



EUROPEAN COMMISSION

Brussels, 21.5.2021
C(2021) 3492 final

PUBLIC VERSION

This document is made available for
information purposes only.

Subject: State Aid SA.58099 (2021/N) – Germany
Mobile communications Mecklenburg-Western Pomerania-DE

Excellency,

1. PROCEDURE

- (1) Following pre-notification on 16 July 2020, the German authorities notified the European Commission (the “Commission”) of a new measure to promote the development of public terrestrial mobile communications networks (“mobile networks”) in the German state of Mecklenburg-Western Pomerania on 22 March 2021.

2. DETAILED DESCRIPTION OF THE MEASURE

- (2) Unlike fixed networks, mobile networks offer the end user the option of continuously changing the location while communicating. There currently exist four generations of mobile communications technology with the fourth generation (4G) being based on LTE¹. A new fifth generation (5G) is currently in the process of being rolled out. While all mobile communications technology generations allow for mobile voice services, only the newer generations also allow for the provision of performant mobile data services. Mobile communications technology generations are different in many aspects but their most important differentiating factor being the increased overall capacity (newer generations provide for lower latency and higher transmission capacities). The latest generation (5G) will have additional functional capabilities, such as ultra-low latency, high reliability and the possibility to reserve part of the network for a particular use and guarantee a

¹ Long-Term Evolution (LTE) is a standard for high-speed wireless communication for mobile devices and data terminals.

Seiner Exzellenz Herrn Heiko MAAS
Bundesminister des Auswärtigen
Werderscher Markt 1
D - 10117 Berlin

certain quality of service. These features will allow 5G networks to support new services (for instance, health monitoring and emergency services, real-time control of factory machines, smart grids for renewable energy management, connected and automated mobility, precise fault detection and quick intervention).

- (3) In the digital age, access to services that rely on mobile networks has become essential for businesses and consumers. These services have become an indispensable part of everyday life for citizens. The performance of mobile communications technologies is developing so rapidly that they have become key technologies for the digital transformation in business and society. However, currently mobile network coverage does not meet everywhere the continuously growing expectations of business and society. Apart from existing mobile network coverage gaps, in particular frequent disrupting disconnections, as well as capacity and speed limitations reduce the user experience. In order to achieve the benefits of the Gigabit society, mobile voice and data services should be available everywhere - in households and for businesses, on roads, railways, waterways and tourist attractions as well as on agricultural areas. Thereby the provision of mobile voice and data services has to guarantee unrestricted mobility of the users.
- (4) The German state of Mecklenburg-Western Pomerania is one of the largest but most sparsely populated regions in Germany. The size of its territory encompasses an area of more than 23 000 km² and a population of around 1.6 million people. With a population density of 69 inhabitants per km², Mecklenburg-Western Pomerania has the lowest population density amongst all German states. About a third of the country's total population is concentrated in the five largest cities. This results in a relatively unequal spread of the population over the state's territory. Especially in the rural parts of the state, mobile network coverage still shows many gaps in which no mobile voice and mobile data services are available ("mobile network coverage gaps"). In consideration of the above, the objective of the measure is to close the gaps in mobile coverage in Mecklenburg-Western Pomerania and to support the availability of high-performance mobile voice and data services in areas where no mobile services are available currently or in the short term.

2.1. Objective and design of the measure

- (5) The German state of Mecklenburg-Western Pomerania therefore plans to invest in state-owned passive mobile communications infrastructure ("passive mobile infrastructure")² in order to provide the conditions for extending the coverage of mobile voice and data services ("mobile services") on its territory into areas where the market does not provide for any mobile network coverage at all. Support under the measure will be granted from the regional state budget of Mecklenburg-Western Pomerania through the establishment of dedicated trust assets. A state-owned company (the "FMI") will deploy the passive mobile infrastructure with those assets.

² Passive mobile infrastructure covered by this measure includes the mast, the foundation, the electricity connection, ducts and access routes and the costs for the acquisition of land where necessary. In contrast, active infrastructure and antenna systems cannot be supported.

