

# FTTH COUNCIL EUROPE

FEEDBACK ON HIGH-SPEED BROADBAND IN THE EU -  
REVIEW OF RULES

17.07.2020





## Introduction

The FTTH Council Europe welcomes the decision to revise the Broadband Cost Reduction Directive (BCRD) and believes that with appropriate revisions it can assist the deployment of FTTH across Europe. The FTTH Council is uniquely placed to participate in this survey for a number of reasons, its members are actively involved in actual network deployments and the network design. Those network designs are driven by customers and their desire for cost reduction which may or may not result in a significant overlay of existing networks. The FTTH Council has, since its inception, advocated the reuse of passive infrastructures and the sharing of the terminating segment as a means of enabling efficient FTTH deployments. With the recent pandemic and its effects, the importance of widely available and affordable fibre networks has never been more important and the BCRD can play an important role in delivering that outcome.

## Important changes since 2014

A number of relevant factors have changed since 2014. The first is that the Commission's policy objectives and the means of achieving them have shifted significantly as expressed through the EECC. In terms of objectives European policy now wishes to see investment in VHCN which is defined as FTTH/B and its equivalent. While not finalised, BEREC's preliminary view on what constitutes equivalent to FTTH/B has also set a high-performance threshold which implies any new investments in fixed networks are likely to be fibre. The Gigabit Society vision (COM(2016) 587 Final) has set a target which is 100Mbps universally available and upgradeable to 1Gbps by 2025. In practice, the industry understands that the objective is now FTTH. With the EECC, Europe has also shifted back towards a competitive model of deployment where facilitating infrastructure-based competition is now the main driver of fibre deployment. This has worked in those countries that tried it and it can work everywhere in Europe with the right facilitation. A very important aspect of this model is lower deployment costs and so, the revision of the BCRD is not only timely and useful but it is essential to making the implementation of the EECC coherent.

A major source of new infrastructure-based competition is the category of operators described in Article 80 of the EECC (wholesale-only or WO operators). Those WO operators rely on other utilities' infrastructures to roll-out their fibre networks. Once a fibre network deployment is started those utility physical infrastructures are typically exempt from any access obligations in order to preserve their incentives to invest and to maintain their business case. This approach, first enunciated in the BCRD has borne significant results in the market with WO operators proving strong competitors in the fibre infrastructure markets. These exemptions for WO operators have been reaffirmed and strengthened in the EECC. These access exemptions have worked and ought to be maintained.

One interesting aspect over the last 6 years is that critical levels of coverage start to be reached in certain Member States such that Member States could contemplate a transition to 100% fibre networks. If for example, coverage reaches more than a certain percentage, such as 90% in certain exchange areas, then serious attention should be given to achieving a copper-switch off and enabling accelerated access to the physical copper access infrastructure as that copper is removed from the underlying physical infrastructure. Fibre networks need less energy to transmit the light that copper-based signals (up to 7 times less according to research by Telefonica - [Telefónica Green bond 2019 report](#)) so switching off the copper network rather than running both in parallel can bring significant environmental cost savings.

Another major development since the 2014 directive is the development of 5G and the desire in Europe to lead in 5G deployments. Implicit in achieving this is the need to support 5G deployments both with spectrum policy, deployment practicalities but most importantly, the fibre infrastructure required for both fronthaul and backhaul of traffic. The FTTH Council has done significant cost modelling work (click [here](#) to for more information) which points to very considerable cost savings where FTTH and 5G deployments are co-ordinated in an appropriate fashion. The FTTH Council Europe believes that FTTH/5G co-ordination should be a major part of any new BCRD proposal since this is a new and very significant source of synergies and cost savings.

## Ineffective implementation of BCRD

The implementation of the original BCRD was not very effective and the reasons must be examined and considered to see where adjustments might be made. The main reasons the BCRD was not widely used or effective as it might have been twofold. The FTTH Council believes that the most significant reasons are (a) failure in institutional design (no one has overall responsibility for implementation) and (b) the inability to systematically designate prices for access.

### a) Failure in institutional design

Institutionally, the FTTH Council would like to see a systematic approach that sees one agency take overall responsibility for administering the BCRD. While the Council acknowledges the efforts that have been made such as the use of a single information point (Article 4) it also notes that the no one agency or department has overall responsibility for the effectiveness of the BCRD. Establishing good operational procedures for infrastructure access is complex and difficult and when it came to Local Loop Unbundling for copper networks in the early 2000s, it took 1-2 years for a dedicated agency to get such procedures in place (see for example [OECD \(2003-06-02\), "Developments in Local Loop Unbundling"](#), OECD Digital Economy Papers, No. 74). It also took many more years to establish an effective pricing schema for that access (see for example [BEREC Report Regulatory Accounting in Practice 2015](#)). Today, the allocation of permits takes too long and the prices that apply for civil infrastructure access are too high.

The FTTH Council suggests that given the experience that NRAs have with both access procedures and pricing that these agencies ought to be designated as the lead agency for implementing the BCRD with overall responsibility of all aspects (even if other agencies administer some aspects).

The designation of NRAs as being the entity responsible for the implementation of the BCRD would also allow the BCRD to move to a standard ex-ante regulatory regime. Currently, the most operative parts of the BCRD require access to be sought and subsequently a dispute to establish access and prices.


### b) Inability to systematically designate prices for access

While the dispute resolution procedure does permit prices to be set in the event of a dispute, the mechanism or requirement for such price setting is not specified in any detail. This approach prevents a consistent application of access prices and conditions and can cause a very large number of cases that the competent body cannot deal with in the time provided for in the BCRD. If the NRA is designated as lead implementing agency they would be in a position to issue ex ante guidelines for the definition of access prices and conditions. Such a clear pricing mechanism would allow greater clarity on what those deploying network might expect and is also likely to diminish the number of disputes arising within a Member State since all national infrastructure owners will understand that a common costing methodology would apply.

Even with elements that may be administered by local government such as permitting and transparency measures, NRAs can play a significant role in promoting advice and best practice.

## Introduction of a 'fibre-ready' label

On certain specific elements such as in-building wiring, the FTTH Council believes that this ought to be addressed through building codes to ensure that all network owners are able to service customers without the need to deploy multiple fibre infrastructures within the building. However, even here the NRA can play an important role in advising on an appropriate revision to the relevant agency or government department. One aspect that ought to be considered for revision is that many adaptations to building codes made in response to the 2014 BCRD (Article 8) required new buildings and major renovations to be 'Broadband-ready' and even eligible for a broadband-ready



label with an infrastructure supporting more than 30Mbps (see for example Part R to the UK Building Code). This, of course, included copper so that in practice little changed in building practices.

Considering the evolution of the technology and the future needs of our Connected Society and Economy, we believe that this requirement ought to be fibre ready or have the passive infrastructure that would allow fibre to be deployed quickly and easily. The FTTH Council Europe, therefore, proposes the introduction of a 'fibre-ready' label for new buildings and major renovations.

### **Role of NRAs in dispute resolutions procedures**

The FTTH Council believes that dispute resolutions procedures that relate to in-building access warrant revision. Even where there is an effective dispute resolution mechanism, the large number of potential parties involved means that often the same issues arise repeatedly. In addition to clear guidance on the need to move to fibre networks in-building, this could be overcome by means of guidelines that could be issued by NRAs to guide building owners in their relations with those deploying network.

Finally, the FTTH Council Europe has, in the recent past, conducted a number of studies that may be relevant to the Commission's considerations. In particular, the following studies merit attention, 5G and [FTTH: the Value of Convergence 2019](#) which specifies the saving that can be achieved by having a co-ordinated 5G and FTTH deployment, [Copper Switch-Off - A European Benchmark - Analysis](#) (2019) which highlights the state of play across Europe and some of the savings that can be achieved, an update to the [FTTH Cost Model: the Cost of Meeting Europe's Future Network Needs](#) (2017) which specifies the distribution of FTTH costs in Europe and where the most costs might be saved.

The FTTH Council Europe notes the timelines set out in the inception document and looks forward to participating in the consultation process and giving further input when appropriate.

### **Conclusion**

The BCRD can support the EECC objective of getting VHCN networks widely deployed and quickly. The BCRD needs to be implemented more effectively than it has in the past if the logic of the EECC is to be coherent with a logic that requires competitive builds where cost-effective. An effective BCRD can make large parts of Member States cost-effective for competitive network build out.

A coordinated network buildout of 5G and FTTH networks is a new and significant source of cost savings that can be realised via the revision of the BCRD.

Making the effective implementation of the BCRD the responsibility of NRAs would give an important focus to its implementation and would allow that authority to develop access processes and pricing that would be effective for access to physical infrastructures that support the deployment of fibre networks. The BCRD should seek to move away from the current ex-post access pricing mechanism and move towards a more appropriate ex-ante pricing mechanism that could be established by NRAs.

In-building wiring requirements should be limited to either fibre being available or facilitated and a fibre-ready label for such buildings would have merit.

The exemptions for wholesale only operators appear to be effective and should be maintained both for their own sake and for the sake of consistency with the EECC.