

EUROPEAN COMMISSION

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2011/xxxx (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on guidelines for trans European telecommunications networks and repealing Decision No 1336/97/EC

(Text with EEA relevance)

{SEC(2011) 1229}
{SEC(2011) 1230}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

General context

This initiative is anchored in the Europe 2020 Strategy for smart, sustainable and inclusive growth[1], which put digital infrastructures at the forefront as part of the flagship initiative "Digital Agenda for Europe"[2]. It underlined the need to ensure the roll-out and take-up of broadband for all, at increasing speeds, through both fixed and wireless technologies, and to facilitate investment in the new very fast open and competitive internet networks that will be the arteries of a future economy. The EU has set itself ambitious targets in terms of broadband roll-out and take up by 2020.

On 29 June 2011, the Commission adopted the Communication "A Budget for Europe 2020" on the next multi-annual financial framework (2014-2020)[3], which proposes the creation of a Connecting Europe Facility to promote the completion of priority energy, transport and digital infrastructures with a single fund of EUR 40 billion, out of which EUR 9.2 billion are dedicated to digital networks and services.

Purpose of the proposal

The purpose of this Regulation is to establish a series of guidelines covering the objectives and priorities envisaged for broadband networks and digital service infrastructures in the field of telecommunications in the context of the Connecting Europe Facility.

The guidelines identify in annex projects of common interest for the deployment of broadband networks and digital service infrastructures. These projects shall contribute to improving the competitiveness of the European economy including small and medium sized enterprises (SMEs), promote the interconnection and interoperability of national networks as well as access to such networks and support the development of a Digital Single Market. They shall be eligible for EU financial support under the instruments available under the Regulation on Connecting Europe Facility which accompanies this Regulation.

The approach in this Regulation, is to aim for the removal of bottlenecks which hinder the completion of the Digital Single Market i.e. providing connectivity to the network and access, including across borders, to an infrastructure of public digital services. The blockages in operational terms for the telecom networks, in contrast to e.g. financing a ring-road around a capital city which is essential for fluidity in a transport corridor, concern both supply-side and demand side aspects. For the supply side, the limitations relate to a strong degree of market failures and the concomitant weak business cases for investment in broadband networks and delivery of essential public interest services (e.g. eHealth, eIdentity, eProcurement and their cross-border interoperability). On the demand side, the Digital Single Market with its considerable growth potential relies on all citizens being connected to digital networks.

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1 COM(2010) 2020.
2 COM(2010) 245.
3 COM(2011) 500/I final and COM(2011) 500/II final (Policy Fiches).

The Connecting Europe Facility aims at using innovative financial instruments to incentivise infrastructure investment by reducing investment risk and providing longer-term financing for both alternative and incumbent investors. Innovative financial instruments provide an important leverage effect on private and other public investment while still relying on market mechanisms. Where the business case for infrastructure investment is particularly weak the Connecting Europe Facility also foresees the possibility to offer co-financing via grants.

In the field of broadband networks, actions contributing to projects of common interest in the area of broadband shall support investments in networks capable of achieving, by 2020, the Digital Agenda for Europe targets of universal coverage at 30Mbps; or having at least 50% of households subscribing to speeds above 100Mbps. A balanced portfolio of 30 and 100 Mbps projects will be created and due account should also be taken of Member States' investment needs which are indicatively assessed to be up to 270 billion €.

For the digital service infrastructure, the bottlenecks in terms of service deployment within interoperable frameworks are addressed through direct grant schemes, in certain cases with high co-funding rates as there are no natural owners of a European interoperable service infrastructure. Indeed, neither single Member States, nor private investors would ensure service deployment within interoperable frameworks. The EU added value is thus high.

Projects of common interest in the field of digital service infrastructures as listed in the Annex include trans-European high-speed backbone connections for public administrations, cross–border delivery of eGovernment services based on interoperable identification and authentication (e.g. Europe-wide electronic procedures: to set up a business; for cross-border procurement, e-Justice, cross-border eHealth services); enabling access to public sector information, including digital resources of European heritage, data.eu and multilingual resources; safety and security (safer internet and critical service infrastructures) and smart energy services. Projects of common interest may also include the operation of electronic public services implemented under other Community programs such as the ISA program ("Interoperability solutions for European public administrations").

Actions contributing to projects of common interest shall be eligible for EU financial support under the instruments available under the Regulation establishing the Connecting Europe Facility[4]. The present proposal is therefore to be seen in conjunction with the proposal for that Regulation. The Regulation also stipulates the criteria for the identification of new projects of common interest, on the basis of the Commission's assessment of changing political priorities, technological developments or the situation in the relevant markets.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

As regards broadband rollout, numerous consultations with Member States, industry and social stakeholders have been carried out. Notably, these included a roundtable of Vice-President Kroes with CEOs from content providers, equipment makers, investors and telecoms operators from the world's leading companies such as Nokia, Alcatel Lucent, Google, Ericsson, News Corp etc, and the first Digital Agenda Assembly, which took place in Brussels on 16th and 17th June 2011, bringing together more than 1,000 stakeholders from

[4] Add reference

the private and the public sectors, as well as civil society. On these and numerous other occasions, stakeholders widely shared the Commission's assessment that the existing telecom investment model is insufficient to bring about the rollout of affordable, high-quality broadband infrastructures for all European citizens, and they welcome the Commission's plans to use targeted public investment, e.g. through the use of innovative financial instruments, to leverage the necessary infrastructure investment to support alternative and more sustainable models of investment.

The European Parliament in a draft report on the future Multi-annual Financial Framework (MFF) recognised the importance of using the budget to leverage investment in broadband.

As far as cross-border digital service infrastructures are concerned, the Commission has been working with various stakeholder groups for many years. Evaluations and expert advise on existing activities, such as Europeana (for cultural heritage) or the Safer Internet programme generally call for activities to be continued and expanded.