- (6) The granting authority is the Mecklenburg-Western Pomeranian Ministry for Energy, Infrastructure and Digitalization (*Ministerium für Energie, Infrastruktur und Digitalisierung*).
- (7) The passive mobile infrastructure to be deployed will be leased to mobile communications network operators holding relevant spectrum licences in Germany ("Mobile Network Operators" or "MNOs") in order to ultimately close all mobile network coverage gaps and thus to reach full mobile network coverage on the territory of Mecklenburg-Western Pomerania.
- (8) The measure thereby also intends to reduce the existing regional inequalities and the digital divide within the state of Mecklenburg-Western Pomerania.
- (9) The passive mobile infrastructure to be deployed under this measure must be capable of supporting the roll out of 4G mobile networks (based on LTE technology) or above which can ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna³ and guarantee a latency period of less than 150 milliseconds.
- (10) Eligible costs under the measure are all expenses for the construction of the new passive mobile infrastructure and all related necessary expenses of the FMI such as administrative costs and future costs for maintaining the passive mobile infrastructure. Data connections, electricity costs, transmission technology and maintenance of transmission technology are not eligible for support and will be paid for by the MNOs.
- (11) The construction of the passive mobile infrastructure in all areas subject to this measure is planned to be finished by the end of 2025.
- (12) The deployed passive mobile infrastructure and the mobile services provided using such infrastructure will not be taken into account for any current or future coverage obligations for MNOs, whether they arise out of rights of use of spectrum or any other agreements between the MNOs and the Federal Network Agency (*Bundesnetzagentur*) or the Federal Ministry of Transport and Digital Infrastructure (*Bundesministerium für Verkehr und digitale Infrastruktur, BMVI*). All MNOs using the supported passive mobile infrastructure must make a commitment in this regard and the FMI will transmit that written commitment together with a documentation of (i) the current situation and (ii) the planned situation following the construction of the passive mobile infrastructure and activation of the network to the Federal Network Agency (*Bundesnetzagentur*) pursuant to its procedures. To that end, MNOs using the to be deployed passive mobile infrastructure will have to provide the FMI and the Mecklenburg-Western Pomeranian Ministry for Energy, Infrastructure and Digitalization (*Ministerium für Energie, Infrastruktur und Digitalisierung*) with all necessary data. This mechanism ensures that the measure will complement the existing mobile coverage obligations imposed on the MNOs.
- (13) The deployment of the passive mobile infrastructure must lead to a significant improvement in the provision of mobile services. The authorities in Mecklenburg-Western Pomerania consider a significant improvement in the provision of mobile

³ Data transmission rates at the final consumer may be significantly lower due to the fact that mobile communications networks are "shared media".

services to be achieved if mobile services ensuring data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds will be provided in areas that were before not served with mobile services at all.

- (14) The authorities in Mecklenburg-Western Pomerania confirmed that one and the same area may receive funding only once under this scheme. The overlap of the provision of mobile services from the passive mobile infrastructure deployed under this scheme in areas that are already served with mobile services will be kept as low as possible.
- (15) Funding may only be granted for projects that have not yet started or that were not already planned to be started.
- (16) The German authorities have confirmed that the granting of the aid is conditional on the decision of the Commission on the notified measure.
- (17) The legal basis of the measure is the *Grundsätze des Ausbaus der Mobilfunkversorgung in Mecklenburg-Vorpommern im Rahmen eines Masteninfrastruktur-Treuhandvermögens*⁴. The decision at hand forms also part of the legal basis.

2.2. Beneficiary

- (18) The direct beneficiary of the measure is the *Funkmasten-Infrastrukturgesellschaft Mecklenburg-Vorpommern mbH* (“FMI”), a limited liability company and wholly owned subsidiary of *Landesgesellschaft Mecklenburg-Vorpommern mbH*, itself a limited liability company that is majority owned and controlled by the state of Mecklenburg-Western Pomerania (50.50%). Other owners of this company are the *Landwirtschaftliche Rentenbank* (16.595%), the *Landkreistag Mecklenburg-Vorpommern e.V.* (0.05%), the *Bauernverband Mecklenburg Vorpommern e.V.* (0.05%) and the *Städte- und Gemeindetag Mecklenburg-Vorpommern e.V.* (0.05%). 32.755% of the company shares are owned by *Landgesellschaft Mecklenburg-Vorpommern mbH* itself.

2.3. Investment and business model

- (19) The FMI takes over the operational business under the measure and acts as project management company for the state of Mecklenburg-Western Pomerania. In particular, the FMI takes over (i) the project management, (ii) the conduct of market consultations, as appropriate, (iii) the planning of the passive mobile infrastructure, (iv) the purchase or other acquisition of land required for the deployment of the passive mobile infrastructure which becomes property of the state (v) the financial management, (vi) the construction of the masts as well as of other required passive mobile infrastructure, (vii) the leasing of the passive mobile infrastructure to MNOs, and (viii) the maintenance of the passive mobile infrastructure once it is built. Operation of the passive mobile infrastructure deployed under this scheme will be guaranteed for at least seven years (“earmarking period”).

⁴ Accessible at <https://www.regierung-mv.de/Landesregierung/em/Digitalisierung/mobilfunk/>.

- (20) The deployment of passive mobile infrastructure will take place for each site only if at least one MNO (i) has submitted a binding declaration of readiness for operating the passive mobile infrastructure to be deployed with a view to providing mobile services to end users that ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds, or (ii) has already signed a cooperation and lease agreement with the FMI to that effect.
- (21) However, once this has been secured, all interested MNOs, including those MNOs who have not previously bindingly declared their readiness for operating the passive mobile infrastructure to be deployed, will have the same opportunity to conclude a cooperation and lease agreement with the FMI for the later use of the site.
- (22) For this purpose, in principle, the sites to be deployed will be planned and built in such a way that they provide for sufficient passive infrastructure capacities to accommodate all four MNOs currently active in Germany at the same time.⁵
- (23) The conclusion of the cooperation and lease agreements with the MNOs will be made in a transparent and non-discriminatory manner. At one and the same site, the same terms of use shall be applied in a non-discriminatory manner to all interested MNOs. The cooperation and lease agreements will be concluded for at least seven years and shall also contain the obligation on MNOs to use the sites for the provision of mobile services to end users that ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds.

