## Office of Electronic Communications (UKE, Republic of Poland) contribution to the CWG-Internet Online Open Consultation (February- September 2016)

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## SUMMARY (2-3 paragraphs)

## The President of Office of Electronic Communications (UKE - Urząd Komunikacji Elektronicznej) is the Polish national regulatory authority for telecommunications and postal services market. As a national regulatory authority, the President of UKE has a special status within government administration – although it is supervised by the Ministry of Digital Affairs, it acts independently in its regulatory capacity. Enabling environment for access to the internet consists is a complex idea which can be put into life only if all stakeholders (politicians, law makers, regulators, private companies, academia and, last but not least, consumers) work together to make it real.

## Due to its prerogatives, regulatory authority can influence building an enabling environment by creating new investment incentives and improving the existing regulations to boost the development of broadband infrastructure; making the best possible use of scarce resources such as frequencies; encouraging the development of fair competition in the telecommunications markets, also in terms of quality. In addition, regulator carries out its activities with the customer wealth in mind. Therefore, initiatives aimed at providing customers with knowledge on the available services (e.g. QoS indicators and measurement tools, certificates issued by the regulator to companies complying with high standards of customer service, or guidelines concerning the safe use of internet services and devices connected to the internet) also constitute an important part of both regulatory activity and enabling environment.

## Activities undertaken by the President of UKE in this regard have proven to be effective, therefore they may serve as an example of good practices for other regulatory authorities and other stakeholders.

**CONTRIBUTION**

The President of Office of Electronic Communications (UKE - Urząd Komunikacji Elektronicznej) is the Polish national regulatory authority for telecommunications and postal services market. The President of UKE is also the specialised authority in the area of equipment conformity assessment, including telecommunications terminal equipment and radio equipment.

The specific duties of the President of the UKE as regards telecommunications market include, inter alia: performance of tasks related to the regulation and supervision over telecommunications services’ markets, spectrum management, orbital and numbering resources, as well as enforcement of compliance with electromagnetic compatibility requirements; intervening in matters related to the market functioning and settlement of disputes between telecommunications undertakings; co-operation with domestic and international telecommunications organisations, other competent national authorities, the European Commission and other EU institutions, as well as other NRAs.

1. **What are the elements of an enabling environment to promote Internet connectivity?**

An enabling environment to promote Internet connectivity has to favour activities aimed at ensuring Internet access to end-users and facilitating investment in telecommunications networks, which provide infrastructure for Internet access. It is especially important to ensure high-speed Internet connectivity to all consumers throughout the country, not only in big cities but also in less-developed and rural areas. Therefore, pro-investment initiatives related both to creating new investment incentives and to introducing improvements in the existing regulations are one of the most important elements of the enabling environment.

INGA (Investment in NGA networks) project carried out by the President of UKE is a great example of such initiative. Under this project activities of the President of UKE as regards investments in NGA networks have been organised and reviewed to ensure consistent implementation of regulations concerning: positions on the implementation of certain legal provisions, provision of services by local governments, price lists and the manner of determining fees. Documents developed and implemented under INGA project concerned, i.a. guidelines on access to premises (buildings and telecommunications infrastructure); [guide for telecommunications companies](http://en.uke.gov.pl/guide-for-telecommunications-undertakings-14863) planning to obtain access to infrastructure or real estate premises necessary for the provision of telecommunications services; and precedential decision in terms of access to technical infrastructure, including access to power poles. In addition, the President of UKE monitors telecommunications networks in Poland on an ongoing basis to ensure that operators fulfil their obligations and infrastructure development meets users’ needs. Results of the monitoring are presented in the [annual reports on the state of telecommunications infrastructure in Poland](http://en.uke.gov.pl/report-on-the-coverage-of-poland-with-telecommunications-infrastructure-in-2015-20206).

Enabling environment to promote Internet connectivity is the one that enables operators to develop their Internet offers. In order to do that operators require not only infrastructure, bur also scarce resources such as frequencies. For several years, it has been discussed to allocate spectrum released by the switch to digital TV (digital dividend) for Internet development. National administration authorities, e.g. regulators, play a key role in this process. The largest project of this kind in Poland in the recent years was the distribution of the frequencies in 800 MHz and 2.6 GHz bands in the Poland's first auction process. Frequencies, especially in the 800 MHz band, are crucial for building network coverage in the rural areas and making them available is also connected with investment commitments to provide the network coverage for mobile data transmission. In Poland auction winners who have been granted general exclusive frequency licences are required to implement investment commitments in the 800 MHz band, involving investments in telecommunications network with network coverage of approx. 80% of the territory of Poland. The President of UKE obliged operators to invest in 2,293 municipalities out of 2,479 municipalities in Poland – the ones where there was no access to data transmission services, or where such services were available at speeds lower than 10 Mbit/s.

The aforesaid activities undertaken by the President of UKE proved to be successful: whereas at the end of 2011, penetration of internet access services was at the level of 74.4% for households, at the end of 2015 it stood at the level of almost 102%.

