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**Subject: State aid N 183/2009 - Lithuania
Development of Rural Area Information Technology Network**

Sir,

I. SUMMARY

- (1) I am pleased to be able to inform you that the European Commission has assessed the measure "*Development of Rural Area Information Technology Network*" (hereafter: "the measure" or "RAIN") and decided not to raise objections as the State aid contained therein is compatible with Article 87(3)(c) of the EC Treaty.

II. PROCEDURE

- (2) Following pre-notification discussions, by letter registered on 25 March 2009, pursuant to Article 88 (3) of the EC Treaty, the Lithuanian authorities notified the above mentioned measure to the Commission. By letter registered on 11 May 2009, the Commission requested additional information on the proposed measure, for which the Lithuanian authorities submitted answers by letter registered on 11 June 2009.

III. CONTEXT

- (3) Broadband penetration in Lithuania had reached approximately 17.5% in January 2009 lagging behind the EU average of 22.9% with a rate of growth below the EU average in 2008. Service based competition is also lagging behind other EU countries, partly because the connection fee for a fully unbundled loop was almost €140 in 2008, the highest in the

EU¹ thereby reducing the possibility for fostering private investment in broadband networks in line with the "ladder of investment" hypothesis².

- (4) In terms of broadband coverage, as in many countries in the European Union, broadband services are available in more densely populated locations (in particular in Vilnius), whereas the rollout of basic broadband connections is lagging behind in rural and remote areas as these areas are not commercially attractive enough for the business operators to invest in new infrastructure. Consequently, only a minority of the public sector, business and residential users in rural areas of Lithuania are able to access adequate broadband services.
- (5) According to the market research conducted by the Lithuanian authorities, although broadband coverage reaches 80% of the Lithuanian population, there are wide differences between urban and rural areas. In comparison with 100% broadband coverage in cities, this figure reached only 39% in villages and only 10% in villages with less than 500 residents in 2008³.
- (6) The Lithuanian authorities state that the two key reasons for the lack of investment in rural areas are the facts that (i) towns are geographically scattered rendering the necessary initial investments costs in rural areas much higher than in the areas with dense population, and that (ii) the inhabitants of rural areas have generally lower incomes and thus are unable to pay for the actual costs of the service. Consequently, in the rural areas where demand is not developed and the coverage of network cost is uncertain, the private operators have so far decided not to invest in construction of broadband connections resulting in a wide "*digital divide*" between the urban and the peripheral areas.

IV. DESCRIPTION OF THE MEASURE

- (7) **Objectives:** The project aims to develop an infrastructure of electronic networks offering wholesale broadband services in rural areas of Lithuania which are currently not served and where there are no plans for coverage in the near future.
- (8) The Lithuanian authorities aim to improve broadband availability for Lithuanian citizens and businesses in rural areas by tackling the lack of necessary broadband infrastructure. They expect that the creation of backhaul (i.e. middle-mile) network⁴ in not served areas will reduce the entry barriers (by lowering investment costs) for commercial operators and thereby will encourage them to extend their broadband network coverage in rural areas. The network will offer open wholesale access basis to third-party operators who will be able to add their access infrastructures (i.e. the last mile network segment) and deliver broadband services to end-users.

¹ Progress Report on the Single European Electronic Communication Market 2008 (14th Report), Brussels, 24.3.2009.

² See Cave, M. (2003) "*Remedies for Broadband Service*". Paper prepared for the European Commission or Cave '*Encouraging infrastructure investment via the ladder of investment*', Telecommunications Policy, 2007, pp223-237.

³ Report of the National Regulatory Authority of the Republic of Lithuania, published in December 2008.

⁴ Backhaul (or middle mile) networks comprise the intermediate links between backbone (core) networks and access (or last mile) networks.

