

# Report on the activities of the President of the Office of Electronic Communications for 2019

Warsaw, April 2020

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# Report on the activities of the President of the Office of Electronic Communications for 2019

## Introduction

The President of the Office of Electronic Communications is the regulator of the telecommunications and postal market in Poland, manages the frequency resources and monitors the fulfilment of requirements in the area of electromagnetic compatibility. The President is also a specialised authority for inspecting products emitting the electromagnetic field or susceptible to such emissions, including the telecommunications equipment and devices placed on the market in Poland. The President of UKE is a legally distinct and independent body, appointed by the Sejm with the consent of the Senate upon the request of the Prime Minister.

According to the “Strategic lines of actions of the President of UKE for 2017–2021” adopted in 2017, the regulator:

- a. prioritises the protection of consumer interests, the development of infrastructure and services as well as effective market regulations,
- b. supports the development of technology and innovation, creates the foundations of 5G and new models of network use together with the market,
- c. seeks for telecommunications and postal services to meet social needs, not only in terms of prices, but also the quality and ergonomics of use,
- d. develops their own competencies to better understand and design electronic communication, guided by the values of Honesty, Creativity and Effectiveness.

### **Mission of the President of UKE**

*Providing citizens with access to modern telecommunications and postal services in a developing market and dynamic international environment.*

### **Vision of the President of UKE**

*Impartial, professional and credible moderator of market developments, working with understanding of societal needs and rules of the business sector functioning.*

## 1. Protection of consumer interests

### 1.1. Availability of universal services on the telecommunications market

The essence of universal service is to provide every user in the country with access to the basic telecommunications services of good quality and at an affordable price, such as:

- a. connection to a network in a fixed location for fixed-line telephony and the Internet,
- b. telephone subscription service,
- c. domestic and international telephone services,
- d. National Numbers Office (OBN),
- e. National Directory of Subscribers (OSA),
- f. public payphones (PAS).

For five years (8 May 2006 to 8 May 2011), Telekomunikacja Polska S.A., currently Orange Polska S.A. (OPL), was the designated undertaking, obliged to provide the universal service throughout the country in the above-mentioned scope. At present, no telecommunications undertaking in Poland is designated to fulfil the obligation to provide the universal service. The services covered by this obligation are provided by telecommunications undertakings on a commercial (market) basis.

Only if the market mechanism does not lead to satisfying the needs of users throughout the country or in a part of the country in the scope of universal service or individual services included therein, should an undertaking or undertakings be obliged to provide the universal service.

However, the fact that no undertaking has been designated does not mean that no universal services are available, nor that UKE takes no monitoring actions for the sake of increasing the accessibility. Under the current market circumstances, all services included in the universal service are available based on the market mechanism, ensuring sufficient availability, affordable prices and good quality.

In November 2018, UKE conducted an opinion survey on the functioning of the telecommunications services market and consumer preferences, and then prepared a report on the status and assessment of the availability, quality and affordability of the services included in the universal service<sup>1</sup>.

The report shows that the users' demand for fixed-line telephony services is low, and the supply of the services significantly exceeds the demand, the number of fixed-line telephony subscribers is falling, and both consumers and business customers are less and less interested in using the services. Also, the demand for the other elements of universal service, such as the OBN, OSA and PAS, is marginal. What is more, the service of connecting the network termination at a fixed location, which is part of the universal service, can be provided in any technology, including

<sup>1</sup> For more information visit: <https://bip.uke.gov.pl/raporty/raport-o-usludze-powszechniej,24.html>.

wireless technology. Therefore, it is not necessary to establish a connection to a fixed-line network to be able to provide access to telephone services and the Internet.

The UKE's assessment (consulted with the parties concerned – end users, consumers and telecommunications undertakings) confirms that the users' demand for services included in the universal service is ensured within the framework of the market mechanism, while maintaining sufficient availability, affordability and good quality, which proves that there are no grounds to designate (an) undertaking(s) to fulfil the universal service obligation. However, this does not mean that there is no need to further monitor the availability, quality and affordability of the universal service – such monitoring is necessary and carried out on an ongoing basis by UKE.

## 1.2. Subsidy to universal service on the telecommunications market

The designated undertaking is entitled to a subsidy to the costs of services they render in the event of unprofitability. The subsidy to universal service is a multi-faceted process, including:

- a. first – decisions on granting / refusing to grant the designated undertaking a subsidy to particular services included in the universal service,
- b. then – the split of the granted subsidies onto the telecommunications undertakings<sup>2</sup> obliged in accordance with Article 97 of the Telecommunications Act, consisting of two stages:
  - establishing a group of undertakings obliged to cover a given subsidy and the percentage rate of their participation,
  - issuing an individual decision (for each obliged undertaking) with the calculated amounts of participation to cover a given subsidy.

The whole process is repeated in the case of additional subsidies granted to services for which a refusal was previously issued, *i.e.* after final court judgments overruling the decisions in the said parts refusing to grant the subsidy.

In the years for which OPL served as the designated undertaking, they applied for the subsidy to the costs of all services included in the universal service which they provided, in the total amount of PLN 1,106,927,451.32<sup>3</sup>.

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<sup>2</sup> Undertakings whose revenue from telecommunications activity in the year for which the subsidy is due exceeded PLN 4 million.

<sup>3</sup> Of which: for 2006 (8 May – 31 December) – in the amount of PLN 139,933,596.51, for 2007 – in the amount of PLN 219,189,611.75, for 2008 – in the amount of PLN 208,363,479.65, for 2009 – in the amount of PLN 236,166,485.33, for 2010 – in the amount of PLN 269,436,354.80, for 2011 (1 January – 8 May) – in the amount of PLN 33,837,923.28.

Having verified the above-mentioned net costs and assessed whether they constituted a justified burden, UKE issued decisions to grant a subsidy in the total amount of PLN 136,999,992.84<sup>4</sup>.

With respect to other services, UKE refused to grant subsidies. Proceedings were pending against all UKE's decisions on subsidies before the Polish courts. After reconsideration of the case, as a result of the final judgments of the Provincial Administrative Court (WSA) in Warsaw, UKE granted a subsidy in the total amount of PLN 193,799,966.55<sup>5</sup>.

**As of 31 December 2019:**

- all decisions to grant a subsidy for the years 2006–2010 were issued in relation to court judgments,
- the total amount of subsidies granted to OPL by the President of UKE was PLN 330,799,959.39.

In 2019, proceedings were also conducted to establish a group of telecommunications undertakings obliged to cover the universal service subsidies for:

- a. 2011 – in the second instance (a decision overruling the first-instance decision in its entirety was issued as to the substance of the matter in this scope),
- b. 2006–2010 (with respect to the services for which refusal was previously issued, *i.e.* after the final WSA judgment) – in the first instance.

In 2019, proceedings were also conducted to determine the individual amounts for the obliged undertakings to cover subsidies for 2009–2011. In this regard, in 2019, UKE issued: 13 decisions for 2009 (in the second instance), 6 decisions for 2010 (in the second instance), and 119 decisions for 2011 (in the first instance).

The complexity of subsidy proceedings, their multi-faceted nature, the significant financial effect on OPL as well as on more than a hundred undertakings participating in covering the subsidies for the different years, and the need to analyse and consider the court rulings affects the duration of such proceedings.

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<sup>4</sup> This included:

- a. subsidies to the accessibility services for the disabled, excluding public payphones adapted to the disabled, respectively: for 2006 – in the amount of PLN 744,838.18, for 2007 – in the amount of PLN 1,269,111, for 2008 – in the amount of PLN 1,829,836, for 2009 – in the amount of PLN 1,826,517, for 2010 – in the amount of PLN 1,044,752.26,
- b. subsidies to the provision of telephone services with public payphones: for 2009 – in the amount of PLN 61,324,043.64, and for 2010 – in the amount of PLN 54,057,623.12,
- c. subsidies to both of the above-mentioned services for 2011 (1 January – 8 May) in one total amount of PLN 14,903,271.64.

<sup>5</sup> This included:

- a. by decision of 11 September 2017:
  - subsidy to the service of providing information on telephone numbers and the provision of subscribers' lists: for 2006 – in the amount of PLN 8,129,299.38, and for 2007 – in the amount of PLN 11,529,324.00,
  - subsidy to the public payphone service (PAS): for 2006 – in the amount of PLN 37,191,694.06, and for 2007 – in the amount of PLN 35,736,835.32,
- b. by decision of 7 August 2018:
  - subsidy to the service of providing information on telephone numbers and the provision of subscribers' lists: for 2008 – in the amount of PLN 18,147,200.39, and for 2009 – in the amount of PLN 18,430,152.00,
  - subsidy to the public payphone service (PAS): for 2008 – in the amount of PLN 52,169,302.48,
- c. by decision of 10 April 2019: subsidy to the service of providing information on telephone numbers and the provision of subscribers' lists for 2010 – in the amount of PLN 12,466,158.92.

### 1.3. Survey of opinions and preferences of the telecommunications market consumers

#### Survey among private and institutional customers

As in previous years, in 2019, UKE conducted a public opinion survey on the functioning of the telecommunications services market and the preferences of both private and institutional customers<sup>6</sup>. The aim of the survey was also to identify trends on the Polish telecommunications market and determine the availability of services.

The survey sample representative coverage was ensured – it covered over 1,600 private customers and 400 institutional customers. UKE was able to confront the results obtained with the results from the previous years so as to prepare comparisons and other materials for carrying out analyses of the telecommunications services in the longer term. The survey among private consumers also gave UKE insights about the use of telecommunications services in light of their needs.

The survey among institutional customers, on the other hand, not only established which telecommunications services were used by the companies but also revealed the companies' expectations towards these services as a tool for supporting their market operations. The respondents also commented on the needs and challenges of the dynamically evolving telecommunications market.

#### Survey among children and parents

Every year, apart from surveying private and institutional customers, UKE carries out surveys among additional groups relevant in terms of pro-consumer activities taken by the Office. In 2019, UKE continued their survey among children and parents<sup>7</sup>.

Both children and their parents (legal guardians) participated in the survey. The survey sample included 500 children aged 7–15 along with their parents (guardians). The answers of the children were juxtaposed with their parents' opinions. Most results obtained may be compared with the results from previous years.

#### Survey among people aged 60 and above

In 2019, UKE conducted a public opinion survey among seniors<sup>8</sup>. This year's survey focused on people aged 60 and above, delving into their opinions of the functioning of the telecommunications services market and their consumer preferences. Among other things, the survey aimed to obtain information on the accessibility of services, digital exclusion and access barriers, as well as on the impact of the Internet on the life of the people aged 60+.

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<sup>6</sup> For more information visit: <https://www.uke.gov.pl/akt/badania-konsumenckie-2019,286.html>.

<sup>7</sup> For more information visit: <https://www.uke.gov.pl/akt/badanie-konsumenckie-dzieci-i-rodzicow-2019,277.html>.

<sup>8</sup> For more information visit: <https://www.uke.gov.pl/akt/badania-konsumenckie-2019,286.html>.

#### 1.4. Access to free Internet in public areas

In accordance with the new provisions of December 2018 on free Internet access service by local government authorities (LGAs), as referred to in Article 7 of the MEGA-act, in 2019, UKE no longer issued decisions approving the provision of free Internet access.

UKE employees explained to the LGAs concerned the new conditions for providing free Internet access regarding the removed obligation of LGAs to obtain consent to provide the service, the range of hotspots being limited to public places only and the increased bit rate (minimum bit rate of 30 Mb/s). In addition, UKE updated the data on the hotspots used to provide free Internet access services<sup>9</sup>.

At the end of 2019, there were 5,500 local government hotspots in operation in Poland.

#### 1.5. Monitoring the quality of services

In 2019, UKE carried out activities in the area of monitoring the quality of Internet access services in Poland based on the rates of data download and upload speed as well as packet latency. Detailed results of these analyses were included in the Report on Monitoring the Implementation of Regulation 2015/2120 in Relation to Open Internet Access in Poland, published on 26 June 2019.

The analysed data of April 2019 and the comparative data of April 2018, 2017 and 2016 from the measurements made by the fixed Internet users show a clear incremental trend in the download and upload speed. This increased data transmission speed confirms the growing share of fibre-optic technologies.

Upward trends were also observed when analysing data from measurements carried out in mobile networks. This direction of change is in line with the increase in the share of LTE technology in mobile networks.

The said results of measurements demonstrate the continuous quality improvement in the Internet access services (IAS).

In 2018, UKE selected an entity that would provide a measurement system enabling subscribers to carry out certified IAS quality measurement. By establishing a certified mechanism for IAS quality monitoring Internet access services, the President of UKE implements the provisions of Article 4(4) of Regulation 2015/2120. On 29 November 2018, UKE granted a certificate for a period of 24 months for a stationary application for computers with the Windows operating system – PRO Speed Test (the application provider is V-Speed sp. z o.o. based in Oborniki Śląskie).

The reports generated in the process of certified measurements can be used by consumers e.g. in complaint proceedings or in the case of using other legal protection measures to seek redress

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<sup>9</sup> Data available in the tool: <https://wyszukiwarka.uke.gov.pl>.

from service providers due to non-compliance with contractual parameters of the data download and upload speed.

Over a year of the certified mechanism's operation, *i.e.* from 1 January to 31 December 2019, the users carried out 26,169 certified measurements. They also carried out over 350,000 uncertified measurements.

Additionally, in the first half of 2019, UKE carried out an inspection of the manner in which information on the download and upload speed was presented by the Internet service providers (IPS). This included the contracts of the following providers: OPL, Polkomtel sp. z o.o. (Polkomtel), T-Mobile Polska S.A. (T-Mobile), P4 sp. z o.o. (P4), Netia S.A. (Netia), UPC Polska sp. z o.o. (UPC), Multimedia Polska S.A., Vectra S.A., Inea S.A. (Inea) and TOYA sp. z o.o. (TOYA). Pursuant to Regulation 2015/2120, the said entities (as ISPs) are required to ensure that any contract which includes Internet access service contains clear and comprehensible information on the services offered. To ensure uniform application of the provisions, in 2019, UKE issued post-inspection recommendations whereby they imposed an obligation on the ISPs to adjust the information in their contracts to the specified guidelines, considering – to the extent possible – the BEREC Guidelines on the Implementation by National Regulators of European Net Neutrality Rules.

## 1.6. Roaming regulations (RLAH)

In 2019, UKE continued monitoring the implementation of the principle introduced in 2017 under Regulation 2015/2120 that provides for aligning the prices in roaming in the EU and EEA with the prices of services provided in the home country (roam like at home – RLAH). UKE verified the amounts of additional fees for roaming services charged in accordance with the provisions of the Regulation, specified in model contracts. It also monitored and supervised the fair use policy applied by telecommunications operators and the measures for the sustainability of removing additional charges for retail roaming services.

The implementation of roaming regulations has been well received by consumers – the RLAH principle has encouraged Poles to use roaming services more frequently on their foreign trips (calls, texts, data). This trend has continued uninterrupted since the entry into force of Regulation 2015/2120.

A roaming service provider may apply to UKE to be exempt from the additional charge to the roaming services if they show to have incurred losses while providing roaming services at domestic prices, in accordance with the RLAH principle, *i.e.* the income generated by these services does not cover the costs of providing them. Such exemptions are issued for the period of 12 months and all significant mobile phone network operators apply for them in such cycles. The year 2019 saw the end of the second cycle for considering these applications and the beginning of the third cycle.

As the office authorised to allow the application of an additional charge in regulated roaming, UKE assesses whether the service provider is unable to recover the costs of providing the service,

which would disrupt the sustainability of their domestic charge model, *i.e.* whether providing the roaming service could negatively affect retail pricing at home.

As a result of reviewing applications submitted by the different mobile phone network operators, in 2019 UKE issued:

- a. 9 decisions granting consent to charge extra for providing retail regulated roaming services to the extent needed to cover the costs of these services,
- b. 1 decision refusing consent to charge extra for providing retail roaming services.

The decisions issued by UKE allow operators to minimise their losses related to the implementation of the RLAH principle, making the possibility of adding extra charges to roaming services prevent the increase of national retail prices.

The maximum net rates of additional charges to roaming services, implemented pursuant to the latest decisions, were reduced in relation to the rates from the decisions issued in previous years.

Table 1

**Maximum net rates of additional charges to roaming services**

Service	MOC [PLN/min]	MTC [PLN/min]	SMS [PLN/msg]	DATA [PLN/MB]
Max rate – Decision I	0.2114	0.0407	0.0732	0.0325
Max rate – Decision II	0.1301	0.0385	0.0410	0.0191
Max rate – Decision III	0.1301	0.0364	0.0407	0.0167

Source: UKE, as of the end of 2019

Additionally, in 2019 UKE continued to monitor the implementation of requirements under Regulation 2015/2120 as regards managing online traffic and specialised services through such means as:

- a. drafting a UKE Questionnaire on monitoring and ensuring that the Internet access services on offer comply with the requirements of Article 3 and Article 4 of Regulation 2015/2120 in the area of traffic management practices and provision of specialised services,
- b. calling on 27 Internet service providers (ISP) to submit their answers to the questions included in the UKE Questionnaire.

The aforementioned efforts of UKE resulted in the drafting and publishing of the “Report on Monitoring the Implementation of Regulation 2015/2120 in Relation to Open Internet Access in Poland” for the period from 1 May 2018 until 30 April 2019. The report was submitted to the EC and BEREC.

UKE has been observing a decrease in the costs of providing regulated retail roaming services by the largest operators with a simultaneous growth in income generated by these services. Infrastructure operators are adapting to functioning on a market where RLAH is prevalent, negotiating wholesale rates and benefiting from foreigners using roaming in Poland. The situation of operators who do not have proprietary infrastructure remains unstable, which for this group signifies losses incurred on providing retail roaming services – mostly due to the lack of wholesale income from roaming and the lack of negotiating power.

In 2019, in order to agree on the rules of roaming-related cooperation with British operators in case of the expected Brexit, UKE also consulted with telecommunications undertakings and the President of the Office of Competition and Consumer Protection (UOKiK). Additionally, UKE reached out to countries taking part in the work of BEREC related to the possibility of providing the roaming service in the United Kingdom pursuant to the provisions on RLAH. The work related to ensuring as small an impact of Brexit on the conditions of providing and using roaming services in the United Kingdom as possible continued in 2020. However, it should be noted that the aforementioned issues were not the subject of any agreement between the EU and the UK, while UKE and the British regulator (Ofcom) are not authorised to interfere in the commercial relations between undertakings from different countries.

## 1.7. Information and education activities

In 2019, UKE continued the largest outreach and education campaigns for telecommunications service users in Poland.

### **Click sensibly**

The campaign is targeted at the youngest users of telecommunications services and their parents, teachers and caretakers, with the aim of promoting safe use of the Internet. In 2019, a total of 2,326 classes for 50,921 children were organised at schools in Poland. Thanks to the campaign, the students learned how to use smartphones, computers, games and applications available on the Internet sensibly, how to protect their personal data and defend themselves against cyberbullying.

In December 2019, UKE initiated the educational project #keepCTRL as part of the 'Click sensibly' campaign. The project is targeted at young people – grade 6–8 students, their parents and teachers. #keepCTRL is the result of the ongoing campaign evaluation where parents and teachers indicate the classes needed by older children. Since September 2019, 4,571 students took part in the pilot classes held as part of the #keepCTRL project. The topics discussed during these classes included dangerous Internet use-related phenomena, such as Internet and social media addiction, sexting, cyberviolence, as well as advice on how to cope with them.

UKE once again became a campaign partner of the 'Let's be safe together' campaign initiated by Warsaw Trams.

### **Coding with UKE**

UKE conducted the 'Coding with UKE' workshops aimed at developing digital literacy among primary school pupils. In 2019, 5,917 children learned the basics of programming during 301 workshops. In October 2019, UKE took part in the CodeWeek (41 workshops for 679 children were held as part of the event).

### **I know what I'm signing**

In 2019, UKE ran the 'I know what I am signing' campaign addressed to consumers signing telecommunications service contracts, primarily to the elderly. They are the most frequent victims of unfair commercial practices applied by representatives of operators. In 2019, experts from UKE met with over 12,000 consumers during 152 events and workshops.

### **Education in the Polish Sign Language**

UKE conducted workshops for deaf and hard-of-hearing persons. In 2019, 529 people participated in 37 meetings held in Polish and translated into the Polish Sign Language.

Moreover, in 2019, UKE organised 5 meetings with the Consumer Ombudsmen in the 'Together for the Consumer' cycle. During the meetings, the UKE experts presented to the Ombudsmen issues related to consumer protection on the telecommunications market.

UKE published information on the current activities and basic rights and obligations of subscribers to telecommunications services on the UKE website and the subpage of the Consumer Information Centre (CIK)<sup>10</sup>. 3 tutorials and a series of articles on network security were published on the CIK website. They included such topics as current online privacy risks, legal information, practices allowing you to remove your photos and posts from social media services, online gaming sites and blogs, forums and websites, and practices allowing you to delete your data from online shops and auction sites.

The year 2019 also saw a weekend cycle called 'UKE recommends', with over 50 pieces of consumer advice published on Facebook.

The campaigns increased the awareness of children and adults of the use of telecommunications services. In addition to workshops, lessons and direct meetings, UKE distributed more than 100 000 leaflets (including via the Consumer Ombudsmen). This has a direct impact on eliminating abuse when entering into contracts and accessing the Internet. The summary of education campaigns conducted by UKE in 2019 with rounded figures is shown in Figure 1.

<sup>10</sup> For more information visit: <https://www.cik.uke.gov.pl>.

Figure 1  
Summary of UKE education activities



Source: UKE

## 1.8. Direct actions for the consumers of the telecommunications market

UKE intervened in matters relating to the functioning of the telecommunications services market, conducted out-of-court ADR proceedings and provided advice to consumers. In 2019, UKE:

- a. carried out 2,410 interventions,
- b. considered 1,024 ADR applications,
- c. provided 989 pieces of advice to subscribers in direct consultations,
- d. responded to 2,223 consumer inquiries,
- e. provided over 14 thousand telephone consultations.

The most common problems reported by consumers in 2019 included:

- a. invoices/fees – 24%,
- b. improper performance of services – 11%,
- c. termination of the contract – 10%,
- d. roaming – 8%,
- e. transfer of services (new provider) – 8%.

As part of interventions and the out-of-court procedures, UKE regained PLN 917,000 for consumers in 2019.

The average times needed for UKE to resolve issues in 2019 were as follows:

- a. interventions – 22 days,
- b. ADR proceedings – 24 days,
- c. responses to inquiries – 4 days.

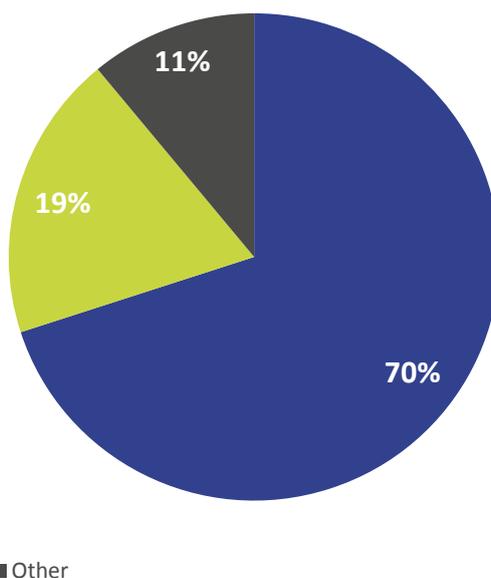
The subpage of the Consumer Information Centre (CIK), where UKE publishes consumer-relevant messages, advice and guidelines, was visited by more than 21 thousand people (more than 100 thousand views) in 2019.

Figure 2  
Summary of UKE activities for consumers



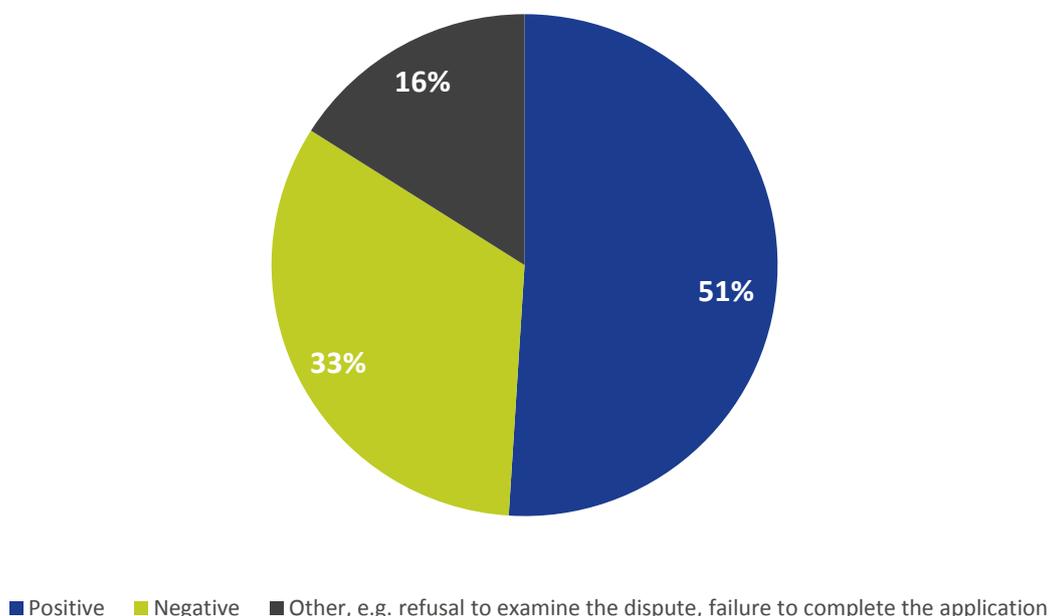
Source: UKE

Chart 1  
Effectiveness of interventions



Source: UKE

Chart 2  
Effectiveness of ADR proceedings



Source: UKE

On the Office's website or subpage of the Consumer Information Centre (CIK), UKE published information on: the basic rights and obligations of subscribers to publicly available telecommunications services, principles of providing telecommunications services, methods of out-of-court resolution of consumer disputes (ADR), and interventions by UKE, as well as advice on using services, e.g. information on changes to fees for international calls (EU-Calls) or information on charging roaming fees. Along with the information, consumers were provided with educational videos and templates of useful documents. UKE also provided current warnings about threats on the telecommunications market, such as sending e-mail messages containing malware, false invoices, SMS messages aiming to phish for personal data, and published information important for consumers about the amendment of the Telecommunications Act.

UKE cooperated with the authorities and entities protecting consumer interests, including the President of UOKiK and the Consumer Ombudsmen.

In November 2019, UKE hosted representatives of the Polish-German Consumer Information Centre, sharing experience in the field of subscriber protection and development of ADR proceedings in Poland.

## 1.9. Increasing the availability and utility of services

### Monitoring the provision of facilities for persons with disabilities by undertakings

In 2019, UKE cooperated with the Widzialni Foundation in piloting new market qualifications related to the availability of telecommunications services. The pilot project included 6 training sessions attended by the representatives of UKE, administrative authorities, undertakings, universities and LGAs. After the training the pilot project participants had the opportunity to conduct an evaluation, which included holding simulated examinations in new market qualifications.

Between 30 September and 11 October 2019, UKE audited customer service offices of telecommunications service providers across the country in order to verify their compliance with the provisions of the Regulation on the detailed requirements related to the provision of facilities for people with disabilities. UKE employees carried out direct audits of selected telecom salerooms, assessing the architectural accessibility of customer service offices, as well as the scope and quality of facilities provided by the undertakings. The audits extended to 64 salerooms of the largest countrywide mobile operators: OPL, P4, Polkomtel and T-Mobile. The results of the audit prompted UKE to publish the “Report on the accessibility of Customer Service Offices of telecommunications undertakings in 2019”<sup>11</sup>.

