

Guidance on the application of GIA Article 3

Fields marked with * are mandatory.

1

Introduction

The Gigabit Infrastructure Act (GIA) seeks to facilitate the cost-efficient and timely deployment of very high capacity networks (VHCN) in the European Union (EU) in order to meet citizens' and businesses' increasing connectivity needs. Specifically, the GIA aims to facilitate and stimulate the roll-out of VHCN by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be rolled out faster and at a lower cost.

Article 3 of the GIA "Access to existing physical infrastructure" addresses the issue of access to existing physical infrastructure, owned or administered by network operators, public sector bodies and owners of private commercial buildings (where provided by Member States) as well as access to land of legal persons who are primarily active as tenants of land, or as holders of rights over land, other than property rights.

Under Article 3(13), the Commission may, in close cooperation with BEREC, provide guidance on the application of Article 3, after consulting stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, and taking into account well-established principles and the distinct situation across Member States.

Objectives of the targeted consultation

The aim of this consultation is to collect evidence and best practices from National Regulatory Authorities (NRAs), Dispute Settlement Bodies (DSBs), electronic communications operators and service providers, industry associations, individuals – to enable the Commission, in close cooperation with BEREC, to provide guidance on the application of GIA Article 3.

With the present consultation, the Commission will gather information on well-established principles and the specific situation of the Member States that might need be taken into account.

Replying to the public consultation

All questions are optional. You can also pause at any time and continue later, before the end of the period for providing feedback. Once you have submitted your answers, you can download a copy of your contribution. Please note that there is no limit for number of characters for each reply, but you can also attach a file before submitting your answers. In case you need assistance please contact DG Connect, Unit B.3 at CNECT-GIA-ART3@ec.europa.eu.

2 About you

* 2.1 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

* 2.2 I am giving my contribution as

- ☐ Academic/research institution
- ☒ Business association
- ☐ Company/business
- ☐ Consumer organisation

- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

*** 2.4 First name**

Jakob

*** 2.5 Surname**

Juul

*** 2.6 Email (this won't be published)**

jhj@teleindu.dk

*** 2.10 Organisation name**

255 character(s) maximum

Telecommunications Industry Association in Denmark

*** 2.11 Organisation size**

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

2.12 Transparency register number

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

222375044009-42

2.13 If your company is a public sector body, please specify whether it is:

- ☐ National Regulatory Authority (NRA)
- ☐ Dispute Settlement Body (DSB), if different from NRA
- ☐ Competent Union bodies or agencies in the relevant sectors
- ☐ National/regional/local competent authority

2.15

If your company provides or is authorized to provide Electronic Communications Network or an associated facility, please specify the type:

- ☐ Fixed Network Operator
- ☐ Mobile Network Operator
- ☐ Mobile Virtual Network Operator
- ☐ Convergent Operator
- ☐ Providers of associated facilities, including Tower Cos
- ☐ Other

2.17 Is your company the owner or manager of private property that may be used for the deployment of electronic communications networks (individual or association)?

- ☐ Yes
- ☒ No

***2.18 Country of origin**

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

This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.

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| ○ Anguilla | ○ Eritrea | ○ Malaysia | ○ Senegal |
| ○ Antarctica | ○ Estonia | ○ Maldives | ○ Serbia |
| ○ Antigua and Barbuda | ○ Eswatini | ○ Mali | ○ Seychelles |
| ○ Argentina | ○ Ethiopia | ○ Malta | ○ Sierra Leone |
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| ○ Aruba | ○ Faroe Islands | ○ Martinique | ○ Sint Maarten |
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| ○ Bahamas | ○ French Guiana | ○ Mexico | ○ Somalia |
| ○ Bahrain | ○ French Polynesia | ○ Micronesia | ○ South Africa |
| ○ Bangladesh | ○ French Southern and Antarctic Lands | ○ Moldova | ○ South Georgia and the South Sandwich Islands |
| ○ Barbados | ○ Gabon | ○ Monaco | ○ South Korea |
| ○ Belarus | ○ Georgia | ○ Mongolia | ○ South Sudan |
| ○ Belgium | ○ Germany | ○ Montenegro | ○ Spain |
| ○ Belize | ○ Ghana | ○ Montserrat | ○ Sri Lanka |
| ○ Benin | ○ Gibraltar | ○ Morocco | ○ Sudan |
| ○ Bermuda | ○ Greece | ○ Mozambique | ○ Suriname |
| ○ Bhutan | ○ Greenland | ○ Myanmar/Burma | ○ Svalbard and Jan Mayen |
| ○ Bolivia | ○ Grenada | ○ Namibia | ○ Sweden |
| ○ Bonaire Saint Eustatius and Saba | ○ Guadeloupe | ○ Nauru | ○ Switzerland |
| ○ Bosnia and Herzegovina | ○ Guam | ○ Nepal | ○ Syria |

