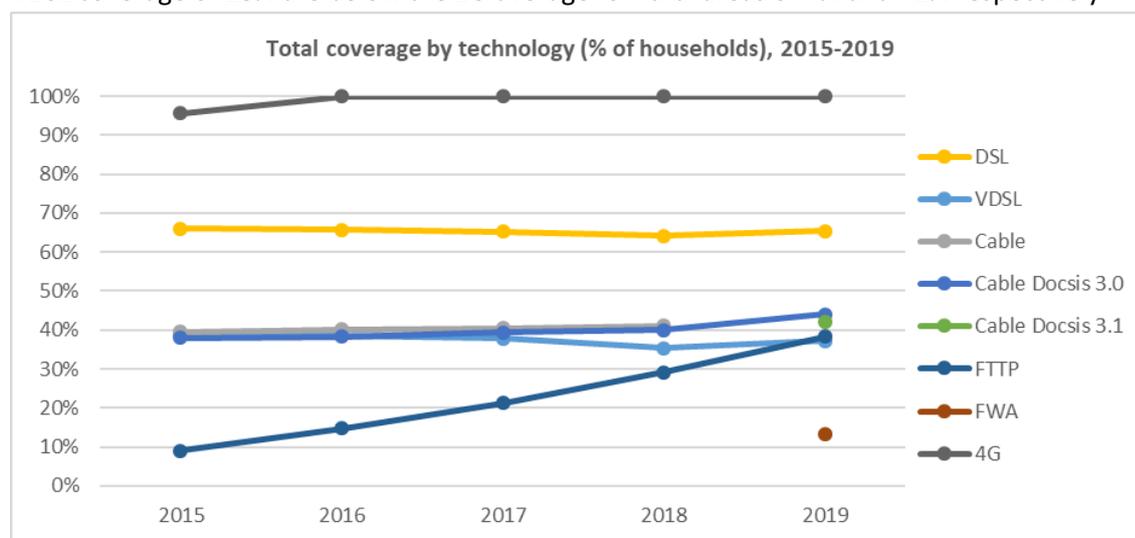
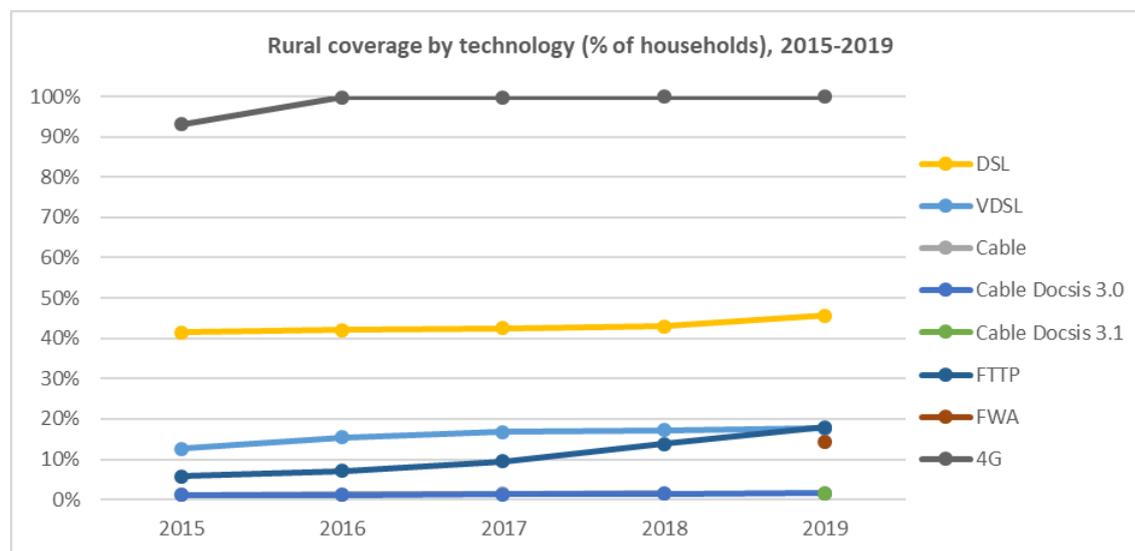


