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<p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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Subject: State Aid SA.47683 (2017/N) - Finland- Tampere Arena

Sir,

1. PROCEDURE

- (1) By e-mail dated 9 October 2015, Finland pre-notified an aid measure to support the construction of a multi-purpose arena in Tampere. By letters of 6 November 2015, 28 January 2016 and 22 December 2016 the Commission asked for supplementary information. By submissions dated 18 and 22 December 2015, 7 April 2016, 1 July 2016, 22 November 2016 and 20 December 2016, Finland submitted its replies. The Commission held pre-notification video-conferences with the Finnish authorities on 22 October 2015 and on 15 December 2016, and teleconferences on 25 January 2016 and 20 October 2016.
- (2) By electronic notification registered at the Commission on 28 February 2017 (SANI 751586), the Finnish authorities formally notified the measure concerned, pursuant to Article 108(3) TFEU. By letters of 3 April 2017 and 13 June 2017, the Commission asked for supplementary information. By letters dated 5 May 2017 and 19 June 2017, Finland submitted its replies. Furthermore, teleconferences were organised on 6 April 2017, 1 June 2017 and 13 June 2017 respectively.

Ulkoministeri Timo SOINI
Merikasarmi
PL 176
FIN - 00161 Helsinki

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The investment project and the aid beneficiary

- (3) The measure concerns the public funding of the construction project of a multifunctional arena for sport, recreational and culture events ("the Arena") in Tampere, Finland. The Arena will consist of an ice stadium, a practice rink and their auxiliary premises. The Arena will have a capacity of a total of 11,440 seats for ice-hockey and 11,000 spectators for concerts. The size of the Arena, excluding commercial premises, will be 28,605 m². At the moment, there is no arena with a similarly large capacity for arranging large ice-related events in the Tampere region. The new Arena will replace the current Tampere Ice Stadium¹, which has a much smaller capacity (6,600 spectators) and which is in need of renovation/repair.
- (4) The Arena is part of a wider plan for the redevelopment of the city centre of Tampere ("the Deck")². The Deck is one of the leading projects in the Strategic City Centre programme launched at the beginning of 2011. The programme implements Tampere's strategic goals such as the development of a coherent and compact city structure and the creation of a vibrant city centre atmosphere. It consists in the development of the city centre and the river banks areas of Tammerkoski Rapids, two big housing district projects, a hotel, a parking and the development of the railway yard.
- (5) The beneficiary of the aid is KOY Tampereen Monitoimiareena which is the owner and operator of the Arena ("the Arena Company"). The Arena Company is a joint venture between the City of Tampere ("the City") and Arena LP, a limited partnership under Finnish law formed by SRV Construction Ltd and SRV Group Plc (jointly "SRV") and other investors (OP Vakuutus, OP-Henkivakuutus, OP-Eläkekassa, OP-Eläkesäätiö, LocalTapiola Insurance, LocalTapiola Life Insurance) for the sole purpose of investing in the Arena Company. 6,000 shares corresponding to 60% of all shares in the Arena Company belong to Arena LP and 4,000 shares corresponding to 40% of all shares belong to the City.
- (6) SRV was selected by Tampere City Council on 16 May 2016 in a negotiated procedure with prior publication of the contract notice³, as the main developer of the project and constructor of the Arena and the surrounding city centre redevelopment plan, the Deck. The construction works will not start before the adoption of the present Commission decision. The choice of the procedure was made due to the size and technical and financial complexity of the project. Furthermore, the City

¹ The Tampere Ice Stadium in Hakametsä dates from 1965. According to the Finnish authorities, it cannot be renovated to meet the requirements of a modern multi-purpose arena due to its structure. In Finland there are three modern arenas situated in Helsinki (161 km away), Turku (142 km away) and Espoo (152 km away).

² The project is also designated as a project of national significance in the national Finnish financing plan for the construction of sports facilities. The Finnish Olympic Committee added Tampere Arena on 23 November 2015 to the list of nationally significant projects.

³ Prior contract notice was published in Tenders Electronic Daily on 18 June 2015 (<http://ted.europa.eu/udl?uri=TED:NOTICE:209611-2015:TEXT:FI:HTML>). It was also published at the City of Tampere's official website.

authorities were looking for a partner to implement the project in partnership with them, and have had difficulties to find an adequate partner in the past⁴.

