

**BEREC Report on the outcome of the public
consultation on the draft Guidelines for the
notification template pursuant to Art. 12.4 of
the European Electronic Communications
Code**

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Introduction

This report summarises the responses provided by stakeholders to the public consultation on the draft Guidelines for the notification template pursuant to Art. 12.4 of the European Electronic Communications Code (hereinafter “EECC”). The BEREC public consultation was open from 19th of June to 28th of August 2019, with a view to collecting the interested stakeholders’ views on the notification template proposed by BEREC as a tool to contribute to achieving consistent notification-related requirements throughout the Union, as well as on the possible features of the EU database of national notifications, to be set up pursuant to above-mentioned Art. 12.4.

Within the public consultation, BEREC received 9 contributions from the following stakeholders, one of which pointed to the confidential nature of their input:

1. The American Chamber of Commerce to the EU (AmCham EU)
2. AT&T
3. Deutsche Telekom (DT)
4. DigitalEurope
5. ECO
6. ECTA
7. GSMA
8. Liberty Global
9. Confidential contribution

1. Executive summary

While confirming the administrative regime for market entry as in the current Authorization Directive (Directive 2002/20/EC), meaning a general authorization system whereby a notification constitutes the only requirement that Member States may envisage for electronic communication network (ECN) and electronic communication service (ECS) providers to access the electronic communications market, the EECC turns the illustrative set of information includable in a notification form into an exhaustive one.

In such context, BEREC is called to adopt Guidelines for the notification template to harmonize the features of the national notification forms in Member States that will decide to have recourse to it. BEREC is furthermore required to set up a database of the notifications transmitted by operators falling within the general authorization regime to the competent authorities, in order to implement Art. 12.4.

A general overview of the comments received shows that, while the responding stakeholders overall welcomed the BEREC effort to implement the spirit and the provisions in the EECC and the approach proposed in the template, the concerns focused on certain specific solutions.

The majority of responding stakeholders welcomed indeed Article 12 EECC as a driver for more streamlined and harmonised notification requirements in the internal market and, with

respect to most of the features in the proposed template, considered them to be sufficiently clear and exhaustive, although a few of them (3) pointed to some concerns, especially in the thematic areas of the scope of the notification obligation (i.e. duty to notify of changes intervened at network/service level as in Table 1), the tools to identify undertakings in the market as in Table 2 (role of certifications), the notifying undertaking's contact details as in Table 3 (contact person's status) and the chance for competent authorities to envisage Annexes to the template.

2. Responses

Question 1:

Do you think that the items covered by Table 1 on the purpose of the notification are sufficiently clear and exhaustive?

The majority of the responding stakeholders considered Table 1 as clear enough and exhaustive, did not explicitly respond to the relevant question or provided just small adjustments to it.

Three stakeholders (AmCham EU, DigitalEurope and ECTA) overall expressed concerns on Table 1: AmCham EU and DigitalEurope, although considering item 1.1 clear, expressed the view that the other items exceed the limitative list as in Article 12.4 EECC, as information around changes in the networks and services provided, in the undertaking's identification data or the termination of the activity are not covered by the EECC. AmCham EU, DigitalEurope and ECTA held as disproportionate the envisaged re-notification in case of change of the activity or of the identification data and also suggested a wording clarification in item 1.3; the first two mentioned stakeholders suggested that only changes as such should be notified, the continuity of provisioning falling outside the notification regime.

Along the same lines, AT&T, although sharing BEREC's approach in Table 1, recommended that changes as in items 1.2, 1.3 and 1.4 be notified in differential terms (no brand new picture of the whole undertaking's situation) via a reference to the original notification and a new item 1.5 "reference of original notification" to be added to Table 1.

