



EUROPEAN COMMISSION

Brussels, 05.11.2009
C(2009)8687

Subject: **State aid n° N 418/2009 – United Kingdom (Northern Ireland)**
 Next Generation Broadband

Sir,

I. SUMMARY

- (1) I am pleased to be able to inform you that the European Commission has assessed the measure "*Next generation Broadband Project*" (hereafter: "the measure") 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 prenotification discussions, by letter dated 11 September 2009, pursuant to Article 88 (3) of the EC Treaty, the authorities of United Kingdom (hereafter: "UK") notified the above mentioned measure to the Commission. On 25.9.2009 and 13.10.2010 the UK respectively replied to two preceding requests for information from the Commission of 11.9.2009 and 9.10.2009 and on 19.10.2009 the UK authorities provided some last additional information.

III. CONTEXT

- (3) In 2004, the Government of Northern Ireland (hereafter: "NI") launched a competitive tender to deliver 100% broadband coverage in Northern Ireland. As explained by the UK authorities, in December 2005, following award of the contract to British Telecom (hereafter: "BT" or the "contractor"), Northern Ireland became the first region in Europe where broadband was available to every home and business at affordable prices. Under the terms of the contract with BT, all 191 BT Exchange Site locations were upgraded to support the delivery of ADSL based broadband service and to provide broadband service of at least 512 kbps to every household and business that wished to avail of it. Through this measure,

The Rt Hon David MILIBAND
Secretary of State for Foreign Affairs
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom

over 99% of the population of Northern Ireland gained broadband access via a wire line (i.e.: copper telephone line) technology.

- (4) In 2008 the UK government designed another specific measure targeted at a small number of copper lines (less than 1%) which were not at the time capable of sustaining a broadband (ADSL) service. The Commission approved this measure in December 2008 (N 508/08)¹.
- (5) In 2008 and 2009 the UK authorities started a consultation exercise to find out whether industry would on its own upgrade the existing broadband infrastructure within the next three years to increase the average speed from 512 kbps to a minimum of 2 and 10 Mbps respectively in areas of NI with a minimum business density of 10 per km². While the market research showed that by March 2009 BT had upgraded a small number (13) of its 191 exchanges to ADSL2+ and that it was planning to upgrade 21 more exchanges within the next three years², there was no evidence of any planned investment to generally improve the existing level of provision in rural areas where average bandwidth speeds are currently below 10 Mbps.
- (6) The UK authorities therefore decided to launch a competitive dialogue tender. This open, transparent and non-discriminatory tender is to attribute the contract to the most economically advantageous bidder. This means that the prevailing bidder "offers" the lowest amount of aid necessary for achieving the specified aim while respecting the commonly agreed technical specifications. At the beginning of 2009, the UK authorities published a Pin and Contract Notice in the OJEU and held a Suppliers Open Day on 23 April where overall 13 suppliers of broadband services participated. These 13 companies received pre-qualification, but subsequently only 4 companies qualified. At the closing date of the open tender, only one single company submitted an offer to upgrade the existing broadband infrastructure in line with the NI specifications. According to the NI government, the other contractors withdrew because they felt the contracts would not be sufficiently profitable given the amount of possible subsidy available. The UK authorities did not yet award the contract to the prevailing company pending the Commission's decision on the compatibility of the measure with the EC State aid rules.

IV. DESCRIPTION OF THE MEASURE

- (7) *Objective:* The measure is aimed at deploying approximately 650 to 700 additional access points for 55% to 70% of all business premises in NI. By improving the number and quality of access points, the overall last mile segments to end users will be shortened. Technically speaking, this will be achieved by creating a fibre connection between the existing exchanges of BT and the cabinets using VDSL2 technology. The last mile is excluded from the notified measure.
- (8) The project seeks to achieve a step change to the broadband system in NI in rural and urban areas with low broadband speeds. The service provider may offer broadband service offerings whose specifications vary across different geographic areas of NI provided certain minimum requirements are met. In very sparsely

¹ JOCE C/18/2009.

