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From:	General Secretariat of the Council
To:	Working Party on Telecommunications And Information Society (Attachés) Working Party on Telecommunications and Information Society
Subject:	Gigabit Infrastructure Act - FR comments macro table (doc. 6845/23)

Delegations will find in annex the FR comments macro table on Gigabit Infrastructure Act. (doc. 6845/23).

Commission proposal	Drafting Suggestions	Comments
2023/0046 (COD)		
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)		Les autorités françaises souhaitent, à titre liminaire, rappeler qu'elles regrettent le choix opéré par la Commission de recourir au règlement pour atteindre les objectifs d'accélération des déploiements des réseaux à très haute capacité et de réduction des coûts. Une refonte de la directive par le biais d'une autre directive, tout en renforçant l'harmonisation entre les Etats membres, permettrait d'atteindre ces objectifs. Il faut rappeler que l'approche retenue pour la directive 2014/61/UE est celle de l'harmonisation minimale.
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		

Commission proposal	Drafting Suggestions	Comments
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,		
Having regard to the proposal from the European Commission,		
After transmission of the draft legislative act to the national parliaments,		
Having regard to the opinion of the European Economic and Social Committee ¹ ,		
Having regard to the opinion of the Committee of the Regions ² ,		
Acting in accordance with the ordinary legislative procedure,		

¹ OJ C., p.

² OJ C., p.

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

Commission proposal	Drafting Suggestions	Comments
(2) The rapid evolution of technologies, the exponential growth in broadband traffic and the increasing demand for advanced very high-capacity connectivity have further accelerated during the COVID-19 pandemic. As a result, the targets laid down in the Digital Agenda in 2010³ have mostly been met, but they have also become obsolete. The share of households having access to 30 Mbps internet speeds has increased from 58.1% in 2013 to 90% in 2022. Availability of only 30 Mbps is no longer future-proof and not aligned with the new objectives set in Directive (EU) 2018/1972 of the European Parliament and of the Council⁴ for ensuring connectivity and widespread availability of very high capacity networks. Therefore, in the Decision (EU) 2022/2481 of		

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 19.05.2010, COM(2010)245.

⁴ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

Commission proposal	Drafting Suggestions	Comments
the European Parliament and Council⁵, the EU set updated targets for 2030 that better correspond to the expected connectivity needs of the future where all European households should be covered by a gigabit network, with all populated areas covered by 5G.		
(3) To achieve those targets, there is a need for policies to speed up and lower the costs of the deployment of very high-capacity fixed and wireless networks across the Union, including proper planning, coordination and the reduction of administrative burdens.		Il conviendrait de préciser que la réduction de la charge administrative concernera surtout les bénéficiaires des dispositions du présent règlement à savoir les opérateurs, car sa mise en oeuvre entraînera nécessairement une augmentation de la charge administrative pour ceux (opérateurs de réseau, organismes du secteur public) soumis aux obligations qu'il prévoit.

⁵ Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJ L 323, 19.12.2022, p. 4).

Commission proposal	Drafting Suggestions	Comments
(4) Directive 2014/61/EU, which was adopted in response to the need for policies to lower the costs of broadband deployment, included measures on infrastructure sharing, civil works coordination and the reduction of administrative burdens. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council, called in its Conclusions on Shaping Europe's Digital Future of 9 June 2020, called for a package of additional measures to support current and emerging network deployment needs, including by reviewing Directive 2014/61/EU.		
(5) The roll-out of very high capacity networks (as defined in Directive (EU) 2018/1972) across the Union requires substantial investment, a significant proportion of which is the cost of civil engineering works.		

Commission proposal	Drafting Suggestions	Comments
Sharing physical infrastructure would limit the need for costly civil engineering works and make advanced broadband roll-out more effective.		
(6) A major part of the costs of deploying very high capacity networks can be attributed to inefficiencies in the roll-out process related to: (i) the use of existing passive infrastructure (such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions); (ii) bottlenecks related to the coordination of civil works; (iii) burdensome administrative procedures to grant permits; and (iv) bottlenecks in in-building deployment of networks, which lead to high financial barriers, particularly in rural areas.		

Commission proposal	Drafting Suggestions	Comments
(7) Directive 2014/61/EU of the European Parliament and of the Council⁶, which was adopted in response to the need to lower the costs of broadband deployment, included measures on infrastructure sharing, civil works coordination and the reduction of administrative burdens. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council, in its Conclusions on Shaping Europe's Digital Future of 9 June 2020, called for a package of additional measures to support current and emerging network deployment needs, including by reviewing Directive 2014/61/EU.	(7) Directive 2014/61/EU of the European Parliament and of the Council⁷, which was adopted in response to the need to lower the costs of broadband deployment, included measures on infrastructure sharing, civil works coordination and the reduction of administrative burdens. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council, in its Conclusions on Shaping Europe's Digital Future of 9 June 2020, called for a package of additional measures to support current and emerging network deployment needs, including by reviewing Directive 2014/61/EU.	Le considérant 7 a le même objet que le considérant 4 et sa rédaction est quasiment identique au considérant 4. En l'absence d'apport, il ne parait pas nécessaire.
(8) The measures set out in Directive 2014/61/EU contributed to less costly		

⁶ 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).

⁷ 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).

Commission proposal	Drafting Suggestions	Comments
deployments of high-speed electronic communications networks. However, these measures should be strengthened to further reduce costs and speed up network deployment.		
(9) Measures aiming to make using public and private existing infrastructures more efficient and reduce costs and obstacles in carrying out new civil engineering works should contribute substantially to ensuring a fast and extensive deployment of very high capacity networks. These measures should maintain effective competition without harming the safety, security and smooth operation of the existing infrastructure.	9) Measures aiming to make using public and private existing infrastructures more efficient and reduce costs and obstacles in carrying out new civil engineering works should contribute substantially to ensuring a fast and extensive deployment of very high capacity networks. These measures should maintain effective competition without harming the safety, security, public health, environnement and smooth operation of the existing infrastructure.	Les considérations sanitaires et environnementales sont également à prendre en compte, au même titre que la sécurité, la sûreté, dans l'équilibre à rechercher.
(10) Some Member States have adopted measures to reduce the costs of broadband roll-out, including by going beyond the provisions of		

Commission proposal	Drafting Suggestions	Comments
Directive 2014/61/EU. However, those measures are still very different across Member States and have led to different results across the Union. Scaling up some of those measures across the Union and taking new reinforced measures could significantly contribute to the better functioning of the digital single market. Moreover, differences in regulatory requirements and inconsistent implementation of Union rules sometimes prevent cooperation across utility companies. The differences may also raise barriers to entry for new undertakings providing or authorised to provide public electronics communications networks or associated facilities, as defined in Directive (EU) 2018/1972 ('operators'). These differences may also close off new business opportunities, hindering the development of an internal market for the use and deployment of physical infrastructures for very high capacity networks.		

Commission proposal	Drafting Suggestions	Comments
Moreover, the measures notified in the national roadmaps and implementation reports adopted by Member States under Commission Recommendation (EU) 2020/1307⁸ neither cover all the areas of Directive 2014/61/EU nor address all issues in a consistent and complete manner. This is despite how essential it is to take action across the whole roll-out process and across sectors to achieve a coherent and significant impact.		
(11) This Regulation aims to strengthen and harmonise rights and obligations applicable across the Union to accelerate the roll-out of very high capacity networks and cross-sector coordination. Due to the persistent fragmentation of electronic communications markets in individual national markets,		

⁸ Commission Recommendation (EU) 2020/1307 of 18 September 2020 on a common Union toolbox for reducing the cost of deploying very high capacity networks and ensuring timely and investment-friendly access to 5G radio spectrum, to foster connectivity in support of economic recovery from the COVID-19 crisis in the Union (OJ L 305, 21.9.2020, p. 33).

Commission proposal	Drafting Suggestions	Comments
undertakings providing or authorised to provide electronic communications networks are unable to achieve economies of scale. This can have a strong downstream effect on cross-border trade and services provision, since many services can only be provided where an adequately performant network is in place across the Union. While ensuring an improved level playing field, this Regulation does not prevent national measures in compliance with Union law that serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure by complementing the rights and obligations laid down in this Regulation. For example, Member States could extend provisions on civil works coordination also to privately funded projects or require that more information on physical infrastructure or planned civil works is provided to a single information point in electronic		

Commission proposal	Drafting Suggestions	Comments
format, provided that they do not violate Union law including the provisions of this Regulation.		
(12) To ensure legal certainty, including regarding specific regulatory measures imposed under Directive (EU) 2018/1972, under Title II, Chapters II to IV and Directive 2002/77/EC ⁹ , the provisions of these directives should prevail over this Regulation.		
(13) It can be significantly more efficient for operators, in particular new entrants, to reuse existing physical infrastructure, including that of other utilities, to roll out very high capacity networks or associated facilities. This is the case, in particular, in areas where no suitable electronic communications network is available or where it may not be economically feasible to build new physical infrastructure. Moreover,		

⁹ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services ([OJ L 249, 17.9.2002, p. 21](#)).

Commission proposal	Drafting Suggestions	Comments
synergies across sectors may significantly reduce the need for civil works relating to the deployment of very high capacity networks. This reuse can also reduce the social and environmental costs linked to these works, such as pollution, noise and traffic congestion. Therefore, this Regulation should apply not only to operators but also to owners or holders of rights to use extensive and ubiquitous physical infrastructure suitable to host electronic communications network elements, such as physical networks for the provision of electricity, gas, water and sewage and drainage systems, and heating and transport services. In the case of holders of rights, this does not change any property rights of third parties.		
(14) To improve the deployment of very high capacity networks in the internal market, this Regulation should lay down rights for		

Commission proposal	Drafting Suggestions	Comments
undertakings providing public electronic communications networks or associated facilities (including undertakings of a public nature) to access physical infrastructure regardless of its location under fair and reasonable terms consistent with the normal exercise of property rights. The obligation to give access to the physical infrastructure should be without prejudice to the rights of the owner of the land or of the building in which the infrastructure is located.		
(15) In particular, taking into account the fast development of providers of wireless physical infrastructure such as ‘tower companies’, and their increasingly significant role as providers of access to physical infrastructure suitable to install elements of wireless electronic communications networks, such as 5G, the definition of ‘network operator’ should be		

Commission proposal	Drafting Suggestions	Comments
extended beyond undertakings providing or authorised to provide electronic communications networks and operators of other types of networks, such as transport, gas or electricity, to include undertakings providing associated facilities, which thus become subject to all the obligations and benefits set out in the Regulation, except the provisions regarding in-building physical infrastructure and access.		
(16) In view of their low degree of differentiation, the physical facilities of a network can often host a wide range of electronic communications network elements at the same time without affecting the main service provided and with minimum adaptation costs. These elements include those capable of delivering broadband access services at speeds of at least 100 Mbps in line with the technological neutrality principle. Therefore,		

Commission proposal	Drafting Suggestions	Comments
physical infrastructure, that is intended to only host other elements of a network without becoming an active network element itself, such as dark fibre, can in principle be used to accommodate electronic communications cables, equipment or any other element of electronic communications networks, regardless of its current use or its ownership, security concerns or future business interests of the infrastructure's owner. The physical infrastructure of public electronic communications networks can in principle also be used to accommodate elements of other networks. Therefore, in appropriate cases, public electronic communications network operators may give access to their networks so that other networks can be deployed. Without prejudice to the pursuit of the specific general interest linked to the provision of the main service, synergies between network operators		

Commission proposal	Drafting Suggestions	Comments
should at the same time be encouraged to contribute to achieving the digital targets set out in Decision (EU) 2022/2481.		
(17) In the absence of a justified exception, physical infrastructure elements owned or controlled by public sector bodies, even when they are not part of a network, can also host electronic communications network elements and should be made accessible to facilitate installing network elements of very high capacity networks, in particular wireless networks. Examples of physical infrastructure elements are buildings, entries to buildings, and any other asset, including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations. It is for Member States to identify specific buildings owned or controlled by public sector bodies in their territories where access	17) In the absence of a justified exception, physical infrastructure elements owned or controlled by public sector bodies, even when they are not part of a network, can also host electronic communications network elements and should be made accessible to facilitate installing network elements of very high capacity networks, in particular wireless networks. Examples of physical infrastructure elements are buildings, entries to buildings, and any other asset, including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations. It is for Member States to identify specific buildings owned or controlled by public sector bodies in their territories where access	Les autorités françaises souhaitent attirer l'attention sur le fait que les infrastructures des organismes du secteur public ne sont pas, par nature, destinées à l'accueil d'éléments du réseaux de communications électroniques très haut débit. Le déploiement de ces réseaux ne doit pas affecter l'usage qui leur est assigné (en particulier à l'égard des bâtiments de santé, d'éducation, de sécurité et de sûreté). Leur finalité première devrait être prise en compte pour déterminer si ces infrastructures peuvent ou non être utilisées pour le déploiement des réseaux de communications électroniques, sans que cela n'entraîne de charges administratives excessives pour les Etats membres.

Commission proposal	Drafting Suggestions	Comments
obligations cannot apply, for example, for reasons of architectural, historical, religious or natural value.	obligations cannot apply, for example, for reasons of architectural, historical, religious, natural value or security .	
(18) This Regulation should be without prejudice to any specific safeguard needed to ensure safety and public health, the security and integrity of the networks, in particular critical infrastructure, as defined by national law, and to ensure that the main service provided by the network operator is not affected, in particular in networks used for the provision of water intended for human consumption. However, general rules in national legislation prohibiting network operators from negotiating access to physical infrastructures by undertakings providing or authorised to provide electronic communications networks or associated facilities could prevent creating a market for access to physical infrastructure. Such general	18) This Regulation should be without prejudice to any specific safeguard needed to ensure safety and public health, the security and integrity of the networks, in particular critical infrastructure, as defined by national law, and to ensure that the main service provided by the network operator or public sector body is not affected, in particular in networks used for the provision of water intended for human consumption. However, general rules in national legislation prohibiting network operators from negotiating access to physical infrastructures by undertakings providing or authorised to provide electronic communications networks or associated facilities could prevent creating a market for access to physical infrastructure.	

Commission proposal	Drafting Suggestions	Comments
rules should therefore be abolished. At the same time, the measures set out in this Regulation should not prevent Member States from incentivising utility operators to give access to infrastructure by excluding revenue generated from the access to their physical infrastructure when calculating end-user tariffs for their main activity or activities, in accordance with applicable Union law.	Such general rules should therefore be abolished. At the same time, the measures set out in this Regulation should not prevent Member States from incentivising utility operators to give access to infrastructure by excluding revenue generated from the access to their physical infrastructure when calculating end-user tariffs for their main activity or activities, in accordance with applicable Union law.	
(19) In order to ensure legal certainty and avoid disproportionate burdens on network operators resulting from the simultaneous application of two distinct access regimes to the same physical infrastructure, physical infrastructure subject to access obligations imposed by national regulatory authorities pursuant to Directive (EU) 2018/1972 or access obligations resulting from the application of		

Commission proposal	Drafting Suggestions	Comments
Union State aid rules should not be subject to access obligations set out in this Regulation for as long as such access obligations remain in place. However, this Regulation should be applicable where a national regulatory authority has imposed an access obligation under Directive (EU) 2018/1972 that limits the use that can be made of the physical infrastructure concerned. For instance, this could occur when an operator planning to connect base stations requests access to existing physical infrastructure to which access obligations are imposed in the market for access to wholesale dedicated capacity¹⁰.		
(20) To ensure proportionality and preserve investment incentives, a network operator or public sector body should have the right to	(20) To ensure proportionality and preserve investment incentives, a network operator or public sector body should have the right to	Ce considérant contient quelques redondances qu'il est possible de supprimer sans remettre en cause le propos développé.

¹⁰ Commission Recommendation (EU) 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code, 18.12.2020, C(2020) 8750, OJ L 439, 29.12.2020, p. 23.

Commission proposal	Drafting Suggestions	Comments
refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure for which access has been requested could be technically unsuitable due to specific circumstances, or because of lack of currently available space or future needs for space that are sufficiently demonstrated, for instance, in publicly available investment plans. To ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure. To avoid any potential distortion of competition or any possible abuse of the conditions to refuse access, any such refusal should be duly justified and based on objective and detailed reasons. For example such reasons would not be considered objective where an undertaking providing or authorised to provide electronic communications networks has deployed physical infrastructure thanks to	refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure for which access has been requested could be technically unsuitable due to specific circumstances, or because of lack of currently available space or future needs for space that are sufficiently demonstrated, for instance, in publicly available investment plans. To ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure. To avoid any potential distortion of competition or any possible abuse of the conditions to refuse access, any such refusal should be duly justified and based on objective and detailed reasons. For example such reasons would not be considered objective where an undertaking providing or authorised to provide electronic communications networks has deployed physical infrastructure thanks to	La rédaction du considérant crée une confusion quant à la possibilité de refuser un accès au motif que le partage d’infrastructures compromettrait la sécurité, la santé, l’intégrité du réseaux dans la mesure où il commence par “similarly” après avoir présenté un cas de distorsion de concurrence causé par un refus d’accès. Il conviendrait sans doute de remplacer “ similarly” par “on the contrary”.

Commission proposal	Drafting Suggestions	Comments
civil works coordination with a network operator other than an electronic communications network operator and refuses to grant access based on an alleged lack of availability of space to host the elements of very high capacity networks which results from decisions made by the undertaking under its control. In such case, a competition distortion could arise if there is no other VHCN in the area concerned by the access request. Similarly, in specific circumstances, sharing the infrastructure could jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or could endanger the provision of services that are primarily provided over the same infrastructure. Moreover, where the network operator already provides a viable alternative means of wholesale physical access to electronic communications networks that would meet the needs of the	civil works coordination with a network operator other than an electronic communications network operator and refuses to grant access based on an alleged lack of availability of space to host the elements of very high capacity networks which results from decisions made by the undertaking under its control. In such case, a competition distortion could arise if there is no other VHCN in the area concerned by the access request. On the contrary, Similarly, in specific circumstances, sharing the infrastructure could jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or could endanger the provision of services that are primarily provided over the same infrastructure.	

Commission proposal	Drafting Suggestions	Comments
access seeker, such as dark fibre or fibre unbundling, access to the underlying physical infrastructure could have an adverse economic impact on its business model, in particular that of wholesale-only operators, and incentives to invest. It may also risk an inefficient duplication of network elements. The assessment of the fair and reasonable character of the terms and conditions for such alternative means of wholesale physical access should take into account, <i>inter alia</i>, the underlying business model of the undertaking providing or authorised to provide public electronic communications networks granting access and the need to avoid any reinforcement of the significant market power, if any, of either party.		
(21) To facilitate the reuse of existing physical infrastructure, where operators request access in a specified area, network operators and	(21) To facilitate the reuse of existing physical infrastructure, where operators request access in a specified area, network operators and	

Commission proposal	Drafting Suggestions	Comments
public sector bodies that own or control physical infrastructure should make an offer for the shared use of their facilities under fair and reasonable terms and conditions, including price, unless access is refused for objective and justified reasons. Public sector bodies should also be required to offer access under non-discriminatory terms and conditions. Depending on the circumstances, several factors could influence the conditions under which such access is granted. These include: (i) any additional maintenance and adaptation costs; (ii) any preventive safeguards to be adopted to limit adverse effects on network safety, security and integrity; (iii) any specific liability arrangements in the event of damages; (iv) the use of any public subsidy granted for the construction of the infrastructure, including specific terms and conditions attached to the subsidy or provided under national law in compliance with Union	public sector bodies that own or control physical infrastructure should make an offer for the shared use of their facilities under fair and reasonable terms and conditions, including price, unless access is refused for objective and justified reasons. Public sector bodies should also be required to offer access under non-discriminatory terms and conditions. Depending on the circumstances, several factors could influence the conditions under which such access is granted. These include: (i) any additional maintenance and adaptation costs; (ii) any preventive safeguards to be adopted to limit avoid adverse effects on network safety, security and integrity; (iii) any specific liability arrangements in the event of damages; (iv) the use of any public subsidy granted for the construction of the infrastructure, including specific terms and conditions attached to the subsidy or provided under national law in	

Commission proposal	Drafting Suggestions	Comments
law; (v) the ability to deliver or provide infrastructure capacity to meet public service obligations; and (vi) any constraints stemming from national provisions aiming to protect the environment, public health, public security or to meet town and country planning objectives.	compliance with Union law; (v) the ability to deliver or provide infrastructure capacity to meet public service obligations; and (vi) any constraints requirements stemming from national provisions aiming to protect the environment, public health, public security or to meet town and country planning objectives.	
(22) Investments in physical infrastructure of public electronic communications networks or associated facilities should directly contribute to the objectives set out in Decision (EU) 2022/2481 and avoid opportunistic behaviour. Therefore, any obligation of access to existing physical infrastructure or coordination of civil works should fully take into account a number of factors such as (i) the economic viability of those investments based on their risk profile; (ii) any time schedule for the return on investment; (iii) any impact that the access has on		Les autorités françaises souhaitent attirer l'attention de la Commission sur les éventuels effets de bord concurrentiels, susceptibles d'être générés par le motif de rejet prévu au point (f) de l'Article 3 de la proposition (rejet lié à l'existence d'offres de gros d'accès passif à la fibre optique) tel qu'expliqué dans le présent considérant. A la lecture de ce considérant, l'existence d'offres de gros d'accès passif à la fibre optique peut être mis en avant par un opérateur verticalement intégré, pour justifier le rejet d'une demande d'accès. Cette possibilité

Commission proposal	Drafting Suggestions	Comments
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, in particular in the physical infrastructure used for providing very high capacity network services; and (vi) any possibility previously offered to the access seeker to co-deploy.		pourrait conduire à l'éviction des demandeurs d'accès aux infrastructures physiques, sur des segments de réseau autres que ceux dont le déploiement est régi par des cadres réglementaires de mutualisation. En outre, les autorités françaises considèrent qu'il pourrait être utile de rappeler la prise en compte nécessaire des principes de proportionnalité et de non-discrimination dans l'exercice de la faculté de refus des demandes d'accès.
(23) Public sector bodies that own or control physical infrastructure may lack sufficient resources, experience or the necessary technical knowledge to engage in negotiations with operators on access. To facilitate access to these public sector bodies' physical infrastructure, a body could be appointed to coordinate the		Les autorités françaises souhaitent souligner le paradoxe existant entre la volonté d'élaborer un cadre contraignant à l'égard des organismes du secteur public pour favoriser l'accès à leurs infrastructures physiques et la reconnaissance expresse du fait que ces organismes ne disposent pas nécessairement des moyens pour

Commission proposal	Drafting Suggestions	Comments
access requests, provide legal and technical advice for negotiating access terms and conditions, and make relevant information on such physical infrastructure available via a single information point. The coordinating body could also support public sector bodies in preparing model contracts and monitor the outcome and the length of time of the access requests process. The body could also help if disputes arise on access to physical infrastructure that public sector bodies own or control.		mener des négociations à cet effet. La solution retenue pour surmonter cette difficulté implique de recourir à un organisme tiers (“support public sector bodies”), générateur de charge administrative et financière supplémentaire pour les organismes du secteur public soumis au règlement. En outre, la mise en place d’un tel dispositif pourrait soulever des problématiques en termes de sélection, d’indépendance et d’impartialité de cet organisme tiers. Il serait en plus nécessaire de s’assurer qu’il respecte le secret des affaires et autres secrets protégés par la loi.
(24) To ensure consistency of approaches among Member States, the Commission, in close cooperation with the Body of European Regulators for Electronic Communications (BEREC), could provide guidance on applying the provisions on access to physical		Les autorités françaises considèrent que la définition, au niveau européen, d’orientation pour l’application des dispositions relatives à l’accès aux infrastructures physiques, n’est pas l’échelon le plus adapté car elle aurait pour effet de rigidifier le cadre juridique applicable en ne

Commission proposal	Drafting Suggestions	Comments
infrastructure, including but not only on the application of fair and reasonable conditions. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.		tenant pas nécessairement compte des particularités nationales : - Cette compétence pourrait générer une certaine instabilité pour les opérateurs (le temps de la négociation étant plus court que celui nécessaire à l'élaboration d'orientations) - et entraver la pratique de l'organe compétent pour le règlement des litiges, qui exerce sa mission au cas par cas compte tenu de la situation concrète dans laquelle se trouvent les parties.
(25) Operators should have access to minimum information on physical infrastructure and planned civil works in the area of deployment. This will enable them to effectively plan deploying very high capacity networks and ensure the most effective use of existing physical infrastructure, suitable for rolling out	Suggestion de préciser dans ce considérant le fait que la mise en place d'un point d'information unique ne doit pas générer de charge disproportionnée au regard de l'objectif poursuivi.	Les autorités françaises partagent le point de vue selon lequel la communication d'informations sur les infrastructures physiques et les travaux de génie civil envisagés peuvent faciliter les demandes d'accès et la planification des travaux entre les opérateurs d'une part, et

Commission proposal	Drafting Suggestions	Comments
such networks, and planned civil works. Such minimum information is a pre-requisite to assess the potential for using existing physical infrastructure or coordinating the planned civil works in a specific area, as well as to reduce damage to any existing physical infrastructures. In view of the number of stakeholders involved (covering publicly and privately financed civil works as well as existing or planned physical infrastructure) and to facilitate access to that information (across sectors and borders), the network operators and public sector bodies subject to transparency obligations should proactively (rather than upon request) provide and maintain such minimum information via a single information point. This will simplify managing requests to access such information and enable operators to express their interest in accessing physical infrastructure or coordinating civil works, for which timing is critical. The		les opérateurs de réseau et organismes du secteur public d'autre part. Cependant, la mise en place d'un point d'information unique ne doit pas générer de charge disproportionnée au regard de l'objectif poursuivi. Une précision en ce sens dans le présent considérant paraît nécessaire.

Commission proposal	Drafting Suggestions	Comments
minimum information on planned civil works should be provided via a single information point as soon as the information is available to the network operator concerned and, in any event and where permits are required, no later than 3 months before the permit application is first submitted to the competent authorities.		
(26) The minimum information should be made available promptly via the single information point under proportionate, non-discriminatory and transparent terms so that operators can submit their requests for information. The single information point should consist of a repository of information in electronic format, where information can be accessed and requests can be made online using digital tools, such as webpages, digital applications, and digital platforms. The information made available may be limited to		

Commission proposal	Drafting Suggestions	Comments
ensure network security and integrity, in particular that of critical infrastructure, national security, or to safeguard legitimate operating and business secrets. The single information point does not have to host the information as long as it ensures that links are available to other digital tools, such as web portals, digital platforms or digital applications, where the information is stored. The single information point may provide additional functionalities, such as access to additional information or support to the process of requests for access to existing physical infrastructure or to coordinate civil works.		
(27) In addition, if the request is reasonable, in particular if needed to share existing physical infrastructures or coordinate civil works, operators should be granted the possibility to make on-site surveys and request information on		

Commission proposal	Drafting Suggestions	Comments
planned civil works under transparent, proportionate and non-discriminatory conditions and without prejudice to the safeguards adopted to ensure network security and integrity, protection of confidentiality, as well as operating and business secrets.		
(28) Advanced transparency of planned civil works via single information points should be incentivised. This can be done by easily redirecting operators to such information whenever available. Transparency should also be enforced by making permit-granting applications subject to prior publication of information on planned civil works via a single information point.		
(29) The discretion that Member States retain to allocate the functions of the single information points to more than one competent		Les autorités françaises accueillent favorablement la possibilité laissée aux Etats membres de désigner plus d'un organe pour

Commission proposal	Drafting Suggestions	Comments
body should not affect their ability to effectively fulfil those functions. Where more than one single information point is set up in a Member State, a single national digital entry point consisting of a common user interface should ensure seamless access to all single information points by electronic means. The single information point should be fully digitised and provide easy access to the relevant digital tools. This will enable network operators and public sector bodies exercise their rights and comply with the obligations set out in this Regulation. This includes fast access to the minimum information on existing physical infrastructure and planned civil works, electronic administrative procedures for granting permits and rights of way, and the applicable conditions and procedures. As part of this minimum information, the single information point should give access to georeferenced information on the		l'exercice des fonctions de point d'information unique, à différents niveaux : national, régional ou local.

Commission proposal	Drafting Suggestions	Comments
location of existing physical infrastructure and planned civil works. To facilitate this, Member States should provide automated digital tools for the submission of the georeferenced information and conversion tools to the supported data formats. These could be made available to network operators and public sector bodies responsible for providing this information via the single information point. Furthermore, where georeferenced location data are available via other digital tools, such as the INSPIRE Geoportal under Directive 2007/2/EC of the European Parliament and of the Council¹¹, the single information point could provide user-friendly access to this information.		
(30) To ensure proportionality and security, the requirement to provide information on	<u>Proposition de prévoir un dispositif plus opérationnel de mise en œuvre des</u>	Les autorités françaises accueillent favorablement la possibilité de déroger aux

¹¹ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Commission proposal	Drafting Suggestions	Comments
existing physical infrastructure via the single information point need not apply for the same reasons as those justifying a refusal of an access request. In addition, providing information on existing physical infrastructure via the single information point could, in very specific cases, be burdensome or disproportionate for network operators and public sector bodies. This could arise, for example, where the mapping of relevant assets is not yet available and it would be very costly to map or where access requests are expected to be very low in certain areas of a Member State or in respect to certain specific physical infrastructure. Where it appears that providing information is disproportionate based on a detailed cost-benefit analysis, network operators and public sector bodies should not be obliged to provide such information. Member States should conduct such detailed cost-benefit analysis based on a consultation with	dérogations aux obligations de transparence et de partage d'informations, à savoir permettre aux Etats d'arrêter des listes de catégories d'exemptions de ces obligations à la place de la disposition de la proposition de règlement prévoyant la réalisation, au cas par cas, d'une analyse de proportionnalité des coûts à chaque infrastructure.	obligations de transparence et de communications d'informations notamment lorsque le respect de celles-ci aurait un coût disproportionné pour l'opérateur de réseau ou l'organisme du secteur public. Toutefois, le dispositif dérogatoire proposé semble difficile à mettre en oeuvre car il ne tient pas compte du nombre d'infrastructures physiques potentiellement concernées. La mise en place de dérogation au cas par cas, après réalisation d'une analyse détaillée et consultation des parties, générerait une charge administrative significative alors mêmes que l'infrastructure concernée n'est pas privilégié par les opérateurs pour le déploiement de leurs réseaux. Un dispositif plus opérationnel impliquerait de permettre aux Etats d'arrêter des listes de catégories d'infrastructures exemptées

Commission proposal	Drafting Suggestions	Comments
stakeholders on demand for access to existing physical infrastructure, and the analysis should be updated regularly. The consultation process and its outcome should be made public, and the specific physical infrastructure to be exempted from this obligation should be notified to the Commission.		de ces obligations, et ce, d'autant plus si des mises à jour régulières doivent être réalisées. Les autorités françaises s'interrogent également quant à la nécessité de procéder à une notification à la Commission de l'exemption accordée et du processus de consultation, dans la mesure où elle pourra recueillir les informations voulues en application des dispositions du règlement.
(31) To ensure consistency, the competent bodies performing the functions of the single information point, the national regulatory authorities fulfilling their tasks under Directive (EU) 2018/172 or other competent authorities, such as national, regional or local authorities in charge of cadastre or the implementation of Directive 2007/2/EC (INSPIRE), as appropriate, should consult and cooperate with each other. The purpose of such cooperation should be to		Les autorités françaises s'accordent avec le projet de texte de la Commission s'agissant de la nécessité d'éviter les interférences et surpositions entre les obligations prévues par le projet de règlement d'une part, et celles imposées à l'opérateur gestionnaire d'infrastructures physiques et exerçant une puissance significative sur le marché associé (SMP). Les obligations imposées à ce dernier sont, d'une part, plus adaptées à sa position

Commission proposal	Drafting Suggestions	Comments
minimise the efforts in complying with transparency obligations on network operators and public sector bodies, including the undertakings designated with significant market power ('SMP' operators), to make information available about their physical infrastructure; Where a different data set on physical infrastructure of the SMP operator is required such cooperation should result in establishing useful interlinks and synergies between the SMP-related database and the single information point and proportionate common practices of data collection and data provision to deliver results that are easily comparable. Cooperation should also aim at facilitating access to information on physical infrastructure, in light of national circumstances. If regulatory obligations are modified or withdrawn, the parties affected should be able to agree on the best solutions to adapt the collection and		dominante et, d'autre part, mises en œuvres en concordance avec la taille du patrimoine d'infrastructures dont il est gestionnaire ou propriétaire. Dès lors, une discrétion doit être laissée aux Etats membres concernés par ce cas de figure, afin de prévoir des « <i>interlinks</i> » ou « <i>synergies</i> » les plus pertinents et en concertation avec les parties prenantes, de manière à atteindre les objectifs du texte sans engendrer d'opérations indûment coûteuses pour un ou plusieurs acteurs.

Commission proposal	Drafting Suggestions	Comments
provision of physical infrastructure data to the newly applicable regulatory requirements.		
(32) The transparency obligation for the coordination of civil works need not apply to civil works for reasons of national security or in an emergency. This could be the case, for civil works performed if there is a risk of public danger as a result of degradation processes to civil engineering works and their associated installations, which are caused by destructive natural or human factors and are needed to ensure their safety or their demolition. For reasons of transparency, Member States should notify the types of civil works falling under those circumstances to the Commission and publish them via a single information point.		Les autorités françaises comprennent la volonté de la Commission de suivre l'application du présent texte, toutefois, s'agissant des notifications des travaux de génie civil non soumis aux obligations de transparence pour des raisons de sécurité nationale ou en cas d'urgence, une notification à la Commission n'apparaît pas justifiée (la Commission ne fournit aucune précision quant à l'utilité de cette remontée d'information systématique) et est susceptible d'empiéter sur les compétences mêmes des Etats membres.
(33) To ensure significant savings and minimise inconveniences to the area affected by		

Commission proposal	Drafting Suggestions	Comments
the deployment of new electronic communications networks, regulatory constraints preventing as a general rule the negotiation among network operators of agreements to coordinate civil works to deploy very high capacity networks should be prohibited. If civil works are not financed by public means, this Regulation should be without prejudice to the possibility for network operators to conclude civil works coordination agreements according to their own investment and business plans and their preferred timing.		
(34) Member States should maximise the results of civil works fully or partially financed by public means, by exploiting the positive externalities of those works across sectors and ensuring equal opportunities to share the available and planned physical infrastructure to deploy very high capacity networks. The main		

Commission proposal	Drafting Suggestions	Comments
purpose of civil works financed by public means should not be adversely affected. However, timely and reasonable requests to coordinate the deployment of elements of very high capacity networks should be met by the network operator carrying out the civil works concerned directly or indirectly (for example, through a sub-contractor) under proportionate, non-discriminatory and transparent terms. For example, the requesting operator should cover any additional costs, including those caused by delays and keep changes to the original plans to a minimum Such provisions should not affect the right of Member States to reserve capacity for electronic communications networks even in the absence of specific requests. This will enable Member States to meet future demand for physical infrastructures to maximise the value of civil works or to adopt measures giving similar rights to operators of other types of		

Commission proposal	Drafting Suggestions	Comments
networks, such as transport, gas or electricity, to coordinate civil works.		
(35) In some cases, in particular for deployments in rural, remote or scarcely populated areas, the obligation to coordinate civil works might put at risk the financial viability of such deployments and eventually disincentivize investments carried out under market terms. Therefore, a request to an undertaking providing or authorised to provide public electronic communications networks to coordinate civil works might be considered unreasonable under specific circumstances. This should be the case, in particular, if the requesting undertaking providing or authorised to provide electronic communications networks did not state its intention to deploy very high capacity networks in that area (either as a new deployment, an upgrade or an extension of a	.[...] To ensure the possibility to access the deployed infrastructure in the future, the undertaking providing or authorised to provide public electronic communications networks performing the civil works should guarantee that it will deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission. This is without prejudice to the rules and conditions attached to the assignment of public funds and the application of State aid rules.	Les autorités françaises considèrent que les dispositions du projet de règlement relatives à la coordination des travaux seront suffisamment précises pour être mises en oeuvre par les opérateurs et les opérateurs de réseau ou organisme du secteur public, sans que des orientations générales ne soient fixées par la Commission. Dans la mesure où les problématiques rencontrées en matière de coordination des travaux dépendent essentiellement du contexte national de déploiement (la réglementation applicable pour la réalisation des travaux n'est pas propre aux télécoms), si des orientations étaient nécessaires, elles devraient être établies au niveau national, afin d'éviter tout effet de bord ou solution peu efficace.

Commission proposal	Drafting Suggestions	Comments
network) and there had been a forecast or invitation to declare an intention to deploy very high capacity networks in designated areas (pursuant to Article 22 of Directive (EU) 2018/1972) or a public consultation under Union State aid rules. If more than one of those forecasts, invitations and/or public consultations have occurred, only the lack of an expression of interest at the most recent occasion covering the period during which the request for coordination of civil works is made should be considered. To ensure the possibility to access the deployed infrastructure in the future, the undertaking providing or authorised to provide public electronic communications networks performing the civil works should guarantee that it will deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission. This is without prejudice to the rules and conditions attached to		

Commission proposal	Drafting Suggestions	Comments
the assignment of public funds and the application of State aid rules.		
(36) To ensure consistency of approaches, the Commission, in close cooperation with the Body of European Regulators (BEREC), could provide guidance on applying the provisions on civil work coordination, including but not only on apportioning of costs. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.	(36) To ensure consistency of approaches, the Commission, in close cooperation with the Body of European Regulators (BEREC), could provide guidance on applying the provisions on civil work coordination, including but not only on apportioning of costs. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.	
(37) Effective coordination can help reduce costs and delays as well as deployment disruption, which can be caused by problems on site. One example where coordination of civil works can provide clear benefits are cross-sector projects to deploy 5G corridors along transport paths, such as road, rail and in-land waterways.		

Commission proposal	Drafting Suggestions	Comments
These projects can often also require design coordination or co-design based on early cooperation between the project participants. As part of the co-design, the parties concerned may agree in advance on physical infrastructure deployment paths and the technology and equipment to be used, before the coordination of civil works. Therefore, the request for coordination of civil works should be filed as soon as possible.		
(38) A number of different permits for deploying elements of electronic communications networks or associated facilities may be necessary in order to protect national and Union general interests. These can include digging, building, town planning, environmental and other permits as well as rights of way. The number of permits and rights of way required for deploying different types of		Les autorités françaises estiment qu’une clarification doit être apportée concernant l’inclusion des droits de passage (“rights of way”) dans la notion même d’autorisations (“permits”). Elles reconnaissent que la transparence sur les informations concernant les autorisations et les procédures pour l’octroi de ces titres peut

Commission proposal	Drafting Suggestions	Comments
electronic communications networks or associated facilities and the local character of the deployment could involve applying different procedures and conditions, which can cause difficulties in the network deployment. Therefore, to facilitate deployment, all rules on the conditions and procedures applicable to granting permits and rights of way should be streamlined and consistent at national level. While preserving the right of each competent authority to be involved and maintain its decision-making prerogatives in accordance with the subsidiarity principle, all information on the procedures and general conditions applicable to granting permits for civil works and rights of way should be available via single information points. This could reduce complexity and increase efficiency and transparency for all operators and particularly new entrants and smaller operators not active in		faciliter le dépôt de demandes d'autorisations, en particulier pour les nouveaux ou les plus petits opérateurs. En France, la dématérialisation des procédures d'octroi des autorisations est une préoccupation qui a conduit à l'adoption de législations favorisant le recours au numérique. La plupart des entreprises désirant déposer une demande peuvent donc d'ores et déjà le faire par voie électronique. Les processus sont désormais stables et bien connus des opérateurs et des acteurs concernés. La nécessité d'un point d'informations unique visant à centraliser l'ensemble des processus de demande et d'octroi des autorisations/procédures n'est pas démontrée et serait de nature à complexifier le processus de délivrance des autorisations tout en ajoutant une charge administrative et financière.

Commission proposal	Drafting Suggestions	Comments
that area. Moreover, operators should have the right to submit their requests for permits and rights of way in electronic format via a single information point. Those undertakings should also be able to retrieve information in electronic format about the status of their requests and whether they have been granted or refused.		Les autorités françaises s'interrogent également sur la nécessité de mettre à disposition des informations sur l'état d'avancement du processus, compte tenu des délais particulièrement brefs proposés pour la délivrance ou le refus de ces autorisations.
“		
(39) Permit-granting procedures should not be barriers to investment or harm the internal market. Member States should therefore ensure that a decision on whether or not to grant permits on the deployment of elements of very high capacity networks or associated facilities is made available within 4 months from the receipt of a complete permit request. This is without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure, which are applicable to the permit-granting procedure in accordance with	39) Permit-granting procedures should not be barriers to investment or harm the internal market. Member States should therefore ensure that a decision on whether or not to grant permits on the deployment of elements of very high capacity networks or associated facilities is made available within 4 months 6 months from the receipt of a complete permit request. This is without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure, which are applicable to the permit-granting procedure in accordance with	Les autorités françaises comprennent la nécessité d'accélérer le processus d'octroi des dérogations. Toutefois, le délai imparti ne doit pas être trop court pour ne pas faire obstacle à la réalisation des étapes (consultation publique, enquête publique, recueil d'avis d'organismes tiers) indispensables pour s'assurer de la juste conciliation entre l'objectif de faciliter le déploiement et la présentation des autres intérêts publics et privés en présence (protection de l'environnement, considération paysagère, droit

Commission proposal	Drafting Suggestions	Comments
national or Union law. Competent authorities should not restrict, hinder or make the deployment of very high capacity networks or associated facilities economically less attractive. Specifically, they should not prevent procedures for granting permits and rights of way from proceeding in parallel, where possible, or require operators to obtain one type of authorisation before they can apply for other types of authorisations. Competent authorities should justify any refusal to grant permits or rights of way under their competence, based on objective, transparent, non-discriminatory and proportionate conditions.	national or Union law. Competent authorities should not restrict, hinder or make the deployment of very high capacity networks or associated facilities economically less attractive. Specifically, they should not prevent procedures for granting permits and rights of way from proceeding in parallel, where possible, or require operators to obtain one type of authorisation before they can apply for other types of authorisations. Competent authorities should justify any refusal to grant permits or rights of way under their competence, based on objective, transparent, non-discriminatory and proportionate conditions.	des tiers etc..). Le délai de 4 mois proposé est trop court. Par ailleurs, l'articulation de ce délai avec la possibilité de respecter d'autres délais et obligations prête à confusion quant à la possibilité de respecter les délais prévus par d'autres textes : le délai de 4 mois est il un délai applicable en l'absence de tout autre délai ? Une clarification devrait être apportée.
(40) To avoid undue delays, competent authorities must determine the completeness of the permit request within 15 days from its receipt. The permit request should be deemed complete unless the competent authority invites	(40) To avoid undue delays, competent authorities must determine the completeness of the permit request within 15 days 1 month from its receipt. The permit request should be deemed complete unless the competent authority invites	Les délais proposés pour la vérification de la complétude du dossier est également trop court, d'autant plus que son dépassement a pour effet de considérer la demande comme complète.

Commission proposal	Drafting Suggestions	Comments
the applicant to provide any missing information within that period. For reasons of equal treatment and transparency, the competent authorities should not consider permit requests for civil works to be admissible if the minimum information required under this Regulation has not been made available via a single information point within 3 months before the first permit request is submitted to the competent authorities. Where, in addition to permits, rights of way are required for deploying elements of very high capacity networks, competent authorities should, by way of derogation from Article 43 of Directive (EU) 2018/1972, grant such rights of way within 4 months from the receipt of the request. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within 6 months in accordance with Article 43 of Directive (EU) 2018/1972. Operators that suffer	the applicant to provide any missing information within that period. For reasons of equal treatment and transparency, the competent authorities should not consider permit requests for civil works to be admissible if the minimum information required under this Regulation has not been made available via a single information point within 3 months before the first permit request is submitted to the competent authorities. Where, in addition to permits, rights of way are required for deploying elements of very high capacity networks, competent authorities should, by way of derogation from Article 43 of Directive (EU) 2018/1972, grant such rights of way within 4 months from the receipt of the request, in accordance with the right to property of a third party. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within 6 months in accordance with Article 43 of	S'agissant du délai pour l'octroi des droits de passage, il importe de rappeler que le droit de passage est susceptible de porter atteinte au droit de passage des tiers, il est donc indispensable de ne pas laisser entendre que le principe est celui de l'octroi et de préciser que cette possibilité d'octroi s'exerce "sans préjudice ou dans le respect du droit des tiers". L'introduction d'un principe d'indemnisation en faveur des opérateurs pourrait créer des discriminations entre les demandeurs d'autorisation selon qu'ils sont ou non opérateurs. Ce principe se heurte également au règle d'indemnisation prévu par l'ordre juridique français, d'autant plus qu'il n'existe pas, en France, de droit à obtenir une autorisation.

Commission proposal	Drafting Suggestions	Comments
damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right to compensation.	Directive (EU) 2018/1972. Operators that suffer damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right to compensation.	
(41) In order to ensure uniform conditions for the implementation of Article 7 of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹². The exemptions from the requirement for permits set out at Union level by way of an implementing act, could be applied to different categories of infrastructure (such as masts, antennae, poles and underground cables) under certain specified	(41) — In order to ensure uniform conditions for the implementation of Article 7 of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council . The exemptions from the requirement for permits set out at Union level by way of an implementing act, could be applied to different categories of infrastructure (such as masts, antennae, poles and underground cables) under certain specified	Les autorités françaises considèrent que l’article 7 de la proposition de règlement est sérieusement susceptible de remettre en cause les compétences dont disposent les Etats membres et leurs collectivités pour la délivrance des autorisations administratives sur le territoire national. S’il apparait nécessaire d’accélérer les processus d’octroi de ces titres, cette nécessité ne justifie pas un empiètement sur les compétences des ces autorités nationales. Ainsi, cette proposition paraît méconnaître les principes de subsidiarité et de proportionnalité.

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Commission proposal	Drafting Suggestions	Comments
conditions, for which building permits, digging permits or other types of permits may be initially required. They could also be applied to technical upgrades of existing maintenance works or installations, small-scale civil works, such as trenching, and renewals of permits.	conditions, for which building permits, digging permits or other types of permits may be initially required. They could also be applied to technical upgrades of existing maintenance works or installations, small-scale civil works, such as trenching, and renewals of permits.	
(42) In order to ensure that the procedures for granting such permits and rights of way are completed within reasonable deadlines, as appears from certain modernising and good administrative practices at national level, it is necessary to draw up principles for administrative simplification. This should include <i>inter alia</i> limiting the obligation of prior authorisation to cases in which it is essential and introducing tacit approval by the competent authorities after a certain period of time has elapsed. Moreover, the categories of	(42) — In order to ensure that the procedures for granting such permits and rights of way are completed within reasonable deadlines, as appears from certain modernising and good administrative practices at national level, it is necessary to draw up principles for administrative simplification. This should include <i>inter alia</i> limiting the obligation of prior authorisation to cases in which it is essential and introducing tacit approval by the competent authorities after a certain period of time has elapsed. Moreover, the categories of	Les autorités françaises considèrent que le mise en place d'un principe selon lequel le silence gardé vaut délivrance de l'autorisation remet en cause certains principes fondamentaux de l'ordre juridique français et notamment la libre administration des collectivités territoriales, l'impératif de protection du domaine public. Bien que le principe du silence vaut acceptation existe déjà en droit français, la délivrance d'un certain nombre d'autorisations reste régie par le principe selon lequel le silence vaut rejet.

Commission proposal	Drafting Suggestions	Comments
deployments exempted from permits under Union law should no longer be subject to permits under national law.	deployments exempted from permits under Union law should no longer be subject to permits under national law.	
(43) To facilitate the deployment of elements of very high capacity networks, any fee related to a permit, other than rights of way, should be limited to the administrative costs related to processing the permit request according to the principles established in Article 16 of Directive (EU) 2018/1972. In the case of rights of way, the provisions established in Articles 42 and 43 of Directive (EU) 2018/1972 apply.		
(44) Achieving the targets set out in Decision (EU) 2022/2481 requires that, by 2030, all end users at fixed locations are covered by a gigabit network up to a network termination point and all populated areas are covered by next-generation wireless high-speed networks with at		Les autorités françaises accueillent favorablement la volonté de la Commission de s’assurer que les nouveaux immeubles et les immeubles ayant fait l’objet d’une rénovation majeure soit équipés en infrastructures physiques et câblage interne adapté à la fibre.

Commission proposal	Drafting Suggestions	Comments
least 5G-equivalent performance, in accordance with the principle of technological neutrality. Providing gigabit networks up to the end user should be facilitated, in particular through fibre-ready in-building physical infrastructure. Providing for mini-ducts during the construction of a building has only a limited incremental cost, while equipping buildings with gigabit infrastructure may represent a significant part of the cost of deploying a gigabit network. Therefore, all new buildings or buildings subject to a major renovation should be equipped with physical infrastructure and in-building fibre wiring, enabling the connection of end users to gigabit speeds. New multi-dwelling buildings and multi-dwelling buildings subject to major renovation should also be equipped with an access point, accessible to one or more undertakings providing or authorised to provide public electronic communications networks.		Elle s'interroge néanmoins sur la place des dispositions dans le présent règlement, qui ne concerne pas en tant que telles la construction même des réseaux.

Commission proposal	Drafting Suggestions	Comments
Moreover, building developers should provide for empty ducts from every dwelling to the access point, located in or outside the multi-dwelling building. Major renovations of existing buildings at the end user's location to enhance energy performance (pursuant to Directive 2010/31/EU of the European Parliament and of the Council¹³) provide an opportunity to also equip those buildings with fibre-ready in-building physical infrastructure, in-building fibre wiring and, for multi-dwelling buildings, an access point.		
(45) The prospect of equipping a building with fibre-ready in-building physical infrastructure, an access point or in-building fibre wiring may be considered disproportionate in terms of costs, namely for new single dwellings or buildings undergoing major		

¹³ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

Commission proposal	Drafting Suggestions	Comments
renovation works. This may be based on objective grounds, such as tailor-made cost estimates, economic reasons linked to the location, or urban heritage conservation or environmental reasons (for example, for specific categories of monuments).		
(46) Prospective buyers and tenants should be able to identify buildings that are equipped with fibre-ready in-building physical infrastructure, an access point and in-building fibre wiring and that therefore have considerable cost-saving potential. The fibre readiness of buildings should also be promoted. Member States should therefore develop a compulsory ‘fibre-ready’ label for buildings equipped with such infrastructure, an access point and in-building fibre wiring in accordance with this Regulation.		

Commission proposal	Drafting Suggestions	Comments
(47) Undertakings providing or authorised to provide public electronic communications networks deploying gigabit networks in a specific area could achieve significant economies of scale if they could terminate their network to the building's access point by using existing physical infrastructure and restoring the affected area. This should be possible irrespective of whether a subscriber has expressed explicit interest for the service at that moment in time and provided that the impact on private property is minimised, Once the network is terminated at the access point, the connection of an additional customer is possible at a significantly lower cost, in particular by means of access to a fibre-ready vertical segment inside the building, where it already exists. That objective is also fulfilled when the building itself is already equipped with a gigabit network to which access is provided to any public		Si les ambitions en matière de déploiement de la fibre sont pleinement partagées par les autorités françaises, elles estiment que ces dispositions pourraient avoir pour effet de favoriser le déploiement de la fibre au détriment d'autres technologies alors même que le choix de la technologie dépend tout de même de la faisabilité technique et de son coût.

Commission proposal	Drafting Suggestions	Comments
communications network provider, which has an active subscriber in the building, under transparent, proportionate and non-discriminatory terms and conditions. That could in particular be the case in Member States that have taken measures under Article 44 of Directive (EU) 2018/1972.		
(48) In order to contribute to ensuring availability of gigabit networks to end users, new buildings and majorly renovated buildings should be equipped with fibre-ready in-building physical infrastructure, in-building fibre wiring and, in the case of multi-dwelling buildings, an access point. Member States should have a degree of flexibility to achieve this. This Regulation, therefore, does not seek to harmonise rules on related costs, including the recovery of costs of equipping buildings with	Proposition de préciser ce qui est indiqué en commentaire à ce considérant.	Les autorités françaises reconnaissent qu'un certain degré de flexibilité doit être laissé pour l'établissement des prescriptions techniques en matière de fibrage. Elles s'interrogent donc sur la possibilité qui pourrait être donnée de laisser l'adoption de ces standards à des professionnels du secteur, qui, en France, ont déjà cette fonction. Le résultat de leurs travaux (guide pédagogique, référentiel technique) sont régulièrement utilisés par les opérateurs d'infrastructures, ou encore les promoteurs pour s'assurer du bon raccordement à la fibre. Les

Commission proposal	Drafting Suggestions	Comments
fibre-ready in-building physical infrastructure, in-building fibre wiring and an access point.		autorités françaises souhaiteraient donc qu’une telle possibilité, en ce sens, soit maintenue et précisée dans les considérants.
(49) In line with the subsidiarity principle and to take national circumstances into account, Member States should adopt the standards or technical specifications necessary for the purpose of equipping newly constructed or majorly renovated buildings with fibre-ready in-building physical infrastructure and in-building fibre wiring; and new or majorly renovated multi-dwelling buildings with an access point. Those standards or technical specifications should set out at least: the building access point specifications; fibre interface specifications; cable specifications; socket specifications; specifications for pipes or micro-ducts; technical specifications needed to prevent interference with electrical cabling, and the		Les autorités françaises estiment que les considérants 46 et 49 en particulier, n’explicitent pas suffisamment la distinction entre le “fibre ready label” et les “certification schemes”, de telle sorte qu’il est difficile de comprendre la bonne articulation entre les deux. Dans le cas où un système de certification serait mis en place, l’utilité d’un label en supplément soulève des interrogations quant à sa pertinence, notamment au regard des coûts supplémentaires que sa mise en place impliquerait d’une part, et de l’apport qu’il pourrait avoir une fois un système de certification mis en place d’autre part.

Commission proposal	Drafting Suggestions	Comments
minimum bend radius. Member States should make the issuance of building permits conditional on compliance of the relevant new building or major renovation works project requiring a building permit with the standards or technical specifications based on a certified test report. Member States should also set up certification schemes for the purpose of demonstrating compliance with the standards or technical specifications as well as for qualifying for the ‘fibre-ready’ label. Moreover, to avoid an increase in red tape related to the certification scheme set up under this Regulation, Member States should take into account the procedural requirements applied to certification schemes pursuant to Directive 2010/31/EU and also consider the possibility to enable the combined launch of both request procedures.		

Commission proposal	Drafting Suggestions	Comments
(50) In view of the social benefits stemming from digital inclusion and taking into account the economics of deploying very high capacity networks, where there is neither existing passive or active fibre-ready infrastructure serving end users' premises nor alternatives to providing very high capacity networks to a subscriber, any public communications network provider should have the right to terminate its network to a private premise at its own cost, provided that the impact on private property is minimised, for example, if possible, by reusing the existing physical infrastructure available in the building or ensuring full restoration of the affected areas.		
(51) Requests for access to the in-building physical infrastructure should fall under the scope of this Regulation, whereas a request for access to fibre wiring is to fall under the scope of Directive (EU) 2018/1972. Moreover, access		Les autorités françaises souhaitent attirer l'attention sur le fait que la malgré la distinction technique existante entre d'une part, l'accès à l'infrastructure physique à l'intérieur de l'immeuble et d'autre part, l'accès au câblage,

Commission proposal	Drafting Suggestions	Comments
to in-building physical infrastructure could be refused if access to in-building fibre wiring is made available under fair, reasonable and non-discriminatory terms and conditions, including price.		ces deux problématiques sont très proches l'une de l'autre. Or, la première étant déjà régie par la directive 2018/1972, il est important que la seconde, si elle est régie par un autre texte (le règlement gigabit), ne devrait pas avoir pour conséquence de perturber ou remettre en cause le cadre établi par la directive précitée, et précisé par les autorités nationales de régulation.
(52) To ensure consistency of approaches, the Commission, in close cooperation with BEREC, could provide guidance on the applications of provisions on access to in-building physical infrastructure, including but not only on the terms and conditions thereof. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.	(52) To ensure consistency of approaches, the Commission, in close cooperation with BEREC, could provide guidance on the applications of provisions on access to in-building physical infrastructure, including but not only on the terms and conditions thereof. The views of stakeholders and national dispute settlement bodies should be duly taken into account in the preparation of the guidance.	Compte tenu du précédent commentaire, l'élaboration d'orientations par la Commission pourrait justement avoir pour effet d'empiéter sur le cadre établi par la directive 2018/1972 et complété par l'autorité nationale de régulation, qui exerce également la fonction de règlement des litiges. Dans la mesure où la pratique démontre que la régulation et le règlement des différents tranchés par cette autorité en matière d'accès au câblage internet et d'accès aux infrastructures fonctionne, l'adoption

Commission proposal	Drafting Suggestions	Comments
		d'orientations par la Commission n'est pas nécessaire, et peut avoir pour effet de rigidifier un cadre nécessitant de faire preuve d'une certaine souplesse.
(53) To foster the modernisation and agility of administrative procedures and reduce the cost of and time spent on the procedures for deploying very high capacity networks, the services of single information points should be performed fully online. To that end, single information points should provide easy access to the necessary digital tools, such as web portals, digital platforms, and digital applications. The tools should give access in an efficient manner to the minimum information on existing physical infrastructure and planned civil works and the possibility to request information. Such digital tools should also give access to the electronic administrative procedures for		Les autorités françaises reconnaissent la nécessité de faciliter l'accès aux informations au moyen d'outils numériques. Elles souhaitent néanmoins appeler l'attention sur le fait que la mise en place de "single information point" en particulier pour les administrations nécessiterait une période transitoire permettant la mise en place ou son adaptation. Ainsi, cette réalité doit être prise en compte dans les délais impartis pour la mise en oeuvre du règlement.

Commission proposal	Drafting Suggestions	Comments
granting permits and rights of way and related information on the applicable conditions and procedures. Where more than one single information point is set up in a Member State, all single information points should be easily and seamlessly accessible, by electronic means, via a single national digital entry point. This entry point should have a common user interface ensuring access to the online single information points. The single national digital entry point should facilitate interaction between operators and competent authorities performing the functions of the single information points.		
(54) Member States should be allowed to rely on, and where necessary improve, digital tools, such as web portals, digital platforms, and digital applications that might already be available at local, regional or national level to provide the functions of the single information		Les autorités françaises s'interrogent sur ce qu'il convient d'entendre par "interconnection" et "intégration totale ou partielle" des points d'information uniques. - Est ce que cela signifie qu'un même point d'information unique peut avoir

Commission proposal	Drafting Suggestions	Comments
point provided they comply with the obligations set out in this Regulation. This includes access through a single national digital entry point and the availability of all the functionalities set out in this Regulation. To comply with the ‘once-only’ data minimisation and accuracy principles, Member States should be allowed to integrate more digital platforms or applications supporting the single information points, as appropriate. For example, the digital platforms or applications supporting the single information points on existing physical infrastructure could be interconnected or fully or partially integrated with the ones for planned civil works and granting permits.		plusieurs finalités : accueillir les demandes d’accès aux infrastructures existantes et accueillir les demandes d’informations minimales relatives à ces infrastructures ? - Est-ce que, comme indiqué dans un commentaire précédent, cela signifie bien que les points d’information existants peuvent faire être listés dans un même portail web, par exemple ? et que la mise en œuvre consisterait à prévoir des liens de redirection vers ces points numériques existants ?
(55) To ensure the effectiveness of the single information points provided for under this Regulation, Member States should ensure adequate resources as well as readily available		

Commission proposal	Drafting Suggestions	Comments
relevant information on a specific geographical area. The information should be presented with the right level of detail to maximise efficiency in view of the tasks assigned, including at the local cadastre. In that regard, Member States could consider the possible synergies and economies of scale with the points of single contact within the meaning of Article 6 of Directive 2006/123/EC of the European Parliament and of the Council¹⁴ and other planned or existing e-government solutions with a view to building on existing structures and maximising the benefits for users. Similarly, the Single Digital Gateway provided for in Regulation (EU) 2018/1724 of the European Parliament and of the Council¹⁵ should link to the single information points.		

¹⁴ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ([OJ L 376, 27.12.2006, p. 36](#)).

¹⁵ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 ([OJ L 295, 21.11.2018, p. 1](#)).

Commission proposal	Drafting Suggestions	Comments
(56) The costs for setting-up the single national digital entry point, the single information points and the digital tools needed to comply with the provisions of this Regulation could be fully or partly eligible for financial support under Union funds, such as the European Regional Development Fund - specific objective: a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT¹⁶; the Digital Europe Programme¹⁷ - specific objective: deployment and best use of digital capacities and interoperability and the Recovery and Resilience Facility¹⁸ - pillars on digital transformation and on smart, sustainable and inclusive growth, including economic		Les autorités françaises accueillent favorablement la possibilité de bénéficier d'un financement européen pour la mise en place des différentes solutions numériques prévues par la proposition de règlement (guichet unique national, points d'information uniques etc.) car celle-ci générera nécessairement des coûts financiers significatifs pour les Etats membres. Il importe néanmoins que s'assurer que les conditions d'éligibilité pour ces financements permettent effectivement à l'ensemble des acteurs concernés (en particulier les collectivités et les opérateurs de réseau) d'en bénéficier.

¹⁶ Article 3(1)(a) of Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60)

¹⁷ Article 8 of Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1)

¹⁸ Article 3 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17)

Commission proposal	Drafting Suggestions	Comments
cohesion, jobs, productivity, competitiveness, research, development and innovation, and a well-functioning internal market with strong SMEs, provided they comply with the objectives and eligibility criteria therein.		
(57) In the event of a disagreement on technical and commercial terms and conditions during commercial negotiations on access to physical infrastructure or coordination of civil works, each party should be able to call on a national dispute settlement body to impose a solution on the parties to avoid unjustified refusals to meet the request or the imposition of unreasonable conditions. When determining prices for granting access to or cost-sharing for coordinated civil works, the dispute settlement body should ensure that the access provider and network operators planning civil works have a fair opportunity to recover their costs incurred		Les autorités françaises sont également favorables au maintien d'un organisme national de règlement des litiges différents des tribunaux pour trancher les litiges résultant de l'application d'un certain nombre de dispositions du règlement (questions d'accès et de communication des informations, coordination de travaux, etc.). Par ailleurs, les autorités françaises souhaitent rappeler que l'élaboration d'orientations par la Commission pour l'application des dispositions du règlement n'apparaît pas nécessaire et pourrait empêcher une prise en compte

Commission proposal	Drafting Suggestions	Comments
in providing access to their physical infrastructure or coordinating their planned civil works. This should take into account the appropriate Commission guidance, any specific national conditions, any tariff structures put in place and any previous imposition of remedies by a national regulatory authority. The dispute settlement body should also take into account the impact of the requested access or coordination of planned civil works on the business plan of the access provider or network operators planning civil works, including their investments made or planned, in particular investments in the physical infrastructure to which the request refers.		suffisante des circonstances nationales dans le cadre desquelles s’inscrit le litige à trancher.
(58) To avoid delays in network deployments, the national dispute settlement body should settle the dispute in a timely manner and, in any event, at the latest within 4		Pour que l’organisme national de règlement des litiges puisse exercer les missions qui lui sont confiées, le délai de traitement imposé par le règlement doit être suffisant. Si le délai de 4

Commission proposal	Drafting Suggestions	Comments
months from receipt of the request to settle the dispute in the case of disputes on access to existing physical infrastructure and 1 month when it concerns transparency on physical infrastructure, coordination of planned civil works and transparency on planned civil works. Exceptional circumstances justifying a delay in the settlement of a dispute could be beyond the control of the dispute settlement bodies, such as insufficient information or documentation that is necessary to take a decision, including the views of other competent authorities that need to be consulted or the high complexity of the file.		mois, qui peut être prorogé à titre exceptionnel, apparaît suffisant pour régler les litiges en matière d'accès aux infrastructures, le délai d'1 mois laissé pour les autres objets de règlements de litiges est insuffisant. En effet, bien que les problématiques concernées paraissent, de prime abord, moins complexes, l'organisme de règlement des litiges ne pourrait, pour autant, s'affranchir de respecter certaines exigences (le contradictoire notamment) qui nécessitent des échanges avec les parties en leur laissant un délai raisonnable pour le recueil de leurs observations, ou encore des demandes de précisions à ces parties et l'instruction de ces informations. Les délais en vigueur, transposés, de deux mois, apparaissent plus adéquats pour l'atteinte des objectifs visés par le texte.

Commission proposal	Drafting Suggestions	Comments
(59) Where disputes arise on access to the physical infrastructure, planned civil works or information thereof to deploy very high capacity networks, the dispute settlement body should have the power to resolve such disputes by means of a binding decision. In any case, decisions of such a body should be without prejudice to the possibility of any party to refer the case to a court or to conduct a prior or parallel conciliation mechanism to the formal dispute settlement, which could take the form of mediation or an additional round of exchanges.		
(60) In accordance with the principle of subsidiarity, this Regulation should be without prejudice to the possibility of Member States to allocate regulatory tasks to the authorities best suited to fulfil them in accordance with the national constitutional system of attribution of competences and powers and the requirements		

Commission proposal	Drafting Suggestions	Comments
set out in this Regulation. To reduce the administrative burden, Member States should be allowed to appoint an existing body or maintain the competent bodies already appointed pursuant to Directive (EU) 2014/61/EU. Information on the tasks allocated to the competent body or bodies should be published via a single information point and notified to the Commission, unless already done pursuant to Directive (EU) 2014/61/EU. The discretion that Member States retain to allocate the functions of the single information point to more than one competent body should not affect their ability to effectively fulfil those functions.		
(61) The designated national dispute settlement body and the competent body performing the functions of the single information point should ensure impartiality, independence and structural separation towards		Les autorités françaises souhaitent attirer l'attention sur le fait que l'application des exigences accrues en matière d'indépendance et de séparation fonctionnelle aux organismes chargés d'exercer la fonction de point

Commission proposal	Drafting Suggestions	Comments
the parties involved, exercise their powers impartially, transparently and in a timely manner; and have the appropriate competencies and resources.		d'information uniques peut être difficile à mettre en oeuvre dans la mesure où cette fonction est et devrait être exercée par certaines collectivités qui sont également détentrices ou gestionnaires d'infrastructures physiques telles que définies dans la présente proposition de règlement.
(62) Member States should provide for appropriate, effective, proportionate and dissuasive penalties in the event of non-compliance with this Regulation or with a binding decision adopted by the competent bodies, including cases where a network operator or public sector body knowingly or grossly and negligently provides misleading, erroneous or incomplete information via a single information point.		Les autorités françaises sont favorables à l'institution de sanctions visant à dissuader ou réprimer la commission des manquements aux dispositions du règlement et des décisions prises pour son application. Toutefois, elles rappellent qu'en fonction du nombre d'informations et du degré de précisions attendus, le risque d'erreur ou incomplétude involontaire ne peut être exclu, en particulier lorsque les informations sont délivrées par des organismes du secteur public. Ainsi, ces erreurs

Commission proposal	Drafting Suggestions	Comments
		ou incomplétudes involontaires ne devraient pas donner lieu à des sanctions. En conséquence, les autorités françaises souhaitent avoir des précisions concernant les notions de “ knowingly, grossly and negligently”.
(63) Since the objectives of this Regulation aiming at facilitating the deployment of physical infrastructures suitable for very high capacity networks across the Union cannot be sufficiently achieved by the Member States because of persistent divergent approaches as well as the slow and ineffective transposition of Directive 2014/61/EU but can rather, by reason of the scale of the network deployments and investment required, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the		Les autorités françaises partagent l’objectif poursuivi par le présent règlement visant à accélérer le déploiement des réseaux à très haute capacité et la coordination sectorielle. S’il est nécessaire de renforcer et parvenir à une meilleure harmonisation des droits et obligations initialement prévus par la directive 2014/61/UE, au niveau européen, recourir à un règlement plutôt qu’à une refonte de la directive, tout en soumettant les Etats membres à des obligations susceptibles de (i) remettre en cause l’organisation et l’attribution des pouvoirs au niveau national et (ii) engendrer une charge

Commission proposal	Drafting Suggestions	Comments
principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.		administrative et financière non négligeable, n'est pas un choix proportionné en ce qu'il excède ce qui est nécessaire pour atteindre cet objectif et parait méconnaître le principe de subsidiarité.
(64) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular this Regulation seeks to ensure full respect for the right to private life and the protection of business secrets, the freedom to conduct business, the right to property and the right to an effective remedy. This Regulation has to be applied in accordance with those rights and principles.		
(65) This Regulation includes provisions covering all the substance areas covered by		

Commission proposal	Drafting Suggestions	Comments
Directive 2014/61/EU, which should therefore be repealed.		
(66) A period of six months between the entry into force and the application aims to give sufficient time to Member States to ensure their national legislation does not contain any obstacles to the uniform and effective application of this Regulation. The period of 6 months is without prejudice to the specific rules in this Regulation on the delayed application of specific provisions as specified therein. Member States are to withdraw national provisions overlapping with this Regulation or contradicting it by the time it starts to apply. As regards adopting new legislation during this period, it follows from Article 4(3) TEU that Member States have a duty of sincere cooperation not to take action that would conflict with prospective Union legal rules,	(66) A period of six months 18 months between the entry into force and the application aims to give sufficient time to Member States to ensure their national legislation does not contain any obstacles to the uniform and effective application of this Regulation. The period of 6 months 18 months is without prejudice to the specific rules in this Regulation on the delayed application of specific provisions as specified therein. Member States are to withdraw national provisions overlapping with this Regulation or contradicting it by the time it starts to apply. As regards adopting new legislation during this period, it follows from Article 4(3) TEU that Member States have a duty of sincere cooperation not to take action that would conflict with prospective Union legal rules,	Compte tenu d'une part des adaptations législatives et réglementaires nécessaires (suppression de texte, adoption de nouveaux et modifications des existants) pour se conformer aux dispositions du règlement en cas d'adoption, et d'autre part des moyens à mettre à oeuvre pour la mise en place des points d'information uniques et guichet unique national, les Etats membres devraient disposer d'un délai suffisant, qui ne peut être de 6 mois, pour préparer l'application des dispositions du règlement.

Commission proposal	Drafting Suggestions	Comments
HAVE ADOPTED THIS REGULATION:		
Article 1		
Subject matter and scope		
1. This Regulation aims to facilitate and stimulate the roll-out of very high capacity 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 rolled out faster and at a lower cost.	1. This Regulation Directive aims to facilitate and stimulate the roll-out of very high capacity 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 rolled out faster and at a lower cost.	Les autorités françaises souhaitent rappeler que l'instrument choisi par la Commission pour faciliter, stimuler et accélérer le déploiement des réseaux à très haute capacité, à savoir le règlement, n'est pas le plus adapté. Elles considèrent qu'une refonte de la directive demeure plus efficace pour atteindre l'objectif poursuivi tout en tenant compte des circonstances nationales (en particulier concernant l'organisation interne des pouvoirs publics, le rythme et de l'efficacité constatée des déploiements sur le territoire national).

Commission proposal	Drafting Suggestions	Comments
2. If any provision of this Regulation conflicts with a provision of Directive (EU) 2018/172 or Directive 2002/77/EC, the relevant provision of those Directives shall prevail.		
3. Member States may maintain or introduce measures in conformity with Union law which contain more detailed provisions than those set out in this Regulation where they serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure.	3. Member States may maintain or introduce measures in conformity with Union law which contain more detailed provisions than those set out in this Regulation-Directive where they serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure.	
4. By way of exception to paragraph 3, Member States shall not maintain or introduce in their national law provisions diverging from those laid down in Article 3(3) and (6), Article 4(4), Article 5(2) and (4), Article 6(2) and Article 8(7) and (8).		Les autorités françaises souhaitent attirer l'attention sur le fait que la plupart des dispositions ne pouvant donner lieu à l'adoption de mesures nationales s'écartant de celles prévues par le présent projet de texte, cela ne concernera que les dispositions prévoyant des dérogations. Il est donc indispensable que

Commission proposal	Drafting Suggestions	Comments
		chacunes d'elles aboutissent à un compromis permettant de tenir compte des particularités nationales.
Article 2		
Definitions		
For the purposes of this Regulation, the definitions in Directive (EU) 2018/1972 apply.		
The following definitions also apply:		
(1) 'network operator' means:		
(a) an operator as defined in Article 2, point (29), of Directive (EU) 2018/1972;		Les autorités françaises accueillent favorablement la volonté de soumettre les opérateurs d'infrastructures ("tower companies" notamment) aux dispositions du règlement afin qu'ils bénéficient des mêmes droits et

Commission proposal	Drafting Suggestions	Comments
		obligations que les entreprises qui fournissent ou sont autorisées à fournir des réseaux de communications électroniques. Ces entreprises sont déjà considérées, en droit français, comme des gestionnaires d'infrastructures soumis aux exigences de la directive 2014/61/UE.
(b) an undertaking providing a physical infrastructure intended to provide:		
(i) a service of production, transport or distribution of:		
- gas;		
- electricity, including public lighting;		
- heating;		

Commission proposal	Drafting Suggestions	Comments
- water, including disposal or treatment of wastewater and sewage, and drainage systems;		
(ii) transport services, including railways, roads, ports and airports;		
(2) 'physical infrastructure' means:		
(a) any element of a network that is intended to host other elements of a network without becoming an active element of the network itself, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, antenna installations, towers and poles, as well as buildings or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations;	(a) any element of a network that is intended to host other elements of a network without becoming an active element of the network itself, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, antenna installations, towers and poles, as well as buildings or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations;	Le premier critère de définition d'infrastructure physique (2a) semble trop large en ce qu'il conduit à englober entre autres les bâtiments, entrées des bâtiments et toute autre élément et pourrait être redondant avec le 2b. La distinction avec le second critère de définition (2b) n'est donc pas évident et pourrait soulever des difficultés de mise en oeuvre. Des précisions devraient donc être apportées.

Commission proposal	Drafting Suggestions	Comments
(b) where they are not part of a network and are owned or controlled by public sector bodies: buildings or entries to buildings, and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations.		L'approche extensive retenue par la Commission pour définir la notion d'infrastructure physique (2b) conduit à qualifier comme telle un certain nombre de constructions sans pouvoir en exclure pour des raisons tenant à la sécurité publique, la sûreté, la sécurité ou de leur finalité (écoles, hôpitaux refuges etc.). Cette approche pourrait avoir pour effet d'empêcher les Etats membres ou leurs collectivités de s'assurer du bon déploiement sur leurs territoires (déploiement harmonieux, organise) alors que les problématiques d'acceptabilité sociétales des réseaux (opposition des riverains au niveau local, oppositions par craintes des ondes électromagnétiques) sont grandissantes.

Commission proposal	Drafting Suggestions	Comments
		Il conviendrait alors que la définition de l'infrastructure physique tienne compte des objectifs poursuivis en matière de déploiement des réseaux mais aussi des autres considérations d'intérêt général qui entrent en jeu. Il n'est d'ailleurs pas certain que l'ensemble des éléments figurant dans la définition puisse effectivement servir de support, d'une manière ou d'une autre, au déploiement des réseaux de communications électroniques à très haute capacité.
Cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption as defined in Article 2, point 1, of Council (EU) 2020/2184 of the European Parliament and of the Council¹⁹		Les autorités françaises s'interrogent sur la possibilité de considérer qu'un château d'eau est une infrastructure physique . Aujourd'hui, les châteaux d'eau sont utilisés

¹⁹ Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1).

Commission proposal	Drafting Suggestions	Comments
are not physical infrastructure within the meaning of this Regulation;		pour le déploiement des réseaux sans fil (le mobile). Une exclusion de ces infrastructures reviendrait sur une pratique admise et pourrait être contre-productif dans un contexte marqué par la raréfaction des infrastructures disponibles pour le déploiement de certains réseaux.
(3) ‘civil works’ means every outcome of building or civil engineering works taken as a whole that is sufficient in itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure;		
(4) ‘public sector body’ means a State, regional or local authority, a body governed by public law or an association formed by one or several such authorities or one or several such bodies governed by public law;		

Commission proposal	Drafting Suggestions	Comments
(5) 'bodies governed by public law' means bodies that have all of the following characteristics:		
(a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;		
(b) they have legal personality;		
(c) they are financed, in full or for the most part, by state, regional or local authorities or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by state, regional or local authorities or by other bodies governed by public law;		

Commission proposal	Drafting Suggestions	Comments
(6) ‘in-building physical infrastructure’ means physical infrastructure or installations at the end user’s location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;		
(7) ‘in-building fibre wiring’ means optical fibre cables at the end user’s location, including elements under joint ownership, intended to deliver electronic communications services and connecting the building access point with the network termination point;		
(8) ‘fibre-ready in-building physical infrastructure’ means in-building physical		

Commission proposal	Drafting Suggestions	Comments
infrastructure intended to host optical fibre elements;		
(9) ‘major renovation works’ means building or civil engineering works at the end user’s location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof and that require a building permit;		Il pourrait être pertinent d’ajouter en complément un critère financier qui pourrait être utilisé, de manière alternative, pour définir la notion de “major renovation works”. Actuellement, pour déterminer si un logement ayant fait l’objet d’une rénovation importante est concerné par l’obligation de fibrage des bâtiments prévue à l’article L. 113-10 du code de la construction et de l’habitation, le critère retenu est celui du coût global des travaux : l’obligation ne s’applique pas dans le cas où le coût des travaux d’équipement en lignes de communications électroniques à très haut débit en fibre optique (y compris les travaux induits), est supérieur à 5 % du coût des travaux faisant l’objet du permis de construire.

Commission proposal	Drafting Suggestions	Comments
(10) ‘permit’ means an explicit or implicit decision or set of decisions taken simultaneously or successively by one or several competent authorities that are needed for an undertaking to carry out building or civil engineering works necessary for the deployment of elements of very high capacity networks;	(10) ‘permit’ means an explicit or implicit decision or set of decisions taken simultaneously or successively by one or several competent authorities that are needed for an undertaking operator to carry out building or civil engineering works necessary for the deployment of elements of very high capacity networks;	La proposition de règlement fait davantage référence à l’opérateur plutôt qu’à une entreprise, un changement terminologique peut être utile. Pour faciliter l’application du présent règlement et notamment de son article 7, il conviendrait de faire le lien entre la notion de “ permit” et celle de “right of way” , voire définir les contours de cette seconde notion.
(11) ‘access point’ means a physical point, located inside or outside the building, accessible to one or more undertakings providing or authorised to provide public electronic communications networks, where connection to the fibre-ready in-building physical infrastructure is made available.		

Commission proposal	Drafting Suggestions	Comments
Article 3		
Access to existing physical infrastructure		
1. Upon written request of an operator, public sector bodies owning or controlling physical infrastructure or network operators shall meet all reasonable requests for access to that physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of very high capacity networks or associated facilities. Public sector bodies owning or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions. Such written requests shall specify the elements of the physical infrastructure for which the access is requested, including a specific time frame.		Une précision pourrait être apportée quant au sens du terme “price”, qui selon les autorités français renvoie non seulement au prix mais également, plus généralement, aux conditions financières pouvant être demandées en contrepartie de l'accès aux infrastructures qui est fourni à l'opérateur demandeur. Cette approche large est celle actuellement retenue, par les autorités françaises, pour l'application de la directive 2014/61/UE car elle permet de traiter la diversité des situations existantes.

Commission proposal	Drafting Suggestions	Comments
2. When determining prices as part of fair and reasonable terms and conditions for granting access, network operators and public sector bodies owning or controlling physical infrastructure shall take into account at least the following:	2. When determining prices as part of fair and reasonable terms and conditions for granting access, network operators and public sector bodies owning or controlling physical infrastructure shall take into account at least the following:	Les autorités françaises reconnaissent qu'il est important de préciser au sein du texte les critères permettant d'apprécier les caractères équitable et raisonnable des conditions d'accès proposées par l'opérateur de réseaux ou l'organisme du secteur public. Toutefois, compte tenu de la diversité des situations et infrastructures concernées, il est important de laisser une marge d'appréciation suffisante aux opérateurs de réseaux et organismes publics fournissant l'accès à leurs infrastructures et, par suite, en cas d'échec des négociations ou refus d'accès, à l'organisme chargé de règlement les litiges. Dès lors, l'énumération des éléments d'appréciation de ce paragraphe ne devrait pas être exhaustive. En outre, la pratique actuelle démontre que les fournisseurs d'accès aux infrastructures ont établi des conventions d'accès avec les entreprises exploitantes ou autorisées à exploiter des réseaux de communications électroniques qui les satisfont. Une remise en cause de l'équilibre trouvé n'apparaît donc pas nécessaire.

Commission proposal	Drafting Suggestions	Comments
		Par ailleurs, concernant la détermination, par les organismes du secteur public, des conditions financières d'accès à leurs infrastructures, la proposition de la Commission ne devrait pas remettre en cause le système de redevance français.
(a) the need to ensure that the access provider has a fair opportunity to recover the costs it incurs in order to provide access to its physical infrastructure, taking into account specific national conditions and any tariff structures put in place to provide a fair opportunity for cost recovery; in the case of electronic communications networks, any remedies imposed by a national regulatory authority shall also be taken into account.		
(b) the impact of the requested access on the access provider's business plan, including		

Commission proposal	Drafting Suggestions	Comments
investments in the physical infrastructure to which the access has been requested;		
(c) in the specific case of access to physical infrastructure of operators, the economic viability of those investments based on their risk profile, any time schedule for the return on investment, any impact of access on downstream competition and consequently on prices and return on investment, any depreciation of the network assets at the time of the access request, any business case underpinning the investment at the time it was made, in particular in the physical infrastructures used for the provision of connectivity, and 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.	(c) — in the specific case of access to physical infrastructure of operators, the economic viability of those investments based on their risk profile, any time schedule for the return on investment, any impact of access on downstream competition and consequently on prices and return on investment, any depreciation of the network assets at the time of the access request, any business case underpinning the investment at the time it was made, in particular in the physical infrastructures used for the provision of connectivity, and 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.	Les éléments d’appréciation visés au (c) sont : - soit redondants avec ceux mentionnés au point a) et b) de ce même paragraphe. A titre d’exemple, la viabilité économique des investissements et le profil de risque peuvent être examinés au travers du plan d’affaires du fournisseur d’accès. - soit peu opérationnels et sont en conséquence, susceptibles de restreindre la marge de manoeuvre nécessaire pour l’appréciation des conditions financières. Les éléments mentionnés au (a) et (b) fixent avec suffisamment de précisions les principes devant être utilisés pour l’appréciation de ces conditions, tant par le fournisseur d’accès que

Commission proposal	Drafting Suggestions	Comments
		par l'organisme chargé du règlement des litiges s'il est saisi en ce sens.
3. Network operators and public sector bodies owning or controlling physical infrastructure may refuse access to specific physical infrastructure based on one or more of the following conditions:	3. Network operators and public sector bodies owning or controlling physical infrastructure may refuse access to specific their physical infrastructure based on one or more of the following conditions :	Le terme “spectific” pourrait prêter à confusion quant à la possibilité pour l'opérateur de réseau ou l'organisme du secteur public de refuser l'accès à son infrastructure physique quelle qu'elle soit dès lors que les conditions prévues sont remplies.
(a) there is a lack of technical suitability of the physical infrastructure to which access has been requested to host any of the elements of very high capacity networks referred to in paragraph 2;		
(b) there is a lack of availability of space to host the elements of very high capacity networks or associated facilities referred to in paragraph 2, including after having taken into		

Commission proposal	Drafting Suggestions	Comments
account the future need for space of the access provider that is sufficiently demonstrated;		
(c) the existence of safety and public health concerns;		
(d) concerns for the integrity and security of any network, in particular critical national infrastructure;	(d) serious concerns for the integrity and security of any network, in particular critical national infrastructure;	Compte tenu de l'objectif poursuivi par le règlement et des conséquences pour le demandeur d'accès, un refus ne devrait donc pas pouvoir être opposé sur de simples craintes ou préoccupations mais devrait être fondé sur des motifs sérieux.
(e) the risk of serious interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure; or		
(f) the availability of viable alternative means of wholesale physical access to electronic	<u>Option 1 de suppression :</u>	La disposition initialement proposée pourrait entraver fortement voir empêcher l'accès aux

Commission proposal	Drafting Suggestions	Comments
communications networks provided by the same network operator and suitable for the provision of very high capacity networks, provided that such access is offered under fair and reasonable terms and conditions.	(f) — the availability of viable alternative means of wholesale physical access to electronic communications networks provided by the same network operator and suitable for the provision of very high capacity networks, provided that such access is offered under fair and reasonable terms and conditions. <u>Option 2 de clarification :</u> <i>« la disponibilité d'autres offres de gros d'accès à des infrastructures d'accueil du gestionnaire, adaptées à la fourniture de réseaux de communications électroniques à très haut débit, auxquelles l'accès est offert selon des modalités et conditions équitables et raisonnables. »</i>	infrastructures de génie civil pour les opérateurs souhaitant déployer leur propre réseau. Elle est susceptible de favoriser le comportement d'éviction lorsque le fournisseur d'accès est un concurrent du demandeur d'accès sur un ou plusieurs marchés de la connectivité. Il pourrait être opportun de lever l'ambiguïté existant sous l'empire de la directive 2014/61/UE en clarifiant le motif de refus énoncé au point f). Ce motif ne doit pas aller à l'encontre du principe même d'accès aux infrastructures de génie civil pour les opérateurs souhaitant déployer leur propre réseau : L'une des interprétations de ce motif de refus permettrait à certains opérateurs certains de refuser l'accès à ces infrastructures en raison de leur commercialisation (non régulée) d'accès de gros à des réseaux de communication qu'ils ont déjà déployés dans ces infrastructures. Dans ce

Commission proposal	Drafting Suggestions	Comments
		cas, le motif de refus serait susceptible de favoriser des pratiques d'éviction lorsque le fournisseur d'accès au génie civil est un concurrent du demandeur de cet accès sur un ou plusieurs marchés de la connectivité. Ces opérateurs seraient ainsi en mesure de limiter la faculté/l'autonomie, des demandeurs de cet accès, à développer des produits innovants et différenciés voire même de faire obstacle à la satisfaction des besoins de leurs clients finals.
	<u>Suggestion d'ajout d'un motif de refus objectif, à savoir :</u> <i>« les obligations issues de réglementations particulières applicables au gestionnaire d'infrastructure d'accueil. »</i>	
In the event of a refusal to provide access, the network operator or the public sector body owning or controlling physical infrastructure shall communicate to the access seeker, in	In the event of a refusal to provide access, the network operator or the public sector body owning or controlling physical infrastructure shall communicate to the access seeker, in	Le délai d'1 mois pour caractériser le refus et transmettre les raisons de ce refus est trop court. Le délai imparti doit être suffisant pour permettre aux parties de négocier et formaliser

Commission proposal	Drafting Suggestions	Comments
writing, the specific and detailed reasons for such refusal within 1 month from the date of the receipt of the complete request for access.	writing, the specific and detailed reasons for such refusal within 4 2 months from the date of the receipt of the complete request for access.	la décision : un délai de 2 mois permet de tenir compte des contraintes susceptibles de s'imposer aux personnes publiques pour prendre ce type de décision.
4. Member States may establish a body to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, provide legal and technical advice through the negotiation of access terms and conditions, and facilitate the provision of information via a single information point referred to in Article 10.	4. Member States may establish a body to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, provide legal and technical advice through the negotiation of access terms and conditions, and facilitate the provision of information via a single information point referred to in Article 10.	Le droit en vigueur permet d'ores et déjà aux Etats membres de confier ce type de prestations à un organisme sous réserve de respecter certaines procédures et réglementation (marchés publics notamment). La précision n'est pas nécessaire. En outre, cette disposition ne prévoit pas de garanties en termes d'indépendance, d'impartialité de l'organisme désigné et de confidentialité/protection du secret des affaires.
5. Physical infrastructure which is already subject to access obligations imposed by national regulatory authorities pursuant to		

Commission proposal	Drafting Suggestions	Comments
Directive (EU) 2018/1972 or resulting from the application of Union State aid rules shall not be subject to the obligations set out in paragraphs 2, 3 and 4, for as long as such access obligations are in place.		
6. Public sector bodies owning or controlling buildings or certain categories of buildings may not apply paragraphs 1, 2 and 3 to those buildings or categories of buildings for reasons of architectural, historical, religious, or natural value, or for reasons of public security, safety and health. Member States shall identify such buildings or categories of buildings in their territories based on duly justified and proportionate reasons. Information on such buildings or categories of buildings shall be published via a single information point and notified to the Commission.	6. Network operator or Public sector bodies owning or controlling physical infrastructures buildings or certain categories of buildings physical infrastructures may shall not apply paragraphs 1, 2 and 3 to those physical infrastructures or categories of physical infrastructures, particularly buildings or categories of buildings for reasons of architectural, historical, religious, or natural environnemental value, or for reasons of public security, safety and health. Member States shall identify such buildings physical infrastructures or categories of physical infrastructures buildings in their territories based on duly	Pour faciliter la mise en oeuvre homogène du règlement sur l'ensemble du territoire, il paraît essentiel de donner une marge de manoeuvre suffisante aux Etats membres, tout en évitant que celle conférée aux organismes du secteurs publics soient trop importantes. La dérogation prévue au paragraphe 6 devrait aussi bien s'appliquer à l'égard des organismes du secteur public que des opérateurs de réseaux qui détiennent ou ocntrôles des infrastructures sensibles, en particulier dans les domaines de l'énergie et des transports, dès lors l'accès

Commission proposal	Drafting Suggestions	Comments
	justified and proportionate reasons. The list of information on such physical infrastructures buildings or categories of buildings physical infrastructures shall be published via a single information point and notified to the Commission.	pourrait être refusé sur des motifs tenant notamment à la sûreté ou la sécurité publique. Le terme de “ builings” (traduit dans la version française par “bâtiment”) parait trop restrictif et ne permet pas d’englober toutes les infrastructures physiques auxquelles les paragraphes 1,2,3 ne devraient pas s’appliquer pour des considérations diverses et en particulier tenant à la sécurité et à la sûreté (ex ; les châteaux d’eau, stations de métro etc..)
7. Operators shall have the right to offer access to their physical infrastructure for the purpose of deploying networks other than electronic communications networks or associated facilities.		
8. This Article shall be without prejudice to the right to property of the owner of the physical		

Commission proposal	Drafting Suggestions	Comments
infrastructure where the network operator or the public sector body is not the owner and to the right to property of any other third party, such as landowners and private property owners.		
9. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.	9. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.	L'attribution de cette compétence à la Commission européenne n'est pas nécessaire pour la mise en oeuvre de l'article 3 dont les dispositions sont suffisamment précises. Au contraire, elle pourrait rigidifier le cadre juridique sans tenir compte des particularités nationales des Etats membres. Si des précisions supplémentaires devaient être apportées, elle pourrait l'être par le biais des décisions contraignantes rendues par l'organe de règlement des litiges ou d'orientations de ce dernier.
Article 4		

Commission proposal	Drafting Suggestions	Comments
Transparency on physical infrastructure		
1. In order to request access to physical infrastructure in accordance with Article 3, any operator shall have the right to access, upon request, the following minimum information on existing physical infrastructure in electronic format via a single information point:	1. In order to request access to physical infrastructure in accordance with Article 3, any operator shall have the right to access, upon request, the following minimum information on existing physical infrastructure in electronic format via a single information point:	Les autorités françaises s’interrogent sur l’utilité et la charge administrative associée à la mise en place d’un point d’information unique pour la fourniture d’informations minimales relatives aux infrastructures physiques existantes, celles-ci pourrait en effet générer une nouvelle charge administrative non nécessaire pour atteindre l’objectif poursuivi : - Actuellement, les demandes d’accès sont formulées, par voie électronique, par l’opérateur demandeur, sans interface spécifique pour la communication des informations minimales. La réponse est communiquée par l’opérateur de réseau, selon ce même format. Ce système fonctionne, sa modification ne parait donc pas nécessaire et pourrait perturber la pratique de ces professionnels.

Commission proposal	Drafting Suggestions	Comments
		- Par ailleurs, s'agissant des infrastructures détenues ou contrôlées par des organismes publics, la mise en place de cette interface pourrait soulever des difficultés opérationnelles importantes (certaines collectivités ne disposant pas nécessairement d'une vision globale sur l'ensemble des infrastructures qu'elles détiennent avec le degré de détails attendu par la Commission, en particulier la localisation géoréférencée). Il conviendrait de maintenir le système prévu par la directive 2014/61/UE dont la mise en oeuvre n'a pas soulevée de difficultés particulières ou en tout état de cause, de ne pas soumettre les organismes du secteur public à l'obligation de fournir les informations via le point d'information unique.

Commission proposal	Drafting Suggestions	Comments
(a) georeferenced location and route;	(a) georeferenced location and route;	Dans la mesure où la mise en place d'un point d'information unique concernant la fourniture d'informations minimales n'est pas nécessaire pour faciliter l'accès des opérateurs aux infrastructures physiques existantes sur le sol national, des éléments concernant la nature des informations à communiquer ne sont pas nécessaires.
(b) type and current use of the infrastructure;	(b) type and current use of the infrastructure;	
(c) a contact point.	(c) a contact point.	
Such minimum information shall be accessible promptly, under proportionate, non-discriminatory and transparent terms and, in any event no later than 15 days after the request for information is submitted.	Such minimum information shall be accessible promptly, under proportionate, non-discriminatory and transparent terms and, in any event no later than 15 days 2 months after the request for information is submitted.	Dans l'hypothèse où un point d'information unique devait être instauré en dépit des oppositions à ce système, il conviendrait de faire attention au délai fixé pour le traitement des demandes. Dans la mesure où les demandes

Commission proposal	Drafting Suggestions	Comments
		d'informations pourront désormais porter sur des infrastructures physiques détenues ou contrôlées par des organismes du secteur public (en particulier des collectivités territoriales), il est nécessaire que le délai laissé pour la communication de la réponse au demandeur d'accès soit suffisant. Un délai de 15 jours semble trop court. Selon les règles prévues par le droit français, l'administration dispose en principe d'un délai de 2 mois pour répondre à la demande d'un administré. Il conviendrait donc de tenir compte de ces règles administratives pour déterminer le délai applicable. En tout état de cause, ce délai ne pourrait être inférieur à 1 mois pour des raisons opérationnelles.
Any operator requesting access to information pursuant to this Article shall specify the area in		

Commission proposal	Drafting Suggestions	Comments
which it envisages deploying elements of very high capacity networks or associated facilities.		
Access to the minimum information may be limited only where necessary to ensure the security of certain buildings owned or controlled by public sector bodies, the security of the networks and their integrity, national security, public health or safety, or for reasons of confidentiality or operating and business secrets.	Access to the minimum information may be limited or refused only : - where necessary to ensure the security of certain physical infrastructures owned or controlled by public sector bodies, the security of the networks and their integrity, national security, public health or safety, or for reasons of confidentiality or operating and business secrets; - where physical infrastructures are not subject to access obligations according to Article 3 (6)	La proposition de règlement devrait prévoir une possibilité de refuser la communication lorsque l'infrastructure physique concernée n'est, en tout état de cause, pas concernée par les obligations d'accès prévus à l'article 3, notamment en application du paragraphe 6 de l'article 3, afin de ne pas entraîner de charge administrative non nécessaire. De même, la liste des motifs de refus ne doit pas être limitative, et doit ainsi permettre d'analyser le caractère raisonnable aussi bien des demandes que des refus, notamment en cas de litige. Dès lors, il est proposé de supprimer la mention « only ». La Commission pourrait énoncer un principe de fondement des refus ou limitations

Commission proposal	Drafting Suggestions	Comments
		de l'accès aux informations, tel que le fait que ces refus ou limitations doivent se fonder sur des critères « objectifs et proportionnés, et non-discriminatoires ».
2. Network operators and public sector bodies shall make available the minimum information referred to in paragraph 1, via the single information point and in electronic format, by [DATE OF ENTRY INTO FORCE + 12 MONTHS]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new minimum information referred to in paragraph 1.	2. Network operators and public sector bodies shall make available the minimum information referred to in paragraph 1, via the single information point and in electronic format, by [DATE OF ENTRY INTO FORCE + 12 MONTHS]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new minimum information referred to in paragraph 1.	Les autorités français sont opposées à la mise en place d'un point d'information unique pour le traitement des demandes d'accès aux infrastructures physiques existantes gérés par les opérateurs de réseaux ou par les organismes du secteur public. En revanche, elles considèrent que ces informations devraient être fourni par ces entités, sur demande de l'opérateur, adressé par voie électronique. Ce système permet de maintenir une certaine dématérialisation du processus de demande.
3. Network operators and public sector bodies shall meet reasonable requests for on-site surveys of specific elements of their physical		

Commission proposal	Drafting Suggestions	Comments
infrastructure upon specific request of an operator. Such requests shall specify the elements of the physical infrastructure concerned with a view to deploying elements of very high capacity networks or associated facilities. On-site surveys of the specified elements of the physical infrastructure shall be granted under proportionate, non-discriminatory and transparent terms within 1 month from the date of receipt of the request, subject to the limitations set out in paragraph 1, fourth subparagraph.		
4. Paragraphs 1, 2 and 3 need not apply to critical national infrastructure as defined under national law.	4. Paragraphs 1, 2 and 3 shall need not apply to critical national infrastructure as defined under national law.	Des difficultés pourraient survenir lors de la mise en oeuvre du règlement en l'absence de précision concernant la possibilité ou non pour les Etats membres d'appliquer le paragraphe 4. Compte tenu de la sensibilité des infrastructures concernées, il conviendrait de prévoir la non

Commission proposal	Drafting Suggestions	Comments
		application des paragraphes 1,2,3 aux infrastructures critiques.
Paragraphs 1, 2 and 3 shall not apply:		
(a) in the case of physical infrastructure that is not technically suitable for the deployment of very high capacity networks or associated facilities'; or		
(b) in specific cases where the obligation to provide information about certain existing physical infrastructure pursuant to paragraph 1, first subparagraph, would be disproportionate, on the basis of a detailed cost-benefit analysis conducted by Member States and based on a consultation with stakeholders.	(b) in specific cases where the obligation to provide information about certain existing physical infrastructure pursuant to paragraph 1, first subparagraph, would be disproportionate, Member States shall identify the caterogies of physical infrastructures which are not subject to this obligation, after consulting stakeholders. on the basis of a detailed cost-benefit analysis conducted by Member States and based on a consultation with stakeholders.	Les autorités françaises accueillent favorablement le principe de ne pas appliquer l'obligation de transparence et de communication des informations, lorsque son respect serait disproportionné. Toutefois, les modalités de mise en oeuvre de cette possibilité revêtent une complexité, en particulier dans le cas où la disposition impliquerait de devoir systématiquement

Commission proposal	Drafting Suggestions	Comments
		réalisée une analyse coût-bénéfice dès qu'une dérogation est envisagée. Une solution plus pratique consisterait à laisser aux Etats membres le soin de déterminer les catégories d'infrastructures pour lesquelles le respect de ces obligations apparait disproportionné. Dans ce cas, la liste des catégories serait arrêtée après consultation de l'ensemble des parties prenantes (collectivités contrôlant ou gérant les infrastructures, opérateurs etc..).
	(c) in cases where physical infrastructures are not subject to access obligations according to Article 3	La proposition de règlement devrait prévoir une possibilité de refuser la communication ou bien une non application des paragraphes 1,2,3 lorsque l'infrastructure physique concernée n'est, en tout état de cause, pas concernée par les obligations d'accès prévus à l'article 3, notamment en application du paragraphe 6 de l'article 3, afin de ne pas entrainer de charge administrative non nécessaire.

Commission proposal	Drafting Suggestions	Comments
Any such exceptions shall be published via a single information point and notified to the Commission.		
5. Operators that obtain access to information pursuant to this Article shall take appropriate measures to ensure respect for confidentiality and operating and business secrets.		
Article 5		
Coordination of civil works		
1. Any network operator shall have the right to negotiate agreements on the coordination of civil works, including on the apportioning of costs, with operators with a view to deploying elements of very high capacity networks or associated facilities.		

Commission proposal	Drafting Suggestions	Comments
2. Any network operator when performing or planning to perform directly or indirectly civil works, which are fully or partially financed by public means, shall meet any reasonable written request to coordinate those civil works under transparent and non-discriminatory terms made by operators with a view to deploying elements of very high capacity networks or associated facilities.		
Such requests shall be met provided that the following cumulative conditions are met:		
(a) this will not entail any unrecoverable additional costs, including those caused by additional delays, for the network operator that initially envisaged the civil works in question, without prejudice to the possibility of agreeing on apportioning the costs between the parties concerned;		

Commission proposal	Drafting Suggestions	Comments
(b) the network operator initially envisaging the civil works remains in control over the coordination of the works;		
(c) the request to coordinate is filed as soon as possible and, when a permit is necessary, at least 2 months before the submission of the final project to the competent authorities for granting permits.		
3. A request to coordinate civil works made by an undertaking providing or authorised to provide public electronic communications networks to an undertaking providing or authorised to provide public electronic communications networks may be deemed unreasonable where both following conditions are met:		Les autorités accueillent favorablement la précision apportée quant à la possibilité de refuser la demande de coordination des travaux présentée par un fournisseur de services de communications électroniques à un autre. Les conditions proposées permettent d'assurer un juste équilibre entre les obligations résultant de la directive 2018/1972/UE et celles envisagées par la présente proposition de règlement. Cette

Commission proposal	Drafting Suggestions	Comments
		articulation est de nature favoriser la coordination des travaux tout en n'entravant pas davantage les déploiements ou perspectives de déploiement annoncés.
(a) the request concerns an area which has been subject to either of the following:		
(i) a forecast of the reach of broadband networks, including very high capacity networks pursuant to Article 22(1) of Directive (EU) 2018/1972;		
(ii) an invitation to declare the intention to deploy very high capacity networks pursuant to Article 22(3) of Directive (EU) 2018/1972;		
(iii) a public consultation in applying Union State aid rules;		

Commission proposal	Drafting Suggestions	Comments
(b) the requesting undertaking failed to express its intention to deploy very high capacity networks in the area referred to in point (a) in any of the most recent procedures among those listed in that point covering the period during which the request for coordination is made.		
If a request to coordinate is considered unreasonable on the basis of the first paragraph, the undertaking providing or authorised to provide public electronic communications networks refusing the coordination of civil works shall deploy physical infrastructure with sufficient capacity to accommodate possible future reasonable needs for third-party access.		
4. Paragraphs 2 and 3 need not apply to civil works that are limited in scope, such as in terms of value, size or duration, or for critical national	4. Paragraphs 2 and 3 need shall not apply to civil works or type of civil works that are limited in scope, such as in terms of value, size	Les autorités françaises souhaitent que les travaux de petite ampleur relatifs aux infrastructures physiques ne soient pas soumis

Commission proposal	Drafting Suggestions	Comments
infrastructure. Member States shall identify the type of civil works considered to be limited in scope or related to critical national infrastructure based on duly justified and proportionate reasons. Information on such types of civil works shall be published via a single information point and notified to the Commission.	or duration, or for critical national infrastructure. Member States shall identify civil works or the type of civil works considered to be limited in scope or related to critical national infrastructure based on duly justified and proportionate reasons. Information on such types of civil works shall be published via a single information point and notified to the Commission.	aux obligations prévues par les paragraphes 2 et 3 de l'article 5. Pour faciliter la mise en oeuvre, les Etats membres devraient pouvoir préciser quels travaux ou quelles catégories de travaux sont exemptés de ces obligations. Par ailleurs, la notification des exemptions à la Commission ne paraît pas nécessaire compte tenu de la faculté de recueil d'informations qui lui est conférée par la présente proposition de règlement. Une notification systématique est susceptible de générer une charge administrative supplémentaire disproportionnée.
5. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission	5. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission	Compte tenu de l'instrument choisi pour légiférer et des précisions d'ores et déjà contenues dans la proposition de règlement, l'adoption d'orientation par la Commission pour l'application de l'article 5 n'apparaît pas

Commission proposal	Drafting Suggestions	Comments
may, in close cooperation with BEREC, provide guidance on the application of this Article.	may, in close cooperation with BEREC, provide guidance on the application of this Article.	nécessaire et s'avérerait disproportionnée au regard de l'objectif poursuivi.
Article 6		
Transparency on planned civil works		
1. In order to negotiate agreements on coordination of civil works referred to in Article 5, any network operator shall make available in electronic format via a single information point the following minimum information:		Les obligations de transparence et de communication des informations minimales prévues par la proposition de règlement sont une condition <i>sine qua none</i> pour la fourniture d'un accès aux infrastructures physiques. En France, ces obligations sont aujourd'hui satisfaites avec la mise en place d'un guichet unique géré par un organisme public (l'INERIS) dont la mission consiste à la fourniture des informations minimales permettant à un opérateur souhaitant coordonner ses travaux de prendre contact, de lui-même, avec l'opérateur de réseau détenteur

Commission proposal	Drafting Suggestions	Comments
		ou gestionnaire de l'infrastructure concernée par les travaux.
(a) the georeferenced location and the type of works;		
(b) the network elements involved;		
(c) the estimated date for starting the works and their duration;		
(d) the estimated date for submitting the final project to the competent authorities for granting permits, where applicable;		La délivrance de cette information nécessiterait une modification de l'actuel point d'information unique mis en place. Les autorités françaises s'interrogent sur la nécessité de communiquer cette donnée dans la mesure où elle n'est qu'indicative et peut varier en fonction des aléas rencontrés par l'opérateur de réseau dans la réalisation de ces travaux.

Commission proposal	Drafting Suggestions	Comments
(e) a contact point.		
The network operator shall make available the information referred to in the first subparagraph for planned civil works related to its physical infrastructure. This must be done as soon as the information is available to the network operator and, in any event and where a permit is envisaged, not later than 3 months prior to the first submission of the request for a permit to the competent authorities.		Actuellement, les opérateurs de réseau réalisant des travaux d’une certaine ampleur sur le territoire français sont d’ores et déjà tenu de communiquer des informations concernant les travaux envisagés au guichet unique.
Operators shall have the right to access the minimum information referred to in the first subparagraph in electronic format, upon request, via the single information point. The request for access to information shall specify the area in which the requesting operator envisages deploying elements of very high capacity	Operators shall have the right to access the minimum information referred to in the first subparagraph in electronic format, upon request, via the single information point. The request for access to information shall specify the area in which the requesting operator envisages deploying elements of very high capacity	Le terme “ limited” peut prêter à confusion quant à la possibilité pour l’Etat membre de refuser purement la communication des informations pour les motifs évoquer, il conviendrait donc de préciser explicitement que cette obligation de transparence peut être refusée.

Commission proposal	Drafting Suggestions	Comments
networks or associated facilities. Within 1 week from the date of the receipt of the request for information, the requested information shall be made available under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited only to the extent necessary to ensure the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets.	networks or associated facilities. Within 1 week from the date of the receipt of the request for information, the requested information shall be made available under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be limited- or refused only to the extent necessary to ensure the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets.	
2. Paragraph 1 need not apply to information on civil works limited in scope, such as in terms of value, size or duration, in the case of critical national infrastructure, or for reasons of national security or emergency. Member States shall identify, based on duly justified and proportionate reasons, the civil works that would be considered limited in scope or concern critical national infrastructure, as well as the	2. Paragraph 1 shall need not apply to information on civil works limited in scope, such as in terms of value, size or duration, in the case of critical national infrastructure, or for reasons of national security or emergency. Member States shall identify, based on duly justified and proportionate reasons, the civil works or the type of civil works that would be considered limited in scope or concern critical	

Commission proposal	Drafting Suggestions	Comments
emergencies or the reasons of national security that would justify not being subject to the obligation to provide information. Information on such civil works excluded from transparency obligations shall be published via a single information point and notified to the Commission.	national infrastructure, as well as the emergencies or the reasons of national security that would justify not being subject to the obligation to provide information. Information on such the list of civil works or the type of civil works excluded from transparency obligations shall be published via a single information point and notified to the Commission.	
Article 7		
Procedure for granting permits, including rights of way		
1. Competent authorities shall not unduly restrict, hinder or make economically less attractive the deployment of any element of very high capacity networks or associated facilities. Member States shall ensure that any rules governing the conditions and procedures		

Commission proposal	Drafting Suggestions	Comments
applicable for granting permits, including rights of way, required for the deployment of elements of very high capacity networks or associated facilities are consistent across the national territory.		
2. Competent authorities shall make available all information on the conditions and procedures applicable for granting permits, including rights of way, including any information on exemptions on some or all permits or rights of way required under national or Union law, via a single information point in electronic format.	2. Competent authorities shall make available all information on the conditions and procedures applicable for granting permits, including rights of way, including any information on exemptions on some or all permits or rights of way required under national or Union law, via a single information point an appropriate digital tool in electronic format.	Compte tenu du nombre d'autorités concernées, de niveau variable (local, régional, national), la mise en place d'un point d'information unique pourrait susciter des difficultés opérationnelles majeures et s'avérerait disproportionnée au regard de l'objectif recherché. Il conviendrait alors de s'assurer que les informations soient facilement accessibles à partir de leurs outils numériques respectifs, les opérateurs, en principe, ayant déjà une certaine connaissance des autorisations et droits requis pour le déploiement de leurs réseaux ou ressources associées.

Commission proposal	Drafting Suggestions	Comments
3. Any operator shall have the right to submit, via a single information point in electronic format, applications for permits or rights of way and to retrieve information about the status of its application.	3. Any operator shall have the right Member States may provide for the right of every operator to submit, via a single information point in electronic format, applications for permits or rights of way and to retrieve information about the status of its application.	En France, les demandes d'autorisations ou droits de passage nécessaires pour le déploiement des réseaux à très haute capacité ou des ressources associées peuvent déjà être adressées, à l'autorité compétente, par la voie dématérialisée. Plusieurs législations ont été adoptées afin de dématérialiser les procédures administratives de délivrance de ces autorisations. Dans ce contexte, la procédure, les délais et l'état d'avancement de la demande sont communiqués à l'opérateur. La mise en place obligatoire d'un "single information point", qui présenterait une certaine complexité, n'est donc pas nécessaire pour atteindre l'objectif poursuivi.
4. The competent authorities shall, within 15 working days from its receipt, reject	4. The competent authorities shall, within 15 working days 1 month from its receipt, reject	Le gestionnaire du point d'information unique n'est pas pour autant l'autorité compétente pour

Commission proposal	Drafting Suggestions	Comments
applications for permits, including for rights of way, for which the minimum information has not been made available via a single information point, pursuant to Article 6(1) first subparagraph, by the same operator which applies for that permit.	applications for permits, including for rights of way, for which the minimum information has not been made available via a single information point, pursuant to Article 6(1) first subparagraph, by the same operator which applies for that permit.	délivrer l'autorisation ou rejeter la demande de l'opérateur. Le délai de 15 jours ouvrés n'est donc pas suffisant en ce qu'il ne tient pas compte du temps nécessaire à l'échange d'information entre l'autorité compétente et le ou les gestionnaire(s) du point d'information(s) unique(s) (1 ou 2 mois sont nécessaires). Le règlement ne doit pas remettre en cause la répartition des compétences prévue au niveau national, par les Etats membres, pour l'octroi des autorisations et droits de passage ni modifier les règles de traitement, fixées au niveau national, des demandes d'autorisation.
5. The competent authorities shall grant or refuse permits, other than rights of way, within 4 months from the date of the receipt of a complete permit application.	5. The competent authorities shall grant or refuse permits, other than rights of way, within 4 6 months from the date of the receipt of a complete permit application.	Le déploiement des réseaux à très haute capacité peut nécessiter l'obtention de plusieurs autorisations administratives (permission de voirie, autorisations urbanisme, autorisations environnementales) qui ne peuvent être délivrées qu'après examen détaillé du projet.

Commission proposal	Drafting Suggestions	Comments
		Les modalités et délais d’instruction prévus sont fixés par la législations concernée, en tenant compte de la spécificité du projet et des intérêts à préserver (environnement, paysage, patrimoine). L’instauration de délais plus courts et un encadrement trop étroit de la faculté de prorogation réduiraient les examens menés pour la protection des intérêts autre que le déploiements des réseaux télécoms.
The completeness of the application for permits or rights of way shall be determined by the competent authorities within 15 days from the receipt of the application. Unless the competent authorities invited the applicant to provide any missing information within that period, the application shall be deemed complete.	The completeness of the application for permits or rights of way shall be determined by the competent authorities within 15 days 1 month from the receipt of the application. Unless the competent authorities invited the applicant to provide any missing information within that period, the application shall be deemed complete.	En raison du nombre de pièces exigées pour la complétude du dossier et la nécessité, pour les autorités compétentes de contacter le demandeur de l’autorisation en cas d’incomplétude de son dossier, le délai de 15 jours fixé pour l’appréciation de la complétude est insuffisant. Le dernier alinéa de cette disposition renverse la charge de la preuve quant à la complétude du dossier et fait peser une charge disproportionnée sur l’autorité compétente pour la délivrance de

Commission proposal	Drafting Suggestions	Comments
		l'autorisation : il est important que le demandeur de l'autorisation soit seul responsable de la complétude de son dossier et soit éventuellement sanctionner en cas de pièce manquante, cette absence, qui lui est imputable, étant en plus susceptible de ralentir le processus d'octroi de l'autorisation. La déclaration automatique de complétude du dossier, au delà de 15 jours sans invitation de l'administration à régulariser le dossier, pourrait engendrer une certaine insécurité juridique, en particulier concernant la possibilité, pour l'administration de refuser, par la suite, l'autorisation en l'absence de la pièce manquante (y compris si celle-ci est déterminante).

Commission proposal	Drafting Suggestions	Comments
The first and second subparagraph shall be without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure that are applicable to the permit-granting procedure, including appeal proceedings, in accordance with Union law or national law in compliance with Union law.		Les autorités françaises s'interrogent sur le sens de cette disposition : doit elle être entendue comme autorisant les autorités compétentes à maintenir les délais actuellement prévus par les législations nationales pour l'examen des demandes d'autorisations administratives, quand bien même que le délai pour l'octroi ou le refus dépassent les 4 mois prévus au 1er alinéa du paragraphe 5 ?
By way of exception and based on a justified reason set out by a Member State, the 4 month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority on its own motion. Any extension shall be the shortest possible. Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.	By way of exception and based on a justified reason set out by a Member State, the 6 month 4 month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority on its own motion. Any extension shall be the shortest possible. Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.	Si les Etats membres doivent pouvoir proroger le délai d'instruction d'une demande d'autorisation pour des raisons justifiées et la communication de cette prorogation au demandeur légitime, une notification de cette étape intermédiaire à la Commission n'est pas nécessaire dans la mesure où cette dernière n'a pas vocation à jouer un rôle dans l'instruction des demandes. De surcroît, ce processus de notification paraît empiéter sur les compétences

Commission proposal	Drafting Suggestions	Comments
		attribuées aux Etats membres et aux collectivités.
Any refusal of a permit or right of way shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.	Any refusal of a permit or right of way shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.	Cette disposition prête à confusion : la notion de “permit” doit elle bien être entendue comme englobant le “ right of way” ? Il conviendrait de clarifier la notion de “right of way”.
6. By way of derogation from Article 43(1), point (a) of Directive (EU) 2018/1972, where rights of way over or under public or private property are required for the deployment of elements of very high capacity networks or associated facilities in addition to permits, competent authorities shall grant such rights of way within the 4 month period from the date of receipt of the application.	6. By way of derogation from Article 43(1), point (a) of Directive (EU) 2018/1972, where rights of way over or under public or private property are required for the deployment of elements of very high capacity networks or associated facilities in addition to permits, competent authorities shall grant such rights of way within the 4-month 6 month period from the date of receipt of the application.	Le délai de 4 mois n’est pas suffisant car il ne permet pas de mettre en oeuvre l’ensemble des étapes préalables à l’établissement d’un droit de passage sur des propriétés privées, et en particulier d’organiser, pendant un délai raisonnable, une consultation des riverains et propriétaires concernés. Actuellement, les servitudes sur les propriétés sont accordées à l’issue d’un délai de 6 mois maximum après réception de la demande, ce

Commission proposal	Drafting Suggestions	Comments
		délai assure un juste équilibre entre les besoins du demandeur et les droits et intérêts des tiers (notamment respect du droit de propriété des personnes privées, qui implique parfois de solliciter un juge).
7. In the absence of a response from the competent authority within the 4-month deadline referred to in paragraphs 5 first subparagraph, and unless such deadline is extended pursuant to paragraph 5 fourth subparagraph, the permit shall be deemed to have been granted. This shall also apply in the case of rights of way referred to in paragraph 6.	7. In the absence of a response from the competent authority within the 4-month deadline referred to in paragraphs 5 first subparagraph, and unless such deadline is extended pursuant to paragraph 5 fourth subparagraph, the permit shall be deemed to have been granted. This shall also apply in the case of rights of way referred to in paragraph 6.	En prévoyant que le silence gardé par les autorités compétentes au delà du délai imparti vaut octroi de l'autorisation, le paragraphe 7 porte une atteinte disproportionnée à un certain nombre de droits garantis par l'ordre constitutionnel français, en particulier : - le droit de propriété qui protège les biens des personnes privés et des personnes publiques, celui-ci fait d'ailleurs obstacle à toute forme d'expropriation, en l'absence d'indemnisation. - L'impératif de protection du domaine public; duquel découle l'exigence d'une

Commission proposal	Drafting Suggestions	Comments
		autorisation expresse pour l'occupation de certaines propriétés publiques. Un maintien du principe selon lequel le silence vaut rejet est indispensable.
8. The Commission shall, by means of an implementing act, specify categories of deployment of elements of very high capacity networks or associated facilities that shall not be subject to any permit-granting procedure within the meaning of this Article. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 13.	8. The Commission shall, by means of an implementing act, specify categories of deployment of elements of very high capacity networks or associated facilities that shall not be subject to any permit-granting procedure within the meaning of this Article. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 13	Bien que le Comité des communications électroniques prévu à l'article 13 du projet de règlement soit associé à l'élaboration de l'acte d'exécution que pourrait prendre la Commission en application du paragraphe 8, cette disposition conduira néanmoins la Commission à outrepasser les compétences qui lui sont attribuées par les traités. Elle empiètera aussi sur celles actuellement dévolues aux collectivités territoriales. Si l'idée de principe devait être maintenue, elle devrait être davantage encadrée au sein du règlement, en plus de l'étroite association du comité.

Commission proposal	Drafting Suggestions	Comments
9. Competent authorities shall not subject the deployment of elements referred to in paragraph 8 to any individual town planning permit or other individual prior permits. By way of derogation, competent authorities may require permits for the deployment of elements of very high capacity networks or associated facilities on buildings or sites of architectural, historical, religious or natural value protected in accordance with national law or where necessary for public safety reasons.	9. Competent authorities shall not subject the deployment of elements referred to in paragraph 8 to any individual town planning permit or other individual prior permits. By way of derogation, competent authorities may require permits for the deployment of elements of very high capacity networks or associated facilities on buildings or sites of architectural, historical, religious, environmental or natural value protected in accordance with national law or where necessary for public safety reasons.	Pour faciliter la mise en oeuvre du texte, il conviendrait de préciser si “natural value” renvoie à la valeur environnementale du site concerné par le déploiement des réseaux à très haute capacité.
10. Permits, other than rights of way, required for the deployment of elements of very high capacity networks or associated facilities shall not be subject to any fees or charges going beyond administrative costs as provided for, <i>mutatis mutandis</i>, in Article 16 of Directive (EU) 2018/1972.		

Commission proposal	Drafting Suggestions	Comments
11. Any operator that has suffered damage as a result of non-compliance with the deadlines applicable under paragraphs 5 and 6 shall receive compensation for the damage suffered, in accordance with national law.	11. Any operator that has suffered damage as a result of non-compliance with the deadlines applicable under paragraphs 5 and 6 shall receive compensation for the damage suffered, in accordance with national law.	Le paragraphe 11 de l'article 7 de la proposition de règlement est contraire à certains principes de l'ordre juridique interne : - En droit français, il n'y a pas de "droit à" obtenir de l'administration une autorisation. Dès lors, l'existence même d'un préjudice lié au seul non respect des délais d'instruction paraît peu concevable. - Principes d'égalité ou non discrimination : la disposition envisagée place les opérateurs de communications électroniques dans une position plus favorable que d'autres demandeurs d'une autorisation comparables : à peine de voir sa responsabilité engagée, l'autorité compétence pourrait systématiquement privilégier l'instruction de ces demandes au

Commission proposal	Drafting Suggestions	Comments
		déterminent de celles déposées pour d'autres projets, même s'ils répondent à un besoin d'intérêt général. - Le non respect des délais d'instruction n'est pas toujours imputable à l'administration, il peut également trouvé sa cause dans l'inaction du demandeur de l' autorisation.
Article 8		
In-building physical infrastructure and fibre wiring		
1. All buildings at the end user's location, including elements under joint ownership, newly constructed or undergoing major renovation works, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS], shall		Le droit français prévoit d'ores et déjà des obligations en matière d'équipement en infrastructures et cablage en fibre optique des logements à usage d'habitation ou professionnel neufs ou ayant fait l'objet d'une rénovation

Commission proposal	Drafting Suggestions	Comments
be equipped with a fibre-ready in-building physical infrastructure up to the network termination points as well as with in-building fibre wiring.		importante (art. L. 113-10 du code de la construction et de l'habitation).
2. All multi-dwelling buildings newly constructed or undergoing major renovation works, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS], shall be equipped with an access point.		Le droit français prévoit d'ores et déjà des obligations en matière d'équipement en infrastructures et cablage en fibre optique des logements à usage d'habitation ou professionnel neufs ou ayant fait l'objet d'une rénovation importante.
3. By [ENTRY INTO FORCE + 12 MONTHS], all buildings at the end-users' location, including elements thereof under joint ownership, undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall be equipped with a fibre-ready in-building physical infrastructure, up to the network termination points, as well as with		

Commission proposal	Drafting Suggestions	Comments
in-building fibre wiring. All multi-dwelling buildings undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall also be equipped with an access point.		
4. Member States shall adopt the relevant standards or technical specifications that are necessary for the implementation of paragraphs 1, 2 and 3 before [ENTRY INTO FORCE + 9 months]. Those standards or technical specifications shall set at least:		Les autorités françaises s’interrogent sur la place des exigences dans la proposition de règlement dans la mesure où elles n’encadrent pas le déploiement des réseaux à très haute capacité en tant que tel mais plutôt le raccordement à la fibre des utilisateurs. Il s’agit d’un sujet connexe au déploiement des réseaux. Elles s’interrogent également sur la nécessité de demander aux Etats membres de réglementer des aspects particulièrement techniques : en France, les spécifications techniques sont aujourd’hui déterminées par le secteur, après concertation avec les parties concernées et

Commission proposal	Drafting Suggestions	Comments
		conduisent à l'élaboration de différents outils pédagogiques (Guide pédagogique et référentiel technique d' Objectif fibre). Ces outils sont diffusés au grand public et respectés par les professionnels (opérateurs, promoteurs immobiliers) pour le fibrage de bâtiments.
(a) the building access point specifications and fibre interface specifications;		
(b) cable specifications;		
(c) socket specifications;		
(d) specifications of pipes or micro-ducts;		
(e) technical specifications needed to prevent interference with electrical cabling;		
(f) the minimum bend radius.		

Commission proposal	Drafting Suggestions	Comments
5. Buildings equipped in accordance with this Article shall be eligible to receive a ‘fibre-ready’ label.	5. Buildings equipped in accordance with this Article shall may be eligible to receive a ‘fibre-ready’ label.	Compte tenu du nombre de bâtiments potentiellement concernés, la mise en place d’un label obligatoire pourrait être rencontrer des difficultés opérationnelles. Elle ne paraît pas nécessaire pour atteindre l’objectif poursuivi et le coût associé pourrait être disproportionné.
6. Member States shall set up certification schemes for the purpose of demonstrating compliance with the standards or technical specifications referred to in paragraph 4 as well as for qualifying for the ‘fibre-ready’ label provided for in paragraph 5 before [ENTRY INTO FORCE + 12 months]. Member States shall make the issuance of the building permits referred to in paragraphs 1 and 2 conditional upon compliance with the standards or technical specifications referred to in this paragraph on the basis of a certified test report.	6. Member States shall set up certification schemes for the purpose of demonstrating compliance with the standards or technical specifications referred to in paragraph 4 as well as for qualifying for the ‘fibre-ready’ label provided for in paragraph 5 before [ENTRY INTO FORCE + 12 months]. Member States shall make the issuance of the building permits referred to in paragraphs 1 and 2 conditional upon compliance with the standards or technical specifications referred to in this paragraph on the basis of a certified test report.	Les autorités françaises s’interrogent sur la distinction faite par la Commission entre le système du “fibre-ready label” prévu au paragraphe 5 du présent article et celui de la “certification scheme” institué par le paragraphe 6. Si ces deux dispositifs sont distincts mais poursuivent la même finalité, le maintien d’un seul de ces dispositifs devrait être envisagé. Les autorités françaises s’inquiètent quant à la charge administrative associée à la mise en place d’un système de certification, qui pourrait

Commission proposal	Drafting Suggestions	Comments
		occasionner un ralentissement du rythme de déploiement des infrastructures. Actuellement, les autorités n'ont pas fait le choix d'introduire un tel système en raison de sa complexité et de sa rigidité mais s'appuient plutôt sur les bonnes pratiques de la filière. Conditionner la délivrance de l'autorisation d'urbanisme au respect des spécifications en matière de fibrage rompt avec la tradition française selon laquelle l'examen d'une demande d'autorisation d'urbanisme est uniquement réalisée au regard des prescriptions urbanistiques et non celles prévues par une législation étrangère au code de l'urbanisme. En outre, cette disposition pourrait également s'analyser en une atteinte disproportionnée au droit de propriété.

Commission proposal	Drafting Suggestions	Comments
		La mise en place de cette exigence aurait également des conséquences sur les collectivités qui sont, en principe, compétentes pour la délivrance de ces autorisations. En effet, si elles maîtrisent les règles urbanistiques, elles ne disposent pas nécessairement des compétences techniques pour un examen des spécifications en matière de fibrage.
7. Paragraphs 1, 2 and 3 shall not apply to certain categories of buildings, in particular single-dwelling buildings, where compliance with those paragraphs is disproportionate, in particular in terms of costs for individual or joint owners based on objective elements.	7. Paragraphs 1, 2 and 3, 4 and 5 shall not apply to certain categories of buildings, in particular single-dwelling buildings or shelters, where compliance with those paragraphs is disproportionate, in particular in terms of costs for individual or joint owners based on objective elements. Member States shall identify such categories of buildings based on duly justified and proportionate reasons.	La proposition de règlement ne précise pas comment cette première dérogation peut être mise en oeuvre par les Etats membres : une précision pourrait être apportée concernant la faculté des Etats membres à arrêter la liste de catégories de bâtiments exemptés des obligations prévues aux paragraphes mentionnés. Il convient d'étendre la dérogation aux paragraphes 4 et 5 dans la mesure où leur

Commission proposal	Drafting Suggestions	Comments
		application est conditionnée à celles des paragraphes 1,2,3.
8. Paragraphs 1, 2 and 3 need not apply to certain types of buildings, such as specific categories of monuments, historic buildings, military buildings and buildings used for national security purposes, as defined by national law. Member States shall identify such categories of buildings based on duly justified and proportionate reasons. Information on such categories of buildings shall be published via a single information point and notified to the Commission.	8. Paragraphs 1, 2, and 3, 4 and 5 need not apply to certain types of buildings, such as specific categories of monuments, historic buildings, military buildings and buildings used for national security purposes, as defined by national law. Member States shall identify such categories of buildings based on duly justified and proportionate reasons. The list of Information on such categories of buildings shall be published via a single information point and notified to the Commission.	Les autorités françaises considèrent que la liste de catégories de bâtiments pouvant bénéficier de la dérogation prévue par le paragraphe 8 est purement indicative.
Article 9		
Access to in-building physical infrastructure		Dans la mesure où cet article semble spécifiquement concerner la fibre, une référence

Commission proposal	Drafting Suggestions	Comments
		à cette technologie dans le titre de l'article pourrait être pertinente.
1. Subject to paragraph 3, first subparagraph, any public electronic communications network provider shall have the right to roll out its network at its own costs up to the access point.		
2. Subject to paragraph 3, any public electronic communications network provider shall have the right to access any existing in-building physical infrastructure with a view to deploying elements of very high capacity networks if duplication is technically impossible or economically inefficient.	2. Subject to paragraph 3, any public electronic communications network provider shall have the right to access any existing available fibre-ready in-building physical infrastructure with a view to deploying elements of very high capacity networks if duplication is technically impossible or economically inefficient.	Selon les définitions prévues à l'article 2 de la proposition de règlement, la notion de "in-building physical infrastructure" ne concerne pas exclusivement la fibre à la différence de celle "available fibre-ready in-building physical infrastructure". Or l'article 9 semble s'appliquer spécifiquement aux déploiements des réseaux fibrés.
3. Any holder of a right to use the access point and the in-building physical infrastructure shall meet all reasonable requests for access to the	3. Any holder of a right to use the access point and the available fibre-ready in-building physical infrastructure shall meet all reasonable	

Commission proposal	Drafting Suggestions	Comments
access point and the in-building physical infrastructure from public electronic communications network providers under fair and non-discriminatory terms and conditions, including price, where appropriate.	requests for access to the access point and the available fibre-ready in-building physical infrastructure from public electronic communications network providers under fair and non-discriminatory terms and conditions, including price, where appropriate.	
Any holder of a right to use the access point or the in-building physical infrastructure may refuse access where access to in-building fibre wiring is provided pursuant to obligations imposed under Directive (EU) 2018/1972, under Title II, Chapters II to IV, or made available under fair, reasonable and non-discriminatory terms and conditions, including price.	Any holder of a right to use the access point or the available fibre-ready in-building physical infrastructure may refuse access where access to in-building fibre wiring is provided pursuant to obligations imposed under Directive (EU) 2018/1972, under Title II, Chapters II to IV, or made available under fair, reasonable and non-discriminatory terms and conditions, including price.	Les autorités françaises souhaitent que, <u>au moins dans un considérant du texte</u>, il soit précisé que le refus d'accès aux infrastructures internes des immeubles ne peut être justifié par la prévalence de la mutualisation, dans les cas où se réunissent les conditions de (i) disponibilité d'espace, de (ii) non-conformité du produit d'accès « mutualisé » avec les besoins de raccordement du demandeur de l'accès à l'infrastructure (cas, par exemple, des opérateurs desservant des locaux d'entreprises, avec des fibres dédiées), et de (iii) absence de tout autre motif de rejet objectif, non-

Commission proposal	Drafting Suggestions	Comments
		discriminatoire et proportionné, tel que décrit dans les exceptions du (projet de) texte et dans les motifs de rejet au regard de l'article 3.
4. In the absence of available fibre-ready in-building physical infrastructure, every public electronic communications network provider shall have the right to terminate its network at the premises of the subscriber, subject to the agreement of the subscriber, provided that it minimises the impact on the private property of third parties.		
5. This Article shall be without prejudice to the right to property of the owner of the access point or the in-building physical infrastructure where the holder of a right to use that infrastructure or access point is not the owner thereof, and to the right to property of other		

Commission proposal	Drafting Suggestions	Comments
third parties, such as landowners and building owners.		
6. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.	6. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.	L'adoption d'orientation par la Commission européenne pour l'application de cet article est susceptible d'avoir, par ricochet, un impact sur sur le cadre juridique établi par l'autorité de régulation nationale sur le fondement des chapitres II à IV du titre II de la directive 2018/1972/UE, compte tenu de l'étroite proximité des sujets. Elle pourrait en plus avoir pour effet d'imposer un cadre juridique rigide ne tenant pas suffisamment compte des circonstances nationales. Par ailleurs, la nécessité d'orientation n'apparaît pas nécessaire, de prime abord, et semble donc disproportionnée au regard de l'objectif poursuivi.
Article 10		

Commission proposal	Drafting Suggestions	Comments
Digitalisation of single information points		
1. Single information points shall make appropriate digital tools available, such as in the form of web portals, digital platforms or digital applications, to enable the online exercise of all the rights and the compliance with all the obligations set out in this Regulation.		Les autorités françaises sont favorables à la mise en place d’outils numériques destinés à aider l’opérateur à exercer les droits prévus par la proposition de règlement, par l’intermédiaire d’un point d’information unique dématérialisé. Toutefois, elles attirent l’attention sur le fait que les Etats membres, et en particulier leurs collectivités doivent conserver une marge de manoeuvre suffisante pour déterminer le type d’outils numériques à mettre en place compte tenu des besoins de l’opérateur et des moyens dont elles disposent. Dans ce contexte, les autorités françaises s’interrogent sur la possibilité d’utiliser une adresse électronique comme outil numérique permettant aux acteurs concernés d’exercer leurs droits et de respecter leurs obligations.

Commission proposal	Drafting Suggestions	Comments
2. Member States may interconnect or fully or partially integrate several digital tools supporting the single information points referred to paragraph 1, as appropriate.		Les autorités françaises s’interrogent sur le concept d’interconnection totale ou partielle des outils numériques utilisés par les “single information points”, des précisions devraient donc être apportées à des fins de clarifications (les considérants n’éclairent pas davantage).
3. Member States shall set out a single national digital entry point, consisting of a common user interface ensuring seamless access to the digitalised single information points.		Les autorités françaises reconnaissent l’utilité de mettre en place un guichet unique permettant à l’opérateur de retrouver facilement les accès aux “single information points”. Toutefois, elles souhaitent attirer l’attention sur le fait que la mise en oeuvre opérationnelle de ce dispositif compte tenu des spécificques techniques envisagées et soulignent que cela va nécessiter une évolution de l’ensemble des processus administratifs, à tous les niveaux de

Commission proposal	Drafting Suggestions	Comments
		l'administration, susceptible de générer une charge administrative.
Article 11		
Dispute settlement		
1. Without prejudice to the possibility to refer the case to a court, any party shall be entitled to refer to the competent national dispute settlement body established pursuant to Article 12 a dispute that may arise:		
(a) where access to existing infrastructure is refused or agreement on specific terms and conditions, including price, has not been reached within 1 month from the date of receipt of the request for access under Article 3;	(a) where access to existing infrastructure is refused or agreement on specific terms and conditions, including price, has not been reached within 1 month 2 months from the date of receipt of the request for access under Article 3;	Le délai minimal à respecter avant de porter le litige devant l'organe de règlement des litiges doit être suffisant pour permettre la négociation entre les parties et tenir compte des contraintes inhérentes au fonctionnement des organismes publics lorsque ceux-ci sont concernés.

Commission proposal	Drafting Suggestions	Comments
		Le délai d'1 mois est donc insuffisant, notamment au regard de la pertinence prouvée du délai de 2 mois actuellement en vigueur. Un maintien du délai de 2 mois prévu par la directive 2014/61/UE permettrait de prendre en compte ces différents impératifs.
(b) in connection to the rights and obligations set out in Articles 4 and 6, including where the information requested is not provided within 15 days after the request under Article 4 is submitted, and within 1 week after the request under Article 6 is submitted;	(b) in connection to the rights and obligations set out in Articles 4 and 6, where acces to the information requested is refused without justification or including where the information requested is not provided within 15 days 1 month after the request under Article 4 is submitted, and within 1 week after the request under Article 6 is submitted;	Pour la bonne mise en oeuvre du règlement, il est essentiel que la compétence de l'organe de règlement des litiges soit suffisamment précisée. En revanche, cette compétence ne devrait pas conduire à une remise en cause des motifs avancés par l'opérateur de réseau ou l'organisme du secteur public concerné pour refuser l'accès aux informations lorsque celui est dûment justifié (notamment par des considérations de sécurité publique ou sûreté).

Commission proposal	Drafting Suggestions	Comments
		Le délai permettant la saisine de l'organe de règlement des litiges doit correspondre au délai laissé à l'opérateur ou à l'organisme du secteur public concerné pour traiter la demande d'accès (<i>cf.</i> modification proposée à l'article 4).
(c) where an agreement on the coordination of civil works pursuant to Article 5(2) has not been reached within 1 month from the date of receipt of the formal request to coordinate civil works; or		
(d) where an agreement on access to in-building physical infrastructure referred to in Article 9(2) or (3) has not been reached within 1 month from the date of receipt of the formal request for access;		
2. Taking full account of the principle of proportionality and the principles established in	2. Taking full account of the principle of proportionality and the principles established in	

Commission proposal	Drafting Suggestions	Comments
Commission guidance, the national dispute settlement body referred to in paragraph 1 shall issue a binding decision to resolve the dispute at the latest:	Commission guidance , the national dispute settlement body referred to in paragraph 1 shall issue a binding decision to resolve the dispute at the latest:	Cf. l'ensemble des observations des autorités françaises concernant l'adoption, par la Commission européenne, d'orientations pour l'application des articles du règlement.
(a) within four months from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, point (a);		Les autorités françaises sont favorables au délai de 4 mois pour le règlement des litiges en matière d'accès aux infrastructures physiques.
(b) within one month from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, points (b), (c) and (d).	(b) within one month 2 months from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, points (b), (c) and (d).	Il est indispensable que le délai fixé pour le règlement du litige tienne compte de la mission confiée à l'organe de règlement et des contraintes s'imposant à lui pour mener à bien cette tâche. Le délai d'1 mois proposé est insuffisant pour lui permettre de réaliser les actes d'instructions nécessaires (demande de pièces manquantes, échanges avec les parties, prise de la décision) tout en respectant les principes juridiques s'imposant à l'organe de règlement

Commission proposal	Drafting Suggestions	Comments
		des litiges dans l'exercice de sa mission (ex : respect du principe de contradictoire). Il conviendrait ainsi, au moins, de maintenir les délais de 2 mois actuellement prévus par la directive 2014/61/UE et transposés à l'échelle nationale.
Those deadlines may only be extended in exceptional circumstances.	Those deadlines may only be extended in exceptional circumstances.	Compte tenu des délais particulièrement brefs proposé pour le règlement des litiges (point b à d), la prorogation du délai d'instruction du litige ne devrait pas être restreinte trop strictement.
3. As regards disputes referred to in paragraph 1, points (a), (c) and (d) the decision of national dispute settlement body may consist in setting fair and reasonable terms and conditions, including price, where appropriate.		
Where the dispute relates to access to the infrastructure of an operator and the national		

Commission proposal	Drafting Suggestions	Comments
dispute settlement body is the national regulatory authority, the objectives set out in Article 3 of Directive (EU) 2018/1972 shall be taken into account, where appropriate.		
4. The rules laid down in the present Article are in addition to and without prejudice to the judicial remedies and procedures in compliance with Article 47 of the Charter of Fundamental Rights of the European Union ²⁰ .		
Article 12		
Competent bodies		
1. Each of the tasks assigned to the national dispute settlement body shall be undertaken by one or more competent bodies, which can be an existing body.		

²⁰ Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012, p. 391–407)

Commission proposal	Drafting Suggestions	Comments
2. The national dispute settlement body shall be legally distinct and functionally independent of any network operator and any public sector body owning or controlling physical infrastructure involved in the dispute. Member States that retain ownership or control of network operators shall ensure effective structural separation of the functions related to the national dispute settlement procedures and those of the single information point from activities associated with ownership or control.		Pour la transposition de la directive 2014/61/UE les autorités françaises ont décidé de confier l'exercice de cette mission à l'autorité de régulation nationale du secteur des communications électroniques, qui exerce déjà un certain nombre de missions prévues par la directive 2018/1972/UE. Son organisation interne a d'ailleurs été modifiée pour satisfaire aux exigences européennes et nationales renforcées en matière d'indépendance et d'impartialité. Ce choix précédemment opéré devrait maintenu pour l'application du règlement, ce dernier s'inscrivant dans la continuité de la directive 2014/61/UE.
3. The national dispute settlement body may charge fees to cover the costs of carrying out the tasks assigned to it.		

Commission proposal	Drafting Suggestions	Comments
4. All parties concerned by a dispute shall cooperate fully with the national dispute settlement body.		
5. The functions of a single information point referred to in Articles 3 to 8 and 10 shall be performed by one or more competent bodies appointed by the Member States at national, regional or local level, as appropriate. In order to cover the costs of carrying out those functions, fees may be charged for the use of the single information points.		
6. Paragraph 2 shall apply <i>mutatis mutandis</i> to the competent bodies performing the functions of a single information point.	6. Paragraph 2 shall apply <i>mutatis mutandis</i> to the competent bodies performing the functions of a single information point.	L'application de l'exigence d'indépendance et de séparation structurelle prévues au paragraphe 2, aux organismes qui exerceront la fonction de point d'information unique pourrait soulever des difficultés majeures dans la mesure où cette fonction serait, en France, exercée par des administrations locales, qui déploient également

Commission proposal	Drafting Suggestions	Comments
		des communications électroniques (notamment pour le déploiement de la fibre) ou sont propriétaires ou gestionnaires d'infrastructures physiques (bâtiments, mobiliers urbains etc.).
7. The competent bodies shall exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they shall have adequate technical, financial and human resources to carry out the tasks assigned to them.		
8. Member States shall publish the respective tasks to be undertaken by each competent body via a single information point, in particular where those tasks are assigned to more than one competent body or where the assigned tasks have changed. Where appropriate, the competent bodies shall consult and cooperate with each other on matters of common interest.		

Commission proposal	Drafting Suggestions	Comments
9. Member States shall notify to the Commission the identity of each competent body in accordance with this Article for carrying out a function under this Regulation, and their respective responsibilities, by [DATE OF ENTRY INTO FORCE] and any modification thereof, before such designation or modification enters into force.		
10. Any decision taken by a competent body shall be subject to an appeal, in accordance with national law, before a fully independent appeal body, including a body of judicial character. Article 31 of Directive (EU) 2018/1972 shall apply <i>mutatis mutandis</i> to any appeal pursuant to this paragraph.		
The right to appeal in accordance with the first subparagraph shall be without prejudice to the		

Commission proposal	Drafting Suggestions	Comments
right of the parties to bring the dispute before the national competent court.		
Article 13		
Committee procedure		
1. The Commission shall be assisted by the Communications Committee established by Article 118(1) of Directive (EU) 2018/1972. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by the Communications Committee established by Article 118(1) of Directive (EU) 2018/1972. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	Dans la mesure où les autorités françaises proposent la suppression du paragraphe 8 de l'article 7 relatif la possibilité pour la Commission de définir, par acte d'exécution, les catégories de déploiement non soumise à une procédure d'octroi, il est également proposé de supprimer cet article, aucun autre article ne faisant expressement référence à cet article.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	

Commission proposal	Drafting Suggestions	Comments
Article 14		
Penalties and compensation		
Member States shall lay down rules on penalties, including, where necessary, fines and non-criminal predetermined or periodic penalties, applicable to infringements of this Regulation and of any binding decision adopted pursuant to this Regulation by the competent bodies referred to in Article 12 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be appropriate, effective, proportionate and dissuasive.		Les autorités françaises estiment que l’effectivité du règlement repose notamment sur l’établissement de règles visant à sanctionner le non-respect de ces dispositions et sont favorables à ce que les sanctions appropriées soient définies, par l’Etat membre, au niveau national.
Member States shall lay down rules on adequate financial compensation for persons suffering damage as a result of the exercise of the rights provided for in this Regulation.	Member States shall lay down rules on adequate financial compensation for persons suffering damage as a result of the exercise of the rights provided for in this Regulation.	L’obligation d’indemnisation envisagée est susceptible de créer des difficultés dans sa mise en œuvre faute d’identifier précisément les préjudices susceptibles d’être réparés sur son

Commission proposal	Drafting Suggestions	Comments
		fondement (préjudice né du simple exercice du droit même conforme au droit, violation des droits etc..). Elle pourrait en plus générer des discriminations entre les opérateurs indemnisés sur le fondement du règlement et les tiers subissant un préjudice comparable (exemple : retard dans la délivrance des autorisations) mais qui ne bénéficient pas pour autant des dispositions du règlement. En outre, le droit national français prévoit déjà des règles d'indemnisation des préjudices dont l'effectivité n'est pas remise en cause. L'instauration d'une indemnisation spécifique ne paraît donc pas nécessaire. L'ajout proposé par le règlement ne semble donc pas pertinent et devrait donc être supprimé. A minima, il ne devrait pas être obligatoire pour les Etats membres disposant déjà d'un dispositif.

Commission proposal	Drafting Suggestions	Comments
Article 15		
Report and monitoring		
1. By [DATE OF ENTRY INTO FORCE + 5 YEARS], the Commission shall present a report to the European Parliament and the Council on the implementation of this Regulation. The report shall include a summary of the impact of the measures set out in this Regulation and an assessment of the progress towards achieving its objectives, including whether and how the Regulation could further contribute to achieving the connectivity targets set out in the Decision establishing the Digital Decade Policy Programme 2030.		
2. To that end, the Commission may request information from Member States that shall be	2. To that end, the Commission may request information from Member States that shall be	Les autorités françaises estiment qu'il n'est pas nécessaire de rappeler que les informations

Commission proposal	Drafting Suggestions	Comments
submitted without undue delay. In particular, by [DATE OF ENTRY INTO FORCE + 12 MONTHS], Member States shall, in close cooperation with the Commission, through the Communications Committee set up under Article 118 of Directive (EU) 2018/1972, set out indicators to adequately monitor the application of this Regulation and the mechanism to ensure a periodic data gathering and reporting to the Commission thereof.	submitted without undue delay. In particular, by [DATE OF ENTRY INTO FORCE + 12 MONTHS], Member States shall, in close cooperation with the Commission, through the Communications Committee set up under Article 118 of Directive (EU) 2018/1972, set out indicators to adequately monitor the application of this Regulation and the mechanism to ensure a periodic data gathering and reporting to the Commission thereof.	sollicitées doivent être transmises sans retard. Chaque Etat membre fait, en principe, ses meilleurs efforts pour fournir à la Commission l'ensemble des informations concernées, en tenant compte du fait que les demandes gèrent, dans certains cas, une charge administrative supplémentaire et nécessitent un temps pour la collecte des données et leurs traitements au niveau national, lorsque celles-ci sont détenues par d'autres entités que l'Etat central. Les autorités françaises considèrent que les indicateurs fixés pour le suivi du règlement ne doivent pas être exclusivement déterminés par la Commission, un recours au COCOM est une proposition respectueuse de la répartition des compétences.
Article 16		

Commission proposal	Drafting Suggestions	Comments
Transitional measures		
National measures that specify the categories of deployment of elements of very high capacity networks or associated facilities not being subject to any permit-granting procedure within the meaning of Article 7, and that were adopted by the Member States pursuant to Directive 2014/61/EU or before its entry into force but in line with it shall continue to apply until the implementing act provided for in Article 7(8) of this Regulation enters into application.	National measures that specify the categories of deployment of elements of very high capacity networks or associated facilities not being subject to any permit-granting procedure within the meaning of Article 7, and that were adopted by the Member States pursuant to Directive 2014/61/EU or before its entry into force but in line with it shall continue to apply until the implementing act provided for in Article 7(8) of this Regulation enters into application.	Il est proposé de supprimer l'article 16 dans la mesure où la suppression du paragraphe 8 de l'article 7 de la présente proposition de règlement est demandée.
Article 17		
Repeal		
1. Directive 2014/61/EU is repealed.		

Commission proposal	Drafting Suggestions	Comments
2. References to the repealed Directive shall be construed as references to this Regulation and read in accordance with the correlation table in the Annex.		
Article 18		
Entry into force and application		
1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .		
2. It shall apply from [6 months after its entry into force].	2. It shall apply from [6 months 18 months after its entry into force].	Dans la mesure où la proposition de règlement introduit un certain nombre de mesures nouvelles qui nécessite l'adoption ou la modification de plusieurs textes législatifs et réglementaires français (notamment ceux relatifs à la délivrance des autorisations où le principe est le plus souvent silence vaut rejet) et

Commission proposal	Drafting Suggestions	Comments
		son appropriation par les acteurs concernés (mise en place ou aménagement des single information point et du national digital entry point), en particulier pour les administrations locales et les opérateurs de réseau, le délai de 6 mois laisser pour procéder à ces adaptations n'est pas suffisant. Un délai d'au moins 18 mois est nécessaire.
This Regulation shall be binding in its entirety and directly applicable in all Member States.		
Done at Brussels,		
For the European Parliament For the Council		
The President The President		
	End	End