More in detail, ECTA expressed the view that the number of footnotes, the proposed format and the information demands in Table 1 would not meet the stated goal of simplifying form filling-related efforts bearing down on operators. In this respect, ECTA suggested a format whereby undertakings could select only one out of the 4 options, thus ensuring clarity as to the fact that multiple affirmatory answers are not possible; it also suggested to give to "changes in the commencement date" an autonomous standing as an independent item (given that it is a piece of information envisaged by the EECC different of "changes in the activities"); DT proposed to consider 1.4 – notification of the termination date - as a sub-case of item 1.2, while ECTA proposed instead that it should be erased or at least be kept outside the pre-provisioning requirements, as it would fall outside the scope of Article 12.4 EECC.

ECTA also considered "changes of activity" as in item 1.2 to be not sufficiently clear and – suggesting erasing it - commented that only the launch of brand-new activities should be subject to notification as in item 1.1, any changes concerning already notified activities not

requiring it instead. ECTA also proposed inserting the chance of indicating whether the notifying operator is a reseller, in view of potentially lighter notification-related fulfilments.

Considering the exhaustive scope of Article 12 of the Code, Liberty Global supported instead BEREC's approach in Table 1 and mentioned that no further information requirements should be covered compared to those laid down in Table 1.

BEREC feedback

BEREC welcomes the several inputs provided on the most effective structure of the notification template and has therefore incorporated as much as possible the adjustments suggested with a view to an enhanced clarity in the form and an easier usage by notifying providers.

BEREC recognises the willingness of some of the participating stakeholders, within the spirit of Article 12 EECC, to further simplify notification-related requirements by limiting cases where providers are due to re-notify of their activities and envisaging the provision of any such information in differential terms only. BEREC also takes note of some stakeholders' understanding of Article 12 as excluding the chance for National Regulatory Authorities (hereinafter "NRAs") and Other Competent Authorities (hereinafter "OCAs") to collect information, in the context of the notification, concerning changes intervened in activities already notified, as well as the termination of activities already notified. In this respect, BEREC expresses though the view that, although Article 12.4 does not explicitly mention it, the envisaged goal to allow BEREC and competent authorities to keep a list of providers of electronic communications networks and services requires to collect information concerning operators entering the market, as well as operators exiting it; hence, BEREC believes it is legitimate, pursuant to the EECC, that the template covers information on the termination of undertakings' activities. Such piece of information shall clearly be provided by undertakings that have notified the beginning of their activities and that intend to stop the relevant provision of networks and services; it is therefore not a piece of information that every notifying undertaking shall provide. This has been further clarified in Table 1, which shows item 1.2 "*changes to the networks/services already notified, including – where applicable - termination*" – redrafted upon DT's suggestion - as one of the alternative options, and via a footnote.

BEREC is of the view that ECN/ECS providers shall notify not only the beginning as well as any termination of their activities, but also changes occurred to ECN/ECS already notified, as long as such changes concern the essential information of a notification as in Article 12 EECC, meaning either identification data, or the "*networks or services intended to be provided*" and their landmark features (e.g. their geographic reach, as in the relevant short description). BEREC believes that any such changes can be notified to the NRA/OCA in differential terms, meaning by ticking item 1.2 and intervening then on Table 4 (selecting the networks and/or the services to be introduced and/or to be terminated and providing the relevant details in the corresponding columns). BEREC has clarified furthermore in the text of the Guidelines that changes to be notified concern the intention to provide new networks or services or to terminate networks and/or services, and not individual products/offers. In terms of format, BEREC considered the suggestions by ECTA to enhance the clarity of Table 1 (so to underline that the available options are alternative), as well as the further editorial adjustments put forward by ECTA, ECO, AmCham EU and DigitalEurope; nevertheless, BEREC cannot take onboard ECTA's suggestion concerning the position of resellers, as their regulatory treatment

in the context of the general authorisation regime cannot be defined within the present Guidelines.

Furthermore, upon ECTA's input, the "*change to the commencement date*" was introduced as an autonomous piece of information, as it has an independent standing also in Article 12.4 EECC.