- (7) The current notification only refers to the Tampere Arena project and not to the surrounding works on the Deck.

2.2. The aid measure

- (8) SRV, on behalf of the Arena Company to be then incorporated, submitted a formal aid application for a direct discretionary government grant to the Finnish Ministry of Education and Culture ("the Ministry") on 27 June 2016, i.e. before the start of the works on the investment project.
- (9) The Finnish authorities provided business plan materials and financial statements projections and an Arena investment summary, which is an independent economic appraisal prepared by Leimdörfer used in the negotiations with the investors. They contain an analysis of the sport and cultural event market in Finland, as well as an assessment of the value of the total investment costs, revenues, operating costs and net operating profit of the Arena.
- (10) The project is expected to be completed by 2020.
- (11) The total investment costs of the project amount to EUR [100-110]* million in nominal value and EUR [80-90] million in discounted value. They cover the construction costs of the Arena. The Ministry will provide a grant, on the basis of the national legal basis⁵, to the Arena Company of EUR 18 million (EUR 15.40 million in discounted value). Moreover, the City of Tampere will provide the Arena Company with an equity injection of EUR 4 million (EUR 3.17 million in discounted value) and a subordinated loan of EUR 22 million (EUR 16.52 million in discounted value). The remaining costs of delivering the Arena will be funded from private sources.
- (12) The Finnish authorities have argued that both the subordinated loan and the equity injection should be considered transactions under market terms because they are provided under the same terms and conditions as the subordinated loan and equity contributions of private operators. However, in case there are doubts as regards the consideration of those contributions as market-conform they have provided a funding gap analysis considering all public financing (the grant, the subordinated loan and the equity contributions) as State aid in the sense of Article 107(1) TFEU.

⁴ The City of Tampere established a working group in 2007 to examine possibilities to build a multifunctional arena. The final report of the group considered that a multi-purpose arena was needed due to lack of capacity in the existing Ice Stadium in Hakametsä and that a central location for a new arena was preferable. In 2010, the City Council decided to initiate detailed local planning of the project together with a private development partner and to support the project financially. The project, however, failed to progress in accordance with the set targets, and in the spring 2014 the City decided that the negotiations on the implementation of the project would not be continued.

* Business secret

⁵ Act on the Promotion of Sports and Physical Activity (Liikuntalaki 390/2015); Act on financing education and culture (Laki opetus- ja kulttuuritoimen rahoituksesta 1705/2009); Act on Discretionary Government Transfers (Valtionavustuslaki 688/2001).

- (13) According to the Finnish authorities, the aid amount does not exceed the difference between, on the one hand, the investment costs of EUR [80-90] million (in discounted value) and, on the other hand, the discounted value of the operating profit of the investment of EUR [40-50] million over a period of 15 years, as demonstrated by the funding gap analysis. The operating profit was deducted from the investment costs ex-ante on the basis of reasonable projections⁶.

Table 1: Investment costs and aid amount

Parameters	Discounted values, EUR million
Investment costs	[80-90]
Net operating profit	[40-50]
Project funding gap	39.38
Aid amount	35.10

2.3. Operation and use of the Arena

- (14) The Arena Company will remain the owner and operator of the Arena following the completion of the project.
- (15) Regarding the land, the Arena will be built on public land, which the City of Tampere will lease to the Arena Company on a 60-year rental contract. The lease rent was established in May 2016 at an amount of EUR 327,600 per year. The rent is claimed to be on market terms, applying the City's general pricing policy⁷ and will be linked to the cost of living index. The rent is included in the costs of the Arena project in the funding gap analysis and was included in the invitation for tenders to the bidders.
- (16) The Arena Company will award a contract for the day-to-day management of the Arena to a management company. This includes property management, facilities management and marketing of the Arena. The management company has been selected through a market-based negotiation process with bids requested from different companies. The current decision does not address this issue.

2.3.1. Users of the infrastructure

- (17) The facilities under the investment project will have a multi-functional character, and will not be used exclusively by a single professional user. A non-exhaustive list of the intended use of the Arena is provided below:

⁶ The operating profit has been calculated by taking into account the operating revenues and the operating costs of the facility over the reference period of the project and the residual value of the infrastructure at the end of the project timeframe.

