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DG COMP  
Unit C4: State aid in Information, Communication & Media  
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Belgium**e-mail:** comp-broadband-guidelines@ec.europa.eu**Subject:** Response of the Greek National Telecommunications and  
Posts Commission (EETT) to EC Commissions' public  
consultation**Rel.:** Document reference number: 'HT. 2079'  
Public consultation on "Commission's Broadband Guidelines  
on the application of EU state aid rules to public funding of  
broadband networks"

Dear Madam/Sir,

Being the Greek NRA and NCA (on sector markets), EETT welcomes vividly the EC Commissions' initiative for a consultation regarding the application of EU state aid rules to the public funding of broadband networks, since it might clarify a number of possibly pending issues for all Member-States.

EETT is willing to highlight some issues of the consultation document and in particular some general issues, as well as some more specific technical issues. More specifically:

**1) General issue:**

In a number of points in the above relevant document (art. 45 (d-g), 54-59, 74), EETT notices that there are issues related to the NRA powers and their know-how. Our position strongly sustains that in the case a Member-State considers proposing a specific measure, it should in any case consult in advance the NRA towards jointly determining a number of issues and among others the specific points related to the above articles.

According to the wording of article 45, it is clearly defined that *“a Member-State prior to submitting a case for an examination/approval, it has to perform a detailed analysis of the market susceptible to state aid”* (objective of the measure, geographical analysis of the market, wholesale access provisioning, pricing exercise etc.). A similar procedure is foreseen for the role of the NRAs, following the Framework Directive and the relative national Electronic Communications law. In the case a Member State performs an analysis of the market status, without having asked for the involvement of the NRA, there is always a danger to result to conclusions highly differentiated to those of the NRA market analysis.

Therefore, EETT considers that, in this guideline document, it should be clearly reported that a Member-State should be mandated -in the case of state-aid submission files- to conduct the market analysis and case preparation together with the NRA. Such practice should in advance strike the right balance among the possible contractual obligations the state-aid rules might set and the possible regulatory obligations that may arise.

**2) Technical issues:**

a) EETT wonders whether Article 45(g) contains a danger to contravene to “ex-ante” regulation, in the case of state-aid-projects. This might induce possible anti-competitive practices especially in the case SMP providers are involved. In such cases, the borders of state-aid law/practices and those of the regulatory framework (in particular those of the new (draft) recommendation for NGA regulation), might be blurred.

b) Some examples of NGA technologies (Art. to 48, 74) focus on some specific technologies but possibly do not refer to other alternative technologies. EETT wonders whether such situation contravenes to the highly prioritized principle of “technology neutrality” (Art. 45 (d)).

c) The European Regulators Group (ERG) has worked extensively towards a methodology for the “geographic markets” definition and the corresponding

criteria that should be used<sup>1</sup>. EETT wonders whether these criteria should or could be taken into account by Member-States when preparing/designing a proposed measure. Many issues are raised for the consistency of the above criteria and an additional complexity is expected, especially after the projects' completion and mainly when the NRA might examine the geographic aspects of the related market.

In conclusion, EETT welcomes the Commissions' initiative, as it opens a wide debate for further discussion. For further discussion on all the above issues, EETT remains at your full disposal.

Should you require more information please do not hesitate to contact us.

On behalf of EETT

Prof. N. Alexandridis  
President of EETT

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<sup>1</sup> [http://www.erg.eu.int/documents/cons/index\\_en.htm](http://www.erg.eu.int/documents/cons/index_en.htm)