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<input type="radio"/> British Indian Ocean Territory	<input type="radio"/> Guinea-Bissau	<input type="radio"/> Nicaragua	<input type="radio"/> Thailand
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<input type="radio"/> Cambodia	<input type="radio"/> Hungary	<input type="radio"/> North Korea	<input type="radio"/> Trinidad and Tobago
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<input type="radio"/> Cape Verde	<input type="radio"/> Indonesia	<input type="radio"/> Oman	<input type="radio"/> Turkmenistan
<input type="radio"/> Cayman Islands	<input type="radio"/> Iran	<input type="radio"/> Pakistan	<input type="radio"/> Turks and Caicos Islands
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<input type="radio"/> China	<input type="radio"/> Israel	<input type="radio"/> Papua New Guinea	<input type="radio"/> United Arab Emirates
<input type="radio"/> Christmas Island	<input type="radio"/> Italy	<input type="radio"/> Paraguay	<input type="radio"/> United Kingdom
<input type="radio"/> Clipperton	<input type="radio"/> Jamaica	<input type="radio"/> Peru	<input type="radio"/> United States
<input type="radio"/> Cocos (Keeling) Islands	<input type="radio"/> Japan	<input type="radio"/> Philippines	<input type="radio"/> United States Minor Outlying Islands
<input type="radio"/> Colombia	<input type="radio"/> Jersey	<input type="radio"/> Pitcairn Islands	<input type="radio"/> Uruguay

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| <input type="radio"/> Czechia | <input type="radio"/> Lebanon | <input type="radio"/> Saint Helena
Ascension and
Tristan da Cunha | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic
Republic of the
Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Kitts and
Nevis | <input type="radio"/> Zimbabwe |
| <input checked="" type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

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. **For 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

* 2.20 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](#)

3 Consultation

The Broadband Cost Reduction Directive[1] (BCRD) has served its aim of lowering the costs of high-speed broadband deployment with measures on infrastructure sharing, civil works coordination and the reduction of administrative burden. BCRD provisions will remain in force until the respective GIA provisions become applicable. Most GIA provisions, including Article 3, become applicable from 12 November 2025[2].

GIA aims to facilitate and stimulate the roll-out of VHCN[3] by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be rolled out faster and at a lower cost.

As it can be seen in the correlation table in the Annex to the GIA Regulation, large part of GIA's provisions builds on the scope of the BCRD and has been incorporated in the GIA. However, GIA's scope of application (including the application of GIA Article 3) is even wider[4]. For example, the application of the GIA has been expanded to cover providers of associated facilities (e.g. independent tower companies), and non-network physical infrastructure (such as street furniture and buildings, owned or controlled by public bodies which may be suitable for the deployment of VHCN). It also includes provisions which address tenants of land or holders of rights over land (other than property rights), and provides an option for Member States to mandate access to commercial buildings on reasonable request in specific situations. As stated above, while there are specific provisions of GIA that are already partially or fully in place in the context of the application of BCRD, others remain to be introduced pursuant to GIA.

The Commission may provide guidance on the application of Article 3 GIA in close cooperation with BEREC (Article 3(13) of GIA).

To provide guidance on the implementation of GIA Article 3, the Commission shall consult with the stakeholders and take into account well-established principles and distinct situation across the Member States. The purpose of this questionnaire is twofold: on the one hand, to gather information on the established well-functioning principles that are already in place in the Member States under the BCRD and that are kept under the GIA, and, on the other hand, to receive feedback and proposals from the stakeholders for the Commission's guidance on the application of Article 3 of the GIA. To achieve this, questions referring to the provisions of the GIA building on the scope of BCRD provisions, reflect both the current situation (e.g. state of play and best practices pursuant to BCRD) and potential proposals for successful implementation of the GIA provisions.

Moreover, it should be noted that according to Article 3(9) of GIA physical infrastructure which is already subject to access obligations imposed by NRAs pursuant to the EECC (e.g. in connection with Significant

Market Power under Articles 68, 72 and 73 of the EECC) or resulting from the application of Union State aid rules will not be subject to the GIA access obligations, for as long as such access obligations are in place.