⁷ The City of Tampere has established pricing rules for various types of building rights (i.e. for residential, commercial and non-profitable use). These rules have been published in: Guidelines for land policies 2014 – 2017: (<http://www.tampere.fi/liitteet/m/zwq9DaZdE/maapolitiikanlinjaukset20142017.pdf>). External assessment is used when necessary.

– *Use by professional ice-hockey clubs*

- (18) The principal users of the Arena will be two professional Tampere-based ice-hockey clubs, Tappara and Tamperen Ilves. Both clubs play in the national Finnish ice-hockey league. Each of the clubs will hold at least 33 events (games) per year⁸ in the Arena.

– *Other sporting users*

- (19) The main rink and the training rink will be available⁹ for other ice-related sports (figure skating, ice hockey etc.). Other sports events will also take place at the Arena.

– *Commercial use*

- (20) Large-scale concerts and family events are also expected to take place¹⁰ in the Arena facilities. This is also the case for domestic concerts, shows, exhibitions, congresses and fairs¹¹. Revenues from the commercial use of the infrastructure will contribute to net operating profit of the Arena.

– *Restaurant, casino and small commercial area*

- (21) In addition to the ice rinks, the Arena will also house a restaurant, a casino¹² and other smaller commercial spaces. The restaurant operator was selected on the basis of a public tendering procedure. All facilities will be rented out on commercial terms and will generate additional revenue for the Arena Company.

2.3.2. Terms and conditions for the use of the Arena

- (22) According to the Finnish authorities, access to the Arena will be open to the above users and be granted on a non-discriminatory and transparent basis, inspired by the provisions of Article 55 of the General Block Exemption Regulation¹³ ("GBER").
- (23) As stated above, the Arena Company will rent out the Arena's facilities to third parties to organise sporting and other commercial events. In this way, the Arena Company will ensure that the facility will not be used exclusively by a single professional user. The Arena Company will also ensure that all users will enjoy equal and non-discriminatory access to the infrastructure. The Arena Company will charge market-conform fees based on the general pricing rules that are established

⁸ In addition, should the ice-hockey teams be successful, there may be further games (play-offs) in some years. They will also train on a regular basis in the Arena.

⁹ Pursuant to estimates by the Finnish authorities, the main rink will be available for other sport use 30 days per year and 5 hours per day and the training rink around 3,000 hours per year. The rent will be charged on an hourly basis.

¹⁰ Pursuant to estimates, large-scale concerts should be held at least 6 times per year and family events 3 times per year.

¹¹ Pursuant to estimates, approximately 34 times per year.

¹² The casino will be operated by the Finnish gaming company, Veikkaus Oyj, which is entirely controlled by the Finnish State. The revenue is used for non-profit purposes in the fields of culture, sports, science, social welfare and health.

¹³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

on the basis of a market analysis¹⁴. The annual rent will increase compared to the rent currently paid by the clubs in the existing Tampere Ice Stadium to reflect the fact that the new Arena is much bigger and of a much higher standard. The rent is based on estimations of average attendance and average ticket prices per match. It will cover around [15-25]% of the ticketing income. The professional ice-hockey clubs will have equal contractual terms, and the requirement related to the publicity of the pricing conditions will be included in the agreements to be concluded with the clubs.

- (24) The Finnish authorities will ensure that the pricing conditions for the use of the Arena are made publicly available and that they are updated frequently. The promoters of entertainment and cultural programmes will have open, transparent and non-discriminatory possibilities to use the Arena. Most of the Arena's facilities would be open for public use also outside the time of events.
- (25) In accordance with the national legislation, especially the Act on Discretionary Government Transfers, the Ministry of Education and Culture will supervise the use of the State aid grant. In case of any essential changes in the implementation of the Arena project, the Finnish authorities have the right and obligation to claw back the aid.

2.4. Transparency

- (26) Finland committed to publish, within six months of the granting act, on a comprehensive State aid website at national or regional level, the following information, which will be kept for at least ten years and will be available to the general public without restrictions:
 - (a) the full text of the individual aid granting decision and its implementing provisions, or a link to it,
 - (b) the identity of the aid granting authority/(ies),
 - (c) the identity of the beneficiary, the form and amount of aid granted, the date of granting, the type of undertaking (SME/large company), the region in which the beneficiary is located (at NUTS level II) and the principal sector in which the beneficiary has its activities (at NACE group level).