² Notification, § 5.

populated rural output areas³, i.e.: in Lot 1, where NI businesses today access speeds of typically about 512 Kbps or less⁴, the prevailing service provider will have to guarantee a minimum of 2 Mbps downstream and 256 kbps upstream speed to all businesses. In Lot 2, it must guarantee a minimum of 10 Mbps downstream and 512 kbps upstream speed.⁵ Output areas where businesses already dispose of these bandwidth speeds or where it is likely that businesses will offer this speed within the next three years without subsidies are excluded from the measure.

- (9) *Legal basis:* The measure is based on the Communications Act 2003 and it will be co-financed from funds of the ERDF Sustainable Competitiveness Programme 2007-2013.
- (10) *Target areas:* The aid will target the sparsely populated areas in NI where broadband service providers are not planning to upgrade existing broadband infrastructure to bandwidth speeds of min. 2 Mbps / 10 Mbps over the next three years. The process to identify the targeted areas was conducted as follows: First, NI was split into so-called "output areas" which are areas with an average size of around 150 households. Second, businesses were assigned to OAs by matching postcodes. Third, an indicative map was drawn up classifying NI into two categories according to business density: lower density and higher business density areas. An OA is designated as "lower density" (Lot 1) if it has less than 10 businesses per sq. km and higher density if it has more than 10 businesses per sq.km (Lot 2). Overall, there are marginally more businesses in Lot 1 than in Lot 2.⁶
- (11) *Beneficiaries:* The direct beneficiaries of the aid will be electronic communications operators offering broadband services. Indirect beneficiaries will be third party providers of telecommunication services and local SMEs in the targeted areas.
- (12) *Budget and funding instrument:* The aid takes the form of a direct grant. The expected value of the contract is GBP 18 million (approx. EUR 19.6 million) and will be split as follows: £6 Mio in 2009/10, £8 Mio in 2010/11 and £3.38 Mio in 2011/12.
- (13) *Aid intensity:* The aid intensity of the project will depend on the outcome of the tender procedure. The UK authorities expect that the aid intensity will eventually not exceed 40%.⁷ The aid intensity will depend on how much aid the most economically advantageous bidder requires to achieve the specified aim of upgrading the existing infrastructure to 2 and 10 Mbps respectively (see above at § 6).
- (14) *Duration of the measure:* The scheme runs for 4 years and 1 month (1.11.2009 to 31.12.2013). The exact dates will depend on the date when the contract is signed.
- (15) *Procurement and award criteria:* The aid will be allocated on the basis of an open tender. The tender process was started on 4 April 2009 with the contract

³ See already at footnote 1. The NI government defines an output area as an area of NI which has an average size of around 150 households.

⁴ Notification, § 53.

⁵ Notification, § 53.

⁶ NI reply of 19.10.2009 to REQ of 16.10.2009 at Q 4.

⁷ NI reply of 25.9.2009 to REQ of 11.9.2009 at Q 9.

Notice being published in the OJ on 11 April 2009. The award criterion is the most economically advantageous offer⁸. The tenders were evaluated against seven main award criteria with the following weights: End User Service and Wholesale Offering 30%; Coverage and Rollout 20%; Price Control 15%; End User Service – customer service 10%; Financial Arrangements 10%; Marketing 10%; Contract Management 5%.

- (16) *Technology*: The procurement will be technology neutral, allowing tenderers to propose any suitable technological solution.
- (17) *Pricing*: According to the UK authorities, the prevailing service provider will be required to ensure that the services it provides are affordable, in line with market prices, sustainable and scalable.⁹
- (18) *Minimum Service Requirements*: The minimum broadband bandwidth speed envisaged is 2 Mbps downstream / 256 kbps upstream speed in Lot 1 and 10 Mbps downstream / 512 kbps upstream speed in Lot 2.
- (19) *Wholesale offer*: The selected provider will also offer retail broadband services. However, wholesale access must be provided to third parties on an equivalence of access basis.¹⁰
- (20) *Monitoring and clawback mechanism*: The granting authority will carry out appropriate audit activities, including technical review of the delivered solution. The contract with the supplier will also contain a clawback arrangement that will ensure that if the supplier generates higher revenues than foreseen, a proportional amount will be repaid.

