

The summary report of the stakeholders' targeted consultation regarding guidance on the application of Article 3 of GIA

The Gigabit Infrastructure Act (GIA) seeks to facilitate the cost-efficient and timely deployment of very high-capacity networks (VHCN) in the European Union (EU) in order to meet citizens' and businesses' increasing connectivity needs. Specifically, the GIA aims to facilitate and stimulate the roll-out of VHCN by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be rolled out faster and at a lower cost. The GIA has gradually repealed the Broadband Cost Reduction Directive (BCRD), the provisions of which remained in force until the respective GIA provisions became applicable. Most GIA provisions, including Article 3, became applicable from 12 November 2025.

Article 3 of the GIA on "Access to existing physical infrastructure" addresses the issue of access to existing physical infrastructure, owned or administered by network operators, public sector bodies and owners of private commercial buildings (where provided by Member States) as well as access to land of legal persons who are primarily active as tenants of land, or as holders of rights over land, other than property rights.

Under Article 3(13) of the GIA, the Commission may, in close cooperation with BEREC, provide guidance on the application of Article 3, after consulting stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, and taking into account well-established principles and the distinct situation across Member States.

The summary report of the stakeholders' targeted consultation regarding guidance on the application of Article 3 ("Access to existing physical infrastructure") of the GIA takes stock of the contributions and presents preliminary trends that emerge from them, focusing on their quantitative aspects.

Disclaimer: *The views presented in this factual summary report are not the views of the European Commission but of the stakeholders that participated in this open public consultation. They cannot in any circumstances be regarded as an official position of the Commission or of its services.*

Objectives of the consultation

The purpose of the stakeholders' targeted consultation, which took place from 17 June 2025 to 30 September 2025, was twofold:

- to gather information on the established well-functioning principles that are already in place in the Member States under the BCRD and that are kept under the GIA, and
- to receive feedback and proposals from the stakeholders on possible elements of guidance on the application of Article 3 of the GIA that the Commission, in close cooperation with BEREC, may issue.

The consultation targeted National Regulatory Authorities (NRAs), Dispute Settlement Bodies (DSBs), electronic communications operators and service providers, industry associations and individuals.

Who replied to the consultation?

Out of 74 respondents¹ from 24 countries (19 Member States plus Norway, Serbia, United Kingdom, United States and Russia – see Figure 1), 23 are companies/business organisations (e.g. operators of electronic communications networks, operators of physical infrastructure intended to host electronic communications networks, aggregators of real property interests underlying telecoms and digital infrastructure software development companies), 15 business associations (mostly of electronic communications networks operators and of providers of associated facilities), 18 public authorities (local (3), regional (1) and national (13), including national regulatory authorities (“NRAs”) (12)), five as academic/research institutions, four NGOs, seven EU citizens, and two fall within “others” category (e.g. operator of transport-related services)- see Figure 2. Four companies that responded are small and medium-sized enterprises (SMEs) from Austria (1), The Nederland (1) and Sweden (2) and one is micro enterprise from Belgium.

