



Public funding for broadband networks and State aid rules: An overview

Eric VAN GINDERACHTER

DG Competition – State Aid Directorate

Head of Unit –H3 *Telecommunications and Media*

The context: the broadband revolution



- Drivers: Technology – Business - Regulation
 - Success of mass market broadband (DSL & cable)
 - Wireless networks mushrooming
 - NGN access networks and fibre => VDSL, FTTx
 - New regulatory framework: the investment ladder approach
 - However deployment of broadband in rural areas faces serious obstacles:
 - low economies of density and demand
- The case for public support

Policy aims at finding the right balance



Promoting Broadband

- **Lisbon European Council:** making the EU the most competitive knowledge-based economy of the world
- **i2010:** priority for the Union to ensure that less favoured regions can fully participate in the Information Society
- **European Regional Development Fund (ERDF):** European co-financing available in disadvantaged regions



Safeguarding Competition

- ... to ensure open broadband markets
- **Competition** leads to more choice, lower prices, innovation

State aid control as an instrument of competition policy



- Maintain a level playing field for all companies in a liberalised sector, that is incumbents and new entrants
- Preserve benefits of competition: dynamic incentives to achieve efficient supply and innovation. Telecoms markets fully liberalised since 1998
- The State aid rules at a glance:
 - *The general prohibition:* Article 87.1: granting through state resources of a selective economic advantage (one or more undertakings) that distorts competition and affects intra Community trade
 - *The compatibility provision:* Article 87.3 (c)

The Commission's role: a referee for fair competition



- Notifications by Member States/Regions
- Complaints and ex-officio action
 - Examples: plans for a municipal network which provides 95% same services which are already available
 - Private operators unhappy as state aid devalues their investments and distorts incentives for more infrastructure spending
- Policy development through a coherent and consistent decision-making practice
- Regular contacts with national authorities and national regulators, industry.

Broadband roll out: The objectives and the main concerns



- Possible policy strategies/objectives
 - Enabling access to affordable and adequate broadband services for all citizens/SMEs
 - Ensuring a level playing field for all operators
 - Facilitate roll-out and widest possible coverage
- Concerns
 - Avoid unnecessary network duplication:
Investment in existing networks at risk?
 - Picking the winner/Favouring certain platforms?
Ensuring respect of the technological neutrality principle

The market situation...



...varies from region to region



The Commission practice: The balancing test



- a) Existence of market failure/ well-defined objective of common interest (equity objective, etc.)
- b) Well-designed state aid
 - Is state aid appropriate instrument ?
 - Is there an incentive effect?
 - Is it kept to the minimum?
- c) Are the 'distortions of competition' and 'effect on trade' sufficiently limited so that the aid measure is on balance positive?
- The balancing test is also in line with the refined economic approach set out in the State Aid Action Plan.
- Overall, a consistent methodology to make our decisions more understandable, to help public authorities to design their measures in a more efficient way.

Dos and Don'ts (I)



- ***First Step:*** Need for well-defined public policy rationale for state aid (“what's the problem?”)
- Digital Divide/Cohesion objective
 - Broadband rollout not profitable in sparsely-populated areas => subsidies provide incentive for private operators to invest
 - Areas too far from existing telephone exchanges
- Market failure and structural problems
 - Cf. cases Ireland, Greece
 - Regulation may not be sufficient to overcome the problem

Dos and Don'ts (II)



- **Second Step:** *Is state aid the most appropriate instrument ("why state aid?")*

- Look at alternative instruments
 - Rights of way, permits, coordination
 - Ex ante regulation: access obligations on incumbents
 - Demand-side measures: subsidies for consumers?

None of the above may suffice to solve the problem

Dos and Don'ts (III)

