



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

INFORMATION NOTICE

Conduct of Geographic Surveys under Article 22 of the European Electronic Communications Code

Information Notice

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Commission for Communications Regulation

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1 Introduction

1. Article 22(1) of the European Electronic Communications Code¹ (“**Code**”) provides for the conduct of geographic surveys by a national regulatory authority (**‘NRA’**) and/or other competent authorities². The Code entered into force on 20 December 2018 and replaces the EU Common Regulatory Framework which was adopted in 2002 (and amended in 2009). While the Code has not yet been transposed into Irish law, transposition is expected to be finalised later this year³.
2. Having regard to its functions and objectives under the Code⁴, under Article 20(1) and Article 21(1), an NRA such as ComReg will have the power to require undertakings providing electronic communications networks and services to provide information necessary to discharge its functions and objectives. One such function under Article 22 of the Code is the conduct of a geographic survey of the reach of broadband networks (**‘Geographic Survey’**) by December 2023, to be updated at least every 3 years thereafter. The information required from undertakings for this purpose will need to be disaggregated at local level and sufficiently detailed and include sufficient information on quality-of-service parameters. The conduct of the Geographic Survey will therefore require the cooperation of undertakings with the collection of an adequately granular range of data, including geo-coded/location information.
3. The information to be obtained for the Geographic Survey can be used by ComReg (and other competent authorities as appropriate) for several of its other functions, including those relating to market analysis, for defining coverage obligations attached to rights of use for radio spectrum and for verifying availability of services falling within the universal service obligations (**‘USO’**).

¹ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast), OJEU [2018] L321/36, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972&from=EN>

² Where the national regulatory authority is not the designated authority to conduct the survey, the survey must be “done in cooperation with the national regulatory authority to the extent it may be relevant to its task.”

³ See <https://www.gov.ie/en/publication/339a9-european-electronic-communications-code-eecc/>.

⁴ Many of the functions and objectives of NRAs under the Code have been in place since 2002 under the previous framework.

4. The purpose of this Information Notice is to provide notice to undertakings providing electronic communications networks and services (**‘Electronic Communications Undertakings’**) of ComReg’s intentions with respect to the collection of geographic and other information on the reach of broadband networks. This is to:
 - (a) ensure readiness on the part of ComReg regarding the collection of geographic information regarding its functions and obligations under the Code, as well as under its existing functions and obligations; and
 - (b) ensure readiness on the part of Electronic Communications Undertakings regarding their obligations in respect of the provision of information to ComReg for current and future regulatory purposes, including for the Geographic Survey.

2 Background

5. Geographical information on the reach of broadband networks is necessary to enable the effective design, implementation and monitoring of regulatory and other policies. In this regard, the availability and collection of data to enable the survey of the reach of broadband networks, and provided at the required level of resolution, is essential for ComReg (and other appropriate competent authorities) to be able to properly carry out its functions effectively.
6. Article 22 of the Code provides explicitly for such a function, but ComReg notes that the collection and use of such data is also consistent with a number of ComReg's existing functions which include: the collection, processing and publishing of data pertaining to electronic communications for statistical purposes; carrying out market analysis for the purposes of promoting competition and consumer welfare; and for evaluating future network or service developments that could have an impact on wholesale services made available to competitors⁵.
7. Furthermore, under section 10(da) of the Communications Regulation Act 2002 ("**Act**") one of the functions of ComReg is:

"...for the purposes of contributing to an open and competitive market and also for statistical purposes, to collect, compile, extract, disseminate and publish information from undertakings relating to the provision of electronic communications services, electronic communications networks and associated facilities and the transmission of such services on those networks"
8. This function also coincides with those set out in Article 22(5) of the Code (and referred to in paragraph 9 below).

⁵ Regulation 18 of the Authorisation Regulations enables ComReg to seek information from an undertaking in respect of the general authorisation, a right of use for radio frequencies or numbers, or for the specific obligations where the information requirement is proportionate and objectively justified. This includes, among other things, for the following purposes:

- for the publication of comparative overviews of quality and price of services for the benefit of consumers (Regulation 18(1)(d)),
- for clearly defined statistical purposes (Regulation 18(1)(e)),
- for evaluating future network or service developments that could have an impact on wholesale services made available to competitors (Regulation 18(1)(h)).

