



State aid to broadband deployment

SABER and BRESAT

Workshop

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Context

- Importance of broadband infrastructures for economy and society
- **Digital Agenda for Europe targets :**
 - 30 Mbps for everybody and
 - 50% households subscribing to 100 Mbps by 2020
- Substantial **investments** required:
 - Up to **60 billion EUR** > 30 Mbps for everybody by 2020 ;
 - Up to **270 billion EUR** > 50% households subscribing to 100 Mbps by 2020
- Commercial investments are not enough to achieve the DAE objectives
- Importance of public intervention and national strategies

Broadband deployment: why public funding is needed?

- Access to adequate broadband services has crucial importance to our economic and social development

However:

- Individual market investors may not invest, even though this would be efficient from a wider economic perspective, e.g. due to the positive spill-over effects (“market failure”)
- Market forces do not always lead to a socially desirable outcome (“equity” or “cohesion considerations”)

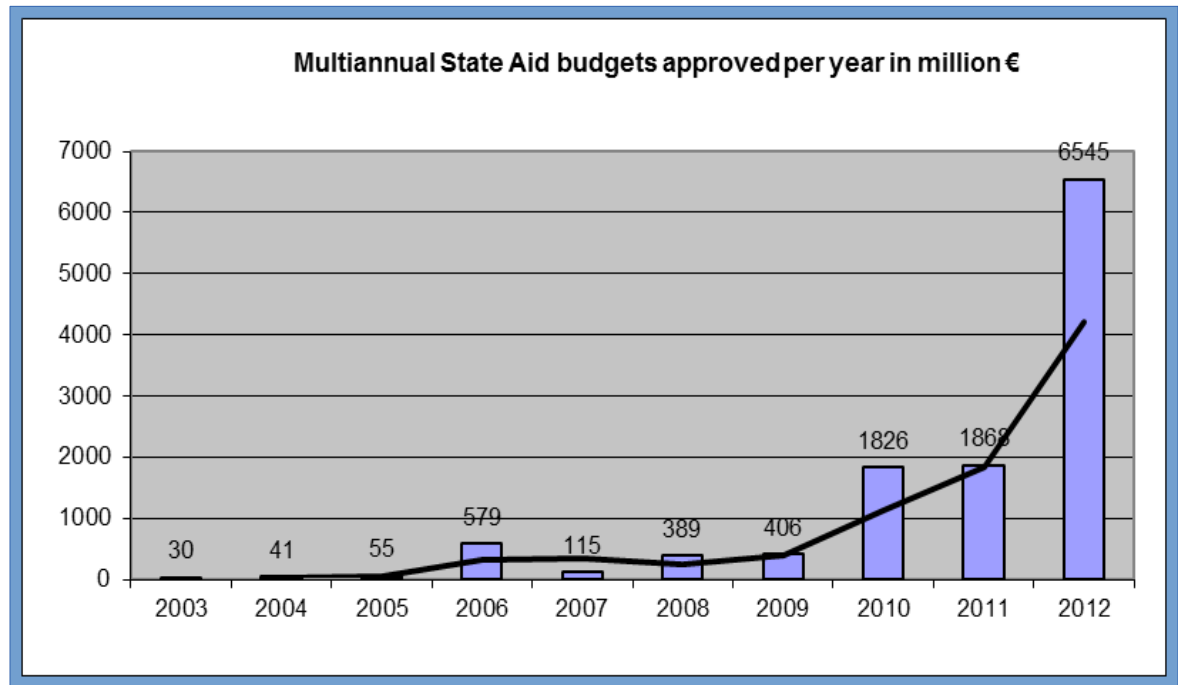
Why State aid control is needed?

- Ensure a level playing field for all operators
- Not to jeopardize/crowd out existing investment of operators
- Avoid the creation of local monopolies with the help of public funds
- Inject competition to areas where it was not present before
- Avoid picking the winner operators
- Avoid favouring certain technology platforms
- Accelerating the roll-out of broadband (in particular NGA) networks

State aid to broadband

Significant increase
in approved aid amounts

- **Until 2011,**
more than € 5 billion
aid authorised
(estimated to have
generated up to €
10 billion investment)
- **In 2012,**
more than € 6 billion of aid approved
(e.g. UK 1'8, Bavaria 2, Italy 1'4...)



Broadband: to notify or not?

— Existence of State aid excluded if

- Non-economic use (e.g. *NN24/2007 Public sector network Prague*, *N46/2007 Welsh Public Sector Network*, *N407/2009 Xarxa Oberta*)
- Market economy investor principle (*C53/06 Citynet Amsterdam*)
 - Owner recovers investment + reasonable profit from operator (private co-investors, business plan)
 - Recovery of full costs or market-conform fee (tender, benchmarking, profitability)?
- Service of general economic interest - *Altmark* (NGA: *N331/2008 Hauts de Seine*, basic: *N381/2004 Pyrénées-Atlantiques*)

Broadband: to notify or not?

— State aid but no need to notify for clearance

- De minimis Max. 200.000 Euros grant in 3 years to the same company
- General block exemption regulation
 - Regional aid (for broadband network development)
 - Aid for broadband infrastructures
- Existing aid scheme

— Need to (pre-)notify for State aid clearance

- Broadband Guidelines (compatibility under 107(3)(c)TFEU)
- Regional Aid Guidelines (compatibility under 107(3)(a) and (c) TFEU).
- Service of general economic interest (compatibility 106(2)TFEU)

Compatibility

- **Draft General block exemption Regulation (GBER)**
- **Regional Aid Guidelines for 2014-2020.**
- **Broadband State Aid Guidelines**

DRAFT General Block Exemption Regulation

- The GBER is currently undergoing a revision and consultation process.
- A second public consultation on a revised proposal will take place in early 2014
- Final GBER is expected to enter into force on 1 July 2014, after being adopted around May/June 2014.
- Before, the current GBER applies.