Question 2:

Item 1.2 intends to capture only changes occurred in terms of networks and services to be provided and relevant commencement dates; other changes concerning a previous notification would fall under item 1.3. Do you think this is sufficiently clear?

AT&T and Liberty Global explicitly mentioned that item 1.2 is sufficiently clear, while four stakeholders did not express a position in this specific respect. AmCham EU and DigitalEurope did not provide an opinion regarding the clarity of the proposed item but, as reported under question 1 above, they mentioned that the relevant request exceeds the scope of Article 12 EECC and is disproportionate, as operators cannot legitimately be requested to fill in again one or several tables in case of changes in the activities performed or in their contact/identification data already notified, and only changes as such should be notified instead. Going further than such proposal to notify only of changes intervened, ECTA believes that item 1.2 (and differences with item 1.3) is not clear enough and that BEREC should consider deleting it, as changes in already notified activities would not require notification, while changes in the product ranges offered by an undertaking would require notification only insofar as qualifying as take up of new activities, hence falling under item 1.1.

Liberty Global held instead that the whole Table 1 is complete and exhaustive, and that no further items should be covered, in the light of the list as in Article 12 EECC.

AT&T suggested to add a reference to the original notification and to accordingly insert a new item 1.5, "Reference of Original Notification", which ECTA would not agree on, as they believe that notification numbers would be transitory in nature and used in not all Member States; hence ECTA suggested, like AT&T, to insert in the template a reference to the background notifying undertaking's dossier, but having recourse to a unique identifier under which the NRA/OCA has registered the general authorization .

DT suggested to consider item 1.4 on the "termination of the activity" as a sub-case of item 1.2, while ECO proposed to adjust the reference to "activity" in item 1.2 into "network and/or service".

BEREC feedback

BEREC appreciates all contributions provided as a means to improve the structure of the notification template, its clarity and intelligibility, with a view to rely on smooth as well as consistent notification fulfillments throughout the Union.

BEREC decided to take onboard the request put forward by two stakeholders that entire re-notifications in case of changes in the activities performed and already notified be excluded as exceeding the limitative list as in the EECC, and that only changes should be notified as such; as a matter of fact, changes to the essential elements of an original notification can be

notified in differential terms to a previous notification, by informing the NRA/OCA of changes intervened. Undertakings would therefore just have to indicate that the purpose of their new communication to the NRA/OCA is a “change” in the networks or services already notified (via ticking item 1.2 in the form) and then proceed to report such changes in Table 4.

BEREC also welcomes the proposed simplifying approach by asking operators updating their previous notification to fill in only some sections of the template.

On AT&T’s suggestion to insert a reference to the original notification number, this is held not to provide a specific added value, given the chance for undertakings to notify of changes in their activity by unequivocally identifying themselves and intervening on a previous notification filed.

DT and ECO’s contributions were both taken onboard, while the clarity of the informational request was improved, and the relevant burden reduced via references to the specific sections to be filled in.

Question 3:

Do you think that other purposes of a notification should be covered in the template?

The majority of respondents (six out of nine: AmCham EU, AT&T, ECO, DigitalEurope, Liberty Global and one more stakeholder) mentioned that no other purposes need to be covered by the template. DT and GSMA did not comment on the subject; AT&T, AmCham EU, Liberty Global, ECO and ECTA referred (even indirectly, like Liberty Global) to the deletion of any reference to Annexes attachable to the template, as in their view they would not comply with Article 12 EECC and the exhaustive list it bears, as well as with the internal market goal (ECO).

ECTA, although sharing this approach and believing therefore that the collection of additional information, although legitimate under national law, should be kept distinct of notification requirements, proposed to enhance the template by adding a further open response option aimed at addressing other possible notification-related matters/scenarios not covered by the template.

BEREC feedback

Considering the wide support for the originally proposed coverage of the template, BEREC is of the view of maintaining the current structure of the form. For the same reason, the request by ECTA to supplement the template with one further option could not be accommodated.