2.4. Budget and amount of State aid

- (24) The overall budget of the measure amounts to EUR 58 million.
- (25) Funding of the passive mobile infrastructure from other sources and under other schemes at federal level or at EU level is to be used by the FMI and is considered income of the dedicated trust assets (*i.e.* direct income of the state of Mecklenburg-Western Pomerania). The income of the dedicated trust assets also includes revenue from the lease of the passive mobile infrastructure to MNOs.
- (26) Co-financing by third parties, in particular by private companies, is therefore admissible and welcomed and likewise considered income of the dedicated trust assets, as is the equivalent value of land that the FMI acquires for free or at reduced cost for the deployment of the infrastructure.

2.5. Competitive selection procedure

- (27) The FMI as the direct beneficiary of the measure will be awarded the funds as an in-house company without public procurement procedure. To that effect, the state of Mecklenburg-Western Pomerania, via its majority shareholding in

⁵ If, in fact, in an individual case, there is only a lower need for passive infrastructure capacities because it is unlikely that all four MNOs will be interested in operating the site in parallel, the dimensioning of the site can be smaller, provided that the operating MNO(s) grant(s) the other MNO(s) access to their active equipment installed on the site (which means that the access seeking MNO(s) do(es) not need to install their own active equipment and thus do(es) not require passive infrastructure capacities).

Landesgesellschaft Mecklenburg-Vorpommern mbH, exercises a control over the FMI that gives it a decisive influence over strategic objectives and significant decisions of the latter. Moreover, the FMI has been founded for the purpose of being the project management company for the state of Mecklenburg-Western Pomerania under this measure and will not perform any other tasks but those entrusted to it under this measure. The German authorities have also confirmed that there is no direct private capital participation in the FMI.

- (28) The planning and construction of the passive mobile infrastructure will be tendered out by the FMI in pursuance of the applicable EU and national public procurement rules and will be coordinated with interested MNOs and building permit authorities. The Mecklenburg-Western Pomeranian Ministry for Energy, Infrastructure and Digitalization (*Ministerium für Energie, Infrastruktur und Digitalisierung*) will be informed about the beginning and the outcome of all tender procedures.
- (29) Selection will be made in all tenders on the basis of the economically most advantageous offer. All offers received in the course of the tender procedures will be assessed using qualitative award criteria established and published in advance by the FMI. To this end, the FMI will define minimum standards for the infrastructure to be built.

2.6. Public consultation and mapping

- (30) The *Grundsätze des Ausbaus der Mobilfunkversorgung in Mecklenburg-Vorpommern im Rahmen eines Masteninfrastruktur-Treuhandvermögens* as the legal basis of the measure describing its characteristics and the potential target areas were made public on the website of the government of the state of Mecklenburg-Western Pomerania on 28 May 2020. The Mecklenburg-Western Pomeranian Ministry for Energy, Infrastructure and Digitalization (*Ministerium für Energie, Infrastruktur und Digitalisierung*) asked for comments from all potentially interested stakeholders as well as from the general public by 19 June 2020.⁶
- (31) Already before the start of this public consultation, on 14 May 2020, the *Grundsätze des Ausbaus der Mobilfunkversorgung in Mecklenburg-Vorpommern im Rahmen eines Masteninfrastruktur-Treuhandvermögens* were sent for comments by 19 June 2020 directly to the most affected stakeholders. The addressees were (i) the four MNOs (*Telefónica Deutschland, Telekom Deutschland, Vodafone Deutschland, 1&1 Drillisch*), (ii) the Chambers of Commerce and Industry in Mecklenburg-Western Pomerania (*IHK Neubrandenburg, IHK zu Schwerin* and *IHK zu Rostock*) and the Chambers of Trades in Mecklenburg-Western Pomerania (*Handwerkskammer Schwerin* and *Handwerkskammer Ostmecklenburg-Vorpommern*), (iii) the Association of Municipal Councils in Mecklenburg-Western Pomerania (*Städte- und Gemeindetag Mecklenburg-Vorpommern e.V.*) and the Association of District Councils in Mecklenburg-Western Pomerania (*Landkreistag Mecklenburg-Vorpommern e.V.*), and (iv) *Bitkom e.V.*, the German Broadband Association *BREKO (Bundesverband Breitbandkommunikation e.V.)* and *VATM e.V.* as the

⁶ Publication was made at <https://www.regierung-mv.de/Landesregierung/em/Digitalisierung/mobilfunk/>.

three most relevant German industry associations in the telecommunications sector.