9. Article 22(5) provides that the Geographic Survey be used to support several functions identified elsewhere under the Code (many of which currently fall within ComReg's existing functions), including:
- (a) defining relevant markets (as set out in Article 64(3)) and, where applicable, to impose appropriate universal service obligations (as set out in Article 86(1));
 - (b) verifying the availability of services falling within the universal service obligations;
 - (c) allocating public funds for the deployment of electronic communications networks and the design of national broadband plans, also including an adequate identification of areas where there is market failure;
 - (d) defining coverage obligations attached to the rights of use for radio spectrum;
 - (e) designating areas with clear territorial boundaries where no undertaking or public authority has deployed or is planning to deploy a VHCN⁶ or significantly upgrade or extend its network to a performance of at least 100 Mbps download speeds (as set out in Article 22(2)); and
 - (f) where not available on the market, making available information tools that enable end users to determine the availability of connectivity in different areas, with a level of detail which is sufficient to support their choice of operator or service provider (as set out in Article 22(6)).
10. The Geographic Survey must be carried out by 21 December 2023, with a requirement to update it at least every 3 years thereafter. The results from the Geographic Survey must be made available to the Body of European Regulators of Electronic Communications ('BEREC')⁷ and the European Commission ('EC') upon their request.

⁶ The EECC defines a VHCN as "...either an electronic communications network which consists wholly of optical fibre elements at least up to the distribution point at the serving location, or an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency and its variation; network performance can be considered similar regardless of whether the end-user experience varies due to the inherently different characteristics of the medium by which the network ultimately connects with the network termination point;"

⁷ <https://berec.europa.eu/>.

3 Scope of information to be collected

3.1 Article 22 Requirements

11. In determining the scope of information to be collected, ComReg will have regard to, inter alia, its functions under Article 22 of the Code, as well as the legislative functions that rely on the use of information gathered for the purpose of the Geographical Survey.
12. ComReg will also have regard to the guidelines adopted by BEREC on Geographic Surveys in accordance with Article 22(7) of the Code. In this respect, to assist NRAs and/or other competent authorities on the consistent implementation of obligations under that Article, BEREC has already issued three sets of guidelines on the geographical surveys of network deployments (referred to collectively as the “**BEREC Guidelines**”). These are:
 - (a) The Core BEREC Guidelines (“**Core Guidelines**”)⁸ on Geographical Surveys⁹;
 - (b) Guidelines on Article 22 (2), 22 (3), and 22 (4) (“**Article 22 Guidelines**”)¹⁰; and
 - (c) Guidelines on the Verification of Information (“**Verification Guidelines**”)¹¹.

⁸https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/9027-berec-guidelines-to-assist-nras-on-the-consistent-application-of-geographical-surveys-of-network-deployments

⁹ BoR (20) 42 (“**Core Guidelines**”) establishes the definitions for all the indicators that NRA/OCAs must provide for and as well the minimum level of granularity for the required information. They also explain which operators are subject to provide information, deliver important classifications, namely on the kinds of technologies, speed tiers to consider and types of VHCN networks. The guidelines also recommend the frequency of data provision and stress the importance to NRAs/OCAs of using geographic information systems. Moreover, the Guidelines deliver on aggregation methods and on considerations to make in order to provide public information and safeguard business secrets.

¹⁰ BoR (21) 31 (“**Article 22 Guidelines**”) BEREC Guidelines dealing with the consistent implementation of Article 22, paragraphs 2, 3 and 4. These parts in the article describe some optional policies that NRAs/OCAs may undertake in order to inform private and public agents of the nonavailability of existing or planned VHCN networks or networks offering at least 100 Mbps download speed in areas with precise boundaries (“designated areas”), and furthermore to invite agents to declare their intentions to deploy VHCNs in these areas.

¹¹BoR (21) 82 (“**Verification Guidelines**”)
https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/9729-draft-berec-guidelines-on-geographical-surveys-verification-of-information.

3.2 Data to be collected

13. As noted earlier, Article 22 of the Code provides that:

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

14. It follows therefore that the provision of accurate location data on broadband reach and the associated quality of service parameters is necessary for the purposes of the Geographic Survey. Consistent with the BEREC Guidelines, ComReg defines the appropriate level of resolution at the address level in the case of fixed broadband and at a resolution of at least 100m x 100m grids in the case of mobile broadband.
15. Article 22 requires collection of geographic data on current broadband reach and permits, at the discretion of the NRA or other competent authorities' collection of forecast data on broadband reach. ComReg is of the view that forecast data on broadband reach is important for ComReg to carry out its functions and will therefore require provision of such information as part of the data to be collected.
16. Consistent with paragraph 13 of the BEREC Core Guidelines, ComReg will not for the purpose of the Geographic Survey collect data on physical infrastructures (such as ducts, conduits, masts, manholes and so on) and data on broadband demand or take up as they are not directly relevant to 'broadband reach'¹².
17. Certain data required for the purpose of the Geographic Survey is already being collected by ComReg for the purpose of its existing functions and ComReg has begun work to identify the additional data required to meet the Article 22 and BEREC Guidelines' requirements.
18. In identifying the information required to describe the reach and performance of broadband networks, ComReg will use the indicators (i.e., calculated theoretical coverage and performance information), common definitions and minimum resolution levels set out in BEREC's Core Guidelines (which may be added to or amended from time to time). ComReg may augment the number of indicators and/or categories per indicator if it is considered that it is necessary to do so for ComReg to carry out its functions¹³.