### Initiating new solutions and facilities for employees and customers of UKE with special needs

In 2019, UKE conducted actions related to:

- a. implementing the Accessible Policy of the Office of Electronic Communications<sup>12</sup> which provides guidelines on how to carry out UKE tasks pursuant to the legal provisions for persons with special needs (the Policy received a positive opinion from the Ministry of Development Funds and Regional Policy and was posted on the website of the European Funds Portal<sup>13</sup> as an example of good practice),
- b. designing and implementing declarations on the accessibility of UKE websites,
- c. implementing a solution that enables converting PDF scans into a format accessible to the customers of UKE (the Accessibility tab features a free OCR tool which converts scans of letters to a text format that can be read by persons with disabilities),
- d. organising a course in the Polish Sign Language for four UKE employees,
- e. publishing ads on the site [sprawniowpracy.com](http://sprawniowpracy.com),
- f. availability of the updated handbook *How to be ‘forgotten’ on the Internet?*

Moreover, in 2019, UKE organised:

- a. training in Deaf Customer service, using the Migam application (22 persons – Q2 of 2019),

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<sup>11</sup> For more information visit: <https://bip.uke.gov.pl/sprawozdania/raport-dostepnosci-biur-obslugi-klienta-przedsiębiorcow-telekomunikacyjnych-2019,16.html>.

<sup>12</sup> For more information visit: <https://www.uke.gov.pl/dostepnosc/polityka-dostepnosci-urzedu-komunikacji-elektronicznej,7.html>.

<sup>13</sup> For more information visit: <https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/fundusze-europejskie-bez-barier/dostepnosc-plus-dobre-praktyki/#Polityka%20dost%C4%99pno%C5%9Bci%20UKE>.

- b. free training sessions for employees of UKE, administrative authorities, telecommunications undertakings and the postal service (about 50 persons – Q3 and Q4 of 2019); the topics covered included:
  - implementing accessibility standards in the organisation,
  - using the WCAG 2.0 standard when creating and adjusting websites,
  - auditing digital documents based on the WCAG 2.0 standard,
  - applying standards of accessibility and good practices in the process of organising an event to accommodate persons with special needs,
  - using the WCAG 2.0 standard when creating and adjusting mobile applications,
  - designing and conducting research on the accessibility of electronic information involving users – testers with special needs.

### **Creating a policy related to people with special needs**

In 2019, UKE participated in legislative work in the field of:

- a. the Act on the Digital Accessibility of Websites and Mobile Applications of Public Entities,
- b. the Act on ensuring accessibility to persons with special needs,
- c. consultations on the draft of the National Integrated Informatisation Programme.

As part of the work of UKE representatives in working groups, the following should be emphasised:

- a. UKE participation in the work of the Accessibility Council to the Minister of Infrastructure and Development (currently to the Minister of Development Funds and Regional Policy), which included consultations on:
  - the draft Standard for the Accessibility of Healthcare Facilities,
  - the draft Standard for the assistant to a student with special educational needs,
- b. cooperation with the Ministry of Digital Affairs on:
  - potential applications of new technologies and artificial intelligence in creating new accessibility-related services,
  - drafting the technical conditions for the publication and structure of the “Accessibility Declaration” electronic document,
- c. joining the Team for promoting simple language in offices of government administration at the Chancellery of the Prime Minister,
- d. taking part in the discussion panel held during the conference “Convention? I call!” (conference summarising the project “Central Administration for the Convention on the Rights of Persons with Disabilities. Implementation monitoring”),
- e. taking part in the discussion panel “Digital accessibility of public services and information” (debate organised as part of the conference “Warsaw – city without barriers”).

What is more, representatives of UKE participated in the following competitions:

- a. Website Without Barriers – a competition organised by the Widzialni Foundation (distinction for the UKE website)
- b. Accessibility Report 2018 – evaluated as very good.

### 1.10. Improving the quality and security of telecommunications services

In 2019, UKE continued its cooperation with ENISA, based on the provisions of Polish law transposing amended Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services.

As part of the cooperation, UKE maintained the system of notifying ENISA about the most serious violations of the security and integrity of electronic communications networks and services.

In 2019, there were 95 recorded violations of the security and integrity of networks and services. Most of them were of a local nature (small scale and short duration) and did not significantly affect the quality of telecommunications services provided to customers. Due to their scope and duration, 4 violations were classified as serious and ENISA was notified by way of a formal report (a report on all threats reported by telecommunications undertakings in 2019, as well as on the preventive and repair measures taken by them with regard to the security and integrity of services and networks was submitted to the Ministry of Digital Affairs).

Furthermore, UKE participated in:

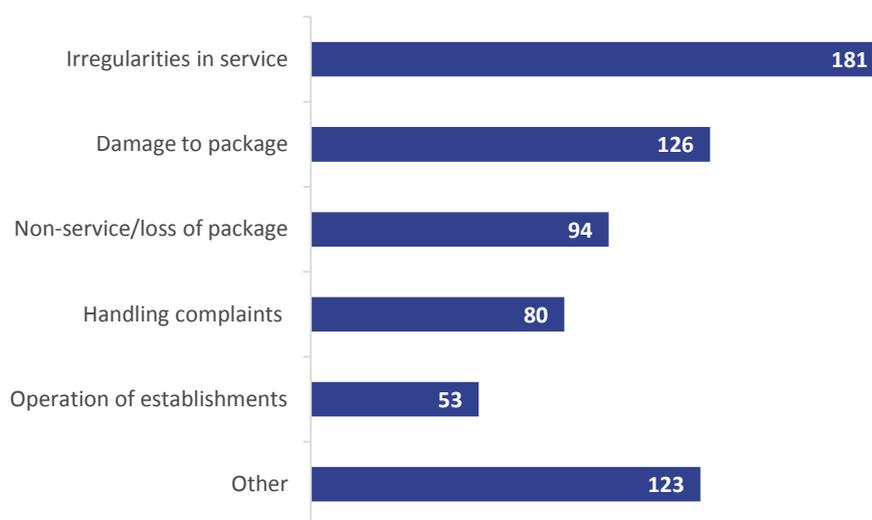
- a. providing key undertakings with information sourced from ENISA: on the new forms of attacks on 4G/5G services and the identified LTE security flaws,
- b. promoting awareness among users of GPS devices on the available mitigating measures in relation to the warning issued by the US National Cybersecurity and Communications Integration Center (NCCIC), operating under the US Department of Homeland Security, about the malfunctioning of certain devices using GPS receivers,
- c. providing telecommunications undertakings with information sourced from CERT-EU on the large-scale attack on the BGP (Border Gateway Protocol), intercepting data transferred online and on the global espionage campaign targeting the telecommunications sector,
- d. issuing recommendations on BGP security for network operators, featuring a list of basic measures along with a check list to follow in their potential application (the recommendations summarise the information ENISA received from key European telecommunications undertakings),
- e. the BEREC study on issues of telecommunications security in connection with the security issues of the 5G network – “National 5G Cybersecurity-Questionnaire”, and as part of bilateral cooperation with European market regulators – on the use of backup power supplies and VoLTE roaming.

### 1.11. Direct actions for consumers of the postal market

In 2019, UKE received 616 requests for intervention and inquiries from users of postal services regarding irregularities in the provision of these services, interpretation of legal provisions and rules for providing postal activities, of which 218 were submitted in writing and 398 – electronically.

Chart 3

#### Subjects of cases brought to UKE<sup>14</sup>



Source: UKE

Out of the 616 submitted intervention requests and inquiries, 372 concerned Poczta Polska, while 244 – other postal operators and issues related to postal activities. 218 intervention requests and inquiries regarding Poczta Polska were related to universal services. In all matters UKE undertook activities which included: contacting postal operators, issuing explanations to applicants and conducting other activities relevant to the cases in question.

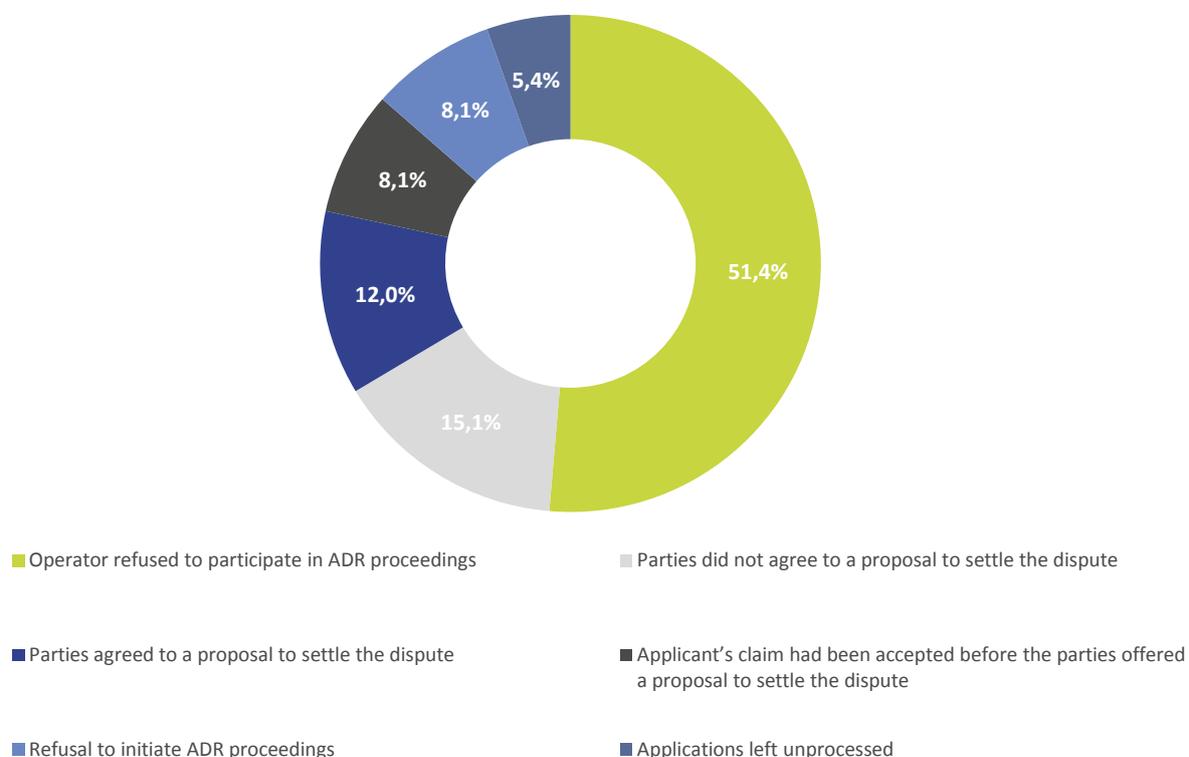
Moreover, in 2019 UKE received 259 requests for out-of-court resolutions of consumer disputes (ADR) mostly regarding damaged parcels, failed delivery, processing complaints and irregularities in deliveries of parcels. In 21 cases UKE refused to consider applications, in most situations due to the fact that the subject of the dispute was outside competence of the President of UKE.

The activities taken with respect to UKE's intervention and alternative dispute resolution (ADR) resulted in protecting the interests of postal service users, including securing their access to services on an equal and uniform basis and ensuring an appropriate level of service quality.

As a result of the interventions and ADR proceedings conducted in 2019, UKE regained PLN 51,669.41 for users of postal services.

<sup>14</sup> Some of the cases brought to UKE concerned more than one subject.

Chart 4  
Effectiveness of ADR proceedings



Source: UKE

## 1.12. Universal service on the postal market

### Regulatory accounting

Pursuant to Article 101 (4) of the Postal Law in 2017, following a tender procedure, UKE appointed a statutory auditor to audit the annual reports of Poczta Polska on regulatory accounting for 2016, 2017 and 2018 with respect to compliance with legal provisions and regulatory accounting guidelines approved by UKE and the description of cost calculation. In 2019, UKE, in accordance with Article 101 (5) of the Postal Law, published the report of Poczta Polska on regulatory accounting for 2018 together with the opinion of a statutory auditor in the UKE Public Information Bulletin (BIP).

According to Article 103 of the Postal Law, pursuant to the decision of 14 February 2019, UKE imposed an obligation on the designated operator to submit for publication the regulatory accounting guidelines for 2019 and a description of the cost calculation for 2019, approved by the decision of 23 November 2018. The documents submitted by Poczta Polska were published on 5 March 2019 in the UKE BIP.

In 2019, Poczta Polska developed and submitted for UKE's approval draft regulatory accounting guidelines for 2020 and a draft description of cost calculation for 2020. After the reconciliation process, UKE launched administrative proceedings regarding the approval of the aforementioned documents, completed by UKE publishing an approval decision on 27 November 2019.

### Net cost of the universal service obligation

In 2019, UKE continued the administrative proceedings initiated *ex officio* in March 2018 against postal operators obligated to participate in the subsidy to the net cost of the designated operator's obligation to provide universal services.

As part of the aforementioned proceedings UKE conducted evidence-taking activities to determine the shares of the obligated postal operators in the subsidy, and considered evidence motions submitted by the parties, along with an application to discontinue the proceedings against one of them.

### Postal market study

Pursuant to Article 119a of the Postal Law the President of UKE was obliged to conduct, at least once every 5 years, a study on the postal market in order to assess the adequacy of the following:

- a. the threshold of revenues the postal operator generates from universal services or services that fall within their scope, exceeding which triggers the obligation to participate in the subsidy, defined in Article 108 (2) of the Postal Law, and
- b. the percentage index value of these revenues' amount defining the maximum share of the postal operator in the subsidy (Article 113 (4) of the Postal Law).

This study was carried out for the first time in 2019 and included an analysis of information submitted by postal operators and obtained by way of public consultations.

The obligation to provide information necessary to carry out the aforementioned research extended to postal operators that meet the conditions for the obligation to participate in the subsidy in accordance with Article 108 (2) of the Postal Law<sup>15</sup>, for at least one year in the period of two years directly preceding the study. Five entities responded to the letters that were sent to 7 postal operators obliged<sup>16</sup> to provide the information necessary for conducting this study.

The aforementioned public consultations concerned the following issues:

- a. assessing the adequacy of the threshold in force<sup>17</sup> and the index value<sup>18</sup> from the perspective of their impact on undertaking to provide universal services and services that fall within their scope,
- b. proposing changes to the threshold and the amount of the index referred to

<sup>15</sup> Operators whose revenues generated from the universal services or services that fall within their scope in the financial year for which the subsidy is determined exceeded PLN 1 million.

<sup>16</sup> These operators obligation to provide information necessary to conduct the study was determined on the basis of data on revenues from universal services or services that fall within their scope, included in reports on the postal activity of these operators for 2017 and 2018, submitted to the President of UKE in accordance with Article 43 of the Postal Law.

<sup>17</sup> The threshold of revenues a postal operator generates from universal services or services that fall within their scope, exceeding which triggers the obligation to participate in the subsidy.

<sup>18</sup> The percentage index value of these revenues' amount defining the maximum share of the postal operator in the subsidy.

in letter (a) above.

An announcement about launching public consultations pursuant to Article 119a of the Postal Law, together with an invitation to submit proposals was published on the UKE BIP website in November 2019. Within the prescribed period, the only proposal submitted under public consultations was that of Poczta Polska.

UKE promptly shared the results of the postal market study with the minister competent for telecommunications, *i.e.* the Minister of Infrastructure (Article 119a (9) of the Postal Law).

Actions undertaken by UKE in the area of regulatory accounting made it possible to check whether the allocation of the designated operator's costs and revenues and the method of calculating individual costs related to the provision of universal services are correct, which simultaneously affects the reliability of calculated net cost of the obligation to provide universal services on the postal market and the rationale for the pricing of these services.

The results of the postal market study will allow the Minister of Infrastructure to decide on the adequacy of the revenues threshold and the percentage index value of these revenues' amount defining the maximum share of the postal operator in the subsidy to the net cost of providing universal services.

### 1.13. Product inspections

Within the framework of the protection of consumer interests in the field of product market surveillance, pursuant to the Act on Conformity Assessment and Market Surveillance Systems and the Conformity Assessment System Act, in 2019 UKE inspected 768 products, 320 of which were found to be non-compliant (about 42% of all products subjected to inspection). The largest volumes of non-compliant products were found in home equipment and lighting systems using the LED technology, short-range radio equipment and power generating devices. As part of the inspection, 393 device models were examined, of which 79 did not pass the tests.

In 2019, UKE verified information on energy consumption for 82 television set models. In 5 cases the suppliers or distributors failed to fulfil their obligations to inform about the energy consumption of their television sets. In the case of 4 television sets, the label was not visibly affixed as required by the legally defined format and information to be provided. In the case of 1 television set, the supplier failed to provide the user with a product card informing about energy consumption.

Moreover, UKE conducted the following campaigns:

- a. for CB radio devices – between 1 January and 31 March 2019,
- b. for GSM amplifiers – between 1 April and 30 June 2019,
- c. for PLC (power line communications) devices – between 1 July and 30 September 2019.

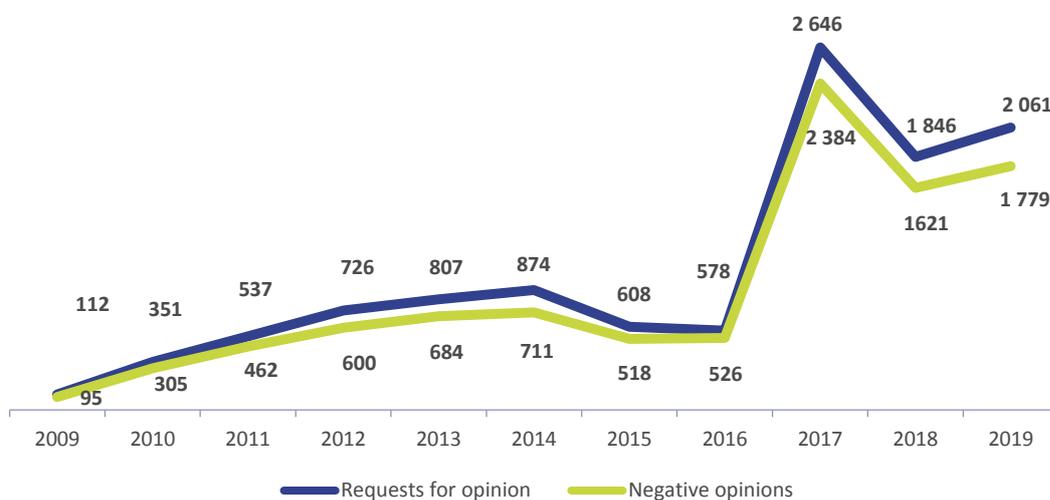
The purpose of the above mentioned campaigns was to verify compliance with formal requirements enabling the consumer to make an informed choice, as well as to verify compliance with the essential requirements by conducting tests at UKE’s Central Technical Tests Laboratory.

Information on the results of product inspections was published on the UKE website. In order to raise awareness and ensure consumer protection, in 2019 UKE updated its list of non-compliant products for every month.

In 2019, UKE continuously monitored auction portals and carried out inspections to remove products that did not comply with the requirements of the online offer. UKE focused on illegal radio communication devices – imported from the US and the Far East, as well as jammers. As part of its cooperation with the auction portal Allegro, UKE undertook interventions that ended with the removal of 947 auctions offering non-compliant products.

UKE’s activities in the product market are not only aimed at efficient and effective removal of non-compliant devices from the market, but also at preventing such products from being brought to market in the first place. The customs authorities regularly request UKE for an opinion on whether products comply with the essential, detailed and any other requirements. In 2019, UKE issued 2,061 opinions on the matter, 1,779 of which were negative (the products did not comply with the requirements).

Chart 5  
Number of requests from customs authorities and opinions issued by UKE



Source: UKE

## 2. Development of infrastructure and services

### 2.1. Keeping the registers of telecommunications undertakings and of local government authorities

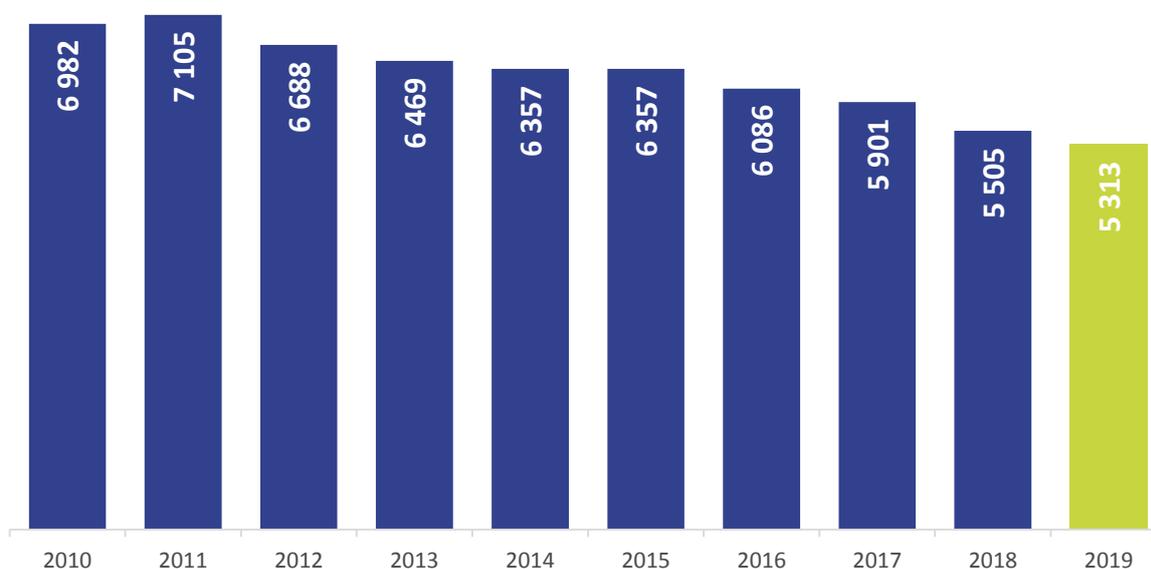
The President of UKE, in accordance with Article 10(2) of the Telecommunications Act, is the authority keeping the register of telecommunications undertakings (RPT) and the register of local government authorities performing activities in the field of telecommunications (RJST).

In 2019, the following were made: 264 entries to the RPT, 458 deletions from the RPT; 18 entries to the RJST and 2 deletions from the RJST.

In total, as of 31 December 2019, excluding the deleted entities, the RPT contained 5,313 entities, and the RJST – 421 entities.

Chart 6

Telecommunications undertakings entered into the RPT

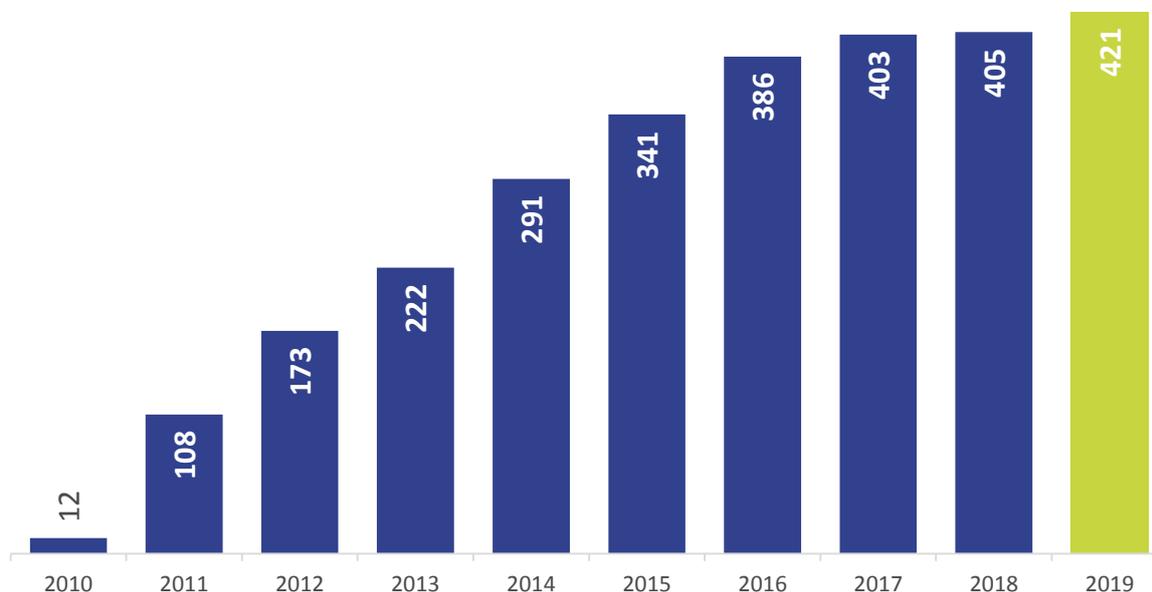


Source: UKE

Under the current legislation, pursuant to the Telecommunications Act UKE can delete a telecommunications undertaking from the register at their request and after obtaining information about their deletion from the Central Registration and Information on Business (CEIDG) or the National Court Register (KRS). These circumstances contributed to reducing the number of entries in the RPT made in recent years.

Chart 7

Local government authorities entered into the RJST



Source: UKE

## 2.2. Inventory of telecommunications infrastructure and services

As per the annual obligation defined in Article 29 of the MEGA-act, in 2019 UKE again took inventory of telecommunications infrastructure and services in Poland.

By 31 March, complete and up-to-date information as of 31 December of the previous year needs to be provided on:

- the provided telephone services, data transmission services providing broadband Internet access and radio and television broadcasting services,
- the telecommunications infrastructure, public telecommunications networks and buildings enabling collocation.

The provisions of the MEGA-act obliged the following entities to provide the aforementioned data:

- telecommunications undertakings,
- state and local government organisational units,
- entities performing public utility tasks.

The data for 2018 were provided in an electronic form by means of the Broadband Infrastructure Information System (SIIS) and came from nearly 3.5 thousand entities. The increase in the number of entities whose data were transferred into the system during the last inventory is undoubtedly related to the administrative proceedings that UKE conducted in 2018 to impose monetary

penalties on entities that failed in their obligation to submit information during the years 2014–2018.

The data gathered while taking inventory enabled UKE to analyse and evaluate the telecommunications services market, and use these tools to draft a report showing the coverage of the Republic of Poland with the reach of fixed and mobile public telecommunications networks and the presentation of investment forecasts regarding the development of these networks. The data collected as part of the 2018 inventory was also used to designate areas for co-financing under the 4<sup>th</sup> edition of the POPC competition.

The „Report on the state of the telecommunications market in Poland in 2018”, published on 28 June 2019, indicates that in 2018 the number of network terminations notified during the inventory was 44.6 million.

Nowadays, the development of telecommunications networks is mainly achieved by the high proportion of fibre-optic medium length, which has remained at about 90% since 2015. The year 2018 showed continued improvement in the coverage of mobile networks, where the share of LTE technology was 85%.

### 2.3. Digital Agenda for Europe

The Digital Agenda for Europe (DAE) sets two main objectives for EU countries with regard to providing access and use of the Internet service, which are planned to be achieved by 2020. They include ensuring that all Europeans have access to Internet speeds of at least 30 Mbps and that at least 50% of households subscribe to Internet connections above 100 Mbps. To monitor the degree to which these DAE objectives are achieved, UKE uses data from the annual inventory of telecommunications infrastructure and services.

In order to assess the implementation of the first DAE objective, UKE relied on a household penetration ratio, understood as the ratio of the number of residences in buildings within the range of a network providing Internet speed of at least 30 Mbps (a building in which operators declare the possibility of providing particular services) to the total number of residences in the analysed area. The results of the inventory taken in 2019, as summarised in the „Report on the state of the telecommunications market in Poland in 2018”, show that the average residential penetration with fixed-line Internet speeds of at least 30 Mbps was about 71.7%, marking a nearly 5pp increase compared to 2017.

Achievement of the second DAE objective, related to EU countries building a demand for high-capacity services, is determined by the share of households that use the service with the minimal capacity of 100 Mbps in relation to all households. In 2018, these services were accessible to 58.7% households in Poland. The share of services offering connections of at least 100 Mbps was 19.3% of all households and increased of 6.5pp compared to 2017.

## 2.4. Analysis of prices of fixed-line Internet access services

One of the tasks of the President of UKE, pursuant to Article 192(1)(4) of the Telecommunications Act, is to analyse and evaluate the functioning of the telecommunications services markets. In August 2019, the “Analysis of prices of fixed-line Internet access services in Poland”<sup>19</sup> was published on UKE’s website, presenting the results of the analysis of price lists offered by 7 largest fixed-line Internet providers operating on the Polish market.

