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DIGITALEUROPE COMMENTS ON THE DRAFT EUROPEAN COMMISSION GUIDELINES ON THE APPLICATION OF STATE AID RULES IN RELATION TO RAPID DEPLOYMENT OF BROADBAND NETWORKS

1- INTRODUCTION

DIGITALEUROPE welcomes the European Commission's initiative to clarify the way State aid rules apply in relation to the deployment of broadband infrastructure and the opportunity given to stakeholders to express their views on this issue.¹

DIGITALEUROPE appreciates the Commission's efforts to provide Member States with guidance on the various questions they might have when implementing State aid measures in the area of broadband deployment, and supports the principles outlined in the document.

The Commission rightly acknowledges that broadband networks and services are crucial for supporting economic recovery in the short term and for creating essential infrastructures for sustainable long-term economic growth.

2- TECHNOLOGY NEUTRALITY AND NO REGULATORY INTERVENTION THAT WOULD DISCOURAGE PRIVATE INVESTMENT

The Commission's draft Guidelines highlight the importance of avoiding State aid for broadband that would distort competition. In this respect it is fundamental to fully respect the principle of technology neutrality and not favour some technologies over others.

While we support the Commission's statement according to which "Member States should not favour any particular technology or network platform unless they can show that there is an objective justification for this",² we would also like to emphasize that the capability of broadband wireless networks to provide cost-effective and affordable broadband access in areas with lower density of population needs to be recognized.

In this context, DIGITALEUROPE welcomes the Commission's clarification that wireless technologies can benefit from State aid in the same way that fixed technologies can. This is all the more important in view of the fact that the recently published Radio Spectrum Policy Group position paper states that "wireless broadband access will often play a key role in

¹ Draft Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks, published on 19.05.09, hereafter 'draft Guidelines'.

² Ibid, paragraph 45 (d).

bringing broadband to all, first because its cost effectiveness may exceed that of wired broadband especially where population densities become low and second because of the distinct value offered by mobility and wireless connectivity in general.”³

As a matter of fact, when it comes to broadband coverage in uncovered geographic areas there is a significant difference between the time, effort, money and risk involved in rolling out fixed networks in the ground and the deployment of a wireless base station.

Therefore we urge the Commission to acknowledge the ability of existing and future wireless technologies to provide high-speed broadband connectivity and a sound alternative to fixed broadband coverage in areas with a lower population density.

We also suggest a more flexible definition of NGA networks which, according to paragraph 46 of the draft Guidelines, are “mainly fibre-based or advanced upgraded cable networks”, allowing the inclusion in this category of additional technologies that would demonstrate in the future similar capabilities (deliver services at very high speeds and support a multitude of advanced digital converged services).

Finally, in order to avoid any negative impact on private investment, DIGITALEUROPE believes that State aid must focus, as noted by the Commission, only “in areas where broadband is currently not available and where there are no plans for the near future”;⁴ we also believe that ex ante regulatory obligations that would negatively affect returns on investment and therefore hinder private investment in broadband infrastructure should be avoided.

3- MEASURES FOR STIMULATING DEMAND

In a Staff Working Document released in 2008⁵ the Commission expressed the view that the availability and usage of advanced services by individuals and businesses greatly contribute to the take-up of broadband services. In the same vein we believe that public intervention should also encompass measures aimed at facilitating the development of services and applications of public interest – such as education, healthcare, environment and public safety – that would stimulate the demand for broadband.

4- CONCLUSION

In summary, DIGITALEUROPE believes that the clarifications contained in the draft Guidelines constitute a significant contribution to the much-needed modernization of Europe’s electronic communications infrastructure, which in turn will have a positive impact on Europe’s competitiveness in the 21st century and on bridging the digital divide.

³ RSPG Working Group on Wireless Broadband, Final Position Paper, RSPG09-284 Final, Brussels, 14 May 2009, p. 1.

⁴ Draft Guidelines, paragraph 36. According to paragraph 64, ‘the near future’ is construed as the coming five years.

⁵ Commission of the European Communities, Commission Staff Working Document accompanying the document to the Communication on Future networks and the internet - Indexing Broadband Performance, SEC(2008) 2507, Brussels, 29 September 2008.

ABOUT DIGITALEUROPE

DIGITALEUROPE, the organisation formerly known as EICTA, is the voice of the European digital technology industry, which includes large and small companies in the Information and Communications Technology and Consumer Electronics Industry sectors. It is composed of 61 major multinational companies and 40 national associations from 28 European countries. In all, DIGITALEUROPE represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

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