## Poland

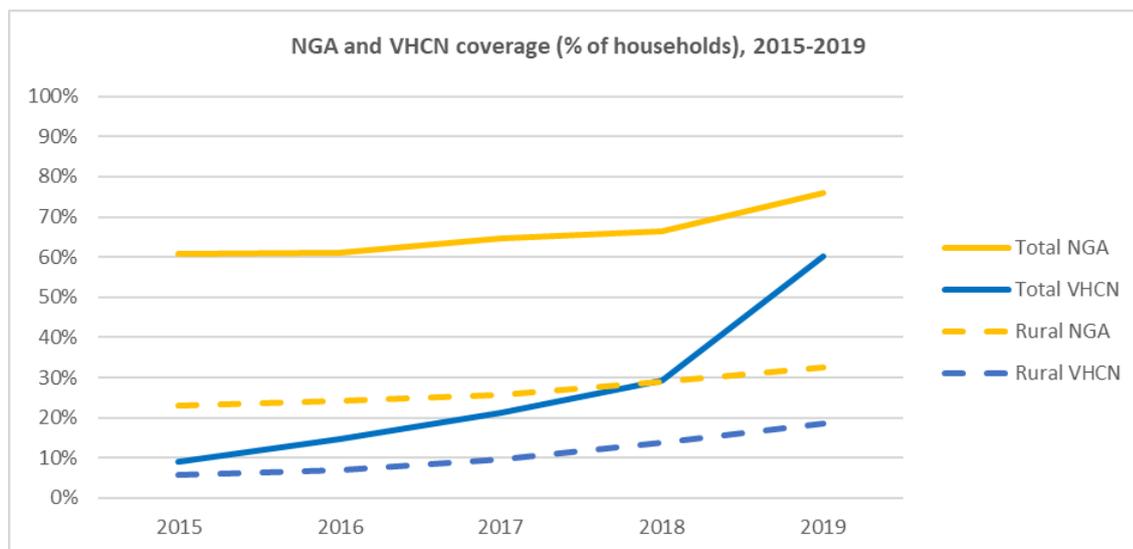
Despite its low ranking for fast broadband NGA coverage (25<sup>th</sup> among all EU Member States), Poland has been steadily progressing in its deployment of VHC networks, reaching a coverage of 60% of households (against 44% at EU level). More specifically, in 2019, its FTTP coverage totalled 38% of households, above the EU average of 34%. Poland's DOCSIS 3.1 coverage of 42% of households is also above the EU average of 19%. In rural areas of Poland, DOCSIS 3.1 coverage of 1% of households and VDSL coverage of 18% are below the EU average for rural areas of 4% and 42% respectively.