The Impact Assessment report discusses two options. The first, baseline option foresees no EU funding to be allocated to broadband other than, potentially, through the structural funds and the continuation of the Competitiveness and Innovation Programme for digital service infrastructures in the scale of pilots only. In this scenario no critical mass or deployment of digital services would be achieved, investment in broadband would continue to be insufficient in many regions due to lack of competitive pressure and high commercial risk. Equally, public online services can be expected to remain under-developed and not inter-operable across borders due to fragmentation of sub-optimal efforts and technical solutions, lack of critical mass, high costs for service providers and beneficiaries of services. Hence, this option would not contribute to attaining the Digital Single Market, and many Europeans would continue to miss out on digital opportunities.

The second option proposes a financing tool which would complement the financing resources available under the first option. This is the line of action included in the MFF proposal released by the European Commission on 29 June 2011, creating a "Connecting Europe Facility" to finance infrastructure. The new facility will finance infrastructure projects with high EU added value, not only 'hard' infrastructure, but also 'soft and smart' infrastructure and governance structures to realise the transport "core network", the energy "priority corridors" as well as digital infrastructure. The facility would target projects with high European value added, such as cross-border interconnections or the deployment of EU-wide systems, which must be implemented by 2020. In order to maximise impact, appropriate provisions would ensure the combination of market - based instruments and EU direct support, in order to encourage the participation of specialised infrastructure investors. In the case of grants, the Commission would remain responsible for the overall planning and project selection, with the possible support of an executive agency, while project promoters would ensure physical implementation on the ground. In the case of financial instruments, implementation will be delegated to specialised financial institutions, but the Commission will determine the eligibility. Member States will contribute to the effort by developing national plans for high speed internet in line with the broadband targets, while mapping of broadband infrastructure and services (at EU and national/regional level) will identify gaps in coverage and stimulate initiatives from a multiplicity of private and public investors.

3. LEGAL ELEMENTS OF THE PROPOSAL

Legal basis

The proposed Regulation will repeal and replace Decision 1336/97 of the European Parliament and of the Council of 17 June 1997 on a series of Guidelines for trans-European telecommunications networks.

The proposed intervention will be pursuant to Article 172 TFEU, which provides a legal base for the EU intervention supporting the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

Subsidiarity and proportionality

The coordinated development of a trans-European telecommunications networks to support the deployment of broadband infrastructures and promotion of services within the single European market and the economic, social and territorial cohesion requires action to be taken at Union level as the actions could not be taken individually by Member States.

The proposal complies with the proportionality principle, and stays within the scope of action in the field of the trans-European telecommunications networks, as defined in Article 170 of the Treaty on the Functioning of the European Union.

Choice of legal instrument

The current Telecommunications Guidelines have been proposed and adopted as a Decision of the European Parliament and of the Council which is specifically addressed to the Member States, rendering the Guidelines binding in their entirety for all the Member States.

However, the instrument will facilitate in particular the deployment of telecommunications infrastructure and promotion of services by private entities (including operators, utilities, equipment manufacturers etc) and regional and local authorities. With more actors besides the Member States becoming involved in the planning, development and operation of digital telecommunication networks, it is important to ensure that the Guidelines be binding for all. The Commission has therefore chosen a Regulation as the legal instrument for this proposal.

Funding

Projects of common interest shall be eligible for EU financial support under the instruments available under the Regulation establishing the Connecting Europe Facility [XX/20012]. Financial support shall be provided in accordance with the relevant rules and procedures adopted by the Union, funding priorities and the availability of resources.

Delegation of powers

Telecommunication networks are evolving quickly and the list of projects of common interest might have to be modified in future to reflect this fast evolution. To accomplish this, it is proposed that power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission.

4. BUDGETARY IMPLICATION

The proposal will not entail any additional cost for the EU budget.

The proposal for a Regulation on guidelines for the implementation of trans-European telecommunication networks is linked to the proposal for a Regulation establishing the Connecting Europe Facility (CEF) which will provide the legislative and the financial framework. An amount of € 9.2 billion[5] is allocated for telecommunications within the envelope of the CEF.

[5] Figures are provided in constant 2011 prices

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[6],

Having regard to the opinion of the Committee of the Regions[7],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Telecommunications networks and services are increasingly becoming internet-based infrastructures, with broadband networks and digital services closely interrelated. The internet is becoming the dominant platform for communication, services, and doing business. Therefore, the trans-European availability of fast Internet access and digital services in the public interest is essential for economic growth and the Single Market.

(2) On 26 March 2010, the European Council welcomed the Commission's proposal to launch the strategy Europe 2020. One of the three priorities of Europe 2020 is smart growth through the development of an economy based on knowledge and innovation. Investments in telecommunications, notably broadband networks and digital service infrastructures, are a necessary condition for smart but also sustainable and inclusive economic growth of the Union.

(3) On 17 June 2010, the European Council endorsed the Digital Agenda for Europe[8] and called upon all institutions to engage in its full implementation. The Digital Agenda

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6 OJ C […], […], p. […].
7 OJ C […], […], p. […].
8 COM(2010) 245 final/2.

aims to chart a course to maximise the social and economic potential of information and communication technologies, in particular through the deployment of high-speed broadband networks by seeking to ensure that by 2020 all Europans have access to internet speeds of above 30 Mbps and 50% or more of European households subscribe to internet connections above 100 Mbps. The Digital Agenda aims to establish a stable legal framework to stimulate investments in an open and competitive high speed internet infrastructure and in related services; a true single market for online content and services; active support for the digitisation of Europe's rich cultural heritage, and the promotion of internet access and take-up by all, especially through support of digital literacy and accessibility. In addition, Member States should implement operational national plans for high speed internet, targetting public funding on areas not fully served by private investments in internet infratructures and promote deployment and usage of modern accessible online services.

