Contribution ID: a1a845c4-faa0-42c6-80cf-0781026009a6
Date: 02/03/2021 12:27:09

Public Consultation on the Evaluation and Review of the Broadband Cost Reduction Directive

Fields marked with * are mandatory.

Introduction

The Broadband Cost Reduction Directive (2014/61/EU) aims to facilitate and incentivise the roll-out of high-speed electronic communications networks by lowering the costs of deployment with a set of harmonised measures. The measures focus on access to existing physical infrastructure, coordination of civil works, simplification of administrative procedures and requirements for in-building physical infrastructure for new buildings and major renovations. It also includes provisions to ensure transparency of relevant information through Single Information Points and dispute resolution mechanisms.

The review of the Broadband Cost Reduction Directive is part of the actions announced in the Communication on 'Shaping Europe's Digital Future' (COM (2020)67 final), which stressed that, for digital infrastructure and networks alone, the EU has an investment gap of EUR 65 billion per year. Moreover, adequate investments at EU, national and regional levels are necessary to achieve the EU 2025 connectivity objectives and a Gigabit Society (COM(2016) 587 final) in Europe.

The evidence gathered so far by the Commission, including the report on the implementation of the Broadband Cost Reduction Directive (COM(2018) 492) and the continuous monitoring of its implementation in the Member States, gives rise to the need for the Broadband Cost Reduction Directive to be evaluated and possibly revised. At the same time, the revised instrument should adapt to recent and current technological, market and regulatory developments and help foster a more efficient and fast deployment of more sustainable very high

capacity networks, including fibre and 5G, ensuring alignment with the European Electronic Communications Code and contributing to greening the Information and Communication Technology sector as part of the 'European Green Deal' (COM(2019) 640).

The Commission is carrying out an evaluation of the current measures under the Broadband Cost Reduction Directive and an impact assessment of a possible revised instrument, in a back-to-back process. In this context, this public consultation has two main objectives:

1. collect stakeholders' views and inputs on the implementation of the Directive to support the analysis of the backward-looking evaluation and,
2. collect stakeholders' views and inputs to support forward-looking policy options.

Written feedback provided in other document formats can be uploaded through the button made available at the end of the questionnaire.

About you

* Language of my contribution

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ◉ English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian

- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as
  - Academic/research institution
  - Business association
  - Company/business organisation
  - Consumer organisation
  - EU citizen
  - Environmental organisation
  - Non-EU citizen
  - Non-governmental organisation (NGO)
  - Public authority
  - Trade union
  - Other

* First name

Tomas

* Surname

JAKIMAVICIUS

* Email (this won't be published)

tjakimavicius@gsma.com

* Organisation name

255 character(s) maximum

GSMA

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

30988577529-37

* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone

- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia

- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam

- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **Fo r the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- **Public**
  Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☑ I agree with the personal data protection provisions

* Please specify further the capacity(s) in which you are replying to the questionnaire (several answers may be selected):

- ☑ Operator of electronic communications networks (individual operator or industry association).
- ☐ Operators of physical infrastructure intended to host electronic communications networks (individual operator or industry association).
- ☐ Operator of other types of networks intended to provide a service of production, transport or distribution of gas, electricity (including public lighting), heating and water (including disposal or treatment of waste water and sewage and drainage systems), as well as transport services, including railways, roads, ports and airports (individual operator or industry association).
- ☐ Government (national) Authority/Body
- ☐ Regional Authority/Body
- ☐ Local Authority/Body
- ☐ National regulatory authority for the electronic communications sector.
- ☐ National regulatory authority for other sectors (energy, transport, etc.).
- ☐ EU body or institution
- ☐ Other public body or institution
- ☐ Owner or manager of private property that may be used for the deployment of electronic communications networks (individual or association).
- ☐ Supplier of electronic communications equipment and related services (individual operator or industry association).
- ☐ Building and civil works sector (individual operator or industry association).
- ☐ Stakeholder with a general interest in the deployment of very high capacity networks and services including citizens, social and economic organisations /groups, and nongovernmental bodies.
- ☐ Stakeholder interested in environmental protection, including citizens, social and economic organisations/groups, and nongovernmental bodies.
- ☐ Expert in the subject matter, including academia and think tanks
- ☐ Other

Type of electronic communications networks operator:

- ○ Fixed
- ◉ Mobile/Wireless
- ○ Fixed and Mobile/Wireless

General questions

This section includes some general questions on the benefits of widespread high quality connectivity, the joint deployment of networks, and the role of public authorities to facilitate this deployment.

1. In your opinion, to what extent can widespread high quality connectivity play a role in the response to the COVID-19 crisis and the economic recovery?

In the light of COVID-19 crisis, providing robust high quality connectivity to individuals, businesses and governments has never been of greater importance.

At a time when Member States are facing 'lockdown', while EU as a whole is planning its economic and societal recovery measures, in many of our communities, connectivity can be the only channel for a business to connect with its customers or for schools to connect with their students.

Widespread high quality connectivity will play a significant role in the response to the COVID-19 crisis, as it will ensure network stability and lay the foundations for future economic growth. Investments in widespread connectivity will help sustain jobs in the short term, when aggregate demand is low. In the medium and long term, the infrastructure will be instrumental in making Europe more competitive through enabling the take up of new digital services like industry 4.0 applications, smart cities, or connected cars, all of which would benefit from a reduction in broadband deployment costs.

Networks inevitably feel the strain as a result of a surge in activities now conducted online, notably via large numbers of people suddenly working and studying from home. During this crisis data traffic increased as much as 50 per cent in some markets. Operators are investing in added capacity in order to ensure their networks remain as robust and secure as ever.

In this context, the review of this Directive should result in effective pan-European instrument for network deployment, which is vital in connecting Europe for a better and digital future.

2. To what extent is it appropriate to apply measures at European Union level to facilitate and incentivise the roll-out of high-speed electronic communications networks?

To increase the BCRD's effectiveness, so it would incentivize and facilitate the deployment of future networks efficiently, its scope should be widened for example by putting stronger emphasis on the cost reduction for the deployment of mobile networks. Moreover, consistent, harmonized and efficient procedures for Member States should be introduced. Thus, it would significantly contribute to achieving Digital Single Market.

Ultimately, increased costs of compliance and deployment result in worse consumer and socioeconomic outcomes. Therefore, to achieve its goals, the BCRD must:

- Improve and expand access to any suitable existing physical infrastructure belonging to any private or public entity;
- Ensure an effective application of measures on transparency;
- Prescribe more effective and simplified permit granting procedures: harmonised and streamlined EU rules, or at least nationally consistent rules, is the only way to overcome the granularity and inefficiency at the local and municipal level;
- Introduce an ambitious pro-investment approach. In addition to the alignment with the EECC and stronger harmonisation and enforcement of current measures, such approach will provide an enhanced new framework for public authorities and network operators to ensure a more cost-efficient deployment of sustainable networks;
- Support, in line with the EECC cooperation initiatives, as network sharing in mobile, a co-investment in fixed and common projects (e.g. edge cloud). Most of these initiatives are also in line with the "green" objectives as they allow to share costs and they are environmental-friendly.

Designing rules at EU level is definitively a priority, but likewise is the monitoring of their effective application at national level and making sure rules are enforced in practice. Unless this is achieved, reviewing the existing framework would still carry along the shortcomings of the incomplete application of previous rules.

3. In your opinion, what benefits could be obtained from the coordination of civil works for the joint deployment of networks (telecommunications, electricity, gas, roads)?

Coordination of civil works for the joint deployment of networks reduces costs and acts as a catalyst for further investment in deployment of networks. It would also benefit the business solutions and various cooperation models, especially in cases of large-scale deployment of networks. The timing component of such coordination is of crucial importance (for example early awareness of upcoming works and not just informing "on the spot" that here and there civil works are in progress).

Coordination of civil works reduces costs for operators and disturbances for citizens, but it also entails higher bureaucracy (joint project management, rework of deployment plans and processes, etc.). In general, telecom infrastructure has lower requirements than other utilities, and is therefore more impacted by the increased burden that coordination entails.