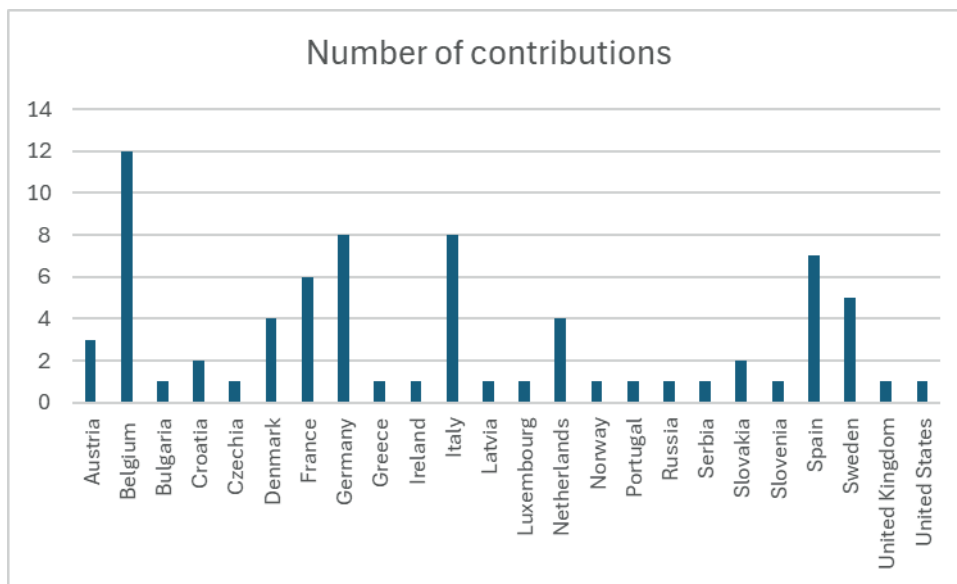


Fig. 1. Distributions of responses per country.

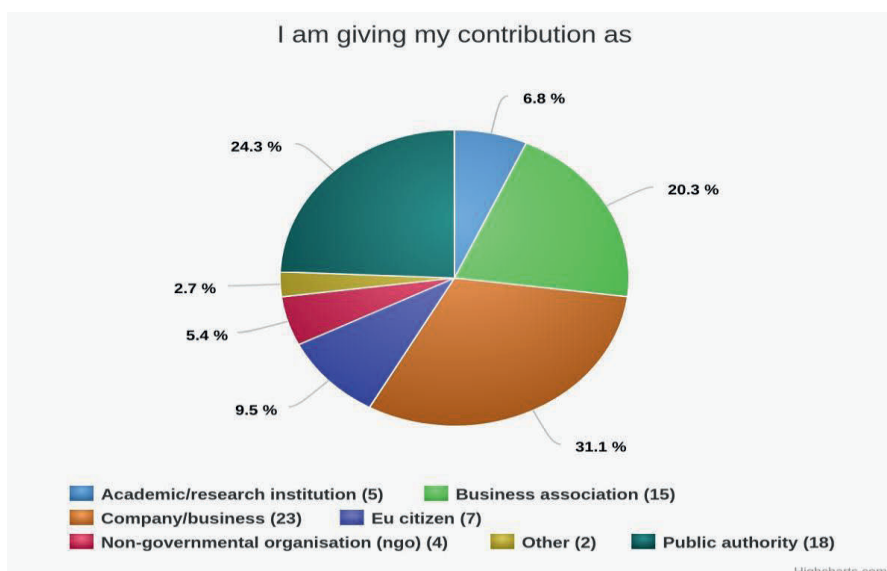


Fig. 2: Distribution of responses to the public consultation by type of respondent

¹ Unless otherwise specified, by “respondents” we mean those who responded to the specific question/s given that respondents were free not to respond to all questions or sub-questions, according to their knowledge or specific interest

The respondents' profiles reflect the self-selecting nature of public consultations and call for caution when interpreting the results, since they cannot be considered as a representative sample of all European stakeholders or of all stakeholders within a category of stakeholders, nor do their comments represent equal weight (e.g. European associations representing several electronic communications operators from various Member States vs. individual opinions). As the Commission guidance pursuant to Article 3(13) of the GIA shall be issued in close cooperation with Board of European Regulators for Electronic Communications (BEREC), BEREC did not provide a separate opinion/contribution, but 12 NRAs (from Austria, Croatia, Czechia, Denmark, France, Germany, Greece, Italy, Slovenia, Spain, Sweden, and Norway) participated in this public consultation. In general, all sections had active participation.

Preliminary findings

Without prejudice to the in-depth analysis of the replies, we can observe the following overall trends:

Access to physical infrastructure owned or controlled by network operators and public sector bodies

Around 78% (58 out of 74) of the respondents provided feedback to at least one question of the section related with non-price related terms and conditions of access to physical infrastructure owned or controlled by network operators and public sector bodies. 56 of them provided responses for a backward-looking perspective (i.e., BCRD), while 54 of them submitted their views and proposals for the application of Article 3 of the GIA.

