



EUROPEAN COMMISSION

Brussels, 07.04.2015  
C(2015) 2191 final

PUBLIC VERSION

This document is made available for information purposes only.

**Subject: State aids SA.39089 (2014/N) & SA.39090 (2014/N) – Italy**  
**Mobile telephony in mountainous areas of Bolzano (Favogna, Mazia, Alpe Guazza and Passo Rombo)**

Sir,

**I. PROCEDURE**

- (1) On 15.07.2014, pursuant to Article 108 (3) of the TFEU, the Italian authorities notified to the Commission their project to fund new infrastructures supporting mobile telephony in uncovered mountainous areas located in the Autonomous Province of Bolzano (hereinafter "Province"). On 12.09.2014 and 10.03.2015, the Commission asked for additional information. The Italian authorities submitted additional information on 12.01.2015 and 16.03.2015. Based on the information received, the Commission has completed its assessment of the project.
- (2) The Italian authorities agreed to receive the present decision in the working language, namely English.

**II. CONTEXT**

**a. The target region**

- (3) The territory of the Province is typically alpine: 85.9 % is above 1 000 metres and has a strong touristic vocation. Peripheral mountainous areas, scarcely populated, do not benefit of any mobile network coverage, as mobile operators have not found it profitable to invest in the necessary infrastructures to ensure total coverage. The uncovered areas are of touristic interest and this makes mobile coverage all the more important for the safety of citizens and visitors using the ski installations or venturing

Onorevole Paolo Gentiloni  
Ministro degli Affari esteri e della Cooperazione Internazionale  
P.le della Farnesina 1  
I - 00194 Roma

into the hiking paths. Remote and scarcely populated areas also do not attract broadband operators installing networks suitable for data transmission<sup>1</sup>.

- (4) In the past, to overcome the lack of infrastructures, the Italian authorities funded the infrastructure supporting the mobile telephony in uncovered mountainous areas of the Province. The Commission approved the roll-out of mobile telephony infrastructure in five areas where no operator was present (decision of 14 August 2009 in case N245/2009 Mobile telephony Bolzano<sup>2</sup>). In the current case, the Italian authorities plan to support a similar measure aiming at new mobile infrastructure in uncovered areas which are geographically different from those covered by the decision N245/2009.

#### **b. The rationale for public intervention**

- (5) The rationale for the notified measure is to provide an infrastructure to the local population and to tourists, which allows for mobility and, to the extent possible, also the transmission of data services. Apart from remote areas, almost everywhere in the EU nowadays consumers benefit from the choice of several mobile networks. To a significant extent mobile communication has become a standard product in the EU. Tourists expect to be able to use their mobile handsets when travelling. Availability of a mobile network would therefore attract further tourism in this area. Moreover, mobile communication is very important in a rural and mountainous region for the provision of safety and prevention services (e.g. emergency calls, prevention in case of natural disasters).
- (6) At the same time, the areas at stake also suffer from digital divide, not being able to benefit of adequate broadband connection. To reduce the migration of the mountainous population to better-served areas and the consequent depopulation of rural areas, it is important to attract investment by small and medium-sized enterprises. The latter increasingly depend on a good data transmission infrastructure. In this respect, in order to offer widespread access to broadband technology in Alto Adige, the Commission has already approved two aid schemes with decisions of 10 October 2007 in case N 473/2007<sup>3</sup> and of 2 July 2008 in case N 250/2008<sup>4</sup>. However, in the last case, no private operator participated at the public tender procedure; hence the public funds were not employed. The current measure would fill the gaps of this previous measure.
- (7) Due to its topography, covering such an area is costly for any infrastructure while revenue expectations are limited due to the small overall population. Despite the relative touristic attractiveness, the seasonality of tourism has not allowed generating a critical mass of traffic necessary to attract private investment. In this context, the Italian authorities consider that it is necessary to roll out an infrastructure which combines the elements of mobility, voice communication and data transmission.
- (8) The notified measure will benefit for 34.73% of its budget from a successful application for ERDF funding.

---

<sup>1</sup> As regards the broadband connectivity in certain areas of the region, the Italian authorities indicated that the tender carried out to implement the scheme N 250/2008 - Broadband connectivity for Alto Adige II, approved by the Commission on 2.7.2008, had no result as no operator made any offer. According to the Italian authorities, this shows that the concerned areas do not seem to be sufficiently attractive for the Telecom operators and the context does not seem to have changed.

