FTTH Council Europe Feedback on White Paper "How to master Europe's digital infrastructure needs?"

28 June 2024

FTTH Council Europe
Policy & Regulation Committee

FTTH COUNCIL EUROPE

Full fibre for a digital and sustainable Europe

Executive Summary

The FTTH Council Europe welcomes the opportunity to give its views on the Commission White Paper. The FTTH Council Europe considers that fibre networks are fundamental to the digital transformation of European economies and that the objectives of the Digital Decade need to be reached in a timely fashion.

To this end, the FTTH Council Europe considers that it is essential to maintain a favourable regulatory framework for fibre investment in a competitive environment. The White Paper should recognise that the existing framework has delivered, and is delivering, good results in terms of fibre deployment and in our view, in Europe, concerns are mostly on the demand side of the fibre market.

The FTTH Council Europe notes that 4 relevant objectives should be at the core of the next legislative and regulatory cycle:

Facilitate the deployment of Fibre Networks

- Facilitate Reusage: Effective GIA implementation (with different treatment of historical infrastructures and infrastructures deployed now for fibre deployments)
- Guarantee enough Spectrum for In-Home Connectivity (6Ghz band)

Increase incentives to invest by reducing uncertainty on the demand side

- Progressive copper switch off policy objectives (setting an obligation to migrate as soon as an area is covered by fibre)
- Demand side measures (i.e. obligation to buy fibre products for public bodies, …)

Maintain a competitive environment

- Introduce pro-competitive copper switch-off rules
- Withdraw regulatory obligations on operators with SMP only after a copper switch-off has occurred and after a full market analysis.
- Guarantee transparency in the retail market (with information on offers and advertising rules)

Support the green transition

- Include Fibre Networks in the Taxonomy
- Support copper switch-off in order to attain lower energy consumption and reduced overall operating costs (due to managing multiple networks)

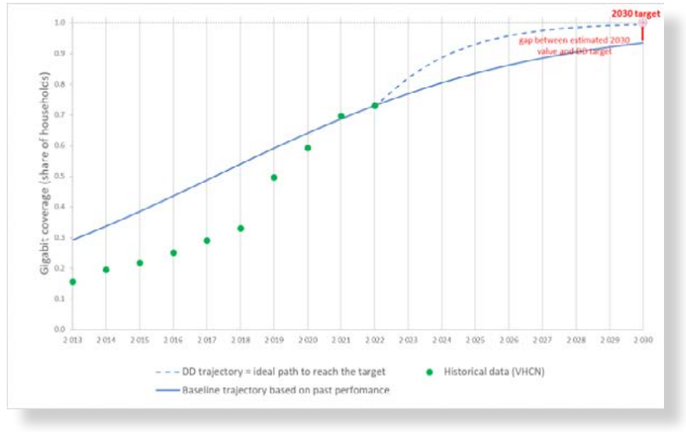
Introduction

The FTTH Council Europe appreciates the Commission's intention to adopt a forward-looking approach to identify the technological developments in the digital ecosystem recognising a key role for the telecom sector.

While our response focuses on Pillar II of the consultation document due to the importance of ensuring a clear and predictable regulatory framework, the FTTH Council Europe welcomes the possibility of increasing the funds dedicated to R&D and to develop projects relevant for the digital ecosystem (i.e. Pillar I). In this regard, the FTTH Council Europe acknowledges the focus on large-scale, cross-border projects, however, it would also be important to ensure access to EU funds so that smaller-scale, local projects with high-innovative content that may also be replicable in other Member States. Similarly, the FTTH Council Europe welcomes the attention given to security and the focus on solutions such as quantum computing which will ensure secure and resilient infrastructures (Pillar III).

Overall, the White Paper should recognise that the EECC has been extraordinarily effective at driving investment into fibre roll-out in Europe. This can be seen across every Member State and every metric and is acknowledged by every commentator.

The European Commission estimates that based on the identified trajectory of investments the target of 100% VHCN coverage by 2030 could fall short by as little as 6% in the target year. In the Commission's estimate, the FTTP component is 87% by 2030 which is in line with the FTTH Council Europe's data for 2029 which suggests an 89% FTTH/B penetration rate.



