

Introduction

At the beginning of 2015, the Government of Georgia announced the contest within the scope of special program aiming to increase access to broadband internet and coverage in Georgia. Applicants interested in the project were allowed to submit their proposals. Out of four companies that have passed through the first phase of the contest, three were network providers.¹ None of submitted proposals could fulfill the conditions established for the second phase of the contest. The Ministry of Economic and Sustainable Development of Georgia and LEPL “Georgia’s Innovation and Technology Agency” (GITA) are currently working on modification of these conditions in order to announce a new contest.

Due to the rapid changes in the technological challenges, timely intervention of the state and flexible legal framework are essential requirements for the internet marketing regulation. There is no doubt that Georgia’s broadband development is of great importance and it significantly changes the current business environment, as well as the state and awareness of each citizen. Modern electronic services increase flexibility and transparency of the state and business sector. In addition, a broadband, high-speed internet network unambiguously reduces the time required for information exchange between rural areas and cities, as well as around the world. All citizens of Georgia should have access to all electronic services available via high-speed internet. This should be the long-term objective and joint goal of the Government of Georgia, civil society and business sector.

Georgia’s broadband development in all sectors is an extremely important issue. According to current projections, in EU member states internet economy will be increased to 11%, which will lead to 6% GDP growth in 2016². Small and medium-sized enterprises use Internet more intensively than other types of organizations. Obviously, access to their services and competitive prices cannot be ensured if individuals have no access to the internet.³

Terms and conditions of the contest and the framework established by the Ministry of Economy and Sustainable Development of Georgia were not adjusted to the Georgian reality and current ecosystem, as well as to existing market problems. We believe the issue can be addressed only by choosing the right goals and targets⁴ achieved through correctly determined ways and accurately defined interests and abilities of contributors and stakeholders.

In the last two decades, broadband development and connectivity has been one of the urgent issues around the world. Due to a high cost of broadband development and a number of other challenges, European Union has been assisting its member countries in broadband development and stability maintenance for over the last 15 years, as:

¹ Note: Two companies are also operating in retail sector and providing internet service to customers.

² <https://www.bcg.com/documents/file100409.pdf>

³ http://www.mckinsey.com/insights/high_tech_telecoms_internet/internet_matters

⁴ Note: However, defined goals still may not be adequate and adjusted to the existing problems and situation in Georgia.

- It is a part of everyday life of each citizen;
- It is the basis for the development of Single European Electronic Market and public and private electronic Service Delivery Platforms;
- It accelerates the introduction of innovations, fosters economic growth and trade;
- It promotes democracy development and human rights protection.¹

In addition to economic and other important factors, broadband services are used for public service delivery. This process involves active processing and use of commercial secret and personal data. Addressing the data privacy issues, as well as regulating many other issues is essential with regard to the protection of consumers, as the safe, sustainable and resilient internet network is the basis for the development of a reliable internet economy.⁵

An utmost importance of broadband network is clearly defined in the report of Broadband Commission⁶ for Digital Development initiated by ITU⁷. According to the report, broadband infrastructure is:

- Basic infrastructure, such as roads, electricity and water delivery networks;
- Uniquely powerful tool for accelerating progress towards the Millennium Development Goals;
- Cost-effective that gives the investor opportunity to have reasonable returns-on-investment in both developed and developing countries;
- The basis for the development of all sectors of the economy and increases investments and opportunities in public and social service delivery;
- Need to be promoted by the government in joint partnership with industry, in order to reap the full benefits of broadband networks and services.

⁵ http://eeas.europa.eu/policies/eu-cyber-security/cybsec_comm_en.pdf

⁶ <http://www.broadbandcommission.org/Documents/Background%20and%20Overview%20Documents/Critical%20Infrastructure.pdf>

⁷ International Telecommunication Union

The last 7 month after announcing the project by the Ministry of Economy and Sustainable Development of Georgia and the contest results revealed that the process was inaccurately and hastily planned and the result was adequate. This impacted, on the first place, the customer and then the business sector and state. The process of covering the country by broadband network was postponed for one year.