(4) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Broadband: investing in digitally driven growth[9] concludes that the critical role of the internet means that the benefits for society as a whole appear to be much greater than the private incentives to invest in faster networks. Public support for this area is therefore necessary, but should not unduly distort competition.

(5) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Budget for Europe 2020[10] recognises the creation of a Connecting Europe Facility in the context of the Multiannual Financial Framework in order to address the infrastructure needs in the areas of transport, energy and information and communication technologies. Synergies between these sectors as well as with other Union investment programmes are key as similar challenges emerge requiring solutions that unlock growth, combat fragmentation, reinforce cohesion, favour the use of innovative financial instruments and address market failures as well as the removal of bottlenecks which hinder the completion of the Single Market.

(6) Regulation (EU) No […/…] of the European Parliament and of the Council of […] establishing the Connecting Europe Facility[11] determines the conditions, methods and procedures for providing Union financial aid to trans-European networks in order to support projects in the field of transport, energy and telecommunications infrastructures.

(7) Actions in the field of broadband networks will be in line with the relevant Union policies, regulation and guidance. This includes the set of rules and guidelines for the telecommunications markets and in particular the Regulatory Framework for electronic communications adopted in 2009 which provides a coherent, reliable and flexible approach to the regulation of electronic communication networks and services in fast moving markets. These rules are being implemented by national regulatory authorities and the Body of European Regulators for Electronic Communications (BEREC). The NGA Recommendation[12] adopted in 2010 aims at fostering the

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9 COM(2010) 472.
10 COM(2011) 500 final.
11 OJ […], […], p. […].
12 L 251, 25.9.2010, p. 35.

development of the Single Market by enhancing legal certainty and promoting investment, competition and innovation in the market for broadband services in particular in the transition to next generation access networks (NGAs).

(8) These actions will also be in compliance with Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, as well as with the Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks, adopted in 2009, which provide a framework for stakeholders and Member States to accelerate and extend broadband deployment. The EU guidance for NGA investment models for EU management authorities and other relevant agencies (published in October 2011) provide a step by step approach to the implementation of a range of models that ensure fair competition among all suppliers and aim at the realisation of the objectives of cohesion and rural development policies.

(9) Within the framework of a system of open and competitive markets, the Union's intervention is necessary where market failures need to be overcome. By providing financial support and additional financing leverage to infrastructure projects the Union can contribute to the establishment and development of trans-European networks in the area of telecommunications, thus generating higher benefits in terms of market impact, administrative efficiency and resource utilisation.

(10) Substantial economic and social benefits, which cannot be captured nor monetised by investors, are associated with higher broadband speeds. Fast and ultra-fast broadband is the key enabling infrastructure for the development and deployment of digital services, which rely on the availability, speed, reliability and resilience of the physical networks. The deployment and take-up of faster networks opens the way for innovative services exploiting higher speeds. Action at Union level is necessary to maximise the synergies and interactions between those two components of digital telecommunications networks.

(11) The deployment of ultra-fast broadband will particularly benefit small and medium enterprises (SMEs) which often cannot benefit from web-based services such as 'cloud computing' due to inadequate connectivity and speed of existing broadband connections. This will unlock the potential for substantial productivity gains for SMEs.

(12) By opening business opportunites, the deployment of broadband networks and digital service infrastructures will stimulate job creation in the Union. Construction of broadband networks will also have an immediate effect on employment in particular in civil engineering sector.

(13) The development of broadband networks and digital service infrastructures will contribute to the Union's objective to reduce greenhouse gas emission by enabling energy-efficient solutions in many sectors of Europe's economy. This positive effect will be limited, but only to some extent, by the growing energy and resource demand related mainly to the construction of broadband networks and the operation of digital service infrastructures.

(14) The interoperability of the broadband networks and the digital communications infrastructure associated to energy networks enables converged communications for the deployment of energy-efficient, reliable and cost-effective digital networks.

Furthermore, convergence will be extended beyond connectivity to allow for the packaged provision of energy and telecom services by energy and telecom services providers respectively.

(15) The development, deployment and long-term provision of interoperable cross-border eGovernment services enhance the functioning of the Single Market. Governments are recognised for providing public online services which contribute to increasing efficiency and effectiveness of the public and private sector

(16) The operation of common electronic public services implemented conforming to the Decision 922/2009/EC of the European Parliament and of the Council of 16 September 2009[13] will aim at the availability of common services in support of the cross-border and cross-sector interaction between European public administrations.

(17) Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare[14] gives the legal framework for the cross-border provision of healthcare, including eHealth services, in Europe. Their deployment is expected to improve the quality of care and the patient safety, to reduce medical costs, to contribute to modernising national healthcare systems and increasing their efficiency, and to make them better adapted to the individual needs of citizens, patients, health professionals, and the challenges of an ageing society.

(18) Increasing and preserving access to Europe's rich and diverse cultural content and data held by public sector bodies, and opening them up for reuse in full respect of copyright and related rights, will nurture creativity and spur innovation and entrepreneurship. Unhampered access to re-usable multilingual resources will help overcome language barriers, which undermine the internal market for online services and limit access to knowledge.

(19) In the area of safety and security, an EU-wide platform for sharing resources, information systems and software tools promoting online safety will contribute to creating a safer environment for children online. It will enable centres handling hundreds of thousands of requests and alerts per year to operate across Europe. Critical Information Infrastructures will enhance the Union-wide capability for preparedness, information sharing, coordination and response to cyber security threats.

(20) It is expected that innovative applications of commercial nature running on digital service infrastructures will emerge. Their exploration and testing can be co-financed as part of research and innovation projects in the Horizon 2020 programme and their deployment under the cohesion policy.

(21) In order to take into account the developments in the areas of information and communication technologies, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annex to this Regulation. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The objective of this delegation is to

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13 OJ L 260, 3.10.2009, p. 20.