3. ASSESSMENT OF THE MEASURE

3.1. Existence of State aid

- (27) According to Article 107(1) of the TFEU, *"any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market"*.
- (28) Therefore, for a measure to constitute State aid within the meaning of that provision, the following cumulative conditions apply: 1) the measure must be granted through State resources; 2) it has to confer an economic advantage to undertakings; 3) this

¹⁴ The pricing rules have been established taking into account estimates of fees in comparable facilities.

advantage must be selective and distort or threaten to distort competition; and 4) the measure must affect intra-Union trade.

- (29) In the present case, the Commission assesses the State aid character of three measures, namely the grant to be provided by the Ministry of Education and Culture, and the equity contribution and subordinated loan by the City of Tampere.
- (30) First of all, as regards the grant, the requirement that the measure must be granted through State resources and be attributable to the State is fulfilled in the present case. The measure is decided by the Finnish State (Ministry of Education and Culture).
- (31) The grant for the construction of the multi-purpose Arena may constitute aid if it leads to a selective advantage for specific economic activities.
- (32) According to the Leipzig/Halle airport judgment of the Court of Justice¹⁵, the public funding of the construction may constitute State aid when said infrastructure will be used for commercial activities. Following the Court's judgement, the economic character of the later use of the infrastructure would determine the economic nature of its construction.
- (33) In the present case, the facility will be primarily used by two professional ice-hockey clubs, and thus involved in economic activity. The Arena will further be available for other commercial activities, such as organising sporting and other events (e.g. concerts, shows and exhibitions). This does not mean however that all activities taking place in the Arena will be economic in nature.
- (34) The Commission reminds that the Court of Justice has consistently defined undertakings as entities engaged in an economic activity, regardless of their legal status and the way in which they are financed. The classification of a particular entity as an undertaking therefore depends entirely on the nature of its activities. This general principle has three important consequences: (1) the status of the entity under national law is not decisive, (2) the application of the State aid rules as such does not depend on whether the entity is set up to generate profits, and (3) the classification of an entity as an undertaking always depends on the specific activity it conducts. An entity that carries out both economic and non-economic activities is to be regarded as an undertaking only with regard to the former.
- (35) In this case, the Arena Company is an undertaking that will own and operate a facility which will be used for economic activities. Therefore, the grant confers a selective advantage to the Arena Company which is relieved of a part of costs which it would normally have to bear for the construction of the Arena.
- (36) When aid granted by a Member State strengthens the position of an undertaking compared with that of other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid¹⁶. It is sufficient that the recipient of the aid

¹⁵ Cases T-443/08 and T-455/08 *Freistaat Sachsen and Land Sachsen-Anhalt and Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v European Commission*, ECLI:EU:T:2011:117, para. 107; Case C-288/11 *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v European Commission*, ECLI:EU:C:2012:821. See also the judgement of 24 October 2002, case C-82/01P *Aéroport de Paris*, ECLI:EU:C:2002:617.

¹⁶ See Case 730/79 *Philip Morris v Commission*, ECLI:EU:C:1980:209, para. 11; Case C-53/00 *Ferring*, ECLI:EU:C:2001:627, para. 21; and Case C-372/97 *Italy v Commission*, ECLI:EU:C:2004:234, para. 44.

competes with other undertakings on markets open to competition¹⁷. The market for organising sport and cultural events is open to competition between venue providers and event organisers, some of which operate in several Member States or belong to international groups.

