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Reference Number: 2020-0.265.365

Comments on the Draft "BEREC Guidelines on Very High Capacity Networks" BoR(20) 47

Dear Colleagues,

The Austrian Federal Ministry for Agriculture, Regions and Tourism (BMLRT) thanks the European Commission and BEREC for the opportunity to comment on the draft "BEREC Guidelines on Very High Capacity Networks".

Please find as follows our comments to the draft BEREC Guidelines on Very High Capacity Networks from fifth of March 2020.

General remarks on BoR(20) 47

According to 22(3) of the Code, a need may arise to provide information as to whether an area is — or is likely to be — covered by an NGA network. Also in the EU legal framework for state aid the categorization for a network serving an address as being NGA or not is important. There is a parallel between the term "NGA" in the state aid framework and the "VHCN" concept of the Code, where the latter is yet to be addressed in the state aid legal framework. Hence, the NGA criterion — as rather generally described in the state aid framework — remains important both with regard to assessing current broadband coverage and with regard to assess whether a proposed state aid project qualifies as an NGA network.

Austria therefore welcomes the steps taken by the European Commission and BEREC to create a common definition for VHC/ NGA Networks across Europe. Especially in light of implementing the new European legal framework into national law as well as reaching the strategic objectives for 2025, the availability of common definitions is essential for taking policy decisions.

Specific remarks on BoR(20) 47

Recital 7 p. 7 [...] *In the case of **fixed-line connection**, this corresponds to network performance equivalent to that achievable by **an optical fibre installation up to a multi-dwelling building**, considered to be the serving location.*

*In the case of **wireless connection**, this corresponds to network performance similar to that achievable based on an **optical fibre installation up to the base station**, considered to be the serving location.[...]*

Remark on Recital 7: Austria strongly disagrees that an optical connection to a mobile radio station should be considered equivalent to an optical connection to a building in a fixed network (Backhaul vs. Access Connection). In case of mobile radio stations the proposed definition does not take into account that mobile connections show a clear dependency of the speed achieved on factors such as cell load, the distance from mobile radio station to the end user and any environmental conditions (such as topology, weather, etc.).

Recital 16 p.9 f [...] **Criterion 1 and 2:** *Any network providing with a fibre roll out at least up to the multi-dwelling building (fixed) or base station (wireless). [...]* This is according to the EECC, so there is no possibility for a change now.

Criterion 3: *Any network providing a fixed-line connection which is capable of delivering, under usual peak-time conditions, services to end-users with the following quality of service (performance thresholds 1): Downlink data rate ≥ 1000 Mbps, Uplink data rate ≥ 200 Mbps, IP packet error ratio (Y.1540) $\leq 0.05\%$, IP packet loss ratio (Y.1540) $\leq 0.0025\%$, Round-trip IP packet delay (RFC2681) ≤ 10 ms, IP packet delay variation (RFC 3393) ≤ 2 ms, IP service availability (Y.1540) $\geq 99.9\%$ per year. [...]*

Remark on Criterion 3: According to Recital 67 p. 18 [...] *For the qualification as a very high capacity network, it is sufficient that the network is capable to provide a service which meets the performance thresholds 1. Therefore, it is neither necessary that the network actually offers such a service nor that all services provided by the network have to meet the performance thresholds 1 [...]* In Austria's view, the pure claim that the network meets the performance thresholds 1 is insufficient to qualify as a VHCN. In view of the strategic objectives for 2025, providers should be obliged to offer at minimum one service that meets the VHCN criteria.

Criterion 4: *Any network providing a wireless connection which is capable of delivering, under usual peak-time conditions, services to end-users with the following quality of service (performance thresholds 2). Downlink data rate ≥ 150 Mbps, Uplink data rate ≥ 50 Mbps, IP packet error ratio (Y.1540) $\leq 0.01\%$, IP packet loss ratio (Y.1540) $\leq 0.005\%$, Round-trip IP packet delay (RFC 2681) ≤ 25 ms, IP packet delay variation (RFC 3393) ≤ 6 ms, IP service availability (Y.1540) $\geq 99.81\%$ per year. (Rn 16, S. 9)*

Remark on Criterion 4: Austria's main concern with Criterion 4 is that in case of wireless connection the definition covers only for outdoor coverage. Austria therefore proposes to introduce an additional parameter for indoor coverage (i.e. the common loss – 20 dBm), so it is more comparable to fixed line connections and services.

Remark on Criterion 3 and 4: The definition of “peak time condition” is in Austria's view not sufficient. The peak time condition is one of the most critical parameter to assess the quality of a service and end user experience. This is especially important for mobile connections (see remarks on Recital 7). Austria therefore recommends creating a specific definition in order that the peak time condition can be measured and be comparable among EU member states.

Recital 24 p. 12: *The Guidelines provide criteria for the consideration of a network as a very high capacity network, where this is relevant for the application of the EECC. They should not be interpreted as a view on the appropriateness of such consideration as a criterion for any other policy instrument, including public funding.*

Remark on Recital 24: Austria strongly supports this definition, as it provides us with the opportunity to consider specific regional situations especially in case of implementing future State Aid programs.

On all other points, Austria agrees to the proposals by BEREC.

If you have any additional questions regarding our comments, please do not hesitate to contact us.

Kind regards!

2020-04-30

For the Federal Minister:

SC Mag. Andreas Reichhardt

Signed electronically.

