

**Presentation of the Commission's State aid proposals: draft  
Guidelines for broadband networks**

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Ladies and Gentlemen,

I will focus today on DG Competition's policy and actions in relation to State aid for broadband and in particular the Commission's draft Broadband Guidelines, which aim to clarify the application of EU state aid rules to public funding of broadband networks

I think I do not have to emphasise how important broadband services are to our economies and societies. Access to adequate broadband services has a positive impact on economic growth, creating employment, fostering innovation, increasing productivity, bringing significant macro-economic benefits to the society at large, and to rural areas in particular.

In an era of globalisation, broadband networks have become a competitive tool for national, and particularly for regional economies, to the extent that for many, a successful roll out and take up of broadband services is critically important for their future prosperity.

As the current economic crisis is hitting our economies hard, public investment, for instance in broadband networks, is increasingly in the spotlight. As President Barroso,

Commissioners Kroes and Reding have also emphasised, investments in broadband networks are "*smart investments*" as they may both help economic recovery in the short term and allow long term benefits for European competitiveness.

Broadband networks are also particularly in the spotlight since a major technological shift is currently happening in the market, i.e. the roll-out of very high speed, typically fibre based "*next generation access networks*" (NGA networks). Analysts expect these networks to have a huge impact on the economy and society, similar to that we have experienced with traditional broadband services.

### *Achievements of the EU State aid policy on broadband*

The Commission actively supports the widespread roll out of broadband networks.

In the last five years, we have assessed and approved, under the State aid rules, the use of more than €1 billion public funds to roll out broadband networks. We estimate that this €1 billion has been matched by at least another billion euro of private investment. These investments have significantly reduced the so-called "*digital divide*" between citizens living in small villages

and those living in urban areas. They have resulted in adequate broadband coverage for millions of European citizens.

EU State aid rules have ensured that public intervention is proportionate. For instance, by requiring open access to subsidised networks for third party operators, State aid rules have helped to inject competition to areas where consumers previously did not have a choice.

Our approach has been strongly supported by all Member States and other stakeholders - that is also demonstrated by the fact that none of our 45 decisions has been challenged before the European courts.

### *Current developments in EU State aid policy on broadband*

As part of the European Economic Recovery Plan, the Commission has earmarked another €1 billion to enhance coverage in rural areas and to help local citizens to reap the benefits of the knowledge based society, create new jobs and help businesses grow further. We strongly encourage you to make use of the opportunity given by these additional funds. I am confident that with the help of this money, we will make a great step to

achieve our vision of "*broadband for all EU citizens*" in the very near future.

We have streamlined and introduced more transparency in our State aid decision-making procedures. A new "simplified procedure" will be in force as of September and will make it possible to adopt a Commission decision within 20 working days for, *inter alia*, cases involving State aid to extend broadband coverage in rural areas. These are cases in which the Commission has a considerable number of precedents to rely upon. The new procedure will significantly speed up the process as compared to today's standard State aid assessment in broadband cases, if Member States provide all necessary information, and subject to the online publication of a summary of the measure.

In order to help Member States to channel public funds to broadband networks as effectively as possible and in line with the State aid rules, we have and are carrying out public consultations on a revised draft Next Generation Access Recommendation and draft Broadband Guidelines.

### *Objectives of the draft Broadband Guidelines*

The Broadband Guidelines should play a crucial role in supporting the widespread rollout of broadband networks and – together with the draft revised NGA Recommendation – will help to channel billions of euros of investments, thereby shaping the broadband landscape in forthcoming years.

We hope that the Guidelines will provide a clear and predictable framework for all industry stakeholders in this field, by clarifying the role for public funding in this crucial sector.

We hope this document will also accelerate action by Member States and public authorities, so that they will not wait for the emergence of a "*NGA digital divide*" before intervening – as with basic broadband services. We hope that by respecting the conditions set out in the Broadband Guidelines, they will be quicker to channel public funding to areas where market operators have no plans to invest and will thus promote competition in this crucial sector.

The draft Guidelines address the challenges of public funding to traditional broadband as well as next generation access networks.

## *EU State aid policy objectives for broadband*

The objective of State aid policy in the field of broadband is to foster broadband deployment:

- where private investors do not invest or coverage is not adequate, even though coverage would be efficient from a wider economic perspective, e.g. due to positive externalities in terms of increased employment, economic activity, GDP growth on those areas (i.e. “market failure”);
- where market forces do not lead to a socially desirable outcome, for instance by not connecting people in small villages thereby excluding them from the participation of the knowledge-based society (i.e. “equity” or “cohesion considerations”).

These two objectives in fact overlap in the case of many broadband measures.

However, we are also:

- seeking to ensure aid measures are better targeted and State aid is concentrated on areas where there is no other way of tackling market failure or cohesion challenges;
- seeking to inject competition in areas where consumers do not have a choice; for instance, by requiring open wholesale access on the subsidised network we want to avoid re-creation of monopolies and allow other operators to benefit

from State aid by giving them the possibility to compete for customers in those areas.

