



ETNO'S RESPONSE TO THE COMMISSION PUBLIC CONSULTATION

Review of the Communication on important projects of common
European interest (IPCEI)



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ETNO welcomes DG COMP's consultation on the Communication on Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest ("IPCEI Communication").

ETNO agrees with the Commission on the need to adapt the Communication to the objectives of the Green Deal, the Digital Strategy, the European Strategy for Data, the New Industrial/SME Strategy for Europe and the Digital Decade Communication. In addition, the Covid-19 pandemic has highlighted the need to transform EU's economy. The Next Generation EU instrument with the Recovery and Resilience Facility Plan is key to pursue a sustained economic transformation through, inter alia, Edge, Cloud and Open RAN projects.

In addition, ETNO believes that the challenges raised by globalisation should be taken into consideration when the Commission analyses the eligibility and the social benefits of IPCEI projects (specifically in terms of economic progress, efficiency, network safety and avoidance of relocation of activities outside the EU). In particular, ETNO considers that the Communication should recognise that the fostering of innovation leadership in strategic sectors, in line with Europe's commitment to determine its own future and digital sovereignty, is a societal benefit that may require the use of State aid.

Overall, ETNO believes that the existing criteria for the eligibility and compatibility of State aid for IPCEIs established in the Communication helps to enhance the predictability of the Commission's assessment of strategic European projects which are essential to achieve EU's political goals and a sustained way out of the Covid crisis.

ETNO, as the voice of Europe's telecommunication network operators, is committed to the creation of projects that pursue EU policy goals. We believe that telecommunication operators are the best-positioned players to engage in the building of green and digital projects such as telecom Edge and cloud computing services and the development of a European Open RAN ecosystem. These projects will be key to reach European data leadership, digital sovereignty, and the progressive recovery of the European economy through enhanced and more innovative mobile networks across the EU. Hence, the great importance of the initiatives undertaken by telecommunication operators and their wide contribution to the common EU interests implies that the Edge, cloud and Open RAN projects shall be deemed as IPCEIs.

In this response to the consultation, ETNO wishes to highlight the following aspects to ensure that the State aid conditions set by the IPCEI Communication are still fit for the current Commission's and Member States' goals.

- **Openness and inclusiveness of IPCEI**

ETNO considers that the actual eligibility requirements of Section 3.2 of the IPCEI Communication are fit for purpose, especially regarding the minimum number of Member States for a project to qualify as an IPCEI. Additionally, they ensure that IPCEIs are open to other Member States.

ETNO believes that point 17 of the Draft Communication (“Draft”) could limit the success of projects run by a smaller number of Member States and which could nevertheless create a significant positive impact on a wide part of the EU. To set a minimum number of four Member States and to limit the options for projects initially funded by a smaller number of Member States¹ could reduce the chances of creating projects able to generate positive spill over effects on the internal market. The proposed point 17 is likely to limit the scope of future IPCEIs without taking into account the type of project, the objective pursued and its financing needs – considering the changing nature of European economy.

The existing rules concerning the inclusiveness and openness of IPCEIs are adequate for the funding of projects undertaken by a small number of Member States, but which are of a particularly large scope, open to other Member States, and which entail a considerable level of technological or financial risk. Therefore, **ETNO pushes for maintaining the rules of Section 3.2 of the Communication as they stand today: an IPCEI project must normally involve more than one Member State²; and such projects must be designed so as to make it possible for all interested Member States to participate³.**

- **Update to current EU priorities and strategies**

As previously stated, ETNO welcomes the Commission’s initiative to adapt the IPCEI Communication to the Green Deal, the Digital Strategy, the European Strategy for Data, the new Industrial/SME Strategy for Europe, and the recent Communication on the Europe’s Digital Decade.

In particular, ETNO believes that IPCEIs driven by telecommunication operators in Edge, Cloud and Open RAN are key to favour the development of a European digital ecosystem, to enhance a sustainable economic recovery of the EU after the Covid-19 outbreak, and to support the efforts to strengthen the EU social and economic recovery. This request has been previously put on the table in several instruments such as the European Strategy for Data and the Recovery and Resilience Facility, under the “Scale up” flagship.

On this basis, the execution of an IPCEI on next generation Cloud infrastructure and services (including edge cloud) would enhance European data leadership and digital sovereignty, as well as contribute to the competitiveness of the EU economy. These projects inevitably require Member States’ joint investments and efforts to ensure the creation of trustworthy infrastructures driven by reliable telecommunications’ computing services. In addition,

¹ I.e. if the project concerns interconnected research infrastructures and TEN-T projects that are of fundamentally transnational importance because they are part of a physically connected cross-border network or are essential to enhance cross-border traffic management or interoperability.

² Point 16 of the current IPCEI Communication.

³ Point 20.a) of the current IPCEI Communication.