DRAFT General Block Exemption Regulation

Regional investment aid

- General Conditions
 - Regional investment aid measures in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and remaining conditions applicable to regional aid
- Plus specific conditions for regional aid for broadband network development :
 - only in white areas (either basic broadband or NGA) where no such network is likely to be developed on commercial terms within three years from the decision; and
 - active and passive wholesale access under fair and non-discriminatory conditions with the possibility of effective and full unbundling; and
 - competitive selection process.

DRAFT General Block Exemption Regulation

Aid for broadband infrastructures I

- Eligible costs
 - investment costs for the deployment of a **passive broadband infrastructure**;
 - investment costs of **broadband-related civil engineering works**;
 - investment costs for the deployment of **basic broadband networks** ; and
 - investment costs for the deployment of **next generation access** ('NGA') networks.

DRAFT General Block Exemption Regulation

Aid for broadband infrastructures II

- Conditions
 - **White areas** (either basic or NGA) and likely no network to be developed on commercial terms within three years from the decision, verified through an open public consultation.
 - open, transparent and non-discriminatory competitive **selection process** respecting the principle of technology neutrality.
 - widest possible **active and passive wholesale access** under fair and non-discriminatory conditions, including physical unbundling in case of NGA networks. Duration: at least 7 years and unlimited for access to ducts or poles.
 - In case of aid for the construction of **ducts**, the latter shall be large enough to cater for several cable networks and different network topologies.

DRAFT General Block Exemption Regulation

Aid for broadband infrastructures III

- Conditions (II)
 - **Wholesale access price** based on pricing principles set by national regulatory authority and on benchmarks in other comparable, more competitive areas of the country/EU. They must take into account aid received by the network operator.
 - **Monitoring and claw-back mechanism** if aid above EUR 10 million.
 - **Notification threshold:** EUR 70 millions of total costs per project.

Regional State Aid Guidelines for 2014-2020.

- Regional investment aid to broadband networks may be considered compatible with the internal market if, **in addition to the general conditions** laid down in the Regional State Aid Guidelines, it complies also with the following **specific conditions**:
 - (i) white areas (either basic broadband or NGA) and where no network is likely to be developed in the near future (3 years);
 - (ii) active and passive wholesale access under fair and non-discriminatory conditions with the possibility of effective and full unbundling;
 - (iii) competitive selection process in accordance with paragraph 78(c) and (d) of the Broadband guidelines .
- The new Guidelines will enter into force on 1 July 2014. The current regional aid rules, which expire at the end of 2013, will be extended until 30 June 2014.

Compatibility of State aid for the deployment of broadband networks

FOR ALL

- Coverage mapping
- Public consultation
- Competitive selection process
- Most economically advantageous offer
- Technological neutrality
- Use of existing infrastructure
- Open wholesale access
- Wholesale access pricing (price benchmarking)
- Monitoring and claw-back mechanism

Compatibility of State aid for the deployment of broadband networks

In addition for NGA

- Effective and full unbundling & access to passive infrastructure
- Fair and non-discriminatory treatment

Broadband State Aid Guidelines

Objectives of the new Guidelines

In line with the State Aid Modernisation, the revised Broadband Guidelines have the following objectives:

- To achieve the coverage objectives set at European level to spur economic growth and development
- To facilitate well-designed aid targeting market failures or providing a more desirable, equitable market outcome from a cohesion policy point of view
- To channel public investment in the most pro-competitive way.

Broadband State Aid Guidelines

The aim of the revision

The main principles received support during the public consultation and therefore called for no changes.

The main changes are motivated by:

- the need to align the Guidelines with the Digital Agenda objectives
- to clarify some provisions
- to increase transparency

Broadband State Aid Guidelines - Aligned with the Digital Agenda objectives

- 1. Reinforcement of technological neutrality:** NGA networks can be based on different technological platforms.
- 2. Step change to connectivity:**
 - Significant investment AND significant new capabilities
 - To allow upgrades while avoiding wasteful duplication of infrastructure
- 3. Ultra-fast broadband networks:**
 - existing networks do NOT reach end user premises
 - no services above 100 Mbps
 - expected demand for qualitative improvements
 - enhanced technological characteristics (e.g. symmetry)
 - open network operated as wholesale-only
 - no crowding out of significant recent infrastructure investments

Broadband State Aid Guidelines - Access obligations

4. Reinforcement of open access:

- Access obligations are crucial to minimise distortions of competition
- Types et conditions of access better specified [78 (g)]
 - Including a list of definitions in Annex II
- Alignment of regulatory/state aid access products
- Obligations can be different and wider if state aid is involved
- Essential for NGA networks where competition will take place on the same infrastructure [80(a)]

Broadband State Aid Guidelines - Transparency & simplification

5. **Transparency:** new provisions on:

- the publication of documents
- access to information on existing infrastructures
- a centralised data base for existing infrastructure
- ex post reporting obligations to the Commission

6. **Simplification:** e.g. claw-back mechanism

Broadband State Aid Guidelines - Role of the National Regulatory Authorities

- Reinforced role and clarifications
- Different levels of contribution to State aid measures
 - Coverage assessment
 - Supervision of access conditions and price benchmarking
 - Conflict resolution
 - Guidelines for local authorities to ease administrative burden (S.33671 Broadband Delivery UK, N62/2010 Finland, N30/2010 Sweden)
- Member states are encouraged to provide a formal mandate (where needed) and resources

Information Brochure in preparation.

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