

eir

Response to draft BEREC Report on Member States' best practices to support the defining of adequate broadband internet access service

BoR (19) 260



27 January 2020

eir welcomes the opportunity to comment on BEREC’s draft Report on Member States’ best practices to support the defining of adequate broadband internet access service.

RESPONSE TO CONSULTATION

Consultation Question 1

The table below contains all the criteria that the different Member States with broadband universal service obligation in force took into account when they defined it. Please rate them (1-5) in terms of their importance to define the adequate broadband internet access service, and explain the rationale behind it. When rating, please take into account the following graduation:

1. Not relevant at all
2. Less important
3. Important
4. High importance
5. Indispensable

Evaluation criteria	Rating 1. Not relevant at all 2. Less important 3. Important 4. High importance 5. Indispensable	Rationale
Where the data rate in question is used at national level by: <ol style="list-style-type: none"> i) At least 50% of households; and ii) At least 80% of all households with a broadband connection. 	3	<ul style="list-style-type: none"> • While this is an important criterion it needs to be assessed in the context of the speeds required for societal inclusion rather than used as a strict threshold for intervention. • In addition, it would be useful if BEREC could clarify what specifically is meant by “<i>data rate used</i>”. eir assumes that this benchmark is based on normally available speeds rather than the headline speed subscribed to, given that a USO intervention based on headline speeds, particularly in the case of FTTC, may not reflect the reality of the actual speeds that customers are using. • eir considers that in the same manner that the USO should be limited to primary residences, the assessment of speeds used should also be

		limited to primary residences.
Expected availability of broadband without public intervention	4	<ul style="list-style-type: none"> eir considers that this criterion is extremely important in order to ensure all future investment and planned state aid intervention are taken into account and that as such any risk of market distortion is sufficiently mitigated.
Geographic survey	2	<ul style="list-style-type: none"> Although it is important to ascertain the current and expected availability of broadband that delivers the defined speeds, eir does not consider that this needs to be done through the means of a geographic survey per se. However, given the requirement for NRAs to conduct geographic surveys every 3 years under the EECC, it may be useful to use such survey information as it exists. Otherwise, there is a risk of duplication of efforts and additional administrative burden for operators in terms of data provision.
Market distortion	5	<ul style="list-style-type: none"> If this criterion is not sufficiently taken into account there is a danger of crowding out private investment. There are numerous provisions in the EECC to incentivise private investment and universal service provisions should not be used to mandate high-speed coverage.
Estimation of the potential demand for broadband USO	1	<ul style="list-style-type: none"> eir considers that this is inherently addressed by the cumulative criteria relating to the assessment of speeds used by households. Such an assessment is a reliable proxy without additional work to determine potential demand. This is by its nature very difficult to forecast, given, for example, the risks involved with survey data and self-reported demand.

Comparison with other EU countries	3	<ul style="list-style-type: none"> • Use of this criterion can help ensure internal market cohesion and avoid significant fragmentation in regulatory approaches.
Benefits of public intervention and effects on competition	5	<ul style="list-style-type: none"> • A thorough assessment of costs and benefits is required in order to ensure that market distortion is avoided. USO should only be used as a safeguard i.e. all other options have failed to deliver adequate broadband. • In addition, the assessment should account for the cost of funding the USO either through public finances or a shared industry fund and as such enshrine a firm commitment that the net cost of provision to the universal service provider is reimbursed.
Timeframe to make available broadband under USO	3	<ul style="list-style-type: none"> • The timeframes involved should be realistic in order to ensure that broadband can be made available in a cost efficient manner.
Social and economic disadvantages incurred by those without access to a broadband connection, including disabled end-use	4	<ul style="list-style-type: none"> • It is important to ensure that end-users are not disadvantaged through digital exclusion. However, it is equally important to ensure that the broadband speeds required to avoid such digital exclusion are carefully assessed and defined.
Estimation of the costs of intervention through USO versus other approaches	5	<ul style="list-style-type: none"> • This is in line with ensuring that market distortions are avoided or at least minimised. Broadband should be delivered in the most cost efficient manner and it is important that USO is only used when other options prove unviable.

Consultation Question 2

Are there any other relevant experiences and/or criteria (not mentioned in the report) that you consider useful to support Member States in defining adequate broadband internet action service? If yes, please describe and rate (1-5) them individually in the same manner described in Question 1.

Other relevant experiences and/or criteria (add rows as required)	Rating 1. Not relevant at all 2. Less important 3. Important 4. High importance 5. Indispensable	Rationale
Funding mechanism	5	<ul style="list-style-type: none"> eir maintains that it is necessary to establish the funding mechanism in order to fully define the USO, thus providing a firm commitment that the net costs incurred by the USP will be compensated. In addition, funding needs to be considered in order to determine the full costs and benefits of public intervention and allow for comparison with other approaches.

Consultation Question 3

	Rationale
<p>What are your views on the minimum bandwidth requirements (e.g. upload and download speed amongst other things) of a connection at a fixed location to ensure that consumers have sufficient bandwidth to guarantee social and economic participation in society and to support the minimum set of services established in Annex V of Directive (EU) 2018/1972? Please provide reasons for your views.</p> <p>Annex V</p> <ol style="list-style-type: none"> 1) E-mail 2) search engines enabling search and finding of all types of information 3) basic training and education online tools 4) online newspapers or news 5) buying or ordering goods or services online 6) job searching and job searching tools 7) professional networking 8) internet banking 9) eGovernment service use 	<ul style="list-style-type: none"> The only requirement that should be considered in this context is that the minimum bandwidth identified supports the minimum set of services as defined in Annex V. Any additional criteria would likely be arbitrary and create potential for the USO to be used in order to meet other policy objectives rather than simply being used as a safeguard. eir considers that such a minimum bandwidth is likely to be in the range of 5-10Mbps. However, the determination will require careful analysis and stakeholder input at a member state level.

10) social media and instant messaging 11) calls and video calls (standard quality)	
--	--

Consultation Question 4

Do you have any specific observations on;

- (i) eligibility criteria; and/or*
- (ii) quality of service (QoS); and/or*
- (iii) affordability measures*

that might support the definition of the adequate broadband internet action service in your MS?

eir has the following comments in this regard;

- Eligibility criteria: End-users that will be covered by a public scheme or private investment in the medium term should not be eligible for provision through the USO. This is a necessary requirement to ensure that the market is not distorted and that private investment is not crowded out. In addition, the USO should be defined in such a manner that the universal service provider is allowed a reasonable period to recover the initial investment. As such, the cost of provision should not exceed the amount that the USP would recover over this period and past this cost threshold the end-user would be required to cover the excess. In order to ensure that the cost of provision is therefore minimised, any technology that meets the speed requirement should be accepted for the purposes of USO delivery.
- Affordability: eir considers that it is difficult to establish what exactly is “affordable”. As such, if there are to be affordability measures included in the design of the USO, it may be useful to consider this in the context of social welfare allowances. For example, such a scheme could comprise vouchers that are issued to qualifying end users on the basis of social welfare eligibility and that these vouchers can in turn be used for the purchase of services from any retail provider.

Consultation Question 5

Do you have any other general observations on this draft report?

eir has no further comments.