- (32) Comments were received from the MNO Vodafone Germany, from different Chambers of Commerce and Industry and Chambers of Trades, from the Association of District Councils and two districts, and from the German Broadband Association BREKO as well as from *VATM e.V.* In principle, the measure was welcomed as useful and necessary for the development of mobile network coverage in unserved areas of Mecklenburg-Western Pomerania. Some specific suggestions for optimisation of the measure were made and implemented in the notified measure by the authorities of the state of Mecklenburg-Western Pomerania.
- (33) As concerns the mapping, MNOs will be requested in a specific consultation to submit in writing within four weeks from the publication of the market consultation their potential deployment plans together with binding project plans and schedules. More precisely, MNOs must declare if they are planning to deploy, within three years from the start of the market consultation, a mobile network in an area, or in parts of an area, of the state of Mecklenburg-Western Pomerania that qualifies as a mobile network coverage gap.
- (34) In case of existing deployment plans, MNOs must indicate which areas exactly will subsequently be served with mobile services ensuring data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds.
- (35) In case of no existing deployment plans, the FMI will determine, on the basis of the results of the market consultation and other suitable sources of information and in consultation with the MNOs, the best locations for the construction of the required passive mobile infrastructure in order to close existing mobile network coverage gaps. The exact locations, the individual requirements for the passive mobile infrastructure as well as suitable access conditions will then be determined in coordination with those MNOs that have submitted a binding declaration of readiness for operating the passive mobile infrastructure in question with a view to providing mobile services to end users that ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds. However, access to the deployed passive mobile infrastructure will not be dependent on the submission of a binding declaration of readiness for operating the site (see also at recital (21) above).
- (36) The results of the market consultation will be shared with the MNOs.

2.7. Wholesale access conditions

- (37) Access to the supported passive mobile infrastructure will be open to all MNOs. All MNOs may lease the passive mobile infrastructure from the FMI on fair and non-discriminatory conditions. At one and the same site, access to facilities shall be provided on the same conditions.
- (38) The exact access conditions under the cooperation and lease agreements for each site will be determined in each case by negotiation between the FMI and those MNOs that have submitted binding declarations of readiness for operating the site in question. The agreed terms and conditions will thereafter also be applicable to

all other MNOs that express their interest in leasing the passive mobile infrastructure at a later point in time. The cooperation and lease agreements with each MNO are concluded for at least seven years. In case of disputes concerning the conditions for access, the Federal Network Agency shall take a decision solving the dispute.

- (39) In case of a sale of the deployed passive mobile infrastructure, the sales contract will include an obligation on the buyer to allow for continued non-discriminatory leasing of the passive mobile infrastructure to MNOs also in the future. Insofar as future agreements between the state of Mecklenburg-Western Pomerania and the German federal government allow for the passive mobile infrastructure to be ceded to a state-owned passive mobile infrastructure company at federal level, it must be ensured that this company complies with the obligations of the FMI with regard to the earmarking period and as described at recital (12) above.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid

- (40) According to Article 107(1) of the Treaty on the Functioning of the European Union (TFEU), "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market."
- (41) It follows that, in order for a measure to qualify as State aid, the following cumulative conditions have to be met: (i) the beneficiary of the measure has to be an 'undertaking', (ii) the measure has to be granted through State resources and be imputable to the State, (iii) the measure has to confer an economic advantage, (iv) which is selective, (v) and has an effect on trade and competition.

3.1.1. Undertaking

- (42) Undertakings within the meaning of Article 107(1) TFEU are entities engaged in an economic activity, regardless of their legal status and the way in which they are financed.⁷
- (43) The direct beneficiary of the measure is the FMI, a limited liability company that will deploy, operate and grant access to the passive mobile infrastructure, which includes the financial management, the construction of the infrastructure, the leasing of the passive mobile infrastructure to MNOs, and its maintenance. The construction and operation of and the granting of access to passive mobile infrastructure with a view to its future commercial exploitation by MNOs constitutes an economic activity. The FMI is therefore considered an undertaking within the meaning of Article 107(1) TFEU.

⁷ Judgment of the Court of Justice of 10 January 2006, *Cassa di Risparmio di Firenze SpA and Others*, C-222/04, ECLI:EU:C:2006:8, paragraph 107.

3.1.2. *State resources and imputability*

- (44) State resources include all resources of the public sector⁸, including resources of intra-State entities (decentralised, federated, regional or other)⁹ and, under certain circumstances, resources of private bodies. In cases where a public authority grants an advantage to a beneficiary, the measure is by definition imputable to the State, even if the authority in question enjoys legal autonomy from other public authorities.
- (45) In the case at hand, the measure is financed by the government of the state of Mecklenburg-Western Pomerania, an intra-State entity and public authority at regional level. The measure at stake is therefore considered to be granted through State resources and to be imputable to Germany.

3.1.3. *Economic advantage*

- (46) An advantage, within the meaning of Article 107(1) TFEU, is any economic benefit, which an undertaking could not have obtained under normal market conditions, that is to say in the absence of State intervention.¹⁰
- (47) The FMI will be granted, directly and without a competitive selection procedure, EUR 58 million in the form of dedicated trust assets from the state of Mecklenburg-Western Pomerania, which it will use for the deployment and operation of the passive mobile infrastructure in the target areas as well as for granting access to it and for the operational business in its capacity as project management company under the measure. This constitutes a benefit that the FMI could not have obtained under normal market conditions.
- (48) Hence, the Commission considers that the FMI receives an economic advantage within the meaning of Article 107(1) TFEU.

