



ecta RESPONSE

TO THE PUBLIC CONSULTATION BY BEREC

ON THE

DRAFT BEREC GUIDELINES ON

VERY HIGH CAPACITY NETWORKS

(CRITERION 4)

BoR (23) 42

28 APRIL 2023

Introduction

1. **ecta**, the **European Competitive Telecommunications Association**,¹ welcomes the opportunity to comment on the Draft BEREC Guidelines on Very High Capacity Networks - BoR (23) 42.
2. **ecta** represents those alternative operators who, relying on the pro-competitive EU legal framework that has created a free market for electronic communications, have helped overcome national monopolies to give EU citizens, businesses and public administrations quality and choice at affordable prices. **ecta** represents at large those operators who are driving the development of an accessible Gigabit society, who represent significant investments in fixed, mobile and fixed wireless access networks that qualify as Very High Capacity Networks (hereafter 'VHCN') and who demonstrate unique innovation capabilities.

Support for BEREC proposals relating to Criterion 4

3. Having assessed the contents (and the revision-marked version) of the Draft BEREC Guidelines on Very High Capacity Networks, with a focus on the revisions to Criterion 4 (performance thresholds 2 – applicable to wireless networks), **ecta** simply wishes to state the following.
 - (i) **ecta** overall agrees with BEREC's proposals for revised performance thresholds, focused entirely on 5G, and modifying the thresholds for the downlink data rate, IP packet loss ratio, round-trip IP packet delay, IP packet delay variation, and IP service availability/year.
 - (ii) In relation to the threshold related to the downlink data rate, **ecta** wishes to underline that BEREC needs to be forward looking. It is preferable that network performance is not measured on a snapshot basis, but at regular intervals, given that technology and network utilisation evolve over time. It is not today's performance that is relevant but to what extent networks with various spectrum resources at their disposal are likely to be capable of delivering on the parameters that will be needed in 2025 and beyond. What those parameters are, or will be, can be subject to significant changes over time. Therefore, **ecta** kindly invites BEREC to evaluate whether on a forward looking basis the proposed update of criterion 4 in terms of 350 MB downlink data speed should be reviewed downwards, in consideration of the possible impact of spectrum resources available to operators (e.g. C-Band, mmWaves) on wireless networks' downlink performance. For these purposes, **ecta** respectfully invites BEREC to elaborate on the timeline to achieve the downlink performance targets in a dynamic and forward-looking perspective and to put forward, in the final text of the Guidelines, concrete proposals on the intermediate steps for reaching those targets and the respective

¹ <https://www.ectaportal.com/about-ecta>

timelines.

(iii) ecta agrees that entry into effect on 1 October 2023 is suitable.

Additional ecta remarks

4. A point of concern, when studying the document produced by BEREC, is the low number of questionnaire responses taken into account by BEREC (corresponding to 19 operators from 13 Member States, and lower numbers where it concerns specific performance thresholds), even though ecta understands the reasons why BEREC had no choice but to discard some responses. When preparing future revisions to performance thresholds, it would be worthwhile for BEREC and for NRAs to provide information pro-actively to all spectrum holders, in order to trigger more responses and more responses containing the relevant information.
5. ecta wishes to take this opportunity to point out that the significant performance differences between mobile network operators observed by BEREC correlate to some extent with the amount of spectrum held by individual operators, which differs greatly. ecta is on record in expressing that several late entrant operators suffer from severe spectrum deficits compared to their direct competitors, due to the manner in which NRAs or other competent authorities have organised spectrum award proceedings, both historically and in recent years. For instance, as regards the 700 MHz and 3,4-3,8 GHz bands, new imbalances between operators have been introduced by way of auction design in several EU Member States, i.e. with outcomes guaranteed to result in new (in some cases additional) imbalances. ecta calls on those NRAs that are in charge of radio spectrum awards, and on the public authorities in charge elsewhere, and on the EU institutions, to ensure that, in cases where operators make requests to reduce or remove their spectrum deficit, the necessary procedures are put in place to enable this to occur on fair terms. Going forward, ecta calls on all authorities involved to avoid introducing new imbalances between competitors through the design of spectrum assignment proceedings.

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In case of questions or requests for clarification regarding this contribution, BEREC and NRAs are welcome to contact Mr Luc Hindryckx, ecta Director General or Ms Pinar Serdengeçti, ecta Regulation and Competition Affairs Director.