- (9) The Lithuanian authorities argue that the availability of broadband services is one of the key factors for the local communities in attracting businesses, distance working, providing health care services and improving education and public services. The authorities expect that the RAIN Project⁵ will help (i) to eliminate the digital division concerning the availability of broadband services between urban and rural regions in Lithuania, (ii) to increase social cohesion and (iii) contribute to economic growth.
- (10) As a result of the new state owned broadband infrastructure, the broadband network coverage will be extended from the current 80% to approximately 98% of the Lithuanian population thus allowing approximately additional 750.000 residents living in rural areas (around 22% of the Lithuanian population) to gain access to broadband services by fixed, mobile, wireless or other technologies.
- (11) **Legal basis:** The notified measure is based on (i) the Law on Electronic Communications⁶, (ii) the Development Strategy of the Broadband Infrastructure of Lithuania for 2005-2010⁷, (iii) the Action Plan for the Implementation of the Development Strategy of the Broadband Infrastructure of Lithuania for 2005-2010⁸, (iv) Operational Program on Economic Growth for 2007–2013⁹, (v) the Complement to Operational Program on Economic Growth for 2007–2013¹⁰, (vi) the Description of Terms and Conditions of Financing of the Project Implemented under Implementation Measure No. VP2 3.2 IVPK 01 “Broadband Networks” of Priority 3 “Information Society for All” of the Economic Growth Operational Program approved by Order No T-66 dated 15 April 2008 of the Director of the Information Society Development Committee under the Government of the Republic of Lithuania.¹¹ According to Council Regulation (EC) No 1083/2006¹² RAIN project is qualified as a major project.
- (12) **Target areas:** The Lithuanian authorities conducted a detailed mapping and coverage areas to identify the target areas where state intervention is necessary. The measure will

⁵ The RAIN Project was designated as an objective of the Priority axis 3 – Information Society for all of Operational Programme on Economic Growth for 2007 – 2013, adopted by Commission's decision K(2007)3740 of 30 July 2007.

⁶ Lietuvos Respublikos Elektroninių ryšių įstatymas (Valstybės žinios: 2004-04-30 Nr.69-2382).

⁷ Dėl Lietuvos plačiajuosčio ryšio infrastruktūros 2005-2010 metų plėtros strategijos patvirtinimo (Valstybės žinios: 2005-11-19 Nr.137-4920).

⁸ Dėl Lietuvos Respublikos Vyriausybės 2005 m. lapkričio 16 d. nutarimo Nr. 1231 "Dėl Lietuvos plačiajuosčio ryšio infrastruktūros 2005-2010 metų plėtros strategijos patvirtinimo" pakeitimo (Valstybės žinios: 2008-10-23 Nr.122-4637).

⁹ Adopted by the Commission's Decision of 30 July 2007 No K92007)37409

¹⁰ Dėl Projekto, vykdomo pagal Ekonomikos augimo veiksmų programos 3 prioriteto "Informacinė visuomenė visiems" įgyvendinimo priemonę Nr. VP2-3.2-IVPK-01 "Plačiajuosčiai elektroninių ryšių tinklai", finansavimo sąlygų aprašo patvirtinimo Valstybės žinios: 2008-04-19 Nr.45-1717.

¹¹ Dėl Informacinės visuomenės plėtros komiteto prie Lietuvos Respublikos Vyriausybės direktoriaus 2008 m. balandžio 15 d. įsakymo Nr. T-66 "Dėl Projekto, vykdomo pagal Ekonomikos augimo veiksmų programos 3 prioriteto "Informacinė visuomenė visiems" įgyvendinimo priemonę Nr. VP2-3.2-IVPK-01 "Plačiajuosčiai elektroninių ryšių tinklai", finansavimo sąlygų aprašo patvirtinimo" pakeitimo Valstybės žinios: 2008-12-30 Nr.149-6074.

¹² Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999. OJ L210 of 31.7.2006.

cover areas where no adequate broadband infrastructure is available: for instance existing operators provide either only narrowband internet services or the offered broadband services are not affordable due to their high prices (such as satellite solutions). Backhaul fibre lines will only be placed as a result of the notified measure where no such infrastructure is available of other private operators.

