

Analysis of individual NRAs' role around access conditions to State aid funded infrastructure

Contents

Index of tables	2
Executive Summary	3
1. Introduction and Objective	6
2. General Information	7
2.1. Implementation of projects.....	7
2.2. Investment models.....	8
3. Tasks of NRAs with regard to access conditions and pricing methods in State Aid cases	10
3.1. Competent body for issuing guidelines.....	11
3.2. Tasks with regard to access conditions.....	12
3.3. Access conditions (excluding prices).....	15
3.4. Pricing.....	17
4. Dispute resolution	21
5. Other tasks in State Aid cases	22
6. Conclusion	24
Annex 1 – Country Codes	25
Annex 2 – Country Cases.....	26
1. Austria.....	27
2. Bulgaria.....	35
3. Croatia.....	40
4. Czech Republic	48
5. Denmark.....	54
6. Estonia	61
7. Finland	66
8. France	72
9. Germany.....	79
10. Greece	86
11. Ireland	93
12. Italy	97
13. Latvia.....	105
14. Lithuania	109
15. Malta	117
16. Netherlands	119
17. Poland	123
18. Portugal.....	130
19. Romania.....	137
20. Slovakia.....	144

21. Slovenia	145
22. Spain	150
23. Sweden	157
24. United Kingdom	161

Index of tables

Table 1 – State Aid Scheme	7
Table 2 – Investment Models	9
Table 3 – Wholesale model.....	9
Table 4 – NRA guidelines	11
Table 5 –Tasks of NRAs	14
Table 6 – Access products.....	16
Table 7 – Pricing of access products	18
Table 8 – Dispute resolution	21
Table 9 – NRA involvement in other State Aid tasks	23

Executive Summary

The “EU Guidelines for the application of the State aid rules in relation to the rapid deployment of broadband networks” set out general conditions for State Aid for broadband networks projects and for the role of NRAs in State Aid schemes. Non-discriminatory open access to the funded broadband infrastructure is generally considered as a prerequisite for State Aid to be consistent with competition law.

The EU State Aid Guidelines have now been applied for almost five years. A number of national umbrella schemes and programs have by now been endorsed by the Commission, foreseeing a role for the NRAs.

This report examines how access conditions based on the EU State Aid Guidelines have been implemented in different Member States (MS) focusing on the role of the NRAs. It is based on information provided to a questionnaire which was filled out by 25 MS. Two of them do not have any State Aid projects. In seven MS the NRA has no competencies in State Aid and therefore in some cases only limited information on such projects is available.

In chapter 2, some background is provided on how State Aid projects are implemented in the different countries. This concerns how projects are implemented (individual programs, umbrella schemes, etc.) and which kind of investment models are used (operator subsidy or gap funding model, publicly or privately run municipal network model). The fact finding shows that with regard to implementation, basically two groups of countries can be identified:

- Countries with a larger number of State Aid projects under umbrella schemes or the GBER that are usually implemented on regional or local level.

In these countries NRAs or other competent bodies have typically issued guidelines on wholesale access conditions and pricing methods to increase transparency for the operators and to ease the administrative burden of both the regional/local competent authorities as well as the NRAs.

- Countries with a limited number of integrated projects that encompass a large area or number of communities/districts.

In these countries it is commonly unnecessary to issue guidelines as foreseen in the State Aid Guidelines because all the conditions on access and pricing methods that the subsidized operator has to comply with for a specific project are included in the tender/project in advance. In many of these cases the competent body at national level is a central organization/authority and NRAs are typically involved in the preparation and/or implementation of these projects, for example taking the role of an advisory body to the competent body at national level.

Chapter 3 is about the role of NRAs in defining open access conditions and prices. Section 3.1 sets out whether NRAs have the competencies of issuing guidelines. Section 3.2 highlights the tasks of NRAs and how they are involved at institutional level. Sections 3.3 and 3.4 give an overview on access conditions and pricing methods in State Aid cases.

It has turned out that access products and prices used for State Aid cases are often the same or very similar to the reference offers or the regulated products of the SMP operator. However,

the stage at which NRAs are involved and how, as well as the methods of implementation vary between countries.

Chapter 4 deals with dispute resolution procedures for access conditions and prices. Usually NRAs have competencies for dispute resolution. However, so far these procedures have hardly been used. Only a few cases have been reported in the fact finding questionnaire.

Chapter 5 relates to other tasks relevant for State Aid cases (e.g. bidding process, mapping or transparency issues). In the majority of MS, these tasks are not fulfilled by NRAs, but by other competent authorities (e.g. ministries, granting authorities on different regional levels etc.).

1. Introduction and Objective

The “EU Guidelines for the application of the State aid rules in relation to the rapid deployment of broadband networks” (EU State Aid Guidelines)¹ set out general conditions for State Aid for broadband networks projects. Non-discriminatory open access to the funded broadband infrastructure is generally considered as a prerequisite for State Aid to be consistent with competition law. In this regard, the EU State Aid Guidelines outline conditions on access, pricing methods and dispute resolution between access seekers and the subsidised infrastructure operator.

They foresee a role for NRAs in designing pro-competitive State Aid measures in support of broadband roll-out. For instance NRAs should issue national guidelines (guidelines), specifying open access conditions and prices, to local granting authorities taking into account the Electronic Communications Regulatory Framework and related Recommendations issued by the European Commission (Commission) to define the conditions for access to infrastructures/networks rolled out using subsidies. These guidelines are intended to increase transparency for the operators and ease the administrative burden of local granting authorities and the consulted NRAs.

The EU State Aid Guidelines have now been applied for almost five years. A number of national umbrella schemes and programs have by now been endorsed by the Commission, foreseeing a role for the NRAs.

BEREC has started to work on open access in the State Aid context as early as 2011 (BoR (11) 05), contributing to the revision process of the EU State Aid Guidelines – BEREC Response to the European Commission Questionnaire on the Revision of the State Aid Guidelines (BoR (11) 42) and BEREC Opinion on the draft revision of the EU State Aid Guidelines (BoR (12) 91).

The new EU State Aid Guidelines were adopted in the beginning of 2013. This report examines how access conditions based on these Guidelines have been implemented in different Member States (MS) focusing on the role of the NRAs. It is based on information provided to a questionnaire which was filled out by 25 MS.

In Chapter 2 some background is provided on where MS are with regard to State Aid schemes. This concerns how projects are implemented (individual programs, umbrella schemes, etc.) and which kind of investment models are used (operator subsidy or gap funding model, publicly or privately run municipal network model).

Chapter 3 is about the role of NRAs in defining open access conditions and prices. Section 3.1 sets out whether NRAs have the competencies of issuing guidelines. Section 3.2 highlights the tasks of NRAs and how they are involved at institutional level. Sections 3.3 and 3.4 give an overview on access conditions and pricing methods in State Aid cases. Chapters 4 and 5 relate to dispute resolution and other tasks in State Aid cases.

¹ 2013/C 25/01, published on 26/01/2013 and available in: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>.

The report summarises the information given in the questionnaire. The detailed answers to the questionnaire are listed in a separate country case annex.

2. General Information

Almost all MS who answered the questionnaire have (individual) State Aid schemes or umbrella schemes for broadband roll-out. The exceptions are Malta which does not qualify for State Aid projects related to broadband as there is a 100% penetration of high speed broadband coverage and Belgium that has no State Aid projects either. Switzerland and other non-member states of the European Union are not bound to the EU State Aid regulation for their broadband schemes.

Therefore, these countries are not considered in the answers on competencies or access conditions. The number of answers is limited to those countries that have or plan State Aid programs under the EU State Aid Guidelines.

	Yes	No
State Aid scheme	AT, BG, CZ, DE, DK, EE, EL, ES, FI, FR, HR, IE, IT, LT, LV, NL, PL, PT, RO, SE, SI, SK, UK	BE, MT
Umbrella scheme notified to the Commission	AT, CZ, DE, EE, FI, FR, HR, IT, PL, SE, SI, UK	BG, DK, EL, ES, IE, LT, LV, NL, PT, RO,

Table 1 – State Aid Scheme

Ireland has no State Aid scheme yet, but already has pre-notified the Commission in relation to the National Broadband Plan (NBP). The Netherlands are working on an umbrella scheme which still has to be notified to the Commission. Slovenia is developing an umbrella scheme on the basis of the government's broadband plan. Romania is working on a *de minimis* State Aid scheme that shall be implemented soon. There is already a directly notified project that is nearly accomplished. Slovakia has State Aid schemes. However, the NRA is not involved in State Aid projects in any way.

2.1. Implementation of projects

The roll-out projects are implemented differently, i.e. as (usually few) individual programs that are notified directly to the Commission, as projects under the GBER² or as projects under national umbrella schemes. The number of projects varies largely between the countries: Some MS (like Denmark, Estonia, Greece, Lithuania or Portugal) only have one or a few national measures for the whole country, usually measures that are centrally administered by a national organisation/authority and applied to a larger area of the country (i.e. for a higher

² Revised General Block Exemption Regulation (COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty).

number of communities and/or rural districts). In other countries (e.g. Austria, France Germany or UK), there are a large number of smaller projects under different umbrella schemes or the GBER. In these countries, projects are usually administered locally or regionally (at the level of communities or rural districts). In Austria and Spain, projects are administered either centrally or at a lower administrative level, like a federal state/province/region.

Both umbrella schemes and large projects usually give rules on the main State Aid open access obligations characteristics of the scheme, like target areas, access products, time frame of the provision of open access, transfer of the open access obligations to the legal successor, pricing, dispute resolution and the role and tasks of the NRA (if any) in the scheme. The respective details can be found in the country case annex.

2.2. Investment models

The projects are implemented in different forms of investment models. The choice of the model is based on the national situation and can even vary within one country (e.g. Germany). The Commission lists four different investment models: the operator subsidy or gap funding model, the publicly run municipal network model, the privately run municipal network model and the community broadband model.³ Here, the three main models used for State Aid projects are listed:

- In the operator subsidy or gap funding model, the public authority subsidises one network provider to either build a network or to upgrade its existing network. The subsidy covers the gap between the costs necessary for the investment and the operation over a certain time and the expected revenues. The operator becomes/remains the owner of the new/upgraded infrastructure.
- In the publicly run municipal network model, the public authority builds a broadband network. A newly established company or a dedicated division within an existing utility deploys the network directly or through standard procurement to the market. The public authority remains the owner of the network and runs operation and maintenance. The network is generally made available to all market players.
- Likewise, in the privately run municipal network model, the public authority builds a passive network and remains its owner. However, the network is leased to a private network operator who brings in active elements and runs the network for a certain period under the condition of fair and non-discriminator open access for other operators.

³ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

Investment model	Applied in
Operator subsidy model (gap funding)	AT, CZ ⁴ , DE, DK, EE, ES, FI, FR, HR, IT, NL, PL, PT, RO, SE, UK
Publicly run municipal (regional) network model	AT, ES, FR, HR, LT ⁵ , LV, UK
Privately run municipal (regional) network model	AT, BG, DE, FR, HR, IT, RO, UK
Private Public Partnership (PPP)	FR, HR
Concession Model ⁶	EL

Table 2 – Investment Models

In some countries, the investment model varies depending on the choice of the granting authority. This is usually the case in countries where the organisation of the projects takes place on a regional level. In other countries, only one investment type model has been chosen. A reason could be that there is only one national program or a limited number of projects implemented in the country, and the model has been chosen for the whole of this project(s).

Furthermore, the new networks can be operated as wholesale only or integrated wholesale plus retail models.

Wholesale only model	Integrated wholesale plus retail model	Both models
BG, EE, EL, LT, LV, NL, PT, SE, SI	DE,	AT, DK, ES, FI, FR ⁷ , HR, IT, PL ⁸ , RO, UK

Table 3 – Wholesale model

In several countries, both models are implemented. In some countries, it is possible to choose the model in the measures. In other countries, one model is applied for one umbrella scheme/project exclusively and the other model for another umbrella scheme/project exclusively.

⁴ Private DBO.

⁵ Network is national in scope, not municipal.

⁶ The public authority subsidizes network providers to build a network. Network providers run operation and maintenance for the granted period. After the conclusion of the granted period, the public authority becomes the owner of the network and a new network provider will be selected for running the network for the new granted period.

⁷ In France, the wholesale only model is the norm. Retail can be included but it is an exception.

⁸ Wholesale only operators fall under less strict price regulation.

3. Tasks of NRAs with regard to access conditions and pricing methods in State Aid cases

The EU State Aid Guidelines set out in para 42: *“The role of NRAs in designing a pro-competitive State aid measure in support of broadband is particularly important. The NRAs have gained technical knowledge and expertise due to the crucial role assigned to them by sectoral regulation. They are best placed to support public authorities with regard to the State aid schemes and should be consulted when target areas are being identified. NRAs should also be consulted with regard to determining the wholesale access prices and conditions and solving disputes between access seekers and the subsidised infrastructure operator. Member States are encouraged to provide NRAs with the resources they need to give such support. Where necessary, Member States should provide an appropriate legal basis for such involvement of NRAs in State aid broadband projects. **In keeping with best practice, NRAs should issue guidelines for local authorities that include recommendations on market analysis, wholesale access products and pricing principles taking into account the Electronic Communications Regulatory Framework and relative Recommendations issued by the Commission**”*. The respective footnote explains that *“This would increase transparency, ease the administrative burden on local authorities and could mean that NRAs would not have to analyse each State aid case individually”*.

The analysis has shown that in 14 countries, i.e. the majority of countries, the NRA is not the competent body for issuing the guidelines on access conditions and therefore is not in a position to do so. Even when the NRA is the competent body for issuing guidelines, guidelines have not always been issued for various reasons.

The main reason for not issuing guidelines lies in a very limited number of projects (encompassing a larger area/number of communities). For these projects open access conditions are typically included in the tender/project and the NRAs are either responsible or in some way involved in the preparation and/or implementation of these projects, for example as advisory body. Even if the NRA is not the responsible authority, it is usually in a position of an advisor for the competent body and/or the granting authorities. In all these cases, access conditions and pricing are fixed at an early stage (e.g. before the tender) with the consultation and/or assessment of the respective NRAs. Therefore, local public authorities do not have to establish or negotiate conditions or even contracts with network operators. In these cases, issuing guidelines is not necessary.

This is a different situation compared with the those countries that have many small State Aid projects under umbrella schemes or under the GBER where the granting authorities are usually local (e.g. a rural community or district) and have to carry out the State Aid projects themselves, including the negotiations with network operators to enter into a contract. Here, guidelines are highly important because local public authorities usually neither have the expertise nor the resources to handle the complex issue of access regulation and prices.

Therefore, this report will firstly describe the different constellations of involvement of the NRAs as a background, split up in two groups: those NRAs that issue guidelines and those that are directly or indirectly involved in the measures.

However, further on, the report will not make a distinction about the kind of involvement of a NRA. The open access regulation will be described for all the countries that have taken part in the survey. Countries that do not have the respective competencies are not shown later on when it comes to the content of the regulation, i.e. the answers are limited to those countries that have competencies in the analysed area.

3.1. Competent body for issuing guidelines

As already outlined in the previous chapter, there are only some countries where NRAs are the competent body for issuing guidelines on access conditions as referred to in para 42 (EU State Aid Guidelines) or have issued such guidelines. These are usually countries where the number of single projects under an umbrella scheme (and thus different local granting authorities) is large or the projects fall under the GBER.

	Yes	No
NRA is the competent body for issuing guidelines	DE, ES, FI, FR, HR, IE, IT, PL, RO	AT, BG, CZ, DK, EE, EL, PT, LT, LV, NL, PT, SE, SI, SK, UK
NRA as the competent body has issued guidelines	DE, FR, HR, IT, PL	ES, FI, IE ⁹ , RO

Table 4 – NRA guidelines

In some countries, like Austria or Estonia, the competent body for issuing guidelines is within the responsible ministry.

In other countries, the competencies for issuing guidelines are with the organisation managing the implementation of the State Aid project. This is the case in France (Mission THD¹⁰), Latvia (Optical Network Steering Committee), Poland (CPPC as national granting authority), Sweden (managing authorities of the two umbrella schemes) and the United Kingdom (National Competence Centre (NCC) of BDUK¹¹). While the Swedish NRA is not involved, the NRAs of France, Poland¹² and the UK were consulted on wholesale access conditions and pricing.

In France, the NRA has issued FTTH pricing guidelines for local network deployment that is subsidized by State Aid. The NRA takes into account the FTTH symmetric regulation to govern public FTTH roll out. The competent body for State Aid projects can consult the NRA for any regulation matters.

In Germany, the NRA has issued guidelines both for the national State Aid program (NGA-RR) and the GBER and published them on its website, even though no statutory provision exists for doing so (except for GBER cases). The involvement in umbrella schemes is made on the basis of “administrative assistance”.

⁹ Scheme not yet notified to the European Commission.

¹⁰ A governmental body within the Ministry of Economy and Finances.

¹¹ Guidelines apply only for BDUK projects, not for other regional projects.

¹² Guidelines are part of the terms and conditions of the state aid program.

In Italy, the NRA has issued guidelines that are differentiated and applicable with respect to the investment model chosen by the granting authority in the state aid measure. The guidelines are general and are addressed i) to all the granting Authorities in order to steer the drafting process of the tender procedure under technical and economic profile and ii) to the beneficiary operator to inform about the access conditions that must be ensured to the subsidized infrastructures.

In the Netherlands, the NRA has no formal task in writing guidelines, but has done so informally. This document has been sent to a small number of State Aid initiators who asked for advice. The document was not published on the website.

In Denmark, the competencies for both State Aid cases and issuing guidelines are split between the NRA (Danish Business Authority) and the Danish Energy Agency. The NRA is the competent body for issues relating to access conditions. The Danish Energy Agency has issued general guidelines in collaboration with Local Government Denmark regarding State Aid projects. These methods are specifically mentioned in the regulation pertaining to the national State Aid measure¹³.

In Spain, both - the Ministry of Energy, Tourism and Digital Agenda and the NRA - are competent bodies for issuing guidelines. The Ministry, that shall initiate the procedure, advises on any matter except wholesale access and prices that are in the responsibility of the NRA. No guidelines have been issued so far as the Ministry has not started the process yet. However, in 2010 the NRA adopted a regulation on the operation of networks and provision of services by public administrations (now partially withdrawn).

In Finland, the NRA is also the granting authority. The State Aid umbrella schemes already contain the guidelines on open access. As they cover all projects for broadband roll-out, it is ensured that the same rules apply for all projects.

In Croatia, the NRA has two different roles separated from each other: one role as Competent Authority for the Framework Program (CAFP) and the other as NRA. As CAFP, it is responsible for the coordination of the implementation of the Framework Programme and for the monitoring of the compliance of individual projects with the Framework Programme. As NRA, it is responsible for broadband mapping, approval of wholesale conditions and prices. It has issued several guidelines, including wholesale access guidelines.

Countries that have not issued guidelines are e.g. Lithuania, Romania and Slovenia. In Lithuania and Slovenia, there is no competent body for issuing guidelines. In Lithuania, national regulation does not foresee a need for such guidelines as the number of projects is small. In Romania, the NRA is the competent body for issuing guidelines, but as the number of cases was small, the NRA favoured direct interaction with the granting authorities.

3.2. Tasks with regard to access conditions

Many NRAs are involved in setting conditions for open access or giving advice on open access during different stages in the process of State Aid projects, starting from tenders up to dispute

¹³ Bredbåndspuljen.

resolution. The involvement can be direct, i.e. being in the sole competency of the NRA or jointly with another authority, or indirect. In these cases, the NRA is consulted by the competent authority(s) and gives advice, like in Austria, the Czech Republic, Estonia, and the United Kingdom. This is often restricted to the tasks related to access conditions and prices (e.g. in Denmark, France, Latvia and Spain).

For projects subject to Article 52 para 6 GBER, there is a legal basis for the involvement of NRAs in access conditions and pricing methods: *“The national regulatory authority shall be consulted on access conditions, including pricing, and in the event of dispute between access seekers and the subsidized infrastructure operator.”* For all other State Aid projects, in many MS no legal basis for an active involvement of NRAs is foreseen¹⁴. The EU Regulatory Framework itself does not provide such a legal basis, and no changes to that effect are proposed in the revision of the Framework currently discussed¹⁵. However, some of the countries (e.g. Finland, France, Poland, Romania and Spain) have foreseen a specific legal basis for the involvement of NRAs in State Aid cases.

In Germany, the NRA has legally defined tasks in State Aid cases only on the basis of the GBER that is directly applied (without transposition in national law). In all other cases, the umbrella schemes foresee tasks for the NRA without explicit statutory provisions, under the concept of “administrative assistance”. In Ireland, the tasks of the NRA are not legally defined either, but there is a Memorandum of Understanding with the competent ministry that the NRA provides advice as part of an expert working group. In the Netherlands, the NRA gives informal advice on access and prices if it is asked by State Aid initiators, but has not formal tasks.

	Yes	No
Tasks of NRA in State Aid cases	AT, CZ, DE, DK, EE, ES, FI, FR, HR, IE, IT, PL, PT, RO, SI	BG, LT ¹⁶ , LV, NL, SE, SK, UK
Guidance on State Aid tenders	EE, ES, FR, PT	AT, DE, DK, CZ, EL, HR, IT, LT, LV, NL, PL, RO, SI, UK
Advice for granting authorities on individual cases	CZ, ES, FR, HR, IT, PT, RO ¹⁷	AT, DE, DK, EE, EL, FI ¹⁸ , LT, LV, NL, PL, SI, UK

¹⁴ See BoR (12) 91, Section B no. 2-3 and 9.

¹⁵ Proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast).

¹⁶ There are plans for amendments in the national legislation to define the role of the NRA, but the scope is not defined yet, and it will not be implemented before mid-2018.

¹⁷ On request of the granting authority.

¹⁸ NRA is the granting authority.

Control draft contracts on effective open access provisions	AT ¹⁹ , DE, EL	CZ, DK, EE, ES, FI ²⁰ , FR ²¹ , HR, IT, LT, LV, NL, PL, PT, RO, SI, UK
Dispute settlement in State Aid cases	AT ²² , DE, EL, ES, FI, FR, HR, IT, LT, PL, SI	CZ, DK, EE, LV, NL, PT, RO, UK ²³
Others/access conditions excl. prices	AT, CZ, EL, ES, FI, FR, HR, IT, PL, PT	DE, DK, EE, LV, NL ²⁴ , RO, SI
Others/access prices	AT ²⁵ , CZ, EE, EL, ES, FI, FR, HR, IT, PL, PT	DK, LV, NL, RO, SI
Others/related to access conditions	AT ²⁶ , CZ ²⁷ , DK ²⁸ , EL, PT	DE, EE, FR, IT, NL, PL, SI ²⁹

Table 5 –Tasks of NRAs

The stages of involvement vary in the different MS. In some countries, it is limited to a control of draft contracts on the effective provision of open access and to dispute resolution. In other countries, the NRAs are involved into the preparation of the (centralized) tender which fixes the conditions for open access. Other NRAs are involved into most of the stages of the State Aid process, accompanying (e.g. Portugal) or being responsible (e.g. Finland) for the whole project. Some examples are given below.

In Germany, the tasks of the NRA in State Aid cases are limited to the evaluation of draft contracts between the granting authority and the subsidized operator in relation to access condition and prices. In case of disputes between access seekers and the subsidized operator, the NRA has to be consulted before the (local) granting authority can fix prices to solve the dispute. For dispute resolution, the NRA's normal procedures apply.

Similarly, in Denmark and Spain the granting authority must consult the NRA in GBER cases regarding access conditions and prices of any draft measure concerning broadband State Aid projects before its approval³⁰. Furthermore, in Denmark the NRA shall be consulted regarding any dispute that arises between the beneficiary operator and a third party operator in relation

¹⁹ Evaluation of standard offers is done by RTR for the Austrian Research Promotion Agency (FFG) which is the national funding agency. The evaluation of standard offers is a task of FFG but done by RTR as a service for FFG based on a contract between RTR and FFG.

²⁰ No individual control of contracts, but information of tender applicants about the open access conditions foreseen. State Aid cannot be granted if the applicant does not fulfil the open access requirements in its state aid application.