<sup>2</sup> [http://ec.europa.eu/competition/state\\_aid/cases/231056/231056\\_1241317\\_28\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/231056/231056_1241317_28_2.pdf), JOCE C/268/2011.

<sup>3</sup> JOCE C/289/2007, 01.12.2007.

<sup>4</sup> JOCE C/289/2008, 12.11.2008.

### III.SUMMARY DESCRIPTION OF THE MEASURE

- (9) *Objective and design of the measure*: the notified measure supports primarily regional development objectives and is also aimed at increasing safety of citizens and tourism in certain areas of the Province. The measure will ensure mobile telephony coverage and data transmission in areas which are not yet served by any mobile operator and not covered by broadband connectivity, as confirmed by the Italian authorities.
- (10) The aid takes the form of a direct grant for the construction of an infrastructure and related 3G & 4G equipment for each station<sup>5</sup>, which shall guarantee the fulfilment of the coverage objectives set out by the Provincial authorities. The infrastructure will be made available for exploitation, on a fair and non-discriminatory basis, to all mobile network operators active in Italy<sup>6</sup> for 10 years in order to provide mobile coverage to the concerned unserved areas within the territory of the Province.
- (11) The newly built mobile stations will be owned by the public company Radiotelevisione Azienda Speciale<sup>7</sup> (hereinafter "RAS").
- (12) *Legal basis*: the notified measure is based on the Deliberation of the Autonomous Province of Bolzano n. 3226 of 1 October 2007, implementing the Commission's decision n. 327/2007 which approves the regional funding programme "Obiettivo 'Competitività regionale ed occupazione' Fondo Europeo di sviluppo regionale 2007 – 2013 della Provincia Autonoma di Bolzano – Alto Adige".
- (13) *Target areas*: the measure covers the following areas :
- Passo Rombo, in the Commune of Moso in Passiria, locality of Corvara in Passiria,
  - Favogna, in the Commune of Magrè,
  - Mazia, in the Commune of Malles Venosta,
  - Alpe Guazza, in the Commune of Ultimo<sup>8</sup>.
- (14) These areas are remote from their respective municipal centres, being situated at an altitude between 1000 and 2100 metres. They have low population density. However, the number of people with short stays is significantly higher than the number of people with permanent dwellings in the mentioned areas<sup>9</sup>.
- (15) According to the distinction set out in the *EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks*<sup>10</sup>, the target areas may be classified as 'white' in respect to both basic broadband and NGA networks. As observed above, currently none of the areas presents adequate mobile coverage.

---

<sup>5</sup> The building of each station will comprise: the service building and its pylon, the electric line, the substation, the access route and the related 3G&4G equipment (i.e. antennas, BTS).

<sup>6</sup> Currently these operators are: Telecom Italia, Wind, H3G and Vodafone Omnitel.

<sup>7</sup> Radiotelevisione Azienda Speciale is a public company of the Autonomous Province of Bolzano, established by the Provincial Law n. 13 of 16.02.1975.

<sup>8</sup> The total population of the communes to which belong the target areas counts: 2 100 inhabitants in the Commune of Moso in Passiria, 1 200 in the Commune of Magrè, 5 000 in the Commune of Malles Venosta and 2 900 in the Commune of Ultimo.

<sup>9</sup> For example, the Italian authorities indicated that the number of people with short stays in the target area of Alpe Guazza is 58 552 while the population with permanent dwellings amounts to 290.

<sup>10</sup> OJ 2013 C 25/1, available also on the site:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

