for Electronic Communications (BEREC), **could** provide guidance on applying the provisions on access to physical infrastructure, including but not only on the application of fair and reasonable conditions. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.

##### *Amendment*

(24) To ensure consistency of approaches among Member States, the Commission, in close cooperation with the Body of European Regulators for Electronic Communications (BEREC), **should** provide guidance on applying the provisions on access to physical infrastructure, including but not only on the application of fair and reasonable conditions. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance. ***In order to avoid market disruptions and reverse effects in investments, when establishing the guidelines on a fair and reasonable price, the Commission should take into account the features of the network operators and their business model, in particular when it is based on renting***

*infrastructure to third parties, such as tower companies or wholesale only operators as well as determine criteria for the establishment of prices for different categories of infrastructure.*

Or. en

## Amendment 15

### Proposal for a regulation

#### Recital 25

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

(25) Operators should have access to minimum information on physical infrastructure and **planned** civil works in the area of deployment. This will enable them to effectively plan deploying very high capacity networks and ensure the most effective use of existing physical infrastructure, suitable for rolling out such networks, and planned civil works. 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 publicly and privately financed civil works as well as existing or planned physical infrastructure) and to facilitate access to that information (across sectors and borders), the network operators and public sector bodies subject to transparency obligations should **proactively (rather than upon request)** provide and maintain such minimum information via a single information point. This will simplify managing 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

##### *Amendment*

(25) Operators should have access to minimum information on physical infrastructure and civil works **planned by a network operator or, in specific cases, such as road construction relevant for the deployment of very high capacity network, by a public body** in the area of deployment. **The Commission should issue guidelines on the type of public civil works and information that is to be made available to facilitate deployment of very high capacity networks.** This will enable them to effectively plan deploying very high capacity networks and ensure the most effective use of existing physical infrastructure, suitable for rolling out such networks, and planned civil works. 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 publicly and privately financed civil works as well as existing or planned physical infrastructure) and to facilitate access to that information (across sectors and borders), the network operators and public sector bodies subject to transparency obligations should provide and maintain such minimum information via a single

be provided via a single information point as soon as the information is available to the network operator concerned and, in any event and where permits are required, no later than 3 months before the permit application is first submitted to the competent authorities.

information point. This will simplify managing 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 a single information point as soon as the information is available to the network operator concerned and, in any event and where permits are required, no later than 3 months before the permit application is first submitted to the competent authorities. ***Network operators and public sector bodies subject to transparency obligations could proactively and on a voluntary basis expand the minimum information provided, to additional characteristics, such as information regarding the occupation level of the physical infrastructure, where available, or indicative information regarding the availability of dark fibre.***

Or. en

## Amendment 16

### Proposal for a regulation

#### Recital 28

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

(28) Advanced transparency of planned civil works via single information points should be incentivised. This can be done by easily redirecting operators to such information whenever available. Transparency should also be enforced by making permit-granting applications subject to prior publication of information on ***planned*** civil works via a single information point.

##### *Amendment*

(28) Advanced transparency of planned civil works via single information points should be incentivised. This can be done by easily redirecting operators to such information whenever available. Transparency should also be enforced by making permit-granting applications subject to prior publication of information on civil works ***planned by network operators*** via a single information point.

Or. en

## Amendment 17

### Proposal for a regulation Recital 35

#### *Text proposed by the Commission*

(35) In some cases, in particular for deployments in rural, remote 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 an undertaking providing or authorised to provide public electronic communications networks to coordinate civil works might be considered unreasonable under specific circumstances. This should be the case, in particular, if the requesting undertaking providing or authorised to provide electronic communications networks did not state its intention to deploy very high capacity networks in that area (either as a new deployment, an upgrade or an extension of a network) and there had been a forecast or invitation to declare an intention to deploy very high capacity networks in designated areas (pursuant to Article 22 of Directive (EU) 2018/1972) or a public consultation under Union State aid rules. If more than one of those forecasts, invitations and/or public consultations have occurred, only the lack of an expression of interest at the most recent occasion covering the period during which the request for coordination of civil works is made should be considered. To ensure the possibility to access the deployed infrastructure in the future, the undertaking providing or authorised to provide public electronic communications networks performing the civil works should guarantee that it will deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission. This is without prejudice to the rules and conditions attached to the assignment of

#### *Amendment*

(35) In some cases, in particular for deployments in rural, remote or scarcely populated areas, the obligation **on network operators** 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 an undertaking providing or authorised to provide public electronic communications networks to coordinate civil works might be considered unreasonable under specific circumstances. This should be the case, in particular, if the requesting undertaking providing or authorised to provide electronic communications networks did not state its intention to deploy very high capacity networks in that area (either as a new deployment, an upgrade or an extension of a network) and there had been a forecast or invitation to declare an intention to deploy very high capacity networks in designated areas (pursuant to Article 22 of Directive (EU) 2018/1972) or a public consultation under Union State aid rules. If more than one of those forecasts, invitations and/or public consultations have occurred, only the lack of an expression of interest at the most recent occasion covering the period during which the request for coordination of civil works is made should be considered. To ensure the possibility to access the deployed infrastructure in the future, the undertaking providing or authorised to provide public electronic communications networks performing the civil works should guarantee that it will deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission. This is without prejudice to the rules and conditions

public funds and the application of State aid rules.

attached to the assignment of public funds and the application of State aid rules.