- (37) According to the Finnish authorities, the majority of the events hosted at the Arena will be of local or regional character and users of the facilities will largely come from within Finland. However, considering that the Arena will be used for international matches (and other commercial events such as concerts and shows) that may attract relatively high numbers of visitors from other Member States, it cannot be excluded that the aid granted for the Arena could distort competition and affect trade between Member States.
- (38) The Commission therefore concludes that the grant to be provided by the Ministry constitutes State aid in the meaning of Article 107(1) TFEU.
- (39) As regards the equity contribution and the subordinated loan by the City of Tampere, they refer to the same investment as the grant and meet most of the above-mentioned State aid criteria. These measures are decided by the City. Municipalities, like Tampere, are public authorities and part of the State and their resources are thereby deemed attributable to the State.
- (40) In relation with the condition of selective advantage, the Finnish authorities have argued that the equity and subordinated loan were provided on market terms as they were provided on similar conditions as parallel contributions by the private sector.
- (41) In this case, the Commission has nevertheless doubts that the equity and loan contributions by the City are made on terms that are fully in line with normal market conditions in a market economy. The equity and loan contributions made by the City of Tampere and the parallel contributions made by private investors have to be analysed in the context of the wider set up of the investment project for the construction of the Arena. Finland argues that the City contributions were made on the same terms as the private contributions. However, the concrete terms of the private contributions were agreed in the course of the procurement procedure. The procurement procedure did not just concern the construction of the Arena itself, but also the development, construction and implementation of the wider city centre renewal project, the so-called "Deck project", which comprises two housing district projects (including business, housing and office buildings), a hotel, a parking and the development of the railway yard¹⁸. The contract was awarded on the basis of a negotiated procedure with the construction company SRV. SRV is responsible for a significant part of the private equity and loan contributions. As the terms of the private contributions were agreed in negotiations during the negotiated procedure, it cannot be excluded that there may be spill-over effects for SRV from the Deck project into the Arena project.
- (42) In view of the above, the Commission considers that contributions made by the private investors cannot be considered as a benchmark against which the market conformity of the City's contribution should be assessed. It follows from this that, even if the City contributions were made on the same terms as the private

¹⁷ Case T-214/95 *Het Vlaamse Gewest v Commission*, ECLI:EU:T:1998:77.

¹⁸ The total surface of the plot of the Arena is less than 37% of the surface of the Deck plots.

contributions to this particular project, it cannot be excluded that they are not market conform. The Commission notes that the subordinated loan provided by the private investors has an annual interest rate that is only one percentage point above the annual interest payable on a senior loan provided by a commercial bank. It is questionable, for a project of this size and characteristics, that a one percentage points difference between a senior loan and a subordinated loan is market conform. The Commission therefore cannot exclude that the City contributions conferred an advantage to the Arena Company and that the financing of the Arena by the City would qualify as State aid. However, given that the aid would be compatible with the internal market, as demonstrated below, considering that all public financing has been taken into account in the funding gap analysis, it is not necessary to definitively conclude on the existence of aid as regards the City contribution.

- (43) The Arena Company will rent out the facility on a transparent and non-discriminatory basis to various users, some of which may be considered undertakings within the meaning of Article 107 TFEU. In such cases, the Arena Company will charge prices calculated on the basis of a market analysis. Nevertheless, an advantage cannot be entirely excluded at the level of those users that are undertakings (in particular the professional users). Therefore, the renting out of the Arena facilities may involve the granting of aid to those users that are undertakings within the meaning of Article 107 TFEU if they pay a rent below the rent for the use of comparable infrastructure under normal market conditions. On the contrary, the fees paid by non-professional users that do not qualify as undertakings do not fall within the remit of State aid rules.
- (44) In the present case, given that aid to the professional users of the Arena would be compatible with the internal market, as demonstrated below, it is not necessary to definitively conclude on the existence of aid at this level.

3.2. Legality of the aid measure

- (45) By notifying the aid before granting it, the Finnish authorities have respected their obligations under Article 108(3) TFEU. The aid will only be granted after approval by the Commission.

3.3. Compatibility

- (46) The public financing of the construction of the Arena with the aim to offer it for commercial use may be compatible with the internal market pursuant to Article 107(3)(c) TFEU if it pursues a policy objective of common interest, is necessary and proportionate and does not cause undue distortion of competition¹⁹.

3.3.1. Objective of common interest

- (47) With regard to the achievement of a policy objective of common interest, the Arena will be a venue for the organisation of sports and other public events, including cultural events. The Amsterdam Declaration on Sport and Article 165 TFEU both acknowledge the social significance of sport: "*the Union shall contribute to the promotion of European sporting issues...*". In addition, Article 107(3)(d) TFEU

¹⁹ For instance, see European Commission decisions in cases SA. 46530 – Slovakia- National Football Stadium and SA.44439 – Ireland – Sporting Arena Cork.

explicitly mentions aid to promote culture as one of the exemptions from the general prohibition on State aid set out in Article 107(1) TFEU.