Regarding the chance of envisaging Annexes to notifications, BEREC recalls that its institutional remit adheres to the electronic communications markets; for such reason, BEREC deleted any reference to Annexes to the template, although being not in a position to exclude information requests that Member States might legitimately envisage parallel to notification obligations, in application of non-sector specific regulations.

Question 4:

Table 2 bears a set of information necessary to identify undertakings in the market. Please elaborate your views on the nature and level of detail of information in Table 2

Most intervening stakeholders (five out of nine: AmCham EU, AT&T, DigitalEurope, ECO and one more stakeholder) supported the level of detail in Table 2 as proposed in the public consultation document, while two did not express a position in this respect (DT and GSMA).

Four stakeholders (AmCham EU, DigitalEurope, ECTA and Liberty Global) suggested some amendments to item 2.2 in Table 2, with particular reference to the BEREC proposal to envisage a notification by ECN/ECS providers of the number featuring in the registration at a competent chamber of commerce or equivalent in the EU.

In this respect ECTA, emphasising the need for a more thorough background investigation into the existing administrative practices with a view to approximating them, expressed the view that the nature and level of detail in Table 2 are too vast, thus not ensuring sufficient guidance to providers in order to effectively approximate requirements across the EU.

More in detail, ECTA considered that requiring a certification from the competent chamber of commerce would be excessive insofar as it implies additional fees and delays for operators, due to the need to obtain such certifications from entities in the relevant Member State. In this respect, ECTA suggested bringing forward “examples of fully digitised notification regimes relying on recognised trust services”. For ECTA, as the approximation of different notification regimes should not result into additional burden on providers, the registration number should be considered as a non-essential element and therefore be notified only where a registration already exists upon notification, otherwise the reference to the registration number and relevant certification requirement should be deleted from the BEREC template. For cross-border notifications, ECTA furthermore suggested the inclusion of explicit guidance to the recipient NRA/OCA in order to seek verification of the registration number details with the NRA/OCA of the originating Member State.

Along the same lines, in the light of the freedom of establishment and the spirit of the EECC, AmCham EU expressed the opinion that a registration number should be provided only in case a provider is already registered and that no legal obligation should therefore be envisaged on operators to request a certification from a local chamber of commerce in the Country concerned.

Also DigitalEurope proposed to consider such piece of information as not mandatory as, in case providers were compelled to register with competent national bodies, this would be contrary to the EECC; they accordingly suggested to supplement footnote 6 with the mention ‘*if available*’ and to clarify that the competent chamber of commerce or equivalent would be from the ECN/ECS provider’s Country of origin and not from the Country in which networks or services are to be provided.

Liberty Global proposed furthermore that Table 2 should be amended to clarify that notifying providers duly established in another Member States shall not be required to have local representatives.

Concerning item 2.3, ECTA suggested the wording as in Table 2 to be brought more in line with the EECC; among others, ECTA had reservations concerning BEREC proposal to replace “*the geographical address of the provider’s main establishment in the Union, if any, and, where applicable, any secondary branch in a Member State*” as in article 12.4 letter c) EECC, with a reference in the template to “any secondary branch in the Member State”, adding furthermore in footnote 7 that, in addition to the main establishment’s address, only one local branch’s address, in the Member State concerned, would be subject to notification. In this respect, ECTA expressed the view that, although positively reducing the informational burden on operators, such formulation of item 2.3 of the proposed template would be excessively limitative, illegitimately constraining the scope of Article 12 EECC and therefore urged BEREC to align the wording to the legal provision, for the sake of legal certainty, focusing rather on streamlining the operational compliance aspects, for example on how notifying correctly of different address formats for one undertaking’s branches in different Member States.