From a backward-looking perspective

36% of all respondents (27 out of 74) to the stakeholders' consultation acknowledged that **non-price-related "fair and reasonable" terms and conditions** for physical infrastructure access (44% did not reply to this question) have been defined or described (see Figure 3). The majority of respondents to how these have been defined or described (64% of all participants did not reply to this question), including public authorities, companies or business associations, stated that the "fair and reasonable" terms and conditions had been defined via commercial agreements and/or on case-by-case basis via dispute resolution decisions by the Dispute Settlement Bodies (DSB). Some respondents also noted that guidelines, model agreements or reference offers with standard terms and conditions have been developed for access to towers, masts, ducts or utilities' physical infrastructure, as appropriate, either by national regulatory authorities, industry business associations or associations of municipalities. Some of these are considered by several respondents as best practices.

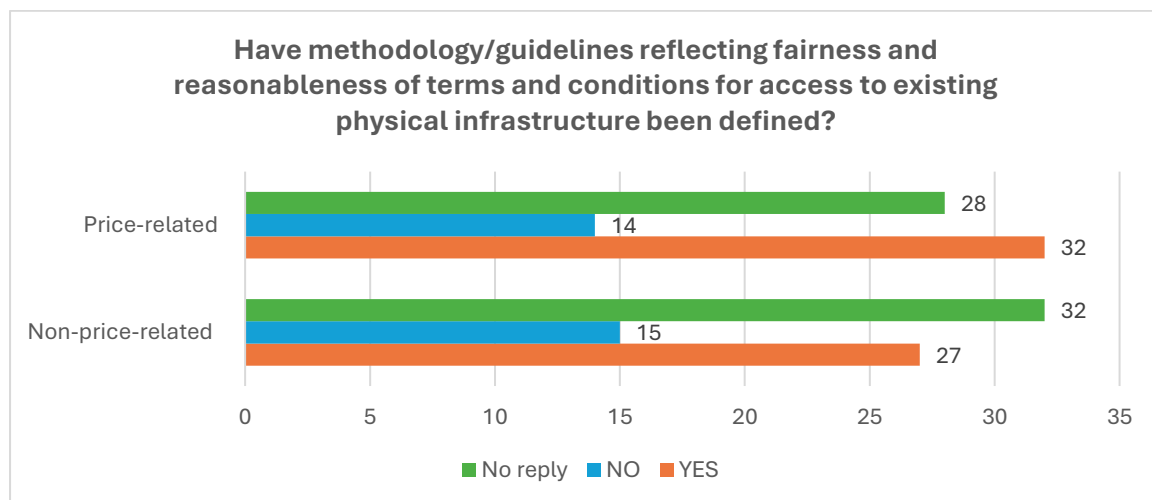


Figure 3: Stakeholders reply on previous definition of "fair and reasonable" terms and conditions for access to physical infrastructure

43% of all respondents (32 out of 74) to the stakeholders' consultation acknowledged that **specific pricing methodology and principles or price-related guidelines reflecting fairness and reasonableness in terms and conditions for access to physical infrastructure** (38% did not reply to this question) have been defined or used in practice (see Figure 3). 80% of them (20 out of 25) acknowledged differences in terms and conditions according to the type of operator that provides the access (ECN assets vs non-ECN - e.g. utility, public sector body - assets), among which consideration of the level playing field or cost-orientation principle. The most often reported means of introduction of such terms and conditions are guidelines issued by national regulatory authorities (42% of respondents to this question), reference offers (39%), principles or legally binding obligations provided by law (12%) as well as industry codes of practice (12%). A few operators took the view that the use of reference offers of SMP operators in the symmetrical context regulated by the GIA (previously by the BCRD) would be inappropriate, as in their view the concept of fair and reasonable prices under the GIA differs from the concept of regulatory price control within the SMP context.