Source IHS and Point Topic, *Broadband coverage in Europe studies*

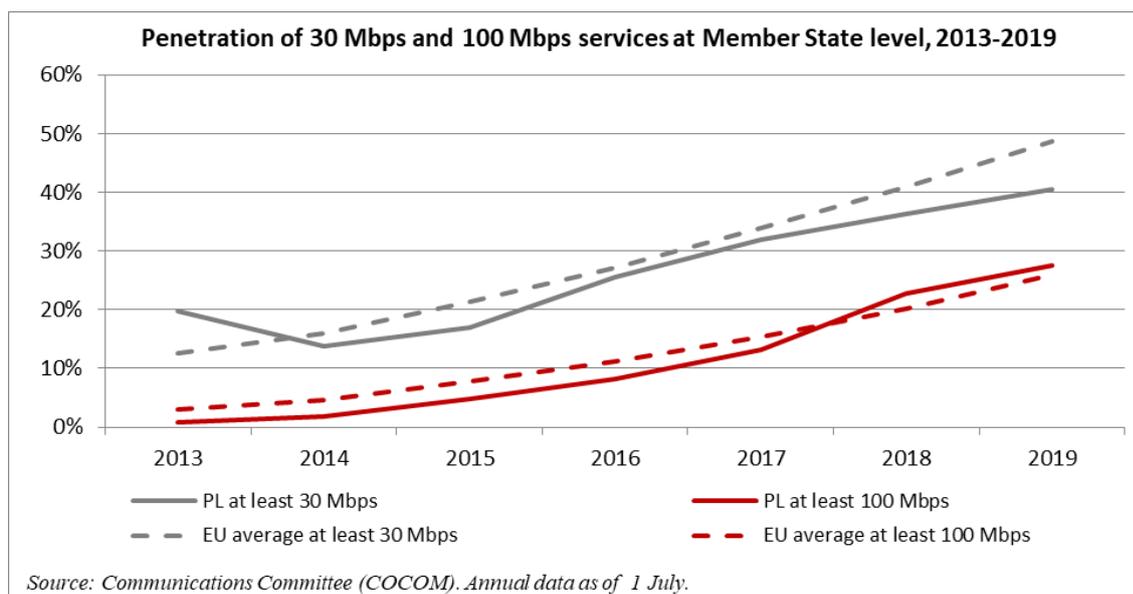


Source IHS and Point Topic, *Broadband coverage in Europe studies*



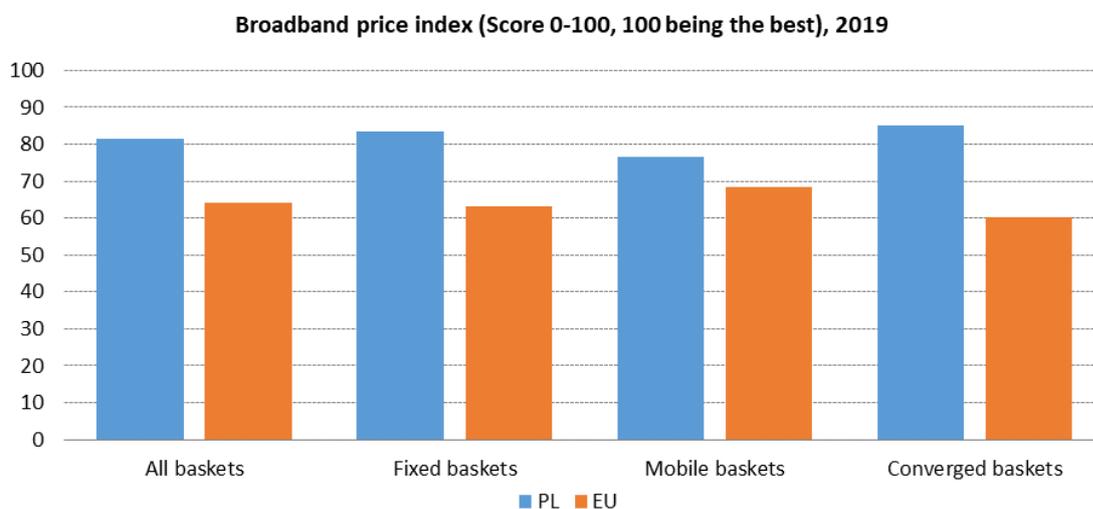
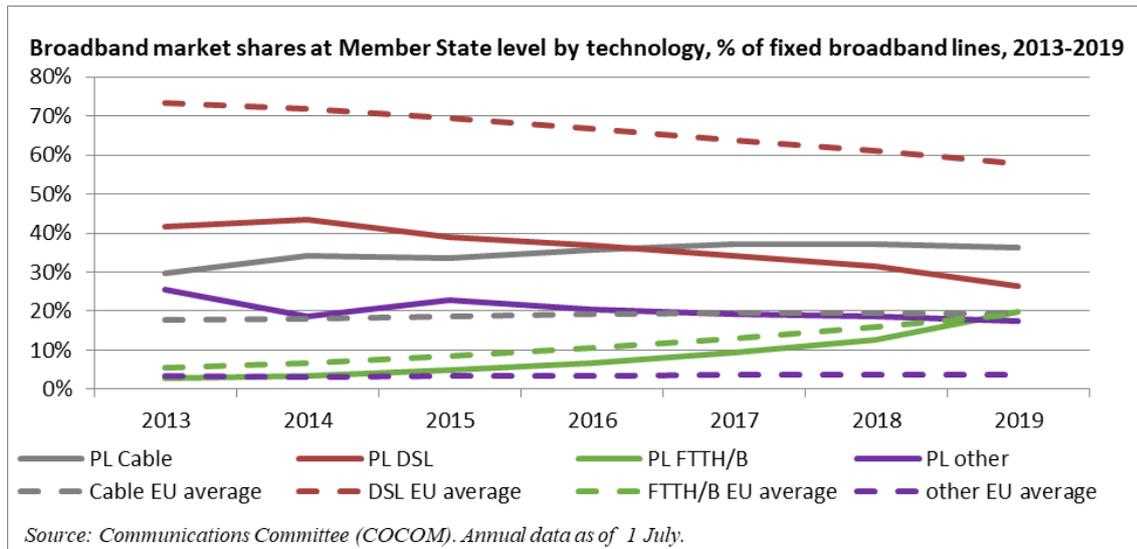
Source IHS and Point Topic, *Broadband coverage in Europe studies*