14 OJ L 88, 4.4.2011, p. 45.

address new technological and market developments, emerging political priorities or opportunities for exploiting synergies between different infrastructures, including those in the fields of Transport and Energy. The scope of delegation is limited to modifying the description of projects of common interest, adding a project of common interest or removing an obsolete project of common interest according to pre-established, clear and transparent criteria.

(22) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(23) Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of guidelines for trans-European telecommunications networks[15] covers the objectives, priorities and broad lines of measures envisaged in the trans-European networks in the area of telecommunications infrastructure. In the light of the recent developments that Decision should be replaced.

(24) Decision No 1336/97/EC should therefore be repealed.

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation lays down guidelines to determine those trans-European telecommunication networks that shall be supported in accordance with Regulation XXX (CEF Regulation) in their development, implementation, deployment, interconnection, and interoperability.

These guidelines provide for the objectives and priorities of projects of common interest, identify projects of common interest and set out criteria for the identification of new projects of common interest.

Article 2
Objectives

The projects of common interest shall:

(1) contribute to economic growth and support the development of the Single Market resulting in the improvement of the competitiveness of the European economy, including small and medium sized enterprises (SMEs).

(2) contribute to improvements in daily life for citizens, businesses and governments through the promotion of the interconnection and interoperability of national telecommunication networks as well as access to such networks.

(3) stimulate Europe-wide deployment of fast and ultra-fast broadband networks which, in turn, shall facilitate the development and deployment of trans-European digital services.

[15] OJ L 183, 11.7.1997, p. 12.

(4) facilitate sustainable deployment of trans-European digital service infrastructures, their interoperability and coordination at European level, their operation, maintenance and upgrading.

(5) contribute to greenhouse gas emission reductions, as well as protecting and improving the environment.

Article 3
Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. "Telecommunication networks" means broadband networks and digital service infrastructures.

2. "Broadband networks" means wired and wireless (including satellite) access networks, ancillary infrastructure and core networks capable of delivering very high speed connectivity.

3. "Digital service infrastructures" means networked services delivered electronically, typically over the internet, providing trans-European interoperable services in the public interest and having an enabling character for citizens, businesses and/or governments.

4. "European added value" means the value resulting from an EU intervention which is additional to the value that would have otherwise been achieved by Member State action alone or an action by a group of Member States.

For the purposes of this Regulation, the definitions set out in Regulation XXX (CEF Regulation) shall also apply.

Article 4
Priorities for projects of common interest

Taking into account the objectives set out in Article 2, the priorities for projects of common interest shall be:

(a) the deployment of ultra fast broadband networks ensuring the speed of data transmission of 100 Mbps and above;

(b) the deployment of broadband networks to link island, landlocked and peripheral regions with the central regions of the Union ensuring in those regions that speeds of data transmission are sufficient to permit broadband connectivity of 30 Mbps and above;

(c) the support to core service platforms in the field of digital service infrastructures;

(d) actions allowing to achieve synergies and interoperability between different projects of common interest in the field of Telecommunications, between projects of common interest concerning different types of infrastructures,

including Transport and Energy, between project of common interest in the field of Telecommunications and projects supported by the Structural and Cohesion funds, as well as relevant research infrastructures.

Article 5
Projects of common interest

1. Projects of common interest set out in the Annex shall contribute to the achievement of the objectives set out in Article 2.

2. A project of common interest may encompass its entire cycle, including feasibility studies, implementation, continuous operation, coordination and evaluation.

3. Member States and/or other entities in charge of the implementation of projects of common interest or contributing to their implementation shall take the necessary legal, administrative, technical and financial measures in compliance with the corresponding specifications of this Regulation.

4. The Union may facilitate the implementation of the projects of common interest through regulatory measures, where appropriate, through coordination, through support measures and through financial support to stimulate their deployment and take-up, as well as public and private investment.

5. Actions contributing to projects of common interest shall be eligible for EU financial support under the conditions and instruments available under the Regulation establishing the Connecting Europe Facility [REF]. Financial support shall be provided in accordance with the relevant rules and procedures adopted by the Union, funding priorities and the availability of resources.

6. The Commission shall be empowered to adopt delegated acts modifying the description of projects of common interest included in the Annex, adding new projects of common interest to the Annex, or removing obsolete projects of common interest from the Annex, in accordance with paragraphs 7, 8 and 9 below and in accordance with Article 8.

7. While adopting the delegated act referred to in paragraph 6 above, the Commission shall assess whether modifying the description of project of common interest or adding a new project of common interest responds to the needs arising from:

   (a) new technological and market developments; or

   (b) emerging political priorities; or

   (c) new opportunities for exploiting synergies between different infrastructures, including those in the field of Transport and Energy.

8. In addition to the criteria established in paragraph 7, if the delegated act concerns adding a new project of common interest the Commission shall also assess whether such project meets cumulatively the following criteria:

   (a) contributes to the achievement of the objectives set out in Article 2;

(b) is based on mature technology ready for deployment;

(c) demonstrates European added value.

9. While adopting a delegated act removing an obsolete project of common interest from Annex, the Commission shall assess whether such project no longer responds to the needs set out in paragraph 7 or no longer meets the criteria set out in paragraph 8.

Article 6

Cooperation with third countries and international organisations

1. The Union may establish contacts, discuss, exchange information and cooperate with public authorities or any other organisations in third countries to achieve any objective pursued by these guidelines where such cooperation gives rise to a European added value. Among other objectives, this cooperation shall seek to promote the interoperability between the trans-European telecommunication networks and telecommunication networks of third countries.

2. The Union may further establish contacts, discuss, exchange information and cooperate with international organisations and legal entities established in third countries to achieve any objective pursued by these guidelines.

Article 7
Exchange of information, monitoring and review

1. On the basis of information received under Article 21 of the Regulation XXX establishing the Connecting Europe Facility, Member States and the Commission shall exchange information about the progress made with the implementation of these guidelines.

2. The Commission shall be assisted by an Expert Group, composed of a representative of each Member State, for monitoring of the implementation of these guidelines, assisting in the planning through the national strategies for high speed internet and mapping of infrastructures, and exchanging information. The Expert Group may also consider any other issue relating to the development of the trans-European telecommunication networks.

3. In conjunction with the mid-term evaluation and the ex-post evaluation of the Regulation XXX establishing the Connecting Europe Facility and after consulting the Expert Group, the Commission shall publish a report on the progress in the implementation of these guidelines. That report will be submitted to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

4. In these reports the Commission shall also evaluate whether the scope of the projects of common interest continues to reflect political priorities, technological developments or the situation in the relevant markets. For major projects, these reports shall include an analysis of the environmental impact, taking into account

climate change adaptation and mitigation needs, and disaster resilience. Such a review may also be carried out at any other time when it is deemed appropriate.

Article 8
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in the Articles 5(6) shall be conferred on the Commission for an indeterminate period of time from the date of the entry into force of this Regulation.

3. The delegation of power referred to in Article 5(6) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 5(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 9
Repeal

Decision No 1336/97/EC, as amended by Decision No 1376/2002/EC, is repealed.

Article 10
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

PROJECTS OF COMMON INTEREST

The projects of common interest shall aim for the removal of bottlenecks which hinder the completion of the Single Market i.e. providing connectivity to the network and access, including across borders, to digital service infrastructures.

The deployment and enhancement of trans-European telecommunication networks (broadband networks and digital service infrastructures) shall contribute to fostering economic growth, creating jobs and achieving a vibrant digital single market. In particular, their deployment will grant faster access to the internet, bring about information technology-enabled improvements in daily life for citizens, including children and young persons, businesses and governments, increase interoperability and facilitate the alignment or convergence to commonly agreed standards.

Section 1. Horizontal priorities

The deployment of trans-European telecommunication networks that will help to remove the bottlenecks existing in the digital single market shall be accompanied by studies and programme support actions. They are:

(a) **Innovative management, mapping & services**. Technical assistance measures, where necessary for deployment and governance, shall include project and investment planning and feasibility studies, in support of investment measures and financial instruments. Mapping of pan-European broadband infrastructure will develop an on-going detailed physical surveying and documentation of relevant sites, analysis of rights of way, assessments of potential for upgrading existing facilities, etc. It should follow the principles of the Directive 2007/2/EC (INSPIRE Directive) and related standardisation activities. Technical assistance measures may also support replication of successful investment and deployment models.

These actions may also include climate proofing to assess the climate related risks and ensure disaster resilience of infrastructure, in compliance with relevant requirements set out in EU or national legislation.

(b) **Support actions and other technical support measures.** These actions are needed to prepare or support the implementation of projects of common interest or accelerate their take-up. In the field of digital services, support actions shall also stimulate and promote the take-up of new digital service infrastructures that may become necessary or useful based on technological developments, changes in the relevant markets or emerging political priorities.

Section 2. Broadband networks

All broadband investments within the territory of the Union expand the network capacity and bring about benefits to all the potential users, including those in Member States other than the country of the investment. Investment in these networks will bring about more competition and more innovation in the economy,

will deliver more efficient and effective public services, contribute to the EU goals on a low carbon economy and to the overall EU competitiveness and productivity.

Investment in broadband infrastructure has been undertaken predominantly by private investors and it is expected that this will remain the case. However, the achievement of the Digital Agenda targets will require investment in areas for which there is not a clear business case or where a business case may need to be enhanced within the time frame of the targets. The following types of areas can be characterized on the basis of the likely investment:

Sub-urban/medium density areas are typically served with medium speed connections but tend to lack higher speeds. Where it is demonstrated that the business case for investments in advanced technologies is insufficient for private investors in the short run, financial support could generate profitable investment over the longer term by closing the viability gap and stimulate competition.

Rural and low density areas are typically served with low speed connections and in some cases even not served at all. The business case for investment is unlikely to be viable and the European targets are unlikely to be reached by 2020. Investment in these areas needs higher financial support, provided by grants, possibly in combination with financial instruments. Such areas will include remote and sparsely populated regions where investment costs are either very high or where income is low. The support from the Connecting Europe Facility in these areas is likely to complement available cohesion funds or rural development and other direct public support.