1. What do we know about Georgia's Broadband Development Plan?

As noted above, in January 2015 the plan - “Broadband Internet to Every Citizen” was elaborated and published by the initiative of Georgian government. According to the plan, it was scheduled to cover the whole territory of Georgia with high-speed Internet by 2020 and to ensure an open access to all stakeholders. According to the mentioned plan, population of Georgia should **get a high-speed internet connection of 30Mb/s, while 50 % of the population should be provided with internet connection speed of 100 Mb/s.**

IDFI asked the administration of Georgian Government, the Ministry of Economy and Sustainable Development of Georgia and LEPL “Georgia’s Innovation and Technology Agency” about the current situation. **Based on the response received from LEPL “Georgia’s Innovation and Technology Agency”, we conclude that a number of challenges are faced at planning and implementation phases.**

Unfortunately, some issues have been remained out of focus. Problems are resolved so that existing shortcomings are not fully understood and challenges faced by the population of Georgia are not considered.

It is important that Georgia should manage to establish strategy adjusted to the existing problems, in which all stakeholders will be involved. Current state of internet marketing and infrastructure in Georgia (and in neighboring countries as well) should be understood and so called SWOT analysis should be carried out in this document. The project should be agreed with private and NGO sectors and after it should be approved with consideration of recommendations and experiences, including negative ones.⁸

In January 2015, eugeorgia.info has requested information from the Ministry of Economy and Sustainable Development of Georgia with regard to the Georgian Government Plan - “Broadband Internet to Every Citizen”. According to the LEPL “Georgia’s Innovation and Technology Agency”, none of the applications submitted by four companies met the requirements. Agency reported that **“specific calculations were not presented and thus additional time was given to verify the data.”**

Based on data provided by eugeorgia.info, one of the applicants is JSC Silknet, which is the major market player in Georgia in terms of the number of subscribers. Representative of the company said that the project cost is within the range of 100 million US dollars and none of the private companies will be able to cover it. **“It is a very expensive project and the revenue will not cover even the estimated operating costs, to say nothing of capital costs. There were some elements, where the state provided guarantees, but it was not a firm commitment, compared to project costs. It is a**

⁸ Note: These plans have been approved and implemented by the world's leading countries in terms of technological development, as well as by EU Member States under the recommendation of the European Union.

positive initiative of the government to contribute to the broadband development, but could not be implemented only by private investors” – said Iliia Erukashvili, the Head of the Strategic Development Department of Silknet. According to the LEPL “Georgia’s Innovation and Technology Agency”, the government considers that the project is of great importance and it will be definitely implemented.⁹

2. Significance of Common Transparent and Non-Discriminatory Broadband Strategy and Plan

The major problem related to the arrangement of high-speed network in non-commercial zones is associated with financial issues and the state's participation. **About 15 years ago, so called universal service has been introduced in European Union in order to address this problem. However, experience turned out to be controversial and negative. Later on, the issues of joint construction of infrastructure networks and infrastructure sharing have been raised and this solution is considered to be the most efficient and successful.**¹⁰

Goals of the plan of Georgian Government -“Broadband Internet to Every Citizen” are similar to those set for the development of Europe 2020: All European families should have access to high-speed broadband of at least 30Mbps, while 50% of the population should have access to broadband of up to 100 Mbps. It should be noted that the Georgian Plan precisely replicates only two goals of the EU strategy.

So called 13 “broadband” goals have been set in Digital Agenda for Europe 2020.¹¹