Poland performs well when it comes to broadband penetration of at least 100 Mbps (27.6%), exceeding the EU average (25.9%) by 1.7 percentage points. Performance is less satisfactory when it comes to broadband penetration of 30 Mbps – 40.5% compared with the EU average of 48.7%. Both indicators, however, have shown a steadily increasing trend over the last 5 years. For mobile broadband take-up, Poland ranks first in the EU, with 176 subscriptions per 100 people.



Source: Communications Committee (COCOM). Annual data as of 1 July.

Poland remains close to the EU average for its share of FTTH/B (19.9%) and has shown a steady increase in the use of this technology since 2013. The share of cable connections, however, remains well above the EU average, at 36.2% without any sign of decline. The share of DSL has been decreasing markedly since 2014 and now stands at 26.4%, well below the EU average of 57.8%.



Source Commission services based on Empirica (Retail broadband prices studies)

Retail prices in Poland are low. Poland scores second in the EU in the converged baskets segment - the country achieved a score of 85 compared to the EU average of 60. Prices are equally competitive in the fixed baskets segment (index of 84 compared to the EU average of 63). The prices in the mobile baskets segment are comparatively closer to the EU average but still lower – Poland scores 77 compared to the EU average of 68. The low prices in this segment could justify Poland's ranking as the leading market in the EU for mobile broadband take-up.

### 1. Progress towards a Gigabit Society<sup>1</sup>

Poland still faces difficulties in achieving the 2020 connectivity goals. According to data provided by the Polish authorities, the average penetration of residential apartments with fixed-line internet coverage of at least 30 Mbps reached 71.7% at the end of 2018, and the use of internet access services with the capacity of at least 100 Mbps reached 19.3%. In order to address the difficulties with broadband roll-out, a number of amendments to the so-called '*Megaustawa*<sup>2</sup> ('Mega-law') were

<sup>1</sup> It is noted that statements regarding planned or potential State aid measures record intentions declared by Member States and do not pre-judge or pre-empt the assessment of such measures by the Commission under the relevant state aid rules. The DESI report is not meant to provide any assessment of the compliance of such measures with state aid rules and procedures.

<sup>2</sup> Ustawa z dnia 7 maja 2010 r. o wspieraniu rozwoju usług i sieci telekomunikacyjnych, Dz.U. 2010 nr 106 poz. 675 (Act of 7 May 2010 on the support of the development of telecommunications services and networks, O.J. 2010 No 106, 675).

adopted in 2019. These amendments include provisions creating a new Broadband Fund (budget of PLN 140 million, or approximately €33 million) to provide parallel or complementary support, from 2021, for actions financed under the country's operational programme Digital Poland (POPC)<sup>3</sup>. Following the successful roll-out of POPC-funded projects, the Ministry of Digital Affairs would like to extend POPC beyond 2020 (POPC 2). The Ministry expects a number of projects to be implemented in 2020 (for contracts signed in 2017). Other amendments to the *Megaustawa* address the bottlenecks that have been preventing application of the Broadband Cost Reduction Directive (BB CRD). Those amendments include: better mapping of the existing infrastructure (including fibre and other cable networks; data will have to be provided twice a year starting in 2022), facilitation of permits (significantly lower fees applicable to all local authorities) and amended rules for access to buildings. The Ministry also proposed a number of amendments to facilitate investments (e.g. through investment contracts signed with the President of UKE or with local authorities) which were also adopted.