Or. en

## Amendment 18

### Proposal for a regulation

#### Recital 38

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

(38) A number of different permits for deploying elements of electronic communications networks or associated facilities may be necessary in order to protect national and Union general interests. These can include digging, building, town planning, environmental and other permits as well as rights of way. The number of permits and rights of way required for deploying different types of electronic communications networks or associated facilities and the local character of the deployment could involve applying different procedures and conditions, which can cause difficulties in the network deployment. Therefore, to facilitate deployment, all rules on the conditions and procedures applicable to granting 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 single information points. This could reduce complexity and increase efficiency and transparency for all operators and particularly new entrants and smaller operators not active in that area. Moreover, operators should have the right to submit their requests for permits and rights of way in electronic format via a

##### *Amendment*

(38) A number of different permits for deploying elements of electronic communications networks or associated facilities may be necessary in order to protect national and Union general interests. These can include digging, building, town planning, environmental and other permits as well as rights of way. The number of permits and rights of way required for deploying different types of electronic communications networks or associated facilities and the local character of the deployment could involve applying different procedures and conditions, which can cause difficulties in the network deployment. Therefore, to facilitate deployment, all rules on the conditions and procedures applicable to granting permits and rights of way should be streamlined and consistent at national level. ***In order to reduce the administrative burden and ensure shorter timeframes for the permit-granting procedure, where multiple competent authorities are involved in the granting of a number of different permits and rights of way associated to one request, Member States should assign a single coordination body. That body should be tasked to facilitate the coordination between the various competent authorities involved, through different mechanisms, including through joint coordination procedures such as on-site visits,*** while preserving the right of each competent authority to be involved

single information point. Those undertakings should also be able to retrieve information in electronic format about the status of their requests and whether they have been granted or refused.

and maintain its decision-making prerogatives in accordance with the subsidiarity principle. **The** information on the procedures and general conditions applicable to granting permits for civil works and rights of way should be **made** available via single information points **by each competent authority involved**. This could reduce complexity and increase efficiency and transparency for all operators and particularly new entrants and smaller operators not active in that area. Moreover, operators should have the right to submit their requests for permits and rights of way in electronic format via a single information point. Those undertakings should also be able to retrieve information in electronic format about the status of their requests and whether they have been granted or refused.

Or. en

## Amendment 19

### Proposal for a regulation Recital 39

#### *Text proposed by the Commission*

(39) Permit-granting procedures should not be barriers to investment or harm the internal market. Member States should therefore ensure that a decision on whether or not to grant permits on the deployment of elements of very high capacity networks or associated facilities is made available within **4** months from the receipt of a complete permit request. 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 in accordance with national or Union law. Competent authorities should not restrict, hinder or make the deployment of very high capacity networks or associated

#### *Amendment*

(39) Permit-granting procedures should not be barriers to investment or harm the internal market. Member States should therefore ensure that a decision on whether or not to grant permits on the deployment of elements of very high capacity networks or associated facilities is made available within **three** months from the receipt of a complete permit request. ***In exceptional, duly substantiated cases, the competent authority could extend the three-month deadline for a further period of up to three months.*** 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 in accordance

facilities economically less attractive. Specifically, they should not prevent procedures for granting permits and rights of way from proceeding in parallel, where possible, or require operators to obtain one type of authorisation before they can apply for other types of authorisations. Competent authorities should justify any refusal to grant permits or rights of way under their competence, based on objective, transparent, non-discriminatory and proportionate conditions.

with national or Union law. Competent authorities should not restrict, hinder or make the deployment of very high capacity networks or associated facilities economically less attractive. Specifically, they should not prevent procedures for granting permits and rights of way from proceeding in parallel, where possible, or require operators to obtain one type of authorisation before they can apply for other types of authorisations. Competent authorities should justify any refusal to grant permits or rights of way under their competence, based on objective, transparent, non-discriminatory and proportionate conditions. ***In exceptional, duly substantiated cases, where, for reasons beyond their control, the network operators are not able to perform works within the validity period of the granted permit and in order to avoid a repeated application process for the same work, competent authorities should allow the extension of the validity of those permits upon request. When determining the period of extension, competent authorities should take into account the circumstances of each individual case, the type of works and the time needed for completion of works. The period for extension should not exceed the maximum of the period granted for the initial permit.***

Or. en

## Amendment 20

### Proposal for a regulation Recital 40

#### *Text proposed by the Commission*

(40) To avoid undue delays, competent authorities must determine the completeness of the permit request within 15 days from its receipt. The permit

