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Comments by BUGLAS e.V. on the European Commission's questionnaire for the public consultation on universal service principles in e-communications

I. Introduction

BUGLAS e.V. (Bundesverband Glasfaseranschluss) is a German association, founded in 2009, of 21 German alternative regional and local fixed network operators using their own broadband infrastructure,

based on optical fibre technology. The members of BUGLAS as well as further details about the association can be found under www.buglas.de.

BUGLAS welcomes the opportunity to comment on the various issues raised by the Commission in the questionnaire. The future legal framework for the development and operation of broadband infrastructure is of great importance to all BUGLAS members which play an essential role in this market, given that their broadband networks create more competition vis-à-vis the incumbent operator and contribute to the broadband roll-out in all parts of Germany.

II. Basic universal service concept

BUGLAS takes the view that a minimum set of universal service obligations for narrow-band electronic communications services to be offered by the incumbent operators to all consumers, together with a "safety net" in the form of a compensation mechanism which can be called upon as a last resort, might have proven to be useful so far in the transition phase from State monopolies to open and competitive telecommunications markets. This is in particular due to the flexible approach given to the Member states under the current set of rules, under which the competitive

market forces are given the primary focus and the recourse to the universal service obligations may be limited to situations of market failure. Thanks to this flexible approach, in many Member states the universal service obligations did not have to be called upon formally in order to ensure the best possible coverage with all relevant communications services for most parts of the population. However, in Germany there was no need to take regulatory actions to fulfill service obligations.

In response to **Questions 1 and 2**, BUGLAS therefore submits its view that in today's competitive environment, the market forces can be relied upon to a large extent in order to meet demand for basic electronic communications services for all parts of the society. The market forces should also remain the primary focus of the future legal framework.

The best suited policy approach to allow disabled and low revenue consumers as well as consumers located in "white spots" to access and use basic electronic communications services is to create sufficient incentives for further investment into innovative infrastructure, such as optical fibre. This will enable in particular the regional and local competitive carriers to offer electronic communications services to more customers, including the above mentioned categories, which were previously not given a choice among different operators.

III. Coverage of broadband services

BUGLAS is of the opinion that the constantly increasing consumer demand for broadband infrastructure and services in the recent years, will be met by market powers. Therefore BUGLAS recognizes no need to expand the EU legal framework for universal services on broadband services.

BUGLAS strongly believes that the universal service obligations, should they be reviewed and amended for the coming years, should remain a flexible as they are so far, so as to allow for market-based solutions as a primary driver for enhanced broadband infrastructure and services as well.

In response to **Questions 3 and 4**, BUGLAS therefore submits its view that the universal service obligations should not be amended in order to encompass also broadband access and services.

An extension of universal service obligation to broadband access and services would stifle innovation and competition in this dynamic market segment. If the incumbent operator is placed under a strict obligation to build out its broadband network in the entire geographical area including “white spots” and would in exchange call upon a financial compensation from all other market players, this would clearly depreciate all investments made by the alternative carriers into innovative infrastructure and discourage further investments of that sort.

This would also have other negative economic and social consequences, because many new jobs generated by the alternative carriers such as the BUGLAS members, would be put at risk.

In response to **Questions 5 and 6**, BUGLAS submits its view that the universal service provisions should be devised in a flexible manner. It is obvious and justified that any such review at EU level would necessarily include a common set of basic provisions which would apply to all EU Member states. However, a sufficient degree of flexibility should be granted for their implementation into national law and administrative practice. This is important in order to enable Member states to adopt the best suited approach for the broadband roll-out in their respective territories, taking into account their historical and geographical particularities as well as any existing technical constraints and preferences for the operators.

IV. Financing of universal service

In response to **Questions 7 and 8**, BUGLAS however submits its view that any such compensation mechanism should be limited as much as possible. The best way to achieve this is to limit the scope of the universal service obligations in the first place (as described under III. above).

In addition, such funding mechanisms should in that case be extended to all market players active in the field of broadband communications, irrespective of the technology of the underlying network infrastructure. In the interest of fair and non-discriminatory market conditions, this is warranted to prevent competitive distortions for companies benefitting from the roll-out of broadband networks for the provision of their services other than electronic communications.