As regards the basic principles and characteristics for **price-related terms and conditions for access to existing physical infrastructure**, various respondents (61% of all participants did not reply to this question) mentioned the cost recovery principle plus a reasonable rate of return of investment or cost orientation/cost sharing based on a generic model of cost elements (in particular between telecoms operators) and avoidance of excessive pricing, consideration of the impact of the requested access on the supplier's business plan, different remuneration treatment for legacy physical infrastructure versus newly built infrastructure and/or double compensation avoidance (in particular for operators of other type of networks). Some **ECN operators** took the view that for non- telecom operators of infrastructure, only incremental costs should be recovered. A few **ECN operators** also considered a strict cost-based approach detrimental to long-term investment incentives.

While 41% of all respondents (30 out of 74) replied to the question on whether there were cases where network operators or public sector bodies had denied access to specific physical infrastructure, 67% of them (20 out of 30) gave a positive reply (45% are public authorities, 50% companies and business associations). Various **public authorities** reported as grounds invoked for such refusals the strive for level playing field, pricing (including cost-oriented principle) and operational/safety issues. They also noted instances of delaying procedures by network operators. Various **companies and business associations** also reported among the invoked refusal grounds: lack of space in ducts, concerns about the added weight of cables on poles, reservation of capacity for future use, preferential use for other purposes (e.g. ducts along motorways used for traffic management), alleged security constraints, "*neighbourhood opposition to the antennas*" and urban planning reasons (concerning the public domain).

From a forward-looking perspective

According to the inputs submitted, **non-discrimination and transparency** were considered key aspects for the fair and reasonable terms and conditions, while some of the participants, especially **providers of associated facilities**, took the view that a market driven commercial approach would be the most appropriate one. Moreover, transparency is a key criterion that, in the view of many respondents, would guarantee non-discriminatory access to public sector bodies' assets, for which certain participants, mainly ECN operators, also proposed monitoring and supervision of the access conditions.

ECN operators and their business associations expressed a preference for differentiating the terms and conditions between public and private providers of access to physical infrastructure, particularly the pricing terms, where many of them propose a cost orientation approach for the public bodies. On the other hand, a market driven approach, taking into account existing commercially negotiated contracts, was proposed by the majority of the **operators of associated facilities** and some **ECN operators**. Moreover, some take the view that different pricing principles should be applied for the non-ECN operators, as their business plan is not affected by the given access.

A significant percentage 60% of respondents (19 out of 32, most of them **public authorities and operators**) consider dark fibre as an alternative means of passive wholesale physical access (provided by the same network operator) as a viable replacement of access to physical infrastructure. One **public authority** took the view that “no viable alternative would suit, as offers to passive wholesale network (like dark fibre) don’t offer exactly the same capacity of action to the operator”. A few representatives of **operators** argued that as long as there is enough capacity for the requested physical infrastructure the access to it should be always offered or that dark fiber is not a substitute to passive wholesale physical access. One **business association of operators** also argued that “public authorities and public sector bodies, including private entities entrusted with public service functions, should be unconditionally required to grant access to the physical infrastructure elements listed in Article 2(4) of the GIA”.

Access to physical infrastructure – pricing

The views of the respondents on the pricing methodology and principles that should be followed, or on which are the most relevant criteria of those listed in Article 3(4) of the GIA were divergent. Cost orientation, existing contracts/commercial terms and benchmarking were proposed by the different stakeholders. All the **providers of associated facilities** (100% of the providers of associated facilities, mainly TowerCos and their associations), proposed a market-based approach with a focus on existing commercial agreements. For **public authorities**, fair cost recovery would be the most preferred criteria, together with the addition of maintenance and adaptation costs. For the **ECN operators and their associations**, the impact on the business plan and the impact on the downstream competition, the economic viability of the investment and an adequate return on investment should be taken into account when they provide the access. They also consider that cost orientation plus adaptation costs should be applicable for accessing physical infrastructure owned by public sector bodies.

53% of all participants (39 out of 74) expressed their view on a binding pricing methodology for access to existing physical infrastructure. Only 25% the respondents would support a binding methodology (some of them, through the Dispute Settlement Body or only as regards access to assets owned or controlled by public sector bodies), while 65% do not see the need for such pricing methodology, or they call for flexibility or for a non-binding approach (see Figure 4).

