DIGITALEUROPE

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The Gigabit Infrastructure Act: Towards Europe's connectivity goals

Introduction

DIGITALEUROPE welcomes the much-anticipated review of the Broadband Cost Reduction Directive (BCRD),[1] and strongly supports the European Commission's proposal for a Gigabit Infrastructure Act (GIA).[2]

The GIA will help meet Europe's increased connectivity needs, for both consumers and businesses, by supporting faster deployments of very high-capacity networks (VHCNs) with cost-efficient measures on infrastructural access, civil works, permit granting, in-building infrastructure, and single information points.

The proposal would have an immediate and material impact on infrastructure providers' ability to deploy the latest and best technology quickly and easily in Europe. Importantly, by virtue of being a directly applicable Regulation as opposed to a Directive, it would be enacted uniformly across the entire EU.

We urge the Council and the European Parliament to adopt this proposal during the present term. It is an essential building block on the roadmap to achieve our Digital Decade connectivity goals, and as such merits utmost attention from European policymakers.

The final text should:

- Remain a Regulation, in order not to protract fragmented and minimal implementation by Member States;
- Preserve the maximum four-month timeline for permit granting procedures, incentivise even shorter timelines as already seen in some Member State regions, and limit extensions for exceptional circumstances;

[1] Directive 2014/61/EU.

[2] COM(2023) 94 final. For more on DIGITALEUROPE's recommendations for a more favourable investment environment, see *Mind the gap: A new Connectivity Act for the Digital Decade*, available at https://www.digitaleurope.org/wp/wp-content/uploads/2022/03/DIGITALEUROPE_Mind-the-Gap_A-new-Connectivity-Act-for-the-Digital-Decade.pdf.

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- Extend the principle of cost limitation beyond permits to include rights of way and other financial burden such as taxation or other charges;
- Directly provide for an exemption from any permit granting procedures for upgrades to mobile sites;
- Uphold the broad definition of physical infrastructure owned and controlled by public authorities, and the obligation for authorities to clearly identify and duly justify why certain buildings are excluded;
- Extend the one-month timeline to dispute settlement for refused access; and
- Establish a clear single information point where information can be found, applications made and disputes resolved.

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A directly applicable Regulation

DIGITALEUROPE strongly supports the European Commission's choice to put forward a Regulation, as opposed to a Directive.

The largely documented experience of a very fragmented and minimal implementation of the BCRD at Member State level clearly illustrates that a directly applicable Regulation is needed.

Difficulties in national implementation have been caused by too many competencies spread across different administrations, each having a narrower objective such as urbanism, health, sustainability, safety or security. We insist on the need for a Regulation to avoid such fundamental flaws.

A Regulation will boost consistency and engagement from all competent authorities, increasing flexibility, pragmatism and efficiency.

Procedure for granting permits

Harmonising Member State procedures, especially those with federal systems, is an excellent step forward. Very often, deployment is hampered by multiple layers of bureaucracy, red tape and different authorities, from the federal to the local. Encouraging Member States to ensure policies are consistent across their territory and potential barriers removed will have a positive impact.

Permit granting procedures

We welcome the maximum four-month timeline for permit granting or rejecting procedures, requesting documents, and providing feedback. This maximum limit will put Europe on a roughly equal footing with other advanced economies where timelines are similar.

It should be noted that some Member State regions have already adopted shorter timelines, experiencing faster deployment. For this reason, the final Regulation should incentivise even shorter timelines.

In contrast, we note that Art. 7(5)(3) would open the door to an extension by the competent authority for exceptional circumstances. Whilst the text specifies such extension should be short and duly justified, we suggest that an explicit two-month limit should be included. This will ensure that the exceptional circumstances behind the extension are promptly dealt with, ensuring that the granting or refusal of the permit would not take more than six months in total.

We welcome that compensation can be claimed for damage caused by delays.[3]

Financial burden

[3] Art. 7(11), ibid.

We welcome the principle that permits required for the deployment of VHCN elements or associated facilities must not be subject to any fees or charges beyond administrative costs.[4]

Considering the definition of 'permit,' encompassing all decisions taken simultaneously or successively by one or several competent authorities, we question why rights of way are excluded. A limitation to administrative costs is relevant for rights of way, too.

The final Regulation should extend this principle of cost limitation outside the permit context. Every financial burden by taxation or other mechanisms of charges on fixed or mobile telecoms infrastructure should be avoided.

Upgrading infrastructure

The first wave of any mobile deployment begins with upgrading existing infrastructure, such as existing base stations, with new equipment. When a new generation of mobile technology is ready for deployment, the new equipment is added to existing infrastructure as a very first step. This is by far the quickest way to deploy, as mobile sites often have the backhaul necessary to accommodate additional coverage and capacity.

Art. 7(8) allows the European Commission to issue an implementing act whereby some categories of deployment would not be subject to any permit granting procedures. We urge that the final Regulation should directly provide for an exemption from any permit granting procedures for upgrades to mobile sites, provided the upgraded mobile site complies with electromagnetic field (EMF) limits.

A direct exemption would have the biggest impact in the deployment of any new technology. It would incentivise network operators to upgrade active and passive equipment as soon as it is available and to add new technologies, capacity and coverage without any additional cost. This would ensure that Europe is the first to deploy the latest and best technologies it develops, rather than its global competitors. The benefits for citizens, businesses and the economy would be felt immediately.

Physical infrastructure owned and controlled by public authorities

DIGITALEUROPE welcomes the inclusion of street furniture and other assets such as light poles, street signs, traffic lights, billboards, bus and tramway stops, and metro stations.[5]

[4] Art. 7(10) of the proposal.

[5] Art. 2(2)(a), ibid.

The availability of suitable physical infrastructure, including non-network elements owned or controlled by public authorities, is a huge opportunity especially with the installation of thousands of small-area wireless access points.

DIGITALEUROPE also welcomes the obligation for public sector bodies to clearly identify and duly justify why certain buildings or categories thereof are excluded.[6] Some exceptions can be argued for reasons of architectural, historical, religious, natural value, public security, health and safety, but such exceptions must remain limited. Excessive leeway for authorities and fragmented interpretations must be prevented.

Dispute settlement

We welcome the proposal's provision of a speedy and effective dispute-resolution mechanism, which will help resolve conflicts.[7] We would welcome extension of the one-month timeline – as opposed to four months – to resolve situations where access to existing infrastructure is refused or agreement on terms and conditions has not been reached.

Single information point

The proposal fosters the development and use of a single information point for each Member State.

Reducing red tape through a single digital portal where information can be found, applications made and disputes resolved would be a major achievement of the proposal.

Whilst Member States might have different agencies and governmental bodies involved in granting permits and rights of way, a single point of contact would simplify and streamline the process. This does not prevent Member States from organising differently and having internal discussions among the different bodies, but there should be one such body interfacing with infrastructure companies to ensure consistency, certainty and simplicity.

We encourage further clarity that this should be *one* entity, by removing any use of the plural 'points' in the text.

Transparency and coordination

It is important to find the right balance between sharing information and maintaining the confidentiality of network information and security of networks. This should be better reflected in Arts 4 and 5 regarding transparency on physical infrastructure and coordination of civil works, respectively.

[6] Art. 3(6), ibid.

[7] Art. 11, ibid.

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About DIGITALEUROPE

DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract, and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies, as well as international policies that have an impact on Europe's digital economy. Our membership represents over 45,000 businesses who operate and invest in Europe. It includes 102 corporations which are global leaders in their field of activity, as well as 41 national trade associations from across Europe.

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