- (16) According to the consultation carried out with the operators active in Italy, there is no commercial interest by private operators in building the necessary infrastructure in the near future<sup>11</sup>. In fact, the public consultation carried out in two rounds, in 2010 and in 2013, has revealed that, in the concerned communes, there is not any broadband, mobile or alternative platform operator able to offer affordable or adequate broadband services. The telephony and broadband services are subject to seasonal demand. The operators believe that, due to the limited number of potential users, an investment plan would not be commercially viable.
- (17) *Budget and funding instrument:* The funds amounting to EUR 1 180 000 will be allocated to the construction of the infrastructure in Passo Rombo - Commune of Moso in Passiria, locality of Corvara in Passiria. An amount of EUR 4 110 000 will be allocated for the three other areas (Alpe Guazza, Mazia, Favogna). The funds come from three different sources: 45.69% from the Italian central budget, 34.73% from the ERDF and 19.58% from the Province. Hence, the notified aid will cover 100% of the above project.
- (18) *Beneficiaries:* The direct beneficiaries of the notified measure will be mobile operators. Since mobile telephony services will be made available to local population, indirect beneficiaries will also be business customers, as well as telecommunications operators using the public infrastructure.
- (19) *Detailed mapping and consultation with the interested parties:* The Italian authorities conducted a detailed mapping and coverage analysis to identify the target areas where state intervention is necessary. The last technical verifications and mapping were carried on in September – December 2013. According to the Italian authorities, the verifications confirmed that the areas concerned by the aid measure are not covered by any mobile telephony network. Moreover, no other technological platform is able to provide adequate and affordable access to broadband networks in the concerned areas. The Italian authorities confirmed also the absence in the target areas of any adequate infrastructure that could be used for providing the services aimed at by the project.
- (20) The Italian authorities gathered the operators' views already in 2010. On 5.07.2013, a project description was published in the Gazzetta Ufficiale, also available on a central web page at national level<sup>12</sup>. The operators were invited to express their interest for participating to the project. The Italian authorities declared that only the four mobile network operators active in Italy replied to the consultation. No other concerns or requests were raised by any other operators, including satellite or WiMAX technology operators.
- (21) The National Regulatory Authority does not object to the project. In its analysis of 24.04.2014, the Italian regulator AGCOM took into consideration the particularities of the case and consented to the choice made by the Province. AGCOM underlined that the use of satellite networks in the region is limited to special services provided for mountain rescue activities, various types of radio on reserved frequencies being preferred instead. In these circumstances, AGCOM considers that in the target areas,

---

<sup>11</sup> According to letters sent by the operators to the Italian authorities in 2010 and reconfirmed in July 2013.

<sup>12</sup> Gazzetta Ufficiale della Repubblica Italiana n° 78 of 5.07.2013; it is available on Internet at the following address: <http://www.gazzettaufficiale.it/>

nomadic end-customers would not utilise either terminals suitable to receive signals of Hyperlan/WiMAX type, or mobile satellite terminals.

- (22) *Procurement:* The Radiotelevisione Azienda Speciale (RAS) will be the owner of the infrastructure for a ten-year period in which access to the infrastructure will be ensured under the conditions described hereby. For the construction of the infrastructure, RAS will organise a tender in a fair and transparent manner, in accordance to the existing European and national public procurement regulation.
- (23) RAS is the public broadcaster for the Autonomous Province of Bolzano and the Province's delegate for execution of broadcasting and telecommunication projects. RAS is acting under the governance and control of the Autonomous Province of Bolzano<sup>13</sup>. It will be in charge of the infrastructure deployment and of its maintenance on behalf of the provincial authorities. RAS will not be active at retail level and will not be able to generate any profits. The Italian authorities confirmed that RAS will have an accounting separation between the operation of the networks at stake and the other activities carried out by RAS.
- (24) The infrastructure will be put at the disposal of all the mobile network operators active in Italy, who expressed an interest: Telecom Italia, Wind, H3G, Vodafone Omnitel<sup>14</sup>. These operators have undertaken to integrate the funded equipment in their networks in order to deliver services and to provide maintenance as well as upgrade at their own expenses. The mobile operators will have to offer services at the same level of prices practiced in the rest of the country. RAS will grant them access to the infrastructure at non-discriminatory conditions against remuneration. The operators using the infrastructure will have to pay an annual concession fee (canone di concessione) covering the expenses for the ordinary maintenance and management of the infrastructure and the related equipment. The concession fee has been established on the basis of the costs incurred by the Provincial authorities in relation to average local costs, as approved by the Giunta provinciale di Bolzano.
- (25) The Italian authorities confirmed that, upon request, they will grant access to the aided infrastructure to any interested telecommunication operator. The access will be granted under equal conditions and regardless of the technology/platform operated by the access seekers.
- (26) The Italian authorities confirmed that, after expiry of the ten-year period in which RAS is obliged to provide access services to the interested operators, the infrastructure will be transferred to the Autonomous Province of Bolzano and will be the exclusive property of the public administration of the Province.
- (27) *Duration of the measure:* The publicly funded infrastructure will be available to all mobile network operators on a non – discriminatory basis for a period of ten years. During this period of time, the mobile operators will be obliged to perform several activities: maintenance of the equipment put at their disposal; technological upgrade of the software and hardware; coordination and implementation of the equipment in the networks.

