

FINAL CA8

Geographical surveys and forecasts of network deployments¹

The CA covers Art 22, 22a and related recitals. All relevant AMs, including AMs 7-8, 195-208, 48-53, 444-494 as well as IMCO xx, ~~CULT-yy, LIBE-zz~~, fall.

Recitals

- (60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information regarding network roll-out in order to be effective and to target the areas where it is needed. That information *is essential for the purpose of ~~to promote~~ investment, increasing connectivity across the Union and ~~to provide~~ information to all relevant authorities and citizens*. It² should include *surveys* regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. *Without prejudice to confidentiality requirements, the national regulatory authorities should, where the information is not already available on the market, make available in an open data format and without restrictions on reuse the information gathered in such surveys and³ should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services. Where the national regulatory authorities deem it to be appropriate, they may also collect publicly available information on plans to deploy very high capacity networks.⁴In gathering any of *that*s information, all*

¹ Integrating the forecast part as Art 22a as a consequence of not introducing a new Title III

² AM 198 Kumpula-Natri et al (adjusted)

³ AM 201 Kallas et al (adjusted)

⁴ DR AM 7

*authorities concerned should respect the principle of confidentiality, and **should avoid causing competitive disadvantages to any operator.***⁵

- (61) ***Bridging the digital divide in the Union is essential to enable all Europeans citizens of the Union to have access to state-of-the-art internet and digital services. To **that** end, in***⁶ the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present ~~or foreseen~~ in the area in question.⁷

Articles

~~It is proposed to move the forecast aspect of the geographical surveys, primarily concerned with VHCN, to the new Title on VHCN. That part is included as Part B below for completeness.~~

Part A (current deployment status)

Article 22

Geographical surveys of network deployments

1. National regulatory authorities shall conduct a geographical survey of the reach of electronic communications networks capable of **at least**⁸ delivering broadband ("broadband networks") within three years from [deadline for transposition of the Directive] and shall update it at least every three years.

This geographical survey shall consist of a survey of the current geographic reach of **such** networks within their territory, **as required** for the **tasks *provided for in under this Directive and for*** surveys for the application of State aid rules.⁹

b) **deleted**¹⁰

The information collected in the survey shall be at an appropriate level of local detail and shall include sufficient information on the quality of service and parameters thereof.

2. **deleted**¹¹

3. **deleted**¹²

4. **deleted**¹³

5 AM 195 Niebler at al (adjusted), [DLA input](#).

6 AM 205 Kumpula-Natri et al (adjusted), [DLA input](#).

7 DR AM 8

8 To address AM 446 Tosenovsky without excluding non-VHCN from the survey of the current situation

9 To address AM 449 Kumpula-Natri and 450 Kallas, as well as to simplify, [DLA input](#).

10 DR AM 48. Justif: *Art 22 is simplified to only concern current conditions. The forward looking part is amended and moved to the new Title III of Part II on very high capacity networks.* AM 454-458 Tosenovsky.

11 DR AM 49. Justif: *This part is moved to the new Title III of Part II on very high capacity networks.* AM 471 Tosenovsky.

12 DR AM 50. (Same justif as to AM 49.) AM 475 Tosenovsky.

13 DR AM 51. AM 480 Tosenovsky.

5. Member States shall ensure that local, regional and national authorities with responsibility for the allocation of public funds for the deployment of electronic communications networks, for the design of national broadband plans, for defining coverage obligations attached to rights of use for radio spectrum and for verifying availability of services falling within the universal service obligation in their territory take into account the results of the **survey** conducted in accordance with **paragraph 1** and that national regulatory authorities supply such results subject to the receiving authority ensuring the same level of confidentiality and protection of business secrets as the originating authority **and inform the parties which provided the information**. These results shall also be made available to BEREC and the Commission upon their request and under the same conditions.¹⁴

6. **If the relevant information is not available on the market,**¹⁵ **the** national regulatory authorities ~~may~~ **shall make data from the geographical surveys which is not subject to confidentiality directly accessible online in an open and machine readable format to allow for its reuse.**¹⁶ **They shall also, where such tools are not available on the market,** make available information tools **enabling** end-users to determine the availability of connectivity in different areas, with a level of detail which is useful to support their choice **of operator or service provider, without prejudice to** national regulatory authority's obligations regarding the protection of confidential information and business secrets.¹⁷

7. By [date] in order to contribute to the consistent application of geographical surveys and forecasts, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines to assist national regulatory authorities on the consistent implementation of their obligations under this Article.

Part B (forecasts)

Article 22a 78d

Geographical surveys forecasts

1. **In conducting a geographical survey pursuant to Article 22, the national regulatory authorities may include a three-year forecast of the reach of very high capacity networks within their territory, relying on publicly available information.**

Thatis forecast may also include information on planned deployments by any undertaking or public authority, in particular **in order** to include very high capacity networks and significant upgrades or extensions of legacy broadband networks to at least the performance of next-generation access networks.

The information collected shall~~ould~~ **be at an appropriate level of local detail and include sufficient information on the quality of service and parameters thereof.**

2. **The n**National regulatory authorities may designate a "digital exclusion area" corresponding to an area with clear territorial boundaries where, on the basis of the information gathered pursuant to paragraph 1, it is determined that for the duration of the relevant forecast period, no undertaking or public authority has deployed or is planning to deploy a very high capacity network or has significantly upgraded or extended its network

14 DR AM 52

15 AM 493 Kumpula-Natri et al (adjusted)

16 AM 491 Kallas (adjusted). [DLA input](#).

17 DR AM 53. Justif: While "connectivity" as opposed to "coverage" might work in the context of end-user information tools and availability, given that lack of coverage is immediately noticeable, such end-user tools should be able to cover what's useful in terms of choice in the circumstances and not limited to undefined "connectivity services".

to a performance of at least 100 Mbps download speeds, or is planning to do so. **The**
nNational regulatory authorities shall publish the designated digital exclusion areas.

3. Within a designated digital exclusion area, **the** national regulatory authorities may issue a call open to any undertaking to declare their intention to deploy very high capacity networks over the duration of the relevant forecast period. The national regulatory authority shall specify the information to be included in such submissions, in order to ensure at least a similar level of detail as that taken into consideration in the forecast. It shall also inform any undertaking expressing its interest **of** whether the designated digital exclusion area is covered or likely to be covered by an NGA network offering download speeds below 100 Mbps on the basis of the information gathered.

4. Where**n** national regulatory authorities take measures pursuant to paragraph 3, they shall do so **in accordance with ~~according to~~** an efficient, objective, transparent and non-discriminatory procedure, whereby no undertaking is **a priori** excluded **a priori**.¹⁸