4. Besides public funding, what role should public administrations –at different levels- play to facilitate the deployment of electronic communications networks?

Public administrations should ensure that variability in local processes, procedures and administrative costs are reduced to the necessary minimum to increase efficiency for operators and to remove hurdles to effective deployment. Ultimately, increased costs of compliance and deployment result in worse consumer and socioeconomic outcomes. In particular, local public administrations must ensure a more consistent application of national rules and a greater coordination and alignment of timings of all the permits between the different granting authorities should be pursued.

To facilitate that, the revised BCRD should introduce the following key improvements:

- Alignment with the EECC and the objectives of the Gigabit Society Communication.

- Specific improvements needed to promote the efficient VHCN deployment and the transformation towards the Gigabit society.

- Timely and complete registry of the public property available to third parties.

- A “deemed consent” regime for relevant access to public buildings, rooftops and infrastructure. Its scope should include land owned by public authorities (state and municipal and regional authorities).

- Access to infrastructure on public property should be free of charge (with the exception of administrative charges) or at most based on incremental costs, thus helping to meet public connectivity objectives faster. The new law should facilitate the negotiation of economic conditions to reduce the need to resort to dispute resolution, which has been largely underused and ineffective as a way to enforce the Directive. In case dispute resolution is used, the new law should address its current ineffectiveness, as otherwise it delays deployments.

- Universal and streamlined rules for permit costs and procedures. In particular, a silent approval regime should apply also for ancillary permits (e.g. traffic ordinances and the authorisations needed in case of archeological, landscape or cultural goods constraints) and alignment of timings of all the permits.

- A single management point at national level that provides access to private and public sector infrastructure information, allowing access on demand to minimum information concerning the existing physical infrastructure to any network operator. Ideally, the single management point should not only provide information but also facilitate interactions with the authorities involved. Large savings as well as time could be achieved if requests for access or permits, and even payment of administrative fees, could all be managed through a single interface.

- Harmonised and streamlined rules is the only way to overcome the granularity and inefficiency at the local and municipal level. Central administration authorities should be able to collect information on construction activities in local levels, in order to maintain information that can be used for telecommunication network planning. In addition, there is the need for a greater enforcement and respect of the deadlines set at national level by local administrations (this could be achieved for example with an effective refund in case of delays).

- Consider networks’ crucial “enabling effect” for the economy’s efficiency, irrespectively of the network technology used.

Evaluation of the overall functioning of the Broadband Cost Reduction Directive

This section includes some general questions on the overall evaluation of the functioning of the Broadband Cost Reduction Directive in relation to the key evaluation criteria established in the Commission's Better Regulation Guidelines (i.e. effectiveness, efficiency, coherence, relevance and EU added value).

5. To what extent has the Broadband Cost Reduction Directive been e**ffective to achieve its general objective** of reducing the cost for high-speed electronic communications networks deployment?

- ○ Not effective at all
- ○ Not effective
- ◉ Neutral
- ○ Effective
- ○ Very effective
- ○ No opinion

Please explain your response, including if there are factors other than the implementation of the Directive that have contributed to reducing the cost of high-speed broadband deployment.

The BCRD's effectiveness has varied greatly among Member States. While in some Member States it was transposed and enforced in a relatively effective manner, thus facilitating the deployment of ultra-fast broadband networks, in others it had limited success. In some Member States although the Directive has been transposed, it is not being applied in practice (i.e. not even a workable national infrastructure mapping /registry). In some cases, unwillingness from other network operators to cooperate and provide information about their physical infrastructure has been witnessed.

The BCRD has failed in achieving its goal of providing uniform rules across and within Member States and helping them achieve the Digital Single Market. Variability in local processes, procedures and administrative costs creates inefficiencies for operators and hurdles to effective deployment.

As regards the factors other than the implementation of the Directive that have contributed to reducing the cost of high-speed broadband deployment, voluntary network sharing and co-investment agreements are the most important ones and thus it's important their promotion.

6. To what extent has the Broadband Cost Reduction Directive been **effective to achieve its operational objectives**?

	Not effective at all	Not effective	Neutral	Effective	Very effective	No opinion

Increased access to existing physical infrastructure suitable for high-speed broadband roll-out	○	○	◉	○	○	○
Reinforced coordination of civil works	○	○	◉	○	○	○
Reduction of time and cost of permit granting	○	◉	○	○	○	○
Increased access to existing physical infrastructure suitable for high-speed broadband roll-out	○	○	◉	○	○	○

Please explain your answer(s):

The effective achievement of BCRD's operational objectives has varied greatly across EU Member States. Access to physical infrastructure of utilities company has improved in some countries even though in any case there are some areas of improvements especially regarding the scope of physical infrastructure (which needs to be widened), the application of the fair and reasonable concept and the efficiency of dispute resolution.
In general, BCRD had limited success in areas of enforcement and local permit granting procedures. It would be beneficial to introduce stricter guidelines for Member States on permit granting process. In some Member States it has not been effective at all since it has not been applied.

7. As regards the **efficiency** of the Broadband Cost Reduction Directive and its implementing measures, if you compare the costs of implementation and of compliance borne by your organisation with the benefits accrued, how do you rate the cost-benefit ratio at scale 1 to 5 (1=costs significantly exceed benefits, 5= benefits significantly exceed costs)?

- ○ 1
- ○ 2
- ◉ 3
- ○ 4
- ○ 5
- ○ No opinion

Please explain your answer:

Variability in existing local processes, procedures and administrative costs creates inefficiencies for operators and hurdles to effective deployment. Introduction of universal and streamlined rules for permit costs and procedures would improve the cost-benefit ratio.

8. Could you give an estimate of annual direct costs/savings for your organisation in applying the Broadband Cost Reduction Directive? Please indicate, if possible, the cause of these costs/savings.

N/A

9. As regards the **relevance** of the Broadband Cost Reduction Directive, to what extent has this legislation at EU level facilitated and incentivised the roll-out of electronic communications networks through the following means?

	Not relevant at all	Not relevant	Neutral	Relevant	Very relevant	No opinion
Access to existing physical infrastructure and related transparency measures	○	○	◉	○	○	○
Coordination of civil works and related transparency measures	○	○	◉	○	○	○
Permit-granting procedures	○	○	◉	○	○	○
In-building physical infrastructure and related access measures	○	○	◉	○	○	○
Competent bodies and other horizontal provisions	○	○	◉	○	○	○

Please explain your answer(s):

The legislation at EU level facilitated to some extent and in some EU countries more than in others, the roll-out of electronic communications networks, yet the following aspects require improvements that should be considered under the revision of the BCRD:

- Access to existing physical infrastructure and related transparency measures: ensure that mapping is available (including public infrastructures), inclusion in the scope of any subject owning any infrastructure which could host an element of an UBB network (e.g. access to public buildings, rooftops, lands, street furniture), facilitate negotiations by requiring NRAs the adoption of guidelines on pricing principles, possibly for the different type of infrastructure if relevant (e.g. electricity, transport, etc.), better enforcement of the deadlines set out for dispute resolution, no fees or charges for the access to public infrastructures going beyond the administrative charges;

- Timely coordination of civil works and related transparency measures: same rules across municipalities, limit special requirements for deployment, advance awareness; often operators face lack of enforcement of existing rules.

- Permit-granting procedures: centralised platform handling permits, there should be less permit documents and they should be digitized, improve decision deadlines and enforcement and respect of the deadlines set at national level by local administrations (this could be achieved for example with an effective

refund in case of delays), reduce timescale for permit approvals, apply the silent approval regime also for ancillary permits (e.g. traffic ordinances and the authorisations needed in case of archeological, landscape or cultural goods constraints), synchronize activities/align the timings of all the permits needed in order to reduce the time required for obtaining all the permits;

- In-building physical infrastructure and related access measures: For the operators to be able to deploy quicker, introduce clear government guidelines on existing site upgrades, including on obligations to equip single unit houses. Moreover, equipping roads and sidewalks with ducts in every new or reconstructed street will over time increase sustainability by saving both time and money for deployment, as well as enable the street to be greener, allowing more space for trees and pedestrians.