---

<sup>13</sup> According to Legge provinciale 13 febbraio 1975, n. 16, Istituzione della RAS.

<sup>14</sup> The Italian authorities indicated that no other potential operators expressed interest for participating to the project.

- (28) *Compliance with State aid rules and non-recovered unlawful aid:* The implementation of the scheme is subject to a Commission decision of compatibility with State aid rules. In this regard, the Italian authorities has undertaken to suspend the granting of the aid to companies that do not reimburse or put on a blocked bank account any aid, including interests, which the Commission has decided to be unlawful and incompatible.
- (29) *Technology:* As set out in paragraph (5), the infrastructure should have in particular three features. It should first provide voice communication and data transmission. Moreover, it should allow consumers to connect at any point in the mountains, thus it should provide them with mobility across the entire territory.
- (30) The new generation of Long-Term Evolution (LTE) networks include all the three elements. It has much better data transmission qualities than older mobile standards. LTE networks can provide nominal down-load speeds of up to 100 Mbps and upload speed of up to 50 Mbps (It should be noted, however, that these are not actual speeds. As it is a shared medium the actual access speeds can vary significantly). The Italian authorities also point out that LTE has wider penetration capacity and better voice traffic coverage. Moreover, this technology allows the use of a single device for voice and data coverage. However, as not all consumers will use handsets equipped for LTE use, the envisaged installations would also have to be compatible with GSM and UMTS technologies.
- (31) The Italian authorities indicated that the selected technology allows obtaining the required coverage of the target areas with a single investment. They also underlined that providing the same areas with data transmission services would be considerably more costly if other technological solutions were chosen.
- (32) *Transparency and reporting:* The aid will be awarded in a transparent manner and it will be ensured that the public authorities, economic operators, the interested public and the Commission have easy access to all relevant acts and pertinent information about the aid. Besides the transparency request, the Italian authorities confirmed their intention to report key information on the project, as set out in point 78 k) of the Broadband Guidelines.

#### **IV. ASSESSMENT OF THE MEASURE: PRESENCE OF THE AID**

- (33) According to the EC Treaty and consolidated case-law, there is State aid within the meaning of Article 107(1) when:
- there is an intervention by the State or through State resources;
  - it confers an economic advantage on the recipient;
  - it distorts or threatens to distort competition;
  - the intervention is liable to affect trade between Member States.

##### State resources

- (34) The funds come from the Italian central budget or from the local authorities' budget and from European funds. Hence State resources are involved in the notified measure.

##### Economic advantage

- (35) The notified measure will provide an economic advantage to RAS, which will own for a ten-year period a network subsidised with public funds, offering access to this network against a remuneration. As regards the selected telecommunication operators, all mobile network operators will be allowed to benefit from the existence of the infrastructure and of the operating equipment without having to invest their own resources, except for the 10 years concession fees. Operators will be able to establish their business in the currently unserved areas on conditions not otherwise available on the market.
- (36) Thanks to the newly established availability of the services, the target areas will also become more attractive as touristic destination, to the advantage of local businesses.

#### Selectivity

- (37) The scheme is selective in that it is addressed to undertakings active only in certain regions and/or in the provision of mobile services, to the exclusion of other electronic communications services.

#### Distortion of competition

- (38) The intervention of the State alters the existing market conditions by allowing the provision of telecommunication services by the mobile operators. A number of firms are likely to subscribe to the services provided by the selected suppliers to the detriment of other potential market-based solutions. Therefore, there is a potential distortion of competition. It potentially alters also choices of consumers with regards to the broadband or mobile connectivity.

#### Effect on trade

- (39) Insofar as the intervention is liable to affect providers of electronic communications services from other Member States, the measure has an effect on trade. The markets for electronic communications services are open to competition between operators and service providers, which generally engage in activities that are subject to trade between Member States. There may also be an effect on trade between the businesses using the broadband services enabled by the measure and their competitors in other Member States.

#### Conclusion

- (40) In view of the above, the Commission considers that the notified measure grants an economic advantage to the selected operators, third party operators and undertakings that exercise an economic activity. The project is publicly funded, distorts competition and has an effect on trade between Member States. Therefore the Commission regards the notified measure as constituting State aid within the meaning of Article 107(3) of the EC Treaty.
- (41) Having established that the project involves aid within the meaning of Article 107(3) of the Treaty on the Functioning of the European Union, it is necessary to consider whether the measure can be found to be compatible with the common market.