- (48) In the present case, the Arena will be used for hosting various sport competitions of a commercial nature (games by the two professional ice-hockey clubs from Tampere). The facilities will also be made available to other ice-related sports users, both professional and non-professional.
- (49) The multi-purpose Arena is also intended to be used for cultural events (e.g. concerts, shows and exhibitions), as well as providing a meeting place of a wider nature (congresses) and as such contribute to the promotion of cultural diversity, according to Article 167(4) TFEU.
- (50) The construction of the multi-purpose Arena will establish and guarantee future conditions for sports, cultural and other events on the local, regional, national and even sometimes on the international level. The facilities for supply of sports events and club activities will be developed in a comprehensive manner. Once the new Arena is completed, the current Tampere Ice Stadium in Hakametsä will be converted into an indoor sports venue and the games of the professional ice-hockey league of Finland will take place in the new Arena. The objective of the Finnish authorities is that the new Arena development will have a knock-on effect in that it will allow the redevelopment of the Ice Stadium into an indoor sports venue available for amateur sports and to the general community with the aim to promote the wider participation in sports among both children and adults.
- (51) Since the Arena will ensure the general public's access to sport and culture, particularly considering the Arena's multifunctional character and lack of capacity and/or adequate and up-to-date facilities for sports and cultural events in Tampere and the wider region around Tampere, the Finnish authorities will be fulfilling their responsibility to the general public by making the Arena project possible. The realisation of the Arena must therefore be regarded as satisfying policy objectives of common interest.
- (52) In view of the above, the Commission considers that the construction of the Arena contributes to the attainment of policy objectives of common interest.

3.3.2. Necessity, proportionality and incentive effect of the aid

- (53) Concerning the necessity of the notified measure, the Finnish authorities indicated that following their negative experience with the failed attempts to construct the Arena in the past, and even though public financing was contemplated on that occasion, they concluded that the construction of the Arena cannot be carried out by the market alone. The Finnish authorities also indicated that the high amount of investment needed for the project and the high risks associated with it do not make the Arena project particularly attractive to private investors. Based on the past experience and on the characteristics of the investment project, it can be concluded that it is unlikely that any arena of this size would be constructed in Tampere without State aid.
- (54) The current facility in Tampere (i.e. the Tampere Ice Stadium) has become outdated and its capacity is too small. It would need to be thoroughly modernised and significantly expanded to meet the modern requirements of the public and event organisers. The Finnish authorities indicated that renovating the existing Tampere

Ice Stadium in Hakametsä would be very expensive²⁰. In addition, the works would take a long time to complete and during this period there would not be any ice stadium available for ice-related sports in Tampere or in the vicinity of the city.

- (55) The Arena will not compete with the existing sports or cultural venues at the regional level, but rather complement them with additional capacity and increase the types of events that can be organised in the Tampere region. Once the new Arena is completed, the Arena and the other existing venues will together form a functional complex that will enable the accommodation of a wide variety of sports and cultural events and will stimulate the development of sports, entertainment and cultural events in Tampere and its surrounding wider region.
- (56) More particularly, the project would not be realised in the absence of public funding, as it would not be viable for a private investor, as demonstrated by the funding gap analysis provided by the Finnish authorities. According to the funding gap analysis, the net operating profit over a period of 15 years (EUR [40-50] million in discounted value) cannot cover the full investment costs of the project (EUR [80-90] million in discounted value). The public financing remains below the funding gap and is limited to what is strictly necessary or even below that amount. The Commission therefore considers it to be proportionate.
- (57) Moreover, in accordance with the national legislation, especially the Act on Discretionary Government Transfers, the Ministry of Education and Culture will attend to and supervise the use of the State aid. The shareholders agreement between the parties of the Arena Company also refers to the due compliance with relevant competition laws.
- (58) In addition, the procedure for the selection of SRV, as the private partner to construct and manage the Arena on a commercial basis, under a transparent and non-discriminatory procurement procedure also ensures, together with the above-mentioned considerations, that the necessity and proportionality requirements are fulfilled. The invitation to tender was sent to all interested candidates further to the publication of the prior contract notice, which ensured that they were treated in non-discriminatory manner. The award and selection criteria, which were not subject to negotiation, were objective and specified in advance to ensure respect of market conditions and genuine competition between candidates. The procedure was conducted on the basis of selecting the most economically advantageous tender, and price was the most important selection criterion.
- (59) The beneficiary submitted an aid application before the start of the works on the project. Thus, the formal incentive effect requirements have been respected.
- (60) Concerning the commercial use of the Arena, the Arena Company as a private operator has a strong incentive to maximise its revenues and not to charge prices which are too far below the prices for the use of comparable infrastructure²¹. Any revenues from the commercial use of the infrastructure will contribute to reducing the running costs of the Arena. The Commission also notes in this context the

