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**Subject: State aid SA.37860 (2013/N) – Greece
Prolongation of Broadband Network Development in White Rural
Areas of Greece**

Sir,

1. SUMMARY

- (1) I am pleased to inform you that the European Commission has assessed the State aid measure "Prolongation of Broadband Network Development in White Rural Areas of Greece" ("the notified measure") and decided not to raise objections as the State aid is compatible with Article 107(3)(c) of the TFEU.
- (2) By their letter of 13 December 2013, the Greek authorities informed the Commission that they accept that the decision is adopted in English.

2. DESCRIPTION OF THE MEASURE

- (3) Following a pre-notification procedure, Greece notified the measure to the Commission on 30 November 2013 pursuant to Article 108(3) of the TFEU. The Greek authorities replied to the Commission's requests for information of 5 December 2013 and 13 December 2013 by e-mails of 11 December 2013 and 16 December 2013.

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3. DESCRIPTION OF THE MEASURE

- (4) The notified measure constitutes a prolongation of the State aid scheme "Broadband development in Greek rural areas" which was approved by the Commission on 10 November 2011 (case SA.32866)¹. As described in that decision, in rural and remote areas of Greece, there are currently no broadband services available and there are no plans for coverage in the near future ("white areas").
- (5) Purpose of the approved measure is to promote the development of a broadband network in areas which have not yet access to broadband infrastructure, and where broadband services are not being delivered by competing broadband infrastructures. Therefore it is planned to build a network which will allow an open access at equitable market conditions to all operators offering broadband services to end-users. All (wired and wireless) telecommunications operators will be able to connect to the network at equal and non-discriminatory conditions. There will be provision of services only in white areas. Residential departments with 400 or more inhabitants will be interconnected with an NGA network, capable to deliver ultra-high speeds and support future active infrastructure upgrades.
- (6) Greece plans a prolongation of the operational period of the initial scheme by 5 years. All the remaining provisions of the initial scheme remain unchanged. The other elements of the scheme, like mapping and coverage, pricing, monitoring, control and claw-back mechanism, the choice of the network operator and obligations imposed on it, remain unaffected by this change. The contract with the operator will contain in particular an obligation for the rollout of the network within two years and its operation for a period of 15 years.
- (7) In consideration of the extended duration of the scheme, the Greek authorities conducted a new public consultation on the areas to be covered under the amended scheme². The main purpose of the consultation was to confirm the classification of areas eligible for intervention and to obtain information from stakeholders on their current or planned investments for the next three years. During the consultation phase, the existing operators have confirmed that they do not have any current or planned investments in the target areas. In addition, on the basis of the comments submitted by stakeholders in this new public consultation, the authorities removed from the target areas those where there is a duplication of lines to be constructed under the notified measure.
- (8) In their public consultation with stakeholders, the Greek authorities provided detailed data on the coverage areas where State intervention is foreseen. The notified measure covers 5 085 rural areas with population of 525 956 residents; that population represents 5% of the total population of Greece, whereas those areas represent about 40%-45% of the Greek territory.

¹ OJ C 252, 22.8.2012, p. 4,

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_32866.

² Public consultation ran in October and November 2013 on the website www.ktpae.gr.

- (9) Greece has also informed the Commission that the amount of public funding comes up to EUR 161 077 032, which falls within the initially approved maximum public funding of EUR 250 000 000.
- (10) Regarding wholesale access, there will be effective wholesale access to the subsidised network (including its existing infrastructure used for the project) on equal and non-discriminatory terms for an unlimited period of time. The network will support effective and full unbundling and satisfy all different types of network access that operators may seek (including but not limited to access to ducts, dark fibre, street cabinets, and bit stream and unbundled access to fibre).
- (11) Regarding transparency, the Greek authorities confirmed that they would publish on a central website (www.ktpae.gr) all information relevant to the notified State aid measure. Furthermore, the aid beneficiaries will be obliged to provide entitled third parties with comprehensive and non-discriminatory access to information on the infrastructure. Finally, the Greek authorities will submit reports to the Commission on the implementation of the measure, every two years from the date when the network is put in use.