On item 2.4, ECTA suggested to supplement it with further specifications, considering that the website constitutes a key element in order for third parties to contact the operator and collect relevant information. With a view to enhancing market transparency, ECTA proposed BEREC to clarify that a website address shall generally be provided where one is available, and that only where specific pages associated with the provision of networks and services exist, these should be specifically identified in the notification form. In other words, the ‘where applicable’ in point (d) should only be read in view of the specificity of the website information to be provided, and not as a criterion to exclude the provision of any such information altogether. ECTA also suggested that such addresses should be published as part of the register(s) that the NRA/OCA maintains.

BEREC feedback

BEREC appreciates the support expressed by several intervening stakeholders to the overall approach proposed in Table 2. Regarding the concerns raised by some stakeholders around the provision of the notifying providers’ registration numbers, BEREC maintains that the proposed template was meant to require, as suggested by the above-mentioned stakeholders, that providers, only if registered in a public register in the EU, should notify the relevant registration number the NRA/OCA in the country where networks/services are to be provided (and not provide them with the relevant certificate); according to BEREC understanding of Article 12 EECC, this would not imply further registrations in the country of operation, but the mere communication of the registration number – if available – as in the country of establishment. Relevant clarifications have been introduced in footnote.

On ECTA’s proposal to include in the text some guidelines to NRAs/OCAs on how checking registration numbers communicated by cross-border ECN/ECS providers, BEREC holds that this falls outside the scope of the present exercise.

Responding to other stakeholders’ concern around the alleged requirement to obtain a certification from a local chamber of commerce, BEREC confirms that the proposed template is not meant to cover the requirement for certifications from national chambers of commerce or equivalent entities in order for undertakings to start providing ECN/ECS.

Further clarifications as well as alignments with Article 12 EECC, as suggested by ECTA, have also been accommodated in the text of the Guidelines. BEREC followed indeed ECTA's input to abide by the wording in the EECC as for the address of any secondary branch "*in a Member State*", although the originally proposed "*in the Member State*" aimed at simplifying the requirements on operators, considering that notifications are submitted to the competent authority in the Member State where ECN/ECS are to be provided. BEREC confirmed the original simplifying effort though by clarifying in a footnote that NRA/OCAs could still streamline the informational burden on operators when adopting the national notification template, considering that the list as in Article 12 provides the maximum amount of information that can be requested from operators.

Question 5:

Table 3 bears the notifying undertaking's contact person details. Please elaborate your views on the nature and level of detail of information in Table 3.

Four contributing stakeholders (AmCham EU, DigitalEurope, ECO and one more stakeholder) supported the appropriateness of Table 3 as designed by BEREC. However, some stakeholders questioned the compatibility with Article 12 EECC of the envisaged provision of details concerning an alternate contact person (AmCham EU, DT, GSMA and ECTA), including around his/her role (questioned by DT and GSMA). Several comments focused on the proposed requirements for the main contact person as in item 3.1 "*to be someone holding the legal rights to submit any kind of notifications*", which was considered as excessively restrictive by AT&T, DT and GSMA; on the matter, AT&T suggested to replace the request with "*someone duly authorised by the undertaking to submit notifications on its behalf*".

ECTA drew the attention to some inconsistencies in the informational requirements in Table 3 with respect to the main contact person and the alternate one: for example, while for the contact person a power of representation is requested, this is not the case for the alternate, for whom no geographical address is furthermore required, contrary to the main contact person. ECTA underlined also that item 3.6 requires information on the role of the alternate contact person, which is not the case for the main one and that, in tight relation with that, the annexed Declaration on the accuracy and completeness of the information provided asks the signatory to detail his/her position, which would not fill the above mentioned gap.

More in general, ECTA invited BEREC not to widen information requirements, emphasising instead the responsibility of the notifying undertaking to guarantee the effective responsiveness of the contact person identified and of the competent authorities to test this, where appropriate.