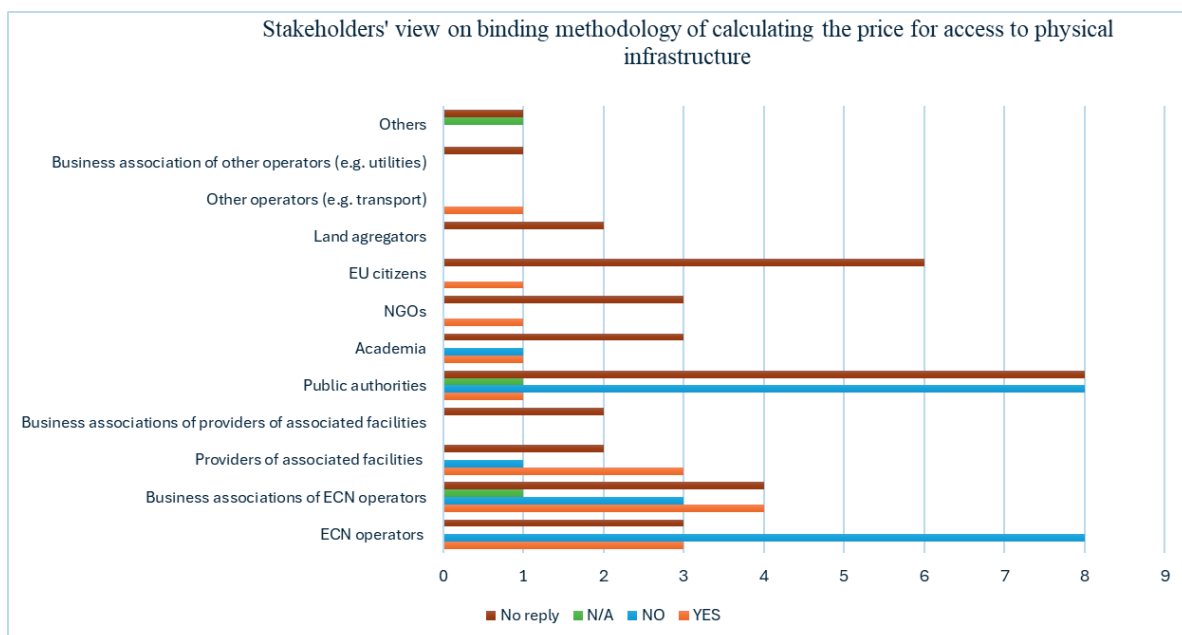


Figure 4: Stakeholders' view on binding methodology of calculating the price for access to physical infrastructure

Designated body for access to physical infrastructure owned or controlled by public sector bodies

While only 15% of all participants (11 out of 74) reported an already established or designated body with the role to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, some of them noticed that it does not provide relevant legal and technical advice. Half of respondents to this question do not see the need for such a body (out of which about one third are **public authorities**), while the other half (mostly **operators and their business associations**) consider such body helpful in facilitating the access to public assets (65% of respondents did not reply to this question). One **public authority** also underlined the division of tasks between the state, regions and municipalities.

Access to land

While two third of respondents replied there are problems on access to land, only 78% of them (39 out of 50) identified concrete issues. Several **network operators** as well as **providers of associated facilities and their respective business associations** reported legal and administrative barriers, long negotiation procedures, opportunistic behaviour of some land aggregators leading to unpredictable price increases and excessive rents, to less coverage and inferior quality of services as well as to excessive leasing prices. Some **national and local public sector bodies** also acknowledged the risk of potential monopoly by land aggregators leading to excessive lease prices or to other unacceptable requirements or disputes concerning access to land introduced before national courts aiming to evict mobile operators and tower companies from the leased locations. In general, most of the respondent **national regulators** took the position that any guidance on access to land should be provided at national level, while some **operators of associated facilities** propose guidance at EU level. One representative of **land aggregators** argued their interests being generally aligned with those of tower companies in ensuring stable site occupation, which supports connectivity expansion by reducing costs and complexity across multiple sites, streamlining administrative burden for property access, maintenance, and upgrades.

