



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title **DG CNECT – Impact Assessment on an EU initiative to reduce costs and increase efficiency in the deployment of high speed broadband**

(draft version of 10 December 2012)*

(A) Context

Under the Digital Agenda for Europe, one of the flagship initiatives of the Europe 2020 Strategy, the Commission has made the roll out of high speed internet a key priority. In Europe, network operators have been reluctant to invest large sums in new ultrafast networks due to many factors. Market players are faced with diverging regulatory approaches within and across the telecommunications markets in Europe, in particular with regard to the imposition by national regulatory authorities (NRAs) of non-discrimination and cost oriented price obligations on the legacy copper-based access networks as well as the next-generation access (NGA) networks belonging to dominant telecom operators. This problem was illustrated in the Commission communication of 2010.

(B) Overall assessment

The report has been improved to some extent along the lines of the Board's first opinion, however it requires further work on several aspects. Firstly, it should further improve the problem definition by presenting an overview of the current regulatory framework and by providing robust evidence that differences in rules, procedures and practices in Member States constitute an important entry barrier leading to fragmentation of the single market. On that basis the report needs to strengthen the subsidiarity and proportionality arguments in support of further EU legislative action. Secondly, the baseline scenario should be strengthened by developing further the outlook for each of the identified inefficiencies, based on the current trend of development and the measures already taken at EU level. Thirdly, the report still needs to better design and present (packages of) options dealing with the totality of problems identified. Finally, the report should set out in the main text (in a tabular form) the costs and benefits associated with existing best practice measures for each of the identified inefficiencies and should present a more comprehensive option comparison table allowing a better differential assessment of options.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Strengthen the problem definition and the case for further EU action. The report should improve the description of the policy context by providing a comprehensive overview of the regulatory framework including an indication why remaining weaknesses were not addressed during its recent revision. It should give a transparent account of the screening process that led to the final selection of inefficiencies to be tackled by the present initiative, and should provide an indication of the contribution of each of the bottlenecks identified to holding back the roll-out of high speed broadband at EU level. The report should substantiate with robust evidence the claim that differences in existing regulatory rules, procedures and practices at national, regional and even local level constitute a significant entry barrier or lead to unnecessary costs for companies wishing to operate on a cross-border basis. On that basis the report should better substantiate the need for, added value and proportionality of further legislative action at EU level.

(2) Improve the baseline scenario. The baseline scenario should be further strengthened by better developing the outlook for each of the inefficiencies, based on the current level of development and spread of best practice among Member States, the degree of fitness with the existing regulatory framework and how it might be affected by measures already taken at EU level (as for instance the use of existing infrastructures in the telecoms sector is already promoted in the regulatory framework and a large number of Member States have implemented or plan some form of infrastructure registry/inventories). Finally, given the new quantified objectives the report should set out what is the corresponding quantified baseline.

(3) Improve the option design. The report should present the content of the options (including that of viable alternative options) in greater detail, showing how these will mitigate the risk of inconsistent implementation by Member States. It should then design packages of options that deal with the totality of problems identified providing real policy choices. For instance, mandating access to telecom networks while keeping them open for negotiation across utilities might avoid the significant costs of defining ex ante cost-oriented prices across industries. The report should discuss to what extent the UK example of sharing costs between the housing and the telecom sector could serve as an example of shared best practice.

(4) Better assess and compare impacts of options. The report's conclusions on the overall impact of each option should be underpinned by evidence of the impacts of the individual measures that form the options. For instance, the conclusion for option 1 that only a limited take up of guidance and exchanges of best practice can be expected should be underpinned by evidence with respect to each of the inefficiencies identified. More generally, the report should set out in the main text the costs and benefits associated with existing best practice measures for each of the inefficiencies and for each of the groups concerned (in a tabular form) as it represents the most tangible evidence available. The report should further improve the assessment of administrative burdens across the board, using the Standard Cost model for quantification (if significant) and differentiating them clearly from implementation costs. Finally the report should provide a more comprehensive option comparison table summarizing all key impacts and allowing a more differentiated assessment of options.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

In order to keep the length of the report at accessible level, the report problem definition section should be more focused and concise. The report should use suitable language adequate for an analytical document and should therefore avoid political statements.

(E) IAB scrutiny process

Reference number	2012/INFSO/022
External expertise used	No
Date of IAB meeting	Written procedure This opinion concerns a resubmitted draft IA report. The first opinion was issued on 9 November 2012.