



## Polish Chamber of Commerce for Electronics and Telecommunications

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Warszawa, 6<sup>th</sup> July 2020.  
KIGEiT/1722/07/2020

**European Commission  
Directorate-General for Competition,  
1049 Brussel  
Belgium  
Ref.: HT.5224**

Acting on behalf of the Polish Chamber of Commerce for Electronics and Telecommunications (hereinafter 'the Chamber' or 'KIGEiT'), in response to the Commission's consultation on the draft Commission Regulation (EU) amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter 'the GBER Regulation'), I submit the following comments.

The concept of Next Generation Networks (hereinafter 'NGA networks') used in the current GBER Regulation as well as in the proposed amendment and the definition of this concept does not correspond to the conceptual framework used in other key (already existing or planned) legislation related to the broadband networks, which will also govern this matter during the next financial perspective 2021-2027.

Since this concept and its definition is of key importance for any scheme which aims to support development of telecommunications infrastructure, these differences may create interpretational problems.

We would like to draw attention, in particular, to two key acts that no longer refer to the concept of NGA networks but to the concept of 'very high capacity networks'.

Firstly, this is Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing a European Electronic Communications Code (EECC) and secondly, it is a proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and the Cohesion Fund - COM(2018) 372 final (hereinafter 'draft ERDF and CF Regulation'). Annex 1 - Common output and result indicators for the ERDF and the Cohesion Fund, based on Article 7(1) of the above mentioned Regulation - defines for policy objective No 3 '*A more connected Europe by enhancing mobility and regional ICT connectivity*' respectively as output indicators - additional households or enterprises with broadband access of very high capacity networks and as result indicators additional households or enterprises with broadband subscription to a very high capacity network.

The General Block Exemption Regulation, as it is intended to refer to the same matter and complement the ERDF and CF Regulation, should not introduce other definition deviating from those introduced in the abovementioned documents, as this can only raise serious doubts in interpretation at the stage of its application.

According to the EECC, a 'very high-capacity network' means either an electronic communications network which consists wholly of optical fibre elements at least at up to the distribution point at the serving location, or an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency

and its variation; network performance can be considered similar regardless of whether the end-user experience varies due to inherently different characteristics of the medium by which the network eventually connects with the network termination point.

We therefore request for introduction of the concept of 'very high-capacity networks' to the revised GBER and for either alignment of its definition with the definition of very high capacity networks provided for in the EECC or introduction of the direct reference to the definition of this concept the EECC.

It is only out of procedural prudence, if the above postulate is not taken into account and the proposed definition of NGA networks is left, we call for deletion of the following sentence: 'NGA networks include networks capable of providing 1 Gbps upload and download speeds' from this definition.". We assume that the purpose of this sentence was to underline that 1 Gbps networks are also covered by this definition. If so, this clarification is unnecessary as Gigabit networks will naturally qualify as NGA networks due to their high performance. However, if the intention of the legislator is to indicate that NGA networks are to be 1Gbps symmetrical networks, this is excessive and does not correspond to the needs and state of the telecommunication market. For these reasons we request as above. There is also no clear indication as to which wireless networks fall into this category (NGA networks). Applying the previous definition has caused significant interpretational problems. For avoidance of doubts in interpretation in the future, in our view, an explicit indication that 5G networks also fall into this category is required.

Yours faithfully,



Stefan Kamiński  
President of Chamber