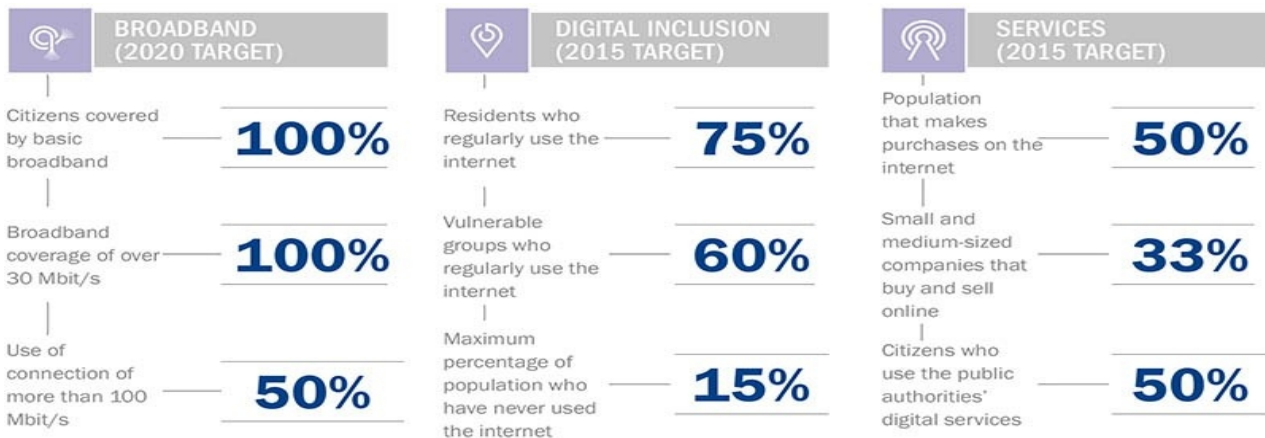
- 1. Entire EU to be covered by broadband by 2013;**
- 2. Entire EU to be covered by broadband above 30 Mbps by 2020;**
- 3. 50% of the EU to subscribe to broadband above 100 Mbps by 2020;**
- 4. 50% of the population to buy online, while 20% of the population to buy online cross-border by 2015;**
- 5. 33% of small and medium-sized enterprises to make online sales / purchases by 2015;**
- 6. Difference between roaming and national tariffs to approach zero by 2015;**
- 7. To increase regular internet usage from 60% to 75% by 2015;**
- 8. To increase regular internet usage from 41% to 60% among disadvantaged people;**
- 9. To halve the proportion of the population that has never used the internet from 30 % to 15% by 2015;**
- 10. 50% of citizens to use eGovernment by 2015, with more than half returning completed forms;**

⁹ <http://eugeorgia.info/ka/article/269/interneti-da--elektronuli-demokratia/>

¹⁰ <http://www.nortonrosefulbright.com/files/european-infrastructure-opportunities-an-investment-plan-for-europe-124162.pdf>

¹¹ <https://ec.europa.eu/digital-agenda/our-targets-0>

11. All key cross-border public services, to be agreed by Member States in 2011, to be available online by 2015 ;
12. To double public investment in ICT R&D to €11 billion by 2020;
13. To reduce energy use of lighting by 20% by 2020.



These goals are listed in order to evaluate the systematic approach of the EU towards handling these issues. Upper-level goals have been divided into sub-goals and specific persons responsible for the implementation of these goals have been identified.

It is obvious that without the cooperation of public and private sectors, high-quality broadband coverage of Georgia with low expenses is an unrealizable project. However, the plan should be developed with consideration of risks existing in Georgia and other countries during the development of such plans. The process should be planned in one-month period and information should be open and transparent even prior to the development of the strategy project.

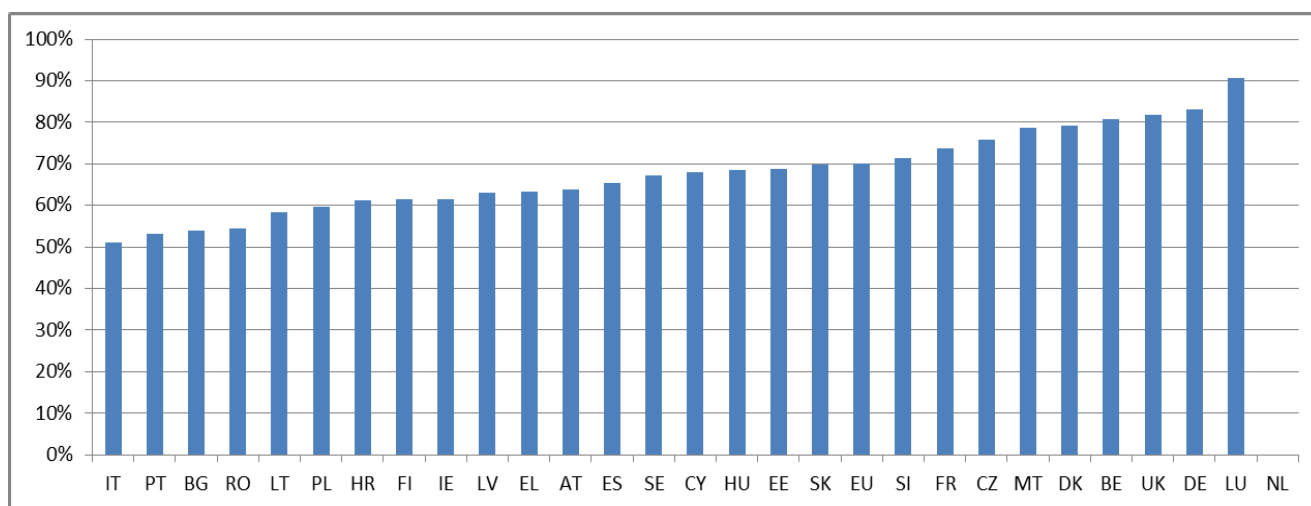
Despite relatively high prospects in terms of cooperation of the private and public sector, private investors in EU member states still exercised caution. Following problems lead to passivity of the private sector in Georgia, as well as around the world:

- **High-risk investments:** Joint use of infrastructure i.e. sharing with the state is associated with and perceived as a high risk (economic, legal, etc.) business deal (especially in young democracies). Longer payback periods belong to this category;
- **Lack of experience in private-public sector collaboration:** Public-private partnership is a quite complicated issue in Georgia, as well as in other countries (especially in the context when

state agencies regulate the relations between them), as due to the lack of absolute confidence it is difficult to attract large private investors.

Despite the fact that, unlike Georgia, EU member states are controlled by supervisory authorities of the European Union and private investors have the right to appeal to the Court of Justice of the European Union on illegal actions of member states and special regulations are preliminary defined for those member states that violate established terms, confidence-related problems still exist and will exist in the future.

Wired Internet concentration of 27 countries, as well as average European indicator is as follows:¹²



After properly identifying the problem, financing issues remain a major problem. What is the solution? Before 2007-2008 global financial crises, European Union, in order to address the financing issues, has allocated quite significant funds for the construction of broadband networks in Portugal, Spain and Greece. Funds of EU and European Investment Banks have been involved in financial aid scheme to the extent necessary to fill the shortcomings. In other words, the amount that was not or could not be covered by private sector was financed by these funds. However, this process was tightly controlled by the European Union. In case of Georgia, **a real and reasonable involvement of the state is required to cope with such shortcomings. However, the recent contest has revealed that the guaranteed "Right of Way" will not be enough. These measures should be based on justice and non-discrimination principles and should be accurately adjusted to meet the current situation on the market.**

¹² <http://www.internetlivestats.com/internet-users/>

3. Transparency and Disadvantages of the Process

Expressions of interest submitted for broadband network infrastructure development and service delivery project, elaborated within the scope of the Governmental plan under the decree of January 2015 of the Government of Georgia¹³ will be reviewed by a specially created commission. Relevant regulation has been already approved.

Despite the openness of information, NGOs have not been involved in the process of developing the strategic plan. Development of a proper plan adjusted to the interests of all members of society and its coordination highly depends on accessibility and publicity of information on the process.

A document, defining the terms and conditions for expression of interest, establishes the principles of providing broadband network, including the principles of open access and preventive measures against network duplication. In this context, there are some questions with regard to the operator companies covering residential zones through optical and other (not mobile) technologies. It refers to the wholesale service markets, as more optimal coverage can be achieved through ensuring access to this network.

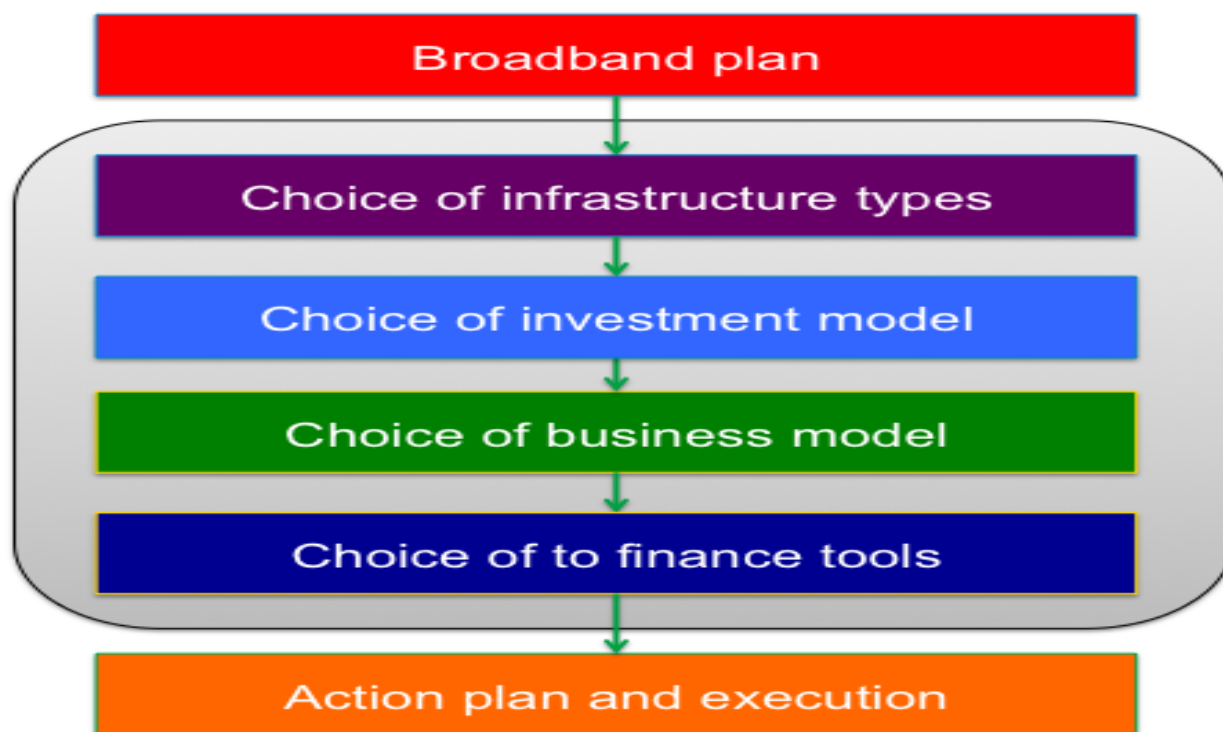
Network duplication has been a sensitive issue over the past ten years. We believe that the strategy and coverage areas should be determined through processing these principles and issues.

In addition, if other network resources are planned to be utilized, an open access to those resources that might not be accessible at the implementation phase of the project should be considered in the submitted tender application, otherwise, this may result in increased costs and failure of such a vital project. This issue primarily concerns Article 3.2 of the strategic plan. The issue is more sensitive, as it concerns the passive and active infrastructure of competing companies.

These and similar issues can be settled through amending legislations. For this reason, our organization has prepared some amendments and we can submit them, in case of need.

Georgia's Broadband Strategy should be developed according to the following stages:

¹³ <http://gita.gov.ge/ge/agency/press-releases/saqartvelos-inovaciebis-da-teqnologiebis-saagentom-donor-organizaciebtan-shexvedra-gamarta.page>



Under the Article 3.3 of the Broadband Strategy of LEPL “Georgia’s Innovation and Technology Agency”, selected operator should ensure that distribution points are organized in accordance with open access principle, while in aggregation points, traffic exchange should be established for interaction with authorised users and information technology service providers at least in the following cities (Tbilisi, Rustavi, Batumi, Poti, Kutaisi, Telavi, Gori). First of all, it should be noted that network providers operating in the above listed cities have already established such internet exchange points.

There are some problems concerning the approach. The first sensitive issue is related to the accessibility to the existing aggregation points, as well as tariffs and conditions of access. Open access should be ensured in single points of access and all providers should be represented in a non-discriminatory and transparent manner. On the other hand, existence of aggregation points should be regulated not in those geographical zones where no encouragement is required for greater competition, but in commercially less interesting areas.

Under the Article 3.2 of the Broadband Strategy, tariff on distribution points should be the same throughout Georgia. Considering the current competitive environment and market situation, we believe that such restrictions should not be imposed on the selected provider, as in case of selecting a monopolist provider, regulations of Article 5 of Georgian Law on Broadcasting will be applied and such stipulation will make provider uncompetitive and inflexible.

