



The EC's Gigabit Recommendation

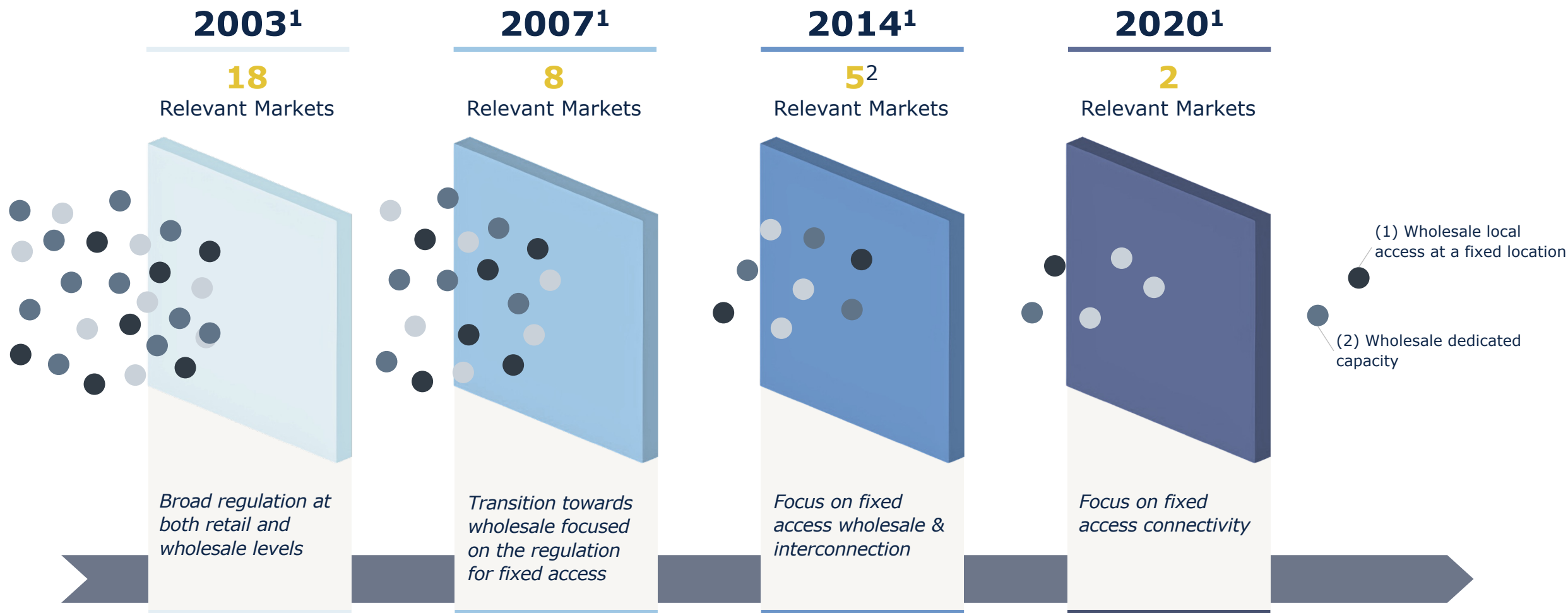
Practical guidelines to NRAs on the implications of its recommendations on the (price) regulation of wholesale services

July 2024

This document was prepared by Axon for the use of the client to whom it is addressed. No part of it may be copied or made available in any way to third parties without our prior written consent.

Context

Ex-ante regulation across the EU currently focuses on two specific markets, down from the 18 that used to apply in the early century, propelled by increased competition levels