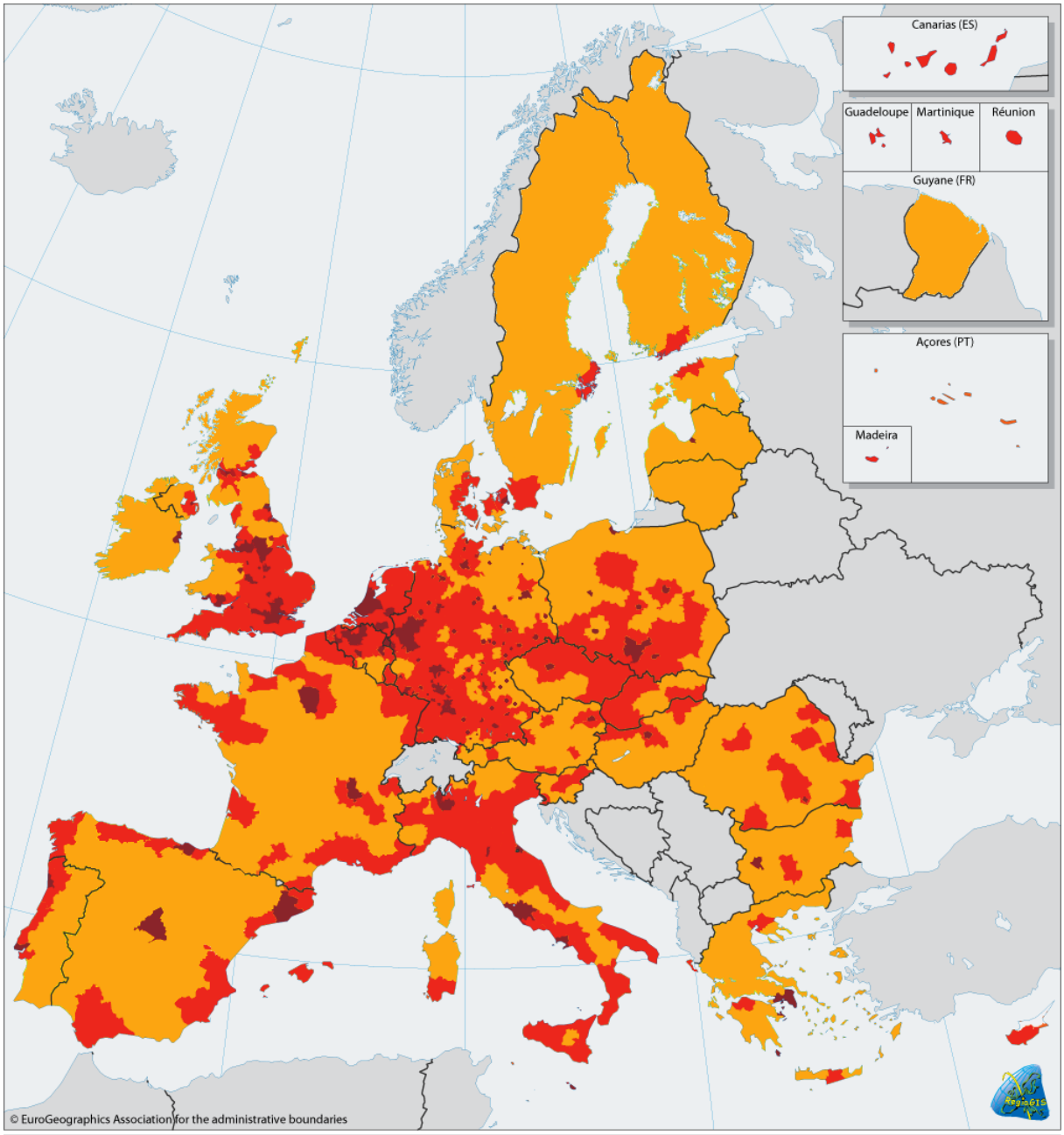
High density/urban areas – with the exception of some low income regions - are typically well served with medium to fast speed connections, often provided by competitive offerings of cable and telecom operators. Yet because of this relatively satisfactory situation the market incentives to invest in very high speed networks such as fibre to the home are limited. Thus financial support may be also envisaged to investments in urban areas with dense populations which do not attract sufficient investment despite societal benefits it would generate, provided that it is in full compliance with Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, as well as, if relevant, with the Community Guidelines for the application of state aid rules in relation to rapid deployment of broadband networks.

In less developed regions, the support to the deployment of broadband networks should be provided primarily through the instruments of Structural and Cohesion funds. Grants and / or financial instruments from the Connecting Europe Facility may complement such support where necessary to achieve the objectives of this Regulation. The achievement of synergies between the CEF actions in those regions and the support from the Structural and Cohesion Funds may be reinforced by using an appropriate coordination mechanism.[16]

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[16] As set out in Article 11 (e) of the Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006. COM(2011) 615 final

The classification of regions to the above categories is indicatively provided by the map below.



Actions contributing to the project of common interest in the field of broadband networks shall constitute a balanced portfolio including actions contributing to both the 30Mbps and the 100Mbps Digital Agenda targets, covering suburban and rural areas in particular, as well as areas across the European Union.

Actions contributing to the project of common interest in the area of broadband networks, irrespective of the technology used, shall:

(a) Support investments in broadband networks capable of achieving the Digital Agenda 2020 target of universal coverage at 30Mbps; or

(b) Support investments in broadband networks capable of achieving the Digital Agenda 2020 target and of having at least 50% of households subscribing to speeds above 100Mbps;

(c) Comply with applicable law, in particular with competition law

and shall consist in particular of one or more of the following actions:

(a) The deployment of passive physical infrastructure or the deployment of combined passive and active physical infrastructure and ancillary infrastructure elements, complete with services necessary to operate such infrastructure;

(b) Associated facilities and associated services, such as building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;

(c) Exploitation of potential synergies between the roll-out of broadband networks and other utilities networks (energy, transport, water, sewerage, etc), in particular those related to smart electricity distribution.

The deployment of broadband networks to connect island, landlocked and peripheral regions with central regions of the Union, including where necessary submarine cables, will be supported where it is essential to ensure access by isolated communities to broadband at 30 Mbps and above. This support should complement other funds, whether EU or national, available for this purpose.

For the avoidance of doubt, services providing, or exercising editorial control over, content transmitted using electronic communications networks and services and information society services as defined in Article 1 of Directive 98/34/EC, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks, are not covered by the scope of the actions contributing to the project of common interest in the field of broadband networks.

Beneficiaries of EU support for the project of common interest in the area of broadband include, but are not limited to:

(a) Telecom operators (incumbent, whether investing directly or through a subsidiary or new-entrant) launching investments in fast and ultra fast broadband networks.

(b) Utility companies (e.g. water, sewage, energy, transport), which are expected to invest in passive broadband networks, either alone or in partnership with operators.

(c) Regional decision makers, including municipalities, who may establish concessions for broadband infrastructures. Equipment providers may be interested in such an arrangement, via the creation of a special purpose company.

(d) Partnerships between several operators active in wired and wireless markets to build new generation of infrastructures.

In building the portfolio due account shall be taken of Member States' investment needs in terms of the number of households to be connected with the support of the Connecting Europe Facility.

In addition, high speed connections to public internet access points, notably in public facilities, such as schools, hospitals, local government offices and libraries, shall also be supported.

