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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	23 February 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2023) 96 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act)

Delegations will find attached document SEC(2023) 96 final.

Encl.: SEC(2023) 96 final



EUROPEAN COMMISSION

Brussels, 18.1.2023
SEC(2023) 96 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act)

{COM(2023) 94 final}
{SWD(2023) 46 final} {SWD(2023) 47 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Connectivity Infrastructure Act

Overall opinion: POSITIVE

(A) Policy context

The Connectivity Infrastructure Act follows the review of the Broadband Cost Reduction Directive adopted in 2014 and is one of the actions announced in the 'Shaping Europe's digital future' Communication. The Broadband Cost Reduction Directive proposed measures to reduce the cost of deploying high-speed electronic communications networks, facilitate and incentivise the roll-out by lowering the costs of deployment with a set of harmonised measures, including access to existing physical infrastructure, coordination of civil works, coordination of administrative procedures and requirements for in-building physical infrastructure for new buildings and major renovations. It also included provisions to ensure transparency of relevant information through Single Information Points and dispute resolution mechanisms.

The 2018 Commission's report on the implementation of the Directive concluded that the Directive was transposed with significant delays in most Member States and its implementation has been inconsistent across the EU. The Connectivity Infrastructure Act aims to address the shortcomings by fine-tuning existing measures and proposing new ones, responding to the market and technological changes occurred since 2014 and the increased need for very high capacity fixed and mobile connectivity from businesses and citizens. Ultimately, it aims to contribute to the Union 2030 Gigabit coverage targets.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The report does not clearly set out the incremental value of the Connectivity Infrastructure Act. It does not explain the different determinants affecting the roll-out of very high capacity networks, including national and EU rules and other initiatives. It does not bring out clearly enough the single market aspects of both the problems and the options, including stakeholders' views.

This opinion concerns a draft impact assessment which may differ from the final version.

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- (2) The report does not sufficiently explain the importance of the 5G standard and building the very high capacity cross-border infrastructure and sharing it for its successful deployment.
- (3) The report is not sufficiently clear on the methodological assumptions and parameters underpinning the econometric models used for the analysis of economic and environmental impacts. It does not clearly argue the net positive environmental impact.

(C) What to improve

- (1) The report should be clear and more explicit about the incremental nature and value of the proposal to help render the analysis more proportionate. It should explain better the different determinants affecting the deployment of very high capacity networks, also with reference to fibre optic investments for 5G connectivity, the different initial situations of the Member States and national and local regulations in place.
- (2) The report should strengthen the single market dimension of the analysis, explaining the rationale for building EU-wide, cross-border connectivity and expanding the arguments relating to market entry and the scale effects restrained by the current differences in national rules. It should also take into account the evolution of multinational market players and their competitive strategies in Europe (i.e. entering in almost each national market). As public authorities in the Member States seem more reluctant on deepened harmonisation measures, the report should explain their positions and the rationale behind them.
- (3) The report should explain the central importance of 5G as the new generation technology standard for broadband mobile networks, and explain why, in this context, the roll-out of optical fibre and infrastructure sharing is vital for the successful deployment of 5G technology and how this will impact on different stakeholders beyond the electronic communications sector. The report should also mention other factors generating fragmentation in this respect (i.e. national differences in electromagnetic emissions) that are not tackled by this initiative, but which may nonetheless affect expected harmonisation outcomes.
- (4) The report should provide more detail on aspects pertaining to competition in relation to existing physical infrastructure within the electronic communication sector as well as with other network operators. It should also better discuss the trade-offs between the needs for infrastructure sharing and the risk of excess capacity (overbuild).
- (5) With regard to the econometric modelling, the report should explain to what extent the specific measures proposed could be disentangled from other factors that may affect deployment decisions. It should expand the presentation of the underlying assumptions in terms of their origin and robustness, including the extrapolation methodology, to allow for easier and more credible assessment of the performance of policy options. The analysis of environmental impacts should better explain and disaggregate the parameters used in the model, to allow for better understanding of the effects and to present, with more clarity and convincing arguments, the net positive impacts on the CO₂ and other Green House Gas emissions.
- (6) The report should explain the envisaged legal delivery instrument for the Connectivity Infrastructure Act when discussing subsidiarity and proportionality aspects.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Connectivity Infrastructure Act
Reference number	PLAN/2020/7443
Submitted to RSB on	16 February 2022
Date of RSB meeting	16 March 2022

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
Direct benefits		
Member States	~ EUR2.4billion	Cost savings in VHCN deployment leading to the opportunity to reduce subsidies for FTTH deployment by EUR2.4bln
Electronic Communication Network (ECN) operators:	~EUR12billion	Reduced capex in VHCN deployment Cost savings due to improved access to existing infrastructure and co-deployment opportunities
Local Authorities	EUR3-4m savings per annum	The savings come from: <ul style="list-style-type: none"> • Digitisation of permit-granting processes, permit exemptions and tacit approval • Requirements to provide access to non-network public facilities Strengthened information requirements for civil works co-ordination
Indirect benefits		
Increased VHCN		Additional 6.5% households served by FTTH or 9.1% by 5G FWA if cost savings are reinvested in VHCN
Improved job opportunities	627,000 jobs EU-wide	
Improved economic prosperity	~EUR109billion	Uplift in GDP in the period to 2030 if cost savings are reinvested in FTTH
Administrative cost savings related to the 'one in, one out' approach*		
Electronic Communication Network (ECN) operators:	~EUR40m savings per annum	Administrative cost savings from streamlining of access negotiations / reductions in disputes (~EUR24m per annum) Administrative cost savings from streamlined permit application processes (~EUR15m per annum)

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
o	Direct	EUR50 per		Electronic		Local	

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	adjustment costs	installation		Communication Network (ECN) operators: * EUR15m ¹ Other network operators: * EUR5-7m ² Construction companies: * EUR1-2m ³		Authorities: * EUR35-40m DSBs/SIPs management Authorities: * EUR10-15m	
	Direct administrative costs						DSBs/SIPs management Authorities: * EUR6-7m per year
	Direct regulatory fees and charges						
	Direct enforcement costs						
	Indirect costs						
<i>Costs related to the 'one in, one out' approach</i>							
Total	Direct adjustment costs			Administrative costs, such as the transparency obligations (implementing georeferencing, providing information about existing physical infrastructure, pro-active notification of planned civil works) ⁴			
	Indirect adjustment costs						
	Administrative costs (for						

¹ These cost include the stakeholders' participation in preparing guidelines. There is no obligation for participation and therefore bearing such cost would be at entire decision of the stakeholders.

² These cost include the stakeholders' participation in preparing guidelines. There is no obligation for participation and therefore bearing such cost would be at entire decision of the stakeholders.

³ These cost include the stakeholders' participation in preparing guidelines. There is no obligation for participation and therefore bearing such cost would be at entire decision of the stakeholders.

⁴ These could not be adequately estimated at this stage. According to the support study, the administrative costs related to these obligations are expected to be limited as only few Member States do not have those requirements already in place or some of them plan to implement them in the near future

	offsetting)						
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