#### *Amendment*

(40) To avoid undue delays, competent authorities must determine the completeness of the permit request within 15 days from its receipt. The permit

request should be deemed complete unless the competent authority invites the applicant to provide any missing information within that period. For reasons of equal treatment and transparency, the competent authorities should not consider permit requests for civil works to be admissible if the minimum information required under this Regulation has not been made available via a single information point within **3** months before the first permit request is submitted to the competent authorities. Where, in addition to permits, rights of way are required for deploying 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 **4** months from the receipt of the request. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within 6 months in accordance with Article 43 of Directive (EU) 2018/1972. Operators that suffer damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right to compensation.

request should be deemed complete unless the competent authority invites the applicant to provide any missing information within that period. For reasons of equal treatment and transparency, the competent authorities should not consider permit requests for civil works to be admissible if the minimum information required under this Regulation has not been made available via a single information point within **three** months before the first permit request is submitted to the competent authorities. Where, in addition to permits, rights of way are required for deploying 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 **three** months from the receipt of the request. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within 6 months in accordance with Article 43 of Directive (EU) 2018/1972. Operators that suffer damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right to compensation.

Or. en

## **Amendment 21**

### **Proposal for a regulation**

#### **Recital 41**

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

(41) In order to ensure uniform conditions for the implementation of Article 7 of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>39</sup>. The

##### *Amendment*

(41) In order to ensure uniform conditions for the implementation of Article 7 of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>39</sup>. The



exemptions from the requirement for permits set out at Union level by way of an implementing act, could be applied to different categories of infrastructure (such as masts, antennae, poles and underground cables) under certain specified 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, small-scale civil works, such as trenching, and renewals of permits.***

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<sup>39</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

exemptions from the requirement for permits set out at Union level by way of an implementing act, could be applied to different categories of infrastructure (such as masts, antennae, poles and underground cables) under certain specified conditions, for which building permits, digging permits or other types of permits may be initially required.

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<sup>39</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

### *Justification*

*In order to ensure harmonization across the EU and eliminate additional burden on operators, works related to minor technical upgrades and maintenance have been explicitly exempted from the permit granted procedure in Article 7 paragraph 2(new) of this Regulation.*

## **Amendment 22**

### **Proposal for a regulation Recital 43**

#### *Text proposed by the Commission*

(43) To facilitate the deployment of elements of very high capacity networks, any fee related to a permit, other than rights of way, should be limited to the administrative costs related to processing the permit request according to the principles established in Article 16 of

#### *Amendment*

(43) To facilitate the deployment of elements of very high capacity networks, any fee related to a permit, other than rights of way, should be limited to the administrative costs related to processing the permit request according to the principles established in Article 16 of

Directive (EU) 2018/1972. In the case of rights of way, the provisions established in Articles 42 and 43 of Directive (EU) 2018/1972 *apply*.

Directive (EU) 2018/1972. In the case of rights of way, *competent authorities should establish the fees taking into account* the provisions established in Articles 42 and 43 of Directive (EU) 2018/1972. *Member States should promote the harmonisation of regional and local policy regarding the criteria for the setting of fees for rights of way on public land and exchange best practices among competent authorities.*

Or. en

## Amendment 23

### Proposal for a regulation Recital 54

#### *Text proposed by the Commission*

(54) Member States should be allowed to rely on, and where necessary improve, digital tools, such as web portals, digital platforms, and digital applications that might already be available at local, regional or national level to provide the functions of the single information point provided they comply with the obligations set out in this Regulation. This includes access through a single national digital entry point and the availability of all the functionalities set out in this Regulation. To comply with the ‘once-only’ data minimisation and accuracy principles, Member States should be allowed to 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 could be interconnected or fully or partially integrated with the ones for planned civil works and granting permits.

#### *Amendment*

(54) Member States should be allowed to rely on, and where necessary improve, digital tools, such as web portals, digital platforms, and digital applications that might already be available at local, regional or national level to provide the functions of the single information point provided they comply with the obligations set out in this Regulation. This includes access through a single national digital entry point and the availability of all the functionalities set out in this Regulation. To comply with the ‘once-only’ data minimisation and accuracy principles, Member States should be allowed to 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 could be interconnected or fully or partially integrated with the ones for planned civil works and granting permits. *In order to avoid duplication and ensure seamless integration, Member*

*States should carry out a comprehensive assessment of already existing digital tools at national, regional and local levels and build on best practices when designing the single information point.*

Or. en

## **Amendment 24**

### **Proposal for a regulation Recital 58**

*Text proposed by the Commission*

(58) To avoid delays in network deployments, the national dispute settlement body should settle the dispute in a timely manner and, in any event, at the latest within **4** months from receipt of the request to settle the dispute in the case of disputes on access to existing physical infrastructure and 1 month when it concerns transparency on physical infrastructure, coordination of planned civil works and transparency on planned civil works. Exceptional circumstances justifying a delay in the settlement of a dispute could be beyond the control of the dispute settlement bodies, such as insufficient information or documentation that is necessary to take a decision, including the views of other competent authorities that need to be consulted or the high complexity of the file.