We consider that Clause (c) of Article 3.2 of the Broadband Strategy is vague and discriminatory towards the contestants. Based on the stipulation of this Article, if the investor fails to meet obligations

defined in sub-clauses (a) and (b) of this Article during the operation phase of the network, Government reserves the right to take part in network management operations personally or through a third party in accordance with the procedures specified in the agreement. The content of this stipulation, as well as its legal basis is unclear.

Favourable conditions for the investors offered by the state are defined in the Article 3.3 of Broadband Strategy of LEPL “Georgia’s Innovation and Technology Agency”. Information on the list of telecommunication assets of state-owned and/or state-holding enterprises (or their subsidiaries) is not disclosed, though, selected company will have the right to use these assets for a period of 35 years. In this regard, there are some other problems as well. In addition to the fact that the list of offered assets is not disclosed, a number of other related issues, such as the terms of transferring state-owned property rights, asset status and price are also uncertain. In other words, it is not clear how much profit investor will gain through winning this contest and what will be the benefit of the state from this project.

In order to approach this issue, IDFI requested some information from LEPL “Georgia’s Innovation and Technology Agency”. According to the response provided by the agency, aim of the contest was to establish a new company for the construction and operation of transit network, through which low price and high quality could be ensured. Agency states that this company should not be considered as competitor in terms of service delivery. However, Agency says nothing about wholesale market and its competitive environment or its related problems. Implementation of this model will lead to the creation of a monopolist, which will unnecessarily duplicate the existing network and raise service delivery costs.

Existing data should be specified according to the latest census results, based on which the number of population is decreased compared to similar data of 2002.

Lithuania, Israel, Sweden, Poland, Ireland and other countries have been indicated in GITA's response to the following questions: "In which countries was this model approved and implemented?" and “In which countries were the approved financing scheme and terms for using state-owned property practiced?” Questions - “Which of the above listed countries are geographically similar?” or “Based on what were this model and these countries selected?” - remained unanswered.¹⁴

IDFI has also asked whether Agency has evaluated current situation of the infrastructural market and where this data could be found. Agency answered that this data cannot be disclosed as it is intended only for the Commission and the Agency. Since it is an open data, the legal basis for such an approach is unclear. Position of the Agency is uncertain with regard to those villages and geographical units,

¹⁴Note: Denmark, Iceland, the Scandinavian countries, Belgium and Great Britain have one of the best indicators In this regard. As for the Baltic countries, Estonia has several times higher indicator than Latvia and Lithuania.

which strategically have better locations for covering the region, but are not included in this list, as the number of population was the only selection criterion.¹⁵

The Agency has not provided information on the basic and additional selection criteria (as well as on members of the Commission), which was one of the factors for reducing confidence towards them. A similar situation is with regard to controlling body and control methods. This indicates that the project is not properly prepared.

Unfortunately, emphasis is put only on service delivery and the development of broadband network infrastructure based on the concept of open access. In this section, there is no mention of benefits related to public service delivery. Promotion of local small and medium-sized enterprises is not envisaged. Medium-term and long-term objectives of various agencies and ministries of the Government have been ignored, as such diversification will reduce tariffs and increase workload.

4. Rules and Scope of State Aid

Evaluation of EU Member States' compliance with state aid rules is carried out in accordance with Articles 107-109 of the Treaty on the Functioning of the European Union. Financial and procedural provisions regulating the issue are presented in regulation of the European Commission and the European Council and in other legal acts. Also, there is a direct regulation specifically for broadband state aid regulation.¹⁶ These norms are also interpreted by the Court of Justice of the European Union and they are enacted for the assessment of funding model used by a particular Member State.

Article 107 of the Treaty on the Functioning of the European Union establishes so called "Test" for state aid and lays down conditions under which state aid is not compatible with the principles of the internal market (so called incompatible aid): Any aid granted by a Member State, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

Based on this definition, there should be a combination of the following conditions qualifying a specific aid as inappropriate under Article 107 (1): Existing advantages should be achieved on the basis of granted aid; aid should be granted by a Member State or through State resources; Aid should distort or threaten to distort competition and it should affect or threaten to affect international trade.

Article 107 (2) of the Treaty on the Functioning of the European Union defines categories of aid that are deemed compatible with the principles of the internal market: a) Aid having a social character, granted to individual consumers without discrimination; b) Aid for damages caused by natural

¹⁵Note: Residential zones should not be distinguished only by demographic data. It is desirable to add territorial and network distribution criteria.

