

## **BEREC-Guidelines on the access to in-building infrastructure according to Article 11 of GIA**

The draft on access to in-building infrastructure under Article 11 of the Gigabit Infrastructure Act (BoR (25) 84) aims to clarify how fair, reasonable, and non-discriminatory access to in-building physical infrastructure should be granted. This is essential to bring fiber lines and the respective bandwidth closer to the respective user in multi-dwelling units.

It is important that every guideline or clarification needs to support effective competition, investment incentives, and practical implementation. In this regard, we are of the opinion that the current draft should be refined in specific areas to ensure legal certainty, investment protection, and operational feasibility.

### **Infrastructure duplication**

BEREC states that any co-deployment using fibre wiring infrastructure could impact the investment made by the first mover. This is especially true for the case of duplication (by the SMP operator), which is not sufficiently considered. We urge BEREC to explicitly acknowledge that the duplication of in-building fibre wiring is, by default, economically inefficient and technically unnecessary. BEREC needs to keep an eye on possible strategical behaviour of the SMP operator detrimental to first mover advantages. By keeping such behaviour in check, BEREC will safeguard investment efficiency, reduce disruption, and support the overarching goal of infrastructure competition through wholesale access rather than redundant build-out.

### **Dispute Resolution Timelines and Legal Safeguards**

BEREC proposes a one-month deadline for dispute resolution. Although a one-month process would speed up dispute settlements, we doubt that the respective authority is able to process it. Our own experience in other dispute settlements show that the authority is really struggling to fulfil legal deadlines. Moreover, BEREC recommends that preclusion rules are defined by the dispute settlement body. From our point of view, the use of preclusion rules and provisional orders should be used very carefully. In case a preclusion is incorrectly chosen, respective decisions and their practical consequences may not be able to be reversed. In this regard, the dispute settlement body needs to clearly base their decisions on national law. Also, we urge BEREC to clarify the legal basis for such mechanisms.

As a last point, we would like some clarification regarding to the ability to refuse in case other VHC networks are already in place. Following the latest discussion about the definition of VHC networks, this would mean that in case of an existing coax cable infrastructure (and possibly also vectored copper), a fiber deployment can be rejected. Such considerations are not supporting fiber deployment and therefore investment.

## **Conclusion**

Consequently, we urge BEREC to take opportunities for behaviour of SMP operator stronger into account. A duplication of NE4 infrastructure should be rejected in the guidelines. We encourage BEREC to refine its approach by explicitly addressing the operational realities faced by network operators and by aligning procedural mechanisms with national legal frameworks.