



**Memorandum**

**Date:** 10/11/2023

**Subject:** Public consultation on the draft BEREC Report on Member States' best practices to support the defining of adequate broadband internet access service (BoR (23) 178)

**Company:** Deutsche Glasfaser Holding

**To:** BEREC

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In general, the requirements given by the EEC include that every household is able to achieve a stable connection to use the listed services. The EEC defines that several services must be applicable by the end users. There are no guidelines for determining specific downstream or upstream speeds or any limit of latency. Nonetheless, the NRAs can apply specific requirements in case they see a necessity to enhance the level of broadband provision for the end users.

In Germany, the NRA defines 3 criteria for adequate broadband internet (10 Mbit/s in DS, 1,7 Mbit/s US, 150 ms latency). We do not experience a problem with the three determined criteria of broadband provision. Instead, we see specific problems, how the NRA analyzes reports of end users regarding missing broadband availability. In the most cases, end users check their fixed broadband connection and do a report that they only experience 6 Mbit/s via a copper line. Regarding the minimal requirements of 10 Mbit/s in downstream, end users request help from the NRA in getting a better broadband provision. Due to miscommunication by governmental parties, communication media and the regulatory authority regarding a promise that everyone should get a fast broadband access, mainly, the end users want to have a better fixed broadband connection, more specifically a fiber connection.

However, the EEC and the guidelines of NRA do not have implemented a right for a fiber connection. The right in getting a sufficient broadband provision/access does not depend on a specific technology. Here, we experience that the NRA does not communicate clearly enough to the end users that different technologies could provide a sufficient broadband provision. Mobile radio and satellite internet are also broadband technologies, which could provide the minimal requirements of 10 Mbit/s in downstream, 1,7 Mbit/s in upstream and even more.

Therefore, in getting all end users in the situation to be able to use at least a minimum of bandwidth, in an investigation all technologies need to be involved. It is not acceptable that a couple of technologies (which are technically able) are excluded in the evaluation if an end user gets a sufficient broadband provision or not. From this point of view, we urge BEREC to force NRAs to consider all kinds of technologies for providing the minimal determined bandwidth.

We aim in Gigabit targets of 2030 that in the future all end users should have access to a fiber connection. However, as introduced, there is no right for a having a fiber connection. The network operators try to deploy as fast as possible fiber lines on the base of own investments. In regions, where economically efficient deployment is not possible, funds could complement the private investments. Due to limited construction capacities, it is not possible to provide a fiber provision to all end users within few years. To not contradict the Gigabit connectivity targets, the universal service

obligation should not hinder broadband provision by introducing higher complexity. Therefore, we urge to treat the universal service obligation as introduced in the EECC, the ultima ratio in case all other approaches are not able to serve a sufficient broadband connection speed.

The universal service obligation and the consideration of adequate broadband services should hedge a bandwidth for end users that they can participate on the internet life. Nonetheless, every kind of broadband provision (as mentioned before) displays an interim solution until the network operators deploys the fiber connections. NRAs should support these developments instead of obliging network operators to provide a fiber connection for a single under provisioned household. Here, NRAs should support the network operators that they can build fast as possible as many as possible households. For under provisioned households, NRAs should find an economically efficient solution for broadband connection, e.g., the already existing satellite internet. Such a solution could be provided much faster than complete new deployed fiber connection (and is much cheaper).

In such discussions in Germany, we face the argument of the NRA that satellite internet would not be affordable for end users and therefore is no option for a universal service. The German NRA sets 30 Euros (without making the calculation transparent) as an affordable price, which means that all other tariffs, which are higher would be understood as not affordable. To figure out this contradiction, the network operators should provide a fiber connection, but the monthly price should not exceed 30 Euros. In the consideration of the current situation, most network operators offer prices between 40 to 90 Euros for a fiber connection to amortize sunk cost for deployment. This margin shows that 30 Euros are not applicable in case of a new deployment of fiber infrastructure.

In other words, the average of 30 Euro evolves from a consideration of old already depreciated copper infrastructure, where the incumbent can offer cheaper prices. It does not cover any costs for deploying a new fiber infrastructure. Therefore, we urge a separated consideration for determining the affordable price. If the NRA wants to force the deployment of fiber connection (also in case of a universal service obligation), the average prices should be orientated on the base of new deployed infrastructure. Tariffs and accesses on the old infrastructure should be excluded from the consideration. Otherwise, if the NRA considers all kinds of technologies, the average about all tariffs could be correct, but then the NRA needs to correctly communicate to end users about the accessibility of other technologies for entering the broadband internet.

Furthermore, in the consideration of a universal service obligation, we urge a stepwise approach by the NRA as it is intended in the EECC. In the first step, the NRA should evaluate, which kind of technology is able to provide a sufficient broadband connection. In the second step, the margin of the affordability can be considered. In Germany, we face a direct mix of both approaches. The NRA excludes satellite internet by mentioning that no tariff of the provider achieves the margin of 30 Euros. This is weird with regard to the NRA's ability to oblige the satellite provider to offer a 30 Euros product as universal service. On the other hand, fiber network operators do also have no tariffs below the 30 Euros margin. Therefore, the different treatment between the various technologies cannot be comprehended.

From this point of view, the guidelines from BEREC should be used to analyze if a broadband provision can be applied by a technology. If a technology is able to provide a sufficient broadband access, the NRA can consider the price setting. If the NRA is of the opinion that the price is not affordable, they could oblige a network operator to set an affordable price (independent which technology the operators belong to). Following this approach, no operator would be excluded because of affordability reasons and the most efficient operator is chosen for universal service.

Due to the different development of broadband deployment, a one size fits all approach does not work. Especially, there are different costs for deploying fiber connections in the member states, especially in rural areas. In a first analysis, it should be noted if a one operator wants to deploy broadband on its own. In case, every network operator declines to make a broadband provision, public funding should be used. A universal service obligation should be the last option for approaching a broadband internet provision. However, we have the position that the appearance of universal cases is a result of missing prioritization of public funds.

Lastly, we want to emphasize that following the EECC, any requirements regarding adequate broadband service targets only on the provision of consumer and cannot be used for the provision of business customers.