V. ASSESSMENT OF THE MEASURE: PRESENCE OF AID

- (21) 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 for a measure to qualify 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

- (22) The notified measure is financed by resources of the Government of Northern Ireland. Hence state resources are involved.

Economic advantage

- (23) *Selected operators*: Through the tender process, the selected operator will receive financial support which will enable it to enter the market and provide broadband

⁸ Contract notice of 2009/S 71-103380).

⁹ NI reply of 25.9.2009 to REQ of 11.9.2009 at Q 12 last paragraph.

¹⁰ NI reply of 25.9.2009 to REQ of 11.9.2009 at Q 17 and 18.

services on conditions not otherwise available on the market. Although a competitive tender procedure tends to reduce the amount of financial support required, the aid will also allow the operator to offer end-to-end services *prima facie* at lower prices than if it had had to bear all costs themselves and thus attract more customers than under normal market conditions. The selected operator will also acquire ownership of the network as well as other tangible and intangible assets with State funds (e.g. equipment, customer relations) even after the lifetime of the projects. In view of the above, it is clear that an economic advantage will be granted to the selected operator.

- (24) *Third party providers*: In the areas covered by the project, there is basic broadband connection. The measure to enhance and improve access points within the existing network will increase demand for enhanced broadband services. Third party providers of broadband services will be able to use the enhanced access under non discriminatory terms and they will therefore also indirectly benefit from the state resources, as they will be customers of the selected telecommunication operators.
- (25) *End users*: The measure aims at improving the provision of existing broadband services to business users. Businesses in the targeted geography will therefore ultimately benefit from the improved service.

Distortion of competition

- (26) The intervention of the State alters the existing market conditions. It will provide a selective advantage to the bidder prevailing in the tender (see § 6) and will moreover benefit all third party providers who use the improved infrastructure to compete with other third party providers. Finally, it will alter the conditions of competition between end users in Northern Ireland who are likely to subscribe to the enhanced services and end users elsewhere in the European Union. Therefore, the fact that State aid is used to enhance the existing broadband services in NI will have the effect of distorting competition.

Effect on trade

- (27) 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. Moreover, the measure has the potential to distort competition between end users located in Northern Ireland and elsewhere in Europe.

Conclusion

- (28) Having established that the project involves aid within the meaning of Article 87(1) of the EC Treaty to the selected service provider, third party providers and businesses, it is necessary to consider whether the measure can be found to be compatible with the common market.

VI. ASSESSMENT OF THE MEASURE: COMPATIBILITY

- (29) The Commission has assessed the compatibility of the scheme according to Article 87 (3) (c) of the EC Treaty and in the light of the *Community Guidelines*

*for the application of State aid rules in relation to rapid deployment of broadband networks*¹¹ (hereinafter the "Broadband Guidelines").

- (30) As described in points 34 and 45 of the Broadband Guidelines, in order to assess whether a measure is compatible under article 87(3)(c), the Commission balances positive and negative effects of the aid according to the criteria set out in the Guidelines.

The balancing test and its application to aid for the broadband network deployment

- (31) In applying the balancing test, the Commission will assess the following questions¹²:
- (1) 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)?
 - (2) Is the aid well designed to deliver the objective of common interest? In particular:
 - (a) Is the aid measure an appropriate instrument?
 - (b) Is there an incentive effect, i.e. does the aid change the behaviour of firms?
 - (c) Is the aid measure proportional, i.e. could the same change in behaviour be obtained with less aid?
 - (3) Are the distortions of competition and the effect on trade limited, so that the overall balance is positive?