ETNO considers that Open RAN projects shall be deemed IPCEIs and thereby be eligible to receive State aid, either through its inclusion on the existing IPCEI to support research and innovation in microelectronics and communications technology⁴, or as a separate IPCEI to support the growth of an innovative and globally competitive Open RAN ecosystem in the EU.

Hence, **the Commission should favourably consider the development and deployment of Edge Cloud as well as Open-RAN capacities as IPCEIs and take these into account when reviewing the eligibility and compatibility criteria.**

- **Eligibility criteria**

ETNO welcomes the introduction of specific guidance on the criteria determining whether a State aid project complies with the compatibility requirements of IPCEIs under Article 107 (3)(b) TFEU. In particular, on the definition of integrated project and the definition of first industrial development. These specifications enhance the legal certainty of operators wishing to participate in such projects.

However, ETNO believes that the notion of societal challenge shall also cover objectives aimed at fostering Europe's sovereignty (in terms of economic progress, efficiency, network safety and avoidance of relocation of activities outside the EU). These objectives are nowadays in risk due to the challenges emerged by globalisation and by the competition exerted by players and markets outside the EU. On this basis, the Communication shall more explicitly recognise that fostering innovation leadership in strategic sectors, in line with Europe's commitment to determine its own future, is a societal benefit that could not be achieved in the absence of State aid.

ETNO proposes the following wording for point 16 of the Draft proposal of the Communication:

Point 16: The project should demonstrate that it is designed to overcome important market or systemic failures, preventing the project from being carried out to the same extent or in the same manner in the absence of the aid, or societal challenges, including fostering the development of ecosystems of EU suppliers in strategic sectors, which could not otherwise be addressed or remedied.

In addition, ETNO considers that the provision set in point 20 of the Draft, stating that an IPCEI project must involve significant co-financing by the beneficiary, is legally indeterminate and may provide the Commission with too much leeway in deciding whether a project is suitable to be considered as IPCEI. Instead, ETNO proposes that the Commission analyses the "significant co-financing by the beneficiary" while at the same time taking into account the type of project, the objective pursued and its financing needs. **Hence, ETNO believes that the wording of point 20 of the Draft shall be improved according to previous reflection and that the analysis of project financing shall be done on a case-by-case analysis.**

⁴ See State aid decisions SA.46578 – Germany; SA.46705 – France; SA.46595 – Italy; SA.46590 - United Kingdom. In 2018, the Commission declared compatible with State aid rules the joint project of France, Germany, Italy and the UK notified to the Commission as an IPCEI to support research and innovation in microelectronics.

Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_18_6862.

ETNO considers that the positive indicator contained in point 22f) of the Draft, according to which the Commission will take a more favourable approach for projects taking into account the Taxonomy Regulation, is not appropriate for the assessment of IPCEI projects. In fact, a specific “do no significant harm” principle is already introduced in point 21 of the Draft Communication: “*The project must respect the ‘do no significant harm’ principle and ensure the phasing out of environmentally harmful subsidies, as recalled by the European Green Deal*”. Hence, a reference to the Taxonomy Regulation may lead to an incorrect and unfair exclusion of projects that, although not directly “environmentally sustainable” according to the current version of the Taxonomy Regulation, have an indirect and undisputable enabling greening power over several other sectors (e.g. the enabling value of the digital transformation is well recognized, but for the time being it is not acknowledged in the Taxonomy Regulation).

Finally, as regards point 25 of the Draft on the definition of “first industrial deployments”, ETNO believes that the proposed wording explicitly excluding “*mass production and commercial activities*” may be too strict, considering that investments in critical infrastructure, especially in the case of highly distributed infrastructure (e.g. edge cloud), often entail the construction of multiple sites for industrial use cases and first commercial offers. Thus, the definition of “first industrial deployments” could be further clarified to ensure that it does not exclude the possibility of funding for infrastructure deployments for the purpose of commercial use.

- **Compatibility criteria: preventing negative effects of aid for IPCEIs and further ensuring aid proportionality**

ETNO supports the introduction of point 49 of the Draft and the proposed treatment of relocation conditions. However, as regards point 37 of the Draft and the introduction of a clawback mechanism, ETNO considers that this provision should be narrowed down to the case of proven eligibility violations. In highly innovative projects making a precise estimate of future cashflows is very likely to be challenging, entitlement to claw-back without more detailed rules on when and how the Commission will exercise such discretion will present recipients of aid with unacceptable level of uncertainty.

ETNO (European Telecommunications Network Operators' Association) represents Europe's telecommunications network operators and is the principal policy group for European e-communications network operators. ETNO's primary purpose is to promote a positive policy environment allowing the EU telecommunications sector to deliver best quality services to consumers and businesses.

For questions and clarifications regarding this position paper, please contact **Maarit Palovirta** (palovirta@etno.eu) or Sara Ghazanfari (ghazanfari@etno.eu)

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