¹² Although, ComReg collects and utilised some such information for other regulatory purposes such as market analysis and the pricing of regulated services.

¹³ As acknowledged by BEREC in paragraph 39 of the Core Guidelines.

19. According to the Core Guidelines, a normalised structured subset of the data must be produced on broadband reach and associated quality of service parameters at the necessary level of local detail. The minimum required information and data are detailed in subsections 2.4.1 (with reference to fixed broadband) and 2.4.2 (with reference to mobile broadband) of the Core Guidelines and can be summarised as follows:

- (a) Fixed networks. According to the Core Guidelines (see paragraph 2.3) data on fixed networks should be collected at the address level with exact geocoding¹⁴. ComReg intends to collect the information at an address level. ComReg notes that for purposes of this Geographic Survey fixed wireless access ('**FWA**') networks will be treated as involving the provision of fixed broadband and therefore FWA network data will be collected at an address level. The information collected must also be appropriately geo-coded and will include the technology type available, as well as certain quality of service parameters such as upload and download speeds¹⁵. A draft of the specification of fixed network data to be collected by ComReg is available on ComReg's website at the link provided in the footnote below.¹⁶
- (b) Mobile Networks. For mobile networks 100m x 100m or smaller grid resolution is required according to the Core Guidelines. It will be necessary that information collected in respect of mobile networks will also be appropriately geo-coded and will include information such as technology availability and other information¹⁷. Note that while upload and download speeds are required in the case of fixed networks, the Core Guidelines indicate that these are optional for mobile networks. ComReg currently receives mobile network data from the mobile network operators in response to an issued information requirement pursuant to section 13D (1) of the Communications Regulation Act 2002. This mobile network data is used to generate outdoor mobile coverage maps for the available technologies on an individual mobile operator basis. ComReg does not collect mobile upload and download speeds and does not, at this point, intend to do so for the purposes of this Geographic Survey.

¹⁴ The Core Guidelines recommend that if this is not possible data can be provided at a 100m by 100m grid level as a temporary solution until such time that address level data can be provided. ComReg does not consider it appropriate to collect data at this level as it would still require the geocoded information at a precise level to create such 100m by 100m grids.

¹⁵ For more details in this regard please see subsections 2.4.1 of the Core Guidelines.

¹⁶ A draft of the specification of fixed network data to be collected by ComReg is available at: <https://www.comreg.ie/industry/electronic-communications/market-information/qkdr-guidance-documents/>

¹⁷ See paragraph 2.4.2 of the Core Guidelines for more details in this regard.

3.3 Which operators fall in scope for the provision of information?

20. Paragraph 24 of the Core Guidelines notes that operators able to control any part of the access network are the main source of information for the Geographic Survey reach.

3.4 Data collection process

21. ComReg already has processes in place for collection of data and data quality assurance and these will be further developed to ensure that they align with the requirements of Article 22 of the Code and the BEREC Guidelines. In this regard ComReg will utilise the existing data collection processes and systems currently used to gather data, as appropriate.

3.5 Sharing and publication of information

22. Regarding the sharing of information, the provisions of Article 20 of the Code apply, including with respect to the treatment of confidential information. As noted above, the results from the Geographic Survey must be made available to BEREC and the EC upon their request. Further, as per Article 20(2) of the Code, upon receipt of a substantiated request, information submitted to an NRA or other competent authority can be made available to an NRA or other competent authority in the same or different Member State and to BEREC, where necessary to allow either authority, or BEREC, to fulfil responsibilities under European Union law.
23. Under Article 22(6), ComReg can also make available information tools enabling end users to determine the availability of connectivity in different areas, and at a level of detail that is useful to support their choice of service provider.

4 Next Steps

24. The following broad timelines are envisaged for conducting the Geographic Survey, though these may be subject to change:
 - (a) Informal engagement with operators on the fixed and mobile data specification has been ongoing and will continue until Q1 **2023**;
 - (b) Formal data requests to be issued to operators by the end of Q1 **2023**;
 - (c) Operators to submit Q1 2023 data in **May 2023**; and
 - (d) Processing and verification of data submitted from May 2023 until November **2023**.
25. In the event of queries on this Information Notice, please contact GeoSurvey@comreg.ie.
26. ComReg reserves the right to update the details in this Information Notice, as appropriate.