Section 3. Digital Service Infrastructures

The implementation of digital service infrastructures shall contribute to the realisation of digital single market by removing existing bottlenecks in terms of service deployment. This will be achieved through the creation and/or enhancement of interoperable digital service infrastructure platforms, accompanied by essential basic digital service infrastructures. It shall rely on a two-layer approach:

(1) Core service platforms are the central element(s) or hub(s) of the digital service infrastructures essential to ensure trans-European connectivity, access and interoperability. This may also encompass physical equipment, such as servers, dedicated networks and software tools. Core service platforms are open to entities in all Member States.

(2) Generic services provide the functionality and content of digital service infrastructures. They may be interconnected through a core service platform.

The projects of common interest in the field of digital service infrastructures are the following:

Trans-European high-speed backbone connections for public administrations

A public trans-European backbone service infrastructure will provide very high speed and connectivity between public institutions of the EU in areas such as public administration, culture, education and health. This backbone infrastructure will support public services of European value through controlled quality of services and secure access. It will therefore guarantee a digital continuum of public service provisioning for the greater benefit of citizens, businesses and administrations. It will

allow demand aggregation for connectivity, reaching critical mass and reducing costs.

Core service platform:

The infrastructure will be based on the existing Internet backbone and where necessary new networks will be deployed. Connections will be made directly or through regionally- or nationally-managed infrastructures. In particular it will provide connectivity for other trans-European services inter alia those mentioned in this Annex. This infrastructure will be fully integrated in the Internet as a key capacity for trans-European public service and will support the adoption of emerging standards (e.g. Internet protocols such as IPv6[18]). Dedicated underlying infrastructure for connecting public administrations may be considered if necessary for security reasons.

Generic services:

The integration of the core platform into the European public services will be facilitated by the deployment of generic services: authorisation, authentication, inter-domain security and bandwidth on demand, federation of services, mobility management, quality control and performance control, integration of national infrastructures.

Interoperable 'cloud computing' service will provide the backbone infrastructure functionality on which clouds for trans-European public services can be offered. This includes network-type of trans-European services such as video-conference, virtualised storage and supporting computing-intensive applications, including those related to other projects of common interest.

Cross-border delivery of eGovernment services

eGovernment refers to the digital interaction between public authorities and citizens, public authorities and businesses and organisations, and among public authorities of different countries. Standardised, cross-border, and user-friendly interaction platforms will generate efficiency gains both throughout the economy and in the public sector and will contribute to the Single Market.

Core service platform:

Interoperable electronic identification and authentication across Europe. A set of connected and secured authentication servers and protocols that ensure interoperability of the variety of authentication and identification and authorization systems that exist in Europe will be deployed. This platform will enable citizens and businesses to access online services when needed for example to study, work, travel, get health care or do business abroad. It will constitute the core layer for all those digital services for which electronic identification and authentication are needed: e.g. electronic procurement, online health services, standardised business reporting, electronic exchange of judicial information, trans-European online company

[18] Reference to ipv6 communication: COM(2008)313 advancing the Internet, action plan for the deployment of Internet Protocol version 6 (IPv6) in Europe.

registration, e-Government services for businesses, including communication between business registers relating to cross-border mergers and foreign branches. This platform may also use resources and tools of the multilingual core platform.

Generic services:

(a) *Electronic procedures for setting up and running a business in another European country*: This service will allow dealing with all necessary administrative procedures electronically across borders through Points of Single Contact. This service is also a requirement the Directive 2006/123/EC on services in the internal market.

(b) *Interoperable cross-border electronic procurement services*: This service will enable any company in the EU to respond to European public tenders from any Member State covering pre-award and post-award electronic procurement activities, integrating activities such as Electronic Submission of offers, Virtual Company Dossier, eCatalogues, eOrders and eInvoices.

(c) *Interoperable cross-border e-Justice services*: This service will enable the online cross-border access of citizens, businesses, organisations and legal practitioners to legal means/documents and judicial procedures. It will enable the online cross border interaction (via online data and document exchange) between legal authorities in different Member States and improve with this the ability to process cross border legal cases more efficiently;

(d) *Interoperable cross border eHealth services*: These services will enable the interaction between citizens/patients and health care providers, institution-to-institution and organization-to-organization transmission of data, or peer-to-peer communication between citizens/patients and/or health professionals and institutions. The infrastructure to be deployed will comply with the principles of data protection as set out, in particular, in Directives 95/46/EC and 2002/58/EC, as well as with international and national ethical rules related to the use of patient health records and other personal data.

The services will comprise cross border access to electronic health records and electronic prescription services as well as remote health/assisted living tele-services, cross border multi lingual semantic services linked to the multilingual core platform, access to social security information building on the EESSI (Electronic Exchange of Social Security Information) infrastructure, etc.

(e) *European Platform for the interconnection of European business registers*: This facility will provide a set of central tools and services enabling business registers in all Member States to exchange information on registered businesses, their branches, mergers and wind-ups. It will also provide a multi-country and multilingual search service for users using a Central Access Point accessible via the e-Justice portal.

Enabling access to public sector information and multilingual services

Access to digital resources of European heritage

The objective of this infrastructure is to make available large collections of European cultural resources in digital form and foster their re-use by third parties, in full compliance with copyright and related rights.

Core service platform:

The development of the core service platform will build on the current Europeana portal. The platform – which requires the development, operations and administration of distributed computing, data storage facilities and software - will provide a single access point to European cultural heritage content at item level, a set of interface specifications to interact with the infrastructure (search for data, download data), support for the metadata adaptation and ingestion of new content, as well as information on conditions for reuse of the content accessible through the infrastructure.

It will also provide the means for establishing an interaction with content providers, users (citizens accessing the portal) and re-users (creative industries), for the promotion of the platform, coordination of related networks and information exchange.

