

Public Consultation on a Draft Commission Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks

– Wind Telecomunicazioni comments –

Wind Telecomunicazioni S.p.A. (“Wind”) welcomes the opportunity to comment on the European Commission’s draft guidelines for the application of State aid rules.

Wind Telecomunicazioni Spa is one of the few European alternative telecom operators to offer integrated fixed, mobile and Internet services. In Italy, Wind is the third-largest mobile operator, with a market share of more than 18% and more than 16 million customers. Under the brand Infostrada the company is also the leading alternative operator in fixed-line services, with more than 1.6 million LLU customers and more than 1,2 million broadband users. Wind owns also “Libero.it” which is the top Italian web portal and is one of the largest service providers in the country.

First of all, Wind express its support and appreciation for Commission’s Guidelines for the application of State aid rules.

It is important to remark the fundamental contribution of the Guidelines to the deployment of broadband network and NGNA: as reported by the Commission, Broadband is of strategic importance because of its ability to accelerate the contribution of ICT to growth and innovation in all sectors of the economy and to social and regional cohesion.

Wind want to suggest, as well, some amendments to the Commission’s draft , as follows:

2.3. THE COMPABILITY ASSESSMENT UNDER ARTICLE 87(3)

2.3.3. Design of the measure and the need to limit distortions of competition

45.c Best economic offer:

Wind, agrees with the principle expressed in the draft according to which, “the open tender approach ensures that there will be transparency for all investors wishing to bid for the realisation of the subsidised project”, and consequently points out the need to insert an evaluation of the open tender procedure through a preventive publication of the **qualitative parameters**, to avoid discrimination among participants, applying the same procedural or material conditions to all.

Concerning that, Wind invites the European Commission to closely monitor the assignments procedure that will be chosen by the Italian government in relation to a 1,4 Billion € state aid plan to reduce the digital divide which has been recently announced by the Italian government.

45.f) Wholesale access:

With regard to Wholesale Access, Wind suggests to specify that the access infrastructures available for parties should both be active and passive and should include backhauling where this network element is subject to state aids. The pricing of these assets, in case the aid is granted to an SMP operator in market 4 should be calculated on the lowest between the national averaged wholesale price for a comparable assets and the financed asset price valued on a cost basis, net of the relative financing costs and hence based on a single project basis

45.g) Benchmarking pricing exercise:

In order to ensure effective wholesale access and to minimise potential distortion of competition, Wind considers necessary to use pricing models, necessary to avoid excessive wholesale prices or, by contrast, predatory pricing or price squeezes by the selected bidder. Pricing models should be important also to avoid discrimination of bidders.

Moreover, in case the aid is granted to an operator holding SMP in market 4 the incumbent should be subject to an obligation to provide access to Alternative operators on an equal basis (technically and economically) with respect to its internal division.

3. STATE AID FOR NGA NETWORKS

3.4. The compatibility assessment

3.4.4. The specific case of existing (basic broadband) black areas: some further safeguards

72) Wind agrees in principle with Commission's proposal to give, to existing network operators in black areas, incentives to upgrade current traditional broadband networks to very fast NGA networks, but at the same time considers of the ultimate importance to safeguard investments done by Alternative operators only some years ago (i.e. in ULL areas, where OLOs have invested, stranded costs caused by state financed NGA roll out should be covered by public funding). For example in case an ex monopolist operator receives state aids to build a FTTCabinet access network the incumbent should:

1. guarantee a transparent and economically efficient and sustainable migration process to the new access architecture. In this respect, a special burden should be imposed on incumbents: in case Altnets suffer from higher network costs due to infrastructural adjustment to incumbents's network and in case those adjustment are introduced without a minimum of 3 years notice, then the incumbent should be deemed responsible for such costs and pay for them.
2. be obliged, until such process is completed, not to increase the prices of the traditional access products provided over the copper network.

3.4.5. Design of the measure and the need to limit distortions of competition

74.a) Wind fully agrees with the proposal for receiving state support, which affirms that the beneficiary should be required to provide third parties with wholesale access, but wants to point out that, in case the aid is received by an SMP operator in market 4 (i.e. ex monopolist) then the following conditions should apply:

1. the incumbent should grant access until declared without SMP in market 4 and not just for 7 years.
2. The pricing model for the access to NGN has to be defined netting costs of the amount received by the state.
3. The incumbent should provide equality of access to third parties compared to internal commercial divisions.
4. The incumbents must agree with OLO, the terms regarding Network Migration of customers from actual to NGA networks.

Wind trusts the above comments provide useful insights and remains available to provide further clarifications.

Any question regarding these comments may be addressed to:

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