Finally, Liberty Global highlighted that, in any event, it should be made clear that the provision of such contacts in Table 3, as well as the undertaking's identification elements as in Table 2, would not imply any obligation on providers wishing to notify of the beginning of their activities to have local representatives (hence to register at the local chamber of commerce and provide the relevant certification within the notification together with local contact details).

BEREC feedback

BEREC took note of all the suggestions provided in order to improve the clarity and soundness of Table 3. In this respect, BEREC incorporated some of the inputs received, e.g. by slightly simplifying informational requirements, including concerning the alternate contact person. Although understanding some stakeholders' concerns, BEREC view is that Article 12 would lend itself to the interpretation as in the Guidelines, for the sake of an effective and timely communication between notifying undertakings and NRAs/NCAs.

In this respect, while welcoming ECTA's remark on the responsibility of the notifier to ensure the responsiveness of the single contact person provided and of the competent authorities to check this, BEREC recalls that, in the present context, it is called to define a notification template for operators throughout the EU to have recourse to, and this is therefore not the appropriate context to address issues as such, that seem to fall rather within national sanctioning duties.

As for the inconsistencies mentioned by ECTA between information requirements for the contact person and the alternate respectively, the two profiles were brought into line for the sake of consistency. Further alignments, as suggested by ECTA, were introduced in the template. Furthermore, on the power of representation of the contact person, this requirement was toned down, as suggested by several intervening stakeholders, by means of a reference to "someone duly authorized by the undertaking to submit notifications on its behalf". Finally, the piece of information on the address of the contact person was turned into a non-essential element of the form, to be notified only in case it is different of the main establishment indicated in Table 2.

Last, Liberty Global's comment is considered to be in line with the current meaning of the text proposed by BEREC, since nowhere in the template reference is made to a duty to establish a branch in the Member State where ECN/ECS are to be provided.

Question 6:

Does the taxonomy proposed in columns 1 and 2 of Table 4 is sufficiently general, covering at the same time all market situations? Would you suggest a different macro-categorization of electronic communications networks and services, with a view to facilitating market entry, at the same time allowing undertakings to provide enough information on the activity to be launched? Have you got any other suggestions concerning Table 4?

Most of the stakeholders overall agree on the taxonomy proposed in columns 1 and 2 of Table 4. However, various proposals were put forward regarding Table 4.

AT&T, Liberty Global and one more stakeholder believe that the taxonomy in columns 1 and 2 is sufficiently general. One stakeholder suggested to introduce a short legend on Table 4 to be sure that operators effectively understand how to fill it in, while DT Group proposed to add an introductory text mentioning the services exempted from a notification duty, such as services not normally provided for remuneration and NI-ICS. ECTA suggested adopting a self-classification approach, hence deleting columns 1 and 2 to the benefit of the undertakings' autonomy to describe their networks and services and possible associated facilities, as currently foreseen in columns 3 and 4.

AT&T and DT Group recommended that Table 4 should be split into two tables, one for networks and one for services.

ECO and DT Group mentioned that BEREC should provide more information on the different types of networks in column 1 and more kinds of networks shall also be foreseen. Furthermore, DT Group indicated that it would be inadequate to differentiate services according to the underlying network and that the relevant list should contain only the categories mentioned in the EECC. Still about columns 1 and 2, Liberty Global raised concerns about the inclusion of technology-specific terms and references to standards, in the light of the principle of technology neutrality.

Concerning column 3, AmCham EU indicated that it would be helpful to include a footnote to clarify what is expected for the '*short description of the network*'. This description should be as high level as possible. Furthermore, AmCham EU did not see the need for column 6 (geographic area of MS), considered as not relevant for NRAs and BEREC in the notification context.

In tight relation with their input on question 1 concerning reselling activities (proposed amendment to item 1.1 in Table 1), ECTA suggested to include instructions for a simplified completion of column 4 for services that are being resold, with a view to implementing a lighter notification regime for resellers.