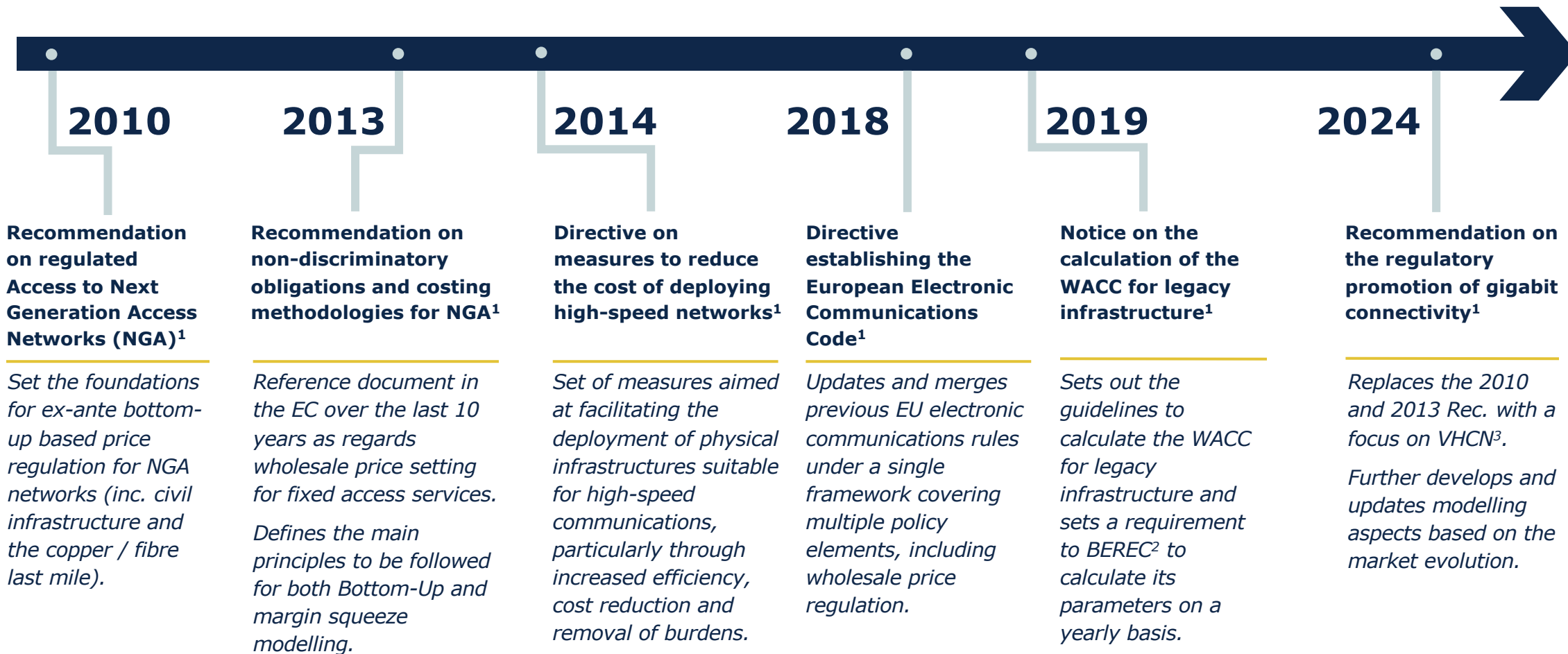


¹ Sources (from left to right): [Commission Recommendation 2003/311](#) (2003), [Commission Recommendation 2007/879](#) (2007), [Commission Recommendation 2014/710](#) (2014), [Commission Recommendation 2020/2245](#) (2020).

² Considering markets 3a and 3b as two separate markets.

Context

Over this period, several recommendations, directives and notices have been issued by the EC to guide the NRA's efforts at regulating prices and ensuring economic replicability



¹ Sources (from left to right): [Commission Recommendation 2010/572](#) (2010), [Commission Recommendation 2013/466](#) (2013), [Directive EU 2014/61](#) (2014), [Directive EU 2018/1972](#) (2018), [Commission Notice 2019/375](#) (2019), [Commission Recommendation 2024/539](#) (2024)

² BEREC: Body of European Regulators for Electronic Communications

³ VHCN: Very High Capacity Networks. See BEREC's guidelines on the definition of this term in the [link](#).

Introduction to the Gigabit Recommendation

Upon issuance of the EECC¹ and the new market definition, the Gigabit Recomm. aims to promote investment, competition and access to VHCN, by updating the EC Rec. 2013/466

Objective

To promote the internal market for electronic communications networks and services by ...

- Defining regulatory approaches that favor investment in VHCNs while maintaining and ensuring effective competition
- Ensuring consistency between the regulatory approaches taken by the NRAs to avoid distortions and create legal certainty



Main elements covered

-  Role of Reference Offers and necessary KPIs / SLAs required to achieve effective non-discrimination
-  Suitability of different wholesale pricing approaches (economic replicability, Bottom-Up modelling)
-  Costing methodologies for both economic replicability and Bottom-Up cost modelling
-  Treatment of decommissioned copper networks and progressive migration to VHCN

The objectives and elements covered in the Gigabit Recommendation are, in essence, equivalent to those pursued by the Commission Recommendation 2013/466. This new recommendation adapts the EC's guidance to the new role of VHCNs (instead of NGA) and integrates the main instructions laid out in the relevant EC Directives and Recommendations published since 2013.

¹ EECC: European Electronic Communications Code

Comparison vs EC Rec. 2013/466

The comparison against the EC Rec. 2013/466 illustrates that, while its main principles prevail, some specific guidance is adjusted to adapt to the current market conditions

COMPARE	CONTRAST
Same overarching regulatory principles, including objectives and nature of the elements addressed	The Gigabit Recommendation applies to the new market 1 ¹ , while EC Rec. 2013/466 dealt with markets 4 and 5 ² .
Same price regulation approaches of upstream products (Bottom-Up modelling and economic replicability)	The Gigabit Recommendation is addressed to VHCN while EC Rec. 2013/466 focused on NGA networks
Same costing methodologies for both Bottom-Up modelling and economic replicability	The Gigabit Recommendation advocates for further pricing flexibility to NRAs and sets the grounds to limit ex-ante price regulation to economic replicability tests
	The Gigabit Recommendations further stresses the potential convenience of adopting portfolio-based economic replicability assessments
	The Gigabit Recommendation delves into the treatment to be given to copper networks in Bottom-Up cost models in light of their gradual switch-off

¹ Market of 'Wholesale local access provided at a fixed location', according to Recommendation 2020/2245. The principles set out in the Gigabit Recommendation also apply to other wholesale fixed access markets identified by NRAs, which are not covered by Recommendation 2020/2245 but which are susceptible to ex ante regulation, and cover, for instance, the following network layers: a) access to the civil-engineering infrastructure, b) unbundled access to the copper and fibre local loops, or the copper sub-loop, c) virtual network access, d) wholesale broadband access (bitstream services) over copper, coaxial cable and fibre networks.