VI.1. The support of broadband rollout is in line with the common interest

Community policy

- (32) 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 cohesion¹³. The Commission actively supports the widespread availability of broadband services for all the European citizens as laid down in the Lisbon strategy and subsequent Communications¹⁴.
- (33) In particular, a well targeted state intervention in the broadband field can contribute to reducing the '*digital divide*' that sets apart areas or regions within a country where affordable and competitive broadband services are on offer and areas where such services are not.

¹¹ *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*, OJ C 235, 30.9.2009, p.7.

¹² Broadband Guidelines, cited in footnote 8, at paragraph 35.

¹³ 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.

¹⁴ 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.

- (34) The measure will help reduce the emergence of a digital divide in the business community by applying a value for money approach to extend the reach of access to enhanced broadband services. In the UK's view it is most likely to achieve the objective of providing a *step change* in services available to businesses both in Lot 1 and Lot 2.¹⁵ Based on feasibility studies, the UK authorities concluded that upgrading all Lots to 10 Mbps would be unaffordable in view of the budgetary constraints to the project¹⁶.
- (35) The Commission can agree that in view of the budgetary constraints, a step change to the broadband infrastructure in NI is at the moment the only viable option. The decision to require higher bandwidth speeds in Lot 2 than in Lot 1 (and hence to deploy more public money in Lot 2 than in Lot 1) is based on an objective and verifiable criterion: business density. As in Lot 2 relatively more businesses can potentially benefit from the measure than in Lot 1, it makes sense to create/improve more access points in these areas than in Lot 1. This is achieved by setting higher minimum bandwidth specifications for Lot 2 than for Lot 1.
- (36) The Commission also understands that the decision to set higher target speeds for Lot 2 than in Lot 1 was based on the current average bandwidth speed available in these two types of output areas. To achieve an overall step change to the existing infrastructure, one must consider the current relative difference in the development of bandwidth speeds in Lot 1 and Lot 2 as a starting point. This is precisely what the UK authorities did.¹⁷

Market failure and cohesion considerations

- (37) As set out in paragraph 42 of the Broadband Guidelines, the Commission accepts that by providing financial support for the provision of broadband services in areas where broadband is currently not available and where there are no plans by private investors to roll out such an infrastructure in the near future, Member States pursue genuine cohesion and economic development objectives and thus, their intervention is likely to be in line with the common interest. Lack of adequate broadband coverage may be due, among other factors, to some of the typical economic problems associated with networks industries. 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. According to the UK authorities, this is also precisely the reason why 48% of businesses in rural areas of NI still only benefit from very basic broadband services with downstream speeds of 512 kbps or less.¹⁸ Higher speed broadband services are only available in the more densely populated areas of NI. According to the UK authorities, this lack of adequate broadband coverage in less densely populated areas is due, amongst other things, to some of the typical economic problems associated with network industries.¹⁹

¹⁵ NI reply of 19.10.2009 at Q 4.

¹⁶ A FTTH solution would cost approx. GBP 500 mio and FTTC approx. GBP 90-105 mio.

¹⁷ Notification § 49 ("... this project proposes that service provision in any and all areas should be driven by a consideration of the costs and benefits. Our suggested approach is that the level of service provision should be determined by the degree of business density in the region. Furthermore, provision should be "need driven" rather than "technology possible" in order that an efficient and effective network is developed that is viable for the operator and sustainable in the longer term"). See also at § 53: 48% of businesses can only access speeds of 512 kbps. These are generally located in Lot 1. 7-12% of businesses can access speeds of more than 8 Mbps. These are generally located in Lot 2.

¹⁸ Notification, § 53 and 38, as well as §

¹⁹ See notification § 25 with further explanations.