- (13) **Consultation with stakeholders:** The Lithuanian authorities conducted a public consultation with major stakeholders on the notified measure. Information on the measure, including the routes of planned optical fibre lines, has been provided to the private operators. In cases when an operator expressed its concern about possible duplication of its existing lines, the optical fibre line routes have been adjusted¹³. During the consultation phase, several commercial operators also showed interest to extend their broadband coverage to currently not covered areas by connecting their access infrastructure to the new publicly funded network.
- (14) The comments of the National Regulatory Authority, in particular on the wholesale services and the possible tariffs, have been taken into account during the preparation of the feasibility studies of the project. By letter of 31 March 2009 – submitted to the Commission – the Competition Council of the Republic of Lithuania endorsed the RAIN project by highlighting the pro-competitive nature of the measure.
- (15) The RAIN project plans have also been coordinated with the existing State aid broadband scheme of Lithuania¹⁴ in order to maximise the covered areas and spend public funds as effectively as possible. The two projects will complement each other: the former measure focused on the construction of last mile access networks in certain areas of Lithuania, while the current one will subsidise the construction of backhaul connections.
- (16) **Project design:** The project is composed of two layers: (I.) broadband connection networks will be built by creating a ring infrastructure in the form of six regional distribution rings. The construction works (civil works, ducts, dark fibre, etc.) will be carried out by private operators selected by the means of an open tender in line with the relevant national and EU Procurement Directives. The newly created RAIN network will remain in the ownership of the state. (II.) The management of the RAIN network and offering of wholesale services to the third party service providers will be carried out by a public non-profit legal entity, called the "*Plačiajuostis internetas*". The maintenance and support of the RAIN network will be carried out also by private operators selected by means of an open tender.
- (17) The new network will offer wholesale backhaul access on an open, non-discriminatory basis to electronic communication operators wishing to connect end users. The wholesale operator of the network, *Plačiajuostis internetas* will not offer retail services.
- (18) **Technology:** the chosen network topology ensures the technological neutrality of the measure: several alternative platforms will be able to utilise the new network as a backhaul connection to offer its own services to end users. End-users will have the

¹³ When selecting the optical fibre cable line routes the Lithuanian authorities also took into considerations, *inter alia*, environmental aspects, utilization of existing road and other existing infrastructure elements, etc.

¹⁴ Commission decision in case N497/2007 - *Broadband Infrastructure in Lazdijai and Alytus*, Lithuania. OJ C/290 of 13.11.2008.

opportunity to choose the retail operator, the services and the last mile technology according to their needs. In the view of the Lithuanian authorities, the planned project will make it economically feasible for the commercial operators to invest in the last mile solutions and to provide retail services to the end users in rural areas¹⁵.

- (19) **Pricing:** The tariffs of the wholesale service will be determined by the Ministry of Transport and Communications. The objective of Lithuanian authorities is to provide retail broadband services in the targeted areas at a price similar to urban areas, hence wholesale tariffs will be determined by also taking into account average retail price paid by end-users in urban areas that do not benefit from State funding. Wholesale prices will be set in coordination with the National Regulatory Authority.
- (20) **Beneficiaries:** The direct recipient of the aid will be the wholesale operator of the network, *Plačiajuostis internetas*. Indirect beneficiaries will be electronic communication operators utilising the new network for offering retail services to end users.
- (21) **Budget and financing instruments:** The aid takes the form of grants. The overall amount of the RAIN Project is approximately LTL 209 million (approximately €60.5 million). Subject to a Commission Decision on the project, the project will be financed from the resources of the European Regional Development Fund (ERDF) amounting to EUR 51.4 million¹⁶ and from resources of Lithuania amounting to EUR 9.1 million. The Lithuanian authorities have confirmed that there is no cumulation possible with aid received from other local, regional, national or Community schemes to cover the same eligible costs.
- (22) **Duration of the measure:** The duration of the measure is subject to the Commission's decision in regard to the financial contribution from the ERDF. The RAIN Project is planned to start in 2009 and finished in 2014.
- (23) **Procurement:** The Lithuanian authorities envisage two phases of the tender procedures. During the first phase, the construction of the networks will be divided into ten smaller projects selecting the offers with the lowest price for each subproject. During the second phase, the maintenance and technical support of the network will be tendered out selecting the most economically advantageous offers. All tender procedures will be conducted in full compliance with the EU and national public procurement rules.
- (24) **Monitoring:** As stipulated in the Law on Electronic Communications, the beneficiary of the measure, *Plačiajuostis internetas* is obligated to publish access-related information (*inter alia*, technical specification, terms and conditions) for interested parties and to provide open access to all electronic communication operators. Compliance with the obligations will be supervised by a Supervisory Committee based on annual reports submitted by the company. According to the information provided by the Lithuanian authorities, any potential surplus generated by the *Plačiajuostis internetas* through the operation of the network will be used to maintain the network or for rural broadband development.

¹⁵ Several electronic communication operators – using different technology platforms - expressed in a written form their interest to utilize the RAIN infrastructure during the public consultation.

¹⁶ ERDF resources consist of the resources intended for the Measure “Broadband Electronic Communication Networks” of Priority “Information Society for All” of the Operational Programme for Economic Growth.