²¹ But (non-binding) advice usually is requested and usually results in modification of contracts or offers, only for FTTH.

²² In the frame of the regular dispute regulation (symmetrical regulation).

²³ All access seekers have the legal right to raise disputes with Ofcom, outside the State Aid framework

²⁴ Informal advice can be given.

²⁵ Calculation scheme.

²⁶ Evaluation of standard offers as a service for FFG.

²⁷ Expertise for the Supervisor of the program concerning reference offers.

²⁸ Must be consulted by the granting authority before approval of the project.

²⁹ Supervision of openness of Electronic Communication Networks built under State Aid.

³⁰ In Spain, the NRA is also consulted in any State aid project that has to be notified to the Commission under article 108 TFEU.

to wholesale access conditions and prices. In Spain, the NRA is the competent body to solve this kind of disputes.

In France, the NRA provides guidance on access conditions and prices for public tenders and granting authorities. Contracts between the granting authority and the wholesale access providers do not have to be controlled, but they usually require the NRA's opinion on tariffication. The opinion, despite not being legally binding, usually results in modifications of the contracts or offers, because the Government can suspend paying its grant where NRA has called for change in the pricing conditions.

In Italy, the NRA provides a formal opinion on the call for tender on aspects related to the regulatory framework and competition issues. Moreover, the NRA has been involved explicitly in ex-ante definition of economic conditions for third party access to the subsidized network following the NRA guidelines principles.

In Lithuania, the NRA is asked for its opinion during the process of setting wholesale tariffs.

In Portugal, the NRA accompanies the State Aid projects on almost all stages and gives advice to the government. Concerning open access, the NRA defined minimum requirements and access conditions that were included in the tender documents and subsequently in the contract signed between the government and the winning bidder. However, the NRA is not involved in dispute resolution. Any litigation concerning open access shall be settled by an arbitral tribunal.

In Romania, the granting authorities are supposed to set the technical and economic open access requirements, but in order to become mandatory, the NRA shall approve them. If requested, the NRA can assist the granting authorities to set the open access requirements. The NRA also oversees the abidance of the approved open access requirements. It is not entitled to impose fines in the case of non-compliance with the open access requirements, but can establish facts and could ask the granting authorities to impose penalties against the non-compliant operator(s).

3.3. Access conditions (excluding prices)

Most NRAs have competencies concerning access conditions by issuing guidelines, by directly setting these conditions or by giving advice to the responsible authority (e.g. the Ministry preparing a program or the granting authority). An exception is Estonia, where the NRA controls the prices for fiber optical cables that were established in the Estwin State Aid project, but has no (other) competencies in State Aid cases.

	Yes	No
Guidelines specify access products depending on the infrastructure	DE, HR, IT, PL	AT
Guidelines give qualitative specifications about access products	DE, IT, PL	AT, HR

NRA specifies/approves access products	AT, CZ, ES ³¹ , HR, IT, PL, PT, RO	DE, DK, FR ³²
NRA gives qualitative specifications about the access products	AT, CZ, IT, PL ³³ , PT, RO	DE, DK, ES ³⁴ , FR, HR
Wholesale reference offers specifically for State Aid cases	AT, CZ, EL, HR ³⁵ , IT ³⁶ , PL ³⁷ , PT	DE, DK, ES ³⁸ , FR, RO ³⁹
Direct connection of open access obligations to SMP regulated products	AT, HR, IT, NL, PL	DE, DK, FR ⁴⁰

Table 6 – Access products

In some countries, the access is to passive infrastructure, e.g. Austria (to ducts and dark fibre), Estonia (only to dark fibre, not to ducts) and France. In France, the FTTH symmetric regulation applies to all FTTH projects, including subsidized ones deployed by local authorities. As only passive access is foreseen, there is no need to differentiate access products for the different NGA infrastructures. This also applies for other countries where wholesale only models are mandatory or possible (e.g. Italy).

In some countries, the infrastructure is the same for all the projects/measures. Therefore, there is no need to differentiate the access products. This is the case e.g. in Portugal, where FTTH-PON was rolled out in all State Aid projects.

In other countries, the access products that have to be offered for the different NGA infrastructures were specified along the lines of the EU State Aid Guidelines, the GBER or the umbrella schemes that are consistent with these rules. Examples are Denmark (GBER), Germany (umbrella schemes, GBER). This means that the choice of access products must be at least the same as in SMP regulation. In Poland, all access products suitable for a given type of infrastructure have to be provided.

In Romania, a full range of active products would not be required in villages with small population as the cost will most likely be higher than any possible gains in competition. Also, in a de minimis State Aid scheme, active access products are not required as the impact on competition is very limited.

In Croatia, the same rules for access conditions (and pricing) are applicable both in State Aid projects and for SMP operators. In Italy, the NRA guidelines make a reference to the wholesale

³¹ Only under specific circumstances.

³² FTTH passive access is imposed and regulated under symmetric framework. Active access cannot be offered at first under the French umbrella scheme, but the subsidised operator has to provide it upon reasonable request.

³³ Based on the NRA's guidelines.

³⁴ Not specified generally, but on a case by case basis or in dispute resolution.

³⁵ Planned.

³⁶ Only for non-SMP operators – for SMP operators, the reference offers also apply for state aid cases.

³⁷ As part of the guidelines.

³⁸ All subsidized operators shall have a reference offer, but they are not approved by the NRA.

³⁹ Not now, but foreseen for the future once the RO-Net project is accomplished.

⁴⁰ France has no SMP identified for FTTH networks. FTTH networks are under symmetrical regulation.

access products that are offered under SMP regulation for equivalent access products. In Lithuania, general rules of access, defined in national legislation, are also applied to operators of State Aid funded networks.

Several countries have qualitative specifications or general rules for the access products (e.g. AT, CZ, DE, IT, PL, PT, RO). These might be e.g. general rules on non-discrimination, on collocation, timely provision of service, or QoS parameters. In Italy, the NRA guidelines contain a reference on SLA levels of the reference offer of the SMP operator for equivalent service.

In some of these countries, the qualitative specifications are contained in special reference offers for State Aid projects, which usually shall be in line with SMP regulation.

In Poland, a reference offer is part of the NRA's guidelines.

In Austria, qualitative specifications of the access products have to be published in the subsidized operator's reference offer. The NRA does not define/approve access products directly in State Aid cases but has an indirect influence on them. Standard offers for open access shall be in line with the regulated standard offer of the SMP operator. The NRA evaluates the standard offers as a service for the national funding agency or in case by case dispute settlement proceedings.

In Portugal, the access products (both passive and active) are specified in the tender, as well as an obligation of a reference offer. In Spain, all subsidized operators shall have a reference offer for wholesale access services in a State Aid project, but these are not approved by the NRA. Quality specifications can be defined through a dispute resolution procedure if needed.

In Germany, the umbrella scheme approved by the Commission prescribes a reference offer for a VULA product in case of vectoring. However, these VULA products shall be notified to and approved by the Commission and not by the NRA. The VULA products have to be functionally equivalent to physical unbundling based on the relevant Commission criteria⁴¹. So far, three network operators have VULA products for State Aid cases that have been approved by the Commission⁴².

Generally, the methods of implementing the State Aid guidelines and access conditions in State Aid cases and the stages of involvement in the process vary between the countries. In most countries, the wholesale products are the same or very similar to SMP regulation (or, as in Austria, to symmetrical regulation).

3.4. Pricing

Similar to competencies concerning access conditions, most NRAs have competencies concerning pricing or pricing methodologies by issuing guidelines, by directly setting prices or pricing conditions or by giving advice to the responsible authority (e.g. the Ministry preparing a program or the granting authority). However, the competencies of NRAs as well as the pricing mechanisms differ widely.

⁴¹ Described in the Explanatory Note of the Commission (SWD(2014) 298).

⁴² See http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_46805.

	Yes	No
Guidelines recommend pricing principles	AT, DE, DK ⁴³ , FR, HR, IT, PL	EL, LT, LV
NRA gives advice on pricing mechanisms for granting authorities	AT, DE, DK, EL ⁴⁴ , ES, HR ⁴⁵ , IT, LV, PL, PT, RO	FI ⁴⁶ , LT, UK ⁴⁷
NRA has special pricing principles for access products in State Aid cases	CZ, DE, EE, ES ⁴⁸ , IT, PL	AT, DK, LV, RO
NRA prescribes cost orientation	AT, CZ, DE, DK ⁴⁹ , ES ⁵⁰ , HR ⁵¹ , IT, PT	EE, EL, FR, LT, LV, PL ⁵² , RO
NRA has published benchmarks as reference		AT, BG, CZ, DE, DK, EE, HR ⁵³ , IT, LT, LV, PL ⁵⁴ , PT, RO, UK ⁵⁵ , ES ⁵⁶
NRA regulates prices for access products in State Aid cases	AT ⁵⁷ , DK, ES ⁵⁸ , HR, IT, PL, RO	BG, CZ, DE, EL, LT, NL, PT ⁵⁹ , UK
NRA uses cost model	FR, HR ⁶⁰ , IT	AT, BG, CZ, DE, DK, EE, EL, ES, LT, LV, NL, PL, PT, RO
SMP operator is bound to regulated prices for SMP wholesale products	AT, DE, DK, HR, IT, LV ⁶¹ , PL, UK	

Table 7 – Pricing of access products

⁴³ Reference to existing regulation on pricing methods.

⁴⁴ NRA approves access prices based on the methodology defined in the tender

⁴⁵ NRA approves access prices.

⁴⁶ NRA is the granting authority.

⁴⁷ Only indirectly: the NRA does advise the competent body on pricing, but it is the competent body that advises the granting authorities.

⁴⁸ Usually on GBER basis.

⁴⁹ Several pricing methods are cost-oriented.

⁵⁰ Only if no other criteria is applicable.

⁵¹ In case benchmarks are not applicable.

⁵² Only in exceptional cases (operators deviate from benchmark regulation).

⁵³ SMP standard offer should be taken as reference.

⁵⁴ But for some access products, SMP prices are used as appropriate benchmarks.

⁵⁵ Benchmark on the basis of Openreach's published prices.

⁵⁶ SMP standard offer should be taken as reference.

⁵⁷ General symmetric regulation is applied.

⁵⁸ Only for Xarxa Oberta's due to an EC Decision.

⁵⁹ But the NRA monitors the adherence to the prices offered in the bidding process and also if they are kept at a reasonable level.

⁶⁰ One of the pricing methods.

⁶¹ SMP operator has no relation to the State Aid case.

While some countries already approve wholesale access prices before or during the tender (e.g. Italy⁶², Poland⁶³, Portugal and Romania⁶⁴), other countries only indicate pricing principles that the operator shall use, along the lines of the GBER or the relevant national umbrella schemes (e.g. Germany and Spain). In these countries, a pricing decision of the NRA would only be taken in case of a dispute. In the United Kingdom, the NRA is not responsible for guidelines or regulation on prices in State Aid cases, but there is a benchmark based on Openreach's regulated wholesale prices.

In several countries, the SMP operator is bound to regulated SMP prices also in State Aid cases. Examples are Austria, Croatia, Denmark, Germany, Italy, Latvia and the United Kingdom. This means that specific pricing methods and prices for State Aid cases apply only for alternative network operators or unregulated wholesale products of an operator with SMP on other wholesale markets. In Austria the general symmetric price regulation for co-operations is also applied for State Aid cases.

In Poland, for the SMP operator in State Aid cases the stricter regulation regime (SMP or State Aid) will apply.

In the Czech Republic, there are stricter pricing rules for vertically integrated operators than for wholesale only operators.

The only countries using a benchmark with unregulated prices are Estonia and Spain, but they were not published:

In Estonia, the wholesale prices of the State Aid scheme Estwin are compared with other unregulated wholesale prices and retail prices. This shall ensure that the wholesale prices in State Aid cases allow to provide retail services, and also that the State Aid compensation is not excessive.

In Spain, the NRA made a benchmark when approving prices in the Xarxa Oberta Scheme because there were no regulated prices for a wholesale dark fiber and the 10 Gigabit Ethernet wholesale leased lines service the beneficiary wanted to offer. The benchmark was done with the main providers of these services.

There are other countries that use benchmarks, like Croatia, Poland or the United Kingdom, but these are benchmarks with regulated prices. This is also in line with the EU State Aid Guidelines which foresee in para 87(h) that *“for the benchmark, the average published wholesale prices that prevail in other comparable, more competitive areas of the country or the Union shall be taken or, in the absence of such published prices, prices already set or approved by the NRA for the markets and services concerned.”*

Other countries directly or indirectly refer to SMP-regulated prices, e.g. Austria where pricing and pricing mechanisms must be in line with regulation, or Germany with references in the various umbrella schemes. In Denmark, the pricing methods described in the guidelines and

⁶² This happened for the umbrella scheme implemented after the publication of the NRA guidelines.

⁶³ In some cases, ex-post approval is possible.

⁶⁴ In a limited number of cases the approval could be granted ex post upon request.

applied for State Aid cases are the same as in the SMP access regulation. In Croatia, the same rules for pricing are applicable both in State Aid projects and for SMP operators.

In Italy, for the fourth umbrella scheme, the price for equivalent access products cannot exceed the SMP regulated price. Specifically, in case of the “privately run municipal network model” the price should be cost oriented based on the management cost incurred by the granted operator (*only opex*). If the wholesale access prices were cost-oriented including only network management costs, third party operators buying wholesale services could achieve excess profits in retail markets. These operators, in fact, may have an incentive to apply the retail prices of more competitive areas in market failure areas. To prevent this problem, the wholesale price is defined in such a way as to ensure that extra profits have to be paid back to the contracting authority through a claw-back mechanism⁶⁵. Furthermore, in case of the privately run municipal network model, the guidelines also recommend a “pay per use” in place of IRU pricing approach for passive services, such as for unbundling over GPON, as no capital investment risk is sustained by the granting operator.

Many countries prescribe cost-orientation (e.g. Austria, Germany). However, cost orientation is not always foreseen for all types of access. Usually, if there are distinctions, the prices for passive access to ducts and dark fibre are cost oriented, while prices for active products are regulated less strictly. In Poland, benchmark is used for passive access products, while LLU and BSA are priced “retail minus” or by a margin squeeze test. In Portugal, cost orientation applies for access to ducts and collocation only.

Some countries, like Croatia, Poland and Spain, prescribe cost-orientation only if benchmarks are not applicable/possible or operators introduce exceptions from the benchmark regulation (Poland).

In the Czech Republic, cost-orientation is foreseen for access to passive infrastructure, LLU and collocation. VULA have to be calculated as “retail-minus” for vertically integrated operators. VULA prices of a non-vertically integrated infrastructure operator are to be determined by reference to the maximum price of the regulated SMP prices. Bitstream prices have to be based on the VULA prices plus the incremental cost of transmission capacity for the transit to the mandatory point of interconnection.

Croatia and Italy have cost models specifically for State Aid cases. In Italy, cost models are used to effectively implement the pricing approach proposed such as evaluating the management cost including a reasonable rate of return⁶⁶.

In France, the NRA has published a generic model of pricing access to the shared fibre local loops outside the very dense areas. This model takes into account the specificities of fiber network projects deployed by the private sector in less dense areas (estimated deployment costs, average penetration at the wholesale and retail level, etc.). This model is not specific to State aid cases, even though it was used by the NRA to draft the tariff guidelines. It proposes a methodology and can thus serve as a support for tariff negotiations between the various players in the wholesale market and an analytical tool to the NRA for the implementation of the regulatory framework.

⁶⁵ See annex for more detailed information.

⁶⁶ See description above.

As the general symmetric regulation for ducts and dark fibre in Austria also is applied for State Aid cases, the calculation is cost-orientated. The calculation is done individually on a case by case basis. The cost-divider is based on used capacities, thus costs for idle capacities are split among all users of the infrastructure and have not be borne by the investing network operator alone. Concerning the SMP operator, granted state aid is subtracted from the cost for investment and in that way reduces the cost oriented price for wholesale products of the SMP operator.

In Spain, the NRA gives individual advice to the ministry or any other granting authority on request. Generally, the vast majority of State Aid projects fall within the scope of the GBER Regulation, which criteria are applied directly. In addition, the NRA also recommends to include a reference that wholesale access prices should be based on prices or principles and/or price control instruments used by the regulator for the services included in the State Aid project (such as the methodology or the economic replicability test aimed at controlling margin squeeze in services provided over NGA architecture). This is necessary to ensure that retail prices from competitive areas are replicable in non-competitive areas that benefited from a State Aid program, especially when the beneficiary operator is also present at retail level.

As a whole, pricing methods are often similar to those of the SMP regulation, especially cost orientation is a method used by most NRAs. If appropriate benchmarks are used, these are usually based on SMP regulated prices (thus often being cost oriented, too).

4. Dispute resolution

Disputes may arise between access seekers and the subsidized network operator, especially about the access conditions and prices⁶⁷. For these cases, most NRAs have competencies in dispute resolution. In some countries, like Denmark and Portugal, there are dispute resolution schemes with other authorities or an arbitration tribunal.

	Yes	No
Application of general dispute resolution procedure	AT, DE, EL, ES, FI, FR, HR, IT, LT, LV, PL, SI, UK	BG ⁶⁸ , DK, PT, RO, SK
Alternative dispute resolution procedures	AT ⁶⁹ , ES ⁷⁰ , FR, LV, PL ⁷¹ , SI, UK	DE, EL, HR, IT, RO
Result of dispute resolution is binding for the parties	AT, DE, EL, ES, FR, HR, IT, LV, PL, SI, UK	

Table 8 – Dispute resolution

⁶⁷ Disputes between the granting authority and the network operator are possible, too. However, this is not in the competence of the NRA but usually a question of the existing contract between the two parties. Therefore, these issues are out of scope of this report.

⁶⁸ Only for obligations by the law or a NRA decision. However, the NRA has no legal functions in State Aid cases.

⁶⁹ Generally for symmetric regulation.

⁷⁰ Arbitration on a voluntary basis

⁷¹ Not used in practice because of low efficiency.

While some countries generally apply the standard dispute resolution procedures that are available in all cases of disputes between operators, other countries (also) offer alternative dispute resolution procedures specifically for disputes about access to the subsidized infrastructure. In case of disputes, the results of the NRA are binding.

So far, there have been very few State Aid cases in dispute resolution:

In Denmark, there was one decision regarding a complaint over pricing of open access to a subsidized network. The decision was taken by the Danish Energy Agency after consultation of the NRA.

In Italy, there has been one dispute resolution about the access to ducts of utility infrastructure and access to the in-building infrastructure⁷².

In Spain, so far there has been only one decision about the lack of reference offer by the subsidized operator. A second dispute is under consideration of the NRA.

In the UK, two disputes were resolved before formal proceedings were initiated.

Therefore, the experience of NRAs in this task is limited. The reason for so few cases could be that either the access conditions are clear and balanced or that there is a lack of demand from third-party operators.

5. Other tasks in State Aid cases

NRAs can have various other tasks in State Aid cases such as defining target areas. These can either involve a direct responsibility or an advisory role. In most countries, almost all these functions are in the competence of a ministry or a national granting authority.

	Yes	No
Definition of target areas	CZ ⁷³ , FI, HR ⁷⁴ , IE, PL ⁷⁵ , PT ⁷⁶	AT, DE, DK, EE, EL, ES ⁷⁷ , FR ⁷⁸ , IT, LT, LV, NL, RO, SE, UK
National database for mapping of white/target areas	EE, FI, HR, PL, RO, SE	AT, CZ, DE, DK, EL, ES, FR, IE, IT, LT, LV, NL, UK
Checking operators commitments about a private investment of a roll-out announced in a market	EE, EL, FI, FR ⁸⁰ , HR, PL, PT	AT, CZ, DE, DK, ES, IT, LT, LV, SE, NL, UK

⁷² Decision has not been published yet.

⁷³ In cooperation with the Ministry of Industry and Trade.

⁷⁴ As CAFPP (Competent Authority for Framework Programme).

⁷⁵ Granting authority CPPC with support from the NRA.

⁷⁶ NRA assisted the government.

⁷⁷ Ministry publishes every year an updated map that is used by most of the Spanish granting authorities to establish the target areas.

⁷⁸ Mission THD as granting authority.

⁸⁰ In application of article L33-13, the French NRA has the competence to check operators' commitments. However, it is not used.

consultation on investments (when defining target areas) ⁷⁹		
Responsibility for the bidding process	PT	AT ⁸¹ , CZ, DE, DK, EE, EL, ES, FI ⁸² , FR ⁸³ , HR, IE, IT, LT ⁸⁴ , LV, NL, PL ⁸⁵ , RO, SE, UK
Transparency register (para 78 j of the EU State Aid Guidelines)	FI, HR, IE ⁸⁶ , PT	AT, CZ, DE, DK, EE, ES, FR, IT, LT ⁸⁷ , LV, PL, RO, SE, UK
Monitoring	EL, FI, FR ⁸⁸ , HR ⁸⁹ , IT, PT ⁹⁰	AT, CZ ⁹¹ , DE, DK, EE, ES, IE, LT ⁹² , LV, PL ⁹³ , RO, SE, UK
Clawback mechanism	EL, HR, IT, PT ⁹⁴	AT, CZ, DE, DK, EE, ES, FR, IE, LT, LV, NL, PL, , RO, SE, UK

Table 9 – NRA involvement in other State Aid tasks

Only in a few countries these functions are executed by the NRA itself, like in Finland where the NRA is the granting authority⁹⁵, or in Croatia where the NRA is subdivided and the Competent Authority for the Framework Program within the NRA fulfils the tasks. There is also the possibility of a co-operation between the ministry and the NRA, as in the Czech Republic.

Some of the tasks are usually fulfilled on a regional level, like the definition of target areas, the responsibility for the bidding process and the monitoring of the implementation of the project, which are done by regional granting authorities.

⁷⁹ See 78(b) EU State Aid Guidelines.

⁸¹ FFG (Austrian Research Promotion Agency).

⁸² Regional councils.

⁸³ Regional authorities.

⁸⁴ A public, non-profit company was established for building and managing the state-owned broadband network.

⁸⁵ Granting authority CPPC.

⁸⁶ In future after the final decision by the EC.

⁸⁷ There is no need for a bidding process or a transparency register as a public, non-profit company was established for building and managing the state-owned broadband network.

⁸⁸ Mission THD and NRA in collaboration.

⁸⁹ Only for pricing.

⁹⁰ If prices are kept at a reasonable and non-discriminatory level.

⁹¹ The Ministry of Industry and Trade in cooperation with the NRA.

⁹² NRA oversees markets for electronic communications no matter whether the infrastructure was built privately or publicly.

⁹³ Granting authority CPPC with support of the NRA.

⁹⁴ NRA may assist the government.

⁹⁵ Except for projects under the EAFRD (European Agricultural Fund for Rural Development) where the granting authority is local.

6. Conclusion

The fact finding shows that basically, two groups of countries can be identified:

- Countries with a larger number of State Aid projects under umbrella schemes or the GBER that are usually implemented on regional or local level.

In these countries NRAs or other competent bodies have typically issued guidelines on wholesale access conditions and pricing methods to increase transparency for the operators and to ease the administrative burden of both the regional/local competent authorities as well as the NRAs.

- Countries with a limited number of integrated projects that encompass a large area or number of communities/districts.

In these countries it is commonly unnecessary to issue guidelines as foreseen in the State Aid Guidelines because all the conditions on access and pricing methods that the subsidized operator has to comply with for a specific project are included in the tender/project in advance. In many of these cases the competent body at national level is a central organization/authority and NRAs are typically involved in the preparation and/or implementation of these projects, for example taking the role of an advisory body to the competent body at national level.

Many NRAs are involved in setting conditions for open access or giving advice on open access during different stages in the process of State Aid projects, starting from tenders up to dispute resolution. The involvement can be direct, i.e. being in the sole competency of the NRA or jointly with another authority, or indirect.

Access products and pricing methods are often the same or very similar to the reference offers or the regulated products of the SMP operator, even though the stage of involvement of the NRA and the methods of implementation vary between the countries. If appropriate benchmarks are used, these are usually based on SMP regulated prices (thus often being cost oriented, too).

Dispute resolution procedures for access conditions and prices are available, usually with the NRA. However, so far these procedures have hardly been used. Only a few cases have been reported in the fact finding questionnaire.

Annex 1 – Country Codes

Country	Code
Austria	AT
Belgium	BE
Bulgaria	BG
Croatia	HR
Czech Republic	CZ
Denmark	DK
Estonia	EE
Finland	FI
France	FR
Germany	DE
Greece	EL
Ireland	IE
Italy	IT
Latvia	LV
Lithuania	LT
Malta	MT
Netherlands	NL
Poland	PL
Portugal	PT
Romania	RO
Slovakia	SK
Slovenia	SI
Spain	ES
Sweden	SE
United Kingdom	UK

Annex 2 – Country Cases

The annex gives the questionnaires which were answered by the NRAs. If one or more tables were left empty because a NRA does not have any competencies in this field, the respective tables are not shown but only mentioned as “Table x – not applicable”.

1. Austria

Table 1: General information

	Austria
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Master plan of the Ministry for Transport, Innovation and Technology (BMVIT) for broadband state aid: https://www.bmvit.gv.at/service/publikationen/telekommunikation/downloads/breitbandoffensive.pdf
1.2 Does your Member State have ongoing umbrella schemes ⁹⁶ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	<p>National programmes:</p> <ul style="list-style-type: none"> • Acces: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/access/call02/downloads/srl.pdf https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/access/index.html • Backhaul: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/backhaul/call02/downloads/srl.pdf https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/backhaul/index.html ▪ Connect: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/connect/call/downloads/srl.pdf https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/connect/index.html • Ducts: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/LeRohr/call03/downloads/srl.pdf https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/LeRohr/index.html <p>Other programme that has been open for applications for several years now (demand-side subsidies – not for infrastructure)</p> <ul style="list-style-type: none"> • Austrian Electronic Network: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/ <p>Some provinces offer additional programmes: (Lower Austria has its programme already notified; The Tyrol is still in the notification process)</p>
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<ul style="list-style-type: none"> ▪ Target areas: blank spots < 30Mbit/s downstream; min 100 x 100m ▪ Access products: only passive infrastructure: ducts and dark fibre for FTTx or mobile ▪ Time of provision of open access : 7 years ▪ Transfer of open access obligations on the successor: yes ▪ Pricing: prices will be part of standard offer; cost based calculation, ▪ Dispute resolution: for access seekers: NRA based on § 5ff TKG 2013 (Telecommunications Act) as for every telecommunication-infrastructure (symmetrical regulation) ▪ Other: Obligation to cooperate when there are plans for civil works in the community – using synergies

⁹⁶Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	<ul style="list-style-type: none"> • Informally giving advice • Evaluating standard offers in case the granting authorities asks NRA to do so based on §122 par.1a (TKG 2013) https://www.rtr.at/de/tk/TKG2003#c30325 • contract based on civil law with FFG (Austrian Research Promotion Agency) to evaluate the standard offer while evaluating the admission for the call
1.5 How many projects fall under an umbrella scheme?	<ul style="list-style-type: none"> • Access: 1. Call: 72; 2. Call – not yet assigned • Backhaul: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/backhaul/index.html 1. Call. 67; 2. Call – not yet assigned • Connect: 1. Call – still open • Ducts: 1. Call: 45; 2. Call: 8; 3. Call – not yet assigned
1.6 How many projects were directly notified to the Commission	None (other programmes in the past fell under de-minimis)
1.7 How many projects fall under the GBER? ⁹⁷	None
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ⁹⁸	<p>Access & Backhaul: The operator subsidy model (gap-funding or private DBO)</p> <p>Duct: The publicly run municipal network model (public DBO) & The privately run municipal network model; The operator subsidy model (gap-funding or private DBO) subsidiary.</p> <p>Connect: demand-side subsidies – schools, cultural centers, SMEs</p>
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	both

⁹⁷ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

⁹⁸ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Austria
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No, BMVIT (Ministry for Transport, Innovation and Technology) established a broadband bureau for that purpose within the ministry
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	Yes, standard offers for open access should be in line with SMPs standard offers. Prices have to be cost-oriented. Pricing calculation scheme is consistent with that of the symmetrical regulation for cooperation in case of ducts and dark fibre For SMP: Regulation is also valid for subsidised projects of the SMP, State aid sums will be taken into consideration in case of cost-oriented prices.

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Austria
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	<ul style="list-style-type: none"> ▪ Evaluating standard offers according to TKG §122 par. 1a. This evaluation is accounted as a service for FFG. (contract based on civil law with FFG to evaluate the standard offer while evaluating the admission for the call) ▪ Symmetrical regulation for cooperations according to TKG §5ff also applies to subsidised projects
If this is the case:	
3.2 Please describe these tasks	See above
3.3 Please name the legal document and, if possible, provide a link.	Telecommunications Act §122 par.1a TKG 2013 https://www.rtr.at/de/tk/TKG2003#c30325
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	no
3.5 To provide advice for granting authorities on individual State Aid cases?	no
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	no
3.7 To settle disputes which may arise with regard to State Aid cases?	Only in the frame of the regular dispute regulation (symmetrical regulation)
3.8 Others (which)?	Evaluating standard offers according to TKG §122 1a. This evaluation is accounted as a service for FFG. (contract based on civil law with FFG to evaluate the standard offer while evaluating the admission for the call)
Does these tasks relate to:	
3.9 Access conditions excl. price	yes
3.10 Access prices	Calculation scheme
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	Mid 2015

Table 4: Access obligations

	Austria
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	NA (only passive infrastructure (ducts and dark fibre) is subject to state aid programmes => no need to differentiate between access products)
4.2 If this is the case, which access products for which NGA architecture?	Ducts and dark fibre for any technology (FTTH, FTTB, VDSL, LTE, Coax, etc.)
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	Yes, has to be published in the reference offer
4.4 Specify (or approve) access products?	[cooperation in case of duct & dark fibre]
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	[access to ducts and dark fibre]
4.6 If this is the case, which access products for which NGA architecture?	[cooperation in case of duct & dark fibre regardless of the NGA architecture]
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	[No access obligation to active products]
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	[included in standard offer; draft of NRA: https://www.bmvit.gv.at/telekommunikation/breitband/foerderungen/foerderwerber/index.html]
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Yes (see above)

Table 5: Pricing

	Austria
5.1. Do the guidelines recommend pricing principles?	YES not within the responsibilities of NRA, but the pricing method must be consistent with the regulation (TKG §122 1a)
If this is the case:	
5.2. Please describe these pricing principles	Cost-orientation, cost-divider based on used capacities => costs for idle capacities are split among all users of the infrastructure
5.3. Please explain why the NRA recommend these pricing principles	In line with symmetric regulation for cooperation (TKG §5ff)
5.4. Do these pricing principles depend on the NGA architecture?	NA, only passive infrastructure is affected and is independent from NGA-architecture
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	Calculation scheme is consistent with that of symmetric regulation for ducts and dark fiber access
5.6. Do you prescribe cost orientation? • If yes, please explain.	Cost-orientation, cost-divider based on used capacities => costs for idle capacities are split among all users of the infrastructure
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	no
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	Subsidised infrastructure is not excluded from general symmetric regulation => dispute resolution (TKG §5ff)
5.9. Do you use a costing model?	Not for ducts and dark fiber, individual calculation on individual project

Table 6: Dispute resolution procedures in State Aid Cases

	Austria
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	A dispute resolution procedure exists and is generally applicable - not explicitly for the purpose of State Aid cases (see blow)
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	Yes, see TKG §121 (3) ADR is applicable for symmetric regulation for <u>access to ducts and dark fibre</u> plus right of way (TKG §5ff), for interconnection, for number portability, and for telephone directory enquiry service;
6.3. Are the results of the dispute resolution binding for the parties involved?	yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	None (based on state aid funded projects)
6.5. What was the most frequent issue in such disputes:	NA
• Access conditions (excl. price)	NA
• Access price	NA
• Both (access conditions & price)	NA
• Other? If yes, please explain briefly what the main issue was	NA

Table 7: Other tasks in State Aid

	Austria
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	See below
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	BMVIT (Ministry for Transport, Innovation and Technology)
7.3. National database for mapping of white areas/target areas (in case there is any)	BMVIT (Ministry for Transport, Innovation and Technology)
7.4. Checking operators' commitments about a private investment of a rollout announced in market analyses?	BMVIT (Ministry for Transport, Innovation and Technology)
7.5. Responsibility for the bidding process?	FFG (Austrian Research Promotion Agency)
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ⁹⁹ . Please specify the information given and provide a link if possible	BMVFW - Federal Ministry of Science, Research and Economy (https://www.bmfwf.gv.at/Wirtschaftspolitik/EUBeihilfenrecht/Seiten/EU-beihilfenrechtliche-Transparenzverpflichtung.aspx) refers to the "Transparency Award Modul („TAM")" (https://webgate.ec.europa.eu/competition/transparency/public?lang=en)
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	BMVIT (Ministry for Transport, Innovation and Technology)
7.8. Clawback mechanism	BMVIT (Ministry for Transport, Innovation and Technology)
7.9. Other (please specify)	

⁹⁹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

2. Bulgaria

Table 1: General information

	Bulgaria
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	YES
1.2 Does your Member State have ongoing umbrella schemes ¹⁰⁰ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	NO
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	N/A
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	N/A
1.5 How many projects fall under an umbrella scheme?	N/A
1.6 How many projects were directly notified to the Commission	Thus far, one project was notified directly to the Commission.
1.7 How many projects fall under the GBER? ¹⁰¹	The project started in 2011 and was completed by the end of 2015.
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁰²	The project is based on the privately run network model. The public authority keeps ownership of the passive and active infrastructure but an operation contract with an external company for the maintenance will be held.
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	The project named "Support for development of critical, secure, safe and reliable public ICT infrastructure in Bulgaria" ("Broadband network project in Bulgaria") was wholesale only.

¹⁰⁰Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁰¹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁰² For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Bulgaria
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

Not applicable

Table 4: Access obligations

Not applicable

Table 5: Pricing

	Bulgaria
5.1. Do the guidelines recommend pricing principles?	
If this is the case:	
5.2. Please describe these pricing principles	
5.3. Please explain why the NRA recommend these pricing principles	
5.4. Do these pricing principles depend on the NGA architecture?	
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	
5.6. Do you prescribe cost orientation? • If yes, please explain.	
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	No
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

	Bulgaria
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	The dispute resolution provisions of the Law on electronic communications apply only in relation to obligations imposed by the law itself or NRA decisions. According to notification (SA.36234 (2013/N), the NRA is entitled to resolve potential disputes between the infrastructure operator and third party operators while it is unclear how that would be effected since there is no legal basis for CRC to adopt binding decisions to resolve disputes.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No
6.3. Are the results of the dispute resolution binding for the parties involved?	
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	
6.5. What was the most frequent issue in such disputes:	
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	Bulgaria
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	
7.3. National database for mapping of white areas/target areas (in case there is any)	
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	
7.5. Responsibility for the bidding process?	
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁰³ . Please specify the information given and provide a link if possible	Granting decision SA.36234 (2013/N) – Bulgaria “Broadband network project in Bulgaria” link http://www.esmis.government.bg/upload/docs/2015-02//C_2013_8852_BG_ACTE_f.pdf Project summary link: http://umispublic.government.bg/srchProjectInfo.aspx?id=72722
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	
7.8. Clawback mechanism	
7.9. Other (please specify)	

¹⁰³ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

3. Croatia

Table 1: General information

	Croatia
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁰⁴ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	Yes. There are one ongoing umbrella scheme (“ National framework programme for the Development of Broadband Infrastructure in Areas Lacking Sufficient Commercial Interest for Investments”) and one approved by <i>EC and in the procedure of the Government approval (“National Programme for the Development of Broadband Backhaul Infrastructure in Areas Lacking Sufficient Commercial Interest for Investments, as a Prerequisite for the Development of Next Generation Access Networks (NGA)</i>
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	Target areas are “white” NGA areas Set of mandatory wholesale services All mandatory wholesale services shall be provided at least 7 years upon commencing of work. After that period the appropriate wholesale measures may be retained or modified depending of the status of the network operator (SMP operator). The obligation of wholesale access to passive network infrastructure built in projects shall be of unlimited duration for operators of subsidized networks. NRA approves prices NRA is responsible for dispute resolution All disputes related to access to subsidized networks shall be resolved by NRA
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	The NRA has two divided roles, one role is as Competent Authority for the Framework Programme (CAFP) and the other one is as NRA. CAFP: coordination of the implementation of the Framework Programme and monitoring of the Compliance of individual projects with the Framework Programme NRA: Broadband Mapping, approval of wholesale conditions and prices.
1.5 How many projects fall under an umbrella scheme?	There are currently 40 individual projects in preparatory phase
1.6 How many projects were directly notified to the Commission	0
1.7 How many projects fall under the GBER? ¹⁰⁵	0

¹⁰⁴Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁰⁵ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁰⁶	National scheme provides 3 investment models which can be applied: a) Private DBO (gap funding) b) Public DBO c) PPP In this preparatory phase investment models are not defined
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Both

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

Croatia	
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful.	Yes. Wholesale guidelines Guidelines for Public Procurement Guidelines for project preparation -----
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? • If yes, please outline the connection.	Yes. The same rules for access condition and pricing are applicable both in State aid projects and to SMP.

¹⁰⁶ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Croatia
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes.
If this is the case:	
3.2 Please describe these tasks	NRA approves wholesale access conditions and prices
3.3 Please name the legal document and, if possible, provide a link.	"National framework programme for the Development of Broadband Infrastructure in Areas Lacking Sufficient Commercial Interest for Investments"
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	Only with regard to access conditions and pricing.
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	Since July 2016.

Table 4: Access obligations

Croatia											
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	yes										
4.2 If this is the case, which access products for which NGA architecture?	<p>List of mandatory wholesale services in the Framework Programme</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #cccccc;">Technology</th> <th style="background-color: #cccccc;">• Mandatory wholesale access services</th> </tr> </thead> <tbody> <tr> <td>FTTH</td> <td> Access to cable ducts/pole and dark fiber infrastructure Unbundled access to fiber local subloops (at distribution node level) Unbundled access to fiber local loops (P2P) VULA (P2MP) <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) </td> </tr> <tr> <td>VDSL/FTTx</td> <td> Access to cable ducts/pole and dark fiber infrastructure Unbundled access to local subloops/loops VULA <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) </td> </tr> <tr> <td>Wireless NGA technologies</td> <td> Access to antennae masts Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i> </td> </tr> <tr> <td>Cable (DOCSIS) NGA</td> <td> Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i> </td> </tr> </tbody> </table>	Technology	• Mandatory wholesale access services	FTTH	Access to cable ducts/pole and dark fiber infrastructure Unbundled access to fiber local subloops (at distribution node level) Unbundled access to fiber local loops (P2P) VULA (P2MP) <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level)	VDSL/FTTx	Access to cable ducts/pole and dark fiber infrastructure Unbundled access to local subloops/loops VULA <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level)	Wireless NGA technologies	Access to antennae masts Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i>	Cable (DOCSIS) NGA	Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i>
Technology	• Mandatory wholesale access services										
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Cable (DOCSIS) NGA	Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i>										
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	No										
4.4 Specify (or approve) access products?	Yes										
If this is the case:											
4.5 Are different access products defined for the different NGA-infrastructures?	Yes										

4.6 If this is the case, which access products for which NGA architecture?	<p>List of mandatory wholesale services in the Framework Programme</p> <table border="1" data-bbox="579 311 1390 1111"> <thead> <tr> <th data-bbox="579 311 794 416">Technology</th> <th data-bbox="794 311 1390 416">Mandatory wholesale access services</th> </tr> </thead> <tbody> <tr> <td data-bbox="579 416 794 678">FTTH</td> <td data-bbox="794 416 1390 678"> <ul style="list-style-type: none"> • Access to cable ducts/pole and dark fiber infrastructure Unbundled access to fiber local subloops (at distribution node level) Unbundled access to fiber local loops (P2P) VULA (P2MP) <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) </td> </tr> <tr> <td data-bbox="579 678 794 884">VDSL/FTTx</td> <td data-bbox="794 678 1390 884"> <ul style="list-style-type: none"> • Access to cable ducts/pole and dark fiber infrastructure Unbundled access to local subloops/loops VULA <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) </td> </tr> <tr> <td data-bbox="579 884 794 1010">Wireless NGA technologies</td> <td data-bbox="794 884 1390 1010"> <ul style="list-style-type: none"> • Access to antennae masts Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i> </td> </tr> <tr> <td data-bbox="579 1010 794 1111">Cable NGA (DOCSIS)</td> <td data-bbox="794 1010 1390 1111"> <ul style="list-style-type: none"> • Access to cable ducts/pole infrastructure Access to dark fibre • <i>Bitstream</i> </td> </tr> </tbody> </table>	Technology	Mandatory wholesale access services	FTTH	<ul style="list-style-type: none"> • Access to cable ducts/pole and dark fiber infrastructure Unbundled access to fiber local subloops (at distribution node level) Unbundled access to fiber local loops (P2P) VULA (P2MP) <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) 	VDSL/FTTx	<ul style="list-style-type: none"> • Access to cable ducts/pole and dark fiber infrastructure Unbundled access to local subloops/loops VULA <i>Bitstream</i> (Ethernet level) <i>Bitstream</i> (regional level) <i>Bitstream</i> (national level) 	Wireless NGA technologies	<ul style="list-style-type: none"> • Access to antennae masts Access to cable ducts/pole infrastructure Access to dark fibre <i>Bitstream</i> 	Cable NGA (DOCSIS)	<ul style="list-style-type: none"> • Access to cable ducts/pole infrastructure Access to dark fibre • <i>Bitstream</i>
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Cable NGA (DOCSIS)	<ul style="list-style-type: none"> • Access to cable ducts/pole infrastructure Access to dark fibre • <i>Bitstream</i> 										
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	None										
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	N/A										
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Planned										

Table 5: Pricing

	Croatia
5.1. Do the guidelines recommend pricing principles?	Yes
If this is the case:	
5.2. Please describe these pricing principles	<ul style="list-style-type: none"> • benchmarking applied to identical or comparable services offered in other areas of the Republic of Croatia in which operators operate under normal market conditions, including services provided by SMP operators and those whose prices have been determined through application of NRA's regulatory measures; • if equivalent or comparable services are not provided in Croatia, the benchmarking method must be applied to identical or comparable services in other EU Member States, taking into account all the differences and peculiarities of the Croatian market compared to markets of other EU Member States; • if prices may not be determined through the application of the benchmarking method to identical or comparable services in Croatia and other EU Member States, prices must be determined on the basis of cost-orientation, which may include all related methods in accordance with rules and parameters applied by NRA in the calculation of cost-oriented wholesale prices.
5.3. Please explain why the NRA recommend these pricing principles	In order not to disturb market competition
5.4. Do these pricing principles depend on the NGA architecture?	No
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	NRA approves access pricing.
5.6. Do you prescribe cost orientation? • If yes, please explain.	Yes, in cases when benchmarking is not applicable, prices are defined on the basis of cost orientation.
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	Standard offers for SMP should be taken as reference when setting pricing
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	Yes. The operator of the subsidized network shall propose prices for all wholesale services before the network is operative (ex post upon request).
5.9. Do you use a costing model?	Yes, in cases when benchmarking is not applicable, prices are defined on the basis of cost orientation (costing model is one of the pricing methods).

Table 6: Dispute resolution procedures in State Aid Cases

	Croatia
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6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	0
6.5. What was the most frequent issue in such disputes:	N/A
• Access conditions (excl. price)	N/A
• Access price	N/A
• Both (access conditions & price)	N/A
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	Croatia
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	NRA as CAFP
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	NRA Municipality and regional level
7.3. National database for mapping of white areas/target areas (in case there is any)	NRA
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	NRA
7.5. Responsibility for the bidding process?	
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁰⁷ . Please specify the information given and provide a link if possible	NRA https://nop.hakom.hr/
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	MA (Ministry of Regional Development and EU Funds) and IB2 (Central Financing and Contracting Agency) NRA for pricing
7.8. Clawback mechanism	NRA
7.9. Other (please specify)	

¹⁰⁷ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

4. Czech Republic

Table 1: General information

	Czech Republic
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁰⁸ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	Yes, one National Plan for the Development of Next Generation Networks https://www.mpo.cz/assets/en/e-communications-and-postal-services/electronic-communications/concepts-and-strategies/national-ngn-development-plan/2017/3/NPD-NGN_1.pdf
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<ul style="list-style-type: none"> - Target areas: "Intervention areas" is usually cluster of municipalities/villages – between LAU 1/NUTS 4 and LAU 2/NUTS 5 - Access products: Access to passive infrastructure (ducts, miniducts, poles, masts, dark fibre), LLU (or WDM), VULA, bitstream - Time of provision of open access: 7 years (at least) - Transfer of open access obligations on the successor: n/a - Pricing: Maximal prices, mechanisms for each type of access - Dispute resolution is dealt by the Ministry of Industry and Trade (as the supervisor of the State Aid Programme)
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Mapping of infrastructure, cooperation within the public consultations, providing expertise, considering the proportion of reference offers (for proper access products)
1.5 How many projects fall under an umbrella scheme?	First call was launched this year and is still being opened for applications, no operators applied yet as far as the NRA knows (it is not the NRA who receives the applications). Other calls will follow.
1.6 How many projects were directly notified to the Commission	-
1.7 How many projects fall under the GBER? ¹⁰⁹	-
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or	Private Design, Build and Operate (DBO) Model is recommended (most appropriate) Public Outsourcing Model can be also used Usage of other models is also possible (in the future)

¹⁰⁸Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁰⁹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

privately run municipals network model ¹¹⁰	
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	In principle both are acceptable (but no project is in place so far)

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Czech Republic
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No (but no guidelines for local authorities, as stated in para 42, are used – each project will be assessed by the Ministry of Industry and Trade (as the supervisor of the State Aid Programme))
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	

¹¹⁰ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Czech Republic
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes (but no guidelines for local authorities, as stated in para 42, are used)
If this is the case:	
3.2 Please describe these tasks	Providing expertise for the supervisor of the State Aid Programme, considering the proportion of reference offers (for proper access products)
3.3 Please name the legal document and, if possible, provide a link.	https://www.mpo.cz/assets/en/e-communications-and-postal-services/electronic-communications/concepts-and-strategies/national-ngn-development-plan/2017/3/NPD-NGN_1.pdf
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	no
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes (if the Ministry asks for it)
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	no
3.7 To settle disputes which may arise with regard to State Aid cases?	No (only give advice to the Ministry in case of some dispute regarding access or pricing conditions).
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	yes
3.10 Access prices	yes
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	Since the introduction of the State Aid Programme

Table 4: Access obligations

	Czech Republic
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	
4.2 If this is the case, which access products for which NGA architecture?	
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	
4.4 Specify (or approve) access products?	yes
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	yes
4.6 If this is the case, which access products for which NGA architecture?	- FTTH P2P: Access to passive infrastructure, LLU, VULA, bitstream - FTTH PON: Access to passive infrastructure, LLU (WDM), VULA, bitstream - FTTCab + vectored VDSL: Access to passive infrastructure, VULA, bitstream - Cable (DOCSIS 3.X): Access to passive infrastructure, VULA, bitstream - Wireless (NGA): Access to passive infrastructure, VULA, bitstream
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	Operators (which are provided with state aid) are obliged to provide all access products (see 4.6)
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	- Non-discrimination (generally) - Free space in the passive infrastructure + timely provision of this info (3 days after receiving the request) - Collocation issues (including electricity etc.) - QoS (including SLA and SLG)
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	yes

Table 5: Pricing

	Czech Republic
5.1. Do the guidelines recommend pricing principles?	
If this is the case:	
5.2. Please describe these pricing principles	
5.3. Please explain why the NRA recommend these pricing principles	
5.4. Do these pricing principles depend on the NGA architecture?	
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? <ul style="list-style-type: none"> If yes, please explain. 	<p>Yes</p> <p>The prices of Access to passive infrastructure and Unbundling of fiber and copper lines have to be cost oriented, incl. WACC set by the NRA for price regulation (currently 7,89 %).</p> <p>The prices of VULA have to be calculated on the “retail-minus” principle for vertical integrated operator. The VULA prices of a non-vertically integrated infrastructure operator (operator that doesn’t provide retail services) are to be determined by reference to maximum price of regulated SMP.</p> <p>The prices of bitstream have to be based on the VULA prices plus the incremental cost of transmission capacity for the transit to the mandatory point of interconnection.</p> <p>Wholesale prices of collocation have to be cost oriented, incl. WACC set by the NRA for price regulation (currently 7,89 %).</p> <p>The prices of access to passive infrastructure and collocation include only costs incurred by the investor, i.e. excl. financial funds from the State aid.</p>
5.6. Do you prescribe cost orientation? <ul style="list-style-type: none"> If yes, please explain. 	Yes – for access to passive infrastructure, LLU and collocation
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? <ul style="list-style-type: none"> If yes, please provide a link. 	No
5.8. Do you regulate prices for access products provided under the State Aid obligations? <ul style="list-style-type: none"> If yes, please explain. At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	No, CTU has only recommended to the granting authority (the Ministry) methodology to be accepted by funds recipients when setting prices of wholesale services.
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

Not applicable

Table 7: Other tasks in State Aid

	Czech Republic
7.10. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.11. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	NRA collects data and performs mapping, then chooses the color (white/grey/black) of each “basic settlement unit” (part of the village, smaller than LAU 2/NUTS 5) The Ministry of Industry and Trade then assembles relevant “basic settlement units” into larger “target intervention areas” (usually couple of municipalities/villages – between LAU 1/NUTS 4 and LAU 2/NUTS 5)
7.12. National database for mapping of white areas/target areas (in case there is any)	-
7.13. Checking operators commitments about a private investment of a rollout announced in market analyses?	The Ministry of Industry and Trade
7.14. Responsibility for the bidding process?	The Ministry of Industry and Trade
7.15. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹¹¹ . Please specify the information given and provide a link if possible	The Ministry of Industry and Trade
7.16. Monitoring (e.g. network deployment, retail services penetration, pricing)	The Ministry of Industry and Trade (in cooperation with the NRA)
7.17. Clawback mechanism	The Ministry of Industry and Trade
7.18. Other (please specify)	

¹¹¹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

5. Denmark

Table 1: General information

	Denmark
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹¹² that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	NA
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	NA
1.5 How many projects fall under an umbrella scheme?	NA
1.6 How many projects were directly notified to the Commission	None.
1.7 How many projects fall under the GBER? ¹¹³	Currently one nationwide state aid measure falls under GBER (SA.45889, "Bredbåndspuljen"). Furthermore one regional state aid project has funded broadband (SA.41171, "Bedre bredbånd på Bornholm"). Two other regional broadband projects have been terminated before state aid was issued (SA.42896 and SA.46907).
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹¹⁴	SA.45889 ("Bredbåndspuljen") and SA.41171 (Bedre bredbånd på Bornholm) are operator subsidy models.