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

[2] The exact timeline regarding the repeal of Directive 2014/61/EU is defined in GIA Article 18, and the entry into force and application of GIA is determined in GIA Article 19.

[3] The definition of Very High Capacity Networks is according to EECC Article 2(2)

[4] The wider scope of GIA can be seen in its Article 2(4), where “physical infrastructure” is defined.

4 Access to Physical Infrastructure Owned or Controlled by Network Operators and Public Sector Bodies

Article 3(1) of the GIA establishes high-level principles for the provision of access to physical infrastructure owned or controlled by network operators (including providers of associated facilities such as tower cos) and public sector bodies. The physical infrastructure in scope, includes alongside access to ducts, poles and towers (already covered under the BCRD), access to public buildings and rooftops as well as street furniture. As such Article 3(1) GIA extends provisions covering access to certain of these assets for the purposes of deploying small-area wireless access points (SAWAP) under Article 57 EECC.

Article 3(5) includes the grounds on which access to the physical infrastructure of network operators and public sector bodies can be denied. In particular, point f) of Article 3(5) refers to the availability of viable alternative means of passive wholesale physical access as a possible ground for denying access.

Experience from established procedures and practices Please respond to the questions below based on the experience gained so far inter alia from the application of the provisions of BCRD.

4.1 Have you made or received a request for physical infrastructure access up to now pursuant to the BCRD? What was the type of physical infrastructure that you requested access to or to which access was requested from you?

The members of the association have received and/or have made requests under the BCRD and specific Danish rules for co-sharing of masts, rooftops, access to buildings and for co-digging. Request for access to unused underground ducts/duct capacity are uncommon in Denmark. Access to existing ducts and channels in buildings is widely used and accepted.

4.2 Have you/Were you refused access to physical infrastructure? To/by whom (e.g. network operators (what type), public sector bodies) and which was the basis of refusal? Have these cases ended in launching the activation of the dispute resolution procedure?

Yes. Refusal by public sector bodies to access buildings and roof tops, chimneys and other facilities in order to establish antennas are common. Since the entry into force of the BCRD the NRA has only had to deal with 2 complaints concerning access to passive physical infrastructure. Refusals by other network operators are rare and only when access is not possible either for technical reasons, existing reservations of capacity for own or other operators or just lack of available capacity.

4.3 Have you experienced cases in which your access request was not refused, but the operator offered very high access prices and/or the negotiations were very long and/or you were not provided all the necessary information, etc.?

Our members often experience unjustifiably high access prices and unreasonable restrictions when requesting access to publicly owned buildings and facilities (like chimneys and towers). Public owners of buildings and facilities that are able to provide access to antennas for electronic radiocommunication are often not prioritizing their obligation by law to grant access and are often difficult to negotiate an agreement with and the negotiations are often very long and subject to unjustified requirements.

4.4 Have non-price-related “fair and reasonable” terms and conditions for physical infrastructure access been defined or described?

- ☒ Yes
- ☐ No

4.5 Identify how these terms and conditions were defined (e.g. dispute settlement procedure, reference offer, guidelines, industry practices/commercial solution, Court of Justice/National Courts).

The association has a standard contract for co-sharing of towers and masts. For co-digging an industry practice has been established which is widely accepted by the industry. This practice is applied in combination with commercial negotiations. There has only been one recent complaint (in the last 10 years) about cost-sharing that was settled by the local authorities (the municipality) and later settled by the Danish Road Directorate.

4.6 Which are the main criteria of fairness/reasonableness that have been used?

The general principles between operators are equal access and cost-sharing. When sharing towers/masts the principle is based on a model of calculating the price of the used vertical capacity based on a generic model of cost elements for different types of towers and masts. The prices per unit utilized are gradually decreased for all parties proportionally with the sum of total units being shared of the population of towers/masts. This means that the more capacity units that are being shared the lower the prices per unit will be. Cabins for equipment are generally not shared. When co-digging each party bears own cost (cable and handling etc.). The cost of digging the trench is shared equally between the parties except in cases where the trench needs to be deeper in order to comply with specific legal requirements concerning depth.