V. STATE AID ASSESSMENT OF THE MEASURE: PRESENCE OF AID

- (25) According to Article 87 (1) of the EC Treaty, “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 common market”. It follows that in order to be qualified as State aid, the following cumulative conditions have to be met: 1) the measure has to be granted out of State resources, 2) it has to confer an economic advantage to undertakings, 3) the advantage has to be selective and distort or threaten to distort competition, 4) the measure has to affect intra-Community trade.

State resources

- (26) The measure is financed by EU funds and resources of the Lithuanian authorities. Hence, state resources are involved.

Economic advantage

- (27) *Plačiajuostis internetas*: the state-owned non-profit legal entity¹⁷ operating the network will receive financial support which will enable it to provide wholesale broadband services on conditions not otherwise available on the market. Therefore, the measure confers a direct economic advantage to this undertaking.
- (28) *Electronic communication operators*: the measure will enable third party operators to provide retail broadband services to end users by utilising the new, state-owned broadband infrastructure. Thereby these operators will receive an indirect economic advantage by having access to wholesale services at conditions that would not be available under normal market conditions without State support.

Distortion of competition

- (29) The measure supporting the deployment of a wholesale broadband network is selective in nature in that it targets undertakings that are active only in certain regions or in certain segments of the overall electronic communications services market¹⁸. Moreover, the intervention of the State tends to alter existing market conditions, in that a number of firms would now choose to subscribe to the services provided by the selected suppliers instead of existing, possibly more expensive alternative market-based solutions (for instance, leased lines services).

Effect on trade

- (30) Insofar as the intervention is liable to affect service providers from other Member States, the measure has an effect on trade. The markets for electronic communications services (including the wholesale markets and the retail broadband markets) are open to

¹⁷ The concept of an undertaking encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed. See for instance Judgment of the Court of 23 April 1991 in Case C-41/90 “*Klaus Höfner and Fritz Elser v Macrotron GmbH*”.

¹⁸ As regards the sectoral specificity, see for instance Judgment of the Court in Case C-143/99 *Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke* [2001] ECR-I8365.

competition between operators and service providers, which generally engage in activities that are subject to trade between Member States.

Conclusion

- (31) Having established that the measure confers economic advantage to the wholesale operator of the network and electronic communication operators utilising the state funded infrastructure by state resources that distorts competition and has an effect on trade between Member States, the Commission concludes that the notified measure constitutes State aid within the meaning of Article 87 (1) of the EC Treaty and it is necessary to consider whether the measure can be found to be compatible with the common market.

VI. COMPATIBILITY ASSESSMENT

- (32) The areas covered by the measure are eligible to receive regional investment aid under the derogation of Article 87(3)(a)¹⁹. However, the total aid to be granted under the scheme may not qualify as aid for initial investment within the meaning of the Guidelines on National Regional Aid for 2007-2013²⁰ and the aid intensity of the measure would exceed the thresholds possible within the meaning of those guidelines, the Commission considers that the assessment of the compatibility of the measure with the common market needs to be based directly on Article 87(3)(c) of the EC Treaty²¹. The referred Treaty provision states that: "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*" may be considered to be compatible with the common market.
- (33) In order to be compatible under article 87(3)(c), an aid must pursue an objective of common interest in a necessary and proportionate way. In particular, the measure shall be assessed with respect to the following questions:
- a. Is the aid measure aimed at a well-defined objective of common interest (i.e. does the proposed aid address a market failure or other objective)?
 - b. Is the aid well designed to deliver the objective of common interest? In particular:
 1. Is the aid measure an appropriate instrument, i.e. are there other, better placed instruments?

¹⁹ Commission decision in case N641/2006 - Lithuanian regional aid map 2007-2013, OJ C286 of 23.11.2006

²⁰ See Guidelines on National Regional Aid for 2007-2013, OJ C 54 of 4.3.2006, p. 13. .

²¹ See for instance Commission decision in cases N131/2005 - *Fibre Speed Broadband Project in Wales*, United Kingdom, OJ C207 of 30.08.2006; N284/2005 - *Metropolitan Area Network Broadband Program*, Ireland, OJ C207 of 30.08.2006; N 746/2006 - *North Yorkshire NYNET Project*, United Kingdom, OJ C152 of 06.07.2007.

2. Is there an incentive effect, i.e. does the aid change the behaviour of firms?
 3. Is the aid measure proportional, i.e. could the same change in behaviour be obtained with less aid?
- c. Are the distortions of competition and the effect on trade limited, so that the overall balance is positive?

a. The support of broadband rollout is in line with the common interest

Community policy

- (34) Broadband connectivity is a key component for the development, adoption and use of information and communication technologies (ICT) in the economy and in society. Broadband is of strategic importance because of its ability to accelerate the contribution of these technologies to growth and innovation in all sectors of the economy and to social and regional cohesion²². The Commission actively supports the widespread availability of broadband services for all the European citizens as laid down in the Lisbon strategy and subsequent Communications²³. By extending broadband coverage to unserved areas of Lithuania, the measure helps achieving greater cohesion and is therefore in line with the common interest.

Cohesion objective and market failure considerations

- (35) The economics of broadband provision are such that the market will not always find it profitable to invest in it. Due to economics of density, broadband networks are generally more profitable to roll-out where potential demand is higher and concentrated, i.e. in densely populated areas. Because of high fixed costs of investment, unit costs increase strongly as population densities drop. As a result, broadband networks tend to profitably cover only part of the population. Remoteness, such as larger distances from existing telecommunication infrastructures could also significantly increase the investment costs necessary to roll out adequate broadband networks.
- (36) Typically, these underserved regions are rural areas with a low population density so that commercial providers have no economic incentives to invest in electronic communications networks to provide adequate broadband services. This leads to a "*digital divide*" between the areas which have access to adequate broadband services and those that have not. The gap between the broadband coverage in rural areas and the national average is particularly significant in Lithuania²⁴.

²² See for instance Fornefeld, Delaunay and Elixmann (2008): "*The impact of broadband on growth and productivity*" - A study on behalf of the European Commission, MICUS; Katz and Suter (2009): "*Estimating the economic impact of the broadband stimulus plan*". Columbia Institute for Tele-Information Working Paper.

²³ See for instance "i2010 – A European Information Society for growth and employment, COM(2005)229 final, 1 June 2005; "*eEurope 2005: An information society for all*" COM(2002)263 final, "*Bridging the broadband gap*", COM(2006)129.

²⁴ For statistics see para (5).

- (37) However, availability of adequate broadband services would be beneficial from a wider economic perspective, e.g. due to the positive spill-over effects on the local economies (such as increased economic activity, job creation and retention). The availability of such services would also improve access to an essential means of communication services to all actors in society, thereby improving social and regional cohesion.
- (38) Hence, by providing financial support for the establishment of infrastructure to provide wholesale broadband services in the targeted areas of Lithuania, the authorities pursue genuine cohesion and economic development objectives.

b. Well-designed aid

Aid is the appropriate instrument

- (39) Demand-side measures in favour of broadband (such as tax incentives for residential users) or other measures to increase computer literacy (such as development of public internet points) or development of e-Government services have been in place in Lithuania for several years. However, these measures do not solve the above described problem on the supply side (absence of adequate broadband network infrastructure).
- (40) Although *ex ante* regulation has facilitated broadband deployment in urban and more densely populated areas, it is unlikely to lead to sufficient investments for the provision of broadband services to underserved areas as it presupposes the existence of broadband access infrastructure.
- (41) Despite efforts from alternative instruments initiated by the Lithuanian authorities, limited private investments have taken place in the targeted areas (offering currently only narrowband, voice and expensive satellite solutions). Without further public intervention, reducing the "*digital divide*" between rural and urban areas seems not possible, which could lead to the economic and social exclusion of the local citizens and undertakings.
- (42) In view of these considerations, the Commission concludes that, in the case at hand, there is no alternative to granting public funding to overcome the lack of broadband connectivity. State aid could remedy the described market failure and would be effective in contributing to the referred equity objectives. The current measure is part of the overall Information Society strategy of Lithuania²⁵ aiming to reduce digital divide caused by geographic and economic conditions and to develop information society by developing e-services and e-content (such as e-Government, e-Health, e-Learning or e-Business services) and developing broadband infrastructure.
- (43) Hence in the current situation, State aid is an appropriate instrument to achieve the set objectives.

The aid provides the right incentives to operators

- (44) The construction of the wholesale broadband network infrastructure can provide an investment incentive for other electronic communication operator to provide retail

²⁵ See for instance Action Plan for the Implementation of the Development Strategy of the Broadband Infrastructure of Lithuania for 2005-2010. Reference in para (6).

broadband services to end users. The infrastructure developed during the project excludes the last mile access network segment and enables several different technological solutions to utilise the current infrastructure. The new infrastructure will reduce entry barriers for other operators and is expected to attract commercial investments into the last mile infrastructure, as supported by the letters of intents submitted by the Lithuanian authorities²⁶. Hence the current measure will provide a direct and appropriate investment incentive to operators.