3.1.4. *Selectivity*

- (49) To fall within the scope of Article 107(1) TFEU, a State measure must favour 'certain undertakings or the production of certain goods'. In the case at hand, the measure is aimed at the FMI as the only beneficiary.
- (50) The measure thus targets only the FMI as the direct recipient of the aid to the exclusion, in principle, of all other companies active in the construction and operation of as well as in the granting of access to passive mobile infrastructure.
- (51) Furthermore, the measure does not concern general infrastructure that would be open on a non-discriminatory basis to anyone but is limited to infrastructure that may be used only for the provision of mobile services.

⁸ Judgment of the General Court of 12 December 1996, *Air France v Commission*, T-358/94, ECLI:EU:T:1996:194, paragraph 56.

⁹ Judgment of the General Court of 6 March 2002, *Territorio Histórico de Álava and Others v Commission*, Joined Cases T-92/00 and 103/00, ECLI:EU:T:2002:61, paragraph 57.

¹⁰ Judgment of the Court of Justice of 29 April 1999, *Spain v Commission*, C-342/96, ECLI:EU:C:1999:210, paragraph 41.

- (52) As concerns the identification of the particular legal framework against which selectivity can be assessed, it is noted that the construction and operation of and the granting of access to passive mobile infrastructure is a liberalised economic activity usually conducted by commercial operators on the basis of private investments in the market. In such a framework, economic activities normally do not receive subsidies. Indeed, the deployment and operation of passive mobile infrastructure in the target areas is not justified by the nature of the liberalised market and the regulatory framework. In any event, the features of this legal framework cannot provide any justification for the granting of subsidies.
- (53) In the context of this particular legal regime, the measure has the effect of conferring an advantage on the FMI over other companies active in the construction and operation of as well as in the granting of access to passive mobile infrastructure, which are, in the light of this legal regime, in a comparable factual and legal situation.
- (54) The measure is therefore selective.

3.1.5. Effect on trade and competition

- (55) As regards the construction and operation of and the granting of access to infrastructure, the Commission considers that an effect on trade between Member States or a distortion of competition is normally excluded in cases where at the same time (i) an infrastructure typically faces no direct competition, (ii) private financing is insignificant in the sector and Member State concerned and (iii) the infrastructure is not designed to selectively favour a specific undertaking or sector but provides benefits for society at large.
- (56) The present case concerns the deployment of passive mobile infrastructure in areas in the state of Mecklenburg-Western Pomerania without any mobile network coverage. When looking at the mobile communications sector in Germany in general, it must be concluded that there is significant private financing of the deployment of passive mobile infrastructure for the provision of mobile services all over the country.
- (57) Furthermore, the intervention of the state of Mecklenburg-Western Pomerania alters the existing market conditions by making possible the provision of mobile services in areas that currently could not be covered by using existing passive mobile infrastructure. A number of citizens and companies possibly located in the measure's target areas may subscribe to the services provided by the MNOs to the detriment of other potential market-based solutions, such as local wireless access and satellite communications services. Therefore, there is a potential distortion of competition.
- (58) Besides, the markets for electronic communications networks are open to competition between operators, which generally engage in activities that are subject to trade between Member States. The construction and operation of and the granting of access to a passive mobile infrastructure could as well be delivered by an undertaking from another Member State having cross border activities.
- (59) It must therefore be considered that the measure in question is capable of distorting competition and has an effect on trade between Member States.

3.1.6. Conclusion

- (60) The Commission concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Compatibility

- (61) Given the specificity of the mobile networks (as opposed to the fixed networks which do not allow for the provision of voice and data services “on the move”), the measure is not assessed under the Broadband Guidelines¹¹. Therefore, the Commission assesses the compatibility of the notified measure with the internal market pursuant to Article 107(3)(c) TFEU and in analogue application of the Broadband Guidelines, where appropriate.¹²
- (62) Article 107(3) TFEU provides for certain exemptions to the general rule set out in Article 107(1) TFEU that State aid is not compatible with the internal market. In particular, pursuant to Article 107(3)(c) TFEU it may be considered compatible: "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". In order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.¹³
- (63) Under the first condition, the Commission examines whether the aid is intended to facilitate the development of certain economic activities. Under the second condition, the Commission weighs up the positive effects of the planned aid for the development of the activities that the aid is intended to support and the negative effects that the aid may have on the internal market, in terms of distortions of competition and adverse effects on trade caused by the aid. In this regard, and also in analogue application of the Broadband Guidelines, the Commission assesses whether the State intervention is needed, appropriate and proportionate, ensuring also transparency of the aid.

3.2.1. Contribution to the development of an economic activity

- (64) The German authorities have submitted that the notified measure contributes to the development of the economic activities of deployment and operation of passive mobile infrastructure for the provision of mobile services to end users in target areas in the state of Mecklenburg-Western Pomerania.
- (65) The Commission acknowledges that by financing the deployment and operation of passive mobile infrastructure in the target areas and by granting access to it to all MNOs active in Germany at the same time, the authorities in Mecklenburg-Western Pomerania contribute to the development of mobile networks in

¹¹ Communication from the Commission - EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, OJ C 25, 26.1.2013, p.1.

¹² See also the Commission's decision in case SA.48324 – Mobilfunk Bayern, available at https://ec.europa.eu/competition/state_aid/cases/275029/275029_2029861_118_2.pdf.

