

## **Consultation on Revision of the Guidelines on Public Funding to Broadband Networks**

### **Response from the International Telecommunications Users Group (INTUG) - Register ID Inter 133632116**

**INTUG represents users of business communications services globally. It does not provide or directly use services, so only general comments have been submitted.**

The establishment of a vibrant competitive market for the provision of high-speed fibre based business broadband services is a key enabler of the European Commission's Digital Agenda. It will contribute significantly to improved productivity, to growth in GDP, to new employment, and to enhanced competitiveness of the EU on world markets, through improved and innovative international business processes and applications.

High-speed broadband access must be available to Europe's businesses of whatever size, and wherever they operate, including those locations which are considered to offer less attractive returns on investment for network infrastructure providers. In this context, focusing on the bigger picture of the overall economy, rather than a purely narrow view of optimising economic returns in the telecom industry itself, there will be situations where State Aid is an appropriate mechanism for facilitating the provision of fibre infrastructure.

INTUG therefore believes that, were the guidelines on public funding to be revised, and the rules for small, local projects to be relaxed, fibre-based broadband projects should be included specifically in the list of such projects, so as to avoid future doubts and objections when applications for EU money are made. This could include projects to provide passive infrastructure, which can be shared by competing service providers.

The guidelines should not distinguish between specific speeds. The current definition in the consultation is broadly correct, implying that such networks are fibre-based, and of higher speed than current networks, and the same principles should be preserved. The phrase "NGA", with its associated definition, is simply a label used currently to describe the next stage of network development, and may become outdated.

The distinction between white, grey and black areas is helpful for assessing need and justification, but the definitions should be modified to take into account the openness of existing infrastructure rather than just counting the number of parallel lines. Currently, a closed duopoly counts as a black zone for NGA, thereby preventing any use of state aid. This could be corrected if black meant at least two NGA infrastructures providing open access on equivalent terms, of which at least one is future-proof (e.g. point to point).

Relaxation of guidelines must not expose customers to lack of competition in services in geographically segmented areas where broadband infrastructure has been facilitated. Fibre networks assisted by public funding must be subject to ex-ante regulation, which ensures open access to all service providers on a non-discriminatory basis. Such access must be equivalent in all respects to access provided to the infrastructure operator's own downstream wholesale or retail services.

Recognising the difficulties that governments and regulators face when allocating and monitoring public funding, a specific condition should be attached to ensure provision of equitable access to infrastructure is demonstrable, for example by reference offers.

This protection is needed to prevent a vertically integrated business competing unfairly. Without this, the alternative of structural or functional separation is likely to be necessary to ensure business users needing multi-site international connectivity from a single service provider can obtain this, even if some locations are where there is only one infrastructure available, and its installation has benefited from State Aid.

Interoperability of networks is essential for multi-site, international business networks. Compatibility is therefore important to ensure that multiple providers can be linked into an overall network solution. The guidelines should therefore include mandatory support of all topologies (such as point-to-point) and technologies which facilitate interoperation. In the words of the questionnaire, “all technologically possible access products should be provided by the aid beneficiary to compensate for advantages gained by the public funds”.

### **Confidentiality**

Nothing in this document is confidential. The contents may be considered as in the public domain, and available for distribution. They are based on regular consultation by INTUG with its member associations, and their members, of draft documents prior to submission.

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### **About INTUG**

The International Telecommunications Users Group (INTUG) represents the interests of business users of telecommunications globally. These include some of the world’s largest financial institutions, car manufacturers, pharmaceutical companies, fast moving consumer goods enterprises, and retail and distribution companies. They also include small and medium enterprises, who are increasingly dependent on telecommunications services. The INTUG community includes user associations in many large Member States, including Belgium, Denmark, France, Germany, Spain, the Netherlands, Sweden and the UK, and the multinational user group EVUA. Each represents both public and private business customers of telecoms operators, both directly and indirectly through service providers. INTUG is an association established in the Netherlands, governed by an elected Board.

INTUG was established in 1974, with close links to user groups throughout the world, in countries as diverse as Australia, New Zealand, Hong Kong, Indonesia, India, Mexico and Norway. INTUG also has a Memorandum of Understanding with the Commonwealth Telecommunications Organisation (CTO), permanent observer status at the ITU, APECTel and CITEU, chairs a user group in ICANN, and is an expert group within the OECD/CISP. INTUG engages actively with the European Commission and Members of the European Parliament, and has made submissions to many EU regulatory consultations and events.