4.7 Can you identify good practices in this regard or issues of concern?

The association has made standard contract for accessing and sharing of towers and masts including cost-sharing. This has been applied for the last 25 years. A practice for co-digging has developed over the years. Issues of concerns have been determining which operator should have the lead on the project, how to avoid delays in the deployment when accommodation the other party/parties and to decide on the cost-sharing. Fair and reasonable conditions are in general agreed between the contracting parties as a result of commercial negotiations. In practice simplified generic models for cost sharing have been applied. Attempts to use very precise and detailed models for cost sharing have often proven to be too complicated and difficult to apply and too difficult to verify. Disputes resolved by a dispute-resolution body such as an NRA can be useful to define guiding principles, but risk putting too much emphasis on the specific and concrete facts rather than on the general trends and principles. Fair and reasonable access to the passive infrastructure could for non-telecoms operators be based on marginal costs whereas for telecom operators cost sharing should be the guiding principles in light of the competitive situation in the telecom market.

4.8 Have a specific pricing methodology or principles or price-related guidelines reflecting fairness and reasonableness in terms and conditions for access to physical infrastructure been defined or used in practice?

- ☒ Yes
- ☐ No

4.9 Identify the basic principles and characteristics (e.g. relation to cost orientation, benchmark, binding or not, scope).

Between telecoms operators the principles are cost orientation or cost sharing based on a generic model of cost elements. These are generally negotiated, accepted and applied in a non-binding manner. Common cost are shared and cost that are individual and can be isolated are not shared. When negotiating with property owners (public authorities) benchmarks or reference offers are often used, but no common model is agreed upon.

4.10 Identify the means of the introduction (e.g. reference offer, guidelines, others?).

Guidelines and standards and principle agreed on industry level.

4.11 Did the same terms and conditions apply irrespectively of the type of the operator that provides the access (i.e. Electronic Communication Network (ECN) assets vs non-ECN (e.g. utility, public sector body) assets)?

The same terms and conditions applies generally between ECNs and to a large extent between ECN and utility companies (such as electricity cables, which is a comparable sector). In general the more variations and differences between needs and characteristics of the sectors involved the more difficult it becomes to find common ground for granting access and agreeing on terms and conditions.

4.12 Was the impact on the business case taken into account in this regard, and if yes, how?

Between the ECNs the business case plays a vital rule for the deployment of new physical infrastructure, but the templates for the standard contracts and generic cost sharing models are applied to overcome this and create a level playing field.

4.13 Have different principles been followed for ducts, poles and towers owned by public bodies?

Yes. There is in general no uniform application of principles for granting access to ducts, poles and towers owned by public bodies.

4.14 Can you identify good practices in this regard or issues of concern?

In general public bodies in Denmark are not allowed to make a profit or to compete with private companies unless this is specified by law. In general public bodies are allowed to sell or lease existing unused capacity on a cost recovery basis. Issues of concerns: some public bodies use external advisors to determine terms and prices, but the external advisors often lack basic understanding and insight in the market and the result are often without any documentation of the applied methods and calculations and therefore cannot be verified or challenged.

4.15 [Mainly for NRAs and DSBs] Were there cases where network operators or public sector bodies denied access to specific physical infrastructure?

- ☐ Yes
- ☐ No

*Please respond to the questions below on a **forward-looking perspective**, for an effective and efficient application of the provisions of GIA.*

4.19 According to Article 3(1) of GIA, access to physical infrastructure owned or controlled by network operators and public sector bodies should be granted under “fair and reasonable” terms and conditions. In your opinion, how such terms and conditions should be defined in this context?

Network operators should apply a standard contract with agreed terms and conditions based on good industry practices. Public sectors bodies should apply common terms and condition agreed and formalized under the supervision of the NRA. In general agreed and predetermined terms and conditions will facilitate the effective and cost-efficient roll-out of new infrastructure.

4.20 Should different principles be applied (or not) for:

- ECN deploying VHCN vs non-ECN (e.g. utility)

- Providers of associated facilities (in view of Article 3(4)(f)) vs provision of the same assets by ECN providers
- Publicly owned vs private
- Access to assets such as buildings, rooftops and street furniture in comparison to network elements (such as ducts, poles and towers)

Equal principle should be used between ECNs and non-ECNs. Access to publicly owned physical infrastructure should be based on marginal cost pricing whereas private access should be based on cost sharing/cost recovery. There is a need for a generic model for pricing access to buildings, rooftops as this is a market with limited or no alternatives and therefore risking excessive prices and misuse of a monopoly situation. The cost of relocating telecoms equipment and limited possibly to find alternative locations makes this market very illiquid.

4.21 If yes, which terms and conditions should apply and in which situations? Which are the main criteria of fairness/reasonableness that should, in your view, be defined?

See answer to q4.20

4.22 In your opinion, what criteria -if any- should apply to examine if the access provided by public sector bodies is under non-discriminatory terms and conditions (in addition to having fair and reasonable conditions)?

