

Response to the European Commission consultation:

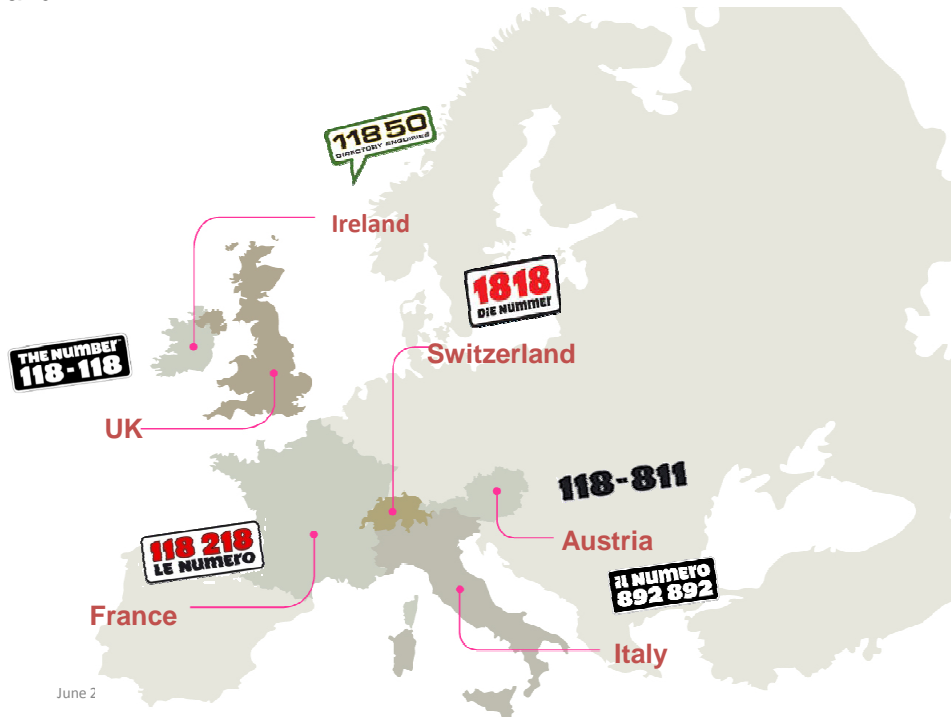
Community Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks



THE NUMBER

Introduction to The Number

The Number is a directory services provider with operations in 5 EU Member States and Switzerland.



Preliminary Remarks

The Number welcomes the opportunity to comment on the DG COMP Consultation Document on the NGA State aid Guidelines (hereafter “the Guidelines”).

Aside from its personal contribution to this consultation, The Number, as a member of ECTA, would like to stress that it fully endorses the position taken by this association regarding the present consultation. The purpose of this contribution is therefore not to specifically re-iterate every argument developed in the ECTA position paper but to focus on The Number’s specific areas of concern to further assist the European Commission in this matter.

Comments: State aid should only be granted if there is open access for services, application and content

As a directory provider, The Number has the status of an Electronic Communications Service Provider, has its own infrastructure and interconnects with access operators (either physically or logically). One of the main driver of its costs are the origination tariffs due to the access operators that connect their customers to the directory services of The Number, mobile origination costs being especially high.

The Number believes that competition is crucial in the delivery of choice to consumers. In every market, The Number must be accessible from every network (both fixed and mobile) for either legal reasons (e.g. universal service obligation for directory services to be reachable from all networks) or simply commercial reasons (it makes little sense for a directory provider, in light of the volume of traffic it attracts, to only be reachable on certain networks). At the same time, in most if not all markets, The Number's main competitor is usually the directory service provider from the vertically-integrated incumbent.

The Number therefore need access conditions to be reasonable and fair, and preferably cost-oriented, to ensure that consumers can (1) reach its services (2) at an affordable price. So it's all about access!

The Number therefore believes the key principles that need to be attached to any attribution of state aid to any market player, regardless of the nature of the procedure, are:

- **An open access obligation that covers services, applications and networks and which applies to any beneficiary of state aid** (at a minimum). In other terms, the beneficiary of state aid should be mandated to offer a non-discriminatory wholesale access product for at least seven years. That timeline is only acceptable if after seven years the bottlenecks are evaluated rather than this being a blanket sunset clause (as described under par 74).. This implies that measures must be taken to ensure that state aid is conditional upon:
 - (1) third party services such as directory services being accessible to all customers based on fair wholesale call origination terms and conditions;
 - (2) an any-to-any connectivity obligation being imposed on the beneficiary.
- **Beneficiaries should have to comply with these obligations on their entire network** - both on the state aid funded NGA part and on the rest of the broadband network (be it NGA or copper based). Build out through state aid in underserved areas is not an isolated initiative. The resulting network interconnects to the rest of the network of the infrastructure provider. An open access obligation that covers services, applications and content therefore needs to apply to that entire network to ensure that it is meaningful. The access network remains a bottleneck irrespective of the underlying technology and speeds and all physical or virtual access products are in the same markets, market 4 and 5 respectively. Fibre based access products are a continuum to copper based ones – they are not distinct services - and the networks built using state aid will not function “*en vase clos*”.
- **Users should be offered the opportunity to have their contact details included in a directory.** The contact numbers attributed by access operators using that infrastructure, regardless of the underlying technology, should be covered by the relevant provisions relating to directory services in the Electronic communications Regulatory Framework.

The focus of these Guidelines should be on a continued access for consumers to an infrastructure that is open and ensures choice and the possibility for Communications Providers to deliver new services to consumers over it as innovation occurs. It is very important to ensure at the wholesale level competitors' ability to provide new services is not foreclosed and that independent service providers have **fair open access** to Next Generation Networks, with the ability to bill for services and set fair and consistent prices for all customers. Without this, competition in telecoms is threatened and consumers suffer through lack of service availability and increased prices.

We thank you in advance for taking consideration of these views. Feel free to contact Nik Hole, Executive Director, Government and Business Affairs – Europe for The Number, by phone (+44 7973 748952) or email (nik.hole@118118.com) should you need further information.

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