Digging Rights Group

The NLconnect Group on Digging Rights is grateful for the opportunity to respond to the consultation of the BEREC guidelines on access to indoor infrastructure according to Section 11(6) of the Gigabit Infrastructure Act.

The NLconnect Group Digging Rights is the association of ten national fixed telecom operators and is part of NLconnect, the Dutch trade association for broadband and telecom. Its members include companies that build, own, and operate fiber, cable, mobile, and wireless networks, as well as service providers and suppliers operating in the broadband and telecom value chain.

The association defends the policy and business interests of the Dutch broadband and telecom industry and promotes cooperation between its members. NLconnect stimulates innovation, knowledge exchange and healthy competition in the sector.

NLconnect supports the continuous development of robust and sustainable broadband infrastructure, which enables digital connectivity for everyone in the Netherlands.

Comments

We support BEREC's position that access to the physical infrastructure of buildings should be free of charge. In the Netherlands, telecom operators prefer access to empty construction vehicles. Connecting to fibre optics in buildings is a second option. The internal fibre optic cable may not meet the needs of the telecom operator and/or end-user for business purposes and will in many cases be replaced by the telecom operator with its own fibre optic cables that meet the technical requirements of the connection. In the Netherlands, multiple providers deploy electronic communications networks (infrastructure competition). Therefore, it is preferable to consider installing 2 empty ducts in homes and buildings, so that the grid is neutral. Installing a fibre optic cable is an option but should not be an obligation.

On page 6, BEREC states: 'According to recital 48 of the GIA, project developers should ensure that there are empty channels from each dwelling to the access point, located in or outside a multi-family dwelling, that allow connections to the network termination points, or in the Member States where the network termination point is located, in accordance with the national

right outside the specific location of the end-user, up to the physical point where the end-user connects to the public network.'

In our opinion, Article 10.1 includes the obligation to provide all new buildings and renovated buildings with empty construction shafts and fibre optic wiring, including single-family homes. In the annex, we have set out our analysis of the legal framework in the GIAs. We recommend BEREC to adjust the guidelines accordingly.

In paragraph 23, we recommend including 'access point' as set out in Article 2(11) of the GI rather than just referring to 'concentration or distribution point'.

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Attachment

<u>Legal framework of the GIA</u>

Recital 48 – In order to achieve the objectives set out in Decision (EU) 2022/2481, by 2030 all end-users at fixed locations should be covered by a gigabit network up to the network termination point and all populated areas should be covered by next-generation high-speed wireless networks with performance at least equivalent to that of 5G, in line with the principle of technological neutrality. The provision of gigabit networks to end-users should be facilitated, in particular through physical in-building infrastructure suitable for fibre. Providing mini-channels during the construction of a building entails only limited incremental costs, while equipping buildings with gigabit infrastructure can account for a significant part of the cost of deploying a gigabit network. Therefore, all new buildings or buildings undergoing major renovation work should be equipped with physical infrastructure and in-building fibre optic wiring that allows the connection of end-users to gigabit speeds, if this does not disproportionately increase the cost of the renovation works and if this is technically feasible. New multi-dwelling dwellings and multi-dwelling buildings undergoing major renovation works should also be equipped with an access point that is easily accessible to one or more undertakings providing or licensed to provide public electronic communications networks, if this does not disproportionately increase the cost of the renovation works and if this is technically feasible. In addition, project developers should ensure that there are empty pipes from each dwelling to the access point, located in or outside a multi-family dwelling, which allow connections up to the network termination points, or in the Member States where the network termination point is located outside the specific location of the end-user in accordance with national law, up to the physical point where the end-user connects to the public network. Major renovations of existing buildings at the end-user's site to improve energy performance in accordance with Directive 2010/31/EU of the European Parliament and of the Council (12) also provide for the possibility to equip those buildings with physical in-building infrastructure, internal fibre optic cabling and, for multi-family buildings, an access point.

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Article 2 – For the purposes of this Regulation, the definitions set out in Directive (EU) 2018/1972 shall apply, in particular the definitions of 'electronic communications network', 'very high capacity network', 'public electronic communications network', 'network termination point[1]', 'associated facilities', 'end-user', 'security of networks and services', 'access' and 'operator'.

Article 2(6) – 'indoor physical infrastructure' means physical infrastructure or installations at the end-user's premises, including elements in co-ownership, intended to host fixed and/or wireless access networks, if such access networks are capable of providing electronic communications services and connecting the building access point to the network termination point

Article 2(7) - 'internal fibre optic wiring' means pickup cables at the end-user's premises, including elements in co-ownership, intended to provide electronic communications services and connect the building access point to the network termination point;

Article 2(11) – 'access point' means a physical point, located inside or outside the building, accessible to undertakings providing or authorised to provide public electronic communications networks, where the connection to the fibre-capable physical infrastructure is provided;

Article 10(1) – All newly constructed buildings and buildings undergoing major renovation works, including elements in co-ownership, for which building permits have been applied for after 12 February 2026, shall be equipped with a fibre-enabled in-building physical infrastructure and internal fibre wiring, including connections to the physical point where the end-user connects to the public network.

[1] Article 2(9) of the EECC: 'network termination point' means the physical point at which an end-user is provided with access to a public electronic communications network, which is determined, in the case of networks with switching or routing functions, by means of a specific network address that can be linked to the number or name of an end-user;

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Article 10(2) - All newly erected multi-family dwellings or multi-family dwellings undergoing major renovation work and for which building permits have been applied for after 12 February 2026 shall be equipped with an access point.

Article 11(2) – Without prejudice to paragraph 3, any provider of public electronic communications networks shall have the right to access existing in-building physical infrastructure for the purpose of deploying elements of high-altitude communications networks, where duplication is technically impossible or economically inefficient.

Analysis

The term "access point" includes all buildings, both multi-family and single-family homes. The term 'building' in Article 2(11) does not contain any restrictions to indicate that the term does not include single-family dwellings. The obligation to equip buildings with an access point referred to in Article 2(11) applies only to multi-dwelling dwellings.

Article 10(1) is based on the term 'physical point'. This term is not defined in the GIA. Article 10(1) contains a broad definition: 'including connections to the physical point where the end-user connects to the public network'. This is an inconsistent application of the terms 'access point' and 'physical point' in Article 2(11) and Article 10(1) respectively. Article 2(11) refers to a physical point for network providers connecting a network to an indoor fibre capable physical infrastructure (network provider's perspective), while Article 10(1) refers to the physical point where the end-user connects to the public network (end-user perspective). The physical point in Article 10(1) corresponds, in essence, to the concept of 'network termination point' as defined in Article 2(9) of the EECC.

The obligation under Article 10(1) shall cover the installation of indoor fibre capable physical infrastructure and in-building fibre cabling, including connections up to the physical point where the end-user connects to the public network. Although Article 10(1) does not require the installation of an access point, in practice the obligation to install indoor physical infrastructure suitable

for fibre optics can only be fulfilled if the builder installs indoor physical infrastructure (empty pipe) from the meter cupboard to an opening in the outer wall of the building where fibre optic cables can be supplied. De facto, therefore, there will also have to be an access point for single-family homes. In the Netherlands, this is already a standard and common practice that must be maintained.

We note that recital 48 is not well aligned with Article 10(1). The recital states: 'In addition, property developers must ensure that there are empty pipes from each dwelling to the access point, located in or outside a multi-dwelling building, which allow connections to the network termination points (...)' and thus has a more limited scope than Article 10(1), which covers 'all new buildings and buildings undergoing major renovation work'.[2]
The reading that Article 10(1) also covers single-family dwellings is supported by Article 11(2), which generally gives any provider of public electronic communications networks the right to access existing indoor physical infrastructure, whether single-family or multi-family dwellings.

Article 10(1) also contains an obligation to install indoor fibre optic cabling. The installation of prepared fiber optic cabling from the meter cupboard (next to one or more empty ducts) to the inside of an opening (access point) in the outer façade has less added value in practice, but is required by the GIA. In any case, it gives the network provider the choice of either laying its own cable to the meter cupboard (+ NTU), or connecting it to the existing in-house fiber optic cabling (and installing an NTU as part of the network). As a result, the indoor fiber optic cabling that is installed by the builder becomes part of the provider's network.

[2] In line with Article 10.1, this implies that empty ducts/ducts must be installed in all (new) and radically renovated buildings (including single-family homes) so that fiber optics can be inserted. It is desirable to install multiple ducts/ducts (as a form of physical infrastructure) in new or renovated buildings (low-rise and high-rise) so that they can be used by multiple parties (infrastructure competition). The infrastructure offered must be technology-neutral. In addition, when building or renovating low-rise buildings (single-family homes), it is desirable that ducts/ducts are also installed in each living space so that a (UTP) cable can be laid in it for the connection of peripherals by the end user. This will significantly improve connectivity in any living space.