According to UKE’s analyses, in 2018 approximately 15.8 million people in Poland used the Internet, of which ca. 8.1 million used fixed-line access. There was a dynamic growth in the share of fast (above 30 Mbps) and ultra fast (above 100 Mbps) connections in the total number of Internet connections.

Telecommunications operators invest in the development of infrastructure, which is accompanied by replacing outdated connections with newer ones – 8% of all fixed-line Internet users accessed the network through FTTH connections.

## 2.5. Supporting construction and infrastructure sharing

### **Access pursuant to Article 30, Article 17 of the MEGA-act and Article 139(1) of the Telecommunications Act**

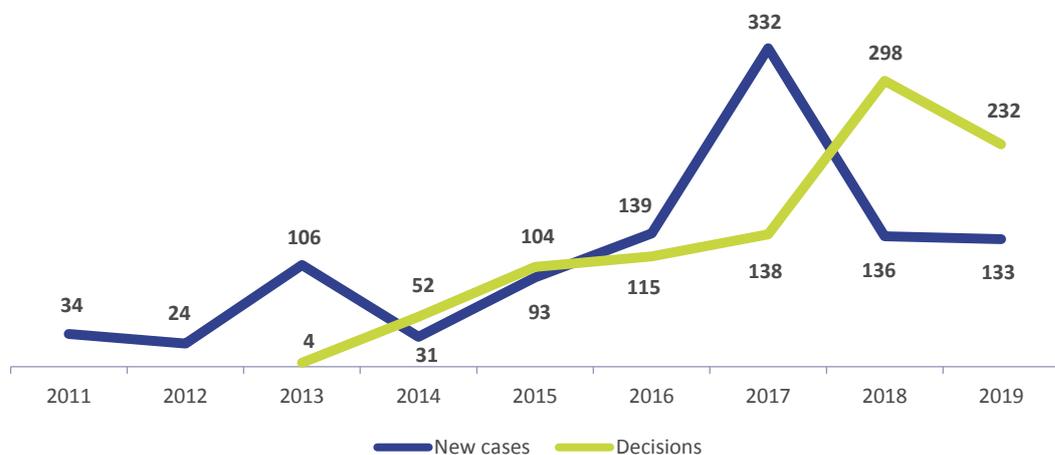
One of the important tasks of UKE in 2019 was to settle disputes over access to real estates and buildings to provide telecommunications services there. The decisions issued set out the conditions and manner of deploying the telecommunications infrastructure on land estates and buildings located on them. The subject matter of the decisions was both to bring telecommunications connections to buildings and to provide them with a telecommunications installation. In 2019, UKE received 147 requests from telecommunications undertakings regarding access to buildings pursuant to Article 30 of the MEGA-act. UKE used 133 of them as basis for conducting administrative proceedings, and in the remaining cases, UKE either refused to initiate proceedings or left the applications of telecommunications undertakings without consideration. In 2019, UKE also continued 298 administrative proceedings launched based on applications that had been submitted before 2018.

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<sup>19</sup> For more information visit: <https://uke.gov.pl/akt/analiza-cen-uslug-stacjonarnego-dostepu-do-internetu-w-Polsce,232.html>.

Chart 8

## New applications launching proceedings and decisions on access to real estate



Source: UKE

In 2019, UKE issued 232 decisions on determining conditions of access to real estates and buildings (Article 30 of the MEGA-act). 152 of these decisions were positive and set out the conditions for cooperation on access to nearly 2,000 buildings. In 51 cases, UKE refused, in whole or in part, to accept the application of the telecommunications undertaking due to such issues as the building already having access to an existing telecommunications installation. In the remaining cases, UKE issued decisions discontinuing the proceedings.

In 2019, UKE updated on its website a Guide for telecommunications undertakings on access to buildings, adjusting it to the 2018 materials to the current legislation including the provisions of the Act of 30 August 2019 on amending the Act on supporting the development of telecommunications services and networks as well as certain other Acts (Polish Journal of Laws [Dz. U.] of 2019, item 1815).

What is more, in 2019, in the field of access to passive infrastructure, UKE conducted:

- a. 18 proceedings in the field of access to telecommunications infrastructure (including 7 proceedings opened *ex officio*),
- b. 24 proceedings in the field of access to technical infrastructure (including 5 proceedings opened *ex officio*).

In 2019, UKE issued:

- a. 10 decisions on access to telecommunications infrastructure (applications to review the case were submitted with regard to 7 decisions),
- b. 12 decisions on access to technical infrastructure (5 decisions concerned access to power poles, 7 decisions concerned access to a building's cable or telecommunication ducts).

The proceedings conducted by UKE *ex officio* related to defining the conditions for:

- a. providing access to power poles to transmission network operators (5 proceedings initiated in January 2019 against: Tauron Dystrybucja S.A., Polska Grupa Energetyczna S.A., ENEA Operator sp. z o.o., Energa Operator S.A., INNOGY STOEN Operator sp. z o.o.),
- b. providing access to telecommunication cables (7 proceedings concerning access to telecommunication cables in multi-occupied buildings, the addressees of the decisions are: Netia, OPL, UPC, Multimedia Polska S.A., Vectra Investments sp. z o.o. sp. j. (Vectra), TOYA, Inea).

In 2019, UKE continued 2 administrative proceedings initiated before 2019 (the first case concerned access to telecommunication cables under Article 139 of the Telecommunications Act, the second case concerned access to cable ducts under Article 18 of the MEGA-act).

It should also be noted that in March 2019, after a 6-month transition period, the regulation of access to a building's cable and telecommunication ducts came into force (decisions issued on 11 September 2018).

This regulation has brought about a measurable effect – on its basis until the end of 2019:

- a. OPL concluded 84 framework contracts for access to the cable ducts and 3 framework contracts for access to a building's telecommunications ducts,
- b. Netia concluded 47 framework contracts for access to the cable ducts and 11 framework contracts for access to a building's telecommunications ducts,
- c. Vectra concluded 8 framework contracts for access to the cable ducts and 4 framework contracts for access to a building's telecommunications ducts.

Therefore, the regulation of access to technical infrastructure and the measures taken by UKE have produced the effect of telecommunications undertakings sharing their existing resources.

UKE also took initiatives related to removing barriers in access to technical infrastructure with regard to power poles. Apart from issuing 5 decisions on access to power poles (these decisions granted telecommunications undertakings access to more than 13,000 poles) and launching *ex officio* 5 proceedings to determine the framework conditions for access to the poles, UKE continued its cooperation with the President of the Energy Regulatory Office. This cooperation was aimed at improving relations between the sectors of telecommunications and energy.

At the end of 2019, according to the contracts transferred to UKE, more than 500,000 poles were available (based on over 1,000 contracts). In 2019 alone, according to the contracts transferred to UKE, 20,000 poles were made available (based on over 230 contracts).

### **Telecommunications access pursuant to Article 28 of the Telecommunications Act**

In the area of disputes among operators regarding telecommunications access, in 2019 UKE, at the request of telecommunications undertakings, initiated 4 proceedings related to telecommunications access pursuant to Article 28 of the Telecommunications Act. It also issued 2 decisions amending telecommunications access contracts, 1 decision refusing to amend a telecommunications access contract, discontinued 2 proceedings concerning an inter-operator

dispute on telecommunications access and upheld 1 decision stating the expiry of a telecommunications access decision.

### **Access to the infrastructure or a network that was constructed, rebuilt, renovated or acquired using public funds (Article 27 of the MEGA-act)**

In 2019, UKE continued to approve, monitor and verify the charges applied by the Regional Broadband Network (RSS) infrastructure operators. In April 2019, UKE verified the price lists of RSS infrastructure operators. Most of the price lists analysed contained charges for wholesale services which were partly inconsistent with current market benchmarks regarding charges for wholesale services similar to those provided by RSS infrastructure operators. Considering the development of Internet networks and services in 'white spot' areas, UKE requested the RSS infrastructure operators to review their wholesale charges and change their price lists accordingly.

UKE approved changes in the price lists of Sieć Szerokopasmowa Polski Wschodniej – Podlaskie province, Mazowiecka Regionalna Sieć Szerokopasmowa – "Internet dla Mazowsza", Sieć Szerokopasmowa Polski Wschodniej – Świętokrzyskie province and Śląska Regionalna Sieć Szerokopasmowa. The modifications concerned such matters as the introduction of new bit rate options for active services, cancellation or reduction of one-off fees for starting the service, reduction of subscription fees for the active services on offer and increasing discounts.

UKE also collected contracts submitted by RSS infrastructure operators concluded with operators with respect to access to RSS infrastructure and kept a record of those contracts.

In 2019, UKE issued 4 decisions terminating the proceedings to settle inter-operator disputes concerning access to the networks delivered by the beneficiaries of the first POPC competition (3 discontinuation decisions and 1 decision defining the conditions for access to the POPC network).

UKE approving the price lists for the RSS infrastructure operators as well as approving wholesale offers and price lists of POPC operators guarantees open access to the networks of these operators on terms that are transparent and non-discriminatory. It also contributes to an increase in access to broadband Internet in 'white spot' areas.

### **Providing access to real estate for telecommunications purposes**

UKE also conducted proceedings and prepared draft decisions agreeing on draft decisions of starosts issued under Article 124(1) of the Real Estate Management Act (in conjunction with Article 33 of the MEGA-act) on restricting the use of real estate by its owner in order to make it available to operators for telecommunications purposes. In this regard, in 2019, UKE conducted administrative proceedings in 112 cases.

### **Providing access to forest real estate**

In addition, UKE prepared guidelines for chief foresters on making forest real estate available for telecommunications purposes along with Annexes, *i.e.* a draft contract and a proposal of framework terms referred to in Article 39b(1) of the Forest Act. The aforementioned

documents were prepared in response to the KIKE report, which informed about problems with regard to access to forest real estate while carrying out telecommunications investments. UKE's guidelines have been very well evaluated by telecommunications operators.

## 2.6. Implementation of POPC

In 2019, UKE carried out tasks and obligations in the field of supporting the expansion of telecommunications infrastructure as part of projects co-financed from the EU budget. Pursuant to the Trilateral Agreement concluded on 3 June 2015 between the Minister of Infrastructure and Development, the Digital Poland Project Centre (CPPC) and the President of UKE, in which UKE was named a specialist institution in the area of digitisation, and the Implementation Agreement for the Trilateral Agreement concluded on 10 May 2016 between the President of UKE and the Digital Poland Project Centre, UKE experts carried out tasks as part of:

- a. the second round of the third competition under Axis I of POPC,
- b. the "Open Internet for everyone" competition under Axis I of POPC,
- c. the fourth competition under Axis I of POPC,
- d. Technical Assistance under Axis IV of POPC.

In the second round of the third competition under Axis I of POPC, the UKE experts carried out a 2<sup>nd</sup> stage quality evaluation of 7 projects submitted by applicants. Ultimately, contracts for co-financing were signed for a total value of PLN 143 million, which means that almost 100,000 households and over a thousand educational units in the three competition areas will benefit from the NGA network coverage.

In September 2019, the "Open Internet for Everyone" competition was announced, under which communes can apply for a grant of PLN 64,368.00 for the construction of free wireless Internet access points in public space. The funds available for co-financing projects in this competition total PLN 120 million. For competition purposes, the UKE experts participated in the preparation of technical requirements and in the quality evaluation of applications for co-financing submitted by the communes.

In Q4 of 2019, the fourth competition under Axis I of POPC was announced, which assumes, among other things, coverage of new types of public institutions – commune cultural centres and volunteer fire brigades. To this end, the UKE experts identified over 635,000 households and 251 public institutions (educational units, commune cultural centres, volunteer fire brigades) as eligible for this competition.

Moreover, the UKE experts:

- a. prepared databases of commune cultural centres and volunteer fire brigades on the basis of data made available by other public administration units,
- b. prepared a database of 'white spot' areas for public consultation – 2.8 million addresses,
- c. took part in the evaluation of investment plans carried out by the Ministry of Digital Affairs in the framework of public consultations organised each time before the

- announcement of the POPC competition (verification and monitoring, including identification of plans that are not implemented in accordance with the undertaking's prior notification),
- d. prepared and held workshops for POPC beneficiaries,
  - e. developed an algorithm to identify areas where public intervention is needed to ensure the widest possible broadband access,
  - f. identified and grouped areas of the country requiring public intervention with the participation of EU funds,
  - g. participated in the drafting of requirements for the connection of households, commune cultural centres, volunteer fire brigades and educational units.

In 2019, UKE also performed an analysis of the current status of educational units from the previously announced POPC calls as well as an accessibility analysis of broadband services in public institutions of various types (educational units, commune cultural centres, volunteer fire brigades, health care facilities) for the purposes of the fourth POPC call.

Within the scope of its competence, UKE analysed address points, which constituted the so-called white NGA spots at the stage of defining areas for intervention in the second and third POPC calls; however, subsequent inventories indicated that NGA coverage would cover some points beyond POPC. UKE provided the Ministry of Digital Affairs and the CPPC with a list of 147.2 thousand of these address points.

In 2019, UKE continued the implementation of measures concerning the obligation for POPC beneficiaries to provide open and effective wholesale access to the POPC network.

In the case of projects implemented in the first competition under Axis I of POPC, UKE analysed the price lists applied by the POPC beneficiaries. As part of projects implemented in the second and third competition under Axis I of the POPC, UKE approved: 6 wholesale offers for households, 8 price lists in wholesale offers for access to educational units, 6 changes in wholesale offers for households and 3 changes in wholesale offers for access to educational units. Moreover, UKE updated the weighted average cost of capital (WACC) in the Margin Squeeze Test (MS Test) used by beneficiaries of the second, third and fourth competition under Axis I of POPC to determine the amount of wholesale charges.

In 2019, UKE also conducted educational and informational activities, including:

- a. publication of the document "How to gain access to the POPC and RSS networks. Guide for telecommunications undertakings"<sup>20</sup>,
- b. holding workshops for POPC beneficiaries (on 19 March and 15 October 2019),
- c. indicating to POPC beneficiaries the obligations related to wholesale access (publication of wholesale offers, presentation of updated results of the MS Test to UKE, providing UKE with signed contracts for the provision of services in POPC networks).

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<sup>20</sup> For more information visit: <https://uke.gov.pl/akt/jak-uzyskac-dostep-do-sieci-popc-i-rss-poradnik-dla-przedsiębiorców-telekomunikacyjnych,264.html>.

In order to unify the standards and rules of inter-operator cooperation in the first, second, third and fourth competitions under Axis I of POPC, UKE prepared "Procedures for inter-operator cooperation on access to the POPC network". This document was widely consulted and discussed with representatives of the telecommunications market, also by way of dedicated workshops (on 3 September and 9 December 2019). The final material was made available to telecommunications undertakings in early 2020.

In the area of controlling the POPC network, the task of UKE is to support the Intermediate Body in the scope of monitoring, supervision and control of project implementation, mainly with regard to technical aspects, including participation in the process of control over projects in progress and during the sustainability control in order to determine whether the constructed infrastructure is compliant with the co-financing agreement and documentation presented by the beneficiary.

**Effects of the work of UKE experts with regard to conducting inspections, evaluations and preparing opinions:**

- a. 101 inspections conducted with regard to technical aspects, in order to determine whether the constructed infrastructure is compliant with the co-financing agreement and documentation presented by the beneficiary, including whether it enables provision of Internet access with the parameters required for end-users and effective wholesale access for other telecommunications undertakings,
- b. 29 verified projects regarding the connection of educational units to the POPC network,
- c. 18 evaluations of applications for co-financing in the second round of the third competition and the "Open Internet for everyone" competition under POPC Measure 1.1,
- d. 88 opinions evaluating the proposed modifications to project locations as well as technical and economic aspects of projects under POPC Measure 1.1,
- e. 66 opinions evaluating the achievement of the result indicators following the implementation of projects as part of the first competition under POPC Measure 1.1,
- f. 28 opinions evaluating the beneficiary-proposed changes that involve extending coverage to educational units, in projects implemented as part of the third competition under POPC Measure 1.1.

In order to obtain Technical Assistance from POPC and to settle it correctly, UKE completed the following tasks:

- a. prepared the allocation of funds for POPC Technical Assistance for UKE and the schedule of expenditures for 2019,
- b. developed product indicators for Technical Assistance for 2019,
- c. prepared amendments to the Agreement for co-financing of the in-kind project for 2019 (Amendment No. 1 signed on 23 July 2019, Amendment No. 2 signed on 19 December 2019),
- d. prepared an amendment to the Agreement for co-financing the remuneration project for 2019 (Amendment No. 1 signed on 6 November 2019),
- e. prepared and submitted applications for co-financing of projects and payment claims to the Managing Authority,

- f. participated in the inspection carried out by the Managing Authority, which concerned public procurement for the in-kind project for 2018,
- g. participated in the inspection carried out by the Managing Authority, which concerned payment claims for the remuneration and in-kind projects for 2018,
- h. participated in the inspection carried out by the Managing Authority at UKE's headquarters (location of project implementation) of the entire documentation for the in-kind and remuneration projects for 2018.

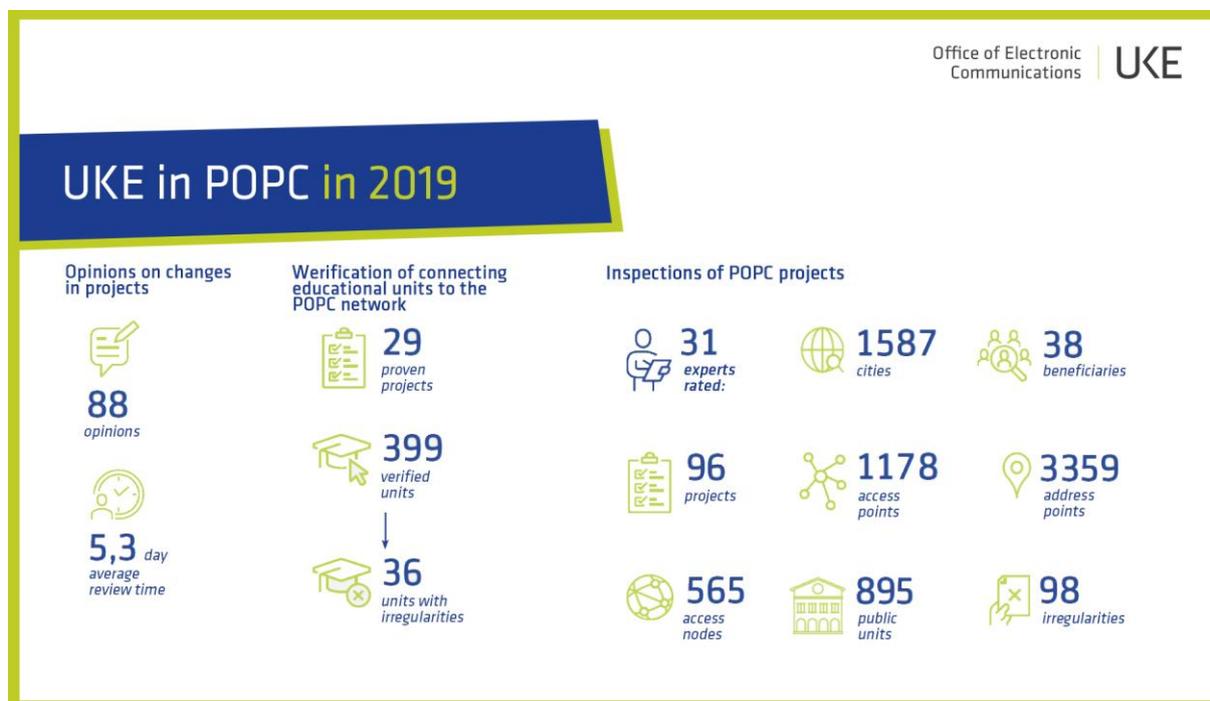
#### **Effects concerning the use of Technical Assistance by UKE:**

- a. production launch of the ICT system supporting the operation of the Information Point on Telecommunications (PIT) – in 2019, UKE approved the expansion and modernisation of the PIT system<sup>21</sup>,
- b. 2 promotion and information conferences on the Information Point on Telecommunications,
- c. 2 workshops prepared for the current and potential beneficiaries of POPC Measure 1.1,
- d. 2 devices equipped with instruments for measuring the length and attenuation of optical fibres in telecommunications networks (OTDR reflectometers),
- e. programming work on optimisation of address database historicising and taking inventory of telecommunications infrastructure and services,
- f. preparing universal rules and procedures for cooperation between operators providing wholesale broadband access services and operators interested in using these services,
- g. 5 applications for co-financing submitted to the Managing Authority in 2019 for the total amount of PLN 10,520,049.00,
- h. 4 co-financing agreements signed for the following projects:
  - “Support for the functioning of the Office of Electronic Communications in 2019. (employment)”,
  - “Financing technical and training facilities for the Office of Electronic Communications in 2019”,
  - “Constructing the Information Point on Telecommunications in 2019”,
  - “Constructing the Information Point on Telecommunications in 2019 – stage II”,
- i. 16 payment claims submitted to the Managing Authority,
- j. 8 public procurements for 2018 inspected and approved by the Managing Authority,
- k. 11 payment claims approved for 2018 and 9 claims for 2019 (as of 31 December 2019, 8 claims for 2019 and 1 claim for Q4 2018 were pending approval by the Ministry of Development Funds and Regional Policy).

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<sup>21</sup> For more information see point 4.2 of the Report on the activities of the President of the Office of Electronic Communications for 2019.

Figure 3  
Summary of UKE activities in POPC - 1



Source: UKE

Figure 4  
Summary of UKE activities in POPC - 2



Source: UKE

## 2.7. Work on the implementation of 5G

### 700 MHz band

In 2019, UKE continued with the international arrangements to release the 700 MHz band, as set out in the Decision of the European Parliament and of the Council (EU) 2017/899 of 17 May 2017 on the use of the 470-790 MHz frequency band in the European Union. The Russian Federation was the last country with which a plan for the use of the 470-694 MHz band had to be agreed. UKE also engaged in correspondence-based negotiations in order to:

- a. agree on new channel plans for TDT after releasing the 700 MHz band,
- b. establish the date for withdrawing frequency allocations from channel plans in the 700 MHz band in the Kaliningrad Region,
- c. establish the date of switching off analogue television transmitters in the Kaliningrad Region.

In the letter of 27 March 2019 the Russian administration indicated that it would send its official consent to the negotiated channel plan for TDT below the 700 MHz band after having reached an agreement with the Lithuanian administration in this regard. Thus, regardless of UKE's actions, it made the completion of arrangements conditional on finalising frequency coordination with Lithuania.

The impasse in the arrangements with Russia was exacerbated by the lack of consent of the Russian administration to use Channel 45 in the KLAIPEDA area, which, combined with the previously made declaration, increased the risk that the whole process of releasing the 700 MHz band in Poland would fail. In order to solve the problem and speed up the arrangements, the Polish administration initiated a process of international negotiations aimed at transferring Channel 45 to the Lithuanian administration in place of Channel 43. This decision had a significant impact on the conclusion of negotiations between Lithuania and Russia, but it forced changes to the Polish channel plan agreed with other countries. It was therefore necessary to update the existing arrangements, which was ultimately accepted by the administrations of the neighbouring countries following negotiations.

Following UKE's intensified efforts in its negotiations with the Russian side held on 5 November 2019 The Russian and Polish administrations agreed on the channel plans for TDT in the 470-694 MHz band, thus completing the process of coordinating channels below the 700 MHz band. The Russian administration is yet to set a date for the release of the 700 MHz band in the Kaliningrad Region by its TV services.

A coordination meeting with the Russian administration took place in December 2019. The information obtained during the video-conference shows that a Broadcasting Development Concept is being developed in Russia, which is to include arrangements for the use of the 700 MHz band. Work on the concept was scheduled for completion by the end of 2019. As at the drafting date of this report, UKE is not aware of any plans or potential date of releasing the 700 MHz band for terrestrial television services in the Kaliningrad Region.

In order to address the problems of harmonising the 700 MHz band, UKE also continued its internal work. In the letter of 5 April 2019 addressed to the Minister of Digital Affairs, the President of UKE indicated that the previously agreed and presented plan of changes to TV channels had become obsolete. This was affected by the request made by the Ministry of Digital Affairs to the EC on 28 December 2018 to postpone the deadline for making the 700 MHz band available in Poland for broadband systems, due to coordination arrangements with Russia being incomplete. Furthermore, on 1 February 2019, the Ministry of Digital Affairs announced a one-week consultation of the National Action Plan (NAP) update draft. According to the draft, the release of the 700 MHz band would be by 30 June 2022. Due to the delay in the Ministry of Digital Affairs' publication of the positions received in the course of consultations and presentation of the final version of the NAP, the final release and the availability dates of the 700 MHz band, as well as the possible combining of this process with the change of broadcasting standard from DVB-T to DVB-T2 were not known. In addition, at the meeting of the Senate on 26 February 2019 on the draft amendment of the Telecommunications Act, an amendment to the draft (Article 123(2e) of the Telecommunications Act) was adopted, with the approval of the Ministry of Digital Affairs' representatives, excluding the possibility for UKE to change the frequency licenses in the 700 MHz band *ex officio* and thus to migrate the television broadcasters into the 470–694 MHz band.

In the letter of 5 April 2019 addressed to the Minister of Digital Affairs and to the Chairman of the KRRiT (National Broadcasting Council), the President of UKE presented possible options for necessary changes to TDT channels and the consequences of deciding on the number of available TDT multiplexes, following the release of the 700 MHz band by TV, which was unknown as of the date of said letter. The development of the channel plan, as well as the migration, required defining – as soon as possible – the target number of countrywide TV multiplexes, possible change of the broadcasting standard (from DVB-T/AVC to DVB-T2/HEVC), and above all – publication of the final NAP version.

UKE repeatedly in the course of 2019, *i.e.* by letters of: 31 January, 19 February, 5 April, 25 April, 9 May, 16 May, 22 May and 26 June, requested information from the Ministry of Digital Affairs to prepare a plan for the migration of TDT from the 700 MHz band. Its implementation was dependent on the adoption of a separate act announced by the Ministry of Digital Affairs regulating the issues of changing the purpose of the 700 MHz band. The assumptions of the draft act and the schedule of work on its preparation were not known to UKE.

At the beginning of 2019, UKE received a request from the Danish administration to release the TV channels as agreed upon, allowing the reorganisation of TDT and the launch of 5G systems on the island of Bornholm. UKE forwarded this information to the Ministry of Digital Affairs, pointing to Denmark being uninformed about Poland's delay request (with regard to providing access to the 700 MHz band) and – similarly to the President of UKE – not having access to its content. According to the information contained in the letter of 17 May 2019 received from the Ministry of Digital Affairs, it appears that the Ministry only informed the EC about the delay. However, pursuant to Article 1 of the Decision of the European Parliament and of the Council (EU) 2017/899 of 17 May 2017 Poland was obliged to inform all EU Member States of this fact.

The unfavourable provisions of the Telecommunications Act in terms of migration of TDT channels and the failure to complete the NAP update complicated the work aimed at preparing the process of TDT channel changes. UKE brought this fact to the Ministry of Digital Affairs' attention in its letters of: 5 April 2019, 25 April 2019, 9 May 2019, 16 May 2019, 26 June 2019, while requesting information on such issues as the status of NAP work, the planned date of changing the assignment of the 700 MHz band or the date of switching from the DVB-T standard to DVB-T2/HEVC.

Only the publication of the NAP update on 31 July 2019 and the amendment of the provisions of the Telecommunications Act made on 25 October 2019 enabled UKE to take action towards releasing the 700 MHz band. In August 2019, an amendment to the frequency management plan for the 470-790 MHz band was published for consultation. The change in the frequency management plan for the 470-790 MHz band, announced after public consultation and arrangements made with the Chairman of the KRRiT, made it possible to initiate proceedings to change frequency licences for MUX1 and MUX4. On 30 December 2019, UKE issued decisions, allowing the first real changes of channels to be made in connection with the process of releasing the 700 MHz band.