### **V. ASSESSMENT OF THE MEASURE: COMPATIBILITY**

(42) According to the Broadband Guidelines, mobile networks of third generation (UMTS) and its successor 4G are basic broadband networks. Therefore, the Commission has assessed the compatibility of the scheme according to Article 107 (3) (c) of the TFEU and in the light of the *EU Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*<sup>15</sup>. The Broadband Guidelines contain a detailed interpretation of Article 107 (3) (c) TFEU in this area of State aid law.

(43) As explained in paragraphs 33 and following of the Broadband Guidelines, for aid to be found compatible with the Broadband Guidelines (and thus with Article 107(3)(c) of the TFEU), the following conditions must be fulfilled:

1. The aid must contribute to the achievement of objectives of common interest
2. Absence of market delivery due to market failures or important inequalities
3. The aid must be appropriate as a policy instrument
4. The aid must have an incentive effect
5. The aid is limited to the minimum necessary
6. Negative effects must be limited
7. If these conditions are fulfilled, the Commission balances the positive effects of the aid measure in reaching the objective of common interest against the potential negative effects.

*(1) Contribution to the achievement of objectives of common interest*

(44) Mobile telephony is widespread across Europe. However, there are still regions which, because of their geographical characteristics, lack coverage. The lack of adequate mobile coverage creates also a risk for the safety of local inhabitants and tourists. This holds true for many mountainous areas in the Autonomous Province of Bolzano such as the ones under consideration.

(45) Due to the tourists, the number of people in the target areas is increasing exponentially during the touristic season. In the event of an accident or natural disaster, currently the rescue seekers cannot rely on a mobile network in order to locate in distress or injured people. In this context, the mobile technology is crucial for organising the disaster response.

(46) The coverage by mobile telephony will have a direct application not only for emergency but also for local businesses and population, helping to improve the life standard and tourism attractiveness.

(47) The Commission acknowledges therefore that by providing financial support for the provision of mobile communication services in areas where such services are currently not available, Member States pursue genuine cohesion and economic development objectives and thus, their intervention is likely to be in line with the common interest, provided the conditions set out in paragraph 78 of the Broadband Guidelines are respected.

---

<sup>15</sup> OJ C25, 26.01.2013, p.1.



- (48) Moreover, the measure will enable these operators in the future to provide broadband services in the underserved areas, in line with the objective of the Digital Agenda.

*(2) Absence of market delivery due to market failures or important inequalities*

- (49) As indicated in paragraph (16), the public consultation revealed that in the sparsely populated areas at stake, private investors do not see a commercial attractiveness to build their own network in the near or medium future.
- (50) In particular, today's areas suffer from the typical economic problems of network industries: due to economics of density, telecoms operators find it not profitable to invest in areas not easily accessible and where potential demand is low and dispersed.
- (51) The operators interviewed by the Italian authorities have confirmed that it would be highly difficult to recover, in a short (or commercially reasonable) period of time, the expenses of new mobile telephony infrastructure, which has a long amortisation period. They confirmed that they do not foresee in the near or medium future any plans for the developing their own infrastructure.
- (52) The notified measure addresses a market failure as it targets uncovered areas by mobile telephony or affordable and competitive broadband services. In the target areas, due to difficult geographic conditions and/or low density of the population, there are no plans by private investors to roll out such infrastructure in the near future. By aiming at providing mobile telephony services at the level and price currently included in the nation-wide offer of the operators, the measure helps achieving greater cohesion and is therefore in line with the common interest.
- (53) Therefore, it can be concluded that the notified measure addresses a market failure in areas where difficult geographic conditions and low density of the population make it unviable for private operators to invest in the realisation of a broadband network. Accordingly, the measure has the potential to lower barriers to entry in more difficult geographical markets, will foster competition and contribute to bringing advanced broadband services to the citizens and businesses.

*(3) Appropriateness of State aid as a policy instrument*

- (54) Alternative instruments, such as demand side measures could provide grants or tax incentives to end users. However, in the situation currently under assessment, the efforts from alternative instruments, including ex ante regulation do not solve the problems related to the lack of supply (rather non-existence) of infrastructure. They would fail to deliver the wider economic benefits of a widespread mobile coverage. The Italian authorities see no alternative but to grant public aid for the deployment of new mobile stations in the targeted areas of the Province. Furthermore, as mentioned above, mobile operators do not plan to invest in building infrastructures in the targeted areas.
- (55) The Commission recognizes that without public intervention it does not seem possible to avoid the emergence of a new "digital divide" between rural and urban areas. This could lead to the economic and social exclusion of local citizens and undertakings. Hence in the current situation, state aid is an appropriate instrument to achieve the set objectives.