1. **What are the elements of an enabling environment to promote an affordable Internet?**

A key element of an enabling environment to promote an affordable Internet is a mature market with a high competition level. Therefore, fostering the development of competition is crucial for creating such an environment. This goal is pursued with the use of various regulatory measures which should ultimately lead to such level of market competition that allows for market deregulation.

There are a few examples of successful regulatory work of the President of UKE.

Pursuant to the WBA market (market 5, according to the EU Commission recommendation of 2007 on relevant product and service markets within the electronic communications sector) regulation of 7 October 2014 two separate local markets were delineated, i.e. one regulated market that covers the area of the country with the exception of 76 municipal areas, and the second market of 76 municipalities which is not regulated as effective competition has been recognised within this area. This solution enabled the SMP operator to more effectively compete on selected markets and at the same time it was a clear incentive to boost investment in NGA networks. At the end of the 1st quarter of 2016, the FTTH network coverage of the SMP operator (Orange Polska ) reached 812,000 households and in October 2015 the operator introduced a package of services that included high-speed data transmission (600 Mbit/s). At the same time, it declares further investments in the development of fixed-line networks which proves that regulator’s approach has been effective.

In June of 2016, a regulatory decision concerning the LLU wholesale market for the whole country, with the exception of 26 municipalities was submitted for consultations. Moreover, a group was selected from regulated areas – it comprises 255 municipalities for which the regulation of fully fibre-optic local loops will be limited to the obligation of access to passive infrastructure and the obligation of regulatory accounting. Similarly to the approach applied for market 5, the proposed regulation introduces environment and conditions favourable for investments as it corresponds to the current competitive situation on the LLU market, removing unnecessary regulatory burden on effectively competitive areas, and reducing it in the rest of the country within the range of fully fibre-optic local loops. Lack of regulation in the competitive areas and their reduction in other areas will be an additional incentive for the SMP operator and alternative operators to increase investments in new infrastructure. In turn, regulation in non-competitive areas will enable further development of competition based on the SMP operator’s infrastructure, in order to provide users with maximum benefit in terms of choice, price and quality of telecommunications services.

The NRA constantly monitors the state of the Polish market in order to address market developments. In May 2014, the market for the provision of a part or all of the minimum set of leased lines with a bit rate up to 2 Mbit/s (inclusive) was declared an effectively competitive market. In September 2015, the President of UKE issued a decision on the wholesale leased lines. Market for high-quality access at a fixed location with a bit rate up to 2 Mbit/s (including mostly the current market for lease of terminating segments of leased lines) and the market for lease of non-terminating segments of leased lines have been deregulated. In contrast, the wholesale market for high-quality access at a fixed location up to 2 Mbit/s was found as lacking of effective competition; Orange Polska S.A. was designated as the company with significant market power on this market and regulatory obligations were imposed on this operator.

Average monthly cost of Internet access service for the speed range up to 10 Mbit/s amounted to EUR 33.20 in 2012, whereas in 2015 this cost was EUR 22.92, which proves that the activities of the President of UKE described above have brought visible results.

1. **What are the elements of an enabling environment to promote the quality of access to the Internet?**

Due to increasing availability of telecommunications services and their low prices, quality becomes   
a more and more important factor influencing consumer decisions when choosing service provider. Implementation of professional, unified methods and indicators for assessing the quality of services is necessary to enable customers to assess the quality of telecommunications services in practice.

The importance of the service quality was addressed by the NRA in Poland in 2012. This issue is both significant and complex, which is why the President of UKE suggested telecommunications companies and academia to cooperate in order to define quality indicators. These works were carried out under the Memorandum on cooperation for improving the quality of telecommunications services signed in 2012. Suitable indicators were defined on the basis of affordability and suitability criteria taken into account by an average consumer. The indicators, along with the measuring methods and rules for publishing the measurement results were included in the Report on works for defining the quality indicators. The first information about the quality of fixed-line and mobile services were presented on the [UKE website in the second half of 2014](http://en.uke.gov.pl/quality-of-telecommunications-services-at-last-to-compare-14823).

Moreover, in the fourth quarter of 2015 the President commenced verification of the quality of services on mobile networks of four major national operators. The measurements provided consumers with reliable information on specific parameters of various network service providers. In addition to practical information for users, the measurements showed a high quality of mobile services available in Poland when compared to Europe.

The results of service quality measurements are useful to all participants of the telecommunications market: the regulator is able to verify its regulatory policy, operators may identify vulnerabilities on their network and make investment or modernization decisions. Nevertheless, the most important benefit is provided to users of telecommunications services who receive information that enable them to compare the quality of services available on the networks of different operators, and to make more informed choice. Service users also benefit from the fact that the availability of information on the quality of services provided by different operators stimulates competition between the operators and leads to further development of networks and services. In 2016 the President of UKE commissioned a research on the quality level of network on railway routes.

Moreover, a Control and Measurement Tool (NPK) was created under the Information System for Broadband Infrastructure and the Broadband Poland website (SIPS) project, to measure the parameters of networks constructed with the use of EU funds. One of NPK elements is a measurement application prepared for fixed-line and mobile platforms that work under different operating systems. With this application, users of internet access services provided on newly built broadband networks will have the ability to measure the quality of service parameters, such as data transmission rate or data packet delay.

