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Subject: State Aid SA.100662 (2021/N) – RRF - Croatia - National Broadband Plan

Excellency,

1. PROCEDURE

- (1) By electronic notification of 15 November 2021, registered by the Commission on the same day, Croatia notified the above-mentioned measure ('the notified measure'), under Article 107(3)(c) of the Treaty of the Functioning of the European Union (TFEU).
- (2) The State aid Act¹, which is one of the legal bases² of the measure, contains a provision stating that the granting of the aid is conditional upon the authorisation of the Commission of the notified measure. Pursuant to the standstill clause of Article

¹ Article 8, paragraph 12, of the State Aid Act
https://narodne-novine.nn.hr/clanci/sluzbeni/2014_04_47_873.html

² Electronic Communications Act (Zakon o elektroničkim komunikacijama (NN 73/2008, 90/2011, 133/2012, 80/2013)), Strategy for the development of broadband access in the Republic of Croatia between 2012 and 2015, Government of the Republic of Croatia (OG 144/2011, Strategija razvoja širokopojasnog pristupa u Republici Hrvatskoj u razdoblju od 2012. do 2015. godine (NN 144/2011)), Implementation Programme for the development of broadband access in the Republic of Croatia between 2012 and 2013 (NN144/2011) (Provedbeni program Strategije razvoja širokopojasnog pristupa u Republici Hrvatskoj za razdoblje od 2012. do 2013. godine (NN 144/2011)), Study on the selection of the most favourable funding models and incentives measures for infrastructure investment in broadband (Studija o odabiru najpovoljnijih modela financiranja i poticajnih mjera za ulaganja u infrastrukturu širokopojasnog pristupa). Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility is also applicable to the measure.

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108(3) TFEU, and to Article 3 of Council Regulation (EU) 2015/1589³, new aid measures must not be put into effect before the Commission has notified the decision not to raise objections to Croatia.

- (3) Croatia exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958⁴, and to have this Decision adopted and notified in English.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Objective and design of the measure

- (4) The notified measure is a prolongation of a scheme previously approved by the Commission by decision of 25 January 2016 in case SA.38626⁵ ('the initial decision') (collectively 'the existing scheme'). The existing scheme aims to promote the development of NGA networks⁶ in Croatia. In line with the Croatian broadband strategy⁷, Croatia intends to gradually deploy NGA-networks country-wide in white NGA areas⁸, with a download speed of at least 40 Mbit/s and an upload speed of at least 5 Mbit/s.⁹
- (5) The notified measure specifically concerns an extension of the duration of the measure until 31 December 2026. For the notified measure, EUR 106.2 million are made available through the Recovery and Resilience Facility (RRF)¹⁰ in addition to support from the ERDF¹¹. The overall maximum estimated budget of the scheme remains the same, EUR 252 million.
- (6) Apart from the notified amendment, Croatia confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme

³ Council Regulation No 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 OJ L 248 of 24.9.2015, p.9.

⁴ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁵ Commission Decision C(2016) 436 final of 25 January 2016 in case SA.38626, National Broadband Plan - Croatia, OJ C 104, 18.03.2016, p.1. [Competition Policy \(europa.eu\)](https://ec.europa.eu/competition/policy/europa.eu)

⁶ Networks providing speeds of at least 30 Mbit/s download.

⁷ Since the adoption of the initial decision, Croatia has adopted a new Broadband Plan covering the period 2021-2027, which contains higher speed targets than the Plan in force at the time of the initial decision.

⁸ Areas in which currently no NGA broadband infrastructure is in place or planned to be developed in the next three years.

⁹ In addition Croatia confirms that where RRF funds are used, in compliance with the Recovery and Resilience Plan, speeds of 100 Mbit/s download upgradeable to 1 Gbit/s download will be provided to households and 1 Gbit/s for main socio-economic drivers, at all fixed locations, and that these networks will provide 1 Gbit/s download speed on the basis of limited investment such as an upgrade of active equipment.

¹⁰ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

¹¹ European Regional Development Fund.

remain unaltered. In particular, all reporting obligations remain unchanged. The Croatian authorities have committed to submit to the Commission annual reports, as required under Article 26 of Council Regulation (EU) 2015/1589. In line with point 78(k) of the Broadband Guidelines¹², the Croatian authorities will also report key information on the implementation of the measure to the Commission every two years.

3. ASSESSMENT OF THE MEASURE

3.1. Lawfulness of the measure

- (7) By notifying the measure before putting it into effect, the Croatian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of aid

- (8) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (66) to (74) of the initial decision. The notified amendment does not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility of the aid

- (9) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(c) TFEU, for the reasons set out in recitals (75)-(99) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision.
- (10) The notified amendment does not affect that conclusion. In particular, the Commission considers that a limited prolongation of the existing aid scheme is appropriate to ensure that the national measure effectively promotes the development of NGA networks in Croatia.
- (11) In addition, the Croatian authorities have committed to set up a comprehensive State aid website where, in accordance with the Transparency Communication¹³, the following information will be published on a national website¹⁴: the full text of the approved aid scheme, including all implementing provisions. The website will be updated regularly with the most recent information applicable to each project implemented under the existing scheme (“the Framework Programme”)¹⁵. This

¹² Communication from the Commission - EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01), OJ C 25, 26.01.2013, p. 1-26.

¹³ Communication from the Commission 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 audio-visual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (OJ C 198, 27.6.2014, p. 30).

¹⁴ <https://nop.hakom.hr/>. In addition, individual grants will be published on the website of the Ministry of finance: www.mfin.hr.

¹⁵ <http://www.mppi.hr/default.aspx?id=10457>

includes, independently of funding model, basic project data, project status information, project financial data, and a link to the approved wholesale conditions and prices (reference offer).

- (12) Apart from the notified amendment, Croatia confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (13) Indeed, there are no other amendments to the scheme; therefore the Commission sees no reason to depart from its previous positive compatibility assessment in the initial decision. The measure contributes to the development of an economic activity and the positive impact of the aid measure in developing the economic activity outweighs any potential negative effects on competition and trade. The Commission therefore considers that the notified amendment does not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the existing scheme, as amended, 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.

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 Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