In 2019, UKE was simultaneously working on the target channel plan. In order to speed up the work, in September 2019 UKE announced consultations on the plan's version initially agreed with the Russian administration. The successful completion of the foreign coordination with the Russian Federation for the 470-694 MHz band on 5 November 2019 enabled to continue work on the frequency management plan for the 470-790 MHz band, which was published on 20 January 2020 after taking into account the positions submitted during public consultation, and then agreed with the Chairman of the KRRiT. This opened up the possibility of making channel changes to the existing TDT licence decisions, scheduled to be issued in April 2020.

The migration of TDT channels was closely tied to the subject of determining the target number of multiplexes and the related possible change of broadcasting standard from DVB-T/AVC to DVB-T2/HEVC. Work on the Regulation on technical and operational requirements for digital receivers, already undertaken in 2017 and continued with the participation of UKE, reached its peak on 4 November 2019 with the publication of this document in the form of a Regulation of the Minister of Digital Affairs. The Regulation was updated on 29 November 2019 with regard to the part concerning the supported Hybrid Broadcast Broadband TV (HbbTV) standard.

### **The 3.5 GHz band**

In 2019, UKE continued its efforts to release the 3400-3600 MHz band by holding a number of meetings and consultations with frequency operators on the need to release resources. To this end, UKE initiated 14 administrative proceedings related to the cancellation and termination of frequency licences. As a result of actions taken:

- a. 9 proceedings became irrelevant (during the proceedings the operator paid the outstanding fees for the right to use the frequencies),
- b. 2 proceedings became irrelevant (during the proceedings the licences expired),
- c. 3 proceedings ended with the issuance, at a party's request, of a decision confirming

- the expiry of licences,
- d. in 1 case the licence was refused,
  - e. 5 proceedings to revoke a licence were still pending at the end of 2019.

On 6 May 2019, the day the amendment to the provisions of the Telecommunications Act entered into force, UKE initiated 17 proceedings to determine the possibility of extending licences for a subsequent period, granted in the 3.5 GHz band. As part of these proceedings, 17 decisions were issued stating the lack of possibility to extend a licence from the 3.5 GHz band for a subsequent period.

In 2019, UKE also issued 4 radio licences (two radio licences based on a frequency licence, the other two with an expiry date set to 31 December 2019).

The actions taken resulted in reducing the number of decisions granting rights in the 3.5 GHz band by 30. As of 30 January 2020, 37 frequency licence decisions and 131 radio licence decisions were in force for the 3.5 GHz band.

### **The 3.7 GHz band**

Pending the amendment of the Telecommunications Act, UKE continued the activities started in 2018 related to making the 3.7 GHz band available for 5G. As part of the administrative proceedings undertaken in 2019, UKE took the following measures:

- a. in the case of regional licences in the ranges 3657-3699 MHz and 3757-3799 MHz:
  - 5 areas had the area of license coverage reduced (area 06.3 to 19 communes, area 24.2 to 23 communes, area 10.4 to 5 communes, area 09.3 to 1 commune, area 26.2 to 1 commune) – a total of 112 communes were released,
  - 1 area was found to have its licence expired (area 14.2) – 3 communes were released,
- b. in the case of regional licences in the ranges 3629-3643 MHz and 3729-3743 MHz:
  - one licence was revoked – 1 commune was released,
  - the coverage area of 2 licences was reduced to 82 communes – a total of 64 communes was released,
  - 1 licence period was shortened from 31 December 2020 to 28 December 2019.

As a result of administrative proceedings initiated in 2019, a total of 180 communes were released.

At the same time in 2019 UKE refused to licence the 3.7 GHz band in 1 case, refused to change its licence from the 3.7 GHz band in 3 cases and issued 1 decision transferring rights from the licence in the 3.7 GHz band.

In the scope of extending licences for subsequent periods, following the 6 May 2019 amendment to the provisions of the Telecommunications Act, UKE initiated 33 proceedings to determine the possibility of extending licences in the 3.7 GHz band for a subsequent period. As part of these proceedings:

- a. 31 decisions were issued stating that the lack of possibility to extend a licence from the 3.7 GHz band for a subsequent period,

- b. 2 proceedings were discontinued (1 proceedings for area 08.2 due to earlier receipt of a licence request for a subsequent period and 1 proceedings for area 14.2 due to the submission of a request to declare licence expiry).

Moreover, UKE, having considered the applications, refused to extend 3 licences in the 3.7 GHz band for a subsequent period (for area 08.2 and for two countrywide licences in the 3601–3629 MHz frequency bands).

Thus, with regard to all 34 licences in force in May 2019 in the 3.7 GHz band it was decided that it was not possible to extend a licence for a subsequent period (31 licences) or to refuse to extend it (3 licences).

On 30 April 2019, based on a decision issued in 2018, the licence in area 06.2 covering 48 communes expired.

At the end of 2019, frequency licences expired in the following frequency bands:

- a. 3601–3629 MHz granted to T-Mobile (2 countrywide licences),
- b. 3701–3729 MHz granted to P4 (2 countrywide licences),
- c. 3629–3643 MHz and 3729–3743 MHz granted to the National Research Institute – Research and Academic Computer Network (NASK) (2 licences covering 82 communes in the area of the Mazovia province).

As of 1 January 2020, the following decisions were in force in the 3.7 GHz band:

- a. 2 decisions on countrywide frequency licences in the 3643–3657 MHz and 3743–3757 MHz frequency bands (total of 2,477 communes with licence coverage until 31 December 2020),
- b. 3 decisions on regional frequency licences in the 3629–3643 MHz and 3729–3743 MHz frequency bands (total of 233 communes with licence coverage until 31 December 2020),
- c. 23 decisions on regional frequency licences in the 3657–3699 MHz and 3757–3799 MHz frequency bands (total of 670 communes with licence coverage not lasting beyond 31 December 2022).

### **Preparations for the selection procedure on C-band frequencies**

Following the 2018 consultations on frequencies to allocate for 5G and market questions about the future distribution of the band for these purposes, UKE began work on preparing a tender for frequencies in the 3600–3800 MHz band. On 19 April 2019, UKE published preliminary assumptions for the tender for the 3600–3800 MHz band<sup>22</sup>. The information on starting preliminary consultations also indicated that a tender is being considered for 4 frequency licences in the 3480–3800 MHz band, each covering a spectrum of 80 MHz.

In connection with the amendment of the Telecommunications Act (the provisions came into force on 6 May 2019) and the 6 August 2019 announcement of a new regulation on tenders, auctions and competitions for the frequency licence or orbital resources, and after analysing the submitted positions, UKE began work on preparing an auction for four frequency licences in the

<sup>22</sup> For more information visit: <https://uke.gov.pl/akt/wstepne-zalozenia-do-przetargu-3-7-ghz,205.html>.

3.6 GHz band (3480–3800 MHz). On 9 December 2019, UKE announced first consultations on the auction<sup>23</sup>. The deadline for submitting positions expired on 10 January 2020.

The auction assumptions were as follows:

- a. allocating 4 licences from the 3480–3800 MHz band, 80 MHz each,
- b. granting licences until the end of May 2035,
- c. setting the opening price for each block at PLN 450 million,
- d. setting obligations to ensure network development in the most populated centres, *i.e.* communes with more than 80 thousand inhabitants.

### The 26 GHz band

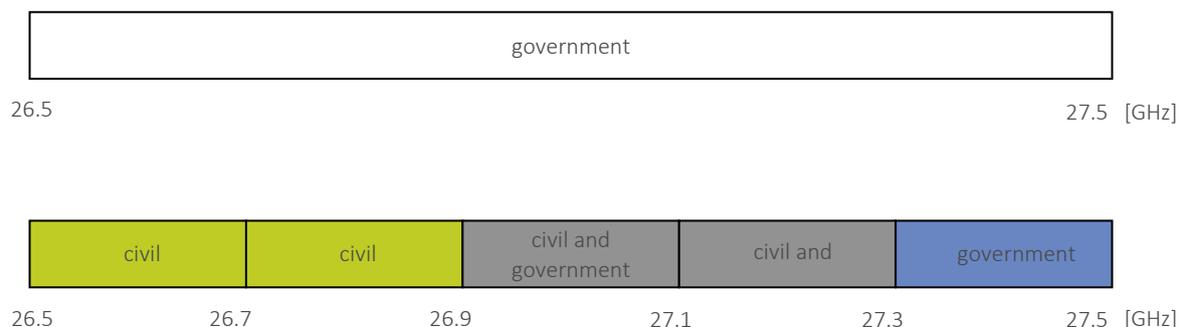
Following a series of meetings held in the previous years within the Working Group for the analysis and review of frequencies and frequency bands for civil and military uses, created under an agreement concluded between the Minister of National Defence and the President of UKE, it was deemed necessary to change the National Frequency Allocation Table (NFAT) in order to increase the spectrum resources for the purposes of implementing the 5G network in Poland in the millimetre band.

The work led to a modification of the NFAT. On 18 September 2019, The Regulation of the Council of Ministers of 23 August 2019 changed the previous government use of the 26.5-27.5 GHz band into three sub-bands, *i.e.*:

- a. 26.5-26.9 GHz – civil use,
- b. 26.9-27.3 GHz – civil and government use,
- c. 27.3-27.5 GHz – government use.

The change makes it possible to allocate the resource (400 MHz) for the provision of telecommunications services in the 26.5-26.9 GHz band throughout the country.

Figure 5  
Distribution of the 26.5-27.5 GHz range



Source: UKE

<sup>23</sup> For more information visit: <https://bip.uke.gov.pl/konsultacje-i-wyniki-konsultacji/konsultacje-aukcji-na-cztery-rezerwacje-czestotliwosci-z-pasma-3-6-ghz,993.html>.

As of 1 January 2020, 7 decisions on frequency licences and 430 decisions on radio licences were in force in the 26 GHz band.

## 2.8. Actions supporting the implementation of 5G

In 2019, UKE issued 265 decisions granting or extending permits to conduct 5G technology tests in the 2100 MHz, 3.5 GHz, 26 GHz and 28 GHz. bands.

Table 2

Summary of 5G tests

No.	Entity	Test location	Number of base stations	Band	Bandwidth [MHz]	Date of the decision	Date of test completion
1	Orange Polska S.A.	Zakopane	2	28 GHz	750	18-01-2019	31-12-2020
2	Orange Polska S.A.	Warsaw	9	3.5 GHz	80	27-02-2019	28-02-2020
3	Orange Polska S.A.	Lublin	10	3.5 GHz	80	27-02-2019	28-02-2020
4	P4 sp. z o.o.	Toruń	3	3.5 GHz	100	05-06-2019	29-02-2020
5	P4 sp. z o.o.	Toruń	3	26 GHz	200	01-07-2019	30-06-2020
6	P4 sp. z o.o.	Warsaw	1	3.5 GHz	28	09-08-2019	31-12-2019
7	T-Mobile Polska S.A.	Kraków	1	3.5 GHz	80	19-09-2019	29-02-2020
8	P4 sp. z o.o.	Sokołów Podlaski	3	3.5 GHz	55	19-09-2019	29-02-2020
9	P4 sp. z o.o.	Grójec	2	3.5 GHz	100	31-10-2019	29-02-2020
10	T-Mobile Polska S.A.	Warsaw	15	3.5 GHz	100	31-10-2019	29-02-2020
11	T-Mobile Polska S.A.	Katowice	5	3.5 GHz	100	31-10-2019	29-02-2020
12	Orange Polska S.A.	Chorzów	7	3.5 GHz	100	08-11-2019	28-02-2020
13	P4 sp. z o.o.	Tri-City	101	2100 MHz	29.6	18-11-2019	01-11-2020
14	EXATEL S.A.	Skierniewice	-	3.5 GHz	170	21-11-2019	28-02-2020

Source: UKE

## 2.9. Management of frequency resources

In 2019, UKE issued radio licences and decisions amending them on an ongoing basis, as well as radio operator certifications. In all services, UKE issued a total of 35,024 decisions related to the handling of frequency use.

Table 3

### Decisions related to the handling of frequency use

No.	Type of decision	Number of decisions
1	Decisions in the point-to-point fixed service	14,516
2	Decisions in the point-to-multipoint fixed service	168
3	Decisions in the mobile service for mobile network operators	14,421
4	Decisions in the mobile service for the RRL network	966
5	Decisions in aeronautical services	1,226
6	Decisions in maritime services	782
7	Decisions in the broadcasting service for radio	738
8	Decisions in the broadcasting service for television	31
9	Decisions in satellite services	47
10	Decisions in the amateur service	1,988
11	Decisions regarding the use of PLB (personal locator beacon)	141
Total		35,024

Source: UKE

Additionally, UKE made, pursuant to Article 144c of the Telecommunications Act, 4,735 entries in the register of radio equipment used without permission, operating in wireless telephone base stations. In 2019, UKE carried out exams for the radio operator's certification during 166 examination sessions and issued 4,871 certificates authorising the operation of radio equipment.

Table 4

### Certificates for the operation of radio equipment

No.	Type of certificate	Number of certificates
1	Radio operator certifications in the maritime and inland waterway radiocommunication service	3,037
2	Radio operator certifications in the aeronautical radiocommunication service	1,017
3	Radio operator certifications in the amateur radiocommunication service	817
Total		4,871

Source: UKE

As part of cooperation with regulatory authorities of other countries, in 2019 the following agreements regarding the use of frequencies in border areas were concluded:

- a. Agreement between the Polish and German administrations regarding the planning and border area use of the 703–733 MHz and 758–788 MHz frequency bands for terrestrial systems capable of providing electronic communication services (concluded by correspondence, 21 October 2019),
- b. Agreement between the Polish and German administrations regarding the planning and border area use of the 1427–1518 MHz frequency bands for terrestrial systems capable of providing electronic communication services (concluded by correspondence, 21 October 2019),
- c. Technical and procedural arrangements on the use of the 1427–1518 MHz frequency band by terrestrial systems in the border areas of Poland and Ukraine (Sharm el-Sheikh, 11 November 2019),
- d. Technical bases and criteria for the use of the 1710-1785 MHz and 1805-1880 MHz frequency bands by terrestrial systems agreed on between UKE and the Department of State Telecommunications Supervision of the Ministry of Telecommunications and Information Technology of the Republic of Belarus (concluded by correspondence, 7 October 2019),
- e. Technical agreement between the national frequency management authorities of Poland and the Slovak Republic on the coordination of terrestrial systems capable of providing electronic communications services in the 3400–3800 MHz frequency band (Geneva, 25 February 2019),
- f. Technical agreement between the Polish and German communications administrations on the use of the 3400–3800 MHz frequency band for terrestrial mobile/fixed communications networks (MFCN) in border areas (concluded by correspondence, 29 November 2019).

The President of UKE announced the following as part of the frequency management plans:

- a. Ordinance No. 1 of the President of UKE of 14 January 2019 amending the frequency management plan for the 174–230 MHz frequency band (UKE Official Journal of 2019, item 1),
- b. Ordinance No. 28 of the President of UKE of 14 October 2019 amending the frequency management plan for the 470–790 MHz frequency band published on 14 October 2019 (UKE Official Journal of 2019, item 6),
- c. Ordinance of the President of UKE of 17 January 2020 on the frequency management plan for the 470–790 MHz frequency band published on 20 January 2020 (UKE Official Journal of 2020, item 4).

### **T-DAB+ digital terrestrial radio**

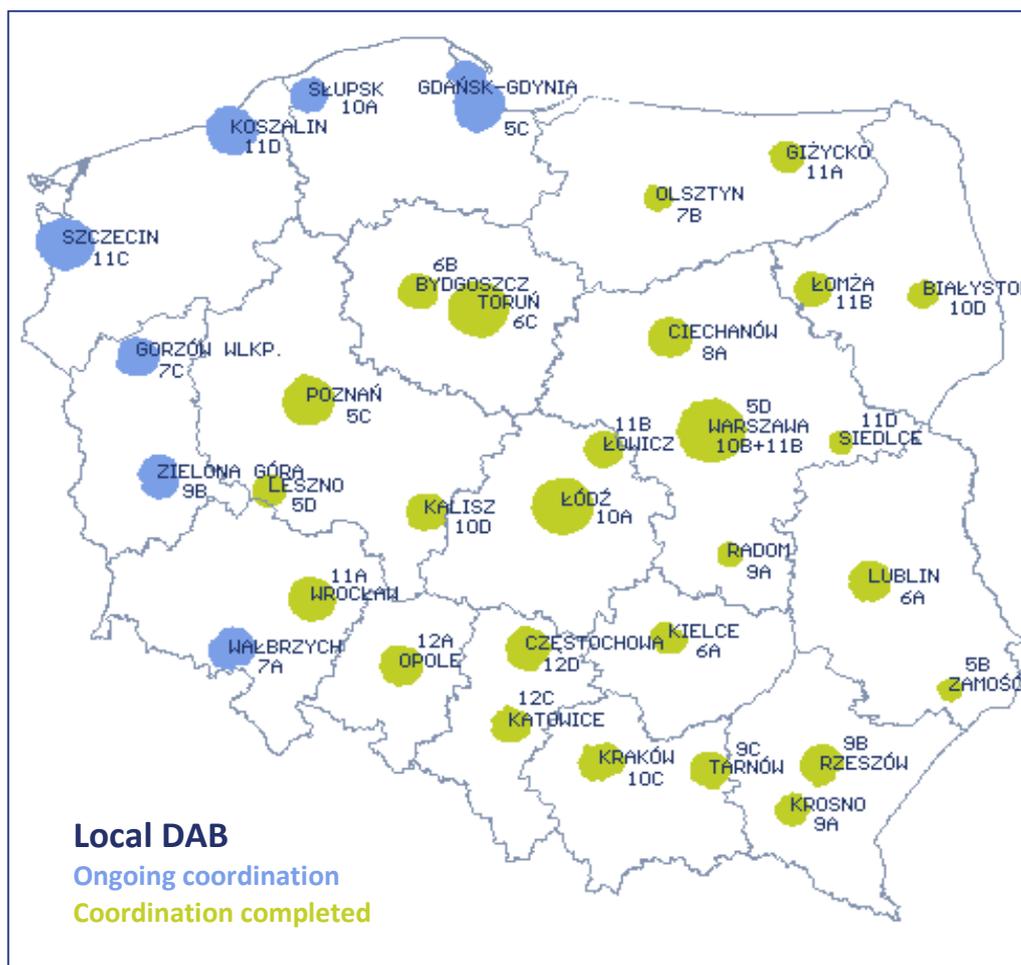
At the Geneva Digital Radio Conference in 2006 Poland agreed on 3 countrywide coverages in the 174–230 MHz band making frequencies for national or regional programmes available to radio broadcasters. However, this plan did not account for the needs of local broadcasting stations.

KRRiT described this problem in March 2016 in the “Green Paper on the digitisation of radio in Poland”, proposing the selection of additional frequency blocks, ones not included in the 2006 Geneva Plan, and use them to create the so-called local mini-multiplexes.

In 2017, UKE started the process of foreign coordination of new frequency blocks (broadcasting stations) in 34 large cities for stations with low power (ca. 1 kW). The process of international arrangements proved difficult and lengthy. Neighbouring countries also faced a number of problems (in Germany, frequency plans were adapted to the needs of radio broadcasters, in the Czech Republic it was only recently decided that the entire 174–230 MHz band would be used by the terrestrial digital radio (TDR), and in Sweden this process was postponed for political reasons).

In view of the prolonged process of arrangements with western and northern countries, UKE decided to add only those multiplexes to the frequency management plan whose international arrangements had been completed. The amendment to the frequency management plan for the 174-230 MHz band was published on 14 January 2019.

Figure 6  
Local multiplexes of TDR



Source: UKE

UKE continued making arrangements concerning areas/stations that were not included in the frequency management plan for the 174-230 MHz band. In February 2019, a bilateral meeting was held with the Czech administration, while with regard to areas/stations located in western and northern Poland, UKE conducted negotiations with administrations of the following countries: Denmark, Germany and Sweden in order to reach a four-party agreement. Due to the multilateral negotiations of the German administration, the plan is changing dynamically, which makes reaching a four-party agreement complicated. Its signing has also been postponed for the sake of the Swedish administration, as in 2019 the future of the 174-230 MHz frequency band was still being discussed at the parliamentary level there. Nevertheless, the January 2020 correspondence exchange created an opportunity to complete the arrangements process in 2020.

In parallel to the conducted international agreements, in connection with new areas of frequency use in the 174–230 MHz band, the President of UKE, together with the Chairman of the KRRiT, issued a communication on 17 May 2019 on the selection procedure for a local DAB+ multiplex operator. It describes the principles that the aforementioned authorities will adhere to in granting licences and licencing frequencies for local digital radio multiplexes. These conditions were reflected in the provisions of the Announcements made by the Chairman of the KRRiT on the possibility of obtaining a license to broadcast radio programmes in a digital, broadcasting, terrestrial standard DAB+, which were consulted with the President of UKE. Whereas by the end of 2019, the Chairman of the KRRiT with the approval of the President of UKE, granted T-DAB+ broadcasting licences in 7 areas. The next step in the process of radio digitisation will be to issue licencing decisions on requests from stakeholders, following a potential selection procedure.

On the other hand, on 17 December 2019, the President of UKE issued a decision amending the countrywide frequency licence in the 174-230 MHz band in the T-DAB+ standard granted to Polskie Radio S.A. The amendment consisted primarily in extending the duration of the licence. By issuing the decision, the President of UKE accepted the position of Polskie Radio S.A. presented in the amendment request. The decision allows the use of frequencies specified in the licence for an extended period of time, which is part of a long-term frequency management policy and takes into account the current international directions in the development of radio broadcasting.

## 2.10. Analysis of OTT services

In connection with the intensive development of Over-The-Top (OTT) services, in 2019 UKE commissioned an analysis of the obligations of OTT undertakings and the powers of the President of UKE with regard to these undertakings based on the current legislation. The need to examine the position of the aforementioned service providers on the telecommunications market largely follows from them competing with providers of “traditional” telecommunications services, while at the same time enjoying what is actually a privileged position, resulting from not being subject to the provisions of the Telecommunications Act. Another issue in need of a resolution was the possibility of imposing statutory sanctions on the aforementioned undertakings.

The conclusions presented in the report can be applied to the activity of other undertakings providing telecommunications activities, and not entered into the RPT. As part of its analysis,

UKE confronted the practice adopted in Poland with the binding national law, EU law (including the European Electronic Communications Code - EECC), as well as the doctrine and case-law of the European Court of Justice. The report also presents the positions of the regulatory authorities of other Member States in the context of the problem at hand.

The conclusions drawn from the analysis arouse reasonable doubts about the current doctrine and the positions expressed in court rulings, from which it follows that for an entity to be recognised as a telecommunications undertaking it must be entered in the RPT. According to the analysis, an entry in the register is only declaratory in nature, whereas the essence of recognising a given entity as a telecommunications undertaking is its actual activity. Therefore, the above implies the possibility of imposing the sanctions specified in Article 209 of the Telecommunications Act on entities not entered into the register, whose activity qualifies as telecommunications activity. The analysis also points to the legitimacy of penalising undertakings for not being listed in the RPT and the recommendations in this area point to the need for appropriate legislative changes so that the issues of sanctions are not subject to further disputes as to their interpretation.

UKE's attempt to extend the definition of electronic communications services (ECS) featured in the EECC to include OTT services was not met with approval during the work on the document in the Council of the EU. At UKE's initiative, the possibility of collecting data from OTT service providers was introduced to the EECC (Article 20 of the EECC).

### 2.11. The GOVTECH platform

One of the areas of UKE's activity is supporting Polish innovative solutions and enterprises on the market of telecommunications services. In 2019, UKE joined the Govtech Poland – Activate Ideas! programme, implemented under the auspices of the Prime Minister, which brings together public bodies, undertakings, start-ups, academic communities and citizens. By harnessing the competition formula, the programme invites stakeholders who want to use modern IT and technological solutions to come together and solve important challenges faced by society, improve living conditions of citizens or the effectiveness of the public sphere.

As part of the programme, UKE reported a challenge related to creating a publicly available platform showcasing investment attractiveness, especially in areas without the NGA standard infrastructure. UKE aims to ensure that in 2020 high-speed Internet will be available across Poland, and the measures undertaken by UKE are intended to promote and stimulate investment in the expansion of NGA networks.

The competition for providing a publicly available platform showcasing investment attractiveness was conducted in two stages. The evaluation of works submitted for the first stage of UKE's competition ended with selecting 5 works that would be qualified to take part in the second stage. In the second stage, the greatest number of points for a competition work was awarded to InProjects sp. z o.o. Sp. k., which will ultimately be the contractor for the publicly available platform showcasing investment attractiveness.

## 2.12. Development of the postal market

### Keeping the ROP register

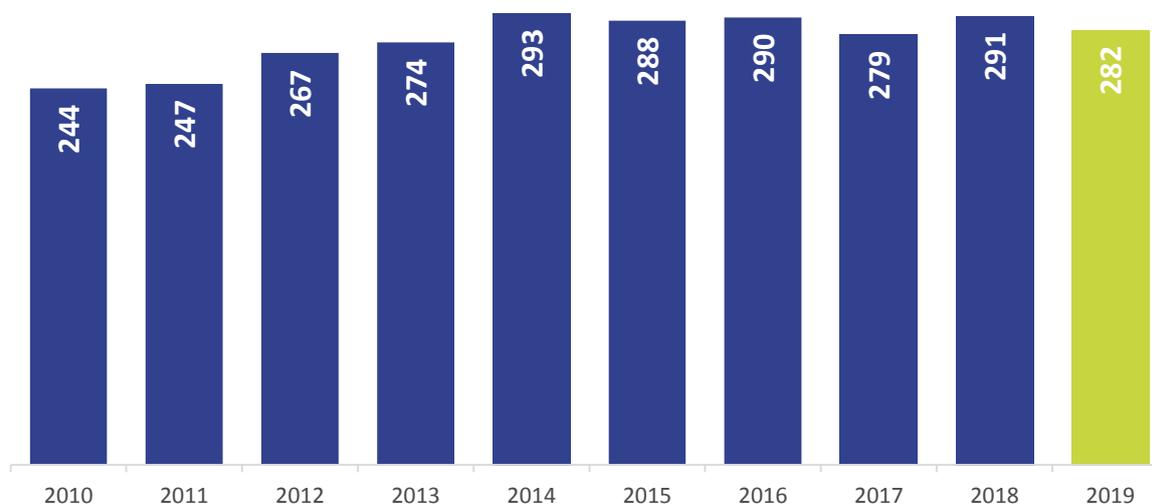
In 2019, UKE received:

- 22 applications for entry into the register of postal operators (ROP), 1 of which had been received in 2019 but the entry was made in 2020,
- 21 applications for the removal from the ROP,
- 3 applications for the suspension of postal activities,
- 17 applications for data change within the scope of the application for entry to the ROP.

9 entities were removed from the ROP *ex officio* due to a permanent cessation of their postal activities (these entities were previously deleted from CEIDG or KRS). In total, as of 31 December 2019, there were 283 entities in the ROP, including Poczta Polska and 282 operators that do not provide universal services.

Chart 9

#### Alternative postal operators entered into the ROP



Source: UKE

### Postal market analyses

In 2019, UKE carried out analyses of the functioning of the postal market and prepared: Report on the state of the postal market in 2018, Report of the President of UKE on the study of the delivery time of postal items in the field of universal services in domestic traffic for 2018 and Information on the implementation of the obligation under Article 6(7) of Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services (Regulation 2018/644).

### **Report on the state of the postal market in 2018**

The report contains information on the functioning of the postal market prepared on the basis of the data provided by postal operators in reports on their activities in 2018. The analysis covered activities of Poczta Polska as an operator designated to provide universal services and of 144 alternative operators. Also analysed were the individual segments of the postal market. Pursuant to the provisions of the Postal Law, the President of UKE submitted to the Minister of Infrastructure the “Report on the state of the postal market in 2018”, including the results of the inspection of postal activities. The report was also published in the UKE BIP<sup>24</sup>.

### **Report of the President of UKE on the study of the delivery time of postal items in the field of universal services in domestic traffic for 2018**

The report discusses the research conducted in 2018 on the time of delivery of unregistered economic and priority letters and economic and priority parcels that Poczta Polska achieved in 2018 in the field of universal services in domestic traffic. The results of the study of the delivery time of postal items were compared with the objectives in terms of timeliness specified by law. Pursuant to the provisions of the Postal Law, UKE published the “Report on the delivery time of postal items in the field of universal services in the domestic traffic for 2018” in the UKE BIP<sup>25</sup>.