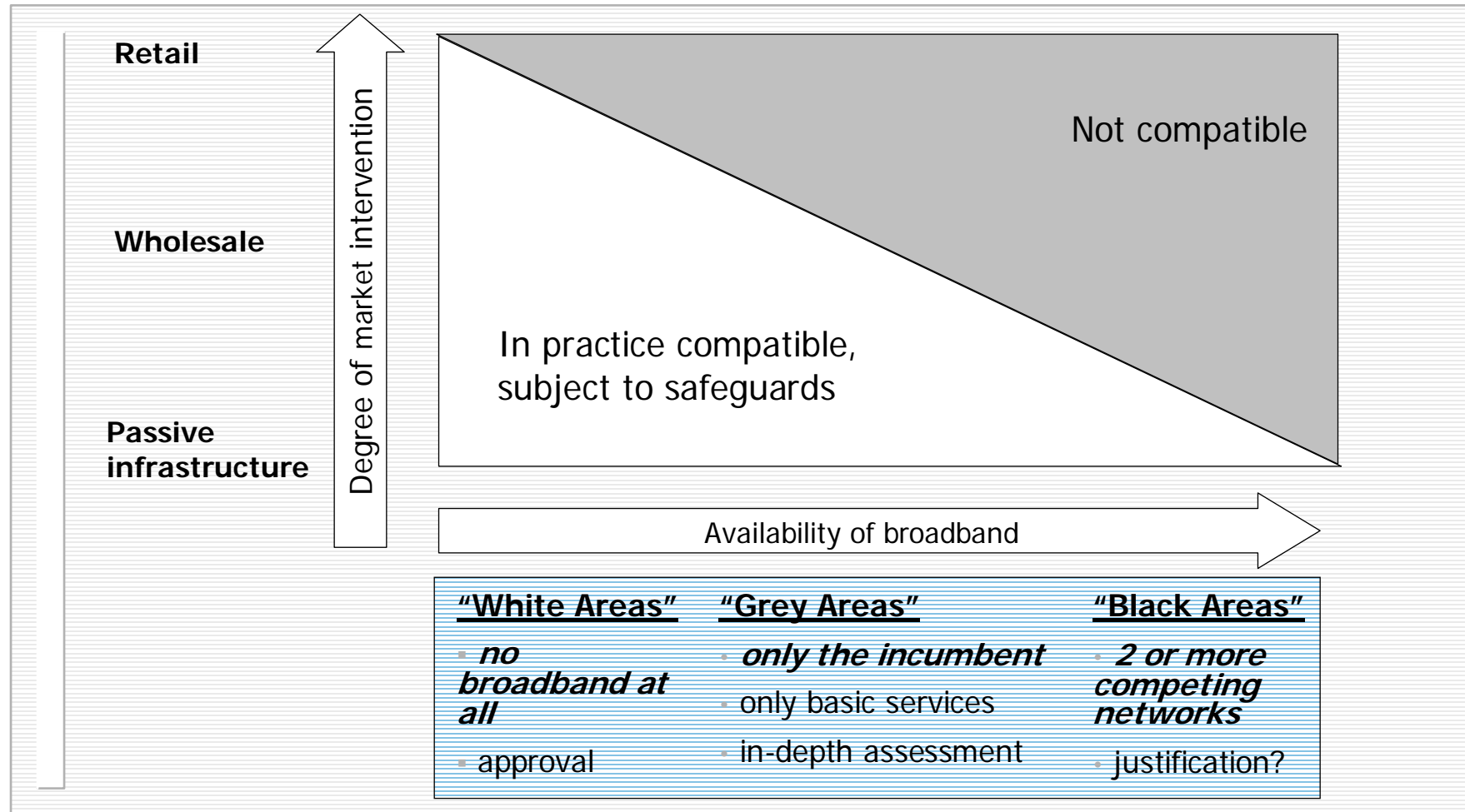


- **Third Step:** *Is the measure designed in the most proportionate way ("how")*

Does the aid provide an incentive to operators?

- Safeguards:
 - Open tender: no discrimination, equal treatment
 - Open access: preserving facilities-based competition
 - Technology neutrality (not a dogma)
 - Minimise distortion of competition

Assessment of state support for broadband - schematic overview



Taking stock



- More than 20 decisions so far
- Guidance for market players: In most (compatible) decisions:
 - public authorities chose the open tender model,
 - Mandated (wholesale) open access obligations,
 - Avoided duplication of existing infrastructure,
 - Focused on white and grey areas.
 - One negative decision (Appingedam decision): existing operators had already rolled out a broadband infrastructure in the covered area and were already providing the kind services envisaged by the local authorities (high speed broadband services). The aid was therefore not necessary, nor justified.

Useful links and information



- Articles competition policy newsletter
 - <http://ec.europa.eu/comm/competition/publications/cpn/>
- Commission decisions
 - http://ec.europa.eu/comm/competition/state_aid/register/

■ **THANK YOU FOR YOUR ATTENTION**