Fixed VHCN coverage in the EU. Historical data, Digital Decade (DD) trajectory and baseline trajectory towards 2030

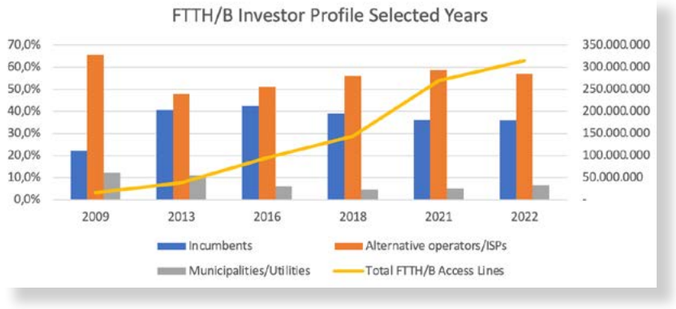
A very important context for considering future regulatory interventions is that over 60% of fibre lines deployed in Europe today have been deployed by alternative operators1[1)]. One third, or approximately 20% of all investments in fixed networks are undertaken by Wholesale Only

1) IDATE data for FTTTH Council Europe.

operators2[2)] that are encouraged under the EECC (up from close to zero before the EECC).

For every household that has fibre deployed today, there are on average, 2.5 fibre lines deployed – while that average belies the fact that a large number of homes only have one fibre network available, most homes have competing fibre access networks.

Therefore, the EECC has been a great success both in terms of driving investment into the fibre networks and in reshaping the nature of investors and the structure of competition in the sector which can be seen in the composite diagram below. One point worth noting is that these data generally exclude CATV networks where they are available. The implication is that the EECC has enabled a fibre environment which encouraged a deep form of infrastructure-based competition (where it is viable) and which ought to deliver long term benefits to the European consumers and the European economy over time.



FTTH/B Investor Profile and Homes Passed (selected years)3[3)]

It is against this background of success that any changes to the regulatory regime should be considered. Whilst stability and certainty on the principle of infrastructure-based competition and its safeguards are essential for investors, industry and consumers, the FTTH Council Europe believes that there are positive changes that can be made. These changes can ensure the economic and financial sustainability of the above-mentioned investments in a complex macro-economic context. In this regard, we support the acknowledgement in the Commission White Paper that take-up is a key driver for investors and there is a need to stimulate take-up.

To sum up:

- The Regulatory Framework has been very effective in incentivising investment in fibre in Europe; a lot of alternative fibre network companies have emerged, which account for the majority of the investment in fibre networks. It will be now important to ensure the viability of the mentioned investments supporting the take-up.

- A number of the necessary elements can be achieved by the Commission through the effective promotion of copper to fibre transition with the aim to maximise the switch-off of copper networks by 2030. The Commission needs to fix the basic rules about on how this process will occur, in order to avoid that the process may be manipulated to transfer market power from copper to fibre networks (Guidelines on how to perform a competitive and non-discriminatory switch off process).

2) ETNO State of Digital Communications 2024.

3) IDATE for FTTH Council Europe.

- A copper switch off policy objective will also create certainty for investors and can give an adequate incentive to invest, since investors are assured that the networks they build will be used in a predictable timeframe.

- While copper networks can be considered "monopolistic by design" because they were built by incumbent operators, very often state-mandated/controlled monopolies, and the issue has been of how to grant access to those networks; fibre networks are "competitive by design", because these markets were already open to competition thanks to the existing Regulatory regime, and anyone could, and was encouraged and facilitated to, build a new fibre network (which many companies have done)

- A full fibre environment goes hand in hand with competitive environments and may lead to situations where access regulation is either not needed or is needed only in limited geographic areas (and caution is needed to avoid artificially segmenting markets which could deny remote areas the benefits of competition in urban areas).

- Therefore, deregulation of telecom markets should only be considered if and when a full fibre environment has been put in place, i.e. a full migration of customers from copper to fibre, and in presence of an adequate level of wholesale and retail competition implying that ex-ante regulation is no longer needed. However, this is without prejudice to access to incumbents' civil engineering facilities, which may need to be regulated ex ante in the longer term.