In 2020, the national regulator, UKE, plans to issue decisions to energy operators, since access to energy poles is considered one of the bottlenecks for investments. However, UKE is required to issue such decisions in cooperation with the energy regulator, URE. Legislative amendments to facilitate UKE's work (through consultation with URE) did not pass the legislative process in 2019 despite the Ministry's efforts.

The Polish government adopted an updated national broadband plan on 10 March 2020<sup>4</sup>. The objectives of the new national broadband strategy are aligned with those of the Gigabit Society. Poland aims to free and assign spectrum in the 700 MHz band by 30 June 2022; this deadline stems from long-lasting negotiations with non-EU neighbours and conceptual work on the possibility of developing one nationwide 5G network in the 700 MHz band. 13 5G tests are ongoing, in addition to the 8 that have already been completed.

## 2. Market developments

The Polish market observed an increase in both broadband and mobile prices in 2019. In the case of mobile prices, almost all MNOs increased prices around the same time (around PLN 5 PLN/€1.17 per subscription, in the *'more-for-more'* model). Considering that the average revenue per user is low in the Polish market, this change did not seem to surprise the regulator and it was not analysed by the competition authority, UOKiK. The market is experiencing further convergence of the electronic communications, media and information technology sectors. After acquiring Netia in 2018, Grupa Cyfrowy Polsat and Discovery announced the creation of a joint OTT TV platform, which still needs UOKiK's approval. Meanwhile, cable operators reported that earlier in 2019 content providers (Grupa Cyfrowy Polsat and Discovery) had significantly increased wholesale prices for access to programming, leaving little choice over the composition of programme packages and making the offers of cable operators less attractive. This issue was reported to UOKiK, which has not reached any conclusion yet. Vectra is still in the process of acquiring Multimedia (ongoing since September 2018)<sup>5</sup>. In a move to expand their portfolios, mobile operators are showing a growing interest in fibre networks, as evidenced by acquisitions, the establishment of associated enterprises and their cooperation with wholesale operators. In one of the biggest acquisitions, P4 (mobile operator) acquired 100% of the 3S Group, managing almost 4,000 km of fibre-optic lines (mostly in the south of Poland).

Overall, the fixed telephony market continued to observe a downward trend (16% fall in value between the end of 2017 and the end of 2018), as did the business segment, whose revenues fell by

<sup>3</sup> The programme is financed through the European Regional Development Fund (€2.17 billion) as well as national funds (€394.4 million).

<sup>4</sup> The plan was adopted by the Council of Ministers on 10 March 2020.

<sup>5</sup> The acquisition was conditionally approved on 17 January 2020.

7.4%. In line with this trend, the total duration of voice calls decreased significantly (by almost 24% between the end of 2017 and the end of 2018). In the mobile market, there was a significant increase in the number of operators providing mobile telephony services (85 at the end of 2018 compared to 31 at the end of 2017), mainly because of a change in the model of cooperation with MNOs and intermediaries. The volume of voice calls rose by 9% between 2017 and 2018, with a 32% increase in the duration of voice calls made from abroad (roam-like-at-home effect). The value of mobile telephony services fell by 8% between 2017 and 2018, but in 2019 the market noted an increase in prices and decreasing RLAH-related imbalances, which will affect this trend. The fastest changes are visible in data services, up 47% between 2017 and 2018. In 2018 the most popular bundles remained double play (mobile telephony + mobile internet and fixed internet + TV). However, there was a decrease in these bundles, while the demand increased for triple play offers (mobile telephony + mobile internet + TV). The value of the bundled services increased by 56% between 2017 and 2018. Concerning substitution trends, according to the consumer survey UKE conducted in 2019, Polish consumers still prefer 'traditional' services, with over 51% not using any OTT services. On the other hand, UKE notes a high substitution of mobile and fixed internet access.