² 'Wholesale (physical) network infrastructure access at a fixed location' (market 4) and 'Wholesale broadband access' (market 5), according to Recommendation 2007/879 .



5

Reflections on how to address the new guidance

The practical implications of the new guidance in the Gigabit Recommendation mostly concern areas to be addressed in the market analyses and copper networks modelling

1. Limiting ex-ante price regulation to economic replicability tests

As a previous step to the implementation of any price-oriented modelling tool, NRAs are now tasked with the duty to decide, in their periodic reviews of market 1, whether imposing or maintaining regulated wholesale access prices on VHCN wholesale inputs is sufficiently justified. To this end, the conditions to be analysed by NRAs are clearly outlined in the Recommendation and are aligned with the directives provided in the EECC.

In the event that the obligation to set (or maintain) cost-oriented wholesale rates for services is lifted as a result of the NRA's periodic reviews of market 1, the implementation of ERT tools shall, in principle, suffice to assess the fulfilment of the non-discrimination obligation by the SMP operator from an economic standpoint.

2. Individual vs portfolio based economic replicability tests

While product-by-product economic replicability assessments represent, thus far, the most popular option adopted by EU NRAs in the implementation of their ERT¹ models, according to the EC's guidance, this approach shall now only be followed when "*the SMP operator has a high degree of concentration or a very high degree of market power, or both*".

Even if no further guidance is provided on how to interpret these indications, we believe that when the market share of the SMP operator in the broadband market, or its footprint in VHCN, exceeds by 50% or more that of the second market player, NRAs may consider following a product-by-product assessment. Otherwise, a portfolio analysis may better align with the EC's guidance.

3. Treatment of copper networks in Bottom-Up cost models

Firstly, NRAs are now tasked with deciding on the product that acts as a regulated anchor (i.e., the product that constrains VHCN retail prices) in their market analyses. This product is the one that is going to be subject to cost-orientation (provided such a remedy is necessary as explained in 1 above) and may be copper or VHCN based, or a combination of both.

Secondly, the EC seems to favour Bottom-Up cost models being almost exclusively VHCN based, leaving room to implement some sort of ad-hoc calculations over that layer to calculate the costs of copper-based products, if necessary.

Further, it favours the gradual de-regulation of copper services as these networks are increasingly being dismantled.

¹ ERT: Economic Replicability Test

How can we help you?

At Axon, we are ready to support you in the development of the two main techno-economic tools defined in the Gigabit Recommendation (1/2)

Unique Value Proposition of our Bottom-Up cost models



100% approval rate by the EC

Our 10+ implementations in the EU since 2013 have been approved by the EC without reservations.



Compatible with several operators simultaneously

Ready to account for +100 operators while keeping low user complexity, quick execution times, and high accuracy.



Swift execution times

Our model runs an operator in <1 minute. The geo-analysis for 100 operators runs in <5 hours¹.



Easy to simulate alternative geog. scenarios

Test different footprints, network topologies, operators, geographical aggregation options, etc.



User-friendly with tailor-made interfaces

Plenty of actionable documentation, on-going support from a stable team of consultants, well organized tools...

Click the thumbnail to see our models in action

Video duration: 2 minutes



¹ Our model is based on MS Excel, while our geographical tool runs in R.

How can we help you?

At Axon, we are ready to support you in the development of the two main techno-economic tools defined in the Gigabit Recommendation (2/2)

Unique Value Proposition of our Economic Replicability models



100% approval rate by the EC

Our 5+ implementations in the EU since 2013 have been approved by the EC without reservations.



Seamless integration with BU and TD¹ models

Both Axon and non-Axon developed, for full consistency and to facilitate future updates.



Fully customisable to national tariff structures

Ready to adapt to any sort of tariff definition including bundles, gifts, one-offs, ad-hoc discounts, etc.



Compatible with Article 61(3) of the EEC

Includes features to guide the imposition of access obligations up to the so-called 'first concentration point'



Automatic tariff recalculation module

Produces a list of actionable recommendations in cases of lack of replicability to facilitate regulatory action.

Click the thumbnail to see our models in action

Video duration: 2 minutes



¹ BU: Bottom-Up; TD: Top-Down



**Contact us to find out more and get specific
recommendations for your country**

CONTACT US TODAY

**If you found this information useful,
please share it on [LinkedIn](#)**

www.axonpartnersgroup.com