¹⁶<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

disasters or exceptional occurrences. Such aids are usually carried out without the permission of EU institutions, though, in practice, they are often controlled.

Article 107 (3) of the Treaty on the Functioning of the European Union defines categories of state aid that may be considered to be compatible with the internal market:

- a) Aid to promote the economic development in areas where living standards or employment rate is very low, and in rural areas referred to in Article 349 of the Treaty on the Functioning of the European Union, in view of their structural, economic and social situation;
- b) Aid to promote the projects of common European interest or to remedy a serious disturbance in the economy of a Member State;
- c) Aid to facilitate the development of significant economic projects or certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- d) Aid to promote cultural development and heritage conservation where such aid does not affect trading conditions and competition in the European Union to an extent that is contrary to the common interest;
- e) Other categories of aid that may be specified by the decision of the European Council on the basis of a proposal from the European Commission.

The European Commission and the Court of Justice of the European Union intensively define the Article 107 for regulation of various issues. Above formulated definitions also refer to the process of digitalization. There is no special legislation regulating the scope of state aid in the process of digitalization. Therefore, the court practice and regulations of the European Commission are used.

Recommendation provided by the European Union on administrative and regulatory measures for promoting the development of broadband network are also important.

EU special legal act establishes a particular regulation for encouraging the rapid deployment of broadband networks.¹⁷ This regulation provides several opportunities for Member States, which are considered to be in compliance with Article 107 of the Treaty on the Functioning of the European Union.

¹⁷ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0126\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0126(01)&from=EN)

For instance, so-called "Right of Way" and other related issues can be considered. In order to facilitate and simplify the process of obtaining the right to transit operations and realization of this right, network operators should coordinate their activities and/or share existing infrastructure. We believe that the broadband development plan should be based on these two approaches, in view of specifics of Georgia. The same systematic approach is required in case of all new infrastructures (new communication facilities for water, electricity, transport and sewerage networks).

Third party should have the opportunity to arrange/install broadband passive infrastructure during the construction of non-state-owned facilities. These issues should be considered during the planning stage.¹⁸

Protection of transparency and non-discrimination principles is of great importance during the establishment of the regulations. The process should be open and transparent for all interested parties,¹⁹ including non-governmental sector.

One more sensitive issue is the determination of the amount of the state aid. Approach to this issue is as follows: Amount of rendered assistance or compensation, on the one hand, should be determined on the basis of difference between the revenues and expenditures derived from the commercial activities within commercially profitable area (where such models are already established and implemented) and on the other hand, on the basis of revenues and expenditures expected in commercially non-profitable and less developed areas. Any subsidized profit is a reasonable profit, which can be determined by the regulatory commission, i.e. determined average profit margin of a business (through using the benchmarks established in Georgia or abroad).

¹⁸ <http://www.digitalplan.gov.gr/resource-api/dipla/contentObject/The-Broadband-State-Aid-rules-explained/content>

¹⁹ <http://www.notisum.se/rnp/eu/fakta/..%5Clag%5C513B!Y83.htm>

5. EU Broadband Development Plan Targets

Multiannual Plan 2014-2020 has been developed in accordance with the EU Development Plan, which includes transport, energy and broadband infrastructure development plan. There was a lot of discussion about adoption of the document (open public consultations on the project), which lasted nearly two years.

A short list of measures developed by EU:

- Recommendations for the construction of next-generation access (NGA) networks have been developed and approved, which provided a wide range of activities for private investment;
- In 2013, special recommendations have been developed for regulation of the wholesale market, non-discriminatory pricing, investment incentives and for maintenance sustainable competition between all networks;²⁰
- On May 15, 2014, the Commission released the Directive on measures to reduce the cost of deploying high-speed electronic communications networks.²¹

Directive aims to facilitate the construction of networks by reducing its cost. Directive has to be established by January 1, 2016. **Georgian Government activities did not involve the regulations of this and other directives that have been included in the documents regulating this field. However, first of all, the legal framework and regulations should be adapted to the changes defined by European Union for its Member States in order to improve their legislative regulations.** EU also provided notable recommendations²² on relevant markets, where the predefined markets subject to regulation are listed. However, the plan for regulating the segments of this market has been approved by the Georgian National Communications Commission a few months ago and it is quite satisfactory at this stage.²³

On July 2012, EU published its Action Plan, which included 10 stages aimed at preparing the legal framework. Information on the Government activities in this regard is not available. The situation with regard to the passive infrastructure in Georgia is also uncertain.