### 3. Regulatory developments

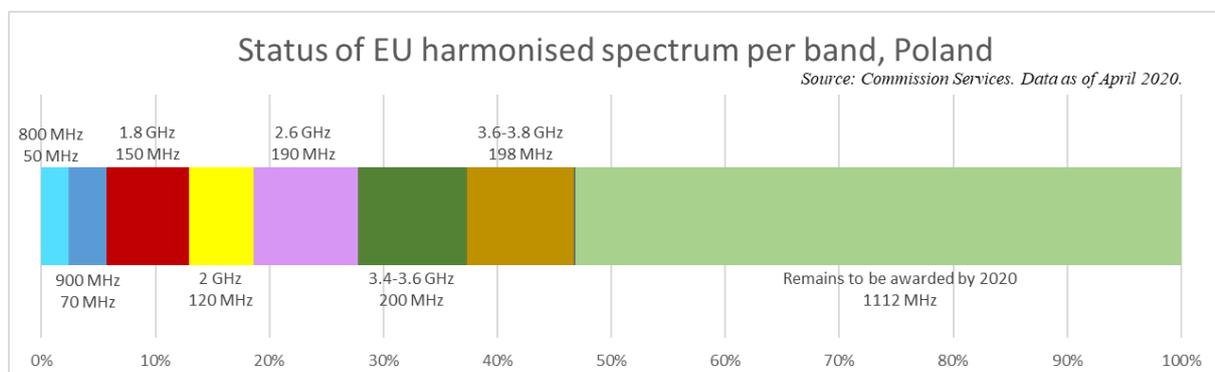
In 2019 Poland adopted new rules for spectrum auctions. New secondary legislation on the limits of electromagnetic fields (EMF) was adopted in December 2019, aligning these limits with the 1999 Council Recommendation<sup>6</sup>. The revised EMF monitoring methodology was introduced on 17 February 2020. The Ministry of Digital Affairs is preparing the transposition of the European Electronic Communications Code (EECC). A completely new law is being drafted, with possible changes to the current Telecommunications Act going beyond the EECC transposition. The draft is expected to be submitted for public consultation in June 2020.

#### 3.1 Spectrum assignment

At the end of 2018, Sferia's spectrum licence in the 800 MHz band expired, and in March 2019, the operator withdrew its request for prolongation following a disagreement with UKE over the prolongation fee. UKE intends to assign this part of the spectrum in 2021.

In view of the 5G roll-out, UKE launched the 3.6 GHz band auction on 6 March 2020; however, the auction was subsequently suspended on 16 April 2020 in light of the Covid-19 pandemic. The auction had since been annulled by virtue of the so-called "Anti-covid shield 3.0"<sup>7</sup>, which entered into force on 16 May 2020. The new auction had not yet been announced at the time of drafting the report.

In 2019, the mutual technical coordination concerning spectrum utilisation in the 470 – 694 MHz band,



i.e. DTT frequency allotments, was confirmed by the Russian Federation (the formal agreement

<sup>6</sup> 1999/519/EC: Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz), OJ L 199, 30.7.1999, p. 59–70.

<sup>7</sup> Ustawa z dnia 14 maja 2020 r. o zmianie niektórych ustaw w zakresie działań osłonowych w związku z rozprzestrzenianiem się wirusa SARS-CoV-2; Dz. U. 2020 poz. 875.

between both administrations is still pending). This makes it possible to rearrange nationwide DVB-T networks in Poland to free spectrum in the 700 MHz band by mid-2022 for IMT purposes, as envisaged in the derogation notification to the European Commission sent in 2018. However, until now Russia, Belarus and Ukraine have not indicated the date for releasing the 700 MHz band from TV transmission. This is the prerequisite before assigning the 700 MHz spectrum band for IMT purposes in Poland. As for the assignment of this band, Poland is exploring the idea of establishing one national 5G network in the 700 MHz band. All MNOs, a state-owned company Exatel and the Polish Development Fund signed a Memorandum of Understanding to reflect on the feasibility of having such a network, which raises a number of legal and practical questions.