- Moreover, State aid should not be used to crowd out investments of existing operators – and we also require several safeguards to prevent that.

### *State of play of the draft Broadband Guidelines for State aid*

Where do we stand now with the draft Broadband Guidelines?

The draft Broadband Guidelines were published on 19 May 2009, for public consultation until 22 June 2009. We had a successful multilateral meeting with Member States on 22 June 2009.

Next steps are now to review the text in light of the comments received. We hope it will be possible to adopt the Guidelines very soon, possibly even in July.

### *The transition to NGA networks*

Let me clarify at the outset that our objective is to encourage the rapid and timely roll-out of NGA networks: we encourage all Member States to put comprehensive broadband strategies in place. Based on the experience they have gained with State aid measures to traditional broadband, I am confident that public



authorities will be much quicker in designing NGA State aid measures where market operators have no commercial incentives.

NGA networks are expensive networks – experts calculate a total investment of 200-300 billion € will be needed - and will initially target densely populated areas, so that State aid and the use of public funds will probably have more an important role than the case for traditional broadband networks.

What we all certainly want to avoid is the emergence of a new "*NGA digital divide*", possibly for even longer time than we have seen – and can still see in several Member States – for traditional broadband networks. State aid – if used smartly and in line with the State aid rules - can be a very effective tool to avoid a fracture of this kind.

### *The role of public authorities in the transition to NGA*

There are many ways for public authorities to accelerate NGA deployment – and I am not only thinking about the use of State aid.

Certain regulatory or administrative measures may not constitute State aid if they are open measures not restricted to a specific sector (civil works coordination, opening up existing municipal

ducts, mandating sharing of infrastructure and fibre connectivity for new builds etc). As 60-80% of the NGA deployment could be related to civil engineering works, these measures could have important impact on broadband deployment.

Still, these measures only complement planned private investment projects. Conversely, where no private operator is willing to invest in the near future, public authorities may use State aid to help the deployment of NGA networks.

#### *Draft Broadband Guidelines: State aid to NGA networks*

Concerning State aid and NGA deployment, our draft Broadband Guidelines propose that we build on our existing State aid rules that we have applied very successfully in the last years. The main milestones of our policy remain in place, such as the need for detailed mapping analysis, the requirement of use of open tenders and of open wholesale access.

Let me stress that with the draft Broadband Guidelines we do not propose to introduce new market definitions. What we want to use instead, is a new NGA-based definition of “white”, “grey” and “black areas” for the purposes of State aid assessment. The intention is not to define new markets for NGA networks but

simply to acknowledge the technological shift with respect to traditional broadband in the identification of the areas targeted by the public funds. Many of you, including ECTA, have commented on this during the public consultation; hence we need to look at this issue again.

We have also introduced additional conditions to protect investments that, without evolving to NGA, have been made by private operators to upgrade traditional broadband networks.

### *The Commission's approach*

In essence, the Commission's methodological and analytical approach to traditional broadband and NGA will be based on the existing distinction between areas that lack NGA connectivity (labelled "NGA white areas"), areas where only one NGA network infrastructure is deployed and there are still competition problems (labelled "NGA grey areas") and areas where the market is competitive (labelled "NGA black areas").

Accordingly, the Commission's position towards public support for broadband network deployment varies from a positive view for *NGA white areas* to a more critical assessment for areas

where private investment is already made or is expected to take place and where competition is effective.

The draft Guidelines also set out the conditions that need to be fulfilled for the purposes of the compatibility assessment carried out under Article 87(3)(c) of the Treaty. These conditions remain in place both for "traditional broadband" and for NGA, with some additional specification for NGA that I will mention in a minute.

For the time being there are some instances in which "advanced" traditional broadband networks may be seen as substitutes for NGA. However, this is more a case of temporary substitution that is bound to disappear as new services are being developed. In any case, an assessment of the concrete circumstances of the case will be needed.

We see the following as "best practices", enabling public authorities to design compatible NGA State aid measures, besides the general conditions that are also already applied in case of traditional broadband networks:

- Investment plans of existing operators have to be considered – as these investments have just started, and their full scale will only become clear in the coming years.
- Open access on the subsidised networks has to be granted for at least 7 years – afterwards access obligation may still be possible under the Regulatory Framework, in case SMP is found. It is very important to ensure that National Regulatory Authorities are involved, given their competence in the field.
- Where feasible, point-to-point, multifibre networks should be deployed given the full unbundling and competition safeguards embedded in them.

Ladies and Gentlemen,

I have tried to briefly sketch just how important the proposed Broadband Guidelines are, and to explain our objectives in adopting them. I would like to thank all of you who have submitted comments, which we will consider carefully before finalising the text.

I do believe that the Guidelines will be a great help for public authorities in designing successful State aid broadband measures

that will be effective in tackling the "*NGA digital divide*" with minimal distortion on the market

Thank you for your attention.