¹¹²Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹¹³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹¹⁴ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Primarily wholesale plus retail but wholesale only is possible.
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Denmark
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Responsibility is split between two NRAs. Mapping is the responsibility of the Danish Energy Agency. The Danish Business Authority is the competent body for issues relating to access conditions. However, issues relating to the national broadband measure – Bredbåndspuljen – including complaints fall under the responsibility of the Danish Energy Agency, which conducts a hearing of the Danish Business Authority in connection with complaints.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	<p>The Danish Energy Agency has issued general guidelines in collaboration with Local Government Denmark regarding state aid projects¹¹⁵.</p> <p>The Danish Business Authority has referred to existing regulation on pricing methods¹¹⁶. These methods are specifically mentioned in the regulation pertaining to the national state aid measure – Bredbåndspuljen.</p>
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	No, however the guidelines state that the Danish Energy Agency will refer matters relating to SMP-regulation to the Danish Business Authority. Also, the use of terminology is frequently common between the two areas and developments in the respective areas are followed closely by both authorities.

¹¹⁵ https://ens.dk/sites/ens.dk/files/Tele/eus_regler_om_statsstoette.pdf

¹¹⁶ <https://www.retsinformation.dk/Forms/R0710.aspx?id=136816>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Denmark
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	With reference to GBER the granting authority must consult the Danish Business Authority regarding access conditions and prices of any draft measure concerning broadband State aid projects before its approval. Furthermore the Danish Business Authority shall be consulted regarding any dispute that arises between the beneficiary operator and a third party operator in relation to wholesale access conditions and prices.
3.3 Please name the legal document and, if possible, provide a link.	Executive order no. 291 of 26 March 2017: https://www.retsinformation.dk/Forms/R0710.aspx?id=188258
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No, only with respect to the above mentioned in section 3.2.
3.5 To provide advice for granting authorities on individual State Aid cases?	No, only with respect to the above mentioned in section 3.2.
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No.
3.7 To settle disputes which may arise with regard to State Aid cases?	Dispute resolution with regards to the national measure – Bredbåndspuljen – lies with the Danish Energy Agency, which conducts a hearing of the Danish Business Authority.
3.8 Others (which)?	No.
Does these tasks relate to:	
3.9 Access conditions excl. price	NA
3.10 Access prices	NA
3.11 Other topics related to access conditions (which?)	NA
3.12 Since when does the NRA have these tasks?	NA

Table 4: Access obligations

	Denmark
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	NA (See section 2.1.)
4.2 If this is the case, which access products for which NGA architecture?	NA
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	NA
4.4 Specify (or approve) access products?	Not individually. The national measure – Bredbåndspuljen – includes regulation regarding which access products must be offered.
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	Yes Follows the requirements in GBER.
4.6 If this is the case, which access products for which NGA architecture?	Follows the requirements in GBER.
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	Follows the requirements in GBER.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	No.
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	No.

Table 5: Pricing

	Denmark
5.1. Do the guidelines recommend pricing principles?	The Danish Business Authority has referred to existing regulation on pricing methods. These methods are specifically mentioned in the regulation pertaining to the national state aid measure – Bredbåndspuljen.
If this is the case:	
5.2. Please describe these pricing principles	Price control methods: <ul style="list-style-type: none"> • The long-run average incremental cost (LRAIC) method. • Historic costs. • Retail minus. • Requirements for reasonable prices.
5.3. Please explain why the NRA recommend these pricing principles	These price control methods can be applied by DBA.
5.4. Do these pricing principles depend on the NGA architecture?	No.
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? <ul style="list-style-type: none"> • If yes, please explain. 	DBA gives individual advice to granting authorities with regard to GBER. In this respect DBA refers to the pricing principles applied by DBA.
5.6. Do you prescribe cost orientation? <ul style="list-style-type: none"> • If yes, please explain. 	The Danish Business Authority refers to the price control methods stated in Executive Order No. 385 of 27 April 2011. Several of the methods listed are cost orientated.
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? <ul style="list-style-type: none"> • If yes, please provide a link. 	No.
5.8. Do you regulate prices for access products provided under the State Aid obligations? <ul style="list-style-type: none"> • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	Yes. If an SMP provider chooses to participate in a state aid tender then infrastructure deployed via state aid funding by the SMP provider is subject to the provider's market decision obligations and must be fulfilled. In other cases pricing is regulated by the individual measure for example the national measure – Bredbåndspuljen.
5.9. Do you use a costing model?	No.

Table 6: Dispute resolution procedures in State Aid Cases

	Denmark
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	No.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	NA
6.3. Are the results of the dispute resolution binding for the parties involved?	NA
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	The Danish Energy Agency has made one decision regarding a complaint over pricing of open access to a supported network.
6.5. What was the most frequent issue in such disputes:	NA
• Access conditions (excl. price)	NA
• Access price	NA
• Both (access conditions & price)	NA
• Other? If yes, please explain briefly what the main issue was	NA

Table 7: Other tasks in State Aid

	Denmark
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	See below.
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	The granting authority (e.g. municipalities or Government) defines target areas. However the Danish Energy Agency (Ministry of Energy, Utilities and Climate) publishes a nationwide map regarding broadband coverage which can assist in the mapping and the agency can be consulted with regards to mapping issues.
7.3. National database for mapping of white areas/target areas (in case there is any)	See 7.2.
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	The granting authority. The Danish Energy Agency (Ministry of Energy, Utilities and Climate) carries out a survey on operator's rollout plans for national measures.
7.5. Responsibility for the bidding process?	Granting authorities (i.e. the Danish Energy Agency and local authorities, municipalities)
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹¹⁷ . Please specify the information given and provide a link if possible	The following website: (https://erhvervsstyrelsen.dk/registrering-af-statsstoette-i-eus-statsstoetteregister) refers to the "Transparency Award Modul ("TAM)": (https://webgate.ec.europa.eu/competition/transparency/public/search/DK?resetSearch=true)
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	Granting authority
7.8. Clawback mechanism	Granting authority if applicable with regards to the minimum amount of aid granted.
7.9. Other (please specify)	NA

¹¹⁷ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

6. Estonia

Table 1: General information

	Estonia
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹¹⁸ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	Estwin (umbrella scheme) http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_N196_2010
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<ul style="list-style-type: none"> - Support is being given to build fibreoptic backhaul network in rural areas of market failure; - Network can only be wholesale dark fibre networks - Support can be received by non-profit organisations;
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Price control
1.5 How many projects fall under an umbrella scheme?	Many small regional sub-projects
1.6 How many projects were directly notified to the Commission	No projects were directly notified to the Commission. Only the Estwin scheme was notified to the Commission.
1.7 How many projects fall under the GBER? ¹¹⁹	Not known
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹²⁰	Operator subsidy models

¹¹⁸Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹¹⁹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹²⁰ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale only.
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Estonia
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No. Competent body is the Ministry of Economic Affairs and Communications and the Information System Authority (RIA) https://www.ria.ee/en/about-estonian-information-system-authority.html
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No.
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	No

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Estonia
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	Price control of Estwin established fiber optical cables.
3.3 Please name the legal document and, if possible, provide a link.	Minister of Rural Affairs 03.03.2011 degree no 21, § 16 lg 2 p 12 https://www.riigiteataja.ee/akt/109032011016?leiaKehtiv and Minister of Economic Affairs and Infrastructure of the Republic of Estonia 30.04.2015 degree no 37 https://www.riigiteataja.ee/akt/122062017007?leiaKehtiv
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	NRA experts attend in commissions who decide about State Aid project suitability, but final decisions are task of Ministry of Economic Affairs and Communications or other Ministry who are funder of project.
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	No
3.8 Others (which)?	Only price control of Estwin scheme projects.
Does these tasks relate to:	
3.9 Access conditions excl. price	No
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	No
3.12 Since when does the NRA have these tasks?	2011

Table 4: Access obligations

Not applicable

Table 5: Pricing

	Estonia
5.1. Do the guidelines recommend pricing principles?	NRA is not the competent body according to para 42
If this is the case:	
5.2. Please describe these pricing principles	NRA is not the competent body according to para 42
5.3. Please explain why the NRA recommend these pricing principles	NRA is not the competent body according to para 42
5.4. Do these pricing principles depend on the NGA architecture?	NRA is not the competent body according to para 42
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	NRA doesn't have such legally defined tasks.
5.6. Do you prescribe cost orientation? • If yes, please explain.	NRA doesn't have such legally defined tasks.
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	NRA conducts only price control of the Estwin scheme projects. The Estwin scheme projects provide access only to passive fibre (no access to duct or any active services, like bitstream). ETRA controls that Estwin wholesale prices allow to provide retail services and that Estwin does not get excessive state aid compensation. ETRA doesn't apply any special cost orientation or retail minus methodology. Principally ETRA compares Estwin wholesale prices with others unregulated wholesale prices and retail prices. Also ETRA controls that Estwin scheme projects profit is not excessive.
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

Not applicable

Table 7: Other tasks in State Aid

	Estonia
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	Ministry of Economic Affairs and Communications
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Ministry of Economic Affairs and Communications
7.3. National database for mapping of white areas/target areas (in case there is any)	NRA and Ministry of Economic Affairs and Communications
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	NRA
7.5. Responsibility for the bidding process?	Ministry of Economic Affairs and Communications
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹²¹ . Please specify the information given and provide a link if possible	The Information System Authority (RIA)
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	NRA and Ministry of Economic Affairs and Communications
7.8. Clawback mechanism	The Information System Authority (RIA)
7.9. Other (please specify)	

¹²¹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

7. Finland

Table 1: General information

	FINLAND
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹²² that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	Yes 1 scheme: N62/2010 http://ec.europa.eu/competition/state_aid/cases/235159/235159_1106591_26_1.pdf (and modifications SA.34290, SA.37685, SA.43404)
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<ul style="list-style-type: none"> Target areas: White NGA areas in sparsely populated areas Access products: wholesale services and access to subsidised network to other operators. Access obligation includes all possible forms of network access that access seekers might need, including dark fibre, ducts and equipment facilities Time of provision of open access: 7 years Transfer of open access obligations on the successor: if the ownership is passing the obligations follows the ownership Pricing: NRA's task is to ensure that the wholesale price is reasonable. The operator has an obligation to prove that the price charged for a wholesale access or service is reasonable and non-discriminatory. In practice, the reasonable price should not exceed a cost-oriented price. NRA collects information on wholesale NGA access prices and will perform the relevant benchmarking of the prices. Dispute resolution: NRA as state aid authority
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	See above. NRA is also state aid authority.
1.5 How many projects fall under an umbrella scheme?	Ca. 200 projects
1.6 How many projects were directly notified to the Commission	--
1.7 How many projects fall under the GBER? ¹²³	There's 2 schemes under GBER: - upcoming SA scheme during 2017–2019 (granting authority NRA)

¹²²Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹²³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

	- under EAFRD http://ec.europa.eu/transparency/regdoc/rep/3/2016/EN/3-2016-1370-EN-F1-1.PDF (granting authorities are local Centres for Economic Development, Transport and the Environment)
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹²⁴	Direct grant to private/public company
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale plus retail

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	FINLAND
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No: <ul style="list-style-type: none"> NRA operates as state aid authority and thus granting the aid and tasks falling under the guidelines (open access) both falls under the NRA. SA schemes cover all projects which means there are same SA rules for all projects (guidelines are included in the SA schemes).
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	--

¹²⁴ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	FINLAND
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	See 1.2
3.3 Please name the legal document and, if possible, provide a link.	Act on State Aid on Broadband Project http://www.finlex.fi/fi/laki/ajantasa/2009/20091186?search%5Btype%5D=pika&search%5Bpika%5D=Laki%20laajakaistarakentamisen%20tuesta%20haja-asutusalueilla
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	NRA is responsible of mapping the project areas and granting SA. Regional Councils carries out the procurement process.
3.5 To provide advice for granting authorities on individual State Aid cases?	NRA is the granting authority
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	SA cannot be granted if the applicant does not fulfil the open access requirements in its SA application (Article 9 of the Act on State Aid on Broadband Project)
3.7 To settle disputes which may arise with regard to State Aid cases?	No specific rules for SA disputes, only general provisions.
3.8 Others (which)?	--
Does these tasks relate to:	
3.9 Access conditions excl. price	See 1.2
3.10 Access prices	See 1.2
3.11 Other topics related to access conditions (which?)	See 1.2
3.12 Since when does the NRA have these tasks?	See 1.2

Table 4: Access obligations

Not applicable

Table 5: Pricing

	FINLAND
5.1. Do the guidelines recommend pricing principles?	--
If this is the case:	
5.2. Please describe these pricing principles	--
5.3. Please explain why the NRA recommend these pricing principles	--
5.4. Do these pricing principles depend on the NGA architecture?	--
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	No, as NRA is the granting authority
5.6. Do you prescribe cost orientation? • If yes, please explain.	--
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	--
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	--
5.9. Do you use a costing model?	--

Table 6: Dispute resolution procedures in State Aid Cases

	FINLAND
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	NRA as a state aid authority gives decision if there is dispute between operators for access and/or pricing. The given aid can be claim for recovery if the obligations are not met.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	
6.3. Are the results of the dispute resolution binding for the parties involved?	
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	
6.5. What was the most frequent issue in such disputes:	
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	FINLAND
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	NRA
7.3. National database for mapping of white areas/target areas (in case there is any)	NRA
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	NRA
7.5. Responsibility for the bidding process?	Regional Councils
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹²⁵ . Please specify the information given and provide a link if possible	NRA
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	NRA
7.8. Clawback mechanism	NRA
7.9. Other (please specify)	

¹²⁵ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

8. France

Table 1: General information

	France
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹²⁶ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	Yes 1 SA.37183 (substituted to N330/2010) Decision: http://ec.europa.eu/competition/state_aid/cases/260985/260985_1876109_165_2.pdf IP: http://europa.eu/rapid/press-release_IP-16-3610_fr.htm OJ: http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2017:068:SOM:EN:HTML
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	Total amount of public funds foreseen: 13B€ (Consequently to Leipzig Halle ECJ court case all the foreseen investments was counted) Covering 47% of the population (15 million households) Highlights: <ul style="list-style-type: none"> - Completely authorized in a single decision - White basic broadband areas: <3/4Mbit/s - Grey backhaul areas: allow subsidizing within the umbrella scheme when criteria are met (when there is no effective availability, either due to commercial or technical reasons) - <i>Régie</i> (direct public operation) is allowed - Technology mix can be set by administrative decision (with studies) not only by the market/tender - Take into account the role of FTTH symmetric regulation to govern public FTTH roll out - Take into account asymmetric regulation on Orange to assess access to civil works, backhaul, copper local loop, etc. - Take into account the role of FTTH symmetric regulation to govern public FTTH roll out French style FttC constitutes an <i>Altmark</i> SGEI
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Arcep has the following functions: <ul style="list-style-type: none"> - FTTH symmetric regulation governs public FTTH roll out - Dispute resolution - To set FTTH pricing guidelines for subsidized network To issue <i>ex ante</i> non binding opinion on subsidized FTTH pricing
1.5 How many projects fall under an umbrella scheme?	All local network deployment projects, to date around 84.
1.6 How many projects were directly notified to the Commission	None

¹²⁶Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

1.7 How many projects fall under the GBER? ¹²⁷	None
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹²⁸	All kinds of models. Examples of different types of investment model: <ul style="list-style-type: none"> - The SIEA is an example of a Publicly run network - The Oise network is privately run - The Auvergne network is a PPP
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Both: <p>Local authorities may rollout passive infrastructures and/or networks AND may become an electronic communications operator. They are restricted to the wholesale market.</p> <p>As an exception, local authorities can operate on the retail market if they can prove that there is a local lack of “adequate private initiatives to meet the needs of final users” and have to specifically let Arcep know.</p>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	France
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Arcep is the competent body for issuing FTTH pricing guidelines for subsidized network. Arcep also sets the symmetric regulation for FTTH networks and are consulted on subsidized FTTH tariff conditions as explained below. The governmental body Mission Très Haut Débit (Mission THD), within the Ministry of Economy and Finances, assesses if the FTTH public project proposed by local authorities are justified for State Aid. In its assessment, the Mission THD consults Arcep for an <i>ex ante</i> opinion on the subsidized FTTH tariff conditions to see if they are adequate. The Mission THD also monitors the local deployment projects to make sure they conform to State Aid regulations.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	Yes. In 2015, Arcep issued FTTH pricing guidelines for subsidized networks : «Tarification de l'accès aux réseaux à très haut débit en fibre optique déployés par l'initiative publique». <p>https://www.arcep.fr/uploads/tx_gspublication/lignes-dir-ARCEP-tarification-RIP-dec2015.pdf</p>
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	No, FTTH is regulated under a symmetric framework.

¹²⁷ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹²⁸ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	France
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	Advising on wholesale access conditions and prices of any broadband project requesting State Aid before it can be approved by the aid granting authority. Resolving disputes between beneficiary operator and third party operators.
3.3 Please name the legal document and, if possible, provide a link.	Article L 1425-1 part VI from the Growth and Activity Law : https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070633&idArticle=LEGIARTI000006389450&dateTexte=&categorieLien=cid
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	Solely on wholesale access conditions and prices within the symmetric regulation framework.
3.5 To provide advice for granting authorities on individual State Aid cases?	Idem
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No.
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	No
3.12 Since when does the NRA have these tasks?	2009 for symmetric framework and 2015 for guidelines.

Table 4: Access obligations

	France
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	No. The guidelines do not need to specify the differences since FTTH is regulated within a symmetric framework.
4.2 If this is the case, which access products for which NGA architecture?	No
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	No
4.4 Specify (or approve) access products?	Passive access is allowed. Active access must also be granted if an operator asks specifically for active access,
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	No
4.6 If this is the case, which access products for which NGA architecture?	No
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	No
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	No
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	No

Table 5: Pricing

	France
5.1. Do the guidelines recommend pricing principles?	Yes.
If this is the case:	
5.2. Please describe these pricing principles	<p>In order to achieve a technical and tariff convergence at the national level for all FttH networks, the pricing conditions for access to an FttH network deployed by a local authority must replicate the economic conditions for access to comparable electronic communications infrastructures and networks in more competitive areas.</p> <p>Thus, based on the non-recurring tariff for the co-financing of the private initiative area and the average penetration assumptions for wholesale and retail operators, the NRA has developed a generic pricing model for access to fibre local loops outside the very dense areas, making it possible to establish the relevant associated recurring tariffs.</p>
5.3. Please explain why the NRA recommend these pricing principles	<p>To facilitate private investments in FttH deployment projects outside dense areas by taking into account commercial risks and profitability prospects related to the commercialisation of the deployed infrastructures. In particular, to facilitate investments by commercial operators e.g. to take up passive offers through co-investments.</p> <p>To give pricing visibility to commercial operators.</p> <p>To avoid publicly deployed (passive) networks from tariff competition by commercial operators who could ask for a reduction in access tariffs in order to come and run the networks.</p> <p>To help publicly deployed networks abide by State Aid law.</p>
5.4. Do these pricing principles depend on the NGA architecture?	No.
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	<p>Yes indirectly, in case of issues concerning the tariff conditions proposed by a local authority, the NRA shall notify the Ministry in charge of electronic communications.</p> <p>The local authorities have an obligation to notify the NRA of the tariff conditions they wish to propose for the FttH networks at least two months before they become effective. If the NRA considers that the tariff conditions raise issues incompatible with the regulatory framework, the NRA shall issue an opinion, which can be made public and invite the local authority in question to amend them. The NRA shall communicate it without delay to the Minister in charge of electronic communications.</p> <p>The tariff conditions of the FttH networks deployed by local authorities must abide by the tariff principles described in 5.2.</p>
5.6. Do you prescribe cost orientation? • If yes, please explain.	No.
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	<p>Within the pricing guidelines published by Arcep in the link below, p24 or page 36:</p> <p>https://www.arcep.fr/uploads/tx_gspublication/lignes-dir-ARCEP-tarification-RIP-dec2015.pdf</p>
5.8. Do you regulate prices for access products	Yes, through the notification mechanism described in 5.5.

<p>provided under the State Aid obligations?</p> <ul style="list-style-type: none"> • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	<p>For any new access offer or modification of an offer, local authorities have to notify Arcep and the NRA shall analyse the notified tariff conditions. Notifications have to be made at least two months before the tariff conditions become effective, as is required by the Law 2015-990 of 6 August 2015 for Growth, activity and equal economic opportunities</p> <p>For any tender already in force on the date of the above mentioned law, the analysis shall be carried out at the initiative of the NRA, who may request the local authorities to notify the tariff conditions to Arcep.</p>
5.9. Do you use a costing model?	Yes.

Table 6: Dispute resolution procedures in State Aid Cases

	France
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	Settlement arbitrated by Arcep
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	None
6.5. What was the most frequent issue in such disputes:	
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	France
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Mission THD, at both municipal level and regional level.
7.3. National database for mapping of white areas/target areas (in case there is any)	Mission THD
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	Arcep has the legal competence to check commitments. However this competence isn't used.
7.5. Responsibility for the bidding process?	Regional Authorities
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹²⁹ . Please specify the information given and provide a link if possible	Mission THD
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	Mission THD and Arcep in collaboration
7.8. Clawback mechanism	Regional Authorities
7.9. Other (please specify)	

¹²⁹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

9. Germany

Table 1: General information

	Germany
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹³⁰ that have been notified and approved by the Commission? If yes, • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link	One umbrella scheme on federal level (https://www.bmvi.de/SharedDocs/DE/Anlage/Digitales/breitbandfoerderung-nga-rahmenregelung.pdf?__blob=publicationFile) and several schemes on federal states level (e.g. in Bavaria and Baden-Wuerttemberg).
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	Main characteristics in the umbrella scheme on federal level are: <ul style="list-style-type: none"> - Target areas: white areas (<30 Mbit/s download) - Access products for the different NGA infrastructures - Time of provision: unlimited for passive infrastructure, min. 7 years for active infrastructure - Transfer of open access obligations on the successor - Pricing: benchmark with prices in more competitive regions, SMP regulated prices, or, if both are not available, negotiation between the operators. - Dispute resolution: in case of disputes between operators, the granting authority shall set the prices. The NRA has to be consulted about the prices that shall be set.
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	<ul style="list-style-type: none"> - Give an opinion on open access provisions in the final draft of the contract between the public authority and the operator - Consultation of BNetzA in case no agreement is reached on prices for access products. BNetzA shall make binding proposals for fixing wholesale prices within the framework of an opinion within four weeks.
1.5 How many projects fall under an umbrella scheme?	780
1.6 How many projects were directly notified to the Commission	1 (Federal State of Brandenburg)
1.7 How many projects fall under the GBER? ¹³¹	141
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run	Both gap funding and privately run municipal network models

¹³⁰Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹³¹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

municipals network model ¹³²	
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale plus retail projects (but wholesale only is possible)

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Germany
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	Bundesnetzagentur published Guidelines for COMMISSION REGULATION (EU) No 651/2014 in 2015 and the national State Aid rules in 2016 (Regulatory Framework of the Federal Republic of Germany in support of the development of nationwide Next Generation Access (NGA) broadband supply; NGA-Rahmenregelung) https://www.bundesnetzagentur.de/agvo-hinweise ¹³³
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	No But SMP operator is not allowed to deviate from regulated prices due to the Telecommunications Act.

¹³² For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

¹³³ Page also shows the guidelines for the NGA-Rahmenregelung

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Germany
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes (legally defined only in case of the GBER; otherwise, BNetzA is operating in the concept of “administrative assistance” on the basis of the respective umbrella schemes as there is no legal basis. In dispute resolution, the general dispute resolution procedures apply (with a legal basis for the NRA).
If this is the case:	
3.2 Please describe these tasks	The Bundesnetzagentur is consulted on access conditions, including pricing, and in the event of dispute between access seekers and the subsidised infrastructure operator.
3.3 Please name the legal document and, if possible, provide a link.	e.g. COMMISSION REGULATION (EU) No 651/2014 Article 52 Nr. 6
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	Yes The final draft of the agreement between the network operator and the public authorities shall be submitted to the Bundesnetzagentur in full and in writing prior to conclusion of the agreement. If the Bundesnetzagentur fails to issue an opinion within eight weeks, the network operator and the public authorities shall have the right to conclude the agreement.
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes
3.8 Others (which)?	Yes
Does these tasks relate to:	
3.9 Access conditions excl. price	No
3.10 Access prices	In the event that access seeker and funded network operator are unable to reach an agreement on prices (unless benchmark or SMP-regulated prices are available), the public authorities shall be obliged to fix the prices for wholesale products. In this event, the Bundesnetzagentur shall be consulted; it shall make binding proposals for fixing wholesale prices within the framework of an opinion within four weeks.
3.11 Other topics related to access conditions (which?)	No
3.12 Since when does the NRA have these tasks?	2011

Table 4: Access obligations

	Germany
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	Yes
4.2 If this is the case, which access products for which NGA architecture?	<p>FTTH/FTTB networks: duct access, access to dark fibre, unbundled access to the local loop and bit-stream access</p> <p>FTTC networks: duct access, access to dark fibre, sub-loop unbundling (especially access to street cabin) and bit-stream access. In case of vectoring (only NGA-Rahmenregelung), a VULA product approved by the EU Commission has to be offered until physical unbundling becomes possible.</p> <p>Cable networks: duct access, access to dark fibre and bit-stream access</p>
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	<p>Yes, e.g. timely provision of information, timely provision of services, non-discrimination, collocation issues</p> <p>The guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently. Qualitative specifications given are timely provision of all necessary information (especially technical specifications), access to fair and non-discriminatory conditions, collocation issues, timely processing of access requests and access agreements in written form.</p>
4.4 Specify (or approve) access products?	No
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	n.a.
4.6 If this is the case, which access products for which NGA architecture?	n.a.
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	n.a.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	n.a.

4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	No (except for vectoring in the NGA-Rahmenregelung, but these shall be approved by the EU Commission). 3 products have just been approved. For details, see http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_46805
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Table 5: Pricing

Germany	
5.1. Do the guidelines recommend pricing principles?	Yes
If this is the case:	
5.2. Please describe these pricing principles	<p>The wholesale access price shall be based on the pricing principles set by the national regulatory authority and on benchmarks that prevail in other comparable, more competitive areas taking into account the aid received by the network operator.</p> <p>Prices should be consistent with the cost-orientation principles and therefore represent the costs that arise when the services are provided efficiently, taking into account the local situation. (GBER)</p> <p>The wholesale prices for access to the subsidised infrastructure should be based on wholesale prices charged for equal or similar access services in regions where there is stiff competition or on wholesale prices fixed or approved by the Bundesnetzagentur for equal or similar access services.</p> <p>The wholesale prices charged should follow the principles of cost orientation and therefore reflect the cost benchmarks for efficient service provision. The state aid granted must also be taken into account. (NGA-Rahmenregelung)</p>
5.3. Please explain why the NRA recommend these pricing principles	They are prescribed in the umbrella schemes.
5.4. Do these pricing principles depend on the NGA architecture?	no
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	Yes See above
5.6. Do you prescribe cost orientation? • If yes, please explain.	Yes See above
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No

5.8. Do you regulate prices for access products provided under the State Aid obligations? <ul style="list-style-type: none"> • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	No
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

	Germany
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes. The Bundesnetzagentur decides by decision chambers as a national dispute settlement authority in the cases of para 77n Telecommunications Act. Para 77n TA regulates the use of infrastructures. If the owner or operator of a public utility network does not give an offer for joint usage within the period specified in Article 77d (2) or if no agreement is reached on the terms of use, each party may apply to the Bundesnetzagentur as a national dispute settlement authority pursuant to Article 132 in conjunction with 134a. Telecommunications Act: http://www.gesetze-im-internet.de/tkg_2004/BJNR119000004.html
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes (para 77n (2) Telecommunications Act).
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	0
6.5. What was the most frequent issue in such disputes:	n.a.
<ul style="list-style-type: none"> • Access conditions (excl. price) 	
<ul style="list-style-type: none"> • Access price 	
<ul style="list-style-type: none"> • Both (access conditions & price) 	
<ul style="list-style-type: none"> • Other? If yes, please explain briefly what the main issue was 	

Table 7: Other tasks in State Aid

	Germany
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Authority running the State Aid project – community, rural district or (rare) federal state Target area might a part of a community up to the whole federal state.
7.3. National database for mapping of white areas/target areas (in case there is any)	No database available
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	n.a.
7.5. Responsibility for the bidding process?	Authority running the State Aid project
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹³⁴ . Please specify the information given and provide a link if possible	Federal Ministry of Transport and Digital Infrastructure for the NGA-Rahmenregelung; otherwise the respective ministries of the Federal States that have issued umbrella schemes
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	Federal Ministry of Transport and Digital Infrastructure for the NGA-Rahmenregelung; otherwise the respective ministries of the Federal States that have issued umbrella schemes
7.8. Clawback mechanism	Authority running the State Aid project
7.9. Other (please specify)	

¹³⁴ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

10. Greece

Table 1: General information

	GREECE
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes (Broadband Network Development in White Rural Areas)
1.2 Does your Member State have ongoing umbrella schemes ¹³⁵ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
▪ Please specify the main characteristics of the respective umbrella scheme(s):	N/A.
1.3 Please specify the functions assigned to the NRA in the umbrella scheme:	N/A
1.4 How many projects fall under an umbrella scheme?	0
1.5 How many projects were directly notified to the Commission	1 (Broadband Network Development in White Rural Areas)
1.6 How many projects fall under the GBER? ¹³⁶	0
1.7 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹³⁷	Concession model
1.8 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale only

¹³⁵Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹³⁶ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹³⁷ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid–part 1

	GREECE
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	N/A
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	N/A

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid–part 2

	GREECE
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	According to article 12 of Law 4070 EETT supervises and controls the implementation of access, price control, cost accounting, non-discrimination and publicity obligations of networks providers under State Aid projects.
If this is the case:	
3.2 Please describe these tasks	The NRA approves the reference offer of the network providers under State Aid projects.
3.3 Please name the legal document and, if possible, provide a link.	http://www.eett.gr/opencms/export/sites/default/admin/downloads/telec/apofaseis_eett/kanonistikes_apofaseis_eett/AP765-016-FEK.pdf http://www.eett.gr/opencms/export/sites/default/admin/downloads/telec/apofaseis_eett/kanonistikes_apofaseis_eett/AP766-020.pdf
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	Yes
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes
3.8 Others (which)?	Yes
Does these tasks relate to:	
3.9 Access conditions excl. price	The NRA approves wholesale reference offers
3.10 Access prices	The NRA approves access prices based on the methodology defined in the tender
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	

Table 4: Access obligations

GREECE	
In case the NRA is the competent body for issuing guidelines as referred to in para 42:	
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	N/A
4.2 If this is the case, which access products for which NGA architecture?	
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	N/A
In case the NRA (also) has legally defined tasks with regard to access conditions in case of State Aid (see Table 2). Does the NRA in fulfilling these tasks:	
4.4 Specify (or approve) access products?	
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	
4.6 If this is the case, which access products for which NGA architecture?	
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	

Table 5: Pricing

GREECE	
In case the NRA is the competent body for issuing guidelines as referred to in para 42:	
5.1. Do the guidelines recommend pricing principles?	N/A
If this is the case:	
5.2. Please describe these pricing principles	N/A
5.3. Please explain why the NRA recommend these pricing principles	N/A
5.4. Do these pricing principles depend on the NGA architecture?	N/A
In case the NRA (also) has other legally defined tasks with regard to access conditions in case of State Aid than to issue guidelines (see Table 2). Does the NRA in fulfilling these tasks:	
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	Yes. (However according to article 12 of Law 4070, EETT supervises and controls the implementation of access, price control, cost accounting, non-discrimination and publicity obligations of network providers under State Aid projects)
5.6. Do you prescribe cost orientation? • If yes, please explain.	No
Further questions	
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	No
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

GREECE	
In case the NRA has the task to settle disputes which may arise with regard to State Aid cases (see Table 2)?	
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	None
6.5. What was the most frequent issue in such disputes:	
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	GREECE
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	General Secretariat for Telecommunications and Post (GSTP) and Special Service for State Aid (Ministry of Economy and Development, ESIF National Coordination Authority)
7.3. National database for mapping of white areas/target areas (in case there is any)	The Digital Registry of Infrastructures (https://rinf.yme.gov.gr/en/) can be used to identify white/target areas
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	General Secretariat for Telecommunications and Post (GSTP) and NRA
7.5. Responsibility for the bidding process?	General Secretariat for Telecommunications and Post (GSTP)
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹³⁸ . Please specify the information given and provide a link if possible	
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	General Secretariat for Telecommunications and Post (GSTP) and Special Purpose Vehicles (SPVs)
7.8. Clawback mechanism	NRA
7.9. Other (please specify)	In the context of monitoring the RURAL measure's implementation, NRA is responsible for taking up specific activities, mostly connected to its regulatory role in ensuring fair market conditions.

¹³⁸ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

11. Ireland

Table 1: General information

	Ireland
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes. Ireland has pre-notified the EC in relation to the National Broadband Plan (NBP) ¹³⁹ .
1.2 Does your Member State have ongoing umbrella schemes ¹⁴⁰ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	N/a
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	N/a
1.5 How many projects fall under an umbrella scheme?	N/a
1.6 How many projects were directly notified to the Commission	N/a
1.7 How many projects fall under the GBER? ¹⁴¹	N/a

¹³⁹ Further detail can be found on the project's webpage on the Department of Communications, Climate Action & Environment' <http://www.dccae.gov.ie/en-ie/communications/topics/Broadband/national-broadband-plan/Pages/National-Broadband-Plan.aspx>

¹⁴⁰ Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁴¹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁴²	N/a
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	N/a

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Ireland
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No. The relevant Ministry (Department of Communications, Climate Action, and Environment) has not asked ComReg to issue such guidelines. Instead, ComReg provides advice to the Minister as part of an expert working group.
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	N/a

¹⁴² For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Ireland
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	No. However, ComReg has entered into a Memorandum of Understanding with the relevant government Ministry (Department of Communications, Climate Action, and Environment) on this matter. ComReg is part of an expert working group which provides advice to the Minister on these matters.
If this is the case:	
3.2 Please describe these tasks	N/a
3.3 Please name the legal document and, if possible, provide a link.	N/a
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	N/a
3.5 To provide advice for granting authorities on individual State Aid cases?	N/a
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	N/a
3.7 To settle disputes which may arise with regard to State Aid cases?	N/a
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	N/a
3.10 Access prices	N/a
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	

Table 4: Access obligations

Not applicable

Table 5: Pricing

Not applicable

Table 6: Dispute resolution procedures in State Aid Cases

Not applicable

Table 7: Other tasks in State Aid

	Ireland
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	The NBP team within the Department of Communications, Climate Action & Environment ("DCCAIE").
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Target areas are defined on a "per-premise" basis. Around 540,000 premises currently make up the "Intervention Area" (i.e. White Area). The identification of these premises was the result of extensive industry consultation.
7.3. National database for mapping of white areas/target areas (in case there is any)	The Intervention Area premises can be viewed on the map viewer on the Department's website available on the following link: http://www.dccae.gov.ie/en-ie/communications/topics/Broadband/national-broadband-plan/high-speed-broadband-map/Pages/Interactive-Map.aspx
7.4. Checking operators' commitments about a private investment of a rollout announced in market analyses?	In October 2015, the Department published its "assessment framework", which is used for determining the credibility of operator investment plans ¹⁴³ . The NBP teams, in addition with its financial and technical advisors are responsible for applying the aforementioned framework.
7.5. Responsibility for the bidding process?	Ultimately the contract will be signed by the Minister of DCCAIE and the winning bidder.
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁴⁴ . Please specify the information given and provide a link if possible	The formal notification and final decision by the EC to approve the aid measure has not yet been taken therefore DCCAIE cannot yet fulfill the obligations of this paragraph.
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	In accordance, with the State Aid Guidelines, the DCCAIE is committed to closely monitoring the implementation of the NBP during the entire duration of the contract. Personnel from DCCAIE will, in the first instance, undertake the primary monitoring function under the NBP contract. Also, the company charged with fulfilling the NBP contract will be subject to an appropriate accounting separation obligation as regards the subsidy received so to make it easier for the DCCAIE to monitor the implementation of the scheme as well as any extra profit generated
7.8. Clawback mechanism	The NBP team are putting in place a clawback mechanism in the Contract to allow a balanced sharing of unanticipated gains in accordance with the paragraph 78(i) of the SAG.
7.9. Other (please specify)	

¹⁴³ This is publically available on the Department's website <http://www.dccae.gov.ie/en-ie/communications/consultations/Documents/77/consultations/Annex%20%20-%20PwC%20oct%202015%20Report%20Assessment%20Criteria%20Investment%20Plans.pdf>

¹⁴⁴ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

12. Italy

Table 1: General information

	ITALY
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁴⁵ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	4 umbrella scheme: N646/2009 : broadband plan in rural areas SA33807 (2011/N) : broadband plan 34199 (2012/N) : NGA broadband plan SA.41647 (2016/N) : NGA broadband plan
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<p>N646/2009 and SA33807 (2011/N)::</p> <ul style="list-style-type: none"> Target areas: Italian Regions, broadband white areas in line with the Commission guidelines of 2009 Objective: to build up a backhaul network to provide broadband services (20Mbit/s) Access product: passive and active products Time of provision of open access: at least 7 years Pricing: fair and reasonable prices in line with benchmarking approach Dispute resolution: general rules established by Agcom <p>SA34199 (2012/N):</p> <ul style="list-style-type: none"> Target areas: Regions of Italy broadband NGA white areas Objective: to build up an NGA access network to provide ultra-broadband services (>30Mbit/s) Access product: passive and active products Time of provision of open access: at least 7 years in line with the Commission guidelines Pricing: fair and reasonable prices in line with benchmarking approach and in line with the Commission guidelines art. 78h Dispute resolution: general rules established by Agcom <p>SA.41647 (2016/N)::</p> <ul style="list-style-type: none"> Target areas: Regions of Italy, broadband NGA white areas in line with the Commission guidelines of 2013 Objective: to build up an NGA access network to provide ultra-broadband services (>30Mbit/s) Access product: passive and active product in line with guide lines established by Agcom Time of provision of open access: 20 years

¹⁴⁵Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

	<ul style="list-style-type: none"> • Pricing: fair and reasonable prices in line with benchmarking approach and in line with the Commission guidelines art. 78h and in line with guidelines established by Agcom • Dispute resolution: general rules established by Agcom
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Agcom is in charge to define the regulatory context of wholesale access condition, prices, general non-discrimination rules, transparency.
1.5 How many projects fall under an umbrella scheme?	<p>SA34199 (2012/N): 8 regional projects</p> <p>SA.41647 (2016/N): until mid of 2017 5 regional projects have been launched (3000 municipalities will be involved), other 11 regional projects are in a start-up phase (other 3700 municipalities will be involved)</p>
1.6 How many projects were directly notified to the Commission	10 projects other than the umbrella scheme mainly focused on broadband state aid case since 2010 where AGCOM provided opinion. Since 2013 only umbrella scheme have been notified.
1.7 How many projects fall under the GBER? ¹⁴⁶	
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁴⁷	<p>N646/2009: "The publicly run municipal network model". In this case the backhaul network has been managed directly by the public contracting Authority</p> <p>SA33807 (2011/N): two models have been used for this umbrella scheme: "The publicly run municipal network model" as the previous one and also "The operator subsidy model (gap-funding or private DBO)". The second model had been used in case investments in access network have been done.</p> <p>34199 (2012/N): Only the model "The operator subsidy model (gap-funding or private DBO)" has been used even if in the notification procedure also "the publicly run municipal network model" was declared. The most part of the Regional projects have been granted by the SMP operator on access market for deploying an FTTC network. Public found covered until the 70% of investment cost of the network. By this intervention almost 5M of households have been covered through an FTTC network. Almost 600M of Euro have been committed in the project (public+ private resources) from 2013 until 2016.</p> <p>SA.41647 (2016/N): "The privately run municipal network model" have been used in this case. The construction, maintenance, management and commercial exploitation of the network will be assigned separately or jointly to one or more companies or consortia which will be selected by means of public, transparent and non-discriminatory selection procedures in conformity with European and national public procurement rules. The effectively implemented model until now is a jointly tender procedure about building up and managing an NGA network. The 5 regional projects, started until now, involve more than 4 Millions of households with a budget of about 700M of Euro from 2017 until 2022.</p>

¹⁴⁶ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁴⁷ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	<p>34199 (2012/N): The objective of the public intervention had been to finance investment cost to build up the network. Under this umbrella measure almost all Regional projects had been granted to actual vertical integrated SMP operator in access market.</p> <p>SA.41647 (2016/N): The objective of the public intervention had been to finance also in this case the investment to build up an NGA access network. The first tender procedure has been granted to a wholesale passive only operator (Enel Open Fiber, i.e. a subsidiary of the incumbent in electricity markets).</p>
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	ITALY
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	Yes in April 2016 with decision 120/16/CONS .
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	The guidelines are specific with respect to the investment model used to grant the aid (“The operator subsidy model” and “The privately run municipal network model”). In both cases there are references to the SMP regulation in case of passive and active product that are the same as the one provided in the Reference Offer for access market. At the same time new access obligation have been included in line with point 78 g of Commission guidelines. Specifically, unbundling obligation also on GPON network have been imposed that is outside from the SMP regulation. About prices: the SMP reference offer, for similar products, is imposed as the maximum price that the granted operator can apply.

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	ITALY
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	Agcom is granted to provide assistance about the definition of the regulatory framework for wholesale regulation, to define pricing conditions, but also to monitor the quality of the connections realized through public intervention, as well as to monitor the adoption of the NGA service by end users. Agcom also is in charge to support the granting Authority in case claw-back mechanism is in charge.
3.3 Please name the legal document and, if possible, provide a link.	http://www.governo.it/sites/governo.it/files/strategia_banda_ultralarga.pdf
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes since 2009 10 opinion outside umbrella schemes have been given about access condition and pricing issue. In case of umbrella scheme Agcom have been consulted too.
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	NO
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes, AGCOM competence for dispute resolution is valid in competitive areas and State Aid.
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	Non-discrimination, transparency, accounting separation
3.12 Since when does the NRA have these tasks?	2009 after the publication of the guidelines of the Commission

Table 4: Access obligations

	ITALY
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	The access products are in line with the regulatory framework in charge for the SMP operator (including active and passive remedies independently from the architecture), moreover in case the granted operator build up an FTTH network, also unbundling over GPON is included as access product currently outside from the SMP regulatory framework. Current SMP regulatory framework include access to SLU and copper terminating segment in case of FTTC and FTTdp implementation is chosen.
4.2 If this is the case, which access products for which NGA architecture?	-
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	Yes, there is a reference on SLA level already approved in the Reference Offer of the SMP operator for equivalent service. There are specific non-discrimination provision about the obligation to implement a monitoring system that will collect information to measure KPIs on delivery, and assurance.
4.4 Specify (or approve) access products?	The access product are included in the opinion and guidelines provided by Agcom to the contracting Authority
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	-
4.6 If this is the case, which access products for which NGA architecture?	-
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	Generally open access provision is considered (i.e. all access product active and passive are included), but if the granted operator has an only passive business model, only passive remedies can be applied.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	Yes see 4.3
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	The granted operator should implement a reference offer in line with the opinion/guidelines provided by Agcom. It is moreover relevant to say that, in cases where the SMP operator was the granted operator, the reference offer approved by Agcom in the SMP context was in line with the provision of wholesale offer for State aid areas. In other cases the reference offer had been issued by the granted operator, but an explicit evaluation of it would happen only in case of dispute resolution.

Table 5: Pricing

	ITALY
5.1. Do the guidelines recommend pricing principles?	Yes
If this is the case:	
5.2. Please describe these pricing principles	<p>The last AGCOM guidelines referred to the 4th umbrella scheme (decision 120/16/CONS) provide some different remark on pricing with respect to the investment model used to grant the aid ("The operator subsidy model" and "The publicly run municipal network model"). In both cases price for equivalent access products cannot exceed the price approved by Agcom in the context of to the SMP regulation. Specifically, in case of "The publicly run municipal network model" the price should be cost oriented based on the management cost incurred by the granted operator (<i>only opex</i>).</p> <p>It should be noted that, if wholesale access prices were cost - oriented including only network management costs, third party operators buying wholesale services, could achieve excess profits in retail markets. These operators, in fact, may have, an incentive to practice the same retail prices of more competitive areas, in market failure areas. To prevent this problem, the wholesale price is defined in the following way:</p> $P_{ws} = P_g + x\% * (P_{or} - P_g)$ <p>Where P_{ws} is the wholesale price of each access service, P_{or} is the Reference Offer Price, and P_g are management cost including a reasonable rate of return; $x\%$ is a value between 0 and 1. The contracting Authority can decide the value of "x%", with Agcom support if requested. The $x\%$ should be designed in a way to define fair and reasonable wholesale offers. In every case, if the granted operator would achieve extra profits with respect to the P_{ws} price (component $x\% * (P_{or} - P_g)$), it will be reversed to the contracting Authority through a claw-back mechanism.</p> <p>In the guidelines, in case of the "The publicly run municipal network model", also a "pay per use" in place of IRU pricing approach, for passive services, such us unbundling over the GPON, is recommended as no capital investment risk is sustained by the granting operator.</p>
5.3. Please explain why the NRA recommend these pricing principles	See 5.2
5.4. Do these pricing principles depend on the NGA architecture?	See 5.2
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations?	See 5.2
<ul style="list-style-type: none"> If yes, please explain. 	
5.6. Do you prescribe cost orientation?	See 5.2
<ul style="list-style-type: none"> If yes, please explain. 	

5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	Yes Agcom is involved in the process before the tender procedure is published and provides a formal but not binding opinion on their respective profiles (access, price, non discrimination).
5.9. Do you use a costing model?	Yes. Cost model are used to implement effectively the pricing approach proposed such as evaluating P _g (P _{or} is evaluated in SMP context).

Table 6: Dispute resolution procedures in State Aid Cases

	Italy
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	One dispute resolution not yet published. It is necessary to say that the dispute resolution is come out on the legal basis of the directive 2014/61/EU that has been transposed in the Italian law (Dlgs 33/2016).
6.5. What was the most frequent issue in such disputes:	Access to duct of utility infrastructure and access to the in building infrastructure
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	Yes
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	Italy
7.1. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Minister of economic development (MISE)
7.2. National database for mapping of white areas/target areas (in case there is any)	MISE
7.3. Checking operators commitments about a private investment of a rollout announced in market analyses?	MISE
7.4. Responsibility for the bidding process?	MISE
7.5. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁴⁸ . Please specify the information given and provide a link if possible	MISE http://bandaultralarga.italia.it/
7.6. Monitoring (e.g. network deployment, retail services penetration, pricing)	AGCOM
7.7. Clawback mechanism	MISE/AGCOM Agcom will provide technical assistance in the calculation of the for claw-back mechanism
7.8. Other (please specify)	

¹⁴⁸ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

13. Latvia

Table 1: General information

	Latvia
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	"Development of the next-generation electronic communications network in rural areas" No. 2.1.1.0/16/I/001
1.2 Does your Member State have ongoing umbrella schemes ¹⁴⁹ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s): <ul style="list-style-type: none"> ▪ 	Not applicable
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Not applicable
1.5 How many projects fall under an umbrella scheme?	Not applicable
1.6 How many projects were directly notified to the Commission	Not applicable
1.7 How many projects fall under the GBER? ¹⁵⁰	Not applicable
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁵¹	Publicly run municipal network model (Public DBO)
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale

¹⁴⁹ Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁵⁰ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁵¹ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Latvia
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No, the competent body for state aid supervision is the Optical Network Steering Committee (hereafter - Committee) established by the Ministry of Transport, which consists of representatives from the Ministry of Finances, Ministry of Environment Protection and Regional Development, Union of Municipalities, Regions of Planning, Consumer Rights Protection Centre, Latvian Employers' Confederation, Latvian Commerce and Industry Chamber and of associations of information and communications technologies branch. The Committee approves wholesale access principles and pricing principles (tariffs). However, the NRA has advisory role, where the Committee consults with the NRA before making decisions.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	Not applicable
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	Not applicable

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Latvia
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	The NRA has advisory role in Committee, which approves wholesale access principles and pricing principles (tariffs).
If this is the case:	
3.2 Please describe these tasks	Consulting status prior approving wholesale access principles and pricing principles (tariffs).
3.3 Please name the legal document and, if possible, provide a link.	The Cabinet of Ministers Regulation No.79 of 24 January 2012: https://likumi.lv/doc.php?id=243615 The Cabinet of Ministers Regulation No.664 of 24 November 2015: https://likumi.lv/doc.php?id=278331
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	Not applicable
3.5 To provide advice for granting authorities on individual State Aid cases?	Not applicable
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	Not applicable
3.7 To settle disputes which may arise with regard to State Aid cases?	Not applicable
3.8 Others (which)?	Not applicable
Does these tasks relate to:	
3.9 Access conditions excl. price	The NRA has a consulting status in the Optical Network Steering Committee, which approves wholesale access principles and pricing principles (tariffs).
3.10 Access prices	
3.11 Other topics related to access conditions (which?)	
3.12 Since when does the NRA have these tasks?	Since 04.02.2012. (Since the Cabinet of Ministers Regulation No.79 of 24 January 2012 came into force)

Table 4: Access obligations

Not applicable

Table 5: Pricing

Not applicable

Table 6: Dispute resolution procedures in State Aid Cases

Not applicable

Table 7: Other tasks in State Aid

	Latvia
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	The Ministry of Transport Target areas are defined taking into account the opinion of the Committee. "White" areas are specified at parish level.
7.3. National database for mapping of white areas/target areas (in case there is any)	
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	
7.5. Responsibility for the bidding process?	
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁵² . Please specify the information given and provide a link if possible	The Ministry of Transport
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	The Optical Network Steering Committee
7.8. Clawback mechanism	The Ministry of Transport
7.9. Other (please specify)	

¹⁵² Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

14. Lithuania

Table 1: General information

	Lithuania
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes <ul style="list-style-type: none"> • State Aid N497/2007 Broadband Infrastructure in Lazdijai and Alytus • State aid N 183/2009 – Lithuania - Development of Rural Area Information Technology Network (including amendments - SA.34166 (2012) and SA.36132 (2013)) • State aid N SA.46372 NGA broadband deployment in rural areas of Lithuania (PRIP 2)
1.2 Does your Member State have ongoing umbrella schemes ¹⁵³ that have been notified and approved by the Commission? If yes, • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	-
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	-
1.5 How many projects fall under an umbrella scheme?	-
1.6 How many projects were directly notified to the Commission	4 projects in total (under abovementioned state aid schemes): Project “Broadband Infrastructure in Lazdijai and Alytus” (a small scale regional project); Project “Development of Rural Area Information Technology Network”, or “RAIN” project; Project “The development of broadband network infrastructure in rural areas”, or “PRIP” project; And PRIP-2 project (extension of “PRIP” project)
1.7 How many projects fall under the GBER? ¹⁵⁴	None

¹⁵³Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁵⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁵⁵	Mainly - the publicly run municipal network model (public DBO) (yet, it is not “municipal” but “national” network) – RAIN and PRIP projects
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale only

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Lithuania
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	There is no formal task set in national legislation or in practice for Lithuania’s NRA, RRT, in this area, and no such guidelines were issued. During preparation of feasibility studies for projects, RRT participated, by providing opinion/comments regarding wholesale services, tariffs, etc. There is no other competent body for issuing guidelines. The tariffs of the wholesale services are determined by the Ministry of Transport and Communications.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No guidelines were issued, as the number of cases is small, and in national regulation, there is no such role foreseen for RRT (no need was identified).
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	No guidelines

¹⁵⁵ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Lithuania
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	There are no legally defined tasks of Lithuania's NRA, RRT, with regard to access conditions in case of State Aid set in national legislation, at the moment. There are plans of the Ministry of Transport and Communications to initiate some amendments in national legislation, setting RRT role/functions in this area, but not before mid-2018 at the earliest, and the scope is still not defined.
If this is the case:	
3.2 Please describe these tasks	-
3.3 Please name the legal document and, if possible, provide a link.	-
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	RRT solves disputes between undertakings, and if there would arise some regarding infrastructure built during State Aid scheme projects – would settle such disputes as well (but no specific obligation or procedure coming from the fact that it's a State Aid – related case)
3.8 Others (which)?	-
Does these tasks relate to:	
3.9 Access conditions excl. price	-
3.10 Access prices	-
3.11 Other topics related to access conditions (which?)	-
3.12 Since when does the NRA have these tasks?	-

Table 4: Access obligations

	Lithuania
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	<p>There are no legal requirements or empowerment for issuing such guidelines assigned to RRT, and no guidelines are issued, as well as no specific obligations for access to state-aid financed networks are defined.</p> <p>In Lithuania, there is general market analysis procedure in different markets, which covers also services, provided in NGA networks. This includes also state-aid financed networks. At the moment, operators of these networks are not defined as SMPs in these markets, and no specific obligations are imposed on them on that basis. Yet, to operators of such networks, general rules of access, defined in national legislation are applied (such as access obligations set in Law on electronic communications of the republic of Lithuania (article 3, part 38, defines the concept of access, and article 22 sets the principle that operators shall have a right and, when requested by another operator or a public electronic communications service provider seeking to provide public electronic communications services or to secure such provision, an obligation to negotiate network interconnection in order to ensure provision and interoperability of services; for English version of the law see reference below.¹⁵⁶ and The rules for delivery and provision of access, including interconnection of networks, for English version of the rules see reference below¹⁵⁷)</p>
4.2 If this is the case, which access products for which NGA architecture?	-
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)?	-
<ul style="list-style-type: none"> If yes, please explain the specifications. 	
4.4 Specify (or approve) access products?	-
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	-
4.6 If this is the case, which access products for which NGA architecture?	-
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	-

¹⁵⁶ [http://www.rtt.lt/download/22630/law%20on%20electronic%20communications%20ix-2135\(suv.red.en.nuo2017-05-01\).docx](http://www.rtt.lt/download/22630/law%20on%20electronic%20communications%20ix-2135(suv.red.en.nuo2017-05-01).docx)

¹⁵⁷ http://www.rtt.lt/en/legal-acts_250.html (Rules for delivery and provision of access, including interconnection of networks)

4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	-
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	-

Table 5: Pricing

	Lithuania
5.1. Do the guidelines recommend pricing principles?	There are no such guidelines in Lithuania, and no specific pricing principles for state-aid financed networks' services are defined. As it was mentioned before, there are general market analysis procedure, and if state-aid built infrastructure operators would be assigned as SMP's in some particular market, there could be implemented also requirements for cost accounting, accounting separation and pricing according to the Law on electronic communication, Cost accounting and Accounting separation rules and other requirements, as for any other market participant.
If this is the case:	
5.2. Please describe these pricing principles	-
5.3. Please explain why the NRA recommend these pricing principles	-
5.4. Do these pricing principles depend on the NGA architecture?	-
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	No
5.6. Do you prescribe cost orientation? • If yes, please explain.	-
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No
5.8. Do you regulate prices for access products	No

<p>provided under the State Aid obligations?</p> <ul style="list-style-type: none"> • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

	Lithuania
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes, in case a dispute involving State-Aid case infrastructure would arise – it would be solved under general dispute resolution procedure.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	-
6.3. Are the results of the dispute resolution binding for the parties involved?	-
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	-
6.5. What was the most frequent issue in such disputes:	-
• Access conditions (excl. price)	-
• Access price	-
• Both (access conditions & price)	-
• Other? If yes, please explain briefly what the main issue was	-

Table 7: Other tasks in State Aid

	Lithuania
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	<p>The granting authority prepares feasibility study, and then – investment project, which defines all details of the planned project.</p> <p>In practice, granting authority for such projects was Information Society Development Committee (till 2013) and Ministry of Transport and Communication (from 2014) for RAIN project; and Ministry of Agriculture for PRIP and PRIP-2 projects.</p>
7.3. National database for mapping of white areas/target areas (in case there is any)	<p>During preparation of investment project, detailed maps of white areas/target areas are prepared.</p> <p>These maps/databases are owned by granting authority, recently – by the Ministry of Transport and Communications.</p> <p>According to the new amendments of Law on Electronic Communications that came into force from 1st January 2017, transposing requirements of the Directive 2014/61/EU as regards the coordination of civil works (including transparency concerning planned civil works): undertakings planning installation works of the physical infrastructure, including NGA infrastructure, which are fully or partially funded with resources of the State, municipality, EU structural funds, should provide necessary information to RRT no later than 2 months before applying to competent institution for obtaining necessary permits to perform installation works; this information regarding planned civil works is published on RRT website, in order to inform other potentially interested parties about planned works. Such scheme is applied in practice regarding state-aid projects as well, for example, for announcing about fiber lines installation works to be implemented during PRIP-2 project.</p>
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	Ministry of Transport and Communications.
7.5. Responsibility for the bidding process?	Public, non-profit company “Plačijauostis internetas” is established specifically for building the state-owned broadband network and managing it (as wholesale operator). It’s responsible for implementation of the RAIN and PRIP projects, during which wholesale fiber networks are being developed in rural areas of Lithuania.
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁵⁸ . Please specify the information given and provide a link if possible	-
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	RRT, in general, is responsible for monitoring of e-communications markets (without regard from what financial sources the related infrastructures were built, of if operators are publicly or privately owned, etc.).
7.8. Clawback mechanism	Granting authority
7.9. Other (please specify)	-

¹⁵⁸ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

15. Malta

Table 1: General information

	Malta
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	No
1.2 Does your Member State have ongoing umbrella schemes ¹⁵⁹ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	n/a
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	n/a
1.5 How many projects fall under an umbrella scheme?	n/a
1.6 How many projects were directly notified to the Commission	n/a
1.7 How many projects fall under the GBER? ¹⁶⁰	n/a
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁶¹	n/a
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	n/a

¹⁵⁹Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁶⁰ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁶¹ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Malta
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No. The NRA did not issue such guidelines due to the fact that (i) there were no cases submitted for state aid and (ii) Malta does not qualify for state aid related to broadband projects due to 100% penetration of high speed broadband coverage
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	n/a

Other tables

Not applicable

16. Netherlands

Table 1: General information

	Netherlands
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁶² that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	Not yet, but the Ministry of Economic Affairs is working on an umbrella scheme at this moment.
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	Expected characteristics might be: <ul style="list-style-type: none"> - Areas with <100 Mbps - A wide array of access products and at least unbundled access (FTTH) with no time limit
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	This is still under discussion
1.5 How many projects fall under an umbrella scheme?	-
1.6 How many projects were directly notified to the Commission	Unknown. Unable to find it on: http://ec.europa.eu/competition/elojade/isef/index.cfm Errors for several searches.
1.7 How many projects fall under the GBER? ¹⁶³	Unknown. Unable to find it on: http://ec.europa.eu/competition/elojade/isef/index.cfm Errors for several searches.
1.8 Which investment model of state Aid projects is	Mixed

¹⁶²Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁶³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁶⁴	
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Netherlands
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	<p>There is no formal task for ACM here, but ACM has written an informal guidance document in 2013.</p> <p>There is no other competent body for issuing guidelines.</p>
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	<p>ACM sent an informal guidance document to a small number of state aid initiators who were asking ACM for advice. This was not published on the ACM website. The main message in this letter is that the wholesale conditions and access tariffs should resemble as much as possible those of the regulated FTTH network.</p>
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	<p>Yes, see above.</p>

¹⁶⁴ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Netherlands
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	No
If this is the case:	
3.2 Please describe these tasks	
3.3 Please name the legal document and, if possible, provide a link.	
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	Only informally if asked by parties (also see answer 2.2)
3.5 To provide advice for granting authorities on individual State Aid cases?	Only informally if asked by parties (also see answer 2.2)
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	No, not yet.
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	Yes
3.12 Since when does the NRA have these tasks?	At least since 2013.

Table 4: Access obligations

Not applicable

Table 5: Pricing

Not applicable

Table 6: Dispute resolution procedures in State Aid Cases

Not applicable

Table 7: Other tasks in State Aid

	Netherlands
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Parties who wish to rollout broadband (who ask for funding) themselves. The granting authority could check that?
7.3. National database for mapping of white areas/target areas (in case there is any)	Ministry of Economic Affairs has a map in the making.
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	Parties who wish to rollout broadband (who ask for funding) themselves. The granting authority could check that?
7.5. Responsibility for the bidding process?	Granting authority
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁶⁵ . Please specify the information given and provide a link if possible	-
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	-
7.8. Clawback mechanism	Granting authority
7.9. Other (please specify)	

¹⁶⁵ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

17. Poland

Table 1: General information

	Poland
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁶⁶ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	<p>Yes, there is one ongoing umbrella scheme (several have been completed in the past). <i>“Operational Programme Digital Poland for 2014-2020”</i> (pol. <i>“Program Operacyjny Polska Cyfrowa na lata 2014-2020”</i>).</p> <p>Polish version: https://www.polskacyfrowa.gov.pl/media/33395/POPC_pl_20022017.pdf</p> <p>English version: https://www.funduszeuropejskie.gov.pl/media/1655/POPC_eng_1632015.pdf</p>
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<p>Target areas – digitally excluded households (non NGA) with less than 30 Mb/s downlink</p> <p>Access products – passive – ducts, poles, masts, dark fibre, LLU and active BSA with complementary products and services like collocation, network connection</p> <p>Time of provision – seven years, whereas access to ducts, poles and mast is not limited in time.</p> <p>Transfer of open access obligations on the successor – open access obligations apply to each entity that acquire rights to the infrastructure.</p> <p>Pricing – LLU and BSA pricing is based on retail minus methodology, other services are based on the benchmark from more competitive areas (at the moment SMP operator prices are considered as suitable benchmark)</p> <p>Dispute resolution – NRA is involved in a standard procedure upon failure of negotiations</p>
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	<p>Specialized support</p> <ul style="list-style-type: none"> - designation of the digitally excluded households (non NGA) with less than 30 Mb/s downlink, - developing network routing model - developing costs and income model - developing technical specifications and requirements to be met by the projects - developing wholesale access rules, terms and conditions of interconnection

¹⁶⁶Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

	<ul style="list-style-type: none"> - supporting projects evaluation in the competitive procedure - supporting projects inspections during and after development
1.5 How many projects fall under an umbrella scheme?	<p>All projects from Operational Programme Digital Poland fall under an umbrella scheme:</p> <p>I competition – 86 projects on small areas 900-2500 house holds</p> <p>II competition – 52 projects on large areas (NUTSIII) 7000-51000 house holds</p> <p>III competition – in preparations</p> <p>IV competition - in plans (uncertain)</p>
1.6 How many projects were directly notified to the Commission	Non (some projects in the previous financial perspective 2007-2013 have been notified to the Commission)
1.7 How many projects fall under the GBER? ¹⁶⁷	All projects from Operational Programme Digital Poland fall under the GBER
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁶⁸	<p>All projects from Operational Programme Digital Poland fall under operator subsidy models (gap funding)</p> <p>(some projects in the previous financial perspective 2007-2013 have been developed by the municipalities)</p>
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	<p>We have both.</p> <p>Note wholesale only operators fall under less strict price regulation</p>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Poland
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	NRA tasks in this regard has been assigned based on the agreement between NRA and granting authorities
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	<p>Such guidelines have been issued by the NRA directly for the operators as a part of terms and conditions of the Programme.</p> <p>The guidelines has been issued prior to the launch of the I competition and then updated</p> <p>Only polish version is available:</p>

¹⁶⁷ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁶⁸ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

	https://cppc.gov.pl/wp-content/uploads/Za%C5%82%C4%85cznik-8-Wymagania-dla-sieci-NGA-POPC1.pdf
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? • If yes, please outline the connection.	Yes, basically guidelines has been based on the similar obligations, mechanism and regulatory concept compared to the SMP operator including: - reference offer, - publically available information about infrastructure, - services like BSA, LLU, dark fibre, ducts, mast, poles, collocation, - regulated prices (at the moment SMP operator prices are considered as suitable benchmark for some services)

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Poland
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	Dispute resolution
3.3 Please name the legal document and, if possible, provide a link.	Only polish version available Article 27 Ustawa o wspieraniu rozwoju usług i sieci telekomunikacyjnych http://isap.sejm.gov.pl/Download.jsessionid=8F146CA72B343D2F247F91F4F954C813?id=WDU20101060675&type=3
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	No
3.8 Others (which)?	No

Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	No
3.12 Since when does the NRA have these tasks?	NRA tasks regarding dispute resolution has been implemented in the legal act (see 3.3) in may 2010, however it materializes at the moment.

Table 4: Access obligations

	Poland
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	No, regardless of the infrastructure type or architecture, all access products has to be provided when physically suitable for a given infrastructure type, eg. Wireless network: BSA, masts, antennas – required dark fibre, ducts – only if exists Wired network: BSA, LLU, dark fibre, ducts – required Masts, poles – only exists
4.2 If this is the case, which access products for which NGA architecture?	N/a
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	Yes, - Access products has been specified (including) collocation), - Non-discrimination mechanism has been implemented - reference offer and important information about infrastructure has to be publically available prior to lunch of the network operations, - quality parameters like required uplink and downlink, jitter, latency, packet loss, SLA are specified - procedures and deadlines are specified for ordering services and breakdown recovery
4.4 Specify (or approve) access products?	Yes
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	No (see above 4.1)
4.6 If this is the case, which access products for which NGA architecture?	N/a (see above 4.2)
4.7 In which cases active (and not passive) access products, or vice-versa,	There is no such recommendation

are recommended and why?	
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	Yes, based on the guidelines (see above 4.3)
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Yes, as a part of guidelines

Table 5: Pricing

	Poland
5.1. Do the guidelines recommend pricing principles?	Yes
If this is the case:	
5.2. Please describe these pricing principles	LLU and BSA pricing is based on retail minus methodology, other services (e.g. dark fibre and ducts) are based on the benchmark from more competitive areas (at the moment SMP operator prices are considered as suitable benchmark)
5.3. Please explain why the NRA recommend these pricing principles	According to the GBER regulations <i>“set by the national regulatory authority and on benchmarks that prevail in other comparable, more competitive areas of the Member State or the Union taking into account the aid received by the network operator.”</i>
5.4. Do these pricing principles depend on the NGA architecture?	No
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	NRA has been responsible for issuing special pricing principles for access products provided under the State Aid obligations
5.6. Do you prescribe cost orientation? • If yes, please explain.	No, only in exceptional cases when operators introduce exceptions from the benchmark price regulation
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)?	Yes, for some access products there is a possibility to consult: SMP operator prices https://www.uke.gov.pl/tekst-ujednolicony-oferty-ramowej-sor-16654 or weighted average price range of actual wholesale contracts https://www.uke.gov.pl/aktualizacja-referencyjnych-cen-rynkowych-dla-rss-20914

<ul style="list-style-type: none"> If yes, please provide a link. 	
<p>5.8. Do you regulate prices for access products provided under the State Aid obligations?</p> <ul style="list-style-type: none"> If yes, please explain. At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	<p>Yes the prices are regulated prior to the tender procedure or in some cases ex post.</p> <p>LLU and BSA pricing is based on retail minus methodology, other services are based on the benchmark from more competitive areas (at the moment SMP operator prices are considered as suitable benchmark)</p>
<p>5.9. Do you use a costing model?</p>	No

Table 6: Dispute resolution procedures in State Aid Cases

	Poland
<p>6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?</p>	There is a dedicated procedure but similar to the general dispute resolution procedure
<p>6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain</p>	Theoretically every administrative procedure can be settled in the mediatory procedure but it is not used in practice due to low efficiency
<p>6.3. Are the results of the dispute resolution binding for the parties involved?</p>	Yes
<p>6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:</p>	At the moment non
<p>6.5. What was the most frequent issue in such disputes:</p>	N/a
<ul style="list-style-type: none"> Access conditions (excl. price) 	N/a
<ul style="list-style-type: none"> Access price 	N/a
<ul style="list-style-type: none"> Both (access conditions & price) 	N/a
<ul style="list-style-type: none"> Other? If yes, please explain briefly what the main issue was 	N/a

Table 7: Other tasks in State Aid

	Poland
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	granting authority with support from NRA
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	granting authority with support from NRA Differential regional level: I competition – 86 projects on small areas 900-2500 house holds II competition – 52 projects on large areas (NUTSIII) 7000-51000 house holds III competition – in preparations IV competition - in plans (uncertain)
7.3. National database for mapping of white areas/target areas (in case there is any)	NRA
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	NRA
7.5. Responsibility for the bidding process?	granting authority
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁶⁹ . Please specify the information given and provide a link if possible	granting authority: www.cppc.gov.pl
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	granting authority with support from NRA
7.8. Clawback mechanism	granting authority
7.9. Other (please specify)	

¹⁶⁹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

18. Portugal

Table 1: General information

	Portugal
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes (ongoing "national" measure ¹⁷⁰).
1.2 Does your Member State have ongoing umbrella schemes ¹⁷¹ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No.
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	
1.5 How many projects fall under an umbrella scheme?	
1.6 How many projects were directly notified to the Commission	
1.7 How many projects fall under the GBER? ¹⁷²	
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁷³	Operator subsidy models (gap funding, ~70% of the overall investment [on fiber])

¹⁷⁰ Measure "High-speed broadband in Portugal": Five (5) Projects for the installation, management, operation and maintenance of high-speed electronic communications networks in the Centre, North and Alentejo and Algarve zones of mainland Portugal and also Azores (and Madeira). See <https://www.anacom.pt/render.jsp?categoryId=332482>.

