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Subject: State aid SA.34290 (2012/N) – Finland
Modifications in the aid scheme supporting the development of high-speed broadband infrastructure in sparsely populated areas of Finland

Sir,

I. SUMMARY

- (1) I am pleased to be able to inform you that the European Commission has assessed the measure "*Modifications in the aid scheme supporting the development of high-speed broadband infrastructure in sparsely populated areas of Finland*" and decided not to raise objections as the State aid contained therein is compatible with Article 107(3)(c) Treaty on the Functioning of the European Union (TFEU)¹.

II. PROCEDURE

- (2) In accordance with Article 108(3) TFEU the Finnish Government notified plans to amend the State aid measure approved by the Commission on 6 May 2010.
- (3) Following pre-notification discussions, by letter dated 27 January 2012, pursuant to Article 108 (3) TFEU, the authorities of Finland notified the above mentioned measure to the Commission. The Commission requested additional information on the measure by letters registered on 21 March 2012 and 19 June 2012. The Finnish authorities provided the requested information on the measure by letters registered on 19 April 2012 and 9 July 2012 respectively.

¹ With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

Ulkoasiainministeri Erkki TUOMIOJA
Merikasarmi
PL 176
FIN - 00161 Helsinki

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III. CONTEXT

- (4) In its decision on State aid N 62/2010² the European Commission concluded that the Finnish state aid broadband scheme was in compliance with the criteria set out in the *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*³. The aid provided by the Finnish state is therefore compatible with Article 107(3)(c) Treaty on the Functioning of the European Union (TFEU). In line with the approved scheme the public funding is granted only to the non-built-up areas where it is not economically viable for commercial operators to build high-speed networks.
- (5) The implementation of the Finnish Broadband Measure started immediately after the Commission approval in May 2010. In approximately 230 of the 800 projects the Finnish authorities managed to get to the stage of the selection procedure for building the broadband networks. However, half of the approximately 230 selection procedures were unsuccessful due to the lack of applicant operators interested in building the subsidized networks.
- (6) Consequently, as part of the mid-term evaluation of the measure, the Finnish authorities identified weak points in the scheme and came up with modifications to address these points with a view of ensuring that the measure would meet its objectives.
- (7) The biggest challenge faced by the Finnish authorities in implementing the scheme is the low number of interested telecommunications operators for available subsidized projects. In particular, in the northern part of the country almost all selection procedures were unsuccessful as the operators displayed lack of interest in building new broadband networks there despite the available public subsidies.
- (8) Furthermore, in line with the decision approving the aid scheme the final payment of aid would be made only after the network has been completed. This rule proved a difficulty in obtaining the necessary financing from the financial institutions to carry out the project, in particular for smaller telecommunication operators.
- (9) As explained by the Finnish authorities another stumbling block in the project was the earmarking of the total funding to different regions in Finland, which resulted in a situation where some regions have more projects in the pipeline than they can afford with the earmarked funds while other regions struggle to use the allocated subsidies.

IV. DESCRIPTION OF THE MEASURE

- (10) **Objective:** The aim of the notified amendments in the approved scheme is to increase the interest and participation of the telecommunication operators in the broadband projects carried out in the sparsely populated areas of Finland.

² http://ec.europa.eu/competition/state_aid/register/ii/doc/N62-2010-WLWL-en-06.05.2010.pdf

³ OJ C 235 of 30.9.2009, p. 7.

In view of the failure in a number of selection procedures due to the lack of applicant operators interested in rolling out broadband networks, the aim is to provide stronger incentives by granting additional financing as well as alleviating the burden of financing the project by the operators.

- (11) **Legal basis:** The notified measure is based on the Act on Discretionary Government Transfers (688/2001) - Act on Broadband Construction Aid in Sparsely Populated Areas (1186/2009) as amended by Act 538/2010 - Act on Support for Rural Development (1443/2006) as amended by Act 1187/2009 - Government Decree on Support for Rural Projects 829/2007 - Ministerial Decree on areas eligible for Broadband Aid (246/2010) - Government Decree on relative weighting of the selection criteria in broadband aid scheme (616/2010) - Administrative Procedure Act (434/2003).