(4) *Existence of incentive effect*

- (56) According to the data presented by Italy (see paragraph (16)), in the targeted areas no investment would take place without public funding. Telecom undertakings have declared that they are not willing to construct their own mobile networks in such remote and sparsely populated areas. Hence the aid produces a change in the investment decisions of the operators that would not otherwise invest in the targeted areas.

(5) *Aid limited to the minimum necessary*

- (57) In assessing the proportional character of the notified measures, the Commission has assessed a number of necessary conditions to minimise the State aid involved and the potential distortions of competition.
- (58) ***Detailed mapping and analysis of coverage, public consultation:*** The Italian authorities have undertaken an analysis of the existing infrastructure in order to identify the areas where State intervention is necessary. The project was published as described in paragraph (20). All the relevant stakeholders have had the opportunity to submit their views and the regulatory authority's opinion has been gathered. This way, the Italian authorities have ensured that public funds are used only in areas where aid is necessary and excluded the possibility of crowding out private investments.
- (59) As a result, the infrastructure will be built only in those 4 areas where no mobile telecommunication infrastructure or fixed telephone lines exist at all and where the operators do not have any plan to roll out mobile infrastructure in the near future (white basic broadband area).
- (60) ***Open tender and non-discrimination:*** the construction will be tendered out according to the criteria set in the national and European legislation on public procurement. As for the operation of the infrastructure, all mobile network operators active in the Italian market will be allowed to place their equipment, under equal conditions, on the antennas so as to provide their mobile telephony services, as described in paragraph (24).
- (61) ***Technological neutrality:*** the project aims to ensure the availability and use of mobile telephony combined with data transmission in currently uncovered areas located in the Province, with no prospect for coverage on commercial terms in the near and medium term.
- (62) As compared to other possible solutions offering mobile coverage or broadband services, only the LTE (4G) technology offers a combination of three essential qualitative criteria of voice and data transmission, as well as country-wide mobility. The LTE technology fulfils the following requirements: 1) it enables operators to provide services of voice communication and data transmission 2) it allows the use of a single device for receiving both types of services and 3) it allows roaming services. Moreover, the use of the LTE technology requires a single investment in the infrastructure installation. While the envisaged installations have to enable the LTE technology, they would also have to be compatible with GSM and UMTS technologies.
- (63) As regards WiMAX technology, the available customer bandwidth depends on the distance to the central base station. It also requires line of sight between the endpoints, the transmission being affected by obstacles. Although it can provide adequate services

over short distances, its coverage restrictions do not fit the requirements for the whole target areas<sup>16</sup>.

- (64) Given the requirements of this project, satellite technology also cannot be considered a possible technological alternative. Already today, most of the area is covered by satellite transmission. However, the satellite penetration in the target areas is extremely low. According to the Italian authorities, there are around 30 satellite phones in Alto Adige<sup>17</sup>. The very limited pick-up is explained by technical limitations and prices. Depending on the satellite operator, different transmission technologies and terminals are required which excludes roaming. Second, the geographical situation does not allow for a complete satellite coverage, suitable line of sight being required. Finally, satellite telecommunications services are provided only for very high prices if compared to terrestrial mobile telephony.
- (65) Furthermore, as satellite technology requires the utilisation of a purpose-built device (phone) which cannot be used outside that network, it is of little use for tourists which visit the area for a limited time period.
- (66) Finally, at the current stage of development, the satellite technology is inferior to LTE technology for data transmission. Given the low penetration rate, customers could not benefit from roaming and would be highly restricted if they wish to communicate outside the target area. As in the case of voice communication also in the case of data transmission, the costs for end-users are higher than in the case of an LTE network.
- (67) In its opinion of 24.04.2014, AGCOM underlined the fact that other technologies capable of broadband communication, like Hiperlan or WiMAX and satellite, due to their limitations, have in practice very low penetration in the concerned areas. It follows that none of the considered platforms complies with the objectives of the measure as indicated in paragraph (62).
- (68) Moreover, it should be noted that no operator has objected to the project (this also applies to satellite or WiMAX technology operators) and only the four above-mentioned operators replied to the consultation.
- (69) As regards interconnection, the Italian authorities confirmed that *the access to the infrastructure will be opened upon request to other interested operators using different access technology, both via wired and fixed wireless connections*.
- (70) Taking into account the very specific geographical and economic context in which the measure will be implemented, as well as the specific features sought after as explained above, the Commission considers that in this particular case mobile communication is the only suitable technological solution.
- (71) **Wholesale access and prices:** RAS will ensure full access to the subsidised infrastructure to all mobile network operators active in Italy and to any access seeker under the same conditions, which is in line with paragraph 78 g) of the Broadband Guidelines. The concession fee (canone di concessione) to be paid by the operators will be based exclusively on the expenses incurred by RAS for the ordinary maintenance of