¹⁷¹ Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁷² Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁷³ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale only model (multiple third party retail operators)
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Portugal
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No. N/A.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Portugal
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes, regarding the mentioned (single) measure and respective legal mandate (for the 5 projects ¹).
If this is the case:	
3.2 Please describe these tasks	
3.3 Please name the legal document and, if possible, provide a link.	
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	Yes. Assisted the Government in the preparation of, and conducted, the 5 Public Tenders ¹⁷⁴ .
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes. The contracting authority is the Portuguese Government, with responsibility for the (5) tenders falling to the Ministry of Public Works, Transport and Communications. ANACOM was consulted at all stages of the tender process and assisted the Government in defining the minimum requirements and conditions of the wholesale offer of "open" access, included in the tender documents.
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	The (4) ¹⁷⁵ Contracts were signed between the Government and the winning bidders. The Contract (drafts) included the (open access) conditions established in the Tender documents.
3.7 To settle disputes which may arise with regard to State Aid cases?	No. Any litigation concerning, inter alia, the interpretation, execution, non-compliance, invalidity or termination of the contract(s) shall be settled by an arbitral Tribunal.
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes.
3.10 Access prices	Yes.
3.11 Other topics related to access conditions (which?)	Target areas definition, SLA, SLG, monitoring.
3.12 Since when does the NRA have these tasks?	2009 (for the mentioned 5 projects).

¹⁷⁴ ANACOM also participated in the selection phase and analysis of proposals, and in verifying the access conditions proposed by the tendering operators.

¹⁷⁵ The 5th project (Madeira) is still on hold, due to delays in the Aid process.

Table 4: Access obligations

	Portugal
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	
4.2 If this is the case, which access products for which NGA architecture?	
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	
4.4 Specify (or approve) access products?	Yes (specified in the Tender documents).
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	In all projects, FTTH-PON was rolled-out.
4.6 If this is the case, which access products for which NGA architecture?	Both passive access (P2P and P2MP) and active access (bitstream) were imposed (on FTTH-(G)PON. P2P passive access is done in a case by case project, establishing P2P dark fibre connections, using spare fibers on the distribution and local networks (i.e. fibers not connected to the splitters/PONs). There is low demand for this type of access, so no problems regarding civil infrastructure (mostly poles) and (spare) fiber.
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	N/A.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely	Yes ¹⁷⁶ . The description of the wholesale offer must include at least the terms and conditions of access, in terms similar to those of the reference offers of the SMP operator ¹⁷⁷ .

¹⁷⁶ Specified in the Tender documents: <https://www.anacom.pt/render.jsp?categoryId=331731> (in Portuguese), with the detail for the access characteristics, SLAs and SLGs in https://www.anacom.pt/streaming/anexo3_caderno_encargos_redes_nova_geracao2009.pdf?contentId=961575&field=ATTACHED_FILE.

¹⁷⁷ In particular:

- a) the procedures and conditions for access to and use of infrastructures;
- b) the various interfaces and their technical specifications;
- c) the terms of provision of services, namely provision and replacement of service;
- d) description of the order management processes and operating, maintenance and management procedures;
- e) the technical characteristics of the network, including the description and location of access and, in the case of access to ducts, poles and associated infrastructure, the path;
- f) the prices applicable to access to and use of infrastructure and to all services included in the offer;
- g) compensation for breaches of established service levels.

provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Yes, as an obligation included in the Tenders (see above). They are publicly available ¹⁷⁸ .

Table 5: Pricing

	Portugal
5.1. Do the guidelines recommend pricing principles?	
If this is the case:	
5.2. Please describe these pricing principles	
5.3. Please explain why the NRA recommend these pricing principles	
5.4. Do these pricing principles depend on the NGA architecture?	
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	Yes, regarding the mentioned projects. ANACOM, in practice, approved the proposed wholesale prices under the competitive bidding/tender process (using e.g. a price benchmarking on prices for comparable services).
5.6. Do you prescribe cost orientation? • If yes, please explain.	Yes, for collocation and access to civil infrastructure (ducts and poles).
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No.
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure,	Wholesale (passive and active) access prices were proposed under a competitive bidding process. ANACOM will monitor the pricing of the wholesale services.

¹⁷⁸ Upon registration: <http://www.fibroglobal.com/content-zona-centro.aspx?pid=3&cid=9> and <http://www.norte.dstelecom.pt/servicos/oferta-grossista/>.

conclusion of contract, ex post upon request)	
5.9. Do you use a costing model?	No.

Table 6: Dispute resolution procedures in State Aid Cases

	Portugal
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	N/A.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	See 3.7.
6.3. Are the results of the dispute resolution binding for the parties involved?	
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	1, although not directly related with the wholesale offer (see below) ¹⁷⁹ .
6.5. What was the most frequent issue in such disputes:	
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	Dispute between the wholesale operator and a wholesale provider of civil infrastructure, regarding access to ducts' prices.

¹⁷⁹ There were also several complains from municipalities and citizens regarding lack of coverage, but they are not disputes between (retail) operators and the wholesale operator.

Table 7: Other tasks in State Aid

	Portugal
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	ANACOM also assisted the Government in defining the target areas, defined at the Municipality level, i.e., all the 138 ¹⁸⁰ municipalities covered by the projects were “white areas”. Those municipalities were “aggregated” in 5 “regions” (non-administrative)
7.3. National database for mapping of white areas/target areas (in case there is any)	NA (national database does not exist).
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	ANACOM requested, from all operators, the commitment on non-investment in the defined “white areas” within the next 3 years.
7.5. Responsibility for the bidding process?	ANACOM, regarding the mentioned 5 projects.
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁸¹ . Please specify the information given and provide a link if possible	ANACOM, regarding the mentioned 5 projects (hence no national database) ¹⁸² .
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	ANACOM monitors the execution of the 5 projects, particularly with regard to the implementation of wholesale offers and in verifying that these offers are compliant with wholesale access obligations (including pricing).
7.8. Clawback mechanism	A claw-back mechanism is part of the contracts with the State: The level of profit by the wholesale operators will be examined every five years, and if is higher than the industry average, the extra profit has to be paid back to the State in proportion to the aid intensity. ANACOM may also assist the Government in this matter (legal mandate not yet attributed).
7.9. Other (please specify)	

¹⁸⁰ Of the 308 in total.

¹⁸¹ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

¹⁸² See <https://www.anacom.pt/render.jsp?categoryId=332482>.

19. Romania

Table 1: General information

	Romania
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Currently it is on the way of implementation a <i>de minimis</i> state aid scheme designed for rural and small towns (population under 20K). Also, the RO-Net project (http://ec.europa.eu/competition/state_aid/cases/250354/250354_1501667_115_2.pdf) it is close to be accomplished.
1.2 Does your Member State have ongoing umbrella schemes ¹⁸³ that have been notified and approved by the Commission? If yes, • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link	No.
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	Not applicable.
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Not applicable.
1.5 How many projects fall under an umbrella scheme?	Not applicable.
1.6 How many projects were directly notified to the Commission	A single one, RO-Net project, back in 2013 (http://ec.europa.eu/competition/state_aid/cases/250354/250354_1501667_115_2.pdf)
1.7 How many projects fall under the GBER? ¹⁸⁴	None.
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁸⁵	A kind of privately run municipal network model (for RO-Net project) and the operator subsidy model (for <i>de minimis</i> state aid scheme).

¹⁸³Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁸⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁸⁵ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Both. RO-Net is a wholesale only project, while the <i>de minimis</i> state aid scheme calls for wholesale plus retail projects.
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Romania
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	Yes.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	No, we favoured direct interaction with the granting authorities. On the other hand the number of cases was small.
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> • If yes, please outline the connection. 	Not applicable.

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Romania
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes.
If this is the case:	
3.2 Please describe these tasks	<p>ANCOM is empowered:</p> <p>a) to approve the technical and economic requirements for open access to the state aid subsidized networks and infrastructures;</p> <p>The granting authorities are supposed to set the open access requirements but in order to become mandatory ANCOM shall approve them. If requested ANCOM can assist the granting authorities to set the open access requirements.</p> <p>b) to oversee the abidance of the open access requirements approved.</p> <p>ANCOM it is not entitled to impose fines in the case of non-compliance with the open access requirements but can establish facts and could ask the granting authorities to impose penalties against the non-compliant operator(s).</p>
3.3 Please name the legal document and, if possible, provide a link.	The Government Emergency Ordinance no. 111/2011 and the Law no. 159/2016.
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No.
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes, if granting authorities requested.
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No.
3.7 To settle disputes which may arise with regard to State Aid cases?	To a limited extend, whenever could be argued a breach of a requirement written in the law.
3.8 Others (which)?	Not applicable.
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes.
3.10 Access prices	Yes.
3.11 Other topics related to access conditions (which?)	Not applicable.
3.12 Since when does the NRA have these tasks?	In the current shape since 2016 but something more or less similar has been provided by the law since 2011.

Table 4: Access obligations

Romania	
In case the NRA is the competent body for issuing guidelines as referred to in para 42:	
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	Not applicable (No guidelines have been issued yet).
4.2 If this is the case, which access products for which NGA architecture?	Not applicable.
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	Not applicable.
4.4 Specify (or approve) access products?	Yes, ANCOM shall approve the access products.
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	The legal provisions do not set this kind of details. Should ANCOM were asked to give an approval today most likely would require to be defined distinct access products for different NGA infrastructures.
4.6 If this is the case, which access products for which NGA architecture?	To be determined.
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	In our view the full range of active access products would not be required in villages with small population as the costs of complying will most likely overpass any possible gains in competition. Also, in a <i>de minimis</i> state aid scheme active access products are not required as the impact on the competition is very limited.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	Yes. ANCOM could mandate quality of service requirements, external and internal non-discrimination, non-disclosure of the information received during negotiation, drawing up a wholesale reference offer which shall set, among others, the deadline for the negotiation and for the services' provision as well as the service level agreement.
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	For the time being no, but when the RO-Net project is accomplished the state aid recipient shall provide a wholesale reference offer for the backhaul network and its infrastructure, as those are subsidized by the public funding.

Table 5: Pricing

	Romania
In case the NRA is the competent body for issuing guidelines as referred to in para 42:	
5.1. Do the guidelines recommend pricing principles?	Not applicable (No guidelines have been issued yet).
5.2. Please describe these pricing principles	Not applicable.
5.3. Please explain why the NRA recommend these pricing principles	Not applicable.
5.4. Do these pricing principles depend on the NGA architecture?	Not applicable.
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? • If yes, please explain.	ANCOM could give advice for the granting authorities. No special pricing principle is prescribed by the legal provisions.
5.6. Do you prescribe cost orientation? • If yes, please explain.	No.
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? • If yes, please provide a link.	No.
5.8. Do you regulate prices for access products provided under the State Aid obligations? • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request)	Yes, ANCOM approves the prices for access products set by the granting authorities. As a general rule the prices shall be approved before the tender procedure. In a limited number of cases the approval could be granted ex post upon request.
5.9. Do you use a costing model?	No.

Table 6: Dispute resolution procedures in State Aid Cases

	Romania
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	No.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	No.
6.3. Are the results of the dispute resolution binding for the parties involved?	Not applicable.
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	Not applicable.
6.5. What was the most frequent issue in such disputes:	Not applicable.
• Access conditions (excl. price)	
• Access price	
• Both (access conditions & price)	
• Other? If yes, please explain briefly what the main issue was	

Table 7: Other tasks in State Aid

	Romania
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	The granting authorities. Until now the target areas were at NUTS level 5.
7.3. National database for mapping of white areas/target areas (in case there is any)	ANCOM. The map is made based on the information provided by the operators on regular or ad-hoc basis.
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	None.
7.5. Responsibility for the bidding process?	The granting authorities.
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁸⁶ . Please specify the information given and provide a link if possible	Ministry of Communications and Information Society The most important information comprised: a) the target areas of the state aid scheme b) the implementation timetable for the state aid scheme c) the budget of the state aid scheme d) the full text of the approved state aid scheme e) the access products and their prices https://www.comunicatii.gov.ro/?page_id=3686
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	The granting authorities.
7.8. Clawback mechanism	The granting authorities.
7.9. Other (please specify)	

¹⁸⁶ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

20. Slovakia

Table 1: General information

	Slovakia
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	
1.2 Does your Member State have ongoing umbrella schemes ¹⁸⁷ that have been notified and approved by the Commission?	
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	Slovak NRA (hereinafter "RU") has no assigned functions in State Aid Schemes in Slovak Republic
1.5 How many projects fall under an umbrella scheme?	
1.6 How many projects were directly notified to the Commission	
1.7 How many projects fall under the GBER? ¹⁸⁸	
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁸⁹	
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	

Other tables: not applicable

¹⁸⁷Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁸⁸ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁸⁹ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

21. Slovenia

Table 1: General information

	SLOVENIA
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	The Next Generation Broadband Development Plan to 2020 - www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/DID/Informacijska_druzb/NGN_2020/NGN_2020_Slovenia_EN.pdf
1.2 Does your Member State have ongoing umbrella schemes ¹⁹⁰ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	The basic for those characteristics are defined in The Next Generation Broadband Development Plan to 2020.
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	N/A
1.5 How many projects fall under an umbrella scheme?	N/A
1.6 How many projects were directly notified to the Commission	None
1.7 How many projects fall under the GBER? ¹⁹¹	N/A
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ¹⁹²	N/A
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Wholesale only

¹⁹⁰Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁹¹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

¹⁹² For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	SLOVENIA
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No (there is no body that issues the guidelines as referred to in para 42)
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Slovenia
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	Supervision on openness of the ECN built under state aid. AKOS keeps record of expressions of commercial interest in the deployment of the broadband network and supervises the implementation in accordance with Electronic Communications Act (ZEKom-1) – every network owner that have submitted expressions of commercial interest in the deployment of the broadband network are obliged to do so within three years.
3.3 Please name the legal document and, if possible, provide a link.	ECA-1 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6405)

Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No
3.5 To provide advice for granting authorities on individual State Aid cases?	No
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes (see table 6)
3.8 Others (which)?	
Does these tasks relate to:	
3.9 Access conditions excl. price	No
3.10 Access prices	No
3.11 Other topics related to access conditions (which?)	No
3.12 Since when does the NRA have these tasks?	/

Table 4: Access obligations

Not applicable

Table 5: Pricing

Not applicable

Table 6: Dispute resolution procedures in State Aid Cases

	SLOVENIA
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	AKOS is a dispute resolution body regarding joint use (which includes also the distribution of costs) of ECN and a dispute resolution body regarding operators access. Relevant provisions of the ECA-1 are valid for any electronic communications networks, which includes also disputes under state aid cases.
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	Yes
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	/
6.5. What was the most frequent issue in such disputes:	/
• Access conditions (excl. price)	/
• Access price	/
• Both (access conditions & price)	/
• Other? If yes, please explain briefly what the main issue was	/

Table 7: Other tasks in State Aid

	SLOVENIA
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	Ministry of public administration (state level)
7.3. National database for mapping of white areas/target areas (in case there is any)	Ministry of public administration
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	AKOS
7.5. Responsibility for the bidding process?	Ministry of public administration
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ¹⁹³ . Please specify the information given and provide a link if possible	Ministry of finance (so far) http://www.mf.gov.si/si/delovna_podrocja/drzavne_pomoci/evidence_priglasitev/veljavne_drzavne_pomoci/
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	Ministry of public administration
7.8. Clawback mechanism	Ministry of public administration
7.9. Other (please specify)	

¹⁹³ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

22. Spain

Table 1: General information

	Spain
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes
1.2 Does your Member State have ongoing umbrella schemes ¹⁹⁴ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> How many umbrella schemes are there Please name the document(s) and, if possible, provide a link 	No
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	----
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	----
1.5 How many projects fall under an umbrella scheme?	----
1.6 How many individual projects were directly notified to the Commission?	Although Spain has notified several projects, there is only one currently operating and where CNMC intervenes. This is the case of " N 407/2009 - Optical fibre Catalonia (Xarxa Oberta) ".
1.7 How many projects fall under the GBER? ¹⁹⁵	Approximately 5 or 6 per year (national and regional).
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model) ¹⁹⁶	Mostly operator subsidy model but there are a few municipal networks.

¹⁹⁴Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

¹⁹⁵ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>.

¹⁹⁶ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Both
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Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Spain
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	<p>Not only. The competent bodies are:</p> <ul style="list-style-type: none"> - CNMC for wholesale access conditions and prices. - Ministry of Energy, Tourisms and Digital Agenda (MINETAD) shall start the process to elaborate the document and shall advise about any other issues related with the State aid projects.
If this is the case:	
<p>2.2 Did the NRA issue such guidelines?</p> <ul style="list-style-type: none"> • If no: please explain why (e.g. small number of cases; conditions specified in the tender) • If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	<p>No. As mentioned, the MINETAD is the competent body for starting the process and has not begun yet. During this process, the MINETAD must ask CNMC opinion about wholesale access conditions and pricing.</p> <p>However, CMT (former CNMC) issued a Regulation (so called Circular) in 2010 regulating the conditions for operation of networks and the provision of electronic communications services by Public Administrations (now partially withdrawn)¹⁹⁷</p>
<p>2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)?</p> <ul style="list-style-type: none"> • If yes, please outline the connection. 	----

¹⁹⁷ Please see https://www.cnmc.es/sites/default/files/1506150_0.pdf.

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	Spain
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	Yes
If this is the case:	
3.2 Please describe these tasks	<ul style="list-style-type: none"> • CNMC shall advise wholesale access conditions and prices of any draft measure for a broadband State aid project before its approval by the granting authority or the notification to the EC. • CNMC shall solve any dispute that arises between the beneficiary operator and a third party operator in relation to wholesale access conditions and prices.
3.3 Please name the legal document and, if possible, provide a link.	<ul style="list-style-type: none"> • Real Decreto 462/2015, de 5 de junio, por el que se regulan instrumentos y procedimientos de coordinación entre diferentes Administraciones Públicas en materia de ayudas públicas dirigidas a favorecer el impulso de la sociedad de la información mediante el fomento de la oferta y disponibilidad de redes de banda ancha <p>(Royal Decree 462/2015, of 5 of June, which regulates instruments and coordination procedures between different public administrations in the field of public aid to encourage the promotion of the information society by fostering the offer and availability of broadband networks) (http://boe.es/buscar/doc.php?id=BOE-A-2015-6646)</p> <p>Non official English version: https://www.global-regulation.com/translation/spain/616172/royal-decree-462-2015%252c-of-5-june%252c-which-regulates-instruments-and-coordination-procedures-between-different-public-administrations-public-aid-to-e.html</p>
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	Yes, but CNMC only advises on wholesale access conditions and prices.
3.5 To provide advice for granting authorities on individual State Aid cases?	Yes - wholesale access conditions and prices-.
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	Not in general, only if there is a dispute resolution procedure related to access conditions.
3.7 To settle disputes which may arise with regard to State Aid cases?	Yes
3.8 Others (which)?	----
Does these tasks relate to:	
3.9 Access conditions excl. price	Yes
3.10 Access prices	Yes
3.11 Other topics related to access conditions (which?)	----
3.12 Since when does the NRA have these tasks?	Since 2010

Table 4: Access obligations

	Spain
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	----
4.2 If this is the case, which access products for which NGA architecture?	----
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	----
4.4 Specify (or approve) access products?	Yes, but only under specific circumstances set for in an EC Decision (please see N 407/2009 –Optica fiber Catalonia (Xarxa Oberta)) or through dispute resolution procedures.
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	No, because CNMC specify access products on a case by case basis, there is not a previous and general statement about access products and NGA – infrastructures.
4.6 If this is the case, which access products for which NGA architecture?	----
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	So far, CNMC always recommends both active and passive products.
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	Only through dispute resolution, if needed. No specifications can be explained because they are provided on a case by case basis.
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Not approved by CNMC but all beneficiary operators (SMP or not SMP) shall have a reference offer for wholesale access services included in a State aid project.

Table 5: Pricing


	Spain
5.1. Do the guidelines recommend pricing principles?	CNMC has not enacted guidelines on pricing yet.
If this is the case:	
5.2. Please describe these pricing principles	----
5.3. Please explain why the NRA recommend these pricing principles	----
5.4. Do these pricing principles depend on the NGA architecture?	----
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? <ul style="list-style-type: none"> If yes, please explain. 	<p>CNMC gives individual advice to the MINETAD or any other granting authority on request.</p> <p>In general terms, the vast majority of state aid projects fall within the scope of article 52 of GBER Regulation, CNMC directly applies the criteria set for in paragraph 6 of the mentioned article: The wholesale access price shall be based on the pricing principles set by the national regulatory authority and on benchmarks that prevail in other comparable, more competitive areas of the Member State or the Union taking into account the aid received by the network operator.</p> <p>In addition and taking into account that the current regulation of broadband infrastructure markets tends to reduce cost-oriented pricing assumptions, CNMC also recommends to include a reference that wholesale access prices should be based on prices or principles and/or price control instruments used by the regulator for the services included in the State aid project (such as the methodology or the economic replicability test aimed at controlling margin squeeze in services provided over NGA architecture).</p> <p>This is necessary to ensure that retail prices from competitive areas are replicable in non-competitive areas that benefited from a state aid program, especially when the beneficiary aid operator is also present at retail level.</p>
5.6. Do you prescribe cost orientation? If yes, please explain.	As last resort, if no other criteria can be applicable (see Q 5.5).
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? <ul style="list-style-type: none"> If yes, please provide a link. 	<p>In Spain, there are not published benchmarks so the beneficiary only can take into account the SMP reference offer.</p> <p>CMT (former CNMC) has made a benchmark when approving prices in the Xarxa Oberta Scheme. The beneficiary wanted to offer a wholesale dark fiber and a 10 Gigabit Ethernet wholesale leased lines services. There were not regulated prices for these services, so CMT did not have any reference prices. Therefore CMT made a benchmark with the main providers of these services (electronic communications operators) in order to take a final decision about the prices for these services.</p>
5.8. Do you regulate prices for access products provided under the State Aid obligations? <ul style="list-style-type: none"> If yes, please explain. At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	<p>Yes. Please see Xarxa Oberta's EC Decision (Q 1.6).</p> <p>According to the EC Decision, CNMC must monitor the compliance of Xarxa Oberta to access services conditions set for.</p> <p>In addition, CNMC must always approve the applicable wholesale prices services upon request. For doing so, CNMC usually compares the proposed prices with the existing regulated prices or the existing prices in the more competitive areas through a specific benchmark approach.</p>
5.9. Do you use a costing model?	No

Table 6: Dispute resolution procedures in State Aid Cases

	Spain
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	Yes
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	Only arbitration on a voluntary basis (if both operators agree on that kind of settlement).
6.3. Are the results of the dispute resolution binding for the parties involved?	Yes
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	At the moment only one, but there is another dispute procedure under consideration in CNMC.
6.5. What was the most frequent issue in such disputes:	The lack of reference offer by the beneficiary.
• Access conditions (excl. price)	----
• Access price	----
• Both (access conditions & price)	----
• Other? If yes, please explain briefly what the main issue was	The lack of reference offer by the beneficiary.