40% of participants consider regulatory guidance on **terms and conditions associated with agreements** between the entities referred to in Article 3(2) GIA and operators useful, while 23% do not see such a need (36% did not reply). However, only 23% of participants are in favour of a **specific methodology of calculating the price of access to land** with a view of deploying elements of VHCNs, while 33% are against (47% of participants did not answer) – see Figure 5. Among the criteria indicating market conditions, the respondents suggested the comparison with similar lease agreements, non-discrimination among the operators and averaging. Furthermore, 37% of participants consider **contract templates** useful (most of them would support a non-binding and flexible approach and some call for being set-up at national level), while 20% are against (43% did not reply or considered this not applicable to them).

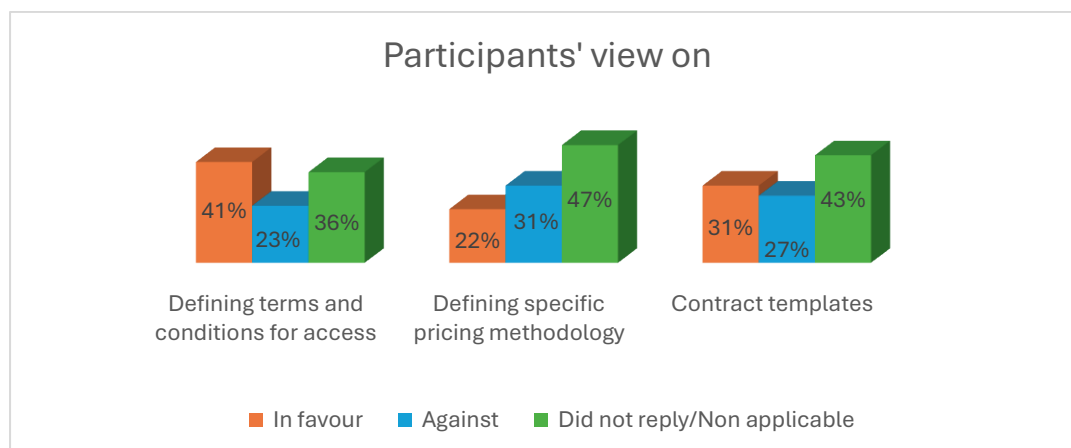


Figure 5: Support from participants for defining terms and conditions, specific pricing methodologies of contract templates for access to land

Access to commercial buildings

More than 50% of all respondents did not reply to the questions on whether a methodology of calculating the price of access to commercial buildings should be binding or in the form of national guidelines and on whether a recommended contract template for access to commercial buildings defined at national level would be useful, in case the Member State provides for access obligations to such buildings under the conditions provided for in Article 3(3) of GIA. However, **62.5% of the respondents to the above-mentioned first question prefer a non-binding methodology**, while only 28% would support a binding methodology (“not applicable” to about 9.5% of respondents to the question). Figure 6 presents the respondents’ preferences per categories of stakeholders. Furthermore, **47% of respondents to this question would support such methodology in the form of national guidelines**.