Generic services:

(a) Aggregation of content held by cultural institutions and private content holders in the Member States

(b) Crowd-sourcing facilities encouraging interactivity and enabling users to make an active contribution to the site

(c) User-friendly services for the portal addressing issues such as search and browsing improvements as well as cross-language access

(d) Exchange of rights information and licensing infrastructures;

(e) Competence centres on digitisation and preservation of digital cultural heritage

(f) Content repositories for cultural institutions and user-generated content and their long-term preservation

Access to re-usable public sector information

This digital service infrastructure will enable access for re-use to disclosable information held by the public sector in the EU.

Core service platform:

Distributed computing, data storage and software facilities will provide: single access point to multilingual (all EU official languages) datasets held by public bodies in the EU at European, national, regional and local level; query and visualisation tools of the data sets; assurance that the available datasets are licensed to be published and re-distributed, including a data provenance audit trail; a set of application programming interfaces for software clients to interact with the infrastructure (search for data, gather statistics, download data) for the development of third-party applications. It

shall also allow for collection and publication of statistics about the operation of the portal, the availability of data and applications and the way in which they are used.

Generic services:

Gradual extension of the access to all datasets held and made public by virtually all public administrations within the EU, including multilingual search, which will be achieved by the following:

(a) aggregation of international/EU/national/regional/local datasets;

(b) interoperability of datasets, including legal and licensing issues, to enable better re-use;

(c) interface to open data infrastructures in third countries;

(d) data repositories and long-term preservation services.

Multilingual access to online services

This service infrastructure will enable any current and future online service providers to offer their content and services in the widest range of EU languages in the most cost-effective way.

Core service platform:

The platform will enable acquiring, maintaining and making available large collections of live language data and reusable language processing tools. It will cover all EU languages and will comply with the relevant standards and agreed service and legal requirements. The platform will allow for flexible addition, curation and refinement of language data and tools by contributors, and ensure easy, fair and secure access and repurposing of such resources by organisations offering or developing language-enabled services. The platform will also support cooperation and interworking with similar initiatives and data centres, existing or forthcoming, within and outside the EU.

Generic services:

The platform will be populated with a broad range of reusable data and software resources, covering all EU languages. It shall assemble, harmonise and integrate such data and software elements within a distributed service infrastructure. It shall make available and in some areas develop or extend data and software resources to be used as building blocks to develop, customise and deliver multilingual services or multilingual gateways to online services.

Safety and security

Safer internet service infrastructure

The support will provide integrated and interoperable services at European level, based on shared awareness, resources, tools and practices and aimed at empowering children, their parents and carers, and teachers to make the best use of the Internet.

Core service platform:

The core service platform will allow for acquiring, operating and maintaining shared computing facilities, databases and software tools for the Safer Internet Centres (SICs) in the Member States, as well as back-office operations to handle the reporting on sex abuse content including the link with policy authorities including international organisations such as Interpol, and when appropriate, the handling of the take down of this content by the relevant web sites. This will be supported by common databases.

Generic services:

(a) Help-lines for children, parents and carers on the best means for kids to use the Internet avoiding threats from harmful and illegal contents and behaviours, and the supporting back-office infrastructure.

(b) Hotlines for reporting on illegal child sex-abuse content on the Internet

(c) Tools to ensure access to age-appropriate content and services,

(d) Software that allows easy and fast reporting of illegal content and its takedown, as well as reporting of grooming and bullying.

(e) software systems that allow better identification of (not reported) child sexual abuse content on the internet as well as technologies to support police investigations, especially with a view to identifying child victims, perpetrators and commercial trading of such content.

Critical Information Infrastructures

Communication channels and platforms will be developed and deployed in order to enhance the EU-wide capability for preparedness, information sharing, coordination and response.

Core service platform:

The core service platform will consist of a network of National/Governmental Computer Emergency Response Teams (CERTs) based on a minimum set of baseline capabilities. The network will provide the backbone of a European Information Sharing and Alert System (EISAS) for EU citizens and SMEs.

Generic services:

(a) Proactive services – technology watch and dissemination and sharing of security-related information; security assessments; providing guidelines on security configuration; providing intrusion detection services;

(b) Reactive services – incident handling and response; issuing alerts and warnings; vulnerability analysis and handling, artefact handling (proving high-quality alerts on new malware and other artefacts).

Deployment of information and communication technology solutions for intelligent energy networks and for the provision of Smart Energy Services

Smart energy services use modern information and communication technologies to meet the needs of citizens (who can be producers as well as consumers of energy), energy providers and public authorities. Smart energy services cover the interaction between citizens and energy providers, organization-to-organization data transmission, and peer-to-peer communication between citizens. They open up opportunities for existing and new actors in both the telecoms and the energy markets (e.g. Energy Service Companies ESCOs). They can also enable companies and citizens to trace the greenhouse gas emissions of their purchase decisions.

Core Service Platforms

Communications infrastructure, typically deployed by utilities in partnership with telecom operators, as well as the necessary IT hardware to be embedded in energy components (e.g. substations). They also include the core services that enable monitoring of assets, control for power management, automation and data management and communication between the different actors (service providers, network operators and other utilities, consumers, etc).

Generic Services:

Generic Services will be typically delivered by a wide range of new and innovative actors, such as energy service providers, ESCOs, energy aggregators facilitating especially the entry of different types of local SMEs and preventing monopolisation of the retail market.

They will make available the functionality for customers to manage their energy demand, their renewable energy sources and their storage capacity, with the aim of optimising their energy use, reducing energy bills and greenhouse emissions, while ensuring data privacy and security.

(a) Smart metering infrastructure to measure and communicate information on energy consumption. Generic Services also include customer premises energy management equipment, i.e. IT hardware devices associated to home area networks that are connected to the smart meter

(b) Software agents able to decide when to buy/sell energy, when to switch on/off appliances in function of price signals from the energy provider, weather forecast information, data management and communication, control and automation devices and their networked solutions.