

Warsaw, 6 July 2020

Dear Sir or Madam,

On behalf of the Polish Chamber of Electronic Communications ("**PIKE**"), in relation to the ongoing public consultations regarding the legislative work on the Regulation "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", we would like to express our position on some of your draft regulations. Our position regards your draft section 16 that provides for the conditions for assistance related to financial products supported by the InvestEU Fund. These regulations are the most significant in terms of interests of the PIKE members. We kindly ask you to consider our position on this matter.

Your draft Article 56e(2)(b)(i) pertains to specific conditions that must be observed to obtain funding for a project involving investments in networks with a capacity of 1 Gbps or more. We have doubts about some of the criteria. They are as follows:

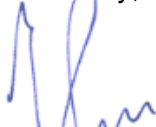
1. In order to be eligible for funding, the project must aim at "*connect socio-economic drivers as defined in Article 8(3)(a) of the Regulation XX (CEF2 Regulation) that are public or private undertakings entrusted with the operation of services of general economic interest (...)*". In our opinion, however, it is not clear whether the project that applies for funding is to refer only to entities specified in this provision, or whether projects that will also include other entities which are not specified in this provision will also be eligible for funding. This provision does not indicate whether, e.g. the project will be eligible for funding, if its aim is to e.g. connect ordinary address points, in addition to those set forth in the provision. Therefore, PIKE points out that the provision in question should be clarified so that aid can also be granted for connecting other address points than those currently listed.
2. To be eligible for funding, the project must be based on the "identified market failure". We believe that this criterion may raise significant questions of interpretation. In particular, it should be clarified whether a market failure should be considered in the same way as an "identified market failure" as referred to in the EECC concerning the

SMP regulation (e.g. Article 67(1)(c)). It is also unclear when and by what procedure a market failure would be identified. This is not regulated either in the recitals or in the legislation itself. On behalf of PIKE, we hereby request this provision to be clarified in this respect.

3. The project to be financed must ensure that the download and upload speed is at least twice that of the existing or planned infrastructure. This criterion seems to us to be vague. It is not known whether the EU legislator means the maximum speed, the minimum speed or the speed normally available within the meaning of Regulation (EU) 2015/2120 of the European Parliament and the Council. The intention seems to have been to double the maximum speed available in the network, but it is reasonable to clarify this issue. Further, we propose that this provision should also pertain to situations where there is a change in technology that ensures better quality of services, e.g. the extension of fibre-optic networks.

We hope that you will take these demands into account in the course of further work.

Yours faithfully,



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**Jerzy Straszewski**

**President of the Management Board**