### **Information on the implementation of the obligation under Article 6(7) of Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services (Regulation 2018/644)**

Pursuant to the obligation under Article 6(7) of Regulation 2018/644 the national regulatory authority of EU Member States shall submit their assessment of cross-border single-piece parcel tariffs to the European Commission by 30 June of the relevant calendar year. Pursuant to Article 6(1) of Regulation 2018/644 the national regulatory authority shall identify, for each of the single-piece postal items listed in the Annex to Regulation 2018/644, the cross-border tariffs of the parcel delivery service that are subject to a universal service obligation and which the national regulatory authority objectively considers necessary to assess.

The EC Communication of 12 December 2018 on guidelines for national regulatory authorities on the transparency and assessment of cross-border parcel tariffs pursuant to Regulation 2018/644 and Commission Implementing Regulation 2018/1263 recommended that national regulatory authorities should use the objective pre-assessment filter mechanism provided by the EC to identify tariffs requiring assessment.

With regard to the tariffs of operators providing parcel delivery services covered by the universal service obligation in Poland, the EC’s filter mechanism did not identify any tariffs as requiring further assessment under Article 6(2) and (3) of Regulation 2018/644.

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<sup>24</sup> For more information visit: <https://bip.uke.gov.pl/raporty/raport-o-stanie-rynku-pocztowego-w-2018-roku,29.html>.

<sup>25</sup> For more information visit: <https://bip.uke.gov.pl/raporty/raport-prezesa-uke-z-badan-czasu-przebiegu-przesylek-pocztowych,28.html>.

By preparing and publishing the “Report on the state of the postal market in 2018” and the “Report of the President of UKE on the study of the delivery time of postal items in the field of universal services in domestic traffic for 2018”, UKE provided postal market participants with more extensive and practical information on its functioning.

The implementation of Regulation 2018/644 aims to make prices more transparent and increase regulatory oversight over cross-border services of parcel delivery in a way that allows consumers and retailers to benefit from lower delivery prices and convenient delivery return options.

## 3. Competition enabled by optimal regulations

### 3.1. Regulations of relevant markets

#### Overview of relevant markets

One of the main tasks of UKE is to review relevant markets, which results in the determination of effective competition or the presence of an undertaking with significant market power (SMP). The starting point for reviews is a proper analysis and definition of markets, and then, if an SMP is found, the imposition of appropriate regulatory obligations.

Taking into account the results of market analyses in 2019, UKE issued decisions regarding:

- a. the wholesale market for local access services at a fixed location (market 3a/2014):
  - deregulation decision for 51 commune areas,
  - regulatory decision (designating OPL as an undertaking with significant market power) for the rest of the country,
- b. the wholesale market for central access services at a fixed location for mass market products (market 3b/2014):
  - decision on effective competition for 67 commune areas,
  - deregulation decision for 84 commune areas,
  - regulatory decision (designating OPL as an undertaking with significant market power) for the rest of the country,
- c. the wholesale market for the provision of call termination on public telephone networks at a fixed location (market 1/2014).

#### **The wholesale market for local access services at a fixed location (market 3a/2014) and the wholesale market for central access services at a fixed location for mass market products (market 3b/2014)**

On 22 October 2019, UKE issued decisions providing for partial geographic deregulation of markets 3a/2014 and 3b/2014. The areas where OPL is no longer an SMP operator were exempted from the regulation. On markets 3a/2014 and 3b/2014 UKE identified 51 and 151 such commune areas, respectively.

The regulation removed obligations in competitive areas and ensured effective and non-discriminatory access for Alternative Operators (AO), where the position of OPL remains significant.

In the regulated areas of both relevant markets UKE imposed the following regulatory obligations:

- a. providing telecommunications access,
- b. non-discrimination and transparency,
- c. determining fees based on justified costs (temporarily based on the costs incurred),
- d. preparation and application of a reference offer,
- e. regulatory accounting.

The decisions align with the “Strategic lines of actions of the President of UKE for 2017–2021”, according to which market analyses should adopt a local approach.

### **The wholesale market for the provision of call termination on the different public telephone networks at a fixed location (market 1/2014)**

On 11 December 2019, UKE issued regulatory decisions concerning 191 operators in which it imposed the following regulatory obligations:

- a. providing telecommunications access,
- b. non-discrimination and transparency,
- c. preparation and application of a reference offer (obligation imposed on OPL),
- d. setting fees for network connections and related services (excluding the FTR) on the basis of the costs incurred (obligation imposed on OPL),
- e. applying the call termination rate determined on the basis of an efficient operator model (the FTR will be determined in the next decision).

#### **Effects of the regulation of relevant markets:**

- standardisation of the rules for access to the networks of operators providing call termination services in fixed networks,
- adjusting the regulation of markets 3a/2014 and 3b/2014 to the changing competitive situation on the Polish telecommunications market (partial deregulation of both markets and, in the remaining part, their complementary regulation).

## **3.2. Effective cooperation between operators**

### **Decisions changing or approving reference offers**

In 2019, UKE continued the process of adapting the contents of the reference offers to the changing market conditions in accordance with the conditions indicated in Article 43 (1) and (2) of the Telecommunications Act. On 8 July 2019, it issued a decision amending and approving the amended draft telecommunication access reference offer for the provision of radio and television broadcasting services. The reference offer enables obtaining effective telecommunications access to the infrastructure of Emitel S.A. (Emitel). Fees for providing access to infrastructure were set at the level of the costs incurred, in line with the previously imposed obligations, which should enable alternative operators to construct a competitive offer. The requirements related to the need to protect critical infrastructure were also accounted for while approving the offer. The introduced regulation should contribute to ensuring effective cooperation between operators, and thus promote the development of effective competition in the telecommunications market.

On 30 August 2019, UKE issued a decision upholding the decision of 25 September 2018 amending the reference offer of OPL as regards the subscription fee for the WLR service, where it was again decided that the current fee of PLN 20.05 does not meet the requirement of ensuring competition on the fixed voice services market and it is reasonable to lower it to PLN 18.82.

All AOs with active WLR services as of the date of the decision amending the fee to PLN 18.82 (21 operators) signed relevant amendments to lower its amount. Whereas for new AOs the rate of PLN 18.82 was proposed from the start in their contracts. Lowering the fee for the WLR service should result in increased attractiveness of the WLR service for alternative operators, thus maximising the benefits for end users using fixed-line telephone services.

By decision of 20 September 2019, UKE upheld the decision of 8 October 2018 approving the change of OPL's reference offer by removing the fee for number porting (NP). The earlier decision that the previous fee of PLN 25.39 did not meet the requirement of ensuring competition in the market of fixed voice services market was also upheld.

On 20 November 2019, following an obligation previously imposed on OPL, UKE issued a decision amending the reference offer as regards its provisions on contractual penalties and discounts. The adopted decision is consistent with the previous provisions from 2014 and 2015. The proceedings in the area of contractual penalties and discounts were reopened in connection with the judgment of the Supreme Administrative Court of 29 January 2019, which overruled the decisions in this area for formal reasons (no binding decision was issued). After re-examining the case, UKE decided that due to the improvement in the quality and timeliness of wholesale services provided by OPL as well as changes in the telecommunications market, it is reasonable to adjust the level of penalties and discounts to the current market situation.

On 2 August 2019, following an obligation previously imposed on OPL, UKE initiated proceedings to approve a draft amendment to its reference offer for broadband data transfer.

The amendment to the reference offer consists in:

- a. introducing new speed options in the xPON (FTTH) technology on the level of Ethernet access, managed IP and unmanaged IP (300/50 Mbit/s, 600/100 Mbit/s and 1Gbit/s/300 Mbit/s),
- b. dividing the fee for maintaining the Subscriber Connection (for single/multi-occupied buildings).

**Effects of UKE decisions amending reference offers:**

- ensuring effective inter-operator cooperation, and thus promoting the development of effective competition in the telecommunications market,
- adjusting the reference offers to the changing competitive situation on the Polish telecommunications market,
- lowering the fees for certain wholesale services (e.g. WLR, NP) which will result in increased attractiveness of services for alternative operators, thus contributing to maximal benefits for end users of telecommunications services,
- making the offer of wholesale services more attractive and modern – introducing an obligation for OPL to offer modern telecommunications services to alternative operators.

### Decisions setting the obligation to change the reference offer

In 2019, UKE issued 4 decisions refusing to oblige OPL to prepare an amendment to its reference offer:

- a. a decision fully upholding the decision refusing to oblige OPL to change its reference offer by splitting “Launching the service in the xPON (FTTH) technology” into two alternative services: launching the service in the xPON (FTTH) technology on an active link and launching the service in the xPON (FTTH) technology on an inactive link,
- b. a decision fully upholding the decision refusing to oblige OPL to change its reference offer by cancelling the recurring fee for maintaining the Subscriber Connection in the xPON (FTTH) fibre-optic technology for the BSA Service,
- c. a decision refusing to oblige OPL to prepare an amendment to its reference offer as regards the deadline for removing any voice service failures and the amount of contractual penalties for delays in removing said failures,
- d. a decision refusing to oblige OPL to prepare an amendment to its reference offer as regards changing the fees for the WLR-ISDN Service.

In UKE’s opinion, the demand for services remained unchanged, and no change in market conditions occurred that would justify issuing a decision obliging OPL to amend its reference offer to the extent indicated.

On 24 December 2019, UKE issued a decision obliging OPL to prepare an amendment to its reference offer to feature points of interconnection of the telecommunications network in the IP/SIP technology. UKE believes that the development of telecommunications technologies towards the widespread use of IP technology and the change in demand for modern and diverse services beyond the scope of PSTN/TDM/SS7 networks made it necessary to update the provisions of the reference offer to reflect that.

### Regulatory accounting – Instruction on OPL regulatory accounting for 2018 and Description of cost calculation for 2020, WACC indicator

On 10 April 2019, UKE issued a decision (Decision I) approving the OPL regulatory accounting instruction for 2018 and a description of the cost calculation of BSA Services for 2020 (Description of the 2020 calculation). Decision I was upheld by decision of 22 May 2019 (Decision II).

Description of the 2020 calculation relates to the calculation of the current costs of the fibre-optic access network and the copper network according to the LRIC+ method<sup>26</sup>. The approved description of the 2020 calculation, in accordance with the EC Recommendation<sup>27</sup> meets the assumptions concerning in particular: the valuation of the fibre network elements, the period of the economic usefulness of assets and the volume of subscriber connections.

During the arrangements, UKE called OPL to amend the 2018 Instruction and Description of the 2020 calculation and to provide clarifications. OPL made changes and modifications to the

<sup>26</sup> The method of long-term incremental costs together with the overhead of common costs.

<sup>27</sup> European Commission Recommendation of 11 September 2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment.

documents, as a result of which UKE approved the agreed 2018 Instruction and the Description of the 2020 calculation without any changes.

On 28 March 2019, UKE issued a decision specifying WACC for OPL for services on the market of wholesale services of broadband access. For the BSA Services implemented on the basis of fibre-optic infrastructure, the WACC indicator was determined at the level of 10.07%, for other BSA Services, to the extent that they are implemented on the basis of copper infrastructure – at the level of 8.82%. Higher WACC for BSA Services implemented on the basis of fibre-optic infrastructure includes an additional premium (1.25%) for the risk carried by the operator's investments. For networks ensuring a high bit rate, there is uncertainty about retail and wholesale demand. The determination and diversification of the WACC indicator is a tool that motivates OPL to undertake risk-bearing investments, while allowing fees to be set at a level ensuring the return of reasonable costs.

The above indicators were applied by OPL in the cost calculation of the BSA Service for 2020.

Table 5  
WACC indicator used by OPL in the calculation of BSA service costs in 2017–2020

Technology	2017	2018	2019	2020
xDSL	8.36%	8.13%	8.12%	8.82%
FTTH	9.61%	9.38%	9.37%	10.07%

Source: UKE

#### **Fulfilment of obligations under Article 38 of the Telecommunications Act**

On 19 August 2019, an audit of the report on regulatory accounting done by OPL was completed (Article 38 of the Telecommunications Act), regarding the financial year ending on 31 December 2018, and on the results of reasonable costs calculation (Article 39 of the Telecommunications Act) for 2020 (as referred to in Article 53(5) of the Telecommunications Act).

The statutory auditor issued a positive opinion, stating the correctness of cost calculation for the market of broadband access services. On the other hand, the report on the regulatory accounting, which received a positive opinion from the statutory auditor, provided information that in 2018 OPL did not practice price discrimination against alternative operators, there was also no subsidisation among the separated activities of the regulated operator.

#### **Fulfilment of obligation under Article 39 of the Telecommunications Act**

The statutory auditor issued a positive opinion on the results of the cost calculation on the market of broadband access services for 2020 on 19 August 2019. The analysis of the results of the calculations of the costs provided by OPL showed only minor changes, or no changes in the level of costs, as compared to the costs from the previous year. In view of the above, there was no need to change the reference offer with respect to fees. What is more, UKE they did not receive requests to change the reference offer for the market of broadband access services. Due to the indicated circumstances, the fees did not change, and the fees applicable on the market

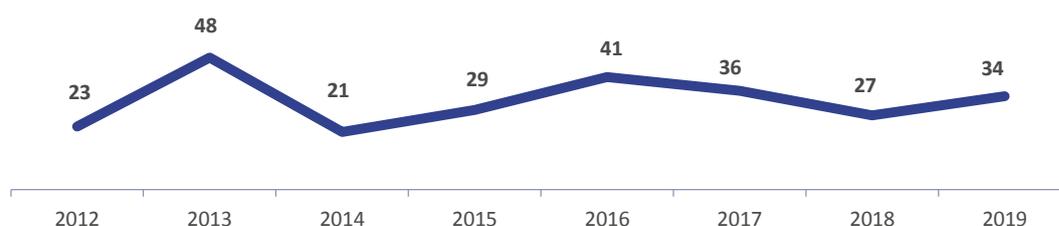
of broadband access services are the fees approved with UKE decision of 25 May 2017, partly amending and partly upholding the decision of UKE of 11 August 2016.

### MS/PS tests carried out in 2019

In 2019, UKE considered 8 applications by OPL for MS Tests for 34 retail promotions, 13 of which related to services provided in the xDSL technology, and 21 to services provided in the FTTH technology. To compare, in 2018 UKE also considered 8 applications by OPL for MS Tests for 27 retail promotions, 10 of which related to services provided in the xDSL technology, and 17 to services provided in the FTTH technology. The increase in the share of services with high bit rate confirms the growing importance of services provided in the FTTH technology, while the importance of services provided in the xDSL technology decreases.

Chart 10

#### Number of promotions subjected to MS Tests



Source: UKE

### Regulatory accounting – Instruction on and audit of Emitel regulatory accounting

On 5 April 2019, UKE issued a decision approving the instruction on regulatory accounting of Emitel for 2018. On 26 August 2019, an audit of the report on regulatory accounting by Emitel was completed (Article 38 of the Telecommunications Act). The report covered the financial year ending on 31 December 2018 and concerned the market of providing services in the area of radio and television broadcasting. The statutory auditor issued a positive opinion, stating the correctness of the report which provided information that in 2018 Emitel did not practice price discrimination, there was also no subsidisation among the separated activities of the regulated operator.

### 3.3. Inspections in the field of telecommunications

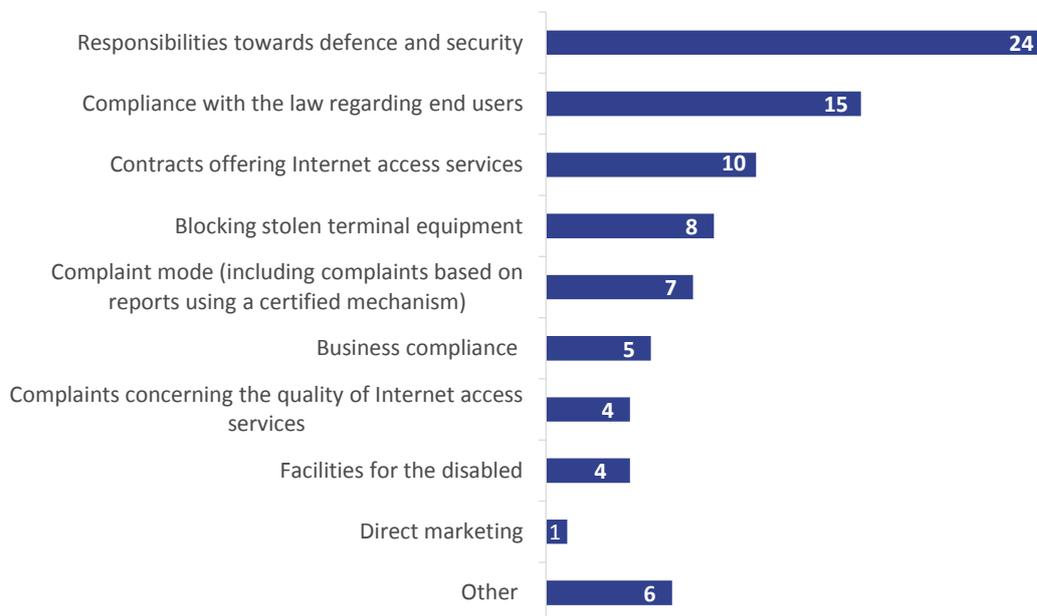
In 2019, UKE conducted inspections in the field of telecommunications, mainly in the following areas:

- a. compliance by telecommunications undertakings with the provisions of the Telecommunications Act with respect to defence, State security, safety and public order,
- b. implementation of the Regulation on the detailed requirements related to the provision of facilities for people with disabilities,
- c. carrying out the obligation to promptly block stolen terminal equipment in mobile networks,
- d. procedures for processing complaints regarding the quality of Internet access services, with particular emphasis on the impact of measurement reports generated by users via a Certified Internet Quality Monitoring Tool presented in the course of the complaint process as evidence of poor service quality,
- e. fulfilment by telecommunication service providers of their obligations to comply with the provisions of the Telecommunications Act with regard to end users,
- f. the use of terminal equipment for direct marketing,
- g. compliance with the provisions of Article 106 of the Telecommunications Act and the Regulation of the Minister of Administration and Digitisation on the control of the complaint process, taking into account the complaints made on the basis of reports generated by users using a certified mechanism,
- h. contractual documents of providers offering Internet access services to customers in terms of the range of elements included therein.

In 2019, UKE carried out 84 inspections in the field of telecommunications, 46 of which were planned inspections, while 38 were carried out *ad hoc*. Over the course of these inspections, 54 employees of UKE, devoting a total of 130 working days to inspection activities at undertakings, inspected 63 entities. The launch of 30 inspections in the field of telecommunications due to their complexity was preceded by coordination meetings. In 2019, UKE issued a total of 33 post-inspection recommendations.

UKE carried out 4 out of 84 inspections in the field of telecommunications in all provinces, which required the involvement of employees of each UKE regional branch. As far as individual provinces are concerned, the largest number of inspections took place in the Mazovia province – 22 and in the Silesia province – 17.

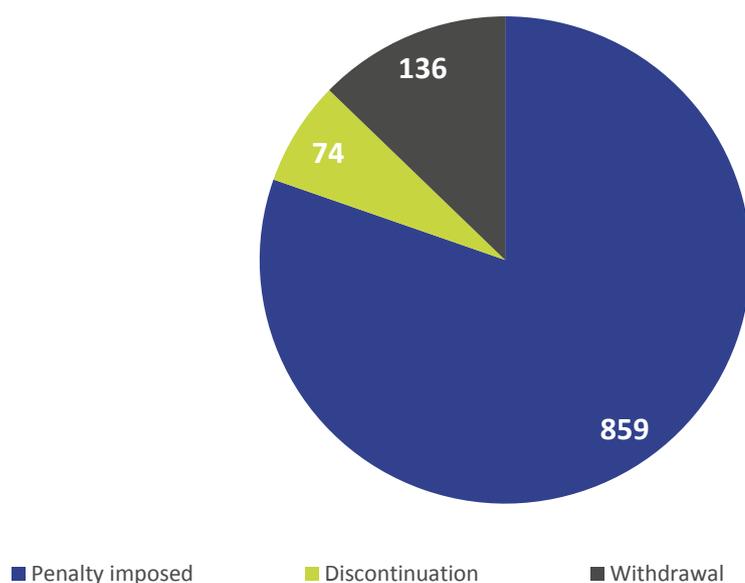
Chart 11  
Number of inspections in individual areas



Source: UKE

In 2019, UKE conducted and completed 1,069 administrative proceedings regarding the imposition of a fine, whose primary purpose was for UKE to examine the compliance of undertakings with the basic obligations under the Telecommunications Act and the MEGA-act, including reporting obligations.

Chart 12  
Manner of completing proceedings concerning the imposition of a fine



Source: UKE

The most important proceedings completed in 2019 include matters relating to the imposition of a fine on:

- a. Koksztys S.A. – a fine of PLN 80,000 for violating the ban on making marketing phone calls without having the legally required consent of subscribers or end users,
- b. Skynet sp. z o.o. – a fine of PLN 15,000 for failure to comply with the obligation laid down in Article 4(1)(d) of Regulation 2015/2120, *i.e.* the obligation to include in contracts offering Internet access service to feature information on the minimum, normally available as well as maximum download and upload speed,
- c. Tani Opał sp. z o.o. – a fine of PLN 500,000 for making marketing phone calls without previously obtaining legally required consent of subscribers or end users.

### 3.4. Inspections in the field of frequency management

In 2019, the Office of Electronic Communications conducted a permanent and *ad hoc* monitoring of the radio frequency spectrum by means of:

- a. Fixed Measuring Stations that are part of the National Automatic Radio Spectrum Monitoring System (KASMON),
- b. Mobile Measuring Stations,
- c. Mobile Monitoring Stations.

Permanent monitoring covered:

- a. 1,228 radio transmitting and transmitting/receiving devices with 53,470 measurements of emission parameters made during the year,
- b. 58 safety frequency emissions to protect against interference.

*Ad hoc* monitoring covered 4,608 frequency bands for the effective occupation of frequency channels.

Additionally, in 2019 UKE carried out:

- a. 395 inspection proceedings against users of radio transmitting or transmitting/receiving devices (1,055 radio devices), finding 232 violations,
- b. 17 post-inspection proceedings resulting from irregularities found during the inspection (including 33 decisions under Article 201 of the Telecommunications Act),
- c. 6 administrative proceedings regarding the use of radio equipment without a licence (Article 203 of the Telecommunications Act),
- d. 5 proceedings on the imposition of a fine.

Moreover in 2019, UKE conducted a nationwide inspection campaign concerning selected licensing decisions in the 3.5 and 3.7 GHz bands:

- a. verified 25 frequency licence decisions in the 3.5 and 3.7 GHz bands,
- b. found 6 inactive base stations,
- c. found inconsistencies with the conditions of frequency use in the operation of 11 base stations,
- d. repealed one licence decision at the request of the party and initiated 1 proceedings to revoke a licence decision.

### 3.5. Inspections regarding the requirements of electromagnetic compatibility

Concerning the fulfilment of requirements regarding electromagnetic compatibility, in 2019 UKE:

- a. received a total of 3,968 reports of interference in radiocommunications networks and devices, including:
  - a total of 3,374 reports of interference in mobile networks,
  - 212 reports on interference in radio and TV reception,
- b. performed 765 radio spectrum occupancy surveys to detect and locate the sources of interference.

In 2019, UKE reported yet another increase in the number of interference reports in radiocommunications networks and devices, which grew by 31% compared to 2018. On the other hand, the number of recorded interference reports in the reception of radio and television stations decreased by 36%. The actions carried out resulted in the detection of 3,232 jamming devices. UKE found again that the main source of interference were the mobile phone signal amplifiers installed individually by subscribers, accounting for more than 82% of all jamming devices detected.

In order to reduce the instalment of amplifiers, UKE ran a nationwide campaign communicating the legal limitations and consequences of the use of such devices by unauthorised persons. All local government authorities and the Polish Chamber of Information Technology and Telecommunications were provided with posters displaying information on the functioning and impact of amplifiers on interference in radiocommunications networks as well as the consequences thereof when there is no possibility of establishing a telephone connection. Posters were also distributed by UKE's employees during their business trips on notice boards in villages and towns, as well as placed in mailboxes.

UKE's efforts to reduce the instalment of amplifiers also included cooperation with the trading platform Allegro, where a UKE's employee would search for Listings that were in breach of the Allegro User Agreement, as they did not contain information on the legal limitations and consequences of the use of amplifiers by unauthorised persons, and then inform Allegro thereof. UKE's efforts in 2019 resulted in deleting 271 Listings for amplifiers that did not meet the terms and conditions of the User Agreement – an improvement by 58% compared to 2018.

### 3.6. Inspections on the postal market

#### Inspections concerning the universal service provider

UKE conducted inspections of Poczta Polska as a designated operator in 2019 in terms of:

- a. examining the time of delivery of postal items in domestic traffic in the field of universal services, including:
  - unregistered letters,
  - postal parcels,
- b. providing disabled people with access to the universal services provided,
- c. handling complaints about universal services,
- d. obligation to make available at selected post office points of Poczta Polska the rules of procedure for providing the universal services,
- e. compliance with the obligation to maintain postal secrecy.

#### Checking the timeliness of delivering postal items

Pursuant to the binding legal provisions, UKE is obliged to ensure that an inspection of the delivery time of postal items is carried out in a given year in the scope of universal services in domestic traffic and to ensure that the correctness of both the inspection and its results is verified.

The conducted inspections are to provide a constant monitoring of the quality of universal services and to exert influence on the designated operator for the quality improvement. In this respect, the requirements on maintaining the rate of delivery time of postal items, as specified in the legal provisions issued pursuant to Article 47 of the Postal Law, are applied.

In the event that the designated operator does not follow the indicators for the delivery time of postal items, in each case UKE analysed the grounds for waiving fines, including: the economic situation, current financial situation of the designated operator (including for the provision of universal services), labour market conditions and maintaining the continuity of universal services. UKE also took into account the results of the timeliness inspection from the past two years, the difference between the required and the achieved indicators, as well as actions taken by the operator to improve the indicators achieved.

The analyses carried out so far with respect to the above mentioned grounds did not justify the need to initiate proceedings in order to impose a fine on the designated operator.

In 2019, UKE contacted the designated operator for clarifications regarding measures taken to improve the achieved timeliness indicators in connection with the results of the study of the delivery time of unregistered letter items in 2018. Poczta Polska provided information indicating that the designated operator had conducted a detailed analysis of the situation and taken many measures to eliminate problems arising in the most important phases of the parcel delivery process (sending and delivery), including those related to staff shortages, in particular in the delivery service and employee attrition in operational services.

Table 6

## Nationwide indicators of handling time of letters and parcels in 2019

priority letters			economy letters		
handling time [D+n] <sup>28</sup>	handling time indicator <sup>29</sup> – quality standard <sup>30</sup>	nationwide handling time indicator [2019]	handling time [D+n]	handling time indicator – quality standard	nationwide handling time indicator [2019]
<i>D+1</i>	82%	59.2%	<i>D+3</i>	85%	75.5%
<i>D+2</i>	90%	85.4%	<i>D+5</i>	97%	94.0%
<i>D+3</i>	94%	93.8%			
priority parcels			economy parcels		
handling time [D+n]	handling time indicator – quality standard	nationwide handling time indicator [2019]	handling time [D+n]	handling time indicator – quality standard	nationwide handling time indicator [2019]
<i>D+1</i>	80%	75.6%	<i>D+3</i>	90%	98.8%

Source: UKE, based on the inspection of delivery time of postal items

The above indicators of the handling time of unregistered letters and postal parcels in 2019 are higher than those achieved in 2018 with regard to five objectives: D+1 and D+2 – for priority letters, D+3 – for economy letters, D+1 – for priority parcels and D+3 – for economy parcels. The indicator for D+3 objective for priority letters has remained at the level achieved in 2018.

