



21<sup>st</sup> November 2019

## **PIKE'S FEEDBACK ON GEOGRAPHICAL SURVEYS OF NETWORK DEPLOYMENTS**

Dear Sir or Madam,

PIKE (Polska Izba Komunikacji Elektronicznej – the Polish Chamber of Electronic Communications) is an organisation that brings together Polish undertakings providing electronic communications services, especially cable operators. We welcome this opportunity to provide feedback on draft BEREC Guidelines on Geographical Surveys of Network Deployments. Please find some particular remarks below.

### **I. Essential information from the Guidelines:**

1. BEREC proposes that the definition of broadband networks should include networks with a bandwidth above 2 Mbps.

It should be questioned whether any network with a minimum bandwidth of 2 Mbps is a broadband network. In fact, this applies to all telecommunications networks and the results of the questionnaire-based survey will not correctly indicate regions with obsolete networks requiring investment or regulation. However, to make the survey future-oriented to the deployment of modern telecommunications networks, it should include networks with a minimum bandwidth of 30 Mbps (NGA networks). This will significantly limit the operators' obligation to report their infrastructure. It can be pointed out that in the future this speed should be even increased to 100 Mbps (page 9 of the Guidelines).

2. QoS data

The Guidelines indicate that some data should be provided by operators (QoS1) and others should be verified at a later stage by national regulatory authorities (QoS2 and QoS3). In our view, the greatest possible range of data should be provided by national regulatory authorities and not by entrepreneurs. In many cases, the national regulatory authority already has the necessary data, hence it is necessary to avoid a situation in which operators will have to provide the same data twice.

As a side note, it is worth mentioning that the survey obliges operators to collect new data to a minimum extent and only those data that are needed and proportionate to the objectives

(page 5 of the Guidelines). This makes it all the more important to postulate a reduction in the amount of data to networks with a bandwidth above 30 Mbps and less detailed data.

### 3. Scope of provided service details

Operators are to provide the following data set for each address:

- Network operator code
- Technology code
- Maximum download speed class
- Maximum upload speed class
- Normal download speed class
- Normal upload speed class
- Number of premises passed by the technology in the area
- Determine if that network is VHCN (over 100 Mbps) at the relevant grid reference

Providing the parameters of normally available download/upload speed for Internet access services at a given address raises serious doubts. Firstly, operators do not collect such data nowadays. In order to obtain them, operators will therefore have to make changes to their systems. Secondly, those data seem to be absolutely useless for the purposes of geographical surveys. Depending on numerous factors (number of subscribers in a building, quality of their equipment, failures), the actual normally available speed will be constantly changing, not reflecting the real capabilities of the network. This number may change each month even without the operator's actions. Furthermore, this datum may be different for each subscriber at a given address and it is necessary to provide collective data for a given building. Therefore, data on normally available speed will not be useful for any surveys as they will not reflect the condition of the network or the service quality.

Thirdly, operators will also provide data on premises that could hypothetically be passed by operators in their service area but they are not because they have not made contracts with subscribers. This implies the assumption that an operator reports a building as passed in its service area, even if it does not currently provide any services there but it could do so with little cost within a short period of time. This means *de facto* giving normally available speed to a hypothetical subscriber in a building located in its service area but not passed. It is impossible to make such a calculation.

It is also questionable that the operator is obliged to provide the number of premises at a given address to which it could provide its services. At present, at least Polish operators do not provide such data and what is more they do not have such data and in many cases they are not able to collect them without disproportionate organisational and financial outlays. Indeed, it would be necessary to check all the buildings covered by their networks and to make inventories of premises located in those buildings. There is no factual basis for operators to make such calculations as they do not completely need it to carry out their telecommunications business. However, this calculation may be made by the national regulatory authority on the basis of publicly available data.

#### 4. Forecasts for broadband network deployment

In our opinion, there is no factual basis for operators to provide their plans for the deployment of new networks. The Guidelines indicate the necessity to provide data for the purpose of public aid and the use of EU funds. Such data, however, pertain to specific regions where there is currently no adequate telecommunications infrastructure. Moreover, providing such forecasts to the national regulatory authority may prevent operators from gaining a public funding for the development of telecommunications infrastructure in those regions. The national regulatory authority could individually ask operators about their deployment plans in such a region instead, which would not be an excessive burden on them. The obligation to report deployment plans independently of the region is disproportionate and excessive.

For that purpose, the Guidelines should precise in point 2.6.1 (paragraph no. 91) that NRAs/OCAs may (not must) request information from all potential investors in order for a survey.

The complex procedures for reporting VHCN deployment plans proposed in the Guidelines are also questionable. Two phases are proposed: before the investment (every year) and after the investment (page 31). In the event of deviations from its own forecasts, the operator will be requested by the national regulatory authority to provide the reasons and the investment status. There are no objective reasons for reporting investment projects under this type of survey. It has not been proven that this information is essential for the geographical survey and its collection will only be a burden on operators. Such reporting also raises problems with the confidentiality of the data provided.

#### 5. Confidentiality

PIKE is of the opinion that the Guidelines should explicitly indicate the obligation to maintain the confidentiality of data constituting the operator's business secret, including in particular deployment plans and quality data which need not be published under the law of the Member State.

### II. **BEREC's specific questions:**

1. BEREC points out that bandwidth information frequently depends on the location of telecommunication network components (e.g. distance from the building, telecommunication cabinets or switches). In the opinion of operators, should the survey cover and include data on the location of such network components?

Information on the location of telecommunications equipment does not refer to the scope of the survey and the purposes of Article 22 of the EECC. Therefore, it should not be collected and provided by operators. At present, those data are not (at least by Polish operators) aggregated and provided to national regulatory authorities. Such an obligation would be excessive and disproportionate.

2. Collection of mobile network data. BEREC points out that part of the mobile network data depends on technology, and national regulatory authorities can obtain this information at their own discretion. Or should some data on networks of mobile operators be mandatory (non-optional)? BEREC wants the data provided by mobile operators to be also useful for subscribers in locations with specific speeds (or rather enabling the provision of a specific type of bandwidth-related services).

PIKE points out that it is justified to equate the obligations of mobile network operators with those of fixed network operators as much as possible. This requires that mobile operators be subject to reporting obligations.

An alternative option is to leave these issues outside the scope of the Guidelines so that they can be regulated by national regulatory authorities.

3. Should BEREC harmonise data collection rules for mobile operators at the EU level? Or should BEREC encourage national regulatory authorities to harmonise the rules at the national level? What QoS measurement rules in mobile networks should be adopted?

PIKE points out that it is justified to equate the obligations of mobile network operators with those of fixed network operators as much as possible. This requires that mobile operators be subject to reporting obligations.

An alternative option is to leave these issues outside the scope of the Guidelines so that they can be regulated by national regulatory authorities.

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a large loop and a final flourish.