Table 7: Other tasks in State Aid

	Spain
7.1. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	The granting authority but in Spain the Ministry (MINETAD) publishes every year an updated map that is used by the rest of the Spanish granting authorities to establish the target areas. Average size of target areas: below municipality (it is called "population entities" and sometimes just business parks).
7.2. National database for mapping of white areas/target areas (in case there is any)	MINETAD
7.3. Checking operator's commitments about a private investment of a rollout announced in market analyses?	None
7.4. Responsibility for the bidding process?	Granting authorities (MINETAD or regional/local authorities)
7.5. Transparency register as in para 78(j) of the EU	Any State Aid including broadband: Ministry of Treasury and Civil Service

<p>Broadband Guidelines¹⁹⁸. Please specify the information given and provide a link if possible</p>	<p>http://www.pap.minhafp.gob.es/bdnstrans/GE/es/index</p> <p>E.g. State aid 2016:</p> <p>http://www.pap.minhafp.gob.es/bdnstrans/GE/es/convocatoria/304405</p> <p>Broadband State Aid details: MINETAD</p> <p>e.g. State aid 2016</p>  <p>Hoja de cálculo de Microsoft Excel</p> <ul style="list-style-type: none"> - Full text of the approved aid scheme - Kind of deployment (access/backhaul, minimum speed) - Name of the beneficiary - Region, municipality and population entity where the network will be deployed - Total investment - Aid amount - Aid intensity - Technology <p>http://www.minetad.gob.es/telecomunicaciones/banda-ancha/ayudas/Paginas/ayudas-publicas.aspx</p>
<p>7.6. Monitoring (e.g. network deployment, retail services penetration, pricing)</p>	<p>Granting authority</p>
<p>7.7. Clawback mechanism</p>	<p>Granting authority</p>
<p>7.8. Other (please specify)</p>	<p>CNMC is empowered to impose special conditions on Public authorities when playing its role as operators. Such public operators shall perform its activities in compliance with the private investor principle (PIP), due separation of accounts, the principles of neutrality, transparency, non-distortion of competition and non-discrimination, and with the regulations on State aid referred to in Articles 107 and 108 of the Treaty on the Functioning of the European Union.</p> <p>CNMC checks if the public operator complies with the PIP. In cases, where it affects competition, CNMC can impose special conditions.</p>

¹⁹⁸ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

23. Sweden

Table 1: General information

	Sweden
1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?	Yes.
1.2 Does your Member State have ongoing umbrella schemes ¹⁹⁹ that have been notified and approved by the Commission? If yes, <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	<p>There are two ongoing umbrella schemes for broadband projects in Sweden.</p> <p>State aid for broadband through The Rural Development Programme (Landsbygdsprogrammet) managed by the the Swedish board of Agriculture and administrated by county administration (Länsstyrelserna).</p> <p>http://www.jordbruksverket.se/amnesomraden/stod/stodilandsbygdsprogramm/et/bredband.4.37e9ac46144f41921cd2c761.html</p> <p>State aid for broadband through The Regional Structural Fund Programmes (Regionalfondsprogrammen) managed and administrated by the Swedish Agency for Economic and Regional Growth.</p> <p>https://tillvaxtverket.se/bredband</p> <p>Both projects are falling under EU Regulation 651/2014 (GBER).</p>
1.3 Please specify the main characteristics of the respective umbrella scheme(s):	<p>State aid for broadband through The Rural Development Programme is a state aid project intended for the rural areas of Sweden where the market is not willing to develop broadband on a solely commercial basis. The project is a “bottom to top-scheme” where possible target areas are defined by market analysis and then determined by demand through applications to local authorities. This aid can only be granted for the construction of passive infrastructure for end user access networks. The applicant must ensure fulfilment of Article 52(5) in GBER.</p> <p>If an operator wants access to a network funded by The Rural Development Programme the access price needs to be fair. If operators believe that such access is not fairly priced they can ask the administrating authorities to investigate the matter.</p> <p>State aid for broadband through The Regional Structural Fund Programmes is a state aid project solely for interurban networks in the northern parts of Sweden. This project is also a “bottom to top-scheme” based on applications. This aid can only be granted for the development of NGA-networks.</p> <p>The detailed terms and conditions concerning the support-funded projects are set in the regulations of the managing authorities. Both State aid projects are designed to comply with GBER why provisions with regards to pricing, open access and dispute resolution follows the principles outlined in GBER.</p>

¹⁹⁹Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	The NRA (The Post and Telecom Authority (PTS)) supports the Swedish Agency for Economic and Regional Growth and the Swedish board of Agriculture, who manages the funding programmes through which broadband state aid is possible. PTS acts as an expert authority on broadband state aid. In this role, we provide detailed guidance to the responsible authorities, working closely with the principals of the funding programmes. PTS annually provides the Swedish board of Agriculture with a market analysis to identify the existing broadband networks and services.
1.5 How many projects fall under an umbrella scheme?	One State aid Broadband project under each scheme.
1.6 How many projects were directly notified to the Commission	None.
1.7 How many projects fall under the GBER? ²⁰⁰	Both projects are designed to ensure that they are compliant with GBER.
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap funding), publicly or privately run municipals network model ²⁰¹	Both projects are based on gap funding in areas where the market is not willing to develop broadband on an entirely commercial basis.
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Only wholesale projects

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	Sweden
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No. Guidelines for each project are issued by the managing authorities.
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	

²⁰⁰ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

²⁰¹ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

<p>2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)?</p> <ul style="list-style-type: none"> • If yes, please outline the connection. 	
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Tables 3-6

Not applicable

Table 7: Other tasks in State Aid

	Sweden
<p>7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?</p>	
<p>7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).</p>	<p>Target areas within the Rural Development Programme are defined in two steps.</p> <ol style="list-style-type: none"> 1. The managing authority determines the type of areas that can be subject to State aid. 2. The local (administrating) authorities accept applications for State aid and uses a public consultation to make sure that the area covered by the application does not already have NGA-networks or is subject to already existing development plans. <p>Target areas in the Rural Development Programme are typically small communities outside of urban areas and geographically coherent countryside.</p> <p>Target areas in the Regional Fund Programme is defined as follows.</p> <ol style="list-style-type: none"> 1. The managing and administrating authority does a mapping of where there are no interurban networks in cooperation with regional development officers. 2. The mapping is published and followed by a public consultation to make sure that the area covered by the application does not already have interurban networks or is subject to already existing development plans. <p>Target areas in the Regional Fund Programme are on a regional level/municipality level.</p>
<p>7.3. National database for mapping of white areas/target areas (in case there is any)</p>	<p>PTS has a national database of existing NGA-networks and a mapping service illustrating access to such networks.</p> <p>http://bredbandskartan.pts.se/</p>
<p>7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?</p>	<p>The administrating authorities.</p>
<p>7.5. Responsibility for the bidding process?</p>	<p>The owners of the funded projects are responsible for their own bidding processes.</p>

7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ²⁰² . Please specify the information given and provide a link if possible	<p>The administrating authorities.</p> <p>The Rural Development Programme</p> <p>http://www.lansstyrelsen.se/sv/Pages/default.aspx</p> <p>The Regional Fund Programme</p> <p>https://tillvaxtverket.se/bredband</p>
7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	The managing and administrating authorities.
7.8. Clawback mechanism	The managing and administrating authorities.
7.9. Other (please specify)	

²⁰² Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

24. United Kingdom

Table 1: General information

United Kingdom	
<p>1.1 Do you have State Aid Schemes for broadband roll-out projects in your country?</p>	<p>Yes</p> <p>Umbrella schemes: SA.40720 (2016/N) – National Broadband Scheme for the UK for 2016-2020</p> <p>SA.33671 (2012/N) – United Kingdom National Broadband scheme for the UK - Broadband Delivery UK</p> <p>Other schemes & ad hoc cases²⁰³ SA.34188 (2012/N) - Next Generation Broadband in North Yorkshire SA.33077 (2011/N) - Northumberland Uplands Rural Community Broadband N508/2008 - Provision of Remote Broadband Services in Northern Ireland N418/2009 - Northern Ireland - Next Generation Broadband N248/2008 - Direct International Communications Link into the North West of Ireland SA.32829 (2011/N) - Devon and Somerset Rural Broadband Project N497/2010 – Shetland Islands SHEFA-2 Interconnect N746/2006 - North Yorkshire NYNET Project N461/2009 – Cornwall and Isles of Scilly Next Generation Broadband</p>
<p>1.2 Does your Member State have ongoing umbrella schemes²⁰⁴ that have been notified and approved by the Commission?</p> <p>If yes,</p> <ul style="list-style-type: none"> • How many umbrella schemes are there • Please name the document(s) and, if possible, provide a link 	<p>SA 33671 and SA 40720 were notified and approved as umbrella schemes but note that SA 33671 has expired with no further approvals but on going delivery until 2018</p> <p>http://ec.europa.eu/competition/state_aid/cases/243212/243212_1387832_172_1.pdf</p> <p>http://ec.europa.eu/competition/state_aid/cases/263954/263954_1760328_135_4.pdf</p>
<p>1.3 Please specify the main characteristics of the respective umbrella scheme(s):</p>	<p><u>SA 33671 - NBS 2012</u></p> <p>Target Areas</p> <p>The scheme was used to deliver local (or community) basic broadband projects in "basic broadband white areas" and NGA projects in "white NGA areas". "Basic broadband white areas" are defined as areas where basic broadband services at a minimum download speed of 2 Mbps were not available at affordable prices and there are no private sector plans to deliver such services in the next three years. For the purposes of this aid scheme, "white NGA areas" are areas where NGA broadband services at an access (download) speed of more than 30 Mbps are not available at affordable prices and there are no private sector plans to deliver such services in the next three years.</p> <p>Access Products</p>

²⁰³ Note these schemes are not managed by BDUK. The remainder of this document considers only those cases managed by BDUK

²⁰⁴ Explanatory note: „Umbrella schemes“ we refer to those schemes approved by the European Commission (EC) that allow the Member State to implement broadband support projects without additional individual state aid notifications to the EC (involving several projects) e.g. SA.40720 National Broadband Scheme for the UK for 2016-2020. „Individual projects“ are all those schemes notified and approved by the EC that are not umbrella schemes (because they will imply one beneficiary for one project) e.g. N 407/2009 - Optical fibre Catalonia (Xarxa Oberta).

Minimum forms specified within the Decision that are required for NGA broadband are a minimum of one point of active access and one form of passive access across all forms of technologies including FTTC, FTTP, Wireless and Cable (DOCSIS v3.0). Specific full open access requirements apply where new duct and poles are supplied as part of the solution but subject to a proportionality test where serving adjacent markets as with requests for any additional wholesale access products.

Time of Provision of Open Access/Transfer on Successors

Access conditions are required to be provided for a minimum of seven years and the obligation for these to be passed on in the event of disposal of the network is included for within the aid scheme.

Pricing

The scheme sets out that the wholesale access prices should be benchmarked against other competitive areas of the country/EU. Please refer to the benchmarking guidance for this scheme that can be found here:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378706/State_aid_-_Guidance_-_Benchmarking.pdf

Dispute Resolution

Scheme does not specifically specify any mechanisms for dispute resolution. The NRA's roles in dispute resolution is to advise BDUK:-

- in the event of dispute between an implementing body and suppliers; and
- in relation to wholesale access and between access seeker and the subsidized operator

SA 40720 - NBS 2016

Target Areas

The NBS 2016 is utilised to enable broadband deployment in "white" NGA areas (where NGA networks do not at present exist and where they are not likely to be built within 3 years) and provide speeds of at least 30 Mbps.

Access Products

The NBS 2016 specifies the specific access requirements for various technologies involved in broadband deployment, for example: ducts, poles, fibre, cabinets, copper loop unbundling, masts, antennas, active access.

For ducts, poles and fibre there is a requirement that it must be configured to support at least three competing infrastructure providers.

For cabinets and masts, passive access for up to three competing infrastructure providers must be provided when access is reasonably requested. Mast access is additionally subject to this being legally and technically possible, but operators do need to demonstrate that their network design anticipates having to respond to these requests.

Other forms of access include physical unbundling, antenna sharing and active access (including VULA). For existing infrastructure used as part of the deployment, the access requirements are as set out above, subject to this being technically and legally possible.

New forms of network access are also required to both new and existing infrastructure used in the intervention area but are subject to a reasonable demand test.

	<p>The decision also provides for a derogation for a reduced access procurement (a leased lines exception to the open access requirement) however this derogation has not been implemented as yet.</p> <p>Time of Provision of Open Access/Transfer on Successors</p> <p>The relevant wholesale access products must be offered for at least 7 years, or indefinitely in the case of new passive infrastructure.</p> <p>The obligation for these is to be passed on in the event of disposals of the network is included within the aid scheme.</p> <p>Pricing</p> <p>The scheme sets out that the wholesale access prices should be benchmarked against other competitive areas of the country/EU. Please refer to the benchmarking guidance for this scheme that can be found here:-</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378706/State_aid_-_Guidance_-_Benchmarking.pdf</p> <p>Dispute Resolution</p> <p>Scheme does not specifically specify any mechanisms for dispute resolution. The NRA's roles in dispute resolution is to advise BDUK:-</p> <ul style="list-style-type: none"> • in the event of dispute between an implementing body and a suppliers; and • in relation to wholesale access and between access seeker and the subsidized operator
1.4 Please specify the functions assigned to the NRA in the umbrella scheme:	<p>Under both SA.33671 (2012/N) and SA. 40720 (2016/N) - Ofcom provides technical advice to the UK authorities in relation to the scheme, including design of the schemes, addressing programme-wide issues, advising on issues arising in the context of individual broadband projects and advising on how Ofcom's regulatory decisions will interact with the 2016 scheme. Specifically:-</p> <ul style="list-style-type: none"> • BDUK's approach to producing its central baseline map; • The wholesale access conditions, including whether a supplier's proposal for wholesale access is consistent with this decision, the Broadband Guidelines and BDUK guidance; • Wholesale access pricing principles and practice, including the appropriateness of chosen benchmark(s) and dispute resolution between suppliers and access seekers; and • Input into relevant BDUK published guidance (including those relating to wholesale access and benchmarking principles).
1.5 How many projects fall under an umbrella scheme?	Circa 130 projects were granted approval under SA.33671 (2012/N). To date, 24 projects have been granted approval under SA. 40720 (2016/N).
1.6 How many projects were directly notified to the Commission	The umbrella schemes SA.33671 (2012/N) and SA. 40720 (2016/N) were notified to the Commission.
1.7 How many projects fall under the GBER? ²⁰⁵	We are not aware of any broadband projects that have currently sought to use the provisions of GBER.
1.8 Which investment model of state Aid projects is used, e.g. operator subsidy models (gap	<p>Under SA.33671 (2012/N) gap funding was the investment model used.</p> <p>For SA. 40720 (2016/N) there is an ability for projects to engage with the market and choose their investment model e.g. public sector owned (or municipally</p>

²⁰⁵ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty). For reference, see <https://ec.europa.eu/digital-single-market/en/investment-models>

funding), publicly or privately run municipals network model ²⁰⁶	owned); Concession to Build-Operate-Transfer; Public Private Partnership; Gap funding model.
1.9 Do you have wholesale only projects or wholesale plus retail (or both)?	Both SA.33671 (2012/N) and SA. 40720 (2016/N) allow for both wholesale only and/or wholesale plus retail.

Table 2: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 1

	United Kingdom
2.1 Is the NRA the competent body for issuing guidelines as referred to in para 42 (EC Guidelines)? If not, please state the competent body.	No, Both SA 33671 and SA 40720 derogate this role to BDUK's National Competence Centre (NCC).
If this is the case:	
2.2 Did the NRA issue such guidelines? <ul style="list-style-type: none"> If no: please explain why (e.g. small number of cases; conditions specified in the tender) If yes: When? Please name the document and, if possible, provide a link. An English version (if available) would be helpful. 	Please see response to 2.1 and 1.4. above. The NCC has issued the relevant guidance and has consulted on its content with the NRA. Please refer to BDUK's website:- https://www.gov.uk/government/publications/state-aid-advice
2.3 Do the guidelines connect the open access obligations of State Aid directly to SMP regulated products (e.g. standard offer, regulated prices)? <ul style="list-style-type: none"> If yes, please outline the connection. 	Where the State aid obligations exceed the regulatory position then, where public funding has been utilised for the provision of creating the assets, the more onerous access conditions contained within the State Aid Decisions take precedence. Furthermore, where the regulatory position changes and the regulatory environment imposes more onerous conditions than as required under the State aid decision, then these conditions will then be imposed in the areas intervened under the respective aid schemes. Price benchmarking of wholesale products are linked to the average published (regulated) wholesale prices on both SA 33671 and SA 40720.

Table 3: Legally defined tasks of the NRA with regard to access conditions in case of State Aid – part 2

	United Kingdom
3.1 Does the NRA (also) have legally defined tasks with regard to access conditions in case of State Aid in addition to issuing guidelines (Yes/No)?	No

²⁰⁶ For reference, see <https://ec.europa.eu/digital-single-market/en/investment-model>

If this is the case:	
3.2 Please describe these tasks	Not applicable
3.3 Please name the legal document and, if possible, provide a link.	Not applicable
Does the NRA have the task	
3.4 To provide guidance on public State Aid tenders?	No, this is provided by BDUK's NCC as stated above.
3.5 To provide advice for granting authorities on individual State Aid cases?	No, this is provided by BDUK's NCC as stated above
3.6 To control contract drafts between the granting authority and the telecommunications providers if the access conditions allow effective open access? If yes, please explain.	No, this is provided by BDUK's NCC as stated above
3.7 To settle disputes which may arise with regard to State Aid cases?	Ofcom's role is to support BDUK's NCC in dispute resolution and provide technical input as appropriate.
3.8 Others (which)?	To advise on wholesale pricing and additional wholesale access products.
Does these tasks relate to:	
3.9 Access conditions excl. price	Only in relation to the scenario where an access seeker requests additional forms of access cannot be agreed.
3.10 Access prices	Only in relation to dispute resolution and general technical advice
3.11 Other topics related to access conditions (which?)	Not applicable
3.12 Since when does the NRA have these tasks?	From the relevant Scheme approval dates.

Table 4: Access obligations

	United Kingdom
4.1 Do the guidelines specify the different access products for the different NGA-infrastructures?	Not applicable BDUK technology neutral and requirements are speed related only
4.2 If this is the case, which access products for which NGA architecture?	Not applicable
4.3 Do the guidelines give qualitative specifications about the access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? • If yes, please explain the specifications.	Not applicable
4.4 Specify (or approve) access products?	Not applicable
If this is the case:	
4.5 Are different access products defined for the different NGA-infrastructures?	Not applicable
4.6 If this is the case, which access products for which NGA architecture?	Not applicable
4.7 In which cases active (and not passive) access products, or vice-versa, are recommended and why?	Not applicable
4.8 Provide qualitative specifications about access products and their provision to ensure that they can be used efficiently (like timely provision of all necessary information, quality of service, non-discrimination, collocation issues)? If yes, please explain the specifications.	Not applicable
4.9 Are there wholesale reference offers specifically for state aid cases (existing or planned)?	Not applicable

Table 5: Pricing

	United Kingdom
5.1. Do the guidelines recommend pricing principles?	Not applicable
If this is the case:	
5.2. Please describe these pricing principles	Not applicable
5.3. Please explain why the NRA recommend these pricing principles	Not applicable
5.4. Do these pricing principles depend on the NGA architecture?	Not applicable
5.5. Give advice on pricing mechanisms for granting authorities? Do you have special pricing principles for access products provided under the State Aid obligations? <ul style="list-style-type: none"> • If yes, please explain. 	Not applicable
5.6. Do you prescribe cost orientation? <ul style="list-style-type: none"> • If yes, please explain. 	Not applicable
5.7. Are there published benchmarks for the different forms of access products that could be taken as reference when setting pricing (principles)? <ul style="list-style-type: none"> • If yes, please provide a link. 	Wholesale access products provided by Openreach form the basis of most pricing benchmarks, these can be found here: https://www.openreach.co.uk/orpg/home/products/pricing/loadPricing.do
5.8. Do you regulate prices for access products provided under the State Aid obligations? <ul style="list-style-type: none"> • If yes, please explain. • At what stage do you specify wholesale prices (e.g. tender procedure, conclusion of contract, ex post upon request) 	Prices for wholesale access products are only regulated where the supplier is also the SMP operator, and price controls have been set as an SMP remedy – this is independent of state aid.
5.9. Do you use a costing model?	

Table 6: Dispute resolution procedures in State Aid Cases

	United Kingdom
6.1. Do you apply the general dispute resolution procedure between operators for access and/or pricing disputes under State Aid cases?	<p>In terms of disputes in relation to State aid schemes the dispute resolution procedure of the respective contracts applies, but is restricted to the contracting parties.</p> <p>More generally any disputes between communications providers over network access, whether on state aid funded or other networks, can be referred to Ofcom, and the general dispute resolution procedures apply:</p> <p>https://www.ofcom.org.uk/__data/assets/pdf_file/0020/71624/guidelines.pdf</p>
6.2. Can disputes be settled under alternative dispute resolution procedures (i.e., arbitration schemes) provided by your NRA? If yes, please explain	Ofcom expects parties to a dispute to take reasonable steps to enter into good faith negotiations before a dispute is raised. This can include arbitration schemes.
6.3. Are the results of the dispute resolution binding for the parties involved?	Ofcom's final determination is binding and is enforceable in court.
6.4. Number of disputes resolved since the NRA has the task to resolve such disputes:	No formal disputes in relation to State Aid have been referred to Ofcom.
6.5. What was the most frequent issue in such disputes:	
<ul style="list-style-type: none"> Access conditions (excl. price) 	
<ul style="list-style-type: none"> Access price 	2 disputes were resolved before formal proceedings were initiated.
<ul style="list-style-type: none"> Both (access conditions & price) 	
<ul style="list-style-type: none"> Other? <p>If yes, please explain briefly what the main issue was</p>	

Table 7: Other tasks in State Aid

	United Kingdom
7.1. Who is responsible for the following tasks in the handling of state aid cases and how are they dealt with?	Management of the State aid schemes is the responsibility of BDUK's NCC as set out above.
7.2. Definition of target areas Please specify the level/average size of target areas (e.g. municipality level, regional level, state level).	<p>Individual implementing bodies are responsible for the definition of their own intervention areas and the target areas of the investment.</p> <p>For SA 33671, the typical scheme focused on larger deployments at a County level. However, the devolved administrations of Northern Ireland and Wales procured at a country wide level and Scotland procured two separate contracts (effectively at a regional level). In addition, there were a number of smaller procurements ranging from a few hundred premises up to 5,000 as community or technology test projects (Market Test Pilots). Overall around 4.2m NGA white premises have been passed by the intervention and a further 900,000 anticipated of over the remaining contract delivery.</p> <p>For SA 40720, responsibility for the scale of the intervention area rests with the implementing body following market engagement. With encouragement from BDUK, this has resulted in smaller procurements and the scale of those projects approved to date have a maximum intervention area of around 30,000 premises. Based upon current forecasts, the projects approved to date will deliver an additional 600,000 premises.</p>
7.3. National database for mapping of white areas/target areas (in case there is any)	<p>BDUK has its own central database that tracks the coverage plans of the UK's incumbent suppliers (BT and K-Com) plus Virgin media.</p> <p>Under both schemes white areas for intervention are defined on a project by project basis via an Open Market Review (direct engagement with all known operators) with the State aid map verified via a Public Consultation. The overall process is managed by BDUK's NCC.</p>
7.4. Checking operators commitments about a private investment of a rollout announced in market analyses?	Individual implementing bodies are responsible for the verification of the rollouts announced however this is also undertaken with the support of BDUK's NCC.
7.5. Responsibility for the bidding process?	Individual implementing bodies are responsible for managing their procurements however verification that these comply with the procurement rules and regulations rests with BDUK's NCC.
7.6. Transparency register as in para 78(j) of the EU Broadband Guidelines ²⁰⁷ . Please specify the information given and provide a link if possible	<p>Details of all projects approved under the BDUK scheme are available the UK Government website and provide full details of the status of the project and link through to the relevant implementing bodies website.</p> <p>https://docs.google.com/spreadsheets/d/1Hs00bNsyRV1WoOt-fow3rsNXzpcKg26AsOWvk1bvJRk/edit#gid=0</p>

²⁰⁷ Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, name of the aid beneficiary, aid amount, aid intensity and used technology. Such information shall be published after the granting decision has been taken and shall be kept for at least 10 years and shall be available for the general public without restrictions.

7.7. Monitoring (e.g. network deployment, retail services penetration, pricing)	As part of the approval process under the respective umbrella scheme, BDUK's NCC have/will ensure that appropriate monitoring arrangements are in place in broadband projects that seek approval under SA 33671/SA40720. However, implementing bodies monitor their deployments through the contracts with the broadband operators. Where BDUK funding is provided then back to back reporting requirements are in place so that these are also monitored by BDUK with the NCC able to support and assist as required.
7.8. Clawback mechanism	As part of the approval process under the respective umbrella scheme, BDUK's NCC have/will ensure that an appropriate clawback mechanism is included in the contracts for the broadband projects that seek approval under SA 33671/SA40720. Individual implementing bodies are responsible for ensuring that the broadband operators fulfil their obligations and report on appropriate indicators e.g. take up, to operate the mechanism appropriately. Support to individual implementing bodies on the operation of their clawback mechanism is provided by BDUK's NCC.
7.9. Other (please specify)	