



Public funding for broadband networks and State aid rules: An overview

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Outline



Introduction

Policy objectives

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Introduction



Who we are:

State Aid: Information, Communication and Media
(Audiovisual, Broadband, Broadcasting, Sport)

Presentation Objective:

Overview of Commission's Practice concerning State
Aid to Broadband

"The views expressed are purely those of the writer and may not be regarded as stating an official position of the European Commission"

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Broadband is the key for the knowledge based economy



- Enhance economic growth and performance
- Avoid social and economic exclusion
- Increase job creation and retention
- Improve health and education services
- Recovery Plan

Broadband roll out: The objectives and the main concerns



- **Possible policy strategies/objectives**
 - Enabling access to affordable and adequate broadband services for all citizens/SMEs
 - Ensuring a level playing field for all operators
 - Facilitate roll-out and widest possible coverage
- **Concerns**
 - Avoid unnecessary network duplication: Investment in existing networks at risk?
 - Picking the winner/Favouring certain platforms?
Ensuring respect of the technological neutrality principle

Outline



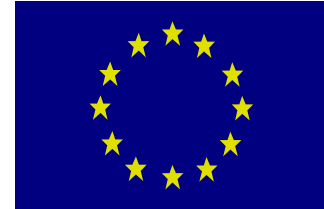
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Policy objectives

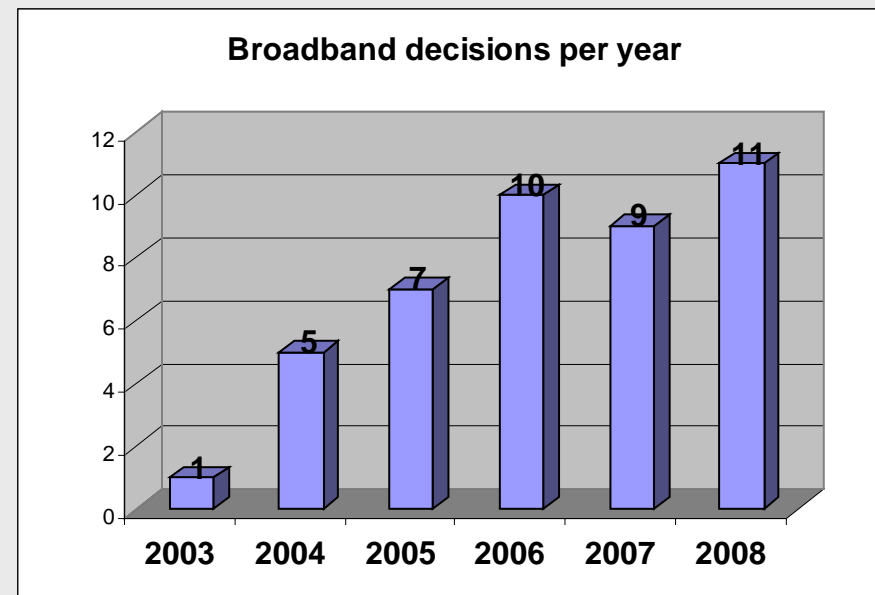
Case practice

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State aid broadband decisions



- Well-established case practice
- More than 40 State aid broadband decisions since 2003
- Assessed public funding of more than €1 billion



State aid control rules



- *The general prohibition:* Article 87.1: "any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market."
- *Exceptions*

Overview



- A consistent and coherent analytical framework:
 - white, grey and black zones.
- Majority of the cases are compatible under Article 87(3)(c):
 - *“aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest”*

No State Aid



■ Applying Article 87(1)

- SGEI: Pyrénées-Atlantique and Limousin. Strict interpretation and respect of the Altmark criteria
- Public Sector Aggregation; Welsh scheme, Prague. No economic advantage to an undertaking
- The Private Investor case: Amsterdam