### Inspection in the field of providing disabled people with access to the universal services

In the period from October to November 2019, UKE carried out an inspection in 470 post offices (285 city office points and 185 rural office points), which constituted 6.2% of all post office points of Poczta Polska providing postal services in the country<sup>31</sup>. From among the inspected post office points, the possibility of independent access to the building was provided in 269 of them, while in the case of 185 post office points where such an independent entry was not possible, an efficiently functioning bell was installed for calling the staff of the facility.

This means that in 454 out of 470 post office points of Poczta Polska inspected (96.6%), the disabled persons in wheelchairs were provided with the opportunity to independently access the facility or to effectively call an employee in order to use the services.

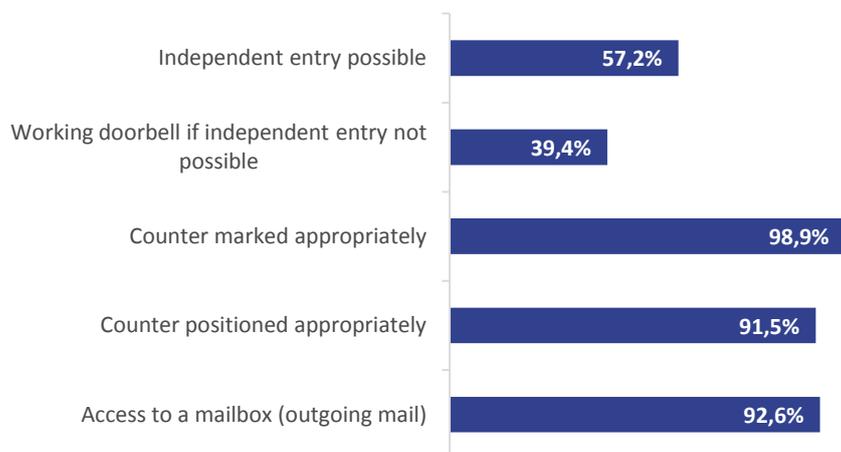
<sup>28</sup> "D" – the day of conclusion of the contract for the provision of postal services; n – the number of days that have elapsed from the day of sending to the day of delivery of the postal item (public holidays and Saturdays are not included in the dates).

<sup>29</sup> Share of postal items delivered within a specified period from the date of sending to the day of delivery in the total number of postal items sent.

<sup>30</sup> Indicator of the handling time of postal items in the domestic traffic specified in Appendix 1 to the Regulation of the Minister of Administration and Digitisation of 29 April 2013 on the conditions for the provision of universal services by the designated operator (Journal of Laws [Dz. U.] of 2013, item 545).

<sup>31</sup> According to the data included in the annual report of the designated operator, at the end of 2018 there were 7,602 post office points operating in Poland, of which 4,987 were located in urban areas and 2,615 in rural areas.

Chart 13

**Post office points with facilities for the disabled persons**

Source: UKE

All of the 172 post office points with delivery service inspected guaranteed the collection of parcels from a disabled person in the place of residence and kept the register of disabled persons.

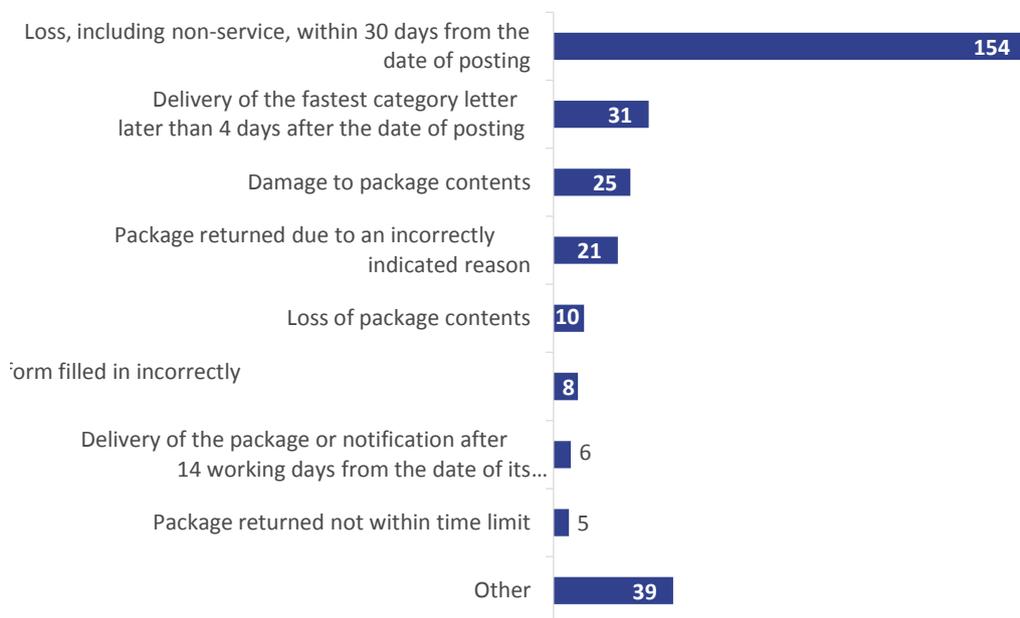
The inspection confirmed that the majority of the inspected post office points met the requirements set out in the Postal Law. Furthermore, the information obtained indicates that the designated operator, while renovating or developing the network of post office points as part of the ongoing process of introducing their new visual concept, adapts them to the needs of people with disabilities.

**Inspection concerning the handling of universal service complaints**

From October to November 2019, UKE carried out inspections in the organisational units of Poczta Polska which handle the process complaints. The inspection covered the period from 1 January to 19 November 2019. A total of 299 complaints regarding registered mail in the domestic traffic were inspected, including: 202 complaints about letters, 1 complaint about a letter with a declared value, 91 complaints about postal parcels and 5 complaints about postal parcels with a declared value. The inspection was aimed at determining whether Poczta Polska processes complaints about the universal postal service of registered mail in accordance with the law, as well as obtaining data on the completeness of responses to complaints and their timeliness. The inspection also checked the compliance with the post-inspection recommendations issued in 2019 following an inspection of the handling of universal service complaints carried out in 2018. It was found in the inspection that Poczta Polska had complied with the post-inspection recommendations.

Chart 14

## Reasons for submitting complaints

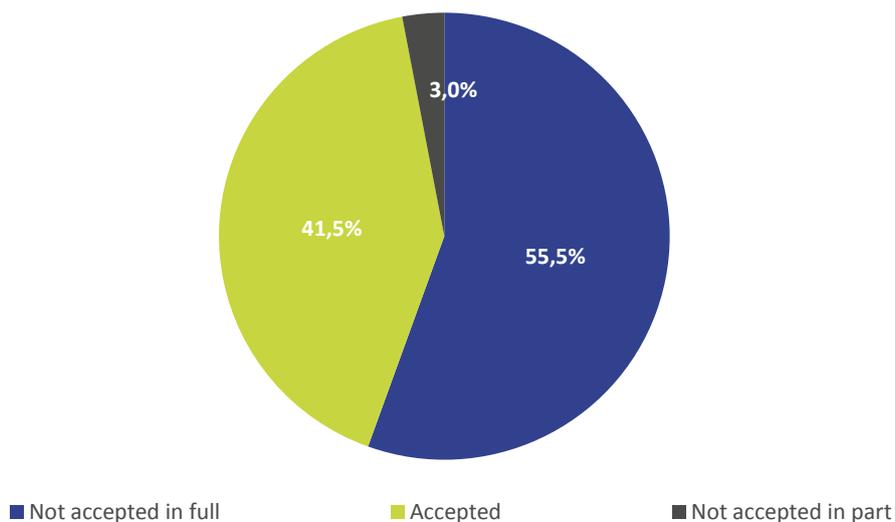


Source: UKE

Based on the findings made by UKE during the inspection, it appears that over 40% of the complaints filed in the inspected period were considered justified, while 166 (55.5%) complaints were classified as fully unjustified.

Chart 15

## Manner of considering complaints



Source: UKE

### **Inspection concerning compliance with the obligation to make available at the post office points the rules of procedure for providing the universal services and the obligation to maintain postal secrecy**

In 2019, UKE also carried out inspections of Poczta Polska concerning their compliance with the obligation to make available at the selected post office points of Poczta Polska the rules of procedure for providing the universal services and the obligation to maintain postal secrecy. UKE found that in the office points inspected, the postal operator did make available the rules of procedure for providing the universal services. However, as regards the compliance with the obligation to maintain postal secrecy, the President of UKE issued post-inspection recommendations for Poczta Polska.

### **Inspections of entities entitled to perform postal activities on the basis of an entry in the ROP**

In 2019, UKE selected 14 postal operators for the inspection. Grounds for being selected included: failure to submit a report on postal activities to UKE, verification of the data contained in the report, as well as failure to meet the information obligation. Two postal operators were effectively inspected. In the case of the other operators, despite numerous attempts, UKE was not able to carry out the inspection, as there was no communication with the undertaking. In most cases, the office address of the undertaking had only been used for their registration, and the undertaking was not actually located there nor conducting business activity there. UKE has been taking further efforts to contact the undertakings in order to carry out the said inspections.

### **Inspections aimed at detecting postal activities performed without the required authorisation**

In this regard, in 2019, UKE inspected two undertakings. Based on the inspections, UKE found that one of the undertakings was performing postal activities in particular through postal operators. The undertaking applied to UKE for entry into the ROP and was entered into the registry.

In the course of inspection of the other undertaking, it was established that they did not perform postal activities. Based on the findings, it was established that the undertaking had followed the decision of the President of UKE of 2018, ordering them to suspend the postal activities conducted due to the fact that these had been performed without the required entry into the ROP.

The effect of the inspection activities was such that the interests of postal service users were secured, including their access to services on an equal and uniform basis, the proper quality of services as well as compliance of the conducted postal activity with the binding legal provisions was ensured, and the implementation of the decision of the President of UKE was verified.

### **Administrative proceedings and penalties imposed**

In 2019, UKE conducted administrative proceedings regarding matters related to the postal market:

- a. imposing a fine on an undertaking for conducting postal activities without a required entry to ROP,
- b. imposing a fine on an undertaking for obstructing inspection activities of the President of UKE with regard to their postal activities – the President of UKE issued a decision to impose a fine (the decision is final),

- c. imposing fines on postal operators who did not submit reports on postal activities or submitted the report without observing the time limit (7 decisions, including one on the discontinuance of the proceedings),
- d. determining the amount of share in the subsidy for the obligated postal operator and determining the 30-day deadline for payment,
- e. approving the regulatory accounting instruction for 2020 and the description of costs calculation for 2020,
- f. imposing on the designated operator the obligation to submit for publication in the UKE BIP the following approved documents: regulatory accounting instructions for 2019 and the description of costs calculation for 2019.

**Scale and scope of inspections by UKE in 2019:**

- 395 inspection proceedings launched regarding 1,055 radio devices,
- permanent monitoring of 1,228 radio devices and 58 safety frequencies,
- *ad hoc* monitoring of 4,608 frequency bands,
- 3,968 reports on interference handled (3,374 in mobile networks and 212 in radio and TV reception),
- 84 telecommunications inspections regarding 63 undertakings (compliance with the Telecommunications Act and the implementing provisions),
- 1,069 administrative proceedings to impose a fine (primarily compliance with the reporting obligation by entities operating on the telecommunications market),
- inspection of 470 Poczta Polska's post office points in the field of providing disabled people with access to the universal services,
- inspection of the manner of considering 299 complaints regarding registered letters and parcels in the domestic traffic.

### 3.7. Management of numbering resources

In 2019 UKE issued over 300 decisions concerning the management of numbering resources, and the average time of issuing a decision was 7 days (in 2018 it was 8 days).

In cooperation with OPL and the services established by law to provide assistance, UKE allocated emergency call numbers for new locations of services handling emergency calls and emergency call centres. Emergency routing numbers (NKA) were published on an ongoing basis on the UKE website in the form of NKA Tables, containing current locations of services handling emergency calls in a given area and emergency call centres. Currently, up-to-date NKA tables are available for all emergency numbers, *i.e.* 112, 99X and 98X numbers, being the only reliable source of information on emergency call routing areas.

In 2019, UKE ensured the current updating of Numbering Management Tables in the PLI CBD system module, which were also presented on the UKE website and used in the process of number porting. With the implementation of the new interface, UKE also added functionalities of the Tables.

What is more, UKE completed the implementation of new provisions on the register of numbers used to provide the premium rate service by developing and implementing modifications to the existing register, aimed at increasing transparency of the data provided. The new register and the search engine, published on UKE websites, provide users and consumers with full substantive information along with the necessary contact details of entities providing additional services.

**Effects of UKE numbering management:**

- efficient issuing of decisions (average time of issuing a decision – 7 working days),
- revenues for the State budget at the level of PLN 85 million,
- ensuring the up-to-date status of the publicly available Numbering Management Tables and the search engine of service providers of telephone numbers,
- providing full and up-to-date information on the numbers used to provide the premium rate service.

### 3.8. Legislation and court proceedings

The major legislative project in 2019 was the preparation for the implementation of the European Electronic Communications Code. Following two reminders from the President of UKE, only in September 2019 the Ministry of Digital Affairs decided to take up the legislative work, therefore, the second half of the year was devoted to conceptual work. In order to develop national rules, 5 working groups were established with the provisions of the Code split thematically between them. Each working group was composed of UKE experts and the Ministry's representatives. Due to numerous changes introduced by the Code, a new legal act, replacing the current Telecommunications Act, is expected to be drafted. The Directive is to be implemented by 21 December 2020.

In 2019, UKE continued the legislative work on the draft Act amending the Act – Telecommunications Law and certain other Acts, which is a comprehensive measure aimed to streamline the management of frequency resources. The draft was ready already in April 2017, however, the Ministry submitted it for inter-ministerial consultations a year later, *i.e.* on 21 March 2018. As a consequence of this and due to further delays in the legislative process, the draft was adopted by the Sejm only on 15 March 2019, and entered into force on 6 May 2019. Unfortunately, during the works in the Senate, a provision was introduced to the Act excluding the possibility for the President of UKE to exercise their new competence to change or revoke decisions on the frequency licences for the 694–790 frequency band in order to implement Decision (EU) 2017/899 of the European Parliament and of the Council of 17 May 2017 on the use of the 470–790 MHz frequency band in the Union. The Senate's amendments adopted by the Sejm for nearly six months prevented the President of UKE, as the authority designated in the

national law to implement the provisions of the said EU Decision, from carrying out their related obligations. Additionally, at the final stage of government work on the amendment, the originator introduced changes that were contrary to the originally set objectives. These included granting the minister competent for computerisation the authority to set a schedule for the distribution of specific frequency resources. The introduction of such an authority of the minister without providing the President of UKE with legal instruments to implement the schedule imposed carries the risk of destabilising the long-term policy of the radio spectrum management.

Another important legislative project was the Act amending the Act on supporting the development of telecommunications services and networks and certain other Acts, to which UKE proposed regulations. The draft Act entered into force on 25 October 2019, introducing changes to a dozen or so different Acts – it introduced a number of facilitations and incentives for operators regarding investments in telecommunications networks. However, the final Act did not consider the comment made several times in the course of governmental work by the President of UKE, regarding the need to establish a refarming fund for compensations for transferring entities from bands dedicated to implementing 5G technology (*i.a.* 3.4–3.6 GHz, 3.6–3.8 GHz, 26 GHz) to other frequency bands. Examples from other countries show that this would create an opportunity for these entities to give consent to change their licence decisions, making it possible to distribute the frequencies for the purpose of the 5G communications standard earlier.

A substitution of the refarming fund was introduced to the draft only in the Sejm in the form of a possibility of applying for a reduction in fees for the right to use frequencies for digital terrestrial television broadcasters transferred from the 470–790 MHz to the 470–694 MHz band. However, as no fair discussion was held with the market and the regulator, this solution carried a number of substantive and legal defects. Therefore, resulting from – among other things – comments made by UKE at the meeting of the Infrastructure Committee, the provisions required an extensive revision by the Senate. Sadly, the fundamental flaw of the solution, *i.e.* its random nature, was not removed (the solution only applies to digital terrestrial television broadcasters, not to all holders of licences).

With regard to postal matters, the President of UKE participated in the development of the following:

- a. draft Act on electronic delivery, adopted on 24 September 2019 by the Council of Ministers, imposing additional obligations on the President of UKE regarding oversight of the provision of the new services,
- b. Act of 30 August 2019 amending the Act – Postal Law and the Act – Telecommunications Law, aimed at complementing the national provisions in the scope resulting from Regulation 2018/644.

Court proceedings involving UKE concern appeals and complaints against UKE's decisions. In 2019, a total of 346 court cases were received by UKE (none of which concerned the postal market), including:

- a. appeals lodged to SOKiK – 171,
- b. complaints lodged to WSA – 142,
- c. other cases (calls for amicable settlement, reporting receivables, applications for the declaration of bankruptcy, actions pursuant to Article 299 of the Code of Commercial Companies, appointment of a probation officer) – 33.

Out of 192 final court judgments in 2019 in cases concerning appeals and complaints against UKE's decisions and orders, 183 were successful for UKE, which means over 95% of cases won. In one case, the decision of the President of UKE was changed, and in eight cases – overruled.

Table 7  
Final court judgments in 2019

Case type	Upholding UKE's decision	Overruling UKE's decision	Changing UKE's decision
Significant market power, regulatory obligations	9	3	
Imposing a fine	55	1	1
Subsidy to universal service	6		
Frequency licence, radio licences	66	1	
Access to real estate	25		
Disputes among operators	4	1	
Regulatory accounting	1		
Telecommunications fees		1	
Other – within the competence of UKE <sup>32</sup>	17	1	

Source: UKE

<sup>32</sup> Such as limiting the right of access to administrative files, clarification of the content of a decision, refusal to grant access to files, public information, lengthiness and inactivity of the authority.

Among the court proceedings conducted by UKE in 2019, the following cases should be noted as important for the telecommunications market:

- a. A case resulting from OPL's appeal against the decision of the President of UKE of 30 December 2011 no. DKE-WPP-621-4/11(41), imposing a fine of PLN 5,000,000 on PTK Centertel Sp. z o.o. (OPL's predecessor) for infringement of Article 172(1) in conjunction with Article 174(1) of the Telecommunications Act, *i.e.* failure to meet the obligation to obtain consent from the subscribers or end users to use automated calling systems, as well as the use of such systems for the purposes of direct marketing by sending text messages inviting the subscribers or end users to participate in an audio-text raffle under the name "Loteria Orange" ["Orange raffle"].

By judgment of 15 October 2019, case no. I NSK 74/18, the Supreme Court dismissed OPL's further appeal (*skarga kasacyjna*) against the judgment of the Appellate Court of 21 December 2015, case no. VI ACa 1644/14, dismissing OPL's appeal against the judgment of the SOKiK Regional Court of 11 July 2014, case no. XVII AmT 41/12, dismissing the appeal against the above decision. Thus, the fine imposed on OPL remains in force.

- b. A case resulting from T-Mobile's appeal against the decision of the President of UKE of 2 August 2011 no. DKE-WPP-621-2/11(32), imposing a fine of PLN 5,000,000 on T-Mobile for infringement of Article 172(1) in conjunction with Article 174(1) of the Telecommunications Act, *i.e.* failure to meet the obligation to obtain consent from the subscribers or end users to use automated calling systems, as well as the use of such systems for the purposes of direct marketing by sending text messages inviting the subscribers or end users to participate in an audio-text raffle under the name "Czy stałeś się dzisiaj milionerem?" ["Have you become a millionaire today?"].

By judgment of 9 October 2019, case no. I NSK 63/18, the Supreme Court dismissed T-Mobile's further appeal to the Appellate Court of 21 December 2016, case no. VI ACa 897/14, dismissing T-Mobile's appeal against the judgment of the SOKiK of 21 March 2014, case no. XVII AmT 10/12, dismissing the appeal against the above decision. Thus, the fine imposed on T-Mobile remains in force.

- c. A case resulting from complaints of the Polish Chamber of Electronic Communication (PIKE) and the Polish Chamber of Commerce for Electronics and Telecommunications (KIGEiT) against the decision of the President of UKE of 9 October 2015 no. DART-SMP-6041-6/14(60), whereby the President of UKE upheld the decision of 14 November 2014 no. DART-SMP-6041-6/14(22), stating the expiry on 7 October 2014 of the decision of the President of UKE of 28 April 2011 no. DART-SMP-6040-1/10(47) determining the relevant market as the domestic market for the provision of wholesale broadband access services, excluding commune areas specified in point 1 of Appendix 1 to Decision SMP 2011; establishing that in the domestic market for the provision of wholesale broadband access services, excluding commune areas specified in point 1 of Appendix 1 to Decision SMP 2011, there is a telecommunications undertaking with significant market power; designation of OPL as a telecommunications undertaking with significant market power on the domestic wholesale broadband access market, excluding commune areas specified in point 1 of Appendix 1 to Decision SMP 2011; and imposing regulatory obligations

on OPL. By judgment of 11 April 2019, case no. II GSK 1129/17, the Supreme Administrative Court dismissed the further appeals by PIKE and KIGEiT against the WSA's judgment of 22 September 2016, case no. VI SA/Wa 3249/15, dismissing PIKE and KIGEiT's complaints against the above decision.

- d. Cases resulting from 19 complaints by Polkomtel and 2 complaints by T-Mobile against 19 decisions of the President of UKE of 23 June 2016 on issuing frequency licences for the 800 MHz and 2.6 GHz bands to entities selected by means of an auction. By judgments of 10 April 2019, case no.: II GSK 1965/17, II GSK 2395/17, II GSK 2396/17, II GSK 2397/17, II GSK 2397/17, II GSK 2398/17; of 8 October 2019, case no.: II GSK 2509/17, II GSK 2480/17, II GSK 2446/17, II GSK 2481/17, II GSK 2445/17, II GSK 2531/17; of 28 November 2019, case no.: II GSK 3174/17, II GSK 3197/17; and of 5 December 2019, case no.: II GSK 2399/17, II GSK 2400/17, II GSK 2401/17, II GSK 2402/17, II GSK 2403/17, II GSK 2404/17, the Supreme Administrative Court dismissed the further appeals by Polcomtel and T-Mobile against the WSA's judgments dismissing complaints by Polkomtel and T-Mobile against the above decisions. Thus, all licences issued as a result of the auction remain valid.

### 3.9. Actions for defence, State security and public order

#### Construction and deployment of the cybersecurity system

As part of the tasks resulting from the competences enshrined in the Telecommunications Act, as amended by the National Cybersecurity System Act, in 2019, UKE performed the following activities:

- a. participated in the preparation of the Regulation of the Minister of Digital Affairs regarding the minimum technical and organisational measures and methods that telecommunications undertakings are obliged to use to ensure security or integrity of networks or services,
- b. cooperated with CSIRT NASK and CSIRT GOV in exchanging information on incidents,
- c. prepared and forwarded to the Ministry of Digital Affairs proposed legal solutions to be used while amending the regulation issued based on the statutory authorisation established in Article 176a(5) of the Telecommunications Act regarding the action plan for the telecommunications undertaking in the event of special threats.

#### Performance of tasks specified according to the alert levels or cyber alert levels in Poland

The regulator's competences in the field of telecommunications security were implemented by the Contact Point of the President of UKE at the Department of Security. While ensuring the security of the ministerial meeting on "Building Peace and Security in the Middle East" in Warsaw, elections to the European Parliament, Sejm and Senate, and the visit of the Vice-President of the USA, UKE:

- a. prepared and arranged with telecommunications undertakings activities related to the introduction of restrictions on the operation of telecommunications networks and devices in mobile networks,

- b. monitored security and integrity breaches of networks and services and ensured readiness to inform entities responsible for the performance of security and public order tasks of such breaches,
- c. carried out an audit of radio spectrum security and readiness to detect sources of radio interference.

### **Support for the activities of authorised State entities in the field of maintaining public order and combating crime**

In 2019, UKE cooperated with entities responsible for maintaining safety and public order as well as prosecuting crimes.

As part of audit activities in 2019, actions were taken to ensure that telecommunications undertakings and postal operators meet their obligations with respect to defence, State security, safety and public order. In the case of complaints and requests of authorised entities, prosecutors and courts, UKE conducted explanatory and administrative proceedings in the matter of imposing fines on undertakings defaulting on their statutory obligations.

In 2019, UKE carried out the said actions against 55 entities, including 9 audits, 24 initiated interventions and explanatory investigations at the request of authorised entities and 22 *ex officio*. Six audits confirmed full and proper implementation of the statutory obligations. In the other cases, post-audit recommendations or decisions on determining the scope of infringements of law were issued.

As a result of deficiencies found in the performance of obligations by telecommunications undertakings with respect to defence, State security, safety and public order, UKE carried out two administrative proceedings regarding the imposition of a fine. These concluded with an administrative decision imposing a fine of PLN 50,000.

### **Improving the procedures for cooperation with State authorities responsible for maintaining safety and public order**

As part of the Office's cooperation with key telecommunications undertakings and the officials from authorised entities carrying out statutory tasks in the area of maintaining State security, UKE organised meetings aimed at improving the procedures for cooperation in the field of mutual communication and agreeing on the technical and formal requirements of the process.

### **Preparation of activities and procedures of undertakings in situations of particular threats**

UKE continued the process of agreeing on the action plans of telecommunications undertakings and postal operators that include procedures to be followed in situations of particular threats. These plans are intended to ensure the continuity of telecommunications and postal services primarily to the authorities coordinating rescue operations and to the services established by law to provide assistance, as well as other entities performing tasks in the field of defence, State security, safety and public order. UKE verified whether up-to-date plans were in place also as part of their scheduled inspections.

Following the entry into force of the National Cybersecurity System Act, UKE prepared and forwarded to the Ministry of Digital Affairs their proposed legal solutions to be used when

drafting a new regulation on the action plans of telecommunications undertakings in situations of particular threats. The main change proposed is to introduce the obligation of telecommunications undertakings to carry out analyses of cybersecurity threats and assess the impact of such threats on the security and integrity of their network or services provided. As the revenue criterion for exemption from the obligation to prepare such a plan was raised, the obligation to have a plan in place was limited only to a group of largest undertakings with significant market power. Additionally, the proposal provided for a change to the types of plans and the possibility of preparing joint plans by entities being part of a capital group. It also clarified the analyses and assessments to be carried out by the operator, as well as the scope, procedures and time limits applicable in the process of preparing a plan. The legislative work is scheduled for completion by the end of August 2020.

With regard to the entry into force of the Act of 31 July 2019 amending certain Acts in order to alleviate the regulatory burden (*i.a.* related to limiting the obligation to prepare an action plan in situations of particular threats for the smallest postal operators that due to their marginal potential are of no actual importance to the defence, State security and functioning in crises, and that have no realistic possibilities of meeting the requirements and procedures of preparing such plans), UKE prepared and forwarded to the Ministry of Infrastructure their proposed legal solutions to be used when drafting a new regulation on the action plans of postal operators in situations of particular threats. The main change proposed is to exempt a postal operator whose annual revenue from postal activities in the previous financial year was smaller than or equal to PLN 400,000 or a postal operator that is performing postal activities only within the administrative borders of one province from the obligation to prepare the plan. Additionally, as in the case of the plans of telecommunications undertakings, UKE proposed, among other things, a change in the plan types. The proposal provided for the possibility of preparing joint plans by entities being part of a capital group, and clarified the analyses and assessments to be carried out by the operator, as well as the scope, procedures and time limits applicable in the process of preparing a plan. It also introduced the analysis of cybersecurity threats with regard to e-services integrated in the postal activities. The legislative work is scheduled for completion by the end of 2020.

**Effects of UKE's actions for defence, State security and public order:**

- UKE developed legal solutions in order to introduce the obligation of telecommunications undertakings and postal operators to carry out analyses of cybersecurity threats and assess the impact of such threats on the security of the services provided,
- with regard to meeting the legal requirements in the area of defence and security, UKE carried out various verification actions against 55 telecommunications entities, including 9 audits, 24 initiated interventions and explanatory investigations at the request of authorised entities and 22 *ex officio*,
- with regard to telecommunications security, UKE supported the organisation of the Middle East conference in Warsaw, the visit of the Vice-President of the USA, as well as the election to the Sejm and Senate, and the European Parliament election,
- UKE agreed on 173 plans in situations of particular threats prepared by 37 telecommunications undertakings and 20 plans prepared by 4 postal operators,
- UKE continued work on lowering the administrative barriers for postal operators – they prepared and forwarded to the Ministry of Infrastructure solutions aimed at limiting the obligation to prepare actions plans in situations of particular threats for the smallest postal operators.

