



# Gigabit Infrastructure Act

## EurEau's Position on the Commission's Legislative Proposal (COM 2023(94) final)

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**On 23 February 2023, the European Commission presented its proposal for a Regulation for measures to reduce the cost of deploying gigabit electronic communications networks (gigabit infrastructure act, GIA). This proposal aims at facilitating the deployment of broadband infrastructure in line with the 2030 digital compass and the digital decade policy programme.**

**The expansion of high-performance networks for electronic communication is very important for the water sector. EurEau welcomes that drinking water infrastructure is exempt from the scope of the Regulation. The EU institutions should also take into account the special status of critical infrastructures when it comes to access to physical infrastructures and related data.**

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### 1. Exemption of the drinking water infrastructure (Art 2(2))

EurEau welcomes the exemption of drinking water infrastructure from the scope of the Regulation. Drinking water supply is a service of general interest, delivering one of the most important common goods for humans. The safety and the quality of drinking water must be guaranteed at all moments in line with the quality requirements of the EU Drinking Water Directive (2020/2184/EU). The Directive prescribes in detail the monitoring of water supply in Member States and sets stringent requirements for any material that may come into contact with drinking water.

The deployment of broadband cables through the drinking water pipe network might lead to the leaching of substances into water pipes and drinking water installations, leading to increased monitoring and tests for the national health authorities. Deploying cables in drinking water pipes can represent an operational change to parts of the water supply system with a significant impact on drinking water quality. National and European hygienic requirements could no longer be guaranteed. Liability issues in the event of pipe damage or water contamination that poses a risk to public health could hardly be avoided.

In view of the above, the GIA should leave no room for (mis)interpretation of the exemption of the drinking water infrastructure.

***We, therefore, insist on the need to maintain the explicit exemption of drinking water infrastructure from the definition of 'physical infrastructure' in Art. 2(2) of the proposed Regulation and thereby from the Regulation's scope.***



## 2. Special status of critical infrastructure and their data

Water service providers manage critical infrastructures as defined in the NIS 2 Directive (2022/2555/EU). Against this background, the security of water service supply for people should always be given the highest priority. As the telecommunications infrastructure is also considered as critical infrastructure, many parallels to the basic protection requirements of other physical infrastructures can be drawn.

In this context, the resilience of such infrastructure can only be guaranteed if possible risks (e.g., possible attacks on infrastructure) are identified and mitigated. This also includes the protection of information. Hence, no blanket information obligations should be introduced in the GIA.

The disclosure of data is contrary to these obligations and could lead to the respective companies not being able to perform their tasks properly. Especially in times of high security concerns regarding critical national infrastructures, it is important to balance demands for transparency with demands for security.

***We welcome the exemption of critical national infrastructure in Articles 4, 5 and 6.***

## 3. Implementation of a single digital information point (Article 7)

EurEau welcomes the digitalisation of the approval process through the single information point as highlighted in Article 7(2) and (3). It should be ensured that information obligations to the detriment of trade and business secrets are avoided, in particular when it comes to critical infrastructure.

The single information points will gather significant amounts of highly sensitive data making them a potential target for cyberattacks. This, in turn, could increase the risks of attacks on critical infrastructure such as drinking water and wastewater networks. Cybersecurity measures must therefore have highest priority.

***The obligation to establish a single national information point in digital form should not lead to a disproportionate requirement to disclose further sensitive information when implemented on the national level and has to fully conform to relevant cybersecurity obligations for the protection of the data.***



## 4. Permit-granting procedure (Article 7(8))

EurEau does not support the setting of categories of deployment that are not subject to any permit-granting procedure through a Commission implementing act according to Article 7(8). This could lead to an increased risk of damage to existing drinking and wastewater infrastructure. Our call for maintaining the permit-granting process is based on three key arguments:

- ~ The pressures on the subsurface are increasing with too little space for cables and pipes. With the energy transition, this congestion is expected to worsen. Due to today's special status of the telecommunication infrastructure, other network operators, such as drinking water operators, are already increasingly confronted with wayward network cables that cause damage to drinking water pipes. If Article 7(8) came into effect it would result in even more damage to existing (critical) infrastructure.
- ~ Because of the complexity and scarcity of room in the subsurface, it is extremely important that network operators of different sectors continue to work together. Current collaboration would suffer if unilateral rights were granted to telecom companies.
- ~ Information gathering requirements on existing infrastructures in the area of the planned network expansion could decrease. This poses financial and safety risks for the civil works company, the owner of the existing infrastructure and the consumer, who could be faced with a temporary disruption of essential services.

Any permit must assess the risks to other critical infrastructure, including the wastewater infrastructure. This network is increasingly exposed to the impacts of climate change and urbanisation, both affecting its capacity. Broadband cables within wastewater conduits will not only reduce the existing capacity but may also lead to clogging and increase the risk of basement flooding. Broadband cables will also make it impossible to renew the infrastructure with trenchless technologies and therefore prevent the possibility of renewing the system in a more climate and economically efficient manner.

***The definition of categories of deployment that are not subject to any permit-granting procedure should be avoided as it could lead to a lack of coordination of deployment works with water and wastewater infrastructure operators and therefore lead to damage to the existing infrastructure.***

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### About EurEau

EurEau represents Europe's drinking and wastewater sector. We encompass 37 national water services associations including public and private operators from 32 countries.

Together we promote access to safe and reliable water services for Europe's citizens and businesses, the management of water quality and resource efficiency through effective environmental protection.



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