AmCham EU and DigitalEurope recommended that column 5– concerning the Member States where networks and/or services are available - should be deleted because BEREC already avails of this overview, as notifications are always submitted to NRAs/OCAs and as such they concern a national network or service. In DT Group's point of view, referring to services supplied to multinational customers located in several Member States, only the Member State of customer residence should be notified.

Regarding column 7, AmCham EU, DigitalEurope and DT Group proposed to include a footnote clarifying that '*publicly available*' does not entail networks and services used by a closed group of end-users. In this respect, DT Group pointed out that the term "*publicly available*" is not specified in the EECC, but is elaborated by BEREC in its guidelines for net neutrality regulation. ECTA welcomed the inclusion of dedicated fields for the identification of publicly available networks and services and wholesale only services in columns 7 and 8 respectively of the proposed BEREC Guidelines.

On column 10, ECTA suggested that the commencement date should form part of the basic identifying information to be provided by undertakings upon notification, a per-activity commencement date having to be indicated only in case of multiple services with very different commencement dates.

Concerning the expected termination date as in column 11, ECO, AT&T and GSMA suggested that it should be optional to fill it in when notifying the commencement of the activity, as providers will not necessarily know a termination date then; the proposal would therefore be by these stakeholders to complete the column only when notifying that a previously notified activity is being ceased. ECTA proposed the deletion of the mentioned column.

BEREC feedback

BEREC took note of the received answers and considered them in order to improve Table 4. On the background of elaborating the clarification inputs received, BEREC decided to use a table with a drop-down menu, with the aim of simplifying its use by network and service providers.

To the same aim, BEREC took on-board most of the suggestions to introduce clarifications on how filling in Table 4, including the indication to ensure technology-neutrality in columns 1 and 2; in relation with such simplification objective, regarding the suggestion received to split the table into two, BEREC did not take it on-board, considering that it stemmed from a misunderstanding of the proposal: although currently reported side by side in a Word file, the networks and services respectively listed in column 1 and 2 are independent from one another and it will be up to the notifying operators to select each and every network and service that they intend to provide (the fact that the “metal line - DSL” network type currently lies side by side to the “fixed IAS” service type does not imply any connection/interdependence between the two).

Furthermore, BEREC did not take on-board the input to delete columns 1 and 2 to only allow a self-classification by operators by means of their own descriptions, as this would imply a great variety in individual notifications, thus hindering the establishment of the envisaged EU database of national notifications (and the full implementation of article 12 EECC).

On the proposal to mention the services falling outside the scope of the notification duty, BEREC did not incorporate it as the reflection on the reach of the notification obligation, hence on the perimeter of the ECS notion introduced by the EECC, falls outside the present exercise and is scheduled to be developed next year.

Regarding the proposal for simplified instructions on how filling in Table 4 with reference to resellers, BEREC could not take it on-board since – as explained under question 1 above - the definition of the regulatory treatment of resellers falls outside the scope of the present Guidelines.

According to the suggestions received, column 5 has been deleted and a footnote on the definition of ‘publicly available’ has been introduced in line with the BEREC Guidelines on the Implementation by National Regulators of European Net Neutrality Rules (BoR (16)127).

Regarding the ‘termination date’, a footnote in column 11 has been added to clarify that providers can leave this field blank if this piece of information is unknown.

Question 7:

The EECC requires BEREC to maintain a database of the notifications transmitted by undertakings to national competent authorities; since notifications, at least for national operators, will have to be submitted in national language, have you got any suggestions on how an EU database could be set up and automatic translations of national notifications into English ensured?

Most of the stakeholders who provided input on this subject stated that the language for the notification should be English. Some stakeholders also mentioned that, in case the NRAs are

notifying BEREC in their national language, it should be ensured that notifications are translated into English either by the NRA/OCA or by BEREC itself.