### 3.10. UKE's international activity – telecommunications

#### Cooperation with EU institutions and regulatory authorities of other countries

##### Cooperation with the Council of the European Union (Council)

In 2019, as part of the work of the working group of the Council of the European Union for Telecommunications and Information Society (H.05), UKE's representatives participated *i.a.* in the works on the draft Regulation on Privacy and Electronic Communications<sup>33</sup>, the works on the draft Decision of the Council of the EU on the position for the World Radiocommunication Conference of the ITU, as well as on the proposed changes discussed at the meetings of the working groups of the Council. Also other issues were discussed at the meetings, including electronic commerce, the code of digital services, partnership for smart grids, the conclusions of the Council on 5G, data retention and Internet governance.

##### Cooperation within the Communications Committee

In 2019, two meetings of the Communications Committee took place. During the meetings, an employee of UKE participated in the discussion and evaluation of the draft acts implementing the Directive establishing the EECC with regard to the contract summary in accordance with Article 102(3) of the EECC and the small-area wireless access points (SWAPS and small areas) in accordance with Article 57 of the EECC. During the discussion, the rules of procedure of the Committee established pursuant to Article 118 of the EECC were adopted, and a report on the work of the MSS Group was discussed, as well as the results of the questionnaire concerning the

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<sup>33</sup> Draft Regulation concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC.

112 emergency number and the scope of the questionnaire and the Key Performance Indicators (KPI) related to the implementation of Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks. Also, up-to-date information was presented on the development of 5G, the application of the Commission Recommendation of 26 March 2019 on Cybersecurity of 5G networks and the implementation of the EECC. At the meetings, the planned schedule of work on the review of the implementation of the fair use policy and ensuring of the sustainability of removing additional charges for retail roaming services was presented, together with a report on mobile satellite services and information on the functioning of the judicial system in the area of electronic communications in the EU and information on the hotlines using the 116 number.

#### Cooperation with the RSC

In 2019, a representative of UKE participated in three meetings of the Radio Spectrum Committee (RSC) concerning:

- a. the completion of the work on the Implementing Decision regarding the technical parameters for the use of 5G by the fixed and mobile service – in the 26 GHz band (Commission Implementing Decision (EU) 2019/784 on harmonisation of the 24,25–27,5 GHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services in the Union was published on 14 May 2019),
- b. work on the Decision on ultra-wideband (UWB) technology in the EU and the Decision establishing the possibilities of harmonisation of the radio spectrum for use by short-range devices (SRD),
- c. amendments to Decision 2008/671/EC in order to allow for the safe placing of intelligent transportation systems (ITS) in the 5.9 GHz band,
- d. draft Commission Implementing Decision amending Decision 2012/688/EU as regards an update of relevant technical conditions applicable to the frequency bands 1920-1980 MHz and 2110–2170 MHz,
- e. draft Commission Decision on the draft Implementing Decision amending Decision 2008/477/EC as regards an update of relevant technical conditions applicable to the frequency bands 2500–2690 MHz, for terrestrial systems capable of providing electronic communications services (ECSs),
- f. research and studies commissioned by the European Commission on the present and future use of the 900 MHz band by GSM as the reference technology, as set out in Directive 2009/114/EC.

Cooperation with the RSPG

In 2019, UKE's employees participated in three meetings of the Cooperation with Radio Spectrum Policy Group (RSPG) concerning:

- a. the continued work to facilitate the implementation of 5G in Europe and a discussion on initiatives such as the European 5G Observatory to monitor the progress in the implementation of 5G technology,
- b. the difficulties associated with the release of the 700 MHz band, *i.a.* by Russia, and the EC obtaining the assurances of support and cooperation in this area,
- c. the EC's actions to enable work on Implementing Decision regarding the 26 GHz band,
- d. the completion of public consultation on the implementing act on small-area access points,
- e. the work progress of the Group for the European Radio Spectrum Strategy (the Group identified six issues to work on: innovation, sharing, harmonisation, the role of market mechanisms, meeting the requirements of all users of the spectrum, receivers, and standards),
- f. the progress of the working group coordinating the organisation of workshops regarding, among others, the auction for bands: 700 MHz, 3.6 GHz and 26 GHz, including the evaluation of the report on public consultations,
- g. the work of the working group on preparation for the WRC-19,
- h. the Group's work programme for 2020–2021,
- i. the summary of the Group's work on the review of the EECC in terms of impact on the RSPG's activities.

Cooperation with the Body of European Regulators for Electronic Communications (BEREC) and the Independent Regulators Group (IRG)

In 2019, UKE participated in the works of BEREC at all organisational levels, ranging from the Board of Regulators and the Contact Network, to work in specific working groups. The President of UKE, Marcin Cichy, also performed his additional duties as the Vice-Chair of the IRG/BEREC. In his new position, the President of UKE supervised the work of BEREC Working Groups on Regulatory Framework, Roaming, and Wireless Network Evolution. These groups developed guidelines on general authorisation notifications transmitted to the competent authorities, new Rules of Procedure for BEREC, Opinion on the functioning of the roaming market as input to EC evaluation, Guidelines on intra-EU communications and the Report on Transparency and Comparability of International Roaming Tariffs. The President of UKE, Marcin Cichy, also participated in the meetings and video conferences of the BEREC Management Board, where the key issues related to the functioning of BEREC were discussed.

BEREC carried out works on approx. 38 projects in 11 working groups. UKE assigned 13 experts to carry out the editing work on the documents, including in the Working Groups on Market and Economic Analysis, Wireless Network Evolution, Roaming, and Planning and Future Trends. The UKE experts provided data, co-drafted the documents adopted, and owing to the opportunity

to work with the drafting teams, they had a direct impact on the content of such documents, in particular:

- a. Guidelines on general authorisation notifications transmitted to the competent authorities,
- b. Study on the determinants of investment in very high capacity networks,
- c. Report on the Data Economy,
- d. Report on Access to physical infrastructure in the context of market analysis,
- e. Input to the EC Implementing Acts on contract summary template,
- f. Guidelines on the consistent application of Geographical surveys of the reach of electronic communications networks.

As the BEREC Vice-Chair, the President of UKE, Marcin Cichy, represented the organisation, among others, at the following events: a workshop on 5G infrastructure held as part of the second edition of the CYBERSEC Brussels Leaders' Foresight, the 19th Global Symposium for Regulators, the International Regulators' Forum in London, the 5G Techritory Forum in Riga, the 12th Florence Air Forum in Budapest, and a conference of the Florence School of Regulators on the EECC in Florence.

UKE also took part in the IRG information exchange by providing answers to inquiries and questionnaires distributed by other regulatory authorities, as well as by seeking information from their counterparts. In 2019, UKE responded to 70 questionnaires and made 9 inquiries.

### **Regional cooperation**

UKE continued cooperation under the Memorandum on the quality of services and spectrum management. A delegation from UKE led by the President of UKE, Marcin Cichy, took part in a meeting of the Memorandum signatories – the National Regulatory Authorities from Poland, the Czech Republic, Slovakia, Slovenia, Croatia, Serbia and Romania, and discussed Poland's experience in the implementation of the measurement system for the certified mechanism for monitoring the Internet access service.

Other signatories of the Memorandum also shared their experience in the implementation of the QoS monitoring tools.

UKE cooperated with the Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) as part of the EaPeReg regulatory platform for electronic communications. Delegations from UKE, led by the President of UKE, Marcin Cichy, participated in two plenary meetings of the platform. In addition, the UKE experts took part in the work of the Roaming Expert Working Group and the Independent Regulators and Broadband Expert Working Group, where they shared Polish experience in both areas, as well as proposed possible solutions for the said countries. UKE's engagement in the work of the platform was appreciated by the Eastern Partnership countries, which elected the President of UKE as the EaPeReg Chair for 2020. This is the first time a regulator from outside of the Eastern Partnership is entrusted with this function.

### Bilateral cooperation

UKE strengthened the existing bilateral relations with other regulatory authorities and established new relations. In July 2019, in Warsaw, the President of UKE and the Director of the National Regulatory Agency for Electronic Communication and Information Technology of the Republic of Moldova (ANRCETI) signed a Memorandum of Understanding in the field of Electronic Communication. Also, UKE's delegation led by the President of UKE, Marcin Cichy, paid a visit to Chisinau, where they shared their experience with the Moldavian NRA regarding the infrastructure and service mapping, implementation of the infrastructure for telecommunications network and roaming.

In 2019, UKE held a number of meetings in Warsaw with the EU regulators: in May, with representatives of the Croatian regulator (situation on the telecommunications market in both countries, network mapping, EU-funded construction of the infrastructure, the EECC implementation); in September, with representatives of the Maltese regulator (service quality); and in November, with representatives of the Slovak regulator (including economic regulations of the telecommunications market, network neutrality, radio spectrum management and monitoring, issues related to numbers, situation on the postal market, the EECC implementation).

As part of the World Radiocommunication Conference WRC-19, UKE held a number of bilateral meetings with administration representatives from Belarus, Ukraine, the Czech Republic and Slovakia. The objective of the meetings was to discuss the issues related to further cooperation, primarily regarding bilateral agreements on the use of various frequency bands, including in particular the 3.4 GHz – 3.8 GHz band, as well as specifying the problems related with the 700 MHz band. A bilateral agreement was signed with Ukraine regarding the technical and procedural conditions for the use of the 1427–1518 MHz frequency band by terrestrial systems in the border areas of Poland and Ukraine.

On 11 and 12 February 2019, a coordination meeting was organised with the Czech administration on coordination of the Czech T-DAB stations planned in the frequency blocks created as a result of converting one nationwide DVB-T network into four T-DAB networks. As such a conversion might lead to an increase in interference in the Polish DVB-T network in the VHF band, all new Czech T-DAB stations had to be analysed and their parameters needed to be agreed upon.

On 11 December 2019, UKE held the first in over three years direct coordination meeting with the Russian administration (a video conference), concerning primarily the 700 MHz band. The information obtained during the video-conference showed that a Broadcasting Development Concept is being developed in Russia, which is to include arrangements for the use of the 700 MHz band. Work on the above concept was scheduled for completion by the end of 2019<sup>34</sup>.

### Cooperation in the implementation of projects financed from the EU

In July 2019, cooperation under the Twinning Project for the Georgian National Communications Commission (GNCC) was closed. The President of UKE acted as the Junior Partner in the project,

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<sup>34</sup> For more information see point 2.7 of the Report on the activities of the President of the Office of Electronic Communications for 2019.

in charge of the implementation of two out of six components. Also in 2019, UKE's experts participated in 10 missions, including 4 training sessions and workshops (3 missions under component 1 – regulatory framework; 2 missions under component 2 – infrastructure, focused on mapping; 2 missions under component 3 – market analysis and identifying significant market power; and 3 missions under component 4 – spectrum assignment mechanisms). As a result of these activities, it was possible to develop: a roadmap on introducing new regulatory framework, guidelines on the implementation of solutions to facilitate the infrastructure and service mapping, standards for regulating the relevant markets and recommendations on the radio frequency spectrum assignment. Junior Project Manager was actively engaged in the project management and monitoring of its compliance with the plan, including participation in quarterly meetings of the Steering Committee. The project activities were summarised at the Closing Conference attended by all Partners, the EC Delegation, Ambassadors of the partner countries in Tbilisi and representatives of the Georgian Government. The participants could learn about the results achieved in the 19 months of the project implementation and discuss the sustainability and future perspectives of the outcome. UKE's participation was highly appreciated not only by the project beneficiary, but also the Project Leader, the Director General of the Lithuanian Communications Regulatory Authority (RRT).

### **Cooperation with international organisations**

#### Cooperation within the UN Broadband Commission

The President of UKE, Marcin Cichy, was involved in the work of the UN Broadband Commission for Sustainable Development, both at the plenary meetings and at the level of the Working Groups on Broadband Infrastructure Investment and on Child Safety On-Line. These Working Groups prepared the reports "Connecting Africa Through Broadband: A strategy for doubling connectivity by 2021 and reaching universal access by 2030" and "Child Online Safety: Minimizing the Risk of Violence, Abuse and Exploitation Online".

#### Cooperation within the International Telecommunications Union (ITU)

Representatives of UKE participated in the most important events resulting from the works of this organization and its individual bodies. In 2019, the key events related to Poland's membership in the ITU included: the World Radiocommunication Conference (WRC-19), the World Summit on the Information Society (WSIS Forum 2019), the Global Symposium for Regulators (GSR-19), and a meeting of the ITU Council.

At the WRC-19, key decisions and arrangements were made, including:

- a. to identify additional frequency resources for IMT in the bands 24.25–27.5 GHz, 37–43.5 GHz, 45.5–47 GHz, 47.2–48.2 and 66–71 GHz, which would facilitate the development of the fifth generation (5G) mobile networks;
- b. to grant protection to the Earth exploration satellite service with the possibility of primary service frequency allocation of the frequency band 22.55–23.15 GHz on a worldwide basis, in order to allow the use of this band for satellite tracking, telemetry and control,
- c. to establish regulatory procedures for non-geostationary satellite constellations in the fixed-satellite service, which opened up opportunities for future communications systems

(huge satellite constellations consisting of hundreds to thousands of spacecrafts in the low earth orbit are becoming common for global communications, as well as remote sensing, exploration of space and upper atmosphere, meteorology, astronomy, demonstration of technologies and education),

- d. to identify additional frequency bands for high-altitude platform stations (HAPS)<sup>35</sup>,
- e. to amend regulatory provisions so as to include both the internal and external applications, as well as the incremental demand for wireless access, including RLAN for end users' radio connection with public or private backbone networks such as WiFi, while reducing interference with the existing satellite service systems,
- f. to adopt a new ITU Resolution on railway radiocommunication systems with the view of facilitating the implementation of railway and trackside systems in order to meet the needs of a high-speed railway environment, in particular in the case of radiocommunication systems providing improved railway traffic control, passenger safety and improved security for train operations,
- g. to approve a new ITU Recommendation on Intelligent Transport Systems (ITS) with the view of integrating information and communication technologies with the evolving ITS in order to connect vehicles, improve traffic management and assist safer driving,
- h. to protect frequency allocations of the broadcasting-satellite service (BSS) to ensure a priority mechanism to provide countries with access to orbit and spectrum resources,
- i. to extend the coverage and increase the capacities of the Global Maritime Distress and Safety System (GMDSS),
- j. to adopt a decision on Earth stations in motion (ESIM) enabling people on aircrafts, ships and trains to connect with geostationary satellite communication links.

During the meeting of the ITU Council, the most important discussions from the Polish perspective concerned the ITU budget for 2020–2021, the participation of SME in the work of ITU and the Council Working Groups. ITU Council adopted a number of reports (*i.a.* on ITU's activities in the implementation of the UN Sustainable Development Goals and the ITU's Strategic Plan for 2018–2019), as well as discussed the activities in support of the development of broadband infrastructure, the Internet, modern technologies and digital literacy. Wojciech Berezowski, the Head of the International Organisations Unit in the Department of Foreign Affairs of UKE, was nominated as Vice-Chair of the ITU Council Working Group on WSIS and SDGs (Sustainable Development Goals).

At the WSIS Forum 2019, UKE presented innovative robotics projects carried out by Polish undertakings. In cooperation with ITU, UKE also organised a workshop on the use of emerging technologies for digital transformation and maximising benefits to societies and economies.

In concert with ITU and the World Bank, on 2–3 July 2019, UKE held a regional workshop at their head office on mapping of broadband infrastructure and services under the name „ITU Workshop for Europe on mapping of terrestrial broadband infrastructure and services”. Representatives

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<sup>35</sup> Radio devices are located on aircraft platforms positioned in the stratosphere to facilitate wide coverage telecommunications with the view of providing access to broadband connectivity in rural and remote areas at an affordable price.

of Western Balkan and Eastern Partnership countries, as well as international institutions attended the event and had the opportunity to learn about the best regulatory practices, including the mapping system operated by the UKE experts.

The President of UKE participated in the Global Symposium for Regulators GSR-19 by attending the Regional Regulatory Associations Meeting of high-level representatives and the leadership debate on connectivity. In addition, the President of UKE moderated the regulators' session on the fifth generation and on the protection of consumer rights.

UKE was involved in the work of the ITU-T Study Groups on telecommunications market regulations, as well as new generations telecommunications networks (NGN) and the quality of service (analysing administrative documents and initiatives discussed in the groups).

As part of cooperation with ITU, a representative of UKE, Lidia Stępińska-Ustasiak, Counsellor to the President of UKE, was appointed the Chairperson of the Steering Committee of the Centres of Excellence (CoEs), whose meeting was held in February 2019 in Warsaw.

#### Cooperation within the European Conference of Postal and Telecommunications Administrations (CEPT)

As part of the CEPT Com-ITU working group, UKE participated in the development of a common position of the European region for the next meetings of the ITU Working Groups and the ITU Council, as well as in the preparation for the World Telecommunication Standardization Conference (WTSA-20). UKE participated in the work of the Electronics Communications Committee (ECC), *i.e.* in the CPG, WGFM and ECC PT1 groups, analysing the documents developed by these groups and taking into account the conclusions in the work on national regulations. UKE was also involved in the consultation of project reports and ECC decisions.

Wojciech Berezowski, the Head of the International Organisations Unit in the Department of Foreign Affairs of UKE, was elected one of the coordinators for the European region. Moreover, UKE participated in the work of ECC and CPG, groups, analysing the documents developed by these groups and taking into account the conclusions in the work on national regulations. UKE was also involved in the consultation of project reports and ECC decisions.

#### Cooperation within Intersputnik

UKE representatives participated in the meeting of the Board and the Operations Committee of the Intersputnik International Organization of Space Communications. During the meeting, their activities were reviewed and the documents regulating the work procedure of the bodies of this organisation were approved. Also, UKE representatives took part in a seminar dedicated to the domestic satellite systems and networks, advanced telecommunications technologies and devices for satellite communication, as well as in the exchange of experience and knowledge among the member countries in the field of national satellite communication systems. A proposal was accepted at the meeting to hold the 2020 meeting in Warsaw.

#### Cooperation with the World Bank Group

In 2019, negotiation was initiated on the involvement of UKE experts in the Bank's projects regarding infrastructure mapping. It should be highlighted that Małgorzata Ignatowicz, an expert

at Social and Economic Cooperation Unit of the Department of Foreign Affairs at UKE, was appointed the World Bank Group Private Sector Liaison Officer.

#### Cooperation with the Organisation for Economic Co-operation and Development (OECD)

In 2019, the President and employees of UKE attended the sessions of the OECD Network of Economic Regulators (OECD NER). UKE joined the Network as a NER member.

#### **Effects of UKE's international activity in telecommunications:**

- influence on the shaping of EU provisions on e-privacy and the implementing acts to the European Electronic Communications Code,
- obtaining the EC's assurance of support and cooperation in terms of arrangements with the Russian Federation regarding the refarming of the 700 MHz band,
- securing Polish interests regarding the allocation of frequencies in the 3.7 GHz and 26 GHz bands,
- election of the President of UKE, Marcin Cichy, as the Vice-Chair of BEREC for 2020,
- signing of another Memorandum of Understanding with the Moldavian Regulatory Authority,
- successful completion of the first Twinning Project with the participation of UKE,
- influence on the content of BEREC guidelines and other projects,
- enhancing UKE's image through participation in international events as the Vice-Chair of BEREC,
- participation in the works on expert reports of the Broadband Commission for Sustainable Development operating within the UN,
- presentation by UKE of innovative robotics projects at the WSIS Forum,
- sharing of UKE's experiences as regards regulatory activities and educational campaigns in the area of information and communications technologies,
- appointment of a representative of UKE, Lidia Stępińska-Ustasiak, as the Chairperson of the Steering Committee of the European Centres of Excellence,
- nomination of Wojciech Berezowski as Vice-Chair of the Council Working Group on WSIS and Sustainable Development Goals, and as one of the coordinators for the European region for WTSA-20 preparation,
- appointment of Małgorzata Ignatowicz as the World Bank Group Private Sector Liaison Officer,
- UKE's membership in the OECD Network of Economic Regulators – OECD NER.

### 3.11. UKE's international activity – post

The international activity of UKE on the postal services market focused on close cooperation with the most important organisations for this sector: the EC, ERGP, UPU and CERP.

#### **The European Regulators Group for Postal Services (ERGP)**

The tasks performed in 2019 were in step with the objectives set out in the Medium Term Strategy of the ERGP:

- a. promoting sustainable provision of a universal postal service,
- b. promoting a competitive EU postal single market,
- c. empowering and protecting end users.

UKE representatives participated in the drafting of reports and other expert documents concerning:

- a. identification of methods and tools used by the national regulatory authorities to prevent the adverse impact of cross-subsidisation on competition,
- b. provision of information on the cross-border parcel delivery and assessment of tariffs,
- c. development of postal networks and access practices in the field of parcel market infrastructure,
- d. major trends in the postal sector and limitations imposed by the Postal Services Directive on the regulatory practices,
- e. formulation of Recommendations for the CE with regard to the possible amendments to the Postal Services Directive,
- f. analysis of trends in service quality, complaint procedure and consumer protection, as well as European postal market trends.

UKE representatives were involved in the development of the expert ERGP acquis as document authors (Consumers and Market Indicators Work Group and Cross Border Parcel Delivery Work Group) as well as by leading the Work Groups (Co-Chair of the ERGP's Regulatory Accounting Work Group) and representing UKE in the Steering Group that coordinated ERGP's activity.

ERGP adopted the Medium Term Strategy for 2020–2022. They also provided the EC with expert support and technical advice in implementing the Regulation on cross-border parcel delivery services and on the future regulatory framework for the sector.

UKE intensified their international activities by assuming new functions in the ERGP Management. At the ERGP plenary in November 2019, the President of UKE, Marcin Cichy, was elected Chair of the ERGP for 2021, and so as to ensure the continuity of the ERGP's work, he will act as the Vice-Chair in 2020. The President of UKE will be responsible for the implementation of the Medium Term Strategy for 2020–2022, organising discussion fora and workshops. In addition, his tasks will include preparing and implementing the work programme of the Work Groups.

Also, the President of UKE was one of the speakers at the ERGP Stakeholders Forum in Brussels, which brings together regulators and representatives of the postal, digital and e-commerce

sector. He presented a speech in the session “International mail market: to regulate or not regulate?”.

### **The Postal Directive Committee**

The main objective of the Postal Directive Committee’s meetings is for the EC to assist the EU Member States in the implementation of the Postal Services Directive by experience and opinion exchange, as well as ongoing consultations on the most important issues.

At the Committee’s meeting, UKE employees participated in discussions and arrangements concerning:

- a. the implementation of the Regulation on cross-border parcel delivery services,
- b. the process of evaluation of the Postal Services Directive,
- c. the course and outcome of the UPU Extraordinary Congress,
- d. research on the postal sector,
- e. postal statistics, standardisation and new customs regulations.

With the ERGP’s support, the EC initiated preparations for the evaluation of the Postal Services Directive. Having considered the results of the public consultation, the ERGP prepared a report for the EC on developments in the postal sector and implications for regulation. The report served as the basis for recommendations which will be taken into account during the review and reform of the Directive.

Pursuant to the Regulation on cross-border parcel delivery services, the EC, in cooperation with the member countries, deployed new tools to improve the transparency of the parcel tariffs. A special application is now available on the dedicated website, where the EC publishes the tariffs for the most commonly used cross-border parcel delivery services. The tariff comparison website should help private customers and SMEs obtain better information on cross-border parcel delivery services.

The European Commission also cooperated with the member countries’ regulatory authorities, including UKE, in the proper application of the Directive regarding postal statistics.

Close cooperation of the regulatory authorities with the EC resulted in the improved functionalities of the IT applications as regards statistical data.

### **UPU – Universal Postal Union**

At the session of the UPU Extraordinary Congress and the UPU Council of Administration (CA) – one of the main statutory bodies of the Union, UKE employees participated in the decision-making process regarding the international postal traffic.

At the UPU Extraordinary Congress convened in response to the member countries’ urgent request, a new system for terminal dues was adopted – the key element in the settlement of international e-commerce postal traffic. The new terminal dues rates entered into force on 1 January 2020. The agreement reached allowed the single postal area to be maintained globally, thus ensuring the continuity of the provision of international postal services.

The debates of the UPU CA primarily focused on the following:

- a. implementation of the Integrated Product Plan (IPP) – a new contents-based classification of parcels,
- b. implementation of the Integrated Remuneration Plan (IRP) – a complex system for settlements between postal operators,
- c. the UPU financing system – introduction of a new model of contribution payment by member countries to ensure financial stability of the Union,
- d. adoption of the UPU Provident Scheme – a pension security scheme for the Union's employees.

Actions taken by UPU aim to improve the exchange of international mail and to adapt the existing regulations to the rapidly changing market environment on a global scale. The Integrated Product Plan is closely linked to the Integrated Remuneration Plan (settlement plan).

The IRP aims to modernize, rationalize and integrate settlement systems in the postal traffic between the member countries. The final version of the IPP and IRP will have impact on the revenues of designated operators and the level of their competitiveness on the e-commerce market.

#### **The European Committee for Postal Regulation (CERP)**

UKE's cooperation with the European Committee for Postal Regulation was carried out on several levels and consisted of participation in the Committee's plenary as well as keeping working relations with the CERP member countries and the Ministry of Infrastructure.

CERP's activities focused on the aspects of the Universal Postal Union (UPU), in particular the system for settlements between operators and reaching an agreement on the adoption of a compromise proposal with regard to terminal dues.

One of the most broadly discussed issues, apart from the final version of the terminal dues settlement system, which was to reflect the actual costs of postal services, was the Union financing system based on the contributions from member countries.

The information and opinion exchange by the competent ministries and regulators of the CERP member countries made it possible to identify the regulatory aspects crucial from European perspective and to prepare and present, in cooperation with the Ministry of Infrastructure, Poland's stand at the international forum.

Cooperation with major international organisations in the postal market allowed UKE to deepen their expertise and use it in their day-to-day operations and in developing their regulatory strategies on a global and national scale, in particular with regard to:

- improving the operational efficiency of the cross-border parcel delivery services market – an element of the Digital Single Market (DSM) strategy, by strengthening regulatory oversight,
- increasing transparency of cross-border parcel delivery tariffs to reduce unjustifiable tariff differences,
- assessing the application and implementation of the Regulation on cross-border parcel delivery services with regard to its impact on the scale of parcel traffic and e-commerce,
- revising the regulatory framework of the postal services market adapted to new technologies, market development and consumer needs,
- defining operators' responses to developments on the parcel market resulting from evolving postal networks,
- using indicators to monitor the European postal market,
- improving the functioning of the global postal network and increasing the quality of postal services in international traffic.