- Competent bodies and other horizontal provisions: improve coordination between planning authorities, introduce single authority for appeals.

10. To what extent is the Broadband Cost Reduction Directive **coherent** with other EU policies?, in particular with:

	Not coherent at all	Not coherent	Neutral	Coherent	Very coherent	No opinion
The 2009 electronic communications regulatory framework, in particular its provisions on access (Significant Market Power and non- Significant Market Power), as well as on rights of way and rights to install facilities, dispute resolution, co-location and sharing of network elements and associated facilities.	○	○	○	◉	○	○
The European Electronic Communications Code, in particular its provisions on access (Significant Market Power and non- Significant Market Power), as well as on small-area wireless access points,rights of way and rights to install facilities, dispute resolution, co-location and sharing of network elements and associated facilities.	○	○	◉	○	○	○
Sector-specific EU Law on other network industries, in particular, in the energy and transport sectors.	○	○	◉	○	○	○
Competition policy and state aid	○	○	◉	○	○	○
Other EU policies	○	○	◉	○	○	○

Please explain your answers, and indicate if you have identified any areas for improvement of coherence.

The revised BCRD should be aligned with purposes and objectives of the European Electronic Communications Code and on the definition of Very High Capacity Networks for fixed networks, as well as ensure it captures essential infrastructure on mobile, namely 4G and 5G and potentially the future generations. The BCRD should also align with the objectives of the Gigabit Society Communication.

11. As regards the **EU added value** of the Broadband Cost Reduction Directive, to what extent is the harmonisation brought by the Directive beneficial compared to individual national measures?

	Not beneficial at all	Not beneficial	Neutral	Beneficial	Very beneficial	No opinion
Ease of doing business across the EU	○	○	◉	○	○	○
Economies of scale for companies with operations in multiple EU countries	○	○	◉	○	○	○
Regulatory stability and legal certainty	○	○	◉	○	○	○
Simple and efficient administrative procedures	○	○	◉	○	○	○
Other	○	○	○	○	○	○

Please explain your answer(s):

Subject matter and scope

The Broadband Cost Reduction Directive aims to facilitate and incentivise the roll-out of high-speed electronic communications networks by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be deployed at lower cost. To this end, the Directive establishes minimum requirements relating to civil works and physical infrastructure, with a view to approximating certain aspects of the laws, regulations and administrative provisions of the Member States in those areas (Article1).
The terms used in this section, in particular ‘network operator’, ‘physical infrastructure’, ‘civil works’, ‘permit’, and ‘high-speed electronic communications network’ are understood as defined in Article 2 of the Broadband Cost Reduction Directive. In addition, the term ‘physical infrastructure’ also includes ‘street furniture such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations’ as set out in Article 57 of the European Electronic Communications Code.

12. In your experience, to what extent do the following aspects influence the timely and efficient deployment of electronic communications networks?

	Not significantly at all	Less significantly	Moderately significantly	Significantly	Very significantly	No opinion
Permit-granting procedures	○	○	○	○	◉	○
Permit-granting fees	○	○	○	○	◉	○
Information about on-going or planned civil works	○	○	○	○	◉	○
Coordination of civil works and other co-investment or joint roll-out mechanisms	○	○	○	○	◉	○
Information about existing physical infrastructures	○	○	○	○	◉	○
Information about other elements and facilities suitable to install network elements	○	○	○	○	◉	○
Access to existing physical infrastructures of electronic communication networks	○	○	○	◉	○	○
Access to existing physical infrastructures of electricity supply networks	○	○	○	◉	○	○
Access to existing physical infrastructures of other supply networks (e.g. water, heat, gas supply, sewerage)	○	○	◉	○	○	○
Access to other elements and facilities suitable to install network elements	○	○	○	○	◉	○
Access to in-building physical infrastructures	○	○	○	◉	○	○
Other	○	○	○	◉	○	○

Please explain your answers, including whether the factors negatively or positively affects network deployment, and any other factors that in your opinion may affect the timely and efficient deployment of electronic communications networks.

As far as “Access to other elements and facilities suitable to install network elements” is concerned, the access to infrastructure to support mobile deployment is key to reduce barriers to deployment and reduce costs. In particular, easier access to Public assets such as roof tops in Public buildings or street furniture would be extremely valuable.

Another topic is the management of right of way; it is of utmost importance to separate the management of the right of way and the activity of operating a network. Otherwise there could be some bias notably when a local authority is deploying a network and is also in charge of giving authorizations. In some countries (ex : France) there is already a legislation avoiding such a situation, this could be acted as good practice. As well the duration of rights of way is of utmost importance due to the long period to amortize investments.. Rights of way should be free of charge except if any incremental cost due the use on the public property, Member States should also develop guidance to ensure that fees for rights of way over private property are reasonable, proportionate.

If the access to physical infrastructure is of utmost importance, some infrastructures are more suitable than others for the deployment of ECN, access to other utility infrastructures such as electricity poles or gas/water ducts can be difficult, due to the very nature of these infrastructures, which may, for example, require strict security rules, making them less suitable for telecommunications.

Technical standards in certain countries require excessive spacing between utilities (gas, energy, telecommunications, water, heating and sewage systems), making also cooperation difficult.

As far as “other” is concerned, the Directive does not encompass the issue of limits of electromagnetic fields (EMF) exposure. EMF-exposure limits and compliance control are important determinants of deployment costs and timings. Most Member States apply the ICNIRP Guidelines according to the Council Recommendation 1999/519/EC. In those few Member States where limits are more restrictive there are not only delays in delivery to customers of the many benefits of 5G, but also greater anxiety from citizens about 5G. Additionally, lower exposure limits mean that operators are less able to share sites and have to build more sites to achieve the same network capacity, with higher costs, increased energy use and more visual impact. Restrictive limits can also affect the quality of service available to consumers and, in particular, the quality of indoor coverage.

In order to reduce the roll-out costs of broadband and ultrabroadband mobile networks, the Directive should include an article stating that when setting the limits for EMF exposure, Member States have to take into account the Council Recommendation (1999/519/EC) and the effect of EMF limitations to the cost of deployment of electronic communications networks. This could be accompanied a provision for base stations similar to Article 58 of Directive (EU) 2018/1972. For any draft measure by a Member State that would impose on the deployment of mobile base stations different requirements with respect to electromagnetic fields than those provided for in the Council Recommendation on the limitation of exposure of the general public to electromagnetic fields the procedures laid down in Directive (EU) 2015/1535 shall apply.

13. Do any of the aspects referred to in the previous question particularly affect deployment of networks depending on the type of area* or the access technologies**?. If so, please explain how and why?

*Different types of areas where the network deployment is taking place can be identified based on the location of the users or connected objects as follows:

- Urban, suburban, rural areas: areas with different population densities in terms of human users and connected objects (e.g. sensors for IoT applications such as smart agriculture, water resources management, or critical communications)
- Business / industrial parks: areas with business users.
- Communication routes: areas along major terrestrial transport paths such as roads or railways, where e.g.
- Connected Automated Mobility or other logistics applications will be deployed.

**Access technologies can be classified according to the physical media of the access network with which they are associated:

- Fibre networks technologies: Passive/Active Optical Network technologies.
- Hybrid fibre-copper (twisted pair or coaxial) networks technologies: xDSL (G.Fast), DOCSIS technologies.
- Wireless networks with macro cells (range > 2,5 km) technologies: 4G, 5G, WiMax
- Wireless networks with small cells (femtocells, picocells, metrocells or microcells, range < 2,5 km) technologies: mainly 5G.

A priori all the mentioned element can have an influence in all the area while some are not appropriate for one technology for example access to roof top is a request for mobile, not for fixed network. Obviously different areas can be equipped with different physical infrastructure or different types or concentration of public building for example.

Ducts are not available in all the countries with the same density. Poles sometimes for cost reasons are more available in rural areas.