*Amendment*

(58) To avoid delays in network deployments, the national dispute settlement body should settle the dispute in a timely manner and, in any event, at the latest within **3** months from receipt of the request to settle the dispute in the case of disputes on access to existing physical infrastructure and 1 month when it concerns transparency on physical infrastructure, coordination of planned civil works and transparency on planned civil works. ***In exceptional, duly substantiated cases, those deadlines could be extended by a maximum period of one month.*** Exceptional circumstances justifying a delay in the settlement of a dispute could be beyond the control of the dispute settlement bodies, such as insufficient information or documentation that is necessary to take a decision, including the views of other competent authorities that need to be consulted or the high complexity of the file.

Or. en

## **Amendment 25**

### **Proposal for a regulation Recital 59**

*Text proposed by the Commission*

(59) Where disputes arise on access to the physical infrastructure, planned civil works or information thereof to deploy very high capacity networks, the dispute settlement body should have the power to resolve such disputes by means of a binding decision. In any case, decisions of such a 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 mediation or an additional round of exchanges.

*Amendment*

(59) Where disputes arise on access to the physical infrastructure, planned civil works or information thereof to deploy very high capacity networks, the dispute settlement body should have the power to resolve such disputes by means of a binding decision. In any case, decisions of such a 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 mediation or an additional round of exchanges. ***In order to ensure transparency and predictability and to enhance enforcement and trust in dispute resolution mechanisms, national dispute settlements bodies should publish their decisions in a transparent and clear manner via the single information point(s) while respecting the principles of confidentiality and business secrets.***

Or. en

**Amendment 26**

**Proposal for a regulation**  
**Recital 61**

*Text proposed by the Commission*

(61) 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 towards the parties involved, exercise their powers impartially, transparently and in a timely manner; and have the appropriate competencies and resources.

*Amendment*

(61) The designated national dispute settlement body and the competent body performing the functions of the single information point should ensure impartiality, ***political*** independence ***pursuant to Directive (EU) 2018/1972*** and structural separation towards the parties involved, exercise their powers impartially, transparently and in a timely manner; and have the appropriate competencies and resources.

*Justification*

*Alignment with the Directive (EU) 2018/1972.*

**Amendment 27**

**Proposal for a regulation**

**Article 1 – paragraph 4**

*Text proposed by the Commission*

4. By way of exception to paragraph 3, Member States shall not maintain or introduce in their national law provisions diverging from those laid down in Article 3(3) and (6), Article 4(4), Article 5(2) and (4), Article 6(2) and Article 8(7) and (8).

*Amendment*

4. By way of exception to paragraph 3, Member States shall not maintain or introduce in their national law provisions diverging from those laid down in Article 3(3) and (6), Article 4(4), Article 5(2) and (4), Article 6(2), **Article 7(1)** and Article 8(7) and (8). ***The exclusion of Article 5(2) shall be without prejudice to the possibility of Member States to extend provisions on civil works coordination to privately funded projects.***

Or. en

**Amendment 28**

**Proposal for a regulation**

**Article 2 – paragraph 2 – point 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) ‘very high capacity network’ means very high capacity network as defined in Article 2, point (2), of the Directive (EU) 2018/1972;***

Or. en

## Amendment 29

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 2 – paragraph 1 – point b

*Text proposed by the Commission*

(b) 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.

*Amendment*

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

Or. en

## Amendment 30

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 4

*Text proposed by the Commission*

(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;

*Amendment*

(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, one or several such bodies governed by public law, ***or any entity exclusively entrusted with performing tasks on their behalf which includes control or management of the physical infrastructure;***

Or. en

## Amendment 31

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 11 a (new)

*Text proposed by the Commission*

*Amendment*

**(11a) ‘rights of way’ means rights granted pursuant to Article 43(1) of the Directive (EU) 2018/1972;**

Or. en

## **Amendment 32**

### **Proposal for a regulation Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Upon written request of an operator, public sector bodies owning or controlling physical infrastructure or network operators shall meet all reasonable requests for access to that physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of very high capacity networks or associated facilities. Public sector bodies owning or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions. ***Such written requests shall specify the elements of the physical infrastructure for which the access is requested, including a specific time frame.***

1. Upon written request of an operator, public sector bodies owning or controlling physical infrastructure or network operators shall meet all reasonable requests for access to that physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of very high capacity networks or associated facilities. ***In such written requests operators shall specify the elements of the physical infrastructure for which they request access, including a specific time frame. Undertakings providing or authorised to provide access to associated facilities that can demonstrate they have an agreement with an operator providing or authorised to provide a public electronic communications network shall not be required to offer that access under fair and reasonable price, when such price has been already negotiated and included in a contract, or agreed to be part of automatic contract renewals.*** Public sector bodies owning or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions.