Completing the Digital Single Market

Effective GIA implementation and Spectrum policy that facilitate the deployment of Fibre Networks

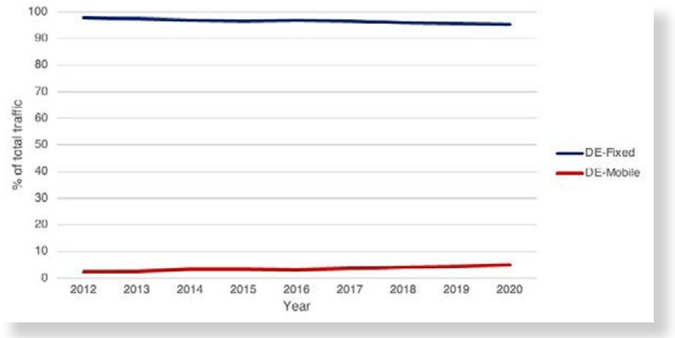
The FTTH Council Europe believes barriers to deployment should be lowered by enabling sharing of legacy passive infrastructures and establishing in-building wiring regimes. The FTTH Council Europe notes in areas such as the sharing of legacy passive network elements (ducts, poles, etc.) and in-building wiring, that the regimes in place today across Europe vary widely but expects that as the Gigabit Infrastructure Act takes effect, greater harmonisation can be expected. Access to newly built infrastructures should not undermine incentives to invest and in particular, such access should not undermine the business case of the original investor. Nevertheless, there is enormous opportunities for sharing best practice in terms of practical models of in-building deployment and the sharing of that infrastructure in a way that permits competition without wasteful investment or discommoding consumers.

FTTH can be deployed in any Member State and in any topology but it requires a number of elements including major efforts by public authorities to reduce deployment costs combined with the right incentive structures. There are many ways to reduce costs and a number of relevant infrastructures exist for those operators rolling out FTTH networks. The FTTH Council Europe believe that there are a range of instruments that are available to Member States in order to lower deployment costs as demonstrated across Europe.

While Cost Reduction measures such as those contained in the GIA can help with the deployment of Fibre networks, it is not a panacea that will drive fibre investments by itself – cost reduction measures must be combined with clear objectives and clear incentives for commercial operators. The FTTH Council Europe does not believe that inbuilding wiring ought to be part of the competitive process and that ensuring access to all reasonable requests for shared use of such wiring on, fair, reasonable and non-discriminatory terms ought to be a requirement in the building code.

Moreover, the FTTH Council Europe would like to see a greater emphasis on spectrum policy with respect to Wi-Fi in the white paper. In addition to an effective implementation of GIA, Europe needs to ensure that there is adequate spectrum available for in-home connectivity in order to encourage FTTH demand.

Today, most traffic generated by Europeans goes through indoor Wi-Fi, with mobile networks only delivering traffic equivalent to 5% of total network traffic. While extensive indoor fibre wiring is the optimum technical solution, for many households this is not a realistic choice. For the foreseeable future, the majority of the digital use cases - education, work, entertainment, e-health, e-government - occurs indoors (home, office, hospital, airports, etc) will rely on Wi-Fi.



Historical fixed and mobile traffic as % of total traffic. Data source: BNetzA

What happens after the termination point up to the end-user device - for example, to what extent is the Wi-Fi router capping the fibre speeds subscribed by the end-user - this is simply unknown by regulators and users. What we do know is that based on data4[1)] from CISCO, Europe has slower Wi-Fi connectivity speeds than other world regions. Misallocation of the 6Ghz band towards mobile networks would not only be a missed opportunity from the end user's perspective but also from the standpoint of the FTTH operators and investors, as it could lead to lower uptake of FTTH networks and stranded private and public investment (for instance towards connecting schools etc.).