Along routes, generally there is an electricity network meaning that they are covered by physical infrastructure to support this network.

On the other hand, the fixed network and the wireless one do not call for the same physical infrastructure, except for poles (where it is not efficient to dig for fiber).

14. Do you consider that any of the definitions in the current Directive should be reviewed and/or that additional definitions should be provided for to clarify concepts used in existing provisions? Please explain your response:

The definition of "network operator" should be complemented by one related to any entity (private or public) owning an infrastructure which is technically suitable to host any element of high-speed electronic communications networks, including public buildings and street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations. Consequently the definition of physical infrastructure should be extended.

- Article 57(4) of the EECC envisages this possibility only for the installation of small cells, whereas this shall be provided for the installation of any element of ultra-fast networks.

15. Do you consider that the current scope of the Broadband Cost Reduction Directive, – by reference to high-speed networks of above 30 Mbps- remains appropriate, in particular taking into account the 2025 Gigabit strategic connectivity

objectives (Towards a European Gigabit Society - COM(2016)587) and the new objective of promoting connectivity and access to, and take-up of very high capacity networks in the European Electronic Communications Code? Please explain your response:

With the new Gigabit Society strategy setting even more ambitious goals for the European operators, the mobile industry encourages the Commission to improve the conditions for network roll-out by revising the Broadband Cost Reduction Directive (BCRD).

To ensure a more cost-effective network deployment delivering a European Gigabit Society, the new law should be fit for purpose, cut red tape, be bold and enforceable.

Access and availability of physical infrastructure

Article 3 of the Broadband Cost Reduction Directive requires network operators (not only operators of electronic communications networks, but also operators of other types of networks, such as energy and transport), to meet reasonable requests for access to physical infrastructure for the purposes of deploying high-speed electronic communication networks, under fair and reasonable terms and conditions, including price. Refusals must be grounded on objective, transparent, and proportionate criteria. Where access has been refused or an agreement has not been reached within two months from the day of the request, access seekers can refer the issue to a dispute settlement body, which is empowered to resolve the dispute, including by setting fair and reasonable terms and conditions.
The Directive also requires that all newly constructed and majorly renovated buildings be equipped with physical infrastructure, such as mini-ducts, capable of hosting high-speed networks, and an easily accessible access point in the case of multi-dwelling buildings (Article 8). Providers of public communications networks must have access to the access point and the in-building physical infrastructure under fair and non-discriminatory terms and conditions, if duplication is technically impossible or economically inefficient (Article 9).

16. Please provide an estimation of the percentage that costs linked to physical infrastructure represent in relation to the overall costs of deployment of fixed and mobile/wireless networks for your organisation.

Fixed networks:

- Up to 20%
- 20%-40%
- 40%-60%
- 60%-80%
- More than 80%

Please explain your answer, including where relevant, for cases where new physical infrastructure is built and for cases where existing physical infrastructure is accessed.

Mobile/wireless networks:

- Up to 20%
- 20%-40%
- 40%-60%
- 60%-80%
- More than 80%

Please explain your answer, including where relevant, for cases where new physical infrastructure is built and for cases where existing physical infrastructure is accessed.

17. With respect to access to existing physical infrastructure, to what extent have the following factors led to a more costly or lengthy network deployment?

	Not at all significantly	Less significantly	Moderately significantly	Significantly	Very significantly	No opinion
Lack of availability of suitable physical infrastructure	○	○	○	○	◉	○
Lack of information on existing physical infrastructure	○	○	○	○	◉	○
Difficulty to agree on terms and conditions of access with owner	○	○	○	○	◉	○
Slow/ineffective dispute resolution process	○	○	○	○	◉	○
Other (please specify)	○	○	○	○	○	○

Please explain your answer, identifying where relevant potential differences between fixed and mobile/wireless networks.

In the context of 5G rollout the presence of infrastructure becomes more relevant and it is of utmost importance to have an effective implementation and streamlined processes of permit granting when negotiating commission of new sites. As far as negotiations are concerned, the system should prevent physical infrastructure owners from requesting excessive prices and thus reduce litigations. The application of economic conditions which reflect the costs of the underlying physical infrastructure is essential to effectively allow the access.

In light of the near term 5G deployment and its increased capillarity, just granting access to the network operators' (undertakings) physical infrastructure does not guarantee sufficient access choices for access seekers. Accordingly, there is a need to include in the scope any subject owning any infrastructure which could host an element of an UBB network. In particular, access to all public infrastructure owners (national, regional and local), regardless of their legal status, must be enforced and properly implemented to give access to their physical infrastructure (e.g. the roofs of public buildings). In addition, no fees or charges going beyond the administrative charges should be paid for the access to public infrastructures.

18. Do you consider that the obligations to meet reasonable requests for access under fair and reasonable terms and conditions, including pricing (Article 3(2) of the Broadband Cost Reduction Directive), are appropriate to ensure effective and proportionate access to different types of existing physical infrastructure?

	Not at all appropriate	Not appropriate	Neutral	Appropriate	Very appropriate	No opinion
Physical infrastructure owned by operators of electronic communications networks	○	◉	○	○	○	○
Physical infrastructure owned by operators of networks other than electronic communications networks	○	◉	○	○	○	○

Please explain your answer, including, if relevant, how these access obligations should be modified.

The experience shows that in many countries the BCRD rules are not sufficient and there is a real difficulty to agree on prices to access physical infrastructure. Prices are usually high and disincentives the use of these infrastructures.

More prescriptive procedures might be included within the reviewed Directive in order to soften burdens when dealing with operators not willing to provide access to such suitable infrastructure or proposing disproportionate tariffs. The base could be the incremental cost due to the use of the existing physical infrastructure.

There are grounds in our view to establish a different base for pricing for access to Public assets. In line with the provisions on Administrative Charges in Article 16 of the EECC, in our view a standard would be appropriate.

19. Has the principle of 'fair and reasonable terms and conditions' for access to physical infrastructure under Article 3 of the Broadband Cost Reduction Directive been applied effectively (with respect to the outcome) and efficiently (with respect to the time taken) by dispute resolution bodies?

Effectively (with respect to the outcome)

- ○ Strongly disagree
- ◉ Disagree
- ○ Neutral
- ○ Agree
- ○ Strongly agree

Efficiently (with respect to the time taken)

- ○ Strongly disagree
- ◉ Disagree
- ○ Neutral
- ○ Agree
- ○ Strongly agree
- ○ No opinion

Please explain your answer, including, if relevant, the benefits and/or problems encountered in the application of this principle.

The principle of Fair and reasonable conditions has unfortunately not been effective and consequently has not provided certainty since, in practice, physical infrastructure owners are not deterred from requesting too

high access prices because the determination of which price is fair and reasonable has a broad margin of discretion. The consequence is that the negotiation of economic conditions is often difficult and time-consuming.

Therefore, Directive should be amended by:

1) Mandating NRAs to adopt guidelines clarifying the criteria for the definition of proportionate and non-discriminatory prices for the different categories of infrastructures; this would avoid the application/request of excessive prices by physical infrastructure owners and reduce litigations;

2) Introducing a mechanism for ensuring that disputes are resolved within the deadlines set out in the Directive.

20. Do you consider that the criteria provided in Article 3 of the Broadband Cost Reduction Directive for refusing access to existing physical infrastructure are appropriate?

	Not at all appropriate	Not appropriate	Neutral	Appropriate	Very appropriate	No opinion
Technical suitability	○	○	○	◉	○	○
Availability of space	○	○	○	◉	○	○
Safety and public health concerns	○	○	○	◉	○	○
Integrity and security	○	○	○	◉	○	○
Risk of serious interferences	○	○	○	◉	○	○
Availability of alternative means	◉	○	○	○	○	○

Please explain your answer based on your experience, indicating if other criteria could be relevant.

The reason for refusing access related to the availability of viable alternative undermines the objectives of the Directive because this will incentivise the deployment of dark fiber in order to refuse access to ducts and generate dispute resolutions on access conditions to this fiber. More generally, this gives excessive discretionary power to the physical infrastructure owner.
This reason could be acceptable only in the case where the access to physical infrastructure is not feasible due to one of the other listed reasons for refusing access.

