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Sustainability Growth Innovation*

# Position Paper

Revision of the Guidelines on State Aid  
for Broadband Networks

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As a result of the outbreak of Covid-19, the importance of connectivity has never been so obvious as it has been in the past two years. As we were obliged to remain socially distant from each other, the need to stay connected digitally grew. More than ever before, good connections became essential for the well-being of citizens as well as also for business continuity.

The pandemic also revealed the importance of strategic autonomy, where Europe's global role cannot be limited to buying and regulating the technology built by others: we must create the conditions for homegrown digital infrastructure and services to thrive and set global standards that others can aspire to. This can be achieved through concrete and immediate action to seize the opportunity and fuel further technological innovation and inclusivity.

SGI Europe represents broadband operators as well as providers of other services of general interest, such as utilities that have to make their infrastructure available to the operators of public communications networks. Against this background, we call for a balanced approach when regulating broadband: on the one hand, we plead for sufficient public support for the rollout of fast broadband, while on the other hand ensuring the adequate protection of critical infrastructure.

## Clear Prioritization of Gigabit fixed Networks

SGI Europe calls for more ambitious and efficient support when it comes to the allocation of state aid. A clear prioritization of promotion of the expansion of fibre-optic networks should be favoured in all areas, having to catch up on the way for the Gigabit Society.

The connectivity targets can be reached by fostering the deployment of fibreoptic cables, which are also amongst the most energy-efficient electronic communication networks. Hence, deploying fibre-based networks will benefit the current and prospective connectivity targets whilst contributing to the objectives of the EU Green Deal. Therefore, SGI Europe welcomes the adjusted market failure definition for which the connectivity goal of 1 Giga-bit reflects the growing importance and need for high bandwidth for the European economy and society.

## Coherent regulatory framework

In the sense of a coherent legal framework, the thresholds should be based on the requirements of the Broadband Cost Reduction Directive. This applies in particular to the definition of Very High-Capacity networks (VHCN), which should also be decisive for favouring the promotion of future-oriented technologies.

Therefore, SGI Europe recommends favouring subsidisation of infrastructure that has all the performance characteristics of a VHC network, which is directly oriented to the performance of fibre-based networks.

## Public Consultation

SGI Europe acknowledges the importance of setting up a minimum period for a public consultation (recital 83), we recommend extending it to a minimum period of 60 days, due to the large number of parallel procedures.

## Protection of physical Assets, Information and Data of critical Infrastructure

While we understand that the co-use of existing infrastructure limits the negative impact of deployment of broadband networks on the environment, contributes to the overall environmental goals and reduces the costs of network deployment, we call for safeguarding critical infrastructures by exempting the drinking water infrastructure from any co-use obligations and introducing the possibility of justified rejection of co-deployment of broadband infrastructure.

Moreover, recital 131 tasks Member States with encouraging operators participating in a competitive selection procedure to have recourse to any available existing infrastructure, so as to avoid unnecessary and wasteful duplication of resources and to reduce the amount of public funding. According to the proposal, this may include operator's own infrastructure, other operators' infrastructure, use of other existing utilities infrastructure including, for example water and sewage pipes and relevant electricity infrastructure, reutilisation of radio masts, and public infrastructure. Recital 132 requires operators of infrastructure – irrespective of whether it is actually used – to inform the aid granting authority and the NRA about that infrastructure during the mapping and public consultation exercise, to commit to make the infrastructure available for use by other operators, and to provide adequate information regarding the use of that infrastructure (including terms, conditions and pricing). All aspects mentioned above are already subject to the European Broadband Cost Reduction Directive which is currently under revision. However, some of the provisions of the draft of the Broadband Guidelines are inconsistent with the provisions of the Broadband Cost Reduction Directive. We call for greater coherence between the legislative acts and an alignment of the measures of the Broadband Guidelines with those of the BCRD. This pertains particularly, but not exclusively, to the exemption for drinking water infrastructure from co-deployment and access obligations.

With regard to access to data, the Broadband Guidelines foresee the setup of national databases by Member States on the availability of existing infrastructure for re-use in the broadband roll-out (recital 129). Information sharing certainly is vital for the successful expansion of broadband networks. However, data about critical infrastructure is very sensitive and requires special protection. This has already been acknowledged in other European legislative acts, for example, in the INSPIRE Directive. Hence, the provision of data and information of critical infrastructure must not negatively affect its safety. Access to such data should not be granted to the general public but only in a controlled and safe manner to relevant actors directly involved in the broadband roll-out. Information obligations vis-à-vis the general public should hence be avoided.

## Inclusion of backhaul networks

SGI Europe suggests changing the understanding of the concept of the backhaul network. We believe it should be considered as such from the first concentration point of the fixed network and not from the mobile antenna (on the way to a local concentration point) in order to avoid distortions. The guidelines should also promote a mutual interlocking of fixed-network and mobile networks.

## Mapping

The methodology set out in the Annex I Section 3 and 4 for mapping the supply of broadband in certain geographical areas lays out the collection of data on the broadband performance at peak-time conditions for each single address. This constitutes an undue burden on network operators, due to the very different data usage behaviours across end-users, very heterogenous network topologies as well as missing traffic distribution models. Thus, the bureaucratic burden of reporting such information is in no proportion to the actual value and benefit of the information for national funding schemes. From SGI Europe's point of view, the

reporting obligations and mapping details should be kept to a minimum that is necessary to establish a market failure. Otherwise, scarce resources, especially of smaller local and regional alternative fibre operator, are averted that could rather be used in the deployment of networks. At least, no consequence should result for undertakings that do not participate in information requests.

Looking at the proposed definition of "Premise Passed" (PP), the time horizon of four weeks in which a house connection must be created for an address to be considered supplied is unrealistic and has the consequence of including addresses in a subsidy area which is already adequately served. Service appointments with a technician often cannot be completed in four weeks due to the high workload and shortages of skilled labour. A possible solution may be to only allow four weeks to elapse after the construction work for the house connection for an address has commenced.

In the case of a price cap for house connections, it must be ensured that full-fibre networks that qualify as Homes Passed (fibre until the private ground/in the street, but no physical house connection), but not as Premises Passed in the sense of these guidelines, due to the high costs of the house connection only are not subsequently overbuilt with the help of subsidies, but only the house connection is subsidised. It should only be possible to fund the last mile of the network directly to the end customer.

## Coherence between demand-side Measures to support the use of fixed and mobile networks (vouchers and the Union's Connectivity Targets)

The introduction of State aid for demand-side measures, such as social and connectivity vouchers, is highly welcomed. We believe that such instrument can contribute to demand-side promotion of the household connection. However, state aid in form of vouchers should only be allocated to networks in line with the Union's connectivity targets. Thus, social and connectivity vouchers should particularly support the subscription of end-users to at least fixed ultrafast access networks and preferably to fibre-based Gigabit networks (at least VHCN). In order to adequately take into account the very different expansion models in the EU, the guidelines should give member states the necessary leeway in the area of vouchers.

However, the overall design reduces the voucher to only be applied to existing networks. If a market failure in terms of take-up is the condition for voucher funding, there regularly are no networks to use the voucher for (or very low-performing ones for which the voucher is inadequate to its goal to generate economic activity). If companies cannot find enough end customers, they do not invest in the area from the start. Consequently, there is no VHC or fibre optic network present for which so increase the take-up rate. Therefore, it should be able to make use of this new demand-side measure in the context of newly built fibre-optic networks to allow them to have a good chance of being used by end customers and consequently generate economic activity.

## Private network expansion projects

SGI Europe welcomes the Commission's clarification regarding the contribution of private investments by aid recipients and access demanders for the development of adjacent areas. The regulation ensures the viability of recent infrastructure investments and the profitability of fast networks.

## Clawback

To avoid unnecessary bureaucratic burden and therefore to enable the acceleration of the deployment of broadband by smaller projects, the reduction of the clawback threshold is rejected by SGI Europe (recital 156).