### 3.2 Regulated access

As regards asymmetric access, in October 2019, UKE issued regulatory decisions for the market of wholesale local access provided at a fixed location (market 3a in the 2014 Recommendation on relevant markets<sup>8</sup>) and the market of wholesale central access provided at a fixed location for mass-market products (market 3b/2014 in the 2014 Recommendation on relevant markets), partially deregulating Orange in some municipalities. After a very significant delay in the periodic review of market 1 in the 2014 Recommendation on relevant markets (i.e. market for voice call termination in fixed networks), UKE issued regulatory decisions to 191 operators in December 2019, leaving the high levels of FTRs unchanged<sup>9</sup>. The review of the market of wholesale high-quality access provided at a fixed location (market 4 in the 2014 Recommendation on relevant markets) is planned for 2020. Concerning market 2 (wholesale voice call termination on individual mobile networks), there are delays in the market review, but no review is planned in view of the upcoming Delegated Act on Euro-rates. UKE's historic MTR decisions, which have been annulled by the court, are also reason for market players to experience significant uncertainty, giving grounds for multi-million euro claims between operators (estimated by the industry to amount to at least PLN 0.5 billion/€120 million). UKE is also considering looking into the market for transit (related to fixed and mobile termination rates). The market of wholesale broadcasting transmission services (market 18 in the 2003 Recommendation on relevant markets<sup>10</sup>) is still regulated<sup>11</sup>.

Concerning symmetric access, UKE issued regulatory decisions on access to in-house cabling, applicable to the six biggest cable operators and to Orange Polska, which triggered complaints at national and European level. In procedural terms, UKE is currently revising the decisions, following appeals. The 2018 decisions on access to ducts with respect to cable operators and Orange have already been challenged, with three decisions being suspended (Orange requested annulment of the suspension; Vectra and Netia did not request it, while the multimedia decision was revised by the court and has not been suspended). Therefore, there is currently asymmetry, with some operators providing regulated access and others not.

#### 4. End-user matters

##### a. Complaints

---

<sup>8</sup> Commission Recommendation of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (OJ L 295, 11.10.2014, p. 79).

<sup>9</sup> See case [PL/2019/2156](#) closed by Recommendation in Phase II.

<sup>10</sup> Commission Recommendation of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, OJ L 114, 08.05.2003 p. 45.

<sup>11</sup> The last market review was notified to the European Commission on 17 January 2018.

The number of consumer complaints significantly dropped over the past year (alternative dispute resolution requests dropped from 1,400 in 2018 to less than 950 in 2019 and interventions from 3,200 in 2018 to 2,200 in 2019). The competition authority noted a similar trend.

#### **b. Roaming**

In 2019, for the first time, UKE refused to allow one of the 4 MNOs (Polkomtel) to levy roaming surcharges. In early 2020, the application of P4 was also rejected. The operators claim that UKE's approach to the applications for a derogation has changed, in particular as regards the methodology used to calculate the net loss. However, UKE considers that roaming-related imbalances are decreasing, and the first negative decisions reflect this trend.

#### **c. Emergency communications – 112**

In 2019 Poland continued preparations for the Alarm 112 application, which was fully deployed in January 2020. The application ensures accessibility to emergency services for all users, but its main purpose is to provide effective access for people with disabilities. The application allows reporting an incident using pictograms, directly through a call as well as through a two-way communication via SMS. The Alarm 112 application is available for Android and iOS operating systems.

### **5. Conclusion**

Overall, Poland adopted a number of regulatory measures in 2019 to facilitate broadband roll-out and to prepare for spectrum assignment in view of deploying 5G networks. Nevertheless, 5G deployment may be delayed in non-urban areas, mainly due to postponed assignment of spectrum in the 700 MHz band and the overall uncertain future of its use. Poland continues to face difficulties in achieving the 2020 EU objectives despite the efforts it has made. The Polish market would benefit from more regulatory certainty, especially for 5G planning, ensuring timely market reviews and resolving long-standing issues related to a number of regulatory decisions.