21. Based on your experience, how relevant have been the current provisions on high-speed-ready in-building physical infrastructure as provided in the Broadband Cost Reduction Directive in facilitating the deployment of electronic communications networks?

- ○ Not at all relevant
- ○ Less relevant
- ○ Moderately relevant
- ◉ Very relevant
- ○ Mostly relevant
- ○ No opinion

Please explain your answer, indicating where relevant how the current provisions could be improved.

This provision has proven to be efficient, when implemented, notably for fiber deployment.

22. To what extent would the availability and access to neutral host infrastructures* facilitate the deployment of electronic communications networks?. Please explain your response and whether neutral host infrastructures could particularly affect deployment of networks depending on the type of area (urban / suburban / rural, business parks, communication routes) or access technology (wired / wireless).

* A neutral host infrastructure comprises a single, shared network solution provided on an open access basis to all electronic communications operators.

The concept of neutral host infrastructure is complicated to put in place due to the different components of a network architecture. An “a priori” deployed host may not suit the constraints, technical, geographical, timing of the network operator’s plans.

Coordination of civil works

Article 5 of the Directive provides for the right of every network operator (not only operators of electronic communications networks, but also operators of other types of networks, such as energy and transport) to negotiate agreements concerning the coordination of civil works for the purpose of deploying high-speed electronic communications networks. Moreover, it provides for the obligation of every network operator which is fully or partially financed by public means, to meet any reasonable request to co-ordinate civil works on transparent and non-discriminatory terms, provided that such request is submitted in a timely manner, it does not entail additional costs or delays and the network operator can retain control over the coordination. Member States may provide for exemptions from the obligation for works of minor significance, or related to critical infrastructure. Member States may also provide rules on the apportioning of the relevant costs. Where coordination has been refused or an agreement has not been reached within one month from the day of the request, access seekers can refer the issue to a dispute settlement body, which is empowered to resolve the dispute, including by setting fair and non-discriminatory terms, conditions and charges.

23. Please provide an estimation of the percentage that costs linked to physical infrastructure represent in relation to the overall costs of deployment of fixed and mobile/wireless networks for your organisation.

Fixed networks - cost savings

- Up to 10%
- 10%-20%
- 30%-40%
- 40%-50%
- More than 50%

Please explain your answer:

Mobile/wireless networks – cost savings

- Up to 10%
- 10%-20%
- 30%-40%
- 40%-50%
- More than 50%

Please explain your answer:

24. To what extent is it relevant for the deployment of electronic communications networks to coordinate civil works with the following types of networks?

	Not at all relevant	Less relevant	Moderately relevant	Very relevant	Mostly relevant	No opinion
Electronic communications networks	○	○	○	◉	○	○
Gas networks	○	○	◉	○	○	○
Electricity networks (including public lightning)	○	○	○	◉	○	○
Heating networks	○	○	◉	○	○	○
Water networks	○	○	◉	○	○	○
Transport networks (including railways, roads, ports and airports)	○	○	○	○	◉	○
Other	○	○	○	○	○	○

Please explain your answer, identifying differences between fixed and mobile /wireless networks, if relevant.

The BCRD includes the possibility of coordinating civil works with, inter alia, civil works of transport networks. This possibility to coordinate civil works become the more important in view of the extensive coverage obligations imposed in the framework of the recent spectrum auction regarding all major transport paths (roads, railways, waterways) and transport hubs.
The rollout of mobile networks could be considerably accelerated and carried out more cost-efficiently by extending the scope of coordination to any public civil works, and thus making available public infrastructure for the construction or installation of mobile masts or antennas, and by providing transparency on their exact location.

25. Which factors (for example, mismatch of timing –planning and/or execution-, work techniques, interest in an area), have made coordination of civil works for the deployment of electronic communications networks difficult?

First of all, the timing is not always the same between the different actors deploying their network, this also depends on the area. Usually, information regarding civil works originates from the contractor to whom the work has been allocated, leaving a short time to process and plan. Information regarding planned public works should be published much earlier, in short, medium, long planning periods. Second, the technical or security constraints could be different from one sector to another, leading to complexity that could be a brake to cooperate.

26. To what extent has the obligation to meet requests for coordination of civil works financed by public means been appropriate? Please explain your answer, including whether improvements could be made in regard to the apportioning of costs.

Coordination of civil works publicly financed is appropriate. Regarding the apportioning of costs, the cost of public infrastructure should be set at the lowest possible level, to cover the additional maintenance costs if any related to the installation of VHCN.

27. Do you consider that the obligation referred to in the previous question should be extended to civil works not financed by public means, or that new measures should be taken in regard to coordination of civil works, with a view to avoiding duplication (“dig once” principle), thereby increasing the efficiency of network deployment and reducing its environmental impact?
Please explain your answer:

Coordination of civil work should in principle be encouraged and facilitated for all works publicly financed or not. The apportioning of cost could be different depending on the case.

Transparency measures

Pursuant to Article 4 of the Broadband Cost Reduction Directive, Member States shall ensure that every undertaking providing or authorised to provide public communications networks has the right to access, upon request to any network operator, minimum information concerning the existing physical infrastructure. Member States may also require every public sector body holding, in electronic format and by reason of its tasks, information concerning the physical infrastructure of a network operator, to make it available via the single information point, while Member States shall require such public sector bodies to make it available, upon request.
Pursuant to Article 6 of the Broadband Cost Reduction Directive, Member States shall also require any network operator to make available, upon the specific written request of an undertaking providing or authorised to provide public communications networks, minimum information concerning on-going or planned civil works related to its physical infrastructure for which a permit has been granted, a permit granting procedure is pending or first submission to the competent authorities for permit granting is envisaged in the following six months.

28. In your opinion, to what extent would the availability, through the single information point, of constantly updated information concerning the elements listed in the table be relevant to facilitate network deployment?

	Not relevant at all	Not relevant	Neutral	Relevant	Very relevant	No Opinion
Physical infrastructure from operators of electronic communications networks	○	○	○	○	◉	○
Physical infrastructure from operators of other networks	○	○	○	○	◉	○
Physical infrastructure from public bodies	○	○	○	○	◉	○
Other elements and facilities suitable to install network elements	○	○	○	○	◉	○
Private buildings or facilities other than residential and that are not part of a network (e.g. shopping centres, sports facilities, industrial plants /business facilities)	○	○	○	◉	○	○
Public buildings or facilities that are not part of a network (e.g. administrative buildings, communal centres)	○	○	○	○	◉	○
Civil works in progress or planned by electronic communications operators	○	○	○	◉	○	○

Civil works in progress or planned by other network operators	○	○	○	◉	○	○
Civil works in progress or planned by public authorities, in the short, medium and long term (such as new or renovated industrial areas)	○	○	○	○	◉	○
Acquisition and construction of sites for the deployment of mobile base stations, in progress or planned.	○	○	○	◉	○	○
Other	○	○	○	○	○	○

Please explain your response, and if relevant, whether and how the relevance of having this information depends on the deployment area (urban / suburban / rural, business parks, communication routes) or the access technologies (wired / wireless).

All suitable infrastructure which could host an element of a fixed or mobile/wireless ultra-fast broadband network are concerned in all type of areas but a fortiori in areas where the cost of deployment is higher or the business case more risky.
It is also important that criteria for the data update from all the infrastructure owners obliged to provide data are clearly defined, also taking into account the need to avoid an excessive burden for operators.

29. What minimum information concerning physical infrastructures should be available to operators seeking to deploy electronic communications networks, beyond that specified in Article 4(1) of the Broadband Cost Reduction Directive? You can select multiple answers.

- ☐ None
- ☑ Georeferenced location and/or route
- ☐ Total and spare capacity to host network elements (e.g. nr. of ducts, m2 of available space)
- ☐ Other

Please explain your answer, including the aspects related to cost efficiency.

