

Tuesday, 22 September 2009

Commissioner Neelie Kroes
European Commissioner for Competition

Cc. Commissioner Reding
European Commissioner for Information Society and Media

Mr. Wouter Pieke
Head of Unit C4, State Aids

Concern regarding Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks (Reference IP/09/1332 of 17 Sept 2009)

Dear Commissioner Kroes,

As representatives of the broader European satellite community, we represent companies presently active in selling broadband services, and companies who have made significant investment into dedicated systems and satellites capable of delivering internet access and broadband services including Next Generation Access “NGA” services. The ability of satellites to deliver NGA was set out clearly in submissions to DG Competition in response to the Consultation on these Guidelines.

We write to you now to raise a serious concern about inconsistencies and misleading definitions in the section of the Guidelines on Next Generation Access:

At para 52 the Guidelines consider that NGA networks are **mainly** fibre-based or advanced upgraded cable networks. This may indeed be true. However at para 53, the Guidelines suggest that NGA networks are **solely** wired networks, with the justification in a footnote that the present status of satellite and mobile networks cannot deliver sufficiently high-speed services, even though it is recognised that in future the situation may change. The notion that NGA networks exclude wireless technologies is further enforced by para 54, where it is considered that NGA networks will bring “affordable **symmetrical** broadband solutions” – the word symmetrical is exclusive and thus not technologically neutral.

We wish to point out firstly that paras 53 and 54 contradict para 52 and the criteria in para 51 which are clearly stated to apply to NGA (see paras 72, 79). Further the justification is inaccurate: satellite and other current wireless technologies are technically capable of delivering high peak data rate solutions. We do believe that the Commission should correct this inaccuracy and refrain from defining requirements for NGA networks. We propose for para 53: “NGA networks are [...delete...] capable of delivering broadband access services with enhanced characteristics (such as higher throughput) as compared to those provided over existing copper networks” and for para 54: deletion of the word “symmetrical”.

We consider it fundamental that these changes be implemented as soon as possible as with the present wording a clear signal is being sent to Member States that they should favour one technology over another, which is obviously not the Commission’s intention.

Sincerely yours,



Aarti Holla-Maini
Secretary General
European Satellite Operators Association



Kumar Singarajah
Chairman
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