1. **What are the elements of an enabling environment to build confidence and security in the use of the Internet?**

Nowadays we need to consider access to ICT as a basic service. Being connected gives Internet users access to markets, information, social networks, education etc., but if consumers are to benefit fully from the digital services and ICTs, the networks need to be efficient, secure and reliable.

One of the biggest challenges is related to the issue of cybersecurity. We need to maintain trust in the networks and online services. Without secure networks and without trust in these networks it will not be possible to create a real information society. A broad cooperation is needed to realise this task, not only on governmental level, but with various stakeholders (operators, other authorities and NGOs).

There are three main elements of enabling environment to build confidence and security in the use of the Internet: awareness, education and trust. Consumer-oriented policy is one of the most important pillars in the strategy of the President of UKE. Information and education activities undertaken by the President of UKE are aimed at increasing awareness and trust among end users. The use of modern technologies and services becomes more and more complicated and sometimes difficult. Building trust in online services becomes a real challenge. That is why users need to have regulator’s support. It is regulator’s responsibility to protect citizens and encourage entrepreneurs to provide services in a better way.

In order to realize this objective, the President of UKE has launched the certification programme which has won the WSIS Prize in 2016. The certificates have been awarded for several years and are granted for the period of the current calendar year. They became a "quality stamp" that is important for both subscribers and telecommunications undertakings. The programme is voluntary and open to all interested stakeholders. There is no legal obligation to take part in it. The process of request submission and the conditions of participation are laid out in detail in the rules for each category. Furthermore, undertakings that were granted certificates have to submit a report on the implementation of the programme’s rules. Based on this report the President of UKE may verify the compliance with certification terms and conditions. The regulator may also request explanation or conduct an audit.

The certificates are currently granted in five categories:

* „Safe Internet” aims to encourage the telecommunications undertakings to ensure the safety of network users;
* „Senior” with objective to encourage the elderly to improve their skills at using new technologies;
* „Junior” set on children protection against harmful content;
* „Offer Comparison Website” aims to help the consumers to compare the telecom offers and to encourage operators to present them in the most transparent manner
* „Disabled Friendly” designed to improve protection of end users, especially disabled or with special needs.

Winners in each category have to commit to certain actions. In the Safe Internet category, the awarded companies have committed themselves to the following actions:

* organization of information classes at schools about the risks and violence on the network;
* drafting manuals on how to safely introduce children to the Internet, addressed to parents and children;
* establishing an e-mail address to which users may sent questions about safety on the Internet;
* provision of tools that prevent children from accessing adult content.

UKE has noticed a growing interest in this initiative and a possibility of expanding it by adding new categories. The goal is to attract new partners and participants, which will ultimately contribute to raising awareness among consumers and building their confidence and security.

Certificates of the President of UKE are only one example of activities undertaken by the regulator to raise users’ awareness in the cyberspace. Other projects include, e.g. information and education campaigns like Safer Internet Day or publishing information guides for consumers.

Good examples are two guides that we presented to the consumers in the recent years:

1) „[Guide for the safe use of electronic communications means in cyberspace](http://en.uke.gov.pl/safety-of-the-electronic-communications-in-cyberspace-15342)” published in 2015 shows risks to which every cyberspace user is exposed to. The guide contains important information on the online threats and consequences of cyberattacks. It also presents recommendation on how to protect data and computer systems.

2) "[Guide for the safe use of mobile devices connected to the Internet](http://en.uke.gov.pl/safety-of-the-electronic-communications-in-cyberspace-mobile-devices-17400)" issued in 2016 is complementary to the previous guide. It takes into account the uptake of mobile technologies and the challenges connected with it.

UKE is fully aware of the rapid technological changes, emerging challenges and the need to continue its activities in the area of Building Confidence and Security in the Use of ICTs.

1. **What is the role of Governments in building an enabling environment?**

## Government plays a key role in building an enabling environment for access to the Internet, as it sets the objectives of national policies. Policy as regards building an enabling environment for access to the Internet is implemented by the relevant ministry, in the case of Poland it is the Ministry of Digital Affairs, which sets national goals and policy objectives. As a national regulatory authority, the President of UKE has a special status within government administration – although it is supervised by the Ministry of Digital Affairs, it acts independently in its regulatory capacity. In Poland, one of the most important documents as regards the development of internet access is the National Broadband Plan adopted in 2014, which foresees that 100 % of households and companies should have access to internet connectivity of at least 30 Mbit/s until 2020 and 50 % of households and companies have access to internet connectivity of 100 Mbit/s until 2020. The target values provided for in the Polish national broadband plan are fully harmonized with the objectives of the EU’s Digital Agenda for Europe (DAE). In addition, the Polish Parliament adopted the Act of 07 May 2010 on supporting the development of telecommunications services and network with the objective to improve broadband internet access in Poland. Local governments are the main beneficiary of European funds for broadband roll-out, while the Ministry of Digital Affairs and the President of UKE play a supportive role. The Act also simplifies administrative procedures and facilitates private investments by infrastructure sharing by utility operators.