The Directive states that the minimum information made available through the SIP is:
- Location and route.
- Type of infrastructure and usage (space availability).
- Point of Contact

Which could be complemented with information such as:
- Georeferenced location (aligned with some of the provisions included in the geographical survey)

30. What would be, in your opinion, the best mechanism for ensuring the most appropriate and efficient access to relevant information regarding existing physical infrastructure and planned civil works?

- (●) A unique information repository, to be populated by network operators and public bodies
- ( ) Federation of existing information repositories, of different network operators and/or public bodies
- ( ) Other

Please explain your answer, and give suggestions for implementation:

A single information point at national level should also cover access to the private sector infrastructure information that would allow access on demand to minimum information concerning the existing physical infrastructure to any network operator by electronic means.

31. In your opinion, how could the different administrative levels in a Member State (national, regional, local) collaborate to maximise transparency as regards information on existing physical infrastructures and planned civil works (for example, providing a common platform, defining standards, collecting and validating information)?

Once the national platform is in place, the potential feeder would have to propose a harmonized form for the information to be provided (location and route, type and current use of the infrastructure). A preliminary inventory of existing information, database, and process should be done at national level, to take “not recreate the wheel” and to take lessons from possible good practices. Certain access control rules should be in place due to security issues.

Permit-granting procedures

Pursuant to Article 7 of the Broadband Cost Reduction Directive, Member States need to ensure that all relevant information on the conditions and procedures for granting civil works permits with a view to deploying electronic communications networks is available from a single information point and that in principle decisions relating to permits have to be made within 4 months. Civil works, as provided in Article 2 (4) of Broadband Cost Reduction Directive ‘means every outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure’. Concerning the term “permit”, the Directive refers to any permit ‘concerning the deployment of electronic communications networks or new network elements (…) including building, town planning, environmental and other permits, in order to protect national and Union general interests’ (Recital 26).

32. To what extent do the following factors affect the complexity and length of permit-granting procedures to deploy or upgrade electronic communications networks?

	Not at all significantly	Not Significantly	Neutral	Significantly	Very Significantly	No Opinion
Non-respect of the deadline to grant all electronic communications network deployment related permits, including those for rights of way.	○	○	○	○	◉	○
Lack of information concerning the conditions and procedures applicable for granting permits.	○	○	○	◉	○	○
Application for permits cannot be submitted by electronic means	○	○	○	○	◉	○
Multiplicity of permits needed for electronic communications network deployment	○	○	○	○	◉	○
Lack of coordination between the various authorities competent for granting permits	○	○	○	○	◉	○
Lack of explicit rules including on compensation in case requirements for permit-granting procedures are not met, in particular deadlines and refusal conditions	○	○	○	○	◉	○
Other	○	○	○	○	○	○

Please explain your response, in particular, whether any of the above factors is more or less relevant depending on the network deployment area (urban, semi-urban or rural areas; business/industrial parks or communication routes, cross-border regions/areas).

Permit granting is widely fragmented in many cases even within the same country while being too long and complicated. Procedures take too long, permits are granted or refused not timely having a direct negative impact on deployments. Frequently too many institutions are involved into the process and it results huge bureaucratic burdens with very different requirements and very low predictability which is essential threat for investments. There is a lack of enforcement towards authorities who do not act timely.
Therefore, consistent procedures, aligned timings and coordination in the permit granting should be the rule between the different local administrative bodies involved in order to ease the deployment independently of administrative frontiers.

33. To what extent would the following measures streamline the procedures to grant the necessary permits to roll-out electronic communications networks?

	Not significantly at all	Less significantly	Moderately significantly	Significantly	Very Significantly	No Opinion
Allow operators to submit applications by electronic means	○	○	○	◉	○	○
Single entry point (one stop shop), acting as an intermediary, routing permit applications to any competent authority (national, regional or local)	○	○	○	○	◉	○
Integrated permit granting procedure that encompasses all different procedures of each of the competent authorities involved	○	○	○	○	◉	○
Coordination and monitoring by a single body (or set of bodies) of all the involved authorities' permit granting procedures	○	○	○	○	◉	○
Centralisation of the competence for all permits in one authority within the Member State	○	○	◉	○	○	○
Harmonization of permit procedures at Member State level	○	○	○	○	◉	○
Harmonization of permit procedures at EU level	○	○	◉	○	○	○
Other	○	○	○	○	○	○

Please explain your response, and give suggestions for implementation:

A single management point can be centralized, within a harmonized format, the information provided by the actors, as well as the needed administrative procedures and documents.
A migration to a notification-based system instead of permission-based system would save time, as well as the application of the silent approval regime also to ancillary permits and the alignment/synchronisation of timings of all the permits.
The procedures should be optimized in terms of paperwork and timing.
Cost/benefit analysis should be done for the suggestions.
It would be beneficial if the single management point could also be used to manage the payment of administrative fees related to the deployment of telecom networks. It is important that such single management point does not lead to longer permit-granting procedures, and that, in case of differences in regional rules and practices that it would replace, it functions on the basis of best standards and uses best practices.
Finally, it is paramount a greater enforcement and respect of the deadlines set at national level by local administrations (this could be achieved for example with an effective refund in case of delays).

34. Would simplified permit procedures (such as no need to obtain a permit or permit exemption, tacit approval in the event that a certain deadline is exceeded, prior-communication accompanied by ex-post verifications only, etc) be appropriate to facilitate certain types of network deployment (e.g. technological upgrades, low impact installations, etc)?

Please explain your response, including which simplified procedures would be relevant for which type of network deployments:

Yes, simplified permit procedures would be appropriate. It is one of the major issues in the BCRD. The timing of this procedure is also a concern and the full process should not take more than 2 months.

The EC could propose a procedure or some guidelines to be applied in all the Member States.

Introducing a harmonized light licensing regime for antenna sites, where a building permit is required today, would reduce deployment costs and the response time for deployment permits.

Tacit approval, except for specific environmental reason, could also be a suggestion.
Also, the current rules in the BCRD need to be strengthened and further streamlined to ensure its goals are achieved. The BCRD should provide that Member States shall seek to ensure that any rules are consistent.

A universal regime where consents are “deemed” to be given for relevant permit requests unless there is objection from relevant interested parties is an efficient and tested model for cost-effective and timely delivery of new broadband networks. It effectively removes the need for complex and lengthy waiting periods and variable permit procedures, while requiring a notice period within which objections may be submitted, with an application presumed to be complete once no objection or request to supplement the application is issued within this notice period.

35. In your view, are there specific obstacles to the joint roll-out of electronic communications networks and to different forms of network sharing (e.g. sharing of passive or active elements of a network)?.

If your answer is yes, what are these obstacles and should there be any measures taken to further facilitate these forms of cooperation?

A flexible and clearer legal framework for horizontal cooperation agreements is crucial. Such framework should provide a sufficient legal certainty and security for self-assessment and, when necessary, a possibility to request a guidance from the Commission within a reasonable timeline without imposing burdensome and time-consuming processes.

Environmental impact of electronic communications networks

In its Communication on a European Green Deal (A European Green Deal- COM(2019) 640), the European Commission has pointed out that digital technologies are a critical enabler for attaining its sustainability goals in many different sectors. At the same time, the digital sector itself needs to put sustainability at its heart and undergo its own green transformation, including in particular by reducing its greenhouse gas emissions to address climate change. To support this effort, the Commission is assessing the need for more stringent sustainability measures when deploying and operating electronic communications networks.

36. Do you consider that the deployment and/or operation of electronic communications networks can have a negative impact on the environment, in particular due to emissions of CO2 and other greenhouse gases?

	Not at all significant	Less significant	Moderately significant	Significant	Very significant	No opinion
Deployment of fixed networks	○	◉	○	○	○	○
Operation of fixed networks	○	◉	○	○	○	○
Deployment of mobile/wireless networks	○	◉	○	○	○	○
Operation of mobile/wireless networks	○	◉	○	○	○	○

Please explain your answer for each of the above categories:

Technologic upgrade has allowed for an ever increasing energy efficiency through time, therefore deployment and operations of new fixed/mobile/wireless networks, which are more sustainable than legacy ones (which are lower energy efficient) will not have a negative impact on environment.