More in detail, recalling previous BEREC work on the matter, AmCham EU and DigitalEurope encouraged NRAs/OCAs to use English forms and to fill them out in English. For AmCham, should this not be possible, NRAs/OCAs should allow replies in English by operators to a form in national language. Should the national language be strictly required, the translation of the form into English should remain under the responsibility of the relevant NRA and/or BEREC. It is also DT Group's view that the NRA should translate national notifications into English, ensuring proper and consistent language.

In any event, AmCham EU recommended that BEREC should allow (without obliging) the registrant to review the translated version before it is stored in the database.

In AT&T's point of view, market players could be invited (but not compelled) to submit accompanying courtesy English translations when filing notifications, where a language other than English is required.

According to ECTA, a common English-language nomenclature should be established before the NRAs/OCAs draw up explanatory notes setting out the relationship between that nomenclature and their domestic classifications; such nomenclature should provide the basis for automated translations of national notifications, in view of the Union database.

BEREC feedback

BEREC took note of the responses by the stakeholders. While agreeing that using a single language would simplify the notification process, especially for cross-border operators, BEREC is bound to take into account that there are 24 official languages in the European Union and that, pursuant to this, the NRAs find themselves in a position to be often compelled to request that national notifications be made in the relevant official language, while the publicly available database should be available in English.

Question 8:

What would you suggest in order to ensure that the EU database be as useful as possible? Should it be public? What key features should it have?

There is a common understanding among the intervening stakeholders that the database should be public, at least as concerns key undertaking-related information. However, a certain differentiation emerged among the respondents on the level of information to be published.

As a matter of fact, AT&T believes that the public EU database should only contain the name, address, country where the ECN/ECS is provided, an indication of whether an ECS, an ECN or both are provided and the registration numbers of the notified undertaking. Details of the nominated contact person should not form part of a publicly available database.

Along the same lines, DT Group and GSMA expressed the view that company names, addresses, countries of incorporation and national registration numbers should be the informational items featuring in the EU database, the publication of personal data having to

be prevented, including as regards the nominated contact persons. More in detail, DT Group mentioned that the contents of Tables 2 and 4 should be made available to the public in English.

ECO confirmed such approach by expressing the need that the search functionality should be available in the database by name, kind of networks and/or services and geographic area of operation; furthermore, according to this stakeholder, should the database be publicly available, it should be possible not to publish the envisaged termination dates of services, as well as other data that might be sensitive in terms of competition.

ECTA, in line with the approach of all other intervening stakeholders, expressed the suitability that the database be public, with a view to enhancing market transparency. For ECTA it will be important that an agreement is preliminarily found though on a relevant shared nomenclature, in order to ensure the comparability between different national notifications in the database. The availability to the public should, in ECTA's view, be ensured through a website, which should be accessible without the need to register. In line with EU open data policy, ECTA further believes that the contents of the Union database should be retrievable for offline viewing and analysis in at least one non-proprietary format. ECTA would furthermore welcome if BEREC encouraged all the competent authorities to design their domestic registers along the same lines. The online version of the Union database should provide search, sorting and visualisation functionalities, at national, subnational and EU levels. Visualisation options should include multi-jurisdictional and multi-service/network aggregation (e.g., comparison of the number of providers offering fixed and mobile Internet access by Member State). ECTA invited BEREC to establish an EU user group with participation by providers and their associations to discuss and define the precise functional requirements. The accuracy of the Union database should remain under the responsibility of the notifying authorities.

BEREC Feedback

BEREC thanks the stakeholders for their valuable contributions that will all be used in view of the upcoming design of the EU database. BEREC shares the view expressed by the intervening stakeholders that the database should be publicly available, searchable and easily reachable via the BEREC's website and that it shall, at the same time, be set up without prejudice to the necessary protection of personal data as well as of information classified as business secret.

All ideas shared by the stakeholders concerning information to be made available, functionalities and other features of the database will therefore be processed in 2020 when, according to the relevant Work Programme, BEREC will define the overall design of the database and the BEREC Office will take care of its implementation.