

**Subject: HT.5766 - Communication from the Commission - Guidelines on State aid for broadband networks**

Reference is made to the circulated draft *Guidelines on State aid for broadband networks* and the Multilateral Meeting on the revision of these Guidelines held on 27 January 2022.

Further to the comments already made by Malta during the Multilateral Meeting, the Maltese Authorities would like to submit the following points for the Commission's consideration.

The proposed Guidelines are generally welcomed. However, it is noted that the document tends to focus on speed when it comes to performance and network enhancement.

Speed is also the sole highlighted parameter in terms of the 'broadband electronic communications network' definition. However, in the case of mobile networks, and especially for 5G/6G, other factors, like ultralow latency for example, may depict an enhancement in performance. With regards to the mobile access network, it is true that, in theory, 5G standalone provides enhanced performance to 5G non-standalone. However, enhancements observed in 5G stand-alone are not solely related to speed, but also to other network parameters, for example latency and reliability. These latter parameters do not seem to feature within the definitions provided in the Guidelines, resulting in a limitation to granting State aid in terms of 5G deployment.

During the Multilateral Meeting, it was outlined that Member States have a lot of flexibility to devise State aid measures; however the burden of proof rests with them, especially with regards to latency.

Consequently, it is believed that such flexibility should be reflected in the actual text of the Guidelines. Definitions should be broader so as to factor in the additional benefits gained by the deployment of 5G stand-alone, not based singularly on speed but on other network enhanced parameters when it comes to mobile access network.

With regards to Annex 1 to the Guidelines, Articles 20, 21, 22 and 29 of the *European Electronic Communications Code* provide the legal framework to support the elaboration of broadband maps, including as required for the application of State aid. The draft Guidelines fail to explicitly recognise the role of those articles and their purposefulness in delivering the information necessary to support State aid notifications. The network parameters listed in the draft Guidelines are extensive and burdensome to collect. For example, the network requirements listed in the '*BEREC Guidelines on Geographical surveys of network deployments*' are less detailed. The Body of European Regulators for Electronic Communications, prepared the latter document in line with the obligations set out in Article 22 of the European Electronic Communications Code.

The draft Guidelines fail to outline when the extensive information is required. The exhaustive parameter list referenced in Annex 1 might not be required during the initial stages of the State aid notification process. Therefore, it might be more feasible to initially submit the mapping parameters as listed in the BEREC Geographical Survey Guidelines, and subsequently submit the extremely detailed parameters during the last phase of the notification process.

Furthermore, the BEREC guidelines set the deadline of December 2023 for the submission of the Geographical surveys. The attainment of such information is a lengthy process with a lot of stakeholders being involved and, possibly, a mapping system to be set up. The BEREC Geographical surveys require that the information is provided at a very granular level - namely address level for fixed and fixed wireless access networks and address level or maximum 100 m by 100 m grids for mobile networks. Attaining such information is often non-trivial. As a result, the BEREC Geographical surveys introduce a transitory period within which the collected data does not need to be that granular. Annex 1 to the draft Guidelines, does not allow for such a transitory period as it immediately demands for the address level (for fixed and fixed wireless access networks) and at address level or on the basis of maximum 100m x 100m grid (for mobile

networks). This, indirectly, is bringing forward the deadlines set up in the BEREC Geographical surveys.

The Maltese Authorities trust that the above submission will be taken into account in the ongoing discussions on the draft Broadband Guidelines. We remain available for further discussions regarding the points raised.

Kind regards,