The EU is at risk of missing out on the next wave of the Wi-Fi revolution powering new applications. Unlicensed spectrum plays an important role in 5G networks through network offloading, as well as indoor service for fixed wireless customers. 5G country leaders like the US and South Korea have recognized this fact and firmly bet on the benefits of the next generation of Wi-Fi technologies to their societies by opening the full 6GHz band to unlicensed use. The US and South Korean cases illustrate that 5G success and sufficient Wi-Fi spectrum go hand-in-hand.

1) https://www.cisco.com/c/en/us/solutions/executive-perspectives/annual-internet-report/index.html

Europe needs to ensure that adequate spectrum is available for Wi-Fi.

Increase incentives to invest by reducing uncertainty on the demand size

Progressive copper switch-off

The FTTH Council Europe welcomes the proposal in the White Paper for a full copper switch off in the near future. A full fibre environment brings huge economic benefits, most of all by boosting productivity in all industries and service sectors for which high speed and reliable connectivity are essential. Besides this, the move to fibre brings many spillover advantages (positive economic externalities). These externalities range from a reduction of energy consumption in telecoms and a reduction in overall operational cost to more competitive telecommunications markets.
Establishing a clear path towards a fast and efficient migration would send a strong signal to the sector and create certainty for investors, incentives for investment and promote take-up by end users. Furthermore, a coherent transitional roadmap would also be highly beneficial in the context of service development as well as for the green transition.
However, as long as copper and fibre networks are operated in parallel, these positive externalities will be limited. To achieve copper shut down, and in order to avoid the pitfalls that can arise in the shut-down process, the Commission will need to issue guidelines for NRAs. These Guidelines need to set out the practical details of the shut-down process and ensure that there will be safeguards to protect competition from strategic anti-competitive behaviour from incumbents (including safeguards against anticompetitive duplication of networks). Provisions may also need to be made in areas where some form of access product is required post switch-off in a range of scenarios.

The copper switch-off process requires close monitoring, and preferably co-ordination, by NRAs. A copper switch-off can only be envisaged when FTTH coverage in the respective area is sufficient. At the same time, copper networks must be shut off without delay where sufficient FTTH coverage has been attained.

Transparency

Users are often not properly informed about what they are buying due to loose advertising that suggests that consumers are buying a fully fibred connection and use of the word 'fiber/fibre' in advertising even where the network in question is a hybrid network5[2)]. While this is addressed in some jurisdictions (with a corresponding impact on take-up rates), many Member States do not have strict rules around advertising.

The mislabelling of product has an important distortive effect on consumer choices and in turn, these misinformed choices send inappropriate investment signals to retail and wholesale operators.
If consumers do not understand what they are buying then they cannot send appropriate investment signals to market operators.

2) https://corporate.orange.be/en/news-medias/orange-belgium-shakes-fixed-internet-and-launches-its-new-gigabit-speed-fiber1-offers#:~:text=%5B2%5D%20For%20customers%20who%20prefer,of%2014%2F01%2F2024

Maintaining a competitive environment

Competitive Markets Driving Demand

The White Paper should recognise that the overall competitive approach in Europe has worked well, it has delivered good networks and competitive outcomes for businesses and end users. Europe should maintain the SMP process at the heart of economic regulation and maintain competitive entry to networks and services.

The FTTH Council Europe believes that a regulatory framework protecting incentives to investment in infrastructure is necessary now, and in the future.

A regulatory environment promoting effective competition – both existing and prospective – is key to secure widespread availability and adoption of VHCN based services. It was alternative operators that led the investments in FTTH in the past years, exerting a positive competitive pressure on the market which further accelerated the coverage across the EU also by SMP operators.

A premature withdrawal or lightening of regulation will hinder the development of competition, with a negative impact on VHCN deployment and therefore undermining the capability to achieve the goals set out by the EU Digital Compass, to the detriment of customers welfare.

Competition law has proven to be inadequate (in terms of both speed and predictability) to police telecom markets, so the removal of ex-ante regulation is not justified. The FTTH Council Europe remains confident that with the right policies, with competitive markets at their heart, the EU can deliver a more resilient, inclusive, and sustainable digital economy that will benefit everyone.