- (38) Due to these constraints, local undertakings in NI suffer a competitive disadvantage compared to other companies located in urban areas because the relative cost of the supply of services to these areas is not comparable to those in urban areas²⁰. Furthermore, because the costs are seen to be significantly higher this inhibits investment by undertakings thereby reducing potential economic activity in the region²¹.
- (39) The measure will improve existing broadband services in the rural areas of NI. Both in Lot1 and in Lot 2 the existing bandwidth speed is insufficient for the needs of NI businesses in the short term future. The measure is indeed "need driven". It is designed in such a way as to be the minimum service acceptable to support and one which will bring the biggest benefits to the largest number of SMEs.²² Consideration was given to supporting a FTTH/FTTC project but based on the research the UK authorities concluded that the delivery of a widespread fibre optic access network did not represent the best value for money at this time.²³ As the UK authorities demonstrated, there are no prospects that over the next three years either the incumbent or other investors will upgrade the infrastructure to an adequate level without subsidies.²⁴ So-called "black areas" (point 43 Broadband Guidelines) where providers are planning to offer adequate broadband services of min. 2 Mbps in Lot1 and min. 10 Mbps in Lot 2 over the next three years will be excluded from the measure.²⁵
- (40) Hence, by providing financial support for improving broadband services in the targeted areas Lot1 and Lot 2, the UK authorities pursue genuine cohesion and economic development objectives.

VI.2. Well-designed aid

(a) Aid is the appropriate instrument

- (41) As the market research conducted by the UK authorities showed, it is highly unlikely that businesses in Lot1 and Lot2 could avail themselves of adequate broadband services with a minimum bandwidth speed of 2 Mbps in Lot 1 and 10 Mbps in Lot 2.²⁶ Given the very small and rural market in Northern Ireland, there are no plans for affordable broadband coverage of these minimum speeds in the areas concerned in the next three years due to the limited profitability of such an endeavour. The UK authorities demonstrated that British Telecom abandoned plans to upgrade existing exchanges within the next three years except for a small number of 19 exchanges. NI has however excluded these 19 output areas from the

²⁰ According to the NI authorities, the costs tend to be some 5-20 times higher in rural and remote areas compared to equivalent products in urban areas.

²¹ According to the OFCOM report of Communications Market: Nations and Regions, 2008 Northern Ireland had the largest rural population in the UK, at 35% compared to the UK average of 12%.

²² Notification, § 47 ("The measure is designed in such a way as to be the minimum service that is acceptable to support and one which will bring the biggest benefits to the largest number of SMEs. The specification is one we believe will serve as a useful starting point from which to develop an attractive and competitive procurement. Higher specifications may serve to deter potential bidders from engaging in the process").

²³ Notification, §§ 48 and 49.

²⁴ See NI reply of 25.9.2009 to REQ of 11.9.2009 at Q 5.

²⁵ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 6.

²⁶ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 6.

measure.²⁷ The tender process also demonstrated the limited interest of third parties to invest in such a measure even if State aid is available.²⁸

- (42) Based on the information provided by the NI government, it therefore appears that there is no alternative to granting public funding to overcome a lack of industry interest in an enhanced broadband speed in NI. Public funding for the provision of enhanced broadband services is therefore an appropriate instrument in the present case.

(b) The aid provides the right incentives to operators

- (43) As explained above²⁹, the recipient of the aid has been selected by public tender. Tenderers submitted investment plans indicating the amount of aid that they considered to be necessary to carry out the investment given the anticipated investment and operating costs and revenues. Therefore, the aid should provide a direct and appropriate investment incentive for the selected operator.

(c) Proportionality

- (44) The UK authorities have designed the measure in such a way as to minimise the State aid involved and potential distortions of competition arising from the measure. In this respect, the Commission notes, *inter alia*, the following positive elements in the design of the measure:

- (a) *Mapping exercise and coverage analysis*: As already set out in detail in § 5 above, the UK authorities executed a consultation exercise in 2008 and 2009 to find out whether industry would on its own upgrade the existing broadband infrastructure to the needs of NI businesses. However, this market research showed that due to the economic downturn, there were no plans of service providers in NI to achieve the required step change within the next three years without subsidies³⁰. The aid will target those areas where current operators do not have sufficient infrastructure in place to supply enhanced broadband services. Conversely, it excludes areas where such services are likely to be provided over the next three years. The Commission is satisfied that the maps of the UK authorities are adequate to identify white, grey and black areas within the meaning of § 51 of the broadband Guidelines.³¹
- (b) *Open tender process*: The recipient of the aid was selected by an open tender procedure. This procedure had the effect of maximising the effect of the aid provided while minimizing any potential advantage granted for the selected operator. In particular, the subsidy is awarded to the economically most advantageous offer.
- (c) *Most economically advantageous offer*: Under the terms of the open tender, the bidder with the lowest amount of aid requested receives more priority points within the overall assessment of the bid.³²

²⁷ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 2, 3 and 4.

²⁸ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 3 and NI reply of 25.9.2009 to REQ of 11.9.2009 at Q 14.

²⁹ See section III above.

³⁰ Notification, § 5.

³¹ See the map in NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 1.

³² Notification, § 70, 1st indent.

- (d) *Technological Neutrality*: The project does not favour any technology. The prevailing bidder can use any technology to achieve the step charge to 2 and 10 Mbps respectively in Lot1 and Lot 2.³³
- (e) *Use of existing infrastructure*: Tenderers have the possibility to contribute their infrastructure to the project, or acquire or rent infrastructure from another operator, which limits the economic impact of the project for operators that may already have basic electronic communications infrastructure in place.³⁴
- (f) *Wholesale access*: The selected operator will have to provide access to the subsidised networks to other operators on equal and non-discriminatory terms for at least seven years³⁵ that will enable the latter to compete on the retail level. The NI confirmed expressly that it has "no intention of providing any financial support for connecting 'last mile' technology with an access point if it were utilised by the supplier during this contract". So, distributors of broadband services will be able to compete with the prevailing aid beneficiary on the "last mile" segment.³⁶
- (g) *Benchmarking pricing exercise*: The UK authorities confirmed that the selected operators will have to offer retail services at prices that are comparable to the average prices in areas where the service already exists.³⁷
- (h) *Monitoring and clawback provision*: The monitoring and clawback provision will ensure that in case of higher revenues than initially foreseen, a proportional amount of the aid will be repaid to the granting authority.
- (i) *Limited duration*: The UK authorities anticipate awarding contracts for a limited duration of five years.³⁸

VI.3. The distortions of competition and the effect on trade are limited, so that the overall impact of the measure is positive

- (45) The Commission concludes that the notified measure will offset a geographical and commercial handicap and is objectively justified to address the lack of availability of enhanced broadband services due to the commercial unattractiveness of upgrading existing broadband services in Lot1 and Lot2 to a minimum of 2 and 10 Mbps respectively.
- (46) In view of the characteristics of the project and of the safeguards applied by the UK authorities, the overall impact on competition is deemed to be positive³⁹.
- (47) 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 (broadband services) in certain remote and rural areas. The intervention is designed in a way that does not distort competition or adversely affect trading conditions to an extent contrary to the common interest.

³³ Notification, § 70, 4th indent

³⁴ Notification, § 70, 2nd indent.

³⁵ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 9.

³⁶ See NI reply of 13.10.2009 to REQ of 9.10. 2009 at Q 10.

³⁷ Notification, § 70, 3rd indent.

³⁸ Notification, § 70, last indent.

³⁹ As argued by the NI authorities, the measure may strengthen competition: first, by granting open wholesale access to other operators; second, by this measure acting as an incentive to companies who supply broadband service via satellite or other alternative technology.

VI.4. Conclusion

- (48) 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

On the basis of the foregoing assessment, the Commission has accordingly decided that the aid measure "*Provision of Next Generation Broadband Services in Northern Ireland*" is compatible with Article 87(3)(c) of the EC Treaty.

The UK 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.

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/state_aids_texts_en.htm

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,

For the Commission

Neelie KROES
Member of the Commission