4. ASSESSMENT OF THE COMPATIBILITY OF THE MEASURE WITH ARTICLE 107 TFEU

- (12) As described in section V of the decision of 10 November 2011, referred to in recital 4, the notified aid measure constitutes State aid within the meaning of Article 107(1) TFEU.
- (13) The Commission has assessed the compatibility of the original scheme according to Article 107(3)(c) of the TFEU and in the light of the *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*³. Upon publication on 26 January 2013 in the Official Journal, the new *EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks* (the "2013 Broadband Guidelines") entered into force⁴. They are now applicable for the assessment of the amended scheme.
- (14) The new guidelines do not require a new assessment of most of the elements of the scheme, for which the criteria of the former guidelines have not been changed in substance. The Commission re-assessed however the balancing test with regard to the required "step change", the requirements for the design of NGA deployment and the transparency obligations of Member States as determined by the 2013 Broadband Guidelines.
- (15) The aid ensures a "step change" in terms of broadband availability, within the meaning of recital 51 of the 2013 Broadband Guidelines, as it allows the deployment of an NGA network in areas where no such network exist and there are no plans to deploy one in the near future.

³ OJ C 235, 30.9.2009, p.7.

⁴ OJ C 25, 26.1.2013, p.1.

- (16) The scheme is in line with the detailed criteria established in recital 78 of the 2013 Broadband Guidelines for the design of the aid for broadband roll-out. This concerns the necessity of the aid. It furthermore concerns its proportionality in terms of mapping, the tender process, technological neutrality, the use of existing infrastructure, wholesale access with full and effective unbundling and full open access to the subsidised network on equal and non-discriminatory terms, price benchmarking based on the principles set by the NRA and on published benchmarks in comparable and more competitive areas of the country or on advice given by the NRA, and monitoring and claw back provisions. As stipulated in recital 80 of the 2013 Broadband Guidelines with regard to deployment of NGA networks, it is also ensured that there will be effective, full and unbundled access to the subsidised passive network for an unlimited period of time, and all different types of network access that operators may seek will be satisfied.
- (17) Concerning the transparency requirement as defined in recital 78 (j) of the 2013 Broadband Guidelines, the Greek authorities will publish all information relative to the notified aid measure on their web site. Furthermore, the aid beneficiaries will be obliged to provide entitled third parties with comprehensive and non-discriminatory access to information on its infrastructure deployed under the State aid measure in conformity with the abovementioned provision.
- (18) Regarding the reporting obligation the Greek authorities will submit reports to the Commission on the implementation of the measure every two years from the date the network is put in use. Hence, the Greek authorities fulfil the requirements set in recital 78 (k) of the revised Broadband Guidelines.
- (19) In view of the characteristics of the project and of the safeguards applied, as already concluded by the decision of 10 November 2011, the overall impact on competition is deemed to be positive. The project design allows several network operators to use the subsidised infrastructure and to compete. The subsidised infrastructure creates broadband service availability and capacity where there is none at the moment. The public intervention does not crowd out comparable private investments, as there is no network available in the target areas and existing operators have confirmed that they do not have any current or planned investments in the target areas. The creation of network capacity is expected to stimulate market entry by service providers and the provision of services. On the effect on trade, there does not appear to be any significant negative spill-over for other Member States.
- (20) The Commission concludes therefore that the notified measure will offset a geographical and commercial handicap and is objectively justified to address the lack of availability of broadband services in the target areas. Accordingly, the Commission concludes that the measure notified by Greece meets the compatibility criteria set out in the Broadband Guidelines and is designed in a way that does not distort competition or adversely affect trading conditions to an extent contrary to the common interest and is thus compatible with Article 107(3)(c) TFEU.

5. CONCLUSION

- (21) The Commission has accordingly decided that the aid measure "Prolongation of Broadband Network Development in White Rural Areas of Greece" is compatible

with the Treaty on the Functioning of the European Union, in accordance with its Article 107 (3)(c).

- (22) The Commission would remind Greece of the requirement to submit to it annual reports on the application of the aid measure and to inform it pursuant to Article 108(3) TFEU of all plans to amend/extend this measure. Furthermore, in line with recital 78 (k) of the guidelines, starting from the date when the network is put into use, for the duration of the aid measure, the State aid granting authority is asked to report every 2 years key information on the aid projects to the European Commission.
- (23) 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>.
- (24) 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
MADO 12/59
B-1049 Brussels

Fax No: +32 2 29 61242

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President