## 4. UKE 3.0 = Honesty, Creativity, Effectiveness

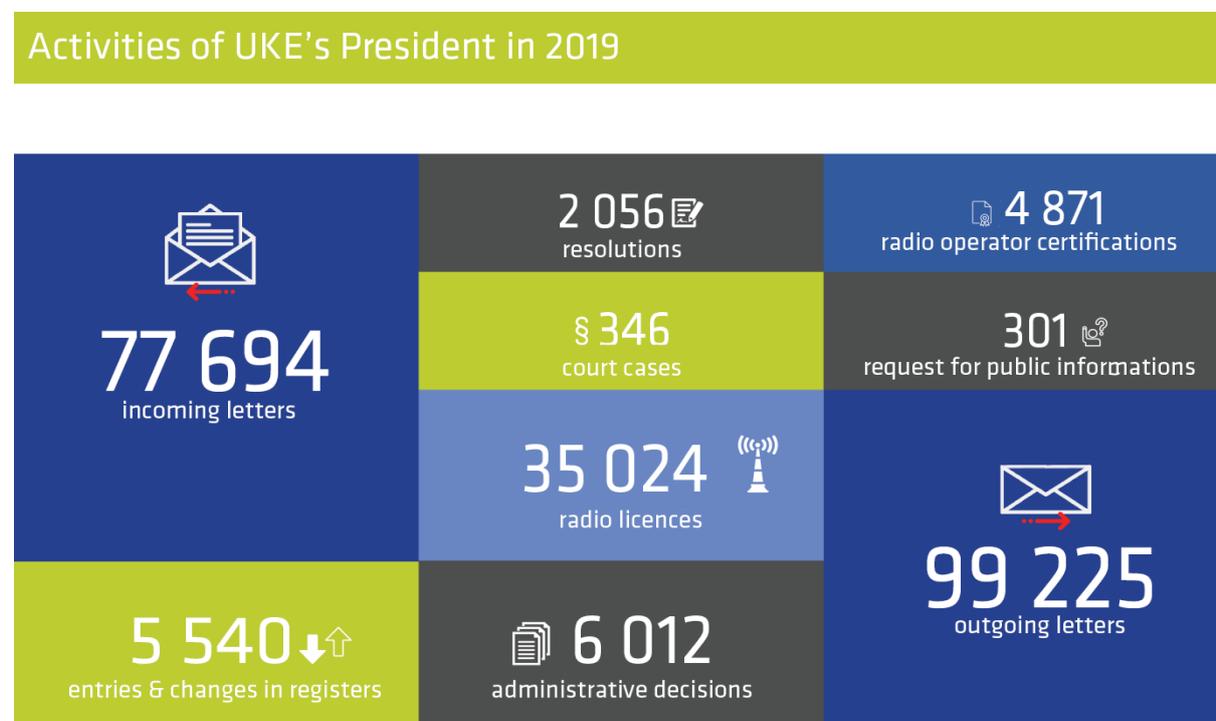
### 4.1. Experts in service to society and business

When creating a friendly and accessible Office in 2019, further activities were taken, aimed at:

- a. multifaceted information on activities carried out by UKE:
  - publication of over 120 articles on uke.gov.pl,
  - publication of over 900 articles on bip.uke.gov.pl,
  - recording and publishing about 16 videos on the UKE Regulator channel on YouTube,
  - media service (photos, preparation of materials, videos, posts in social media) from some 40 events/conferences with the participation of the President of UKE and over 30 events/conferences with the participation of UKE Management,
- b. effective recruitment and promoting employment in UKE in the face of increasing staff attrition – at UKE, retention of qualified specialist personnel with experience and unique knowledge combining the engineering (technical), economic, administrative and legal aspects remains a challenge. This results from the extensive remit of the President of UKE, as confirmed by the scale of activities carried out for citizens and undertakings, and the increasing complexity of such activities.

Figure 7

The scale of UKE's activities



Source: UKE

Under the adopted model of the Office as a moderator of market developments (UKE – a professional hub)<sup>36</sup>, in 2019, UKE continued the implementation of tasks including:

- a. follow-up on the initiatives proposed by consumers and businesses,
- b. participation in social, governmental and local projects,
- c. carrying out educational activities focused on promoting knowledge of telecommunications and digitisation,
- d. popularisation of Polish telecommunications and ICT projects created by SMEs, start-ups and universities around the world,
- e. supporting foreign investments relevant for the development of telecommunications market,
- f. cooperation with the providers of telecommunications devices and solutions in the exchange of knowledge of new technologies,
- g. institutional cooperation with the Ministry of Development (former Ministry of Entrepreneurship and Technology), Ministry of Foreign Affairs (MSZ), Polish Investment and Trade Agency (PAIH) and Polish Agency for Enterprise Development (PARP) to promote the participation of Polish ICT companies and start-ups in international procurement procedures,
- h. assisting Polish SMEs and start-ups at international events (ITU),
- i. meetings of the Polish telecommunications and ICT market participants with representatives of international organisations (ITU),
- j. cooperation with Polish and international professional chambers,
- k. information and education activities regarding broadband infrastructure development,
- l. presentations by UKE Management and employees at Polish and international industry events on issues relevant for the ICT development,
- m. supporting national initiatives and events through the patronage of the President of UKE,
- n. establishing the function of the World Bank Group Private Sector Liaison Officer for the purpose of providing Polish ICT companies, including SMEs and start-ups, with information on projects and tenders financed by the Bank.

## 4.2. UKE on-line

In 2019, UKE conducted activities aimed at developing e-services for customers and ensuring the availability and usefulness of information, including for people with special needs.

### Information Point on Telecommunications

On 14 February 2019, UKE received the works consisting of extension and modernisation of the communication and information system for managing the Information Point on Telecommunications (PIT), which is a system that enables UKE to fulfil their obligations stemming from the MEGA-act, *i.e.* the act implementing the provisions of Articles 4, 6, 7 and 10

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<sup>36</sup>“Strategic lines of actions of the President of UKE for 2017–2021”.

of Directive 2014/61/EU. On 15 April 2019, UKE first made the modernised system available to external users obliged by the provisions of the MEGA-act to provide information to UKE for the purposes of PIT. The entities covered by this obligation include all local government authorities, all categories of road operators, operators of infrastructure networks (including telecommunications networks), entities managing real estate and restricted areas, as well as State Forests authorities.

Significant legal obstacles for obtaining information to be provided via the PIT system were as follows:

- a. exclusion from the obligation of providing information to the President of UKE by operators of technical infrastructure network other than telecommunications,
- b. lack of a regulation provided for in Article 29e of the MEGA-act.

In the first half of 2019, UKE representatives participated in the legislative works of the Ministry of Digital Affairs. The effects of UKE's cooperation with the Ministry in this regard included:

- a. adoption by the Sejm on 30 August 2019 of the Act amending the Act on supporting the development of telecommunications services and networks and certain other Acts,
- b. adoption on 31 July 2019 of the Regulation of the Minister of Digital Affairs on information on technical infrastructure and service ducts and rates for occupying traffic lanes.

In the second half of 2019, UKE carried out outreach work aimed at informing the representatives of telecommunications industry, and in particular representatives of other sectors of network infrastructure, about the new provisions on feeding the PIT system and the capabilities of the PIT IT system with regard to handling the process of information provision. UKE representatives presented their papers at six nationwide conferences organised for entities from the sectors of telecommunications, media, railway, road traffic and water infrastructure. Information on PIT and its system was distributed to over 1,500 entities. Additionally, in November and December 2019, UKE held two information and educational conferences of their own, dedicated to telecommunications undertakings and network operators, as well as the LGAs and facility managers. The conferences attracted 438 participants.

The implemented modernisation of the system for PIT, changes to the legal provisions and promotional activities of UKE led to a significant increase in the number of entities providing data to PIT. For example, in the period of PIT's operation between 2017 and 2018, only 16 entities submitted data on the rates for the right of way occupation, whereas in November and December 2019, that is after the entry into force of the above Regulation, over 150 LGAs applied for access to be able to feed the information into the system.

An observed result of the changes in law and modernisation of the PIT IT system was a significant increase in the number of entities providing data to the Information Point on Telecommunications, enabling telecommunications undertakings to prepare their investment process. The idea behind the PIT system is to create a single information point on the rules and conditions of investment and the existing and planned resources, to reduce investment costs, and ultimately, also to publish information necessary for entities of the same or different industries to carry out joint investment projects.

### **Development of the Electronic Services Platform (PUE)**

In 2019, the Electronic Services Platform (PUE) underwent further significant changes aimed at developing e-services for customers and ensuring the availability and usefulness of information.

In 2019, a single sign-on point was introduced, which integrated and enabled the use of: the PUE platform, the Information Point on Telecommunications (PIT) website and the map portal (<https://pitmap.uke.gov.pl>). The “Information Point on Telecommunications (PIT)” was added to the catalogue, together with a form “Application for access to PIT” and seven PIT e-services. In addition, the below redirect services were introduced (URL shortening) as a facilitation for users who use both these systems:

- a. entering data on planned or existing infrastructure,
- b. entering GESUT data,
- c. application for access to PIT,
- d. PIT system,
- e. entering rules for providing access to forest areas,
- f. entering information on the conditions of access to real estate,
- g. PIT map portal,
- h. entering data on rates for the right of way occupation,
- i. notifying on any telecommunications network or service security or integrity breaches that have a significant impact on the functioning of the network or service,
- j. receiving interim reports from telecommunications undertakings – the reporting obligation of Article 7 of the Telecommunications Act.

### **E-reporting service for undertakings**

New regulation on the annual reporting of telecommunications undertakings arising from Article 7 of the Telecommunications Act have been in force since 12 December 2018. These introduced an obligation for undertakings to submit the reports on their telecommunications activities only in electronic form via a dedicated Electronic Services Platform (PUE). This is the only option to effectively submit the report on telecommunications activity.

Pursuant to amendments to the Telecommunications Act and the Regulation on providing data related to telecommunications activities, all telecommunications undertakings irrespective of the amount of their revenues, are required to submit the reporting forms. UKE designed and developed a functionality to fulfil this obligation – an undertaking opens an account on PUE using

the Trusted Profile, completes the reporting form, signs it with the Trusted Profile or the qualified electronic signature, and submits it to UKE. The process is fully automated.

The e-reporting service has greatly accelerated and facilitated data collection from telecommunications market entities. Due to the obligation of all telecommunications undertakings to submit detailed data, the President of UKE obtained data regarding detailed F01-F08 forms for 2018 from approx. 120% more entities than they had received in the reporting year 2017. The Office received 34% more forms for Internet access, 96% more forms for VoIP, 166% more forms for television, 177% more forms for mobile telephony, and an impressive 218% more forms for bundled services.

4,051 entities fulfilled their reporting obligation for 2018. Based on data received from telecommunications undertakings, in June 2019 UKE published their „Report on the state of the telecommunications market in Poland in 2018”.

#### **Development of PLI CBD for the State and telecommunications undertakings**

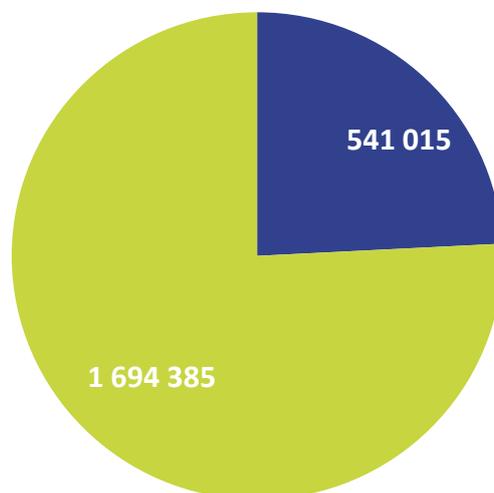
In 2019, UKE continued their activities related to the maintenance and development of the Location and Information Platform with a Central Database (PLI CBD) system in order to ensure the 99.5% accessibility of the services offered (within specified capacities).

The above objective was achieved, as presented by the following statistics:

- a. for the functionality enabling the receipt of location data and information of persons requiring assistance from telecommunications undertakings and sharing them upon request with the services appointed by law to bring assistance:
  - instances of location information received by PLI CBD indicating the location of the subscriber calling for assistance using a mobile phone: 58,691,343,
  - requests for the location of the calling subscriber by the services: 27,682,061,
- b. for the functionality enabling information exchange between service providers for number porting:
  - numbers ported in fixed networks (FNP): 541,015,
  - numbers ported in mobile networks (MNP): 1,694,385.

Chart 16

## Numbers ported via PLI CBD



■ Stationary networks ■ Mobile networks

Source: UKE

### Application for exams

The application was developed by UKE employees in order to enable customers to individually enrol to exams to become certified operators in the amateur radio service (RA) as well as radio maritime and inland service via the Internet<sup>37</sup>. The full integration with UKE's Central Authentication System ensured data protection and credibility and the integration with other systems used by UKE eliminated the necessity to copy the data from paper applications (users are automatically notified via electronic mail whether their application has been accepted or rejected). In the first quarter of 2020, UKE implemented this application, thus, which allows for: a fully electronic process of exam enrolment, an automatic registration of a case in the document workflow system, carrying out the exam and issuing the certificate, an electronic verification of the certificates issued, issuing the licence (AR Service), as well as publishing information on the licence issued and the call sign assigned (AR Service).

### Numbering portal and Register of premium rate numbers

In 2019, as part of activities to ensure information availability and usefulness, UKE employees also developed the following application:

- a. Numeration portal<sup>38</sup> – a tool, fully integrated with the PLI CBD system, which automatically downloads data from the system and publishes them in the form of the Numbering Management Tables as required by the Telecommunications Act. The portal provides for e.g. downloading data in the form of .csv and .xml files, which is used by telecommunications undertakings, among others users, to update their traffic management systems on an ongoing basis, and enables publishing these data in the form

<sup>37</sup> Available on: <https://egzaminuj.uke.gov.pl>.

<sup>38</sup> Available on: <https://numeracja.uke.gov.pl>.

of services on the website dedicated to open public data<sup>39</sup>. It is worth emphasising that Google search engine has modified its source of information on telecommunications operators codes in Poland, pointing to the UKE service.

- b. Register of premium rate service numbers<sup>40</sup> – a search engine for numbers used to provide the premium rate service, automatically providing the UKE customers with access to data on numbers and premium rate services.
- c. Search engine for service providers<sup>41</sup> – a tool, fully integrated with the PLI CBD system, which allows for determining the current service provider for a given phone number.

Table 8

**UKE websites traffic**

UKE website	Number of visitors	Number of views
pit.uke.gov.pl	9,347	49,064
pue.uke.gov.pl	27,787	116,647
uke.gov.pl	92,668	421,395
bip.uke.gov.pl	98,439	436,321
cik.uke.gov.pl	21,737	102,320
amator.uke.gov.pl	24,749	77,143
confirmation.uke.gov.pl	2,631	8,069
mapbook.uke.gov.pl	5,706	9,227
numeracja.uke.gov.pl	16,521	43,511

Source: UKE

### 4.3. Structure and employment

In 2019, the following amendments to UKE's Organisational Regulations were adopted:

- a. by the Order no. 16 of the President of UKE of 26 June 2019,
- b. by the Order no. 26 of the President of UKE of 27 September 2019.

These amendments concerned *i.a.* the structure of the Department of Monitoring, Department of Consumer Policy and Department of the Postal Market.

In accordance with provisions of the UKE Statute, as of 31 December 2019, UKE was composed of the following organisations units:

- a. Director's General Bureau,
- b. Department of Consumer Policy,
- c. Department of Regulation,

<sup>39</sup> For more information visit: <https://www.gov.pl/web/cyfryzacja/otwarte-dane-publiczne>.

<sup>40</sup> Available on: <https://bip.uke.gov.pl/wyszukiwarka-rejestr-premium>.

<sup>41</sup> Available on: <https://bip.uke.gov.pl/numeracja/dostawca-uslug>.

- d. Department of Strategy and Analysis,
- e. Department of the Postal Market,
- f. Department of Radio Spectrum,
- g. Department of Technology,
- h. Department of Monitoring,
- i. Department of Security,
- j. Legal Department,
- k. Department of Foreign Affairs,
- l. Finance Bureau,
- m. Administration Bureau,
- n. IT Bureau,
- o. regional branches established pursuant to UKE Organisational Regulation:
  - Regional Branch in Wrocław – for Lower Silesia province,
  - Regional Branch in Bydgoszcz – for Kuyavia-Pomerania province,
  - Regional Branch in Lublin – for Lublin province,
  - Regional Branch in Zielona Góra – for Lubusz province,
  - Regional Branch in Łódź – for Lodzkie province,
  - Regional Branch in Kraków – for Lesser Poland province,
  - Regional Branch in Opole – for Opole province,
  - Regional Branch in Rzeszów – for Subcarpathia province,
  - Regional Branch in Białystok – for Podlaskie province,
  - Regional Branch in Gdynia – for Pomerania province,
  - Regional Branch in Siemianowice Śląskie – for Silesia province,
  - Regional Branch in Kielce – for Swietokrzyskie province,
  - Regional Branch in Olsztyn – for Warmia-Masuria province,
  - Regional Branch in Poznań – for Greater Poland province,
  - Regional Branch in Szczecin – for West Pomerania province.

#### Employment at UKE:

- a. as of 1 January 2019: 660 persons / 656.14 posts, including 48 persons / 46.35 posts under the POPC,
- b. as of 31 December 2019: 621 persons / 616.78 posts, including 50 persons / 47.85 posts under the POPC.

#### Status of UKE employees:

- a. civil servants: 62 persons / 62 posts,
- b. higher positions in the civil service: 21 persons / 21 posts,
- c. employees of the civil service: 483 persons / 481.48 posts,
- d. employees outside the civil service corps: 55 persons / 52.30 posts,

UKE staff attrition in 2019:

- a. number of recruitments<sup>42</sup>: 79, of which 35 recruitments ended with filling the position, including 4 recruitments for positions in the POPC, of which 2 ended with filling the position,
- b. number of offers<sup>43</sup>: 581, including 17 offers for positions in the POPC,
- c. number of persons employed<sup>44</sup>: 44 persons, including 2 persons financed under the POPC,
- d. number of persons with terminated employment<sup>45</sup>: 79 persons, including 0 persons financed under the POPC.

#### 4.4. Expenditure and revenue

The financial plan of part 76 – Office of Electronic Communications for 2019 was prepared on the basis of the Budget Act for 2019. UKE's revenue and expenditure were set at the following level:

- a. budgetary revenue: PLN 707,502,000
- b. budgetary expenditure: PLN 117,126,000

UKE's revenue and expenditure in 2019 were implemented in the following amounts:

- a. budgetary revenue: PLN 756,508,000 *i.e.* 106.9% of the plan,
- b. budgetary expenditure: PLN 113,687,000 *i.e.* 98% of the plan after changes,

including expenditure for:

- |                                    |                |
|------------------------------------|----------------|
| a. current activity:               | PLN 90,477,000 |
| ▪ section 600, chapter 60047:      | PLN 90,436,000 |
| ▪ section 752, chapter 75212:      | PLN 41,000     |
| b. investment (property) activity: | PLN 13,196,000 |
| ▪ section 600, chapter 60047:      | PLN 12,996,000 |
| ▪ section 752, chapter 75212:      | PLN 200,000    |

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<sup>42</sup> The data refer to members of the civil service corps.

<sup>43</sup> The data refer to members of the civil service corps.

<sup>44</sup> The data refer to members of the civil service corps and employees outside the civil service corps.

<sup>45</sup> The data refer to members of the civil service corps and employees outside the civil service corps.

Table 9

## Implementation of the revenue planned in the budget for 2019.

Paragraph of budget classification	Plan [thousand PLN]	Execution [thousand PLN]	Execution [%]
0580 – revenue from penalties and fines		4,010	
0590 – revenue from licence fees	348,600	367,382	105.4
0610 – revenue from examination fees and fees for issuing certificates, diplomas and their duplicates	380	337	88.7
0620 – fees for the right to use frequencies	254,370	281,887	110.8
0690 – revenue from various fees	104,152	102,892	98.8
Total revenue	707,502	756,508	106.9

Source: UKE

Table 10

## Implementation of the expenditure planned in the budget for 2019

Specified by needs	Plan according to the Budget Act [thousand PLN]	Plan after changes [thousand PLN]	Execution [thousand PLN]	Execution [%]
Salaries and related items	57,742	57,095	57,032	99.9
Current expenditure	33,742	35,243	33,445	94.9
Asset-related expenditure	15,148	13,196	13,186	99.9
Co-financing of projects with EU funds	10,494	10,520	10,024	95.2
Total expenditure	117,126	116,054	113,687	98

Source: UKE

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## Glossary of abbreviations

### A

Act on Conformity Assessment and Market Surveillance Systems – Act of 13 April 2016 on conformity assessment and market surveillance systems (consolidated text, Journal of Laws [Dz. U.] of 2019, item 544)

Act on supporting the development of telecommunications services and networks – Act of 7 May 2010 on supporting the development of telecommunications services and networks (consolidated text, Journal of Laws [Dz. U.] of 2019, item 2410)

ADR (Alternative Dispute Resolution) – a system for resolving consumer disputes without resorting to litigation

AO – alternative operator

AR Service – amateur radio service

### B

BEREC – Body of European Regulators in Electronic Communications

BGP (Border Gateway Protocol) – a standardized exterior gateway protocol designed to exchange routing and reachability information on the Internet

BSA (Bitstream Access) – access service to broadband access devices and telecommunications network hubs

### C

CEIDG – Central Registration and Information on Business

CEPT – European Conference of Postal and Telecommunications Administrations

CERT-EU – a permanent Computer Emergency Response Team for the EU Institutions, bodies and agencies

CIK – a subpage on the Consumer Information Centre available on UKE's website

Commission Implementing Regulation (EU) 2018/1263 – Commission Implementing Regulation (EU) 2018/1263 of 20 September 2018 establishing the forms for the submission of information by parcel delivery service providers pursuant to Regulation (EU) 2018/644 of the European Parliament and of the Council (OJ L 238, p. 65)

Conformity Assessment System Act – Act of 30 August 2002 on the conformity assessment system (consolidated text, Journal of Laws [Dz. U.] of 2019, item 155)

Council – Council of the European Union

CPPC – Digital Poland Project Centre

Cross subsidization – covering the costs of one business activity or costs relating to one customer group with revenues from another business activity or from another customer group

CSIRT – Computer Security Incident Response Team

### D

DAE – Digital Agenda for Europe

Digital Accessibility Act – Act of 4 April 2019 on the digital accessibility of websites and mobile applications of public sector bodies (Journal of Laws [Dz. U.] of 2019, item 848)

Directive 2014/61/EU – Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155 of 23.05.2014)

DVB-T (Digital Video Broadcasting – Terrestrial) – the standard for the broadcast transmission of digital terrestrial television

DVB-T2 (Digital Video Broadcasting – Terrestrial) – the second generation standard for the broadcast transmission of digital terrestrial television

### E

EC – European Commission

EECC – European Electronic Communications Code (Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321/36))

EEA – European Economic Area

Eastern Partnership – the part of the European Neighbourhood Policy covering the EU's eastern neighbours (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine)

ENISA – European Network and Information Security Agency

ERGP – European Regulators Group for Postal Services

EU – European Union

### F

Forest Act – Act of 28 September 1991 on forests (consolidated text, Journal of Laws [Dz. U.] of 2020, item 6)

FTR (Fixed Termination Rate) – the rate of wholesale fee for phone connection termination in a fixed telephony network of another operator

FTTH – Fibre to the Home

## G

GESUT – Geodetic Register of Land Utilities Network

## I

ICT (Information and Communication Technologies) – a domain of telecommunications and IT dealing with the information transmission technology and logical tools for controlling data flow and transmission

Inea – Inea S.A.

IoT – Internet of Things

IRG – Independent Regulators Group

ISDN (Integrated Service Digital Network) – a digital network with services integration, allowing access to the voice network as part of the WLR service

ISP – Internet Service Provider

ITU – International Telecommunication Union

IXP – Internet Exchange Point

## J

LGA – local government authorities

## K

KASMON – National Automated Frequency Spectrum Monitoring System

KIKE – National Chamber of Ethernet Communication

KRRiT – National Broadcasting Council

KRS – National Court Register

## L

LRIC – Long-Run Average Incremental Cost

LTE (Long Term Evolution) – fourth generation mobile telephony standard

## M

MC – Ministry of Digital Affairs

MEGA-act – Act on supporting the development of telecommunications services and networks

MI – Ministry of Infrastructure

MliR – Ministry of Investment and Economic Development

MOC (Mobile Originated Call) – a call originated by a mobile network subscriber

MON – Ministry of National Defence

MPiT – Ministry of Entrepreneurship and Technology

MR – Ministry of Economic Development

MS – Margin Squeeze

MS Test – Margin Squeeze Test

MSWiA – Ministry of the Interior and Administration

MSZ – Ministry of Foreign Affairs

MTC (Mobile Terminated Call) – a call made to a mobile network subscriber

MUX1 – the first multiplex of terrestrial digital TV

MUX4 – the fourth multiplex of terrestrial digital TV, dedicated to provide mobile audio-visual media service

## N

NAP – National Action Plan

NASK – Scientific and Academic Computer Network, a national research institute

National Cybersecurity System Act – Act of 5 July 2018 on the national cybersecurity system (Journal of Laws [Dz. U.] of 2018, item 1560)

Netia – Netia S.A.

NFAT – National Frequency Allocation Table

NGA (Next Generation Access) – next-generation access networks

NGN (Next Generation Network) – next-generation telecommunications networks

NKA – emergency routing numbers

NP – number portability

## O

OBN – National Numbers Office

OPL – Orange Polska S.A.

OSA – National Directory of Subscribers

OTT (Over-The-Top) – means provision of content, services or applications via the Internet without direct engagement of network operator or internet service provider.

## Q

QoS – Quality of Service

## P

P4 – P4 sp. z o.o.

PAIH – Polish Investment and Trade Agency

PARP – Polish Agency for Enterprise Development

PAS – public payphone service

PIT – UKE's IT system – Information Point on Telecommunications

PSL – Polish Sign Language

PLI CBD – Location and Information Platform with a Central Database

Poczta Polska – Poczta Polska S.A.

Polkomtel – Polkomtel sp. z o.o.

POPC – Operational Programme Digital Poland

Postal Law – Act of 23 November 2012 – Postal Law (consolidated text, Journal of Laws [Dz. U.] of 2018, item 2188, as amended)

pp – percentage point

PS Test – Price Squeeze Test

## R

Real Estate Management Act – Act of 21 August 1997 on real estate management (consolidated text, Journal of Laws [Dz. U.] of 2020, item 65, as amended)

Refarming – repurposing a given frequency band associated with modifications of frequency licences and granting new licences

Regulation on the detailed requirements related to the provision of facilities for people with disabilities – Regulation of the Minister of Administration and Digitisation of 26 March 2014 on the detailed requirements related to the provision of facilities for people with disabilities by providers of publicly available telephone services (Journal of Laws [Dz. U.] of 2014, item 464)

Regulation 2015/2120 – Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, p. 1, as amended)

Regulation 2018/644 – Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services (OJ L 112, p. 19)

RJST – register of local government authorities performing activities in the field of telecommunications

RLAH (Roam Like at Home) – means that roaming services are charged at domestic rates (without roaming fees)

RLAN – Radio Local Area Network

ROP – register of postal operators

RPT – register of telecommunications undertakings

RSS – Regional Broadband Networks

## S

SIIS – Broadband Infrastructure Information System

SME – small and medium-sized enterprise

SMP – Significant Market Power

SMS – Short Message Service

SOKiK – Court of Competition and Consumer Protection

SS7 (Signaling System 7) – set of protocols used in telecommunications networks

Start-up – a newly created company or temporary organisation in search of a business model to ensure its profitable development

## T

TDR – terrestrial digital radio

TDT – terrestrial digital television

Telecommunications Act – Act of 16 July 2004 – Telecommunications Law (consolidated text, Journal of Laws [Dz. U.] of 2019, item 2460)

T-Mobile – T-Mobile Polska S.A.

TOYA – TOYA sp. z o.o.

## U

UKE BIP – Public Information Bulletin published on the website of the President of UKE

UKE Statutes – Statutes of the Office of Electronic Communications, constituting an Annex to Ordinance No 7 of the Minister of Transport of 11 May 2007 on granting the Statutes to the Office of Electronic Communications (Journal of Laws of the MT, No 5, item 14, as amended)

UN – United Nations

UOKiK – Office of Competition and Consumer Protection

UPC – UPC sp. z o.o.

UPU – Universal Postal Union

## V

VoIP (Voice over Internet Protocol) – technology enabling the use of the Internet as the transmission medium for voice calls

VoLTE (Voice over Long-Term Evolution) – wireless voice communication standard based on LTE data transmission

Vula (Virtual Unbundling Local Loop) – wholesale virtual subscriber loop service

## W

WACC (Weighted Average Cost of Capital) – return on the cost of capital employed

WCAG 2.0 – Web Content Accessibility Guidelines

WLR (Wholesale Line Rental) – wholesale subscription sales service

WRC – World Radiocommunication Conference

WSA – Provincial Administrative Court

WSIS – World Summit on the Information Society

## X

xDSL (x Digital Subscriber Line) – digital subscriber line (x=A, H, V); general description of digital subscriber line technologies which use many different modulation schemes

xPON (xPassive Optical Network) – passive optical network

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