---

<sup>16</sup> In reality, the coverage is restricted to a radius of appr. 3 km. See "The broadband State aid rules explained – an eGuide for Decision Makers", p.68. <https://ec.europa.eu/digital-agenda/en/news/handbook-decision-makers-broadband-state-aid-rules-explained>

<sup>17</sup> They are mainly used by Protezione civile (3 terminals), other public authorities or energy suppliers.

the infrastructures. This mechanism is therefore objective and equivalent to the benchmarking criterion set out in paragraph 78 h) of the Broadband Guidelines.

- (72) **Transparency:** As described above, the Italian authorities confirmed that they would publish on a central website the relevant information on the measure at stake and comply with the reporting obligation, as set out by the Broadband Guidelines at paragraphs 78 j) and respectively 78 k).

*(6) Limited negative effects*

- (73) According to the above assessment regarding market failure, the project does not crowd out any private investment. In particular, the aid is confined to traditional white areas where the operators are not willing to invest in broadband infrastructure without state aid in the next or medium future.
- (74) The subsidised infrastructure will enable the provision of competitive and affordable services to end-users by competing operators and bring about significant new capabilities in terms of broadband service availability and capacity.
- (75) By enabling all mobile operators to offer their services in a competitive fashion, similarly to the profitable areas in other parts of the country, the notified measure avoids the creation of local monopolies which would result from one operator running the network itself. Thus, the measure has pro-competitive effects.
- (76) In the light of these arguments, it can be concluded that negative effects of the measure at stake, if any, are limited.

*(7) The overall balancing exercise*

- (77) The Commission notes that the notified measure will offset a geographical and commercial handicap. As mentioned above, the objective of the project is to provide mobile telephony coverage and transmission of data services in areas where these services are currently unavailable and where the private operators are not planning any investments in the near future. The Commission considers that it is objectively justified to address the lack of availability of mobile and broadband services in the targeted areas.
- (78) The current measure intends to subsidize the deployment of mobile telephony network infrastructures, in areas in which there is no such infrastructure and where end-users cannot enjoy adequate broadband services. By granting access to the subsidised infrastructures to all mobile networks which expressed an interest, the measure aims at creating additional competition in the targeted areas.
- (79) In view of the characteristics of the project and related safeguards, the overall impact on competition is deemed to be positive. The planned infrastructure will allow all mobile network operators to compete with each other. Therefore, the measure has a pro-competitive impact. The significant increase in network capacity is expected to stimulate market entry by service providers and the provision of a much larger variety of services. As the owner RAS will only provide wholesale access, there should not be any conflict of interest as regards future access by competing operators. As regards the effect on trade criterion, the Commission does not identify negative spill-over for other Member States.

- (80) Finally, the notified measure has been designed to minimise the amount of State aid involved. This ensures that the overall balance of the effects of the measure is positive.

### **Conclusion**

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

## **VI. DECISION**

- (82) On the basis of the foregoing assessment, the Commission has accordingly decided to consider the aid compatible with Article 107(3)(c) TFEU.
- (83) The Italian authorities agreed to receive the present decision in the working language, namely English.
- (84) The Italian authorities are reminded that, pursuant to Article 108(3) TFEU, they are obliged to inform the Commission of any plan to extend or amend the measure.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/iseif/index.cfm>.

Your request should be sent by registered letter or fax to:

European Commission  
Directorate-General for Competition  
For the attention of the State Aid Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË  
Fax No: +32 2 29 61242

Yours faithfully,  
For the Commission

Margrethe VESTAGER  
Member of the Commission