However, more importantly, it is commonly acknowledged that VHCN/Gbps networks are enabler of the digital transformation, which is an essential prerequisite to the pursue of the green deal targets the European Union has commendably set. Therefore, any environmental footprint linked to the deployment and operations of fixed and mobile networks is counterbalanced by their positive enabling effects.

Therefore, it would be misleading if the BCRD would focus only on the consumption of networks. More important is the role of networks as basic layer for digitization and the enabling of energy savings in other sectors. The enabling role is not limited to most efficient networks, but equally covers legacy networks with lower efficiencies. The positive enabling impact is multiple times higher than the digital sector's own footprint. The BCRD should support the development and adoption of digital solutions in other sectors, such as health, agriculture, transport, logistics and urban development. The GSMA has, for example, calculated that, in 2018, mobile communications technologies enabled a reduction of 1.44 billion MWh in electricity and gas consumption, and 521 billion litres of fuel, globally. For further details, please see: https://www.gsma.com /betterfuture/wpcontent/uploads/2019/12/GSMA_Enablement_Effect.pdf

Digital solutions relying on state of the art networks can do even more in the future through the Internet of Things and Artificial Intelligence. This is why we strongly believe that in this period of economic recovery and green transition, the EU should support a rapid and wide digitalisation of the EU society and economy.
In addition, it's worth highlighting that, since costs for the deployment and operation of networks are significant, network operators naturally have a strong incentive to increase their network efficiency. They take actions to significantly save energy and resources such as. through innovative energy efficiency measures and use of renewable energy. For this reason, it is not justified to establish a regulatory incentive to increase efficiency.

Finally, if the Commission strives for quantifying networks "impact" in terms of energy consumption, it is key to base this on robust and transparent calculation models. There is currently no standard model to assess networks' energy efficiency. Accordingly, available figures vary significantly. A robust model should be technology agnostic.

37. What are the factors that determine the environmental impact resulting from the deployment of electronic communications networks?

	No contribution at all	No significant contribution	Neutral	Some contribution	Significant contribution	No opinion
Deployment techniques, e.g. type of trenching	○	○	○	◉	○	○
Type of networks, e.g. fixed or wireless/mobile	○	○	◉	○	○	○
Manufacturing of the equipment, materials used and logistics	○	○	○	◉	○	○
Other (please specify)	○	○	○	○	◉	○

Please explain your answer(s):

General remarks:

All of the listed factors can have an impact on the energy and material efficiency of the deployment. Network operators inter alia take these factors already into account when constantly improving their efficiency. Regarding deployment techniques, we have identified regulatory hurdles that counteract more efficient deployment processes and that should be tackled by an updated BCRD. This would enable operators to further increase the efficiency of their deployments, through e.g. the sharing of mobile and fixed infrastructure. Taking into account that the crucial enabling effect is not limited to most efficient networks, the increase of flexibility should apply broadly and must not be limited to specific kind of FTTH and 5G installments.

In the planning and the deployment of electronic communication networks, an efficient use of resources for both fixed and mobile network should be fostered for the benefit also of energy consumption. Access to the infrastructures of other utilities, granting of permits for the deployment of 5G networks covering terrestrial transport paths, network sharing agreements and an efficient and non-fragmented spectrum use should be promoted.

Other remarks:

The notion of “Deployment” should not be limited to the roll-out of new network generations but should also acknowledge the continuous upgrades in legacy networks. These efforts significantly contribute to operators’ energy savings (e.g. migration from PSTN to IP, retirement of no longer needed hardware).

From a more inclusive perspective, also those conditions that drive the need of deployments must be taken into account, including deployments driven by growing traffic, consumption of energy and resources in operation. consumption of energy and resources in traffic operation. High volumes require a high-performance network and more instalments.

38. What are the factors that most contribute to greenhouse gas emissions resulting from the operation of electronic communications networks (without considering end-user equipment)?

	No contribution at all	No significant contribution	Neutral	Some contribution	Significant contribution	No opinion
Energy efficiency (e.g. energy consumed per unit of service delivered)	○	○	○	◉	○	○
Carbon intensity of energy sources used for the generation of power supplying the network	○	○	○	○	◉	○
Other (please specify)	○	○	○	○	◉	○

Please explain your answer(s):

Contrary to the deployment of networks, we have not identified mayor regulatory hurdles for the efficient operation of networks that should be addressed through the BCRD. Technological evolution adopted by Network operators to provide more advanced services and optimize network resources aims also at a greater energy efficiency and this should be promoted facilitating the adoption of advanced technologies Network operators should continuously have the flexibility to apply those measures that fit best to their operations.
The measurement of energy efficiency is an important indicator. Most of the energy relates to electricity.

39. What could be appropriate criteria to qualify network deployment projects as ‘environmentally sustainable’, already before such deployments have started?

	Not at all appropriate	Not appropriate	Neutral	Appropriate	Very appropriate	No opinion
Medium used (for fixed), e.g. fibre, copper, cable	○	○	○	◉	○	○
Technology generation used (for mobile), e.g. 4G/5G	○	○	○	◉	○	○
Energy efficiency of network equipment used	◉	○	○	○	○	○
Passively shared network	◉	○	○	○	○	○
Actively shared network	◉	○	○	○	○	○
Network deployed with coordinated civil works with other networks (electronic communications, electricity, gas, etc.)	◉	○	○	○	○	○
Other (please specify)	○	○	○	○	○	○

Please explain your answer(s):

The criteria for sustainability in digital networks should primary refer to networks' enabling potential to contribute to climate change mitigation, energy and resource efficiency in other sectors. This enabling power is not limited to most efficient networks.

Besides this, decision-makers should keep in mind that operators have already strong commercial incentives to ensure efficient deployments and operations.

Against this background, we do not see an advantage in defining "sustainable networks" and linking this to exclusive benefits. Rather, the BCRD should support efficiency of any network by removing regulatory hurdles. This would allow operators to further increase efficiency of their deployments and operations.

If the Commission will nevertheless define "sustainable networks" and link this to specific benefits, this category needs to be broad enough to ensure legal certainty and flexibility for operators. This is best reflected by the criteria "medium" and "technology". Once an operator decides to roll-out a new network generation such as FTTH and 5G, this would be labelled as "environmentally sustainable'". The operators should then be free to choose the best measures that ensure efficient deployment and operation of their networks.

Decision-makers should refrain from introducing more detailed criteria for "environmentally sustainable" networks. Deciding upfront on each detail of the deployment and operational detail would result in an overly bureaucratic process. Many decisions such as around deployment techniques, the procurement of hardware /equipment or infrastructure sharing will only be taken after the deployment process has started.

40. Which type of positive incentives can foster the deployment of electronic communications networks which have a reduced environmental footprint?

	No incentive	Weak incentive	Moderate incentive	Considerable incentive	Strong incentive
Expedited administrative treatment of all permits related to the deployment of the specific network	◉	○	○	○	○
Permit requirements limited to prior communication only	◉	○	○	○	○
Reduction or abolishment of permit fees related to the deployment of the specific network	◉	○	○	○	○
Reduction or abolishment of access fees related to the deployment of the specific network for physical infrastructure that is owned or controlled by public bodies/authorities	◉	○	○	○	○
Other (please specify)	○	○	○	○	○

Please explain your answer(s):

It should be reminded that the ICT sector is one of the few sectors to have put itself in order and invested heavily to be exemplary and already reduce its own environmental footprint with efforts to actually reduce its emissions across Scope 1, 2 and 3 and with the objective of being NET ZERO by 2040, 2050, using a high rate of renewable electricity and deploying the circular economy for its equipment.
The establishment of regulatory incentives for “environmentally sustainable” networks would miss the fact that operators already have strong incentives to deploy and operate energy efficient networks. We therefore support the removal of barriers for the deployment and operation of any network – to leverage networks crucial enabling potential.
Accordingly, the removal of barriers must not be limited to only some specific kind of networks. Boosting deployment of high speed electronic communication networks, and thus the digital transformation that such deployment will allow, will automatically trigger a reduction of the environmental footprint in many sectors commonly understood. Therefore helping such deployment is already contributing to the environmental footprint. On top of this to help the telco sector to potentiate their ability to reduce also their proper footprint even more intensively than how they are already doing, further incentives can certainly be effective.