Notified modifications:

- (12) **Prepayment of government aid for telecom operators.** The Act on Broadband Construction Aid will be modified so that up to 50% of aid could be paid before the network is built (once the aid application has been approved). The Finnish authorities consider this a necessary amendment in order to help the operators finance the networks under construction. The prepayment would lower the need for external financing as well as guarantees which would lower risks in particular for small operators.
- (13) **Additional funding instruments:** The following additional aid instruments are envisaged by the Finnish authorities to stimulate the operators' interests to build subsidized networks in the remote areas: subordinated loans, convertible loans, loan facility agreements, equity-based funding, loan at a low interest rate, loan guarantee up to 100% of the loan amount, direct grants other than those included in the original measure.
- (14) **Additional budget:** The approved total amount of aid was EUR 132 million during the years 2010-2015. The Finnish authorities notify the increase of this amount by EUR 28 million resulting from the new funding measures listed above. Consequently, the total aid budget will amount to EUR 160 million.
- (15) **Increased aid intensity:** The cumulative maximum aid intensity per project previously capped at 66% will be increased to 90% (taking also into account the new sources of aid provided by the financial instruments⁴). The actual aid intensities of the projects will depend on the outcome of the tender procedure.
- (16) **Abandonment of earmarking funds by region:** According to Finnish authorities the earmarking of funds by region had a negative impact on the progress of their broadband scheme. Therefore, the Finnish authorities intend to abandon regional earmarking of funds and to move to a system where projects are evaluated regardless of region and funds are allocated on a first-come-first-serve basis.
- (17) As confirmed by the Finnish authorities the revised aid scheme will only concern new broadband projects.

⁴ The Finnish authorities confirmed that they will monitor the overall aid intensity to ensure that it will not exceed 90%

- (18) In all other respects, reference is made to the decision of the Commission of 6 May 2010 concerning the original aid scheme for construction of broadband networks in sparsely populated areas of Finland.

V. ASSESSMENT OF THE MEASURE: PRESENCE OF AID

- (19) As already set out in the State aid case N 62/2010⁵, the measure constitutes State aid within the meaning of Article 107(1) TFEU.

VI. ASSESSMENT OF THE MEASURE: COMPATIBILITY

- (20) The Commission assessed the compatibility of the original aid scheme according to Article 107 (3) (c) TFEU and in the light of the *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*⁶. The Broadband Guidelines contain a detailed interpretation of Article 107 (3) (c) TFEU in this area of State aid law.
- (21) The Commission notes that the notified alterations are based directly on difficulties experienced by the Finnish authorities in implementing the scheme and are designed to increase the interest of operators in rolling out the new broadband networks in the sparsely populated areas in Finland. These modifications are necessary and proportionate for the scheme to meet its objectives.
- (22) The Commission takes the view that the notified modifications do not alter the assessment of the compliance of the scheme with the compatibility criteria set out in the Broadband Guidelines carried out in the original decision⁷
- (23) In all other respects the conditions of the scheme remain unchanged hence the modified scheme continued to fulfil the compatibility criteria as set out in the Broadband Guidelines. Therefore, the aid involved in the notified measure is compatible with Article 107(3)(c) TFEU.

VI.1. Conclusion

- (24) The Commission concludes that the compatibility criteria set out in the Broadband Guidelines are met, hence the aid involved in the notified measure is compatible with Article 107(3)(c) TFEU.

VII. DECISION

On the basis of the foregoing assessment, the Commission has accordingly decided that the aid measure "*Modifications in the aid scheme supporting the development of high-speed broadband infrastructure in sparsely populated areas of Finland*" is compatible with Article 107(3)(c) TFEU.

⁵ http://ec.europa.eu/competition/state_aid/register/ii/doc/N62-2010-WLWL-en-06.05.2010.pdf

⁶ For reference, see footnote 3

⁷ State aid case N 62/2010

The Finnish authorities are reminded that, pursuant to Article 108(3) TFEU, they are obliged to inform the Commission of any plan to extend or amend the measure.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Your request should be sent by encrypted e-mail to stateaidgreffe@ec.europa.eu or, alternatively, by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue Joseph II 70
B-1049 Brussels
Fax No: +32 2 2961242

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President of the Commission