Or. en

### Amendment 33

#### Proposal for a regulation Article 3 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Where required to ensure the continuity of electronic communication service, owners of land where associated facilities have been or will be installed with the view to deploying element of very high capacity networks, shall negotiate with undertakings providing or authorised to provide those associated facilities at fair and reasonable terms and conditions, for the access to land, including price, in accordance with national contract law.***

Or. en

### Amendment 34

#### Proposal for a regulation Article 3 – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. Owners of buildings exclusively used for private commercial purposes shall also meet reasonable requests for access to those buildings, including their rooftops, with a view to installing elements of very high capacity networks or associated facilities under fair and reasonable terms and conditions, including price, in areas where:***

***(a) there is no very high capacity network deployed and there is no proven plan that it will be deployed within a year of the moment of when the network operator intends to request access;***

***(b) there is no available existing physical infrastructure owned or***



*controlled by network operators or public sector bodies which is technically suitable to host elements of very high capacity networks; or*

*(c) the requesting operator proves it has failed to obtain State aid to cover that area, or to find a suitable co-investor to deploy physical infrastructure.*

*This paragraph shall be without prejudice to the right of Member States to expand the obligation to meet reasonable requests for access to physical infrastructure to private buildings.*

Or. en

## Amendment 35

### Proposal for a regulation

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

*Text proposed by the Commission*

(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 communications networks, any remedies imposed by a national regulatory authority shall also be taken into account.

*Amendment*

(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, ***different business models***, and any tariff structures put in place to provide a fair opportunity for cost recovery; in the case of electronic communications networks, any remedies imposed by a national regulatory authority shall also be taken into account.

Or. en

## Amendment 36

### Proposal for a regulation

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

*Text proposed by the Commission*

(b) the impact of the requested access on the access provider's business plan, including investments in the physical infrastructure to which the access has been requested;

*Amendment*

(b) the impact of the requested access on the access provider's business plan, including investments in the physical infrastructure to which the access has been requested, ***as well as the need to ensure that the access provider has a fair return on investment, which reflects the relevant market conditions and, in particular in the case of the providers of associated facilities, their different business models; the access price offered by providers of associated facilities may be assumed to be fair and reasonable when they operate as a wholesale only model which offers only passive access to more than one host public electronic communications operator at comparable conditions.***

Or. en

**Amendment 37**

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

*Text proposed by the Commission*

4. 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 a single information point referred to in Article 10.

*Amendment*

4. Member States ***shall*** 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, ***including with respect to access to land*** and facilitate the provision of information via a single information point referred to in Article 10.

Or. en

## Amendment 38

### Proposal for a regulation Article 3 – paragraph 8

*Text proposed by the Commission*

8. ***This Article shall be*** without prejudice to the right to property of the owner of the physical infrastructure 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.

*Amendment*

8. Without prejudice to ***paragraph 1a, this Article shall not affect*** the right to property of the owner of the physical infrastructure 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.

Or. en

## Amendment 39

### Proposal for a regulation Article 3 – paragraph 9

*Text proposed by the Commission*

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 this Article.

*Amendment*

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 ***shall***, in close cooperation with BEREC, provide guidance on the application of this Article.

Or. en

## Amendment 40

### Proposal for a regulation Article 4 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***Member States may require information on existing physical infrastructure in***

*addition to the minimum information referred to in the first subparagraph, such as information on the occupation level of the physical infrastructure.*

Or. en

## Amendment 41

### Proposal for a regulation Article 4 – paragraph 2

*Text proposed by the Commission*

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 + 12 MONTHS]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new minimum information referred to in paragraph 1.

*Amendment*

2. Network operators and public sector bodies shall make available the minimum information, referred to in paragraph 1, **and, where applicable, additional information** via the single information point and in electronic format, by [DATE OF ENTRY INTO FORCE + 12 MONTHS]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new minimum information referred to in paragraph 1.

Or. en

## Amendment 42

### Proposal for a regulation Article 5 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

Any network operator **or public authority** when performing or planning to perform directly or indirectly civil works, which are fully or partially financed by public means, shall meet any reasonable written request to coordinate those civil works under transparent and non-discriminatory terms made by operators with a view to deploying elements of very high capacity

associated facilities.

networks or associated facilities.

Or. en

### Amendment 43

#### Proposal for a regulation

#### Article 7 – paragraph 5 – subparagraph 1

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

The competent authorities shall grant or refuse permits, other than rights of way, within **4** months from the date of the receipt of a complete permit application.

##### *Amendment*

The competent authorities shall grant or refuse permits, other than rights of way, within **three** months from the date of the receipt of a complete permit application.

Or. en

### Amendment 44

#### Proposal for a regulation

#### Article 7 – paragraph 5 – subparagraph 4

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

***By way of exception and based on a justified reason set out by a Member State***, the **4** month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority ***on its own motion. Any extension shall be the shortest possible.*** Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.

##### *Amendment*

***In exceptional and duly substantiated cases***, the **three** month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority ***by a period not longer than three months.*** Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.

Or. en

### Amendment 45

#### Proposal for a regulation

#### Article 7 – paragraph 6

*Text proposed by the Commission*

6. By way of derogation from Article 43(1), point (a) 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 **4** month period from the date of receipt of the application.

*Amendment*

6. By way of derogation from Article 43(1), point (a) 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 **three** month period from the date of receipt of the application.

Or. en

**Amendment 46**

**Proposal for a regulation  
Article 7 – paragraph 7**

*Text proposed by the Commission*

7. In the absence of a response from the competent authority within the **4**-month deadline referred to in paragraphs 5 first subparagraph, and unless such deadline is extended pursuant to paragraph 5 fourth subparagraph, the permit shall be deemed to have been granted. This shall also apply in the case of rights of way referred to in paragraph 6.

*Amendment*

7. In the absence of a response from the competent authority within the **three** month deadline referred to in paragraphs 5 first subparagraph, and unless such deadline is extended pursuant to paragraph 5 fourth subparagraph, the permit shall be deemed to have been granted. This shall also apply in the case of rights of way referred to in paragraph 6. ***Upon request, the network operator requesting the permit shall be entitled to receive confirmation of the permit that is deemed to have been granted.***

Or. en

**Amendment 47**

**Proposal for a regulation  
Article 7 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. Competent authorities shall allow renewal of permits to the operators to which the permit has been granted for the deployment of elements of very high capacity networks or associated facilities that for objectively justified reasons were not able to start or conclude the work before the expiration of the validity of the permit. The renewal shall be made upon a request of the operator via the single information point and require no additional procedures. Competent authorities shall grant the renewed permit for a validity period of the maximum that corresponds to the period that was granted for the original permit.***

Or. en

## **Amendment 48**

### **Proposal for a regulation Article 7 – paragraph 7 b (new)**

*Text proposed by the Commission*

*Amendment*

***7b. Operators shall not be subject to permit-granting procedure for works on the authorised infrastructure, consisting in repair and maintenance works or upgrades of existing installations, provided that it may only require minor a intervention in comparison to the initial work for which the permit was granted. This shall be done in accordance with the specifications of the implementing act referred to in paragraph 8.***

Or. en

## Amendment 49

### Proposal for a regulation Article 7 – paragraph 8

*Text proposed by the Commission*

8. The Commission shall, by means of an implementing act, specify categories of deployment of elements of very high capacity networks or associated facilities that shall not be subject to any permit-granting procedure within the meaning of this Article. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 13.

*Amendment*

8. The Commission shall, by means of an implementing act, specify **a minimum list of** categories of deployment of elements of very high capacity networks or associated facilities that shall not be subject to any permit-granting procedure within the meaning of this Article, **including of paragraph 7b, without prejudice to the right of Member States to expand the list of such categories.** This implementing act shall be adopted **by [DATE OF ENTRY INTO FORCE + 12 MONTHS]**, in accordance with the examination procedure referred to in Article 13.

Or. en

## Amendment 50

### Proposal for a regulation Article 7 – paragraph 9

*Text proposed by the Commission*

9. Competent authorities shall not subject the deployment of elements referred to in 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, religious or natural value protected in accordance with national law or where necessary for public safety reasons.

*Amendment*

9. Competent authorities shall not subject the deployment of elements referred to in 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, religious or natural value protected in accordance with national law or where necessary for public safety **or national security** reasons.

Or. en



## Amendment 51

### Proposal for a regulation Article 7 – paragraph 11 a (new)

*Text proposed by the Commission*

*Amendment*

**11a. Where multiple competent authorities are involved in the granting of a number of different permits and rights of way associated to one request, Member States shall designate a single body responsible to coordinate the procedures related to granting permits.**

Or. en

## Amendment 52

### Proposal for a regulation Article 8 – paragraph 4 – introductory part

*Text proposed by the Commission*

*Amendment*

4. Member States shall adopt the relevant standards or technical specifications that are necessary for the implementation of paragraphs 1, 2 and 3 before [ENTRY INTO FORCE + 9 **months**]. Those standards or technical specifications shall set at least:

4. Member States shall, **in cooperation with operators and based on industry best practices** adopt the relevant standards or technical specifications that are necessary for the implementation of paragraphs 1, 2 and 3 before [ENTRY INTO FORCE + 9 **MONTHS**]. Those standards or technical specifications shall set at least:

Or. en

## Amendment 53

### Proposal for a regulation Article 10 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Member States may interconnect or

2. Member States may interconnect

fully or partially integrate several digital tools supporting the single information points referred to paragraph 1, as appropriate.

or fully or partially integrate several *existent or newly developed* digital tools supporting the single information points referred to paragraph 1, as appropriate. *To that end, Member States shall carry out an assessment to identify the existing relevant digital tools in order to avoid duplication.*

Or. en

#### Amendment 54

##### Proposal for a regulation

##### Article 11 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

*(ba) where agreement on specific terms and conditions, including price, has not been reached within one month from the date of the receipt of the request for access to land, made by an undertaking providing or authorised to provide associated facilities under Article 3(1a);*

Or. en

#### Amendment 55

##### Proposal for a regulation

##### Article 11 – paragraph 2 – subparagraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) within *four* months from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, point (a);

(a) within *three* months from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, point (a);

Or. en

## Amendment 56

### Proposal for a regulation

#### Article 11 – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

(b) within one month from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, points (b), (c) and (d).

*Amendment*

(b) within one month from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, points (b), **(ba)**, (c) and (d).

Or. en

## Amendment 57

### Proposal for a regulation

#### Article 11 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

Those deadlines may only be extended in exceptional circumstances.

*Amendment*

Those deadlines may only be extended in exceptional circumstances **by a maximum period of one month.**

Or. en

## Amendment 58

### Proposal for a regulation

#### Article 11 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. The single information point shall make available the decisions issued by the national dispute settlement bodies, provided that all necessary measures to ensure confidentiality and protection of business secrets of the parties involved in the dispute are taken.**

Or. en

## *Justification*

*The provision is transposed from the best practices provided in the Connectivity Toolbox.*

### **Amendment 59**

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

#### **Article 12 – paragraph 2**

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

2. The national dispute settlement body shall be legally distinct and functionally independent of any network operator and any public sector body owning or controlling physical infrastructure involved in the dispute. 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 those of the single information point from activities associated with ownership or control.

##### *Amendment*

2. The national dispute settlement body shall be ***politically independent***, legally distinct and functionally independent of any network operator and any public sector body owning or controlling physical infrastructure involved in the dispute. 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 those of the single information point from activities associated with ownership or control.

Or. en

### **Amendment 60**

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

#### **Article 12 – paragraph 5**

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

5. The functions of a single information point referred to in Articles 3 to 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.

##### *Amendment*

5. The functions of a single information point referred to in Articles 3 to 8 and 10 shall be performed by one or, ***where applicable*** 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.

## Amendment 61

### Proposal for a regulation Article 16 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Measures regarding dispute settlements provided for in Articles 11 and 12 shall apply to dispute settlement proceedings initiated after the entry into force of this Regulation.***

Or. en

## Amendment 62

### Proposal for a regulation Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

***Article 16a***

***Amendments to Regulation (EU)  
2015/2120***

***Regulation (EU) 2015/2120 is amended as follows:***

***(1) the title is replaced by the following:***

***‘Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access, abolishing retail surcharges for regulated intra-Union communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012’;***

***(2) in Article 1, paragraph 3 is replaced by the following:***

***‘This Regulation also abolishes retail surcharges for regulated intra-Union***

*communications to ensure that consumers are not charged excessive prices for making number-based interpersonal communications originating in the Member State of the consumer's domestic provider and terminating at any fixed or mobile number in another Member State.';*

**(3)** *Article 5a is replaced by the following:*

**Article 5a**

**Abolition of retail surcharges for regulated intra-EU communications**

**1.** *Providers of electronic communications to the public shall not apply tariffs to regulated intra-EU communications terminating in another Member State that are higher than the tariffs applicable to services terminating in the same Member State, unless they demonstrate the existence of direct costs that are objectively justified.*

**2.** *By... [DATE OF ENTRY INTO FORCE + 6 MONTHS], BEREC shall provide guidelines setting out the criteria for determining the objectively justified direct costs referred to in paragraph 1.*

**3.** *By... [DATE OF ENTRY INTO FORCE + 12 MONTHS], and biennially thereafter, the Commission shall, after consulting BEREC, publish a report on the application of the requirement laid down in paragraph 1, including an assessment of the evolution of intra-Union communication tariffs.';*

**(4)** *in Article 10, paragraph 5 is deleted.*

Or. en

*Justification*

*To protect citizens from excessive prices, retail charges for intra-EU calls are currently capped by the EU Regulation (2015/2120). Despite the fact that these caps are set to expire in*

*May 2024, the European Commission did not yet provide a clear way forward. In the assessment report, the European Commission has recognized that at this point in time, it is hard to reassure that the retail prices for intra-EU communications would not increase if the measures that expire on 14 May 2024 were not to be extended. In this context of uncertainty, the rapporteur believes that action should be taken and fees on intra-EU calls should be abolished entirely. This is a significant step that would not only foster intra-EU communications and exchanges, but would also allow us to create a true single market for digital and telecommunication services in the EU. A first step was taken back in 2017, with the abolishment of roaming fees and the rapporteur aims to work further towards eliminating barriers for the intra-EU calls. Since the Gigabit Infrastructure Act may serve as the appropriate legislative vehicle to regulate intra-EU calls before the current provisions expire, the rapporteur suggests including a specific amendment in this regard that reiterate Parliament's position as adopted in report A9-0286/2021 on 15 March 2021.*