¹³ Judgment of 22 September 2020, Case C-594/18 P, Austria v Commission (Hinkley Point C), ECLI:EU:C:2020:742, para. 19.

unserved areas and to the provision of mobile services to end users that ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and guarantee a latency period of less than 150 milliseconds. The measure would facilitate the development of the above-mentioned economic activities in areas where such activity is not present.

- (66) To ensure an incentive effect for the development of the indicated economic activities, operators in the German market will be asked if they intend to invest in passive mobile infrastructure in the scheme's potential target areas during the next three years. . Only in case such investments are not foreseen in the target areas the respective area will be covered under this measure. Also, the target areas would have not been supplied anyway on the basis of the coverage obligations attached to spectrum use, as shown by the commitments submitted by the MNOs to the authorities in Mecklenburg-Western Pomerania
- (67) Thus, the Commission acknowledges that the measure is intended to facilitate the development of these economic activities in a manner that promotes connectivity and access to mobile services by citizens and businesses in the Union in areas where these activities do not yet take place and would not take place in the coming years without the notified measure.

3.2.2. Weighting the positive effects of the aid with any negative effects in terms of distortions of competition and adverse effects on trade

3.2.2.1. Positive effects of the aid

- (68) The FMI will only invest in the deployment and operation of passive mobile infrastructure in mobile network coverage gaps and if at least one MNO, for each individual site, (i) has submitted a binding declaration of readiness for operating the to be deployed passive mobile infrastructure with a view to providing mobile services to end users that ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds, or (ii) has already signed a cooperation and lease agreement with the FMI to that effect.
- (69) This means that investments under the measure will lead in all cases to the availability of mobile services based on 4G mobile networks (based on LTE technology) or above in areas that are currently unserved and would, without the measure, remain unserved for at least the next three years following the market consultation that will be carried out (see at recitals (33) - (35) above). In such areas, mobile services can play an essential role in preventing digital divide, isolation and depopulation.
- (70) People living, working or travelling in the measure's target areas currently cannot use their smartphones on the move because they have no access to mobile services, which causes complications in numerous areas of society and the economy as it prevents data from flowing, people from collaborating wherever they are, and from connecting more objects to the internet. The measure will enable people living, working or travelling in its target areas to do exactly all that and to use the full benefits of mobile services based on 4G mobile networks (based on LTE technology) or above, ensuring continuous and seamless communication on the move. Finally, the problems posed, amongst others, by the

lack of mobile network coverage in emergency situations would equally be reduced.

- (71) The Commission acknowledges that access to mobile services forms part of the fundamental needs of a modern society and is in line with the Commission's ambition that there should be access to mobile services throughout the territory, in all places where people live, work, travel and gather.¹⁴ The European Electronic Communications Code also identifies the general objective of promoting connectivity and access to, and take-up of, very high capacity networks, including mobile networks, by all citizens and businesses of the Union.¹⁵
- (72) At the same time, the measure has the potential to reduce regional inequalities and the digital divide.

3.2.2.2. Limited negative effects: the aid measure cannot unduly affect trading conditions to an extent contrary to the common interest

- (73) Article 107(3)(c) TFEU requires the assessment of any negative effects on competition and on trade in the relevant product markets, that is, in this case, the deployment and operation of and access to passive mobile infrastructure and the provision of mobile services at the retail level to end users.
- (74) When designing the measure, the authorities in Mecklenburg-Western Pomerania ensured that the negative effects of the measure are limited. Indeed, the authorities in Mecklenburg-Western Pomerania ensured intervention in market failure areas only, and ensured that the State aid is (a) necessary, (b) appropriate as a policy instrument, (c) proportionate and (d) transparent.
 - (a) Necessity of the aid: absence of market delivery due to market failure and incentive effect
- (75) A market failure exists if markets, left to their own devices, without intervention fail to deliver an efficient outcome for society. This may arise, for instance, when certain investments are not being undertaken even though the economic benefit for society exceeds the cost.
- (76) The measure's final target areas will be identified by way of a specific consultation of the MNOs that will be carried out by the FMI (see at recitals (33) - (35) above). The identified final target areas will be mobile network coverage gaps for which the MNOs will have confirmed that they are not planning to invest in the deployment of mobile networks in the next three years following the specific consultation. This also gives sufficient certainty that the investments financed by the measure would not be undertaken within the same time frame without any State aid, which shows that the measure has an incentive effect (see to that effect also at recital (15) above).

¹⁴ Cf. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Connectivity for a Competitive Digital Single Market: Towards a European Gigabit Society, COM(2016) 587 final.

¹⁵ Cf. Article 3(2)(a) and (d) of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, OJ L 321, 17.12.2018, p. 36.