Compatibility assessment



- *1. Need for well-defined public policy rationale for state aid/market failure (“What's the problem?”)*
- *2. Is state aid well designed to deliver the policy objective (“Why state aid?”)*
- *3. Is the measure designed in the most proportionate way (“How?”)*
- *4. Are distortions of competition and effect on trade limited?*

The compatibility test



The Commission's check list/safeguards:

- Mapping exercise and market consultation
- Open tender
- Existing infrastructure
- Technology neutrality
- Wholesale open access – no SMP
- Most economical offer
- Benchmarking pricing
- Claw back mechanism

Example compatible aid: Irish MANs



- Open, carrier-neutral wholesale infrastructure
- Grey area (outside Dublin area)
 - Only incumbent
 - No wholesale supply of dark fibre
 - High prices
- Analysis:
 - Market failure (mkt power)
 - Necessity of aid (regulation insufficient)
 - Proportionality (open tender, avoid crowding out, open wholesale access, neutrality, benchmarking)
 - Limiting distortions
- No general infrastructure – No market investor – No SGEI

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- Commission fully committed to support broadband deployment
- Coherent and well-established state aid policy for broadband
- Bridging the digital divide
- Challenges for the future: Next Generation Access
- European broadband strategy to be developed in close cooperation with stakeholders

Useful links and information on DG COMP's website



http://ec.europa.eu/competition/sectors/telecommunications/overview_en.html

The screenshot shows the 'Competition' section of the European Commission website. The page title is 'Competition' and the language is set to 'English (en)'. The breadcrumb trail is 'European Commission > Competition > Telecommunications'. The main navigation menu includes 'HOME', 'Policy areas', 'Sectors', 'About', 'Information', 'Contacts', and 'Key Issues'. The 'Sectors' menu is active, showing 'Telecommunications'. On the left, there is a sidebar with 'In this section:' and a list of links: 'Overview', 'What's new?', 'Legislation', 'Cases', and 'Archive'. The main content area is titled 'Overview' and contains the following text:

Telecommunication is generally defined as the assisted transmission of signals over a distance for the purpose of communication. Telecommunication, information technologies and media are converging. As a result, telecommunications and broadcasting increasingly reach the consumer through various platforms and technologies. These include broadband telecommunication lines, digital television and the Internet Protocol.

In the age of converging technologies, it is important to define such communications as broadly as possible to embrace possible future technological developments. The term "**electronic communications**" fits this requirement well. It covers all forms of communications by electronic means, whether via telephone (fixed line or mobile), facsimile, internet, cable, satellite, etc. The open definition of this term also reflects the principle of technology neutrality which is one of the fundamental features of the [EU regulatory framework for electronic communications](#).

The European Commission was instrumental in **opening up the telecoms market** to competition through the creation of a new legal framework which has been implemented since 2003 by all Member States. The creation of an internal market for electronic communications allows consumers to benefit from lower prices and new services that are usually more efficient and user-friendly than before.

In order to keep track of the fast developing telecoms markets, the regulatory framework needs to be revised. The Commission's proposals of 13 November 2007 aim to achieve this objective. The Telecoms Reform envisaged by the Commission provides new consumer rights, more consumer choice, more security, a "New Deal" for radio spectrum, watchdogs which are more independent and the creation of a [European Telecom Market Authority](#). The Commission's proposals will now be discussed and ultimately adopted by the European Parliament and the EU Council of Ministers.

The European Commission also helps to **regulate network operators and service providers**. Firstly, DG Competition (together with DG Information Society and Media) ensures that national regulators correctly apply the regulatory framework so as to promote effective competition. Secondly, DG Competition applies the general competition rules of the EU Treaty. It tackles anti-competitive practices such as restrictive agreements between telecom undertakings (Art. 81), abusive behaviour of dominant telecom operators (Art. 82) and State measures contrary to the EU Treaty rules (Art. 86 & 87).

An image on the right side of the page shows a hand holding a white Ethernet cable connector over a computer screen.

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Thank you for your attention