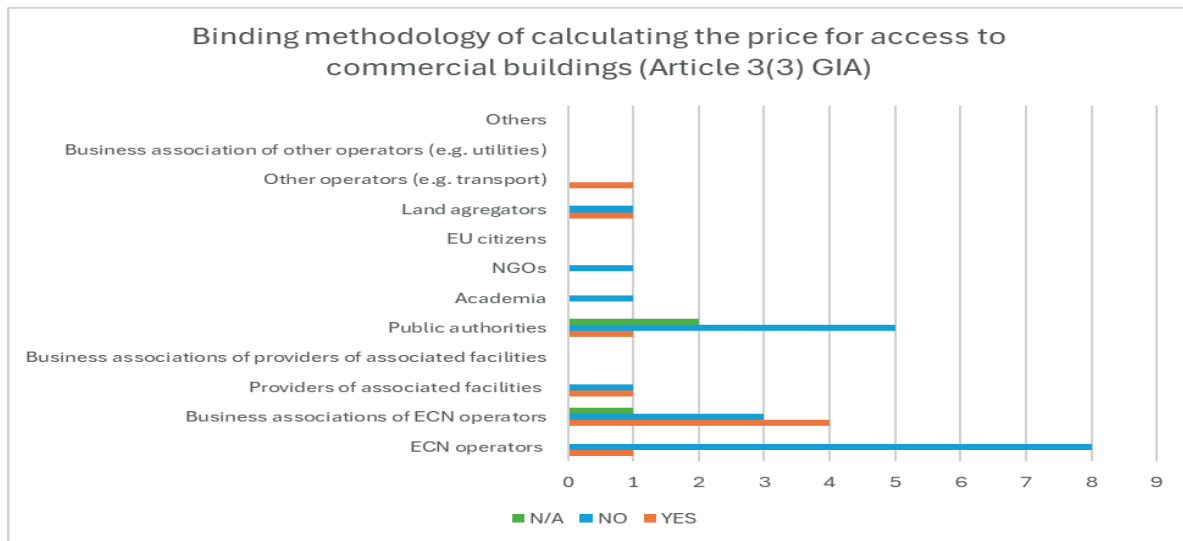


Figure 6: Respondents’ view on binding methodology of calculating the price for access to commercial buildings (Article 3(3) GIA)

As regards a **recommended model contract template for access to commercial buildings defined at national level**, **62.5% of the respondents** to this question (more than 50% of all respondents did not reply to this question) **consider it useful**, while 28% consider it unnecessary (not applicable to about 9.5% of respondents to the question). Figure 7 shows the preferences per categories of respondents.

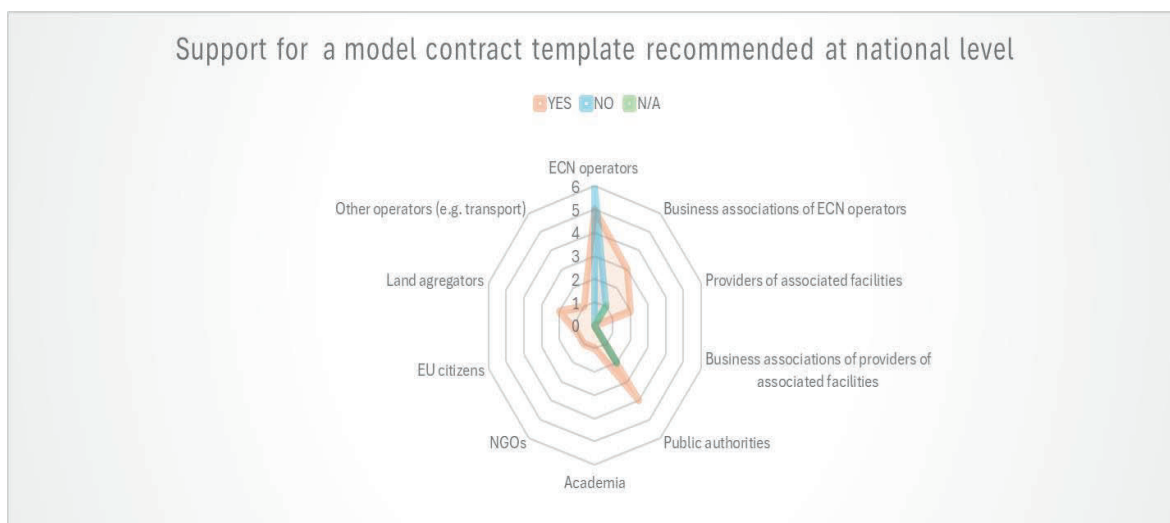


Figure 7: Respondents' support for a model contract template for access to commercial buildings recommended at national level

Next steps

The assessment of the replies, together with additional input received from other consultation activities and sources, will feed into the preparation of the guidance that the Commission, in close cooperation with BEREC, may issue.