- (77) However, such investment would be very beneficial for society, bringing economic benefits as it would help to provide mobile services based on 4G mobile networks (based on LTE technology) or above to, in particular, many rural areas in Mecklenburg-Western Pomerania that currently do not have any mobile network coverage. The areas concerned would become interesting for businesses and economic activity, too.
- (78) Existing and future applications of the Gigabit society rely on performant mobile networks that are available on a balanced geographical basis. The need for mobility but also for having access to information “on the go”, together with the development of new forms of economic activity and ways of working which rely on seamless online access, require mobile services with increasingly higher performance.
- (79) Therefore, the potential existence of fixed line telephone and broadband connections in the measure’s final target areas does not imply that there is no market failure or that there are no important inequalities. Fixed line connections cannot meet the needs served by mobile services, namely to provide access to these services "on the move". Fixed broadband was found to be complementary (not substitutable) to mobile broadband.¹⁶
- (80) It can therefore be concluded that the measure addresses a market failure in its final target areas, where private operators do not provide mobile services and are not willing to invest on a commercial basis in the near future.

(b) Appropriateness of State aid as a policy instrument

- (81) It is required that State aid is an appropriate policy instrument to address the problem. Alternative instruments include mobile coverage obligations attached to spectrum rights of use and demand-side measures.
- (82) Regulatory measures to promote further mobile network coverage of the German territory have been attached to spectrum usage rights assigned to MNOs. By virtue of these obligations, by the end of 2019, 97% of the households in Mecklenburg-Western Pomerania had to be covered with mobile services providing transmission rates of at least 50 Mbps per antenna sector at the antenna. By the end of 2022, 98% of the households in Mecklenburg-Western Pomerania have to be covered with mobile services providing transmission rates of at least 100 Mbps per antenna sector at the antenna. Compliance with these obligations, however, will not provide full geographical coverage and mobile network coverage gaps will remain.
- (83) In light of this, the notified measure seems to be an appropriate tool in order to reduce significantly the number and size of all mobile network coverage gaps in Mecklenburg-Western Pomerania.

¹⁶ See Study prepared for the European Commission DG Communications Networks, Content & Technology by WIK Consult, “Future electronic communications product and service markets subject to ex-ante regulation Recommendation on relevant markets, Final report”, page 29-33, available at <https://ec.europa.eu/digital-single-market/en/news/study-future-electronic-communications-product-and-service-markets-subject-ex-ante-regulation> and Merger case M.8864 Vodafone/Certain Liberty Global Assets, paragraph 53.

- (84) Furthermore, the measure provides that MNOs must not report households, businesses and areas covered with mobile services provided from passive mobile infrastructure that has been financed by the measure to the Federal Network Agency (*Bundesnetzagentur*) under their coverage obligations arising out of the conditions for the use of the spectrum they have acquired. To this end, all MNOs using passive mobile infrastructure financed by the aid measure must make a commitment to not report the households, businesses and areas covered with mobile services provided from that infrastructure under their coverage obligations and confirm their commitment in writing to the FMI. This written confirmation will be sent together with a documentation of (i) the current situation and (ii) the planned situation following the construction of the passive mobile infrastructure and the activation of the network, to the Federal Network Agency (*Bundesnetzagentur*) (see also at recital (12) above).
- (85) This mechanism ensures that the aid measure will in fact complement the existing mobile network coverage, which results from the fulfilment of the obligations attached to the spectrum usage rights awarded to the MNOs.
- (86) As regards demand-side measures, these are not an appropriate means to solve the problem as the required passive mobile infrastructure does not yet exist in the target areas and its deployment would not be profitable for MNOs due to the low population density in these areas.
- (87) The Commission therefore considers the measure to be an appropriate policy instrument for closing mobile network coverage gaps in Mecklenburg-Western Pomerania.

(c) Proportionality: Aid limited to the minimum necessary

- (88) In assessing the proportional character of the measure, the Commission has highlighted a number of necessary conditions to minimise the State aid involved and the potential distortions of competition.

(aa) *Detailed mapping, analysis of coverage and public consultation*

- (89) It should be clearly identified which geographic areas will be covered by the measure and it should also be given adequate publicity to the main characteristics of the measure and to the list of target areas by publishing the relevant information of the project and inviting the MNOs to comment.
- (90) The measure will finance and deploy passive mobile infrastructure exclusively in mobile network coverage gaps on the territory of Mecklenburg-Western Pomerania.
- (91) All potential target areas have been identified and were communicated to the public together with the *Grundsätze des Ausbaus der Mobilfunkversorgung in Mecklenburg-Vorpommern im Rahmen eines Masteninfrastruktur-Treuhandvermögens* as the legal basis of the measure describing its characteristics in the public consultation that took place in spring 2020 (see at recital (30) above). In addition to that, the four MNOs and other clearly affected stakeholders, such as industry associations and local chambers of commerce and trade, were addressed and consulted also directly and many have provided comments on the

planned scheme and its potential target areas (see at recitals (31) and (32) above). According to the German authorities, no concerns have been raised with regard to the appropriateness of the measure or the potential crowding out of private investments.

- (92) The final target areas will be identified as a result of a specific consultation to be carried out by the FMI before the start of the implementation of the measure (see at recitals (33) - (35) above).
- (93) The Commission considers this sufficient to ensure proper publicity and to identify clearly the geographic areas that will be covered by the measure.

(bb) Competitive selection process and most economically advantageous offer

- (94) As a general rule a competitive selection process should ensure that there is transparency for all investors wishing to bid for the implementation and/or management of the measure and the aid granting authority shall establish qualitative award criteria on which the submitted bids are assessed.
- (95) However, the authorities in Mecklenburg-Western Pomerania chose to implement the measure via a direct investment model in which the state of Mecklenburg-Western Pomerania deploys, operates and maintains the passive mobile infrastructure to be used for the provision of mobile services ensuring data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds through the state-owned in-house company FMI. In order to ensure that the recourse to a direct investment model does not disproportionately distort competition but, to the contrary, ensures a pro-competitive use of the state-financed passive mobile infrastructure, the state of Mecklenburg-Western Pomerania put in place, in line with the Broadband Guidelines¹⁷, a number of competitive safeguards:
- The FMI as the direct beneficiary and as the company that will deploy, operate and grant access to the passive mobile infrastructure will limit its activities on the final target areas as identified as a result of the to be conducted market consultation and will not expand to other commercially attractive areas and regions in and outside of Mecklenburg-Western Pomerania;
 - The FMI will limit its activities to maintaining the passive mobile infrastructure and to granting access to it, but will not engage in competition at the retail level with MNOs;
 - The FMI will have an accounting separation between the trust assets of the state of Mecklenburg-Western Pomerania that are dedicated to the measure and any other funds at its disposal.
- (96) The Commission concludes that these safeguards are sufficient to avoid undue distortions of competition as far as the selection of the FMI as the direct beneficiary without public procurement procedure is concerned.

¹⁷ See paragraph 78(c) and footnote 96 of the Broadband Guidelines.

- (97) The state-financed passive mobile infrastructure will be leased to MNOs (see at recital (7) above) and all four MNOs active in Germany will have the opportunity to conclude lease agreements with the FMI for all sites and use them, as a general rule, all at the same time (see at recitals (21) and (22) above). The conclusion of the lease agreements will be made in a transparent and non-discriminatory manner (see at recital (23) above), which will ensure equal treatment of MNOs.
- (98) On the basis of the information provided by the German authorities (see at recitals (28) and (29) above) the Commission is moreover satisfied that all bids that will be received within the scope of the competitive selection procedures regarding the planning and construction of the passive mobile infrastructure will be assessed according to pre-established qualitative award criteria.
- (99) The Commission considers the requirements with regard to the competitive selection process and the most economically advantageous offer fulfilled.

(cc) Technological neutrality

- (100) The notified measure provides that mobile services eventually provided by using the state-financed passive mobile infrastructure shall ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds (see at recital (9) above). Any technology capable of supporting the provision of mobile services with those requirements is eligible. Also, wholesale access will be offered on non-discriminatory terms in line with the principle of technological neutrality.
- (101) LTE and 5G technology are currently capable of offering these transmission rate and latency requirements. LTE-based mobile networks and newer generations offer, if compared with other wireless networks, a superior performance for the combination of the essential qualitative criteria of voice and data transmission as well as unrestricted mobility. Namely, LTE technology and newer generations of mobile networks fulfil the following requirements: (i) they enable operators to provide services of advanced voice communication and high-speed data transmission, (ii) they allow the use of a single device widely available for receiving both types of services, (iii) they allow a wider range of roaming possibilities and (iv) they can operate on the basis of increasingly more available (also re-farmed) spectrum allocations.¹⁸
- (102) In view of the measure's technological requirements for the mobile services to be provided via the state-financed passive mobile infrastructure, other possible wireless technologies generally do not seem capable of offering an access equivalent in terms of characteristics and quality to the access provided by mobile networks.
- (103) WiFi technologies are, as a general rule, not equivalent as they do not provide full mobility. LTE technology networks (and newer generations) offer much more coverage and wider reach than WiFi solutions, which force users to depend upon hotspots in each area and to switch after a short distance to another hotspot and possibly provider. With LTE technology on the other hand, users will be assured

¹⁸ The envisaged deployment of LTE technology corresponds to the requirement laid down in Article 6(3) of the Commission's Radio Spectrum Policy Programme (Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012, establishing a multiannual radio spectrum policy programme, OJ L 81, 21.3.2012, p.7) to foster network upgrades to the latest most efficient technology.

of seamless wide-area connectivity. In other words, whilst users would have to log in to a new WiFi network once they are leaving their current network, connectivity with LTE technology is not interrupted when moving into another antenna sector.

- (104) WiFi networks are also inferior in terms of online security, which is particularly important for business users. Whilst LTE networks (and networks based on newer generations) offer enhanced privacy, security, and safety, WiFi solutions do not, especially not on mobile devices. Finally, WiFi solutions have much higher latency and varying quality of the services offered.
- (105) As regards satellite technology solutions, whilst being a full mobile solution from the technological point of view¹⁹, satellite technology has become in practice rather a substitute for fixed-line electronic communications services since the devices are of larger size and weight than mobile devices, which makes them unsuitable for the use as mass market mobile device in the gigabit society. A mobile services user with a customary smartphone entering a mobile network coverage gap would not be able to switch to a potentially existing satellite connection using that same device. He would therefore not be able to continue communicating seamlessly if a satellite connection were the only one available in the measure's final target areas. Finally, in addition to their much higher latency, satellite services and devices are generally also much more expensive than LTE services and devices, which raises issues of affordability.
- (106) The