A standardized model for terms and condition and a generic model for calculating prices

4.23 In your opinion, pursuant to Article 3(5)(f)[1] of the GIA, which alternative means of passive wholesale physical access provided by the same network operator could be considered as a viable replacement of access to physical infrastructure?

[1] (f) the availability of viable alternative means of passive wholesale physical access to electronic communications networks, suitable for the provision of VHCNs, and offered under fair and reasonable terms and conditions, that are provided by the same network operator or, in the specific case of rural or remote areas where a network is operated on a wholesale-only basis and owned or controlled by public sector bodies, that are provided by the operator of such network.

4.24 Should fair and reasonable terms and conditions be defined for this alternative access?

- ☒ Yes
- ☐ No

4.26 What sort of evidence or justification should be presented for refusal of access on each ground for refusal listed in Article 3(5)[1]?

- [1] (a) the physical infrastructure to which access has been requested is not technically suitable to host any of the elements of VHCN referred to in paragraph 1;
- (b) there is a lack of availability of space to host the elements of VHCNs or associated facilities referred to in paragraph 1, including after taking into account the future need for space of the access provider that is sufficiently demonstrated, such as by referring to publicly available investments plans or to a consistently applied percentage for the capacity reserved for future needs, compared to the entire capacity of the physical infrastructure;
- (c) the existence of justified reasons regarding safety, national security and public health;
- (d) the existence of duly justified reasons regarding the integrity and security of any network, in particular national critical infrastructure;
- (e) the existence of a duly justified risk of serious interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure;
- (f) the availability of viable alternative means of passive wholesale physical access to electronic communications networks, suitable for the provision of VHCNs, and offered under fair and reasonable terms and conditions, that are provided by the same network operator or, in the specific case of rural or remote areas where a network is operated on a wholesale-only basis and owned or controlled by public sector bodies, that are provided by the operator of such network.

Written documentation that can be verified by an independent party or the DRB

5 Access to Physical Infrastructure - Pricing

Article 3(4) of GIA lists what must be considered by network operators and public sector bodies when they determine fair and reasonable terms and conditions, including prices, for access to the existing physical infrastructure in order to avoid excessive prices. Additional details are provided for in Recitals 22, 24 and 25 of the GIA.

*Please respond to the questions below on a **forward-looking perspective**, for an effective and efficient application of the provisions of GIA.*

5.1 In your opinion, which pricing methodology or principles should be followed to better reflect fairness and reasonableness in terms and conditions for access to the existing physical infrastructure? Which of the criteria listed in Article 3(4)[1] would be the most relevant in your case?

- [1] (a) existing contracts and commercial terms and conditions agreed between operators seeking access and network operators or public sector bodies granting access to physical infrastructure;
- (b) the need to ensure that the access provider has a fair opportunity to recover the costs it incurs in order to provide access to its physical infrastructure, taking into account specific national conditions, business models, and any tariff structures put in place to provide a fair opportunity for cost recovery; in the case of electronic communications networks, any remedies imposed by a national regulatory authority are also to be taken into account;
- (c) any additional maintenance and adaptation costs resulting from providing access to the relevant physical infrastructure;

- (d) the impact of the requested access on the access provider's business plan, including investments in the physical infrastructure to which the access has been requested;
- (e) in the specific case of access to physical infrastructure of operators, any relevant guidance pursuant to paragraph 13, and in particular:
- (i) the economic viability of those investments based on their risk profile;
 - (ii) the need for a fair return on investment and for any time schedule for such return on investment;
 - (iii) any impact of access on downstream competition and consequently on prices and return on investment;
 - (iv) any depreciation of the network assets at the time of the access request;
 - (v) any business case underpinning the investment at the time it was made, in particular investment in the physical infrastructure used for the provision of connectivity; and (vi) any possibility previously offered to the access seeker to co-invest in the deployment of the physical infrastructure, notably pursuant to Article 76 of Directive (EU) 2018/1972, or to co-deploy alongside it;
- (f) when considering the operators' need for a fair return on investment which reflects the relevant market conditions, their different business models, in particular in the case of undertakings that primarily provide associated facilities and offer physical access to more than one undertaking that provides, or that is authorised to provide, public electronic communications networks.

As a general rule (a) existing contracts and commercial terms and conditions agreed between operators etc. and when justified the other methods b) - f).

5.2 Which of the elements listed in Article 3(4) (e) of the GIA would be the most important and what sort of evidence or justification should be provided for each of them?