Permit granting, permit fees are in general major concerns in the deployment of electronics communications networks and these procedures need to be improved in general. Any discriminatory approach risks jeopardizing network deployments.
In case there are still some incentives limited to “environmentally sustainable” networks, it is key that these incentives do not turn into obligations or constraints.

Other remarks:
Beyond the above listed areas of actions, decision-makers should consider our proposed adjustments as described in the other chapters and remove barriers for more efficient deployment processes. The latter includes to facilitate the sharing of mobile and fixed infrastructure, the use of micro-trenching and the deployment of fixed lines above the ground.
On top, the BCRD should include an explicit acknowledgement of networks’ crucial role as enabler that saves energy in other sectors. This could be a strong signal to investors that seek for green investments.

Governance and enforcement: Competent bodies and other horizontal provisions (penalties, dispute resolution)

According to Articles 10 and 11 of the Broadband Cost Reduction Directive, Member States need to appoint one or more bodies to provide information on physical infrastructure, civil works and permits and one or more independent bodies to resolve disputes between network operators regarding access to infrastructure, access to information and requests to coordinate civil works. Moreover, Member States shall lay down appropriate, effective, proportionate and dissuasive penalties applicable to infringements of national measures adopted pursuant to the Broadband Cost Reduction Directive.

41. In your opinion, to what extent is the dispute settlement system provided in the Broadband Cost Reduction Directive appropriate, concerning:

	Not appropriate at all	Not appropriate	Neutral	Appropriate	Very appropriate	No opinion
Access to existing physical infrastructure (Art. 3)	○	◉	○	○	○	○
Transparency concerning physical infrastructure (Art. 4)	○	◉	○	○	○	○
Coordination of civil works (Art. 5)	○	○	◉	○	○	○
Transparency concerning planned civil works (Art. 6)	○	○	◉	○	○	○
Access to in-building physical infrastructure (Art. 9)	○	○	○	◉	○	○

Please explain your answer(s):

Current litigation dispute resolution procedures under the BCRD have revealed inefficient; not easing access granting to private sector infrastructure, but instead delaying and making the general rollout process more burdensome. It should be analyzed how replacing the current dispute settlement procedures by more concrete enforcement competencies, including decisions on fair and reasonable conditions, for the relevant sector regulators (including more strict and shorter procedures) would contribute to more effective and immediate enforceability.

Requiring Member States to enforce the access rights more quickly and concretely under the BCRD will be key.

Also, the current BCRD contains provisions on dispute settlement that are left as optional. Again, it should be analyzed whether making some or all these optional provisions mandatory in view of a more effective enforcement.

42. In case you consider it not appropriate at all or not appropriate, what are the main reasons?

	Not relevant at all	Not relevant	Neutral	Relevant	Very Relevant	No opinion
Non-compliance with Broadband Cost Reduction Directive deadlines to solve a dispute resolution process	○	○	○	◉	○	○
Too long dispute resolution process	○	○	○	○	◉	○
Lack of rules on apportioning the cost (in case of coordination of civil works, Art. 5)	○	○	○	○	◉	○
Lack of clarity on “fair and reasonable terms’ concept (Art. 3 and 5)	○	○	○	○	◉	○
The need for payment of fees when referring a case to the Dispute Settlement Body	○	○	◉	○	○	○
Other reasons	○	○	○	○	○	○

Please explain your answer(s):

It has been noted that dispute resolution has been largely underused and ineffective as a way to enforce the Directive. Where used, the resolution has taken a long time and thus has delayed the deployment of ultra-fast broadband networks. As such it does not provide an effective method for better, faster and more efficient deployment. The revised BCRD should introduce a mechanism for ensuring that disputes are resolved within

the deadlines provided for. In any case, the use of dispute resolution should be relegated to the last resort option for the operators.

We encourage the EC to investigate the usability of other approaches to enable more effective and efficient implementation of the BCRD. These other approaches would include using more direct regulatory interventions by the relevant competent authorities, such as codes of conduct on how to coordinate civil works and provide access to the existing infrastructure.

To facilitate the negotiation of economic conditions without the need to resort to dispute resolution, the revised BCRD should require NRAs to adopt guidelines clarifying the criteria for the definition of prices for different categories of infrastructures. This would prevent physical infrastructure owners from requesting excessive prices and reduce litigations. The application economic conditions which reflect the costs of the underlying physical infrastructure is essential to effectively allow the access. The incremental cost for opening the infrastructure could be considered as a reference for the access price.

43. In your view, how relevant are the following measures to guarantee a satisfactory dispute resolution process:

	Not relevant at all	Not relevant	Neutral	Relevant	Very relevant	No opinion
Imposing penalties on the dispute resolution body if resolution is not issued with the deadline	○	○	○	○	◉	○
Setting rules on apportioning the cost (in case of coordination of civil works, Art. 5)	○	○	○	○	◉	○
Guaranteeing a free process.	○	○	◉	○	○	○
Other	○	○	○	○	○	○

Please explain your answer(s):

44. In your view, how useful are the national rules on penalties applicable to infringement of the obligations provided in the Broadband Cost Reduction Directive

- ○ Not useful at all
- ○ Not useful
- ○ Neutral
- ○ useful
- ○ Very useful
- ○ No opinion

45. In case you reply that the national penalty mechanism is not useful at all or not useful, the reasons are:

	Yes	No	No opinion
The penalty mechanism has not been applied	○	○	○
The regulation providing infringements is broad and general	○	○	○
The penalties imposed are not dissuasive enough	○	○	○
Other	○	○	○

Please explain your answer(s):

Legal instrument

46. In your opinion, how appropriate has been the choice of a Directive as a legal instrument to regulate the measures to reduce the cost of deploying electronic communications networks?

- ○ Not appropriate at all
- ◉ Not appropriate
- ○ Neutral
- ○ Appropriate
- ○ Very appropriate
- ○ No opinion

Please explain your answer:

Given the heterogeneity across Member States, it is fair to conclude that a material part of the provisions in the Directive have lacked of enforceability and accordingly there is a clear need for improvements to be made.

47. In your opinion, what would be the most appropriate legal instrument when reviewing the Broadband Cost Reduction Directive?

	Strongly disagree	Disagree	Neutral	Agree	Strongly Agree	No opinion
Directive with minimum harmonization (similar to the Broadband Cost Reduction Directive)	○	◉	○	○	○	○

Directive with maximum harmonization	○	◉	○	○	○	○
Regulation	○	○	◉	○	○	○
Other instrument	○	○	○	○	○	○

Please explain your answer(s):

The legal instrument should incentivise Member States to more effectively enforce the legal instrument and achieve its goals. In addition, its adoption should accelerate the implementation of the new measures, contributing to the achievement of the 2025 gigabit society targets. EU legislation that introduces harmonised and streamlined rules, the granularity of which is to be defined, and requires nationally consistent procedures is the only way to overcome the disparities and inefficiency at the local and municipal level. This could be overseen by relevant ministries as part of the relevant wider goals of achieving a European Gigabit Society. Apart from the improvements to be introduced in the different provisions, the possibility of having a flexibility to maintain existing real best practices in order to better ensure the achievement of the objective of reducing the cost of deployment should remain. The legal instrument should be also without prejudice to measures already implemented by Member States in application of the EU toolbox.

Final comments

48. Final comments:

As a supplementary input to this public consultation, the GSMA has prepared a report on Mobile Network Deployment Policy and Implementation of the Broadband Cost Reduction Directive in Europe, which outlines mobile communication industry's key concerns and recommendations. The report is public and available here:
https://www.gsma.com/gsmaeurope/resources/bcrd-review/

Please upload your file

The maximum file size is 1 MB
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Contact

Contact Form