GLOBAL REGULATIONS



By Gerry Oberst

Satellite Broadband Subsidies

On both sides of the Atlantic, policymakers are devising programs to ensure that citizens have access to broadband services. For its part, the European Union (EU) has included funding for Internet broadband connectivity in the European Economic Recovery Package — with the appealing acronym of EERP — and also is developing recommendations on next-generation access broadband networks. Satellite operators are working hard to convince policy makers that satellite solutions should be included in the mix.

The EERP subsidies amount to 1 billion euros (\$1.4 billion), which will be administered through the European Commission's Agriculture and Rural Development Directorate General. The money comes out of rural development funds that through shifting budgetary appropriations are now targeted for broadband subsidies. It will fund rural development operations in 2009 and 2010.

The Council of the EU approved this funding in December and officially amended the legal documents to achieve it in late May. EU member states were required to submit revised national strategy plans by mid-July to set out how funds could be devoted to broadband operations. The Council document sets out types of operations that can be funded, covering a wide range of infrastructure.

At the same time, the European Commission has initiated consultations on next-generation access issues. One consultation on how the Commission will apply state aid rules to public funding of broadband network infrastructure deployment closed in late June. State aid rules govern funding that member states can give to industry, to avoid that such aid unduly restricts competition. Another consultation to develop further recommendations on how next-generation access investment should be regulated closed in late July.

In the midst of all this activity, the European Satellite Operators Association (ESOA) and its members also have been busy, seeking to make sure that officials in Brussels do not overlook the satellite contribution. With respect

Gerry Oberst is a partner in the Hogan & Hartson Brussels office. He acts as a legal advisor to ESOA. to EERP, ESOA advances the core proposition that "a million extra businesses or households in rural areas can connect to broadband via satellite by the end of 2010 ... using only half of the EU's broadband package allocation." The operators stress that

they offer immediate connectivity due to satellites already in orbit. Funding for satellite broadband would offer an extra economic stimulus to rural areas, in addition to broadband connectivity, by giving public support for installation of ground equipment that requires local labor.

As part of its campaign, ESOA described cost-effective pricing packages from several satellite offerings and pointed to success stories for satellite-based service. Among the examples are public support for satellite service and supply: in the mountainous Piedmont region of Italy, in remote areas of Scotland where 4,000 homes and businesses were beyond the reach of terrestrial broadband, and for a public project to connect schools in 152 villages in Cyprus to broadband via satellite.

With respect to state aid, ESOA noted that the draft guidelines are very oriented towards traditional terrestrial networks. Only in a footnote does the Commission acknowledge that broadband services can be delivered on numerous network infrastructures, including satellite. ESOA would like the guidelines to provide that a failure to consider satellite solutions in unserved areas could be grounds for considering specific aid projects to be incompatible with state aid requirements. Moreover, there should be some provision in the guidelines that public financing could be available for satellite ground equipment.

ESOA makes effective use of a recent opinion from the International Telecommunication Union on next-generation access, adopted at the fourth World Telecommunication Policy Forum (WTPF) held in Lisbon earlier this year. The WTPF focused on the impact of information and communication technologies. It reached a so-called "Lisbon Consensus," which includes an opinion on next-generation networks containing encouraging words on the "integral role for satellite technologies" in extending the reach of such networks. The opinion also states specifically that "terrestrial and satellite-based broadband wireless technologies could offer leapfrog solutions to expand access significantly in many remote and rural areas, with a unique role for satellite in expanding service delivery and coverage areas."

With satellites already in the sky and policymakers hunting for cost-effective means to provide access to new broadband services, the match between public projects and satellite infrastructure seems apparent. V