- (e) in the specific case of access to physical infrastructure of operators, any relevant guidance pursuant to paragraph 13, and in particular:
- (i) the economic viability of those investments based on their risk profile;
 - (ii) the need for a fair return on investment and for any time schedule for such return on investment;
 - (iii) any impact of access on downstream competition and consequently on prices and return on investment;
 - (iv) any depreciation of the network assets at the time of the access request;
 - (v) any business case underpinning the investment at the time it was made, in particular investment in the physical infrastructure used for the provision of connectivity; and (vi) any possibility previously offered to the access seeker to co-invest in the deployment of the physical infrastructure, notably pursuant to Article 76 of Directive (EU) 2018/1972, or to co-deploy alongside it;

5.3 Should such a methodology be binding and what would be, in your view, the most appropriate instrument to define it? Please refer separately to network operators' and public sector bodies' pricing methodology or guidelines.

6 Access to Land and Commercial Buildings

Article 3(2) addresses the issue of operators' requests for physical infrastructure access to legal persons who are primarily active as tenants of land, or as holders of rights over land, other than property rights, on which facilities are planned to be or have been installed with a view to deploying elements of VHCNs, or who manage lease contracts on behalf of land owners.

Article 3(3) includes an optional possibility for Member States to address the issue of operators' requests for physical infrastructure access to owners of private commercial buildings.

Please respond to the questions below on a **forward-looking perspective**, for a more efficient application of the provisions of GIA.

6.1 Are there any problematic issues relative to access to land?

- ☒ Yes
- ☐ No

6.2 Please explain which are these issues and whether and how they could in your view be addressed by EU-level guidance?

Landowner and their neighbors are very often reluctant to grant access and permit granting authorities (local municipalities) are reluctant to grant the necessary permits when there is local opposition.

6.3 Should, in the context of possible guidance on Article 3(2), terms and conditions associated with agreements between the entities referred to Article 3(2) (see above) and operators be defined?

- ☒ Yes
- ☐ No

6.4 Which ones and at what level?

General terms and condition and pricing principles and methods

6.5 Should a specific methodology of calculating the price of access to land with a view of deploying elements of VHCNs or guidelines, be defined to facilitate the conclusion of agreements for operators' access to land?

- ☒ Yes
- ☐ No

6.6 Which criteria would indicate that prices reflect market conditions?

Alternative use as the market for access is a market with limited choice/alternatives and risk of excessive pricing

6.7 Would a recommended contract template for access to land defined at national level be useful?

Yes

6.8 How should “fair and reasonable” terms and conditions associated with requests for access to buildings, including their rooftops, with a view to deploying elements of VHCNs or associated facilities be defined?

Based on best or good practices developed under the supervision of the NRAs

6.9 Which would be the main criteria of fairness/reasonableness you would consider appropriate?

Publicly available templates and standard contracts

6.10 Which methodology of calculating the price of such access to buildings, including their rooftops, should be defined to facilitate the conclusion of access agreements?

Alternative use or marginal cost recovery

6.11 Should it be binding or in the form of national guidelines that would facilitate the conclusion of agreements under commercial terms?

When there is risk of excessive pricing the principles should be binding

6.12 Which criteria would indicate that prices are reflecting market conditions?

Access to land, buildings and rooftops are constrained by lack of alternative choices, high costs of relocations etc. which makes it a non-competitive market. True market conditions are therefore often very difficult to determine.

6.13 Would a recommended contract template for access to commercial buildings defined at national level be useful?

Yes

7 Other provisions

Article 3(8) includes the possibility for the Member States to establish or designate a body to coordinate access requests to physical infrastructure.

Please respond to the questions above on a **forward-looking perspective**, for an effective and efficient application of the provisions of GIA.

7.1 Is there an already established or designated body with the role to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, provide relevant legal and technical advice in your country/region /municipality?

- ☐ Yes
☒ No

7.3 Do you consider that it would be needed for the tasks described in Article 3(8)?

- ☐ Yes
☒ No

7.5 Is there any other applied best practice and/or well-established principle that, in your opinion, should be incorporated in Commission guidance on the implementation of Article 3 of the GIA?

The Commission should gather the best and good practices from the member states and also the Danish templates for cost sharing and standard contracts.

8 Additional Information

Please submit any supporting documents that will help inform the consultation process. Your input is valued and appreciated.

8.1 Please upload your file(s)

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

Gigabit Infrastructure Act (<https://eur-lex.europa.eu/eli/reg/2024/1309/oj/eng>)

Contact