Proportionality

(45) The Lithuanian authorities have designed the measure in a way which minimises the State aid involved and potential distortions of competition. In this respect, the Commission notes, inter alia, the following positive elements in the overall design of the measure:

- (a) *Detailed mapping and coverage analysis – and consultation with stakeholders:* the Lithuanian authorities have undertaken an analysis of the existing broadband infrastructures in order to clearly identify the areas where state intervention is necessary. By consulting existing operators and modifying the plans of the measure in order to avoid duplication of existing infrastructures; and by consulting with other relevant stakeholders (such as the National Regulatory Authority, the National Competition Council), the Lithuanian authorities ensured that public funds are used only in areas where it is necessary, limiting the possibility of crowding out private investments and distortion of competition to the minimum possible.
- (b) *Open tender procedures:* The Lithuanian authorities will select the undertakings for the construction and the maintenance of the network in full compliance with national and EU public procurement rules. Open tender procedures are considered to be effective means to minimise the aid necessary for the measure.
- (c) *Technology neutrality:* The current measure will enable several alternative platforms (such as wireline, wireless, mobile solutions) to utilise the publicly funded infrastructure. Therefore, it does not favour any particular technology or network platform leaving it to commercial operators to come up with the most appropriate technological solutions to provide retail broadband services to end users.
- (d) *Open wholesale access:* the operator of the new network will provide open wholesale access to all interested parties in an open, transparent, non-discriminatory manner. The operator will not offer retail services to end users, its revenues will stem for the provision of wholesale access, hence will have strong incentives to attract third party operators to use the network, thereby strengthening choice and competition in the areas concerned. The prohibition of the wholesale operator to offer retail services on the subsidized network could exclude the provision of undue advantage for any operators. By allowing different broadband technology platforms to obtain open access to the new state funded network, the project has the potential of stimulating infrastructure-based competition in the targeted areas, similarly to adequately covered areas.
- (e) *Benchmarking pricing exercise:* In order to ensure effective wholesale access and to minimise potential distortion of competition, wholesale prices on the subsidized

²⁶ See footnote 15.

network will be monitored by the National Regulatory Authority with the objective to offer similar retail access prices to as in non-subsidised areas. Price benchmarking is an important safeguard to ensure that the aid granted will serve to replicate market conditions like those prevailing in other competitive broadband markets.

- (f) *Monitoring and use of surplus*: the project will be examined on a regular basis and the monitoring mechanisms implemented will ensure that if the beneficiary fails to comply with the rules, the granting authorities will be in the position to recover the aid granted. By ensuring that any surplus generated by the *Plačiajuostis internetas* through the operation of the network will be used to maintain the network or for rural broadband development²⁷, the Lithuanian authorities ensure that the recipient of the aid will not benefit from overcompensation and will minimise *ex post* and retroactively the amount of aid deemed initially to have been necessary.

c. The distortions of competition and the effect on trade are limited and the overall impact of the measure is positive

- (46) The Commission concludes that the notified measure will offset a geographical and commercial handicap in the rural areas of Lithuania and will enhance the competitive supply of broadband services across the area. The design of the project ensures that any distortion of competition caused by the state intervention is kept to the minimum possible. On balance, the Commission concludes that the overall effect of the measure is deemed to be positive. The measure is clearly in line with the objectives of Article 87 (3)(c) EC Treaty as it facilitates the development of certain economic activities (wholesale and, indirectly, retail broadband services) in remote and rural areas, where such aid does not adversely effect trading conditions to an extent contrary to the common interest.

Conclusion

- (47) In the light of the above, the Commission has come to the conclusion that the aid involved in the notified measure is compatible with Article 87(3)(c) of the EC Treaty.

VII. DECISION

- (48) On the basis of the foregoing assessment, the Commission has accordingly decided that the aid measure "*Development of Rural Area Information Technology Network*" is compatible with Article 87(3)(c) of the EC Treaty.
- (49) The Lithuania authorities are reminded that, pursuant to Article 88(3) of the EC Treaty, they are obliged to inform the Commission of any plan to extend or amend the measure.
- (50) 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/community_law/state_aids/index.htm.

²⁷ See para (24).

- (51) 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 de Spa 3
B-1049 Brussels
Fax No: +32 2 2961242

Yours faithfully,

Neelie KROES

Member of the Commission