Stable and predictable investment and competition conditions are vital for the market as they are a prerequisite to attract future private investments in order to achieve the goals set out in the EU Digital Decade.

Well-functioning, competitive markets will enable entry and service development by operators as well as service and content developers. Over time, these actors will develop the service and content market and ensure that take-up of those content and services can be achieved at competitive prices.

As discussed above, the possible revision of the ex-ante regulation framework might be considered only if the copper switch-off process has been concluded and a market analysis has been completed showing that a full competitive fibre market has emerged and that there is not the possibility to adopt strategic anti-competitive behaviours.

Finally, the Commission should also take measures to stimulate demand directly. For instance, all public bodies could be mandated to only use fibre in the delivery of public services. In this way, public bodies can act as anchor tenants.

Supporting the Green Transition

Taxonomy

The FTTH Council Europe welcomes the proposal in the White Paper to 'engage with the industry to further improve the usability and potential scope of the EU Taxonomy for green investment'. The faster the transition to fibre can be made, the faster will be the reduction in energy consumption. It is inefficient to have two networks operating where one of them is an inefficient copper network and an accelerated shut down of copper networks can lower energy consumption significantly. A switch to FTTH networks will also reduce maintenance and ongoing truck-rolls, implying further energy savings and reduction of CO2 emissions. Optical fibre networks can play a relevant contribution compared to the classic copper networks; FTTH would guarantee energy savings more than 60% and, therefore, a reduction of scope 2 emissions which are the most relevant for the sector6[3)]. Such numbers would be even more relevant in case of switch off copper networks. Furthermore, optical fibre is a key enabler of innovative sustainable technologies such as smart grids or contributing to develop smart communities, reducing energy consumption and an efficient use of resources.

An enhanced data economy enabled by FTTH networks can also facilitate efficiency in other areas such as transportation.

The FTTH Council Europe pursues sustainability in its public policy objectives. Transparency efforts can indeed be the basis to create incentives to attract investments in the electronic communications sector to make ICT greener ('green ICT') and have it enable the greening of other sectors ('ICT for green'). One important issue for the sector is that many finance companies have ESG targets for various funds, and unless an investment is able to be categorised as part of the ESG, a worthy and viable project might not be able to attract the finance it needs. For instance, if a fund says that 90% of project must contribute to ESG goals, then a FTTH project that cannot be labelled as contributing to ESG is competing for 10% of a fund rather than the whole fund. While FTTH/B is clearly good for the environment compared to other infrastructures, without a clear classification this may have no bearing on its ability to attract finance.

The FTTH Council Europe believes that there is a need for engagement with the industry to further improve the usability and potential scope of the EU Taxonomy for green investment in electronic communications networks ensuring it is based on robust and credible science-based metrics. Finally, such inclusion could raise consumers' awareness on the benefit of FTTH further stimulating the take-up.

3) Neutral fibre and the European Green Deal, WIK Consult, 2020, pagg. 34-36

Regarding the FTTH Council Europe

The FTTH Council Europe is an industry organisation with a mission to advance ubiquitous full fibre based connectivity to the whole of Europe. Our vision is that fibre connectivity will transform and enhance the way we live, do business and interact, connecting everyone and everything, everywhere. Fibre is the future-proof, climate-friendly infrastructure which is a crucial prerequisite for safeguarding Europe's global competitiveness while playing a leading global role in sustainability.

The FTTH Council Europe consists of more than 160 member companies.

Please visit our website for more information: ***www.ftthcouncil.eu***

About the Policy & Regulation Committee

The Policy and Regulation Committee is the cornerstone of the FTTH Council's strategy on Public Affairs. It brings together all members interested in shaping the Council's positions on public policy and regulation, and is under the supervision of the Executive Board and fully aligned with the vision and mission of our organisation.

Public vision and action are essential to progressing towards a sustainable and digital European society. We encourage policy makers to facilitate, through regulation, a fair and competitive market and to support investments in areas where the private business case does not exist.

For more information about our positions on policy and regulation, please visit the dedicated section of the website.

You can also access all publications from this committee by filtering "Policies and regulation" category in our Knowledge Center.

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