## EXPLANATORY STATEMENT

The deployment of very high capacity networks is the cornerstone of the digital economy of the Union and is fundamental for ensuring a digital society in which every citizen and business is able to benefit from the digital rights. The latest developments in AI, cloud computing, and big data could provide smarter, more flexible and more innovative services. In order to be able to harness the full potential, ubiquitous and resilient high-speed connectivity infrastructure that meet the demands for faster, more reliable and data-intense connectivity are crucial. However, the current Broadband Cost Reduction Directive has failed to achieve its network deployment ambitions and challenge the possibility to reach the targets of the Digital Decade Programme. Fragmented rules and procedures across the EU, lengthy, burdensome and costly permit-granting procedures, difficulties in accessing public infrastructure, and lack of coordination and synergies have hindered the efforts to deploy fibre and 5G, and prevented operators from achieving economies of scale.

Therefore, the rapporteur strongly welcomes the Commission's proposal for a 'Gigabit Infrastructure Act'. This proposal is a step in the right direction that will facilitate and incentivise the deployment of very high capacity networks. The report emphasises the importance of establishing harmonised minimum requirements in a Regulation since it has been established that the current Directive has not delivered as expected on its objectives. The Regulation will also allow flexibility for Member States, taking into account their specific needs, but also the possibility to exceed these requirements, particularly if they aim to be more ambitious. At the same time, the report acknowledges the existence of good practices in several countries and highlights the need to incentivise the use of and learn from these examples.

This report also proposes the following changes to the Commission's proposal:

### **Expanded Access to Physical Infrastructure**

In an effort to bridge the digital coverage gap between rural and urban areas, the rapporteur proposes, in limited conditions, to expand the obligation to facilitate access to physical public infrastructures to privately owned commercial buildings. This expansion aims to provide coverage in rural, remote, or scarcely populated areas where no public building or infrastructure can offer a satisfactory alternative.

### **Shorter Timelines**

Recognizing the need for efficient and timely decision-making processes, and based on current practices in different Member States, the rapporteur believes that the Regulation should establish shorter timelines for granting permits, coordinating access requests and dispute settlement proceedings.

### **Inclusion of towers**

The rapporteur supports the inclusion of operators of associated facilities (tower companies) in this Regulation. Since they will play a pivotal role in the deployment of high-speed wireless electronic communication networks especially in rural and sparsely populated areas or transport corridors, tower companies should be able to benefit from fast permit-granting procedures,



similar to those for fibre. To ensure continuity of services and minimise disruptions, the report recommends protecting tower companies against potential speculative behaviour by ensuring that owners of land, where a tower is already installed or for which a permit has already been granted, will negotiate on fair and reasonable terms with the tower company. Regarding the obligation to provide fair and reasonable access to operators, the report suggests that price guidelines should consider the specific business model and circumstances of the tower industry.

### **Joint Coordination and Single Information Point**

To streamline administrative procedures and prevent unnecessary delays, the report calls for enhanced coordination between competent authorities responsible for coordinating access requests. A designated body is introduced for the permit-granting procedure, when more competent authorities are involved in the granting of a permit request. The rapporteur strongly believes that this joint coordination will improve efficiency, transparency and reduce administrative burden for the operators. Additionally, the report welcomes the digitalization of procedures and emphasises the importance of establishing a Single Information Point that capitalises on best practices from Member States. This centralised and easily accessible source of information would further enhance efficiency.

### **Enhanced role of the stakeholders, BEREC and relevant Union agencies and bodies**

The rapporteur acknowledges the inevitable role of the industry in the development of standards, technical specifications and guidelines. In this regard, the rapporteur advocates for the active inclusion of the stakeholders' community in the development process. Taking into consideration the specificity of the telecommunications sector, the report also highlights the need to take into account the input of BEREC.

### **Intra-EU Calls**

To protect citizens from excessive prices, retail charges for intra-EU calls are currently capped by the EU Regulation (2015/2120). Despite the fact that these caps are set to expire in May 2024, the European Commission did not yet provide a clear way forward. In the [assessment report](#), the European Commission has recognized that at this point in time, it is hard to reassure that the retail prices for intra-EU communications would not increase if the measures that expire on 14 May 2024 were not to be extended. In this context of uncertainty, the rapporteur believes that action should be taken and fees on intra-EU calls should be abolished entirely. This is a significant step that would not only foster intra-EU communications and exchanges, but would also allow us to create a true single market for digital and telecommunication services in the EU. A first step was taken back in 2017, with the abolishment of roaming fees and the rapporteur aims to work further towards eliminating barriers for the intra-EU calls. Since the Gigabit Infrastructure Act may serve as the appropriate legislative vehicle to regulate intra-EU calls before the current provisions expire, the rapporteur suggests including a specific amendment in this regard that reiterate the Parliament's position as adopted in the report A9-0286/2021 on 15 March 2021.