²⁰ From a technical perspective, due to the special reinforced concrete structure of that venue, it would be impossible to expand the existing facility to meet the requirements set for a modern multi-purpose arena.

²¹ Rent from commercial non ice-hockey events is based on estimates by the operator of the Tampere Hall taking into account the fees payable for the use of that facility. The Tampere Hall is the largest venue available for cultural events in Tampere. It has a capacity of less than 2,000 seated spectators.

commitment of the Finnish authorities to make the conditions for use of the Arena publicly available and to apply them in a transparent and non-discriminatory manner.

- (61) The Commission considers that the aid granted in the form of a direct grant constitutes an appropriate aid instrument to achieve the desired objective of the investment project as the amount of aid is necessary to bridge the funding gap of the project. The public contribution in the form of equity and subordinated loan can also be considered appropriate since it helps ensuring the distribution of risks and profits of the Arena project between the private and public parties.
- (62) In light of the above, the aid is necessary, proportionate and has an incentive effect.

3.3.3. Avoidance of undue negative effects on competition and trade between Member States

- (63) Regarding the extent of possible effect on trade and competition between Member States, the Commission considers that the Arena, to be used by the two local professional ice-hockey clubs, could also be used in future international matches. However, given the number of such arenas in the EEA, the negative effects on competition are likely to remain limited.
- (64) As for the other envisaged use of the Arena, the commercial exploitation for cultural or congress activities will be open to several competing users and will be granted on a transparent and non-discriminatory basis. The pricing conditions for its use will be publicly available and confirmed frequently in order to ensure transparency and equal treatments of users. The two ice-hockey teams will be charged fees based on the general Arena pricing rules that are established on the basis of a market analysis. They will have equal contractual terms (fixed pricing per game, and conditions on responsibilities and rights to use the Arena and co-operate with other parties) and requirements related to transparency of the pricing conditions will be included in the agreements with these teams.
- (65) The catchment area of the Arena is local/regional (Tampere region) to a large extent as half of the users are expected to travel less than 140 kilometres in order to use the facilities. Moreover, the majority of the events to be held at the Arena are unlikely to attract foreign visitors.
- (66) According to the Finnish authorities, there is limited competition with other arenas, since the closest existing multipurpose arenas in Northeast EU would be located in Stockholm (Sweden) and Tallinn (Estonia). Tampere is an inland city and the arenas in neighbouring countries are behind the natural barrier of the sea²².
- (67) It is therefore unlikely that the operation of the Arena will unduly distort competition and trade between Member States to an extent contrary to the common interest.
- (68) On the basis of the above, the Commission considers that the Finnish authorities have demonstrated that the public funding of the infrastructure under assessment is necessary, proportionate and does not affect trade and competition between Member

²² Moreover, there are no flights from Tampere airport to Tallinn and limited flight connections to Stockholm.

States to an extent contrary to the common interest, according to Article 107(3)(c) TFEU.

3.3.4. *Transparency*

- (69) Lastly, the Commission observes that Finland has provided assurances that the transparency conditions will be respected (see the Commission communication on transparency²³).

4. CONCLUSION

The Commission has accordingly decided:

- not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union

The Commission notes that Finland has agreed that the present decision would be adopted, notified and published in the English language.

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 electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Registry
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

²³ Communication from the Commission of 27 June 2014 amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines.