

EUTC | Contribution to GIA Public Consultation

EUTC thanks the European Commission for the opportunity to provide its feedback on the Gigabit Infrastructure Act (GIA), given the importance of a balanced and appropriate treatment of this Act for the utilities sector.

The GIA can be examined from two perspectives. The first, partially covered by this public consultation, is the focus of EUTC's present contribution and is addressed through responses to the consultation questions.

The second perspective, however, is not explicitly considered in the consultation. From the viewpoint of utilities, this omission is significant. Unlike the Broadband Cost Reduction Directive (BCRD), the GIA does not include an equivalent to Article 3.1, which recognised the role of utilities and the use of their infrastructure in the context of broadband deployment. EUTC considers that this gap risks overlooking the contribution and needs of utilities and therefore believes it should be addressed in the legislative process.

Utilities as network operators obliged by the GIA

Access to Utility Infrastructure (Article 3 GIA)

- Utilities receive few access requests under the BCRD, mainly for poles and ducts. This is due to:
 - the limited suitability of electricity infrastructure to host telecom assets,
 - strict safety procedures (costly and time-intensive) needed for any grid construction or upgrade,
 - and the availability of already fit-for-purpose, simpler alternatives.
- Information on infrastructure is often incomplete or not standardised, requiring field verification and making requests resource-intensive and lengthy.

Fairness and Reasonableness (Article 3.1)

- The concept of "reasonable requests" should be clarified and quantified, limiting:
 - the number of eligible requestors,
 - the circumstances under which access can be requested,
 - and the volume and territory of requests.
- Without limits, utilities risk being overwhelmed, as they do not have dedicated resources for this activity and must prioritise their regulated electricity service.

Economic and Regulatory Considerations

- Distribution utilities are mostly regulated entities whose infrastructure is dimensioned solely for delivering electricity services. It is not overbuilt, and spare capacity is rare.
- Using spare infrastructure for telecom could reduce utilities' ability to serve electricity demand, forcing costly new infrastructure investments. It will also cannibalize reserves for the regulated electricity business, and potentially favours telecom business vs electricity, instrumental for the

former.

- Any additional income from telecom use is typically captured by regulators, since infrastructure was financed for energy purposes, not telecom.
- Imposing telecom obligations risks creating cross-sector conflicts between regulated (electricity) and non-regulated (telecom) activities.

Different Treatment of Utilities

- The GIA should distinguish between utilities (at least, regulated ones), and the rest of telecom operators/public sector bodies.
- Utility infrastructure is not designed to host telecom equipment and is governed by a different regulatory framework.
- Therefore, obligations for utilities should be different and lighter than those for telecom operators or public bodies.

Grounds for Refusal of Access (Article 3.5)

- For utilities, several grounds for refusal (technical unsuitability, lack of capacity, safety, security, critical infrastructure protection) are especially relevant.
- EUTC recommends utilities be granted specific treatment under the GIA to reflect these realities, ideally minimising or avoiding use of their infrastructure.
- If access requests are made, requestors should be required to submit a study proving no viable alternatives exist in the area.

Coordination Body (Article 3.8)

- EUTC does not support establishing a coordinating body for access requests.
- Telecom operators and public bodies have long cooperated without centralisation, and creating such a body would bring delays and complexity without evident benefits.

Utilities needing right to use public communications network operators' physical infrastructure

Telecommunications are an instrumental asset for utilities to deliver their regulated services, enabling an enhanced operation that allows business continuity for a resilient system. As in the case of the electricity service, the service is the foundation of most other basic services supporting our Society (water, telecommunications, etc.).

Telecommunications are a cornerstone of the Smart Grids that achieve those goals, with an increased penetration, availability, and broadband capabilities deeper down in the grids. Without telecommunications, none of the Smart Grid objectives can be achieved.

Utilities combine different resources, including private telecommunication networks and commercial services that need to fit strict and tailored requirements that, most of the time, cannot be achieved without private telecommunication networks.

Both optical fiber networks and spectrum access are needed to develop such a network. And, for the former, the GIA can be instrumental if utilities are included with the same rights as telecommunication operators, but only to develop Smart Grid-capable telecommunication networks.

Article 3.1 of the BCRD included a text that literally said: “*Reciprocally, Member States may provide for the right of public communications network operators to offer access to their physical infrastructure for the purpose of deploying networks other than electronic communications networks.*”. In the transposition of the BCRD to the different Member states, this possibility had no consequences for utilities. The GIA does not contain such a provision.

The EUTC has already contributed to the Digital Networks Act and the European Grid Package public consultations and has always added these considerations.

Now, and taking advantage of this consultation, EUTC would like to specifically mention the opportunity to recover this *reciprocity* principle and extend it formally to the context of utility Smart Grids, to provide a better electricity service that will, ultimately, improve commercial telecommunications services, which need a resilient power supply service.

Therefore, EUTC recommends the GIA to be amended so that utilities are entitled to deploy optical fiber cables (ducts, poles) and wireless infrastructure using the same rights envisaged for telecommunication commercial providers in the GIA, when utilities need to develop their networks for their regulated services operations.

Utilities need to roll out dedicated private networks, as commercial services do not comply with their needs, and a lack of access to passive infrastructure is a major deployment barrier. For the avoidance of doubt, the *reciprocity* principle would just apply to the deployment of utility optical fiber cables or the installation of telecommunications equipment, in telecommunications networks for regulated services operations.