



Ministry of Enterprise and Innovation
Department for Business,
Division for Markets and Competition

Comments on the Commission's proposal for revised Guidelines on State aid for broadband networks - HT.5766

The Swedish government welcomes the revision of the Guidelines on State aid for broadband networks (BBGL) and would like to submit the following comments on the Commission's draft.

Climate and environmental requirements

We welcome that the BBGL in point 124 encourage Member States to consider criteria pertaining to the climate and environmental performance of the network. It would be useful to have further examples in the footnote on what those requirements could be.

Wholesale access requirements

Wholesale access requirements are fundamental to limiting the distorting effects of state aid on the market of broadband networks. It is welcome that the requirements of wholesale access have been clarified in the draft BBGL. Sweden primarily sees a need for state aid for enabling broadband networks in areas with low population density, few potential end-users and very limited prospects for competition. It is therefore necessary that state aid schemes can be approved for aid in these areas where wholesale access requirements can be reduced according to point 150. Even when wholesale access is required, the BBGL should enable a simplified pricing methodology for smaller competitive bidding processes to avoid excluding smaller local and non-commercial actors.

Mobile and fixed networks

We welcome the clarifications regarding the specific requirements for mobile networks. However, strict separation between aid for mobile and fixed networks are not always appropriate. There could be situations where a competitive bidding process could be held requiring a certain speed, latency or reliability, without determining if mobile or fixed network is to be provided. This option should not be excluded in the guidelines.

National database on existing infrastructure

We support using existing infrastructure to reduce cost and limit the impact on the environment. The requirement in point 129 of the draft that Member States *must* set up a national database on the availability of existing infrastructures is however not appropriate for state aid guidelines. Proposals on increasing the amount and type of data available in the Single Information Point should be thoroughly discussed through an eventual review of the Broadband Cost Reduction Directive and not imposed through state-aid guidelines. The wording of the BBGL should allow for a less comprehensive database if this can be motivated, for example for reasons of cost effectiveness or national security.

State aid in “black areas”

Considering the increased connection speeds supported in the draft BBGL, it may be necessary to allow for State Aid even in “black areas”. It is important that the requirements of section 5.2.2.1.4 of the draft BBGL are strictly applied so that private upgrades of existing networks are not crowded out.

Backhaul networks and the definition of fixed networks

Under the BBGL, it would seem to be possible to subsidise only the backhaul part of a fixed network, anticipating that wholesale access to this network will result in access networks being constructed or upgraded without state aid. It therefore seems inappropriate that the definition of “fixed network” in the BBGL specifies that this provides high-speed data transmission services “to end-users”, as backhaul networks should be considered fixed networks but do not supply services to end users. Similar references to end-users in the revised GBER have made it unclear if the GBER can be used specifically for backhaul networks, so it is vital that the requirements of the BBGL are clear on this point. We also urge the

Commission to revise the GBER to clarify or ensure that standard forms of aid for backhaul networks providing wholesale access is included.

Definitions:

The draft BBGL uses the term "ultrafast access networks" for speeds over 100 Mbit/s. The term would seem to be misleading considering the Commissions goal of much higher connection speeds as referred to in point 2 of the BBGL. It would be more appropriate to use the established term Very High Capacity Networks (VHCN) instead.

The definition of Passive Networks in 22 h) of the BBGL is different from the definition in the GBER. It would be preferable if they were identical.

The BBGL in point 142 requires wholesale access to be provided for ten years. Art 52.7 GBER requires wholesale access in what would seem to be corresponding cases for only seven years. This should be revised or explained further.