Digital Single Market Strategy for Europe (adopted on the 6 May 2015) has been developed under the EU regulation in order to regulate state aid related issues and to support the rural areas. The strategy defines the significance of investment in terms of eliminating gaps between rural areas and cities of the EU member states.

²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013H0466>

²¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.155.01.0001.01.ENG

²² https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Telecom_Horizontal_Chapter.pdf

²³ <https://ec.europa.eu/digital-agenda/en/news/future-electronic-communications-markets-subject-ex-ante-regulation>

The European Union is intensively working on the improvement of investment regulatory framework, as well as on the development and promotion of a competitive environment. The strategy includes the issues related to effective use of spectrum²⁴ and full coverage of Europe.



The Digital Agenda Toolbox provides assistance to rural and national organizations in order to develop and raise awareness on the importance and potential of digital growth. EU Common Strategy defines the opportunities available through the information and communication technologies in terms of conducting national and rural researches and establishing innovation strategies. Despite a number of positive steps, Regulatory Commission should be more actively involved in the process. Provisions of EU telecommunications legislation should be considered with regard to minimum set of leased lines.

EU Member States have already implemented the requirements of the Directive 92/44/EEC²⁵ of the Council of June 5 1992 on the application of open network provision to leased lines and the Directive 2002/21/EC (Framework Directive)²⁶ of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services and thus, issues regulated by these directives are not so sensitive. Degree of competition is likely to be different in various leased lines markets and different parts of the territory. During the implementation of market analysis, National Regulatory Authorities submit separate analysis on each market for the minimum set of leased lines, in view of their geographical dimensions. The provision of leased lines

²⁴ <https://ec.europa.eu/digital-agenda/node/173>

²⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0044&from=en>

²⁶ See page 33 of this Official Journal [L 108, 24.4.2002].

outside of the minimum set of leased lines should be covered by general retail regulatory provisions rather than specific requirements covering the supply of the minimum set.

Adequate attention should be paid to issues related to the customers. In this regard, the issues related to competitive and interchangeable services, service quality and legal protection should be considered. More should be done not only for the implementation of requirements of EU Legislation on Consumer Rights Protection, but for the implementation of current practice as well.

IDFI had no access to the documents on the basis of which the Ministry of Economy and Sustainable Development of Georgia developed the plan and announced the contest. Public and non-governmental sectors were not involved in the process. This process should be preceded by a selection of the most effective and appropriate approach to the provision of broadband services. We believe that objectivity, transparency, non-discrimination and proportionality will minimize the risks of violating sustainability of balance and competition in the market.

6. Recommendations for the First Phase of the Project

1. Government of Georgia must create the joint committee, members of which will be instructed to submit Broadband Development Strategy of Georgia and its realizations plan within 3 months;
2. Broadband Development Strategy of Georgia must include the long-term goals for the development of areas interesting for all state agencies and private sector;
3. The long-term Broadband Development Strategy Plan should be developed on the basis of SWOT analysis of current situation, which will evaluate not only the network and supply related changes existing in all fields of economy, but the problems and challenges faced by small and medium-sized businesses and end-users as well, regardless of their severity and complexity;
4. A short-term, middle-term and long-term plants should be prepared for the development of the strategy;
5. The relevant responsible body should be identified for each direction and quarterly public reports regarding the performance of plans and works should be prepared;
6. Broadband Development Plant of Georgia should define the requirements of all ministries and state agencies and their views on 5-7 year perspective for the establishment of electronic services and for their internal use;
7. The plan should be elaborated through submitting consultation document to be discussed in open and closed groups (with regard to the state and commercial secret matters);
8. Commercial sector, personal data protection inspector, as well as civil society and all stakeholders should be involved in the process;

9. Plan developed by the state should be in compliance with European Union Association Agreement and with the Deep and Comprehensive Free Trade Area (DCFTA) agreement with Europe, EU directives and experience of world's leading countries;
10. The process should be open and transparent and all considerations and proposals should be uploaded on special internet page, where all documents, projects and terms will be available.