

## **Trilogue Negotiations on the EECC – New Proposal of Commission on Art. 74 and 59 endangers fiber deployment**

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The German Federal Association of Fiber Access Operators („BUGLAS“ - as per German initials) represents those enterprises and operators which are accountable for 70% of the total number and for 85% of competitively deployed FttB/H networks in Germany. Our members, among them NetCologne, M-net, Wilhelm.tel, Deutsche Glasfaser and over 80 other enterprises, plan to connect nearly a million further homes and enterprises directly via fiber up to end of the next year.

Since the proceedings on the European Electronic Communications Code (EECC) enter the final stage we would like to address our big concerns regarding the commission's recent proposal on Art. 74.

The proposed addition of the term “or to immediate proximity” (i. e. “whitewashing” the VHC definition from a clear fiber to the premise requirement back to fiber to the curb only) in Art. 74 is a new and unclear legal term that has to be deleted by all means, since it doesn't clearly exclude FttC-infrastructures from easing regulation. The Commission's proposal clearly undermines the VHC definition in Art. 2, threatening to re-open the debate on an issue that had already largely been agreed upon. It has to be ensured that Art. 74 cannot be misused as a tool for a general and unconditioned deregulation of incumbents' FttC-infrastructures. Regulatory holidays for existing copper networks would change the regulatory framework completely without incentivizing any investment into new sustainable and future proof fiber networks. Furthermore and in addition to the detrimental effects of “downgrading” the VHC definition for competitive network roll-out, the Commission's proposal doesn't also follow

the Parliament's position regarding the exemptions from symmetrical access obligations in Art. 59 (2). The Commission's new proposal limits the exemption of alternative means of access to wholesale-only-enterprises, which is absolutely unjustified.

The hitherto existing experiences with the transposition of the European Cost Reduction Directive into German law, which already include different elements of symmetrical regulation, clearly show that symmetrical regulation per se is a significant obstacle for competitive fiber deployment. An exemption from symmetrical access obligations should on principle be applied to any undertaking that makes available alternative means of access on fair and reasonable terms as the parliament suggested. The Commission's proposal therefore has to be rejected in the negotiations.

Therefore we would like to encourage you to maintain your focus on competitive fiber deployment and insist on the parliament's position regarding Art. 74 and 59 (2).

We would be very glad to further discuss the issues of fiber deployment and the future regulatory framework by meeting you in Brussels or Strasbourg.

Please don't hesitate to contact us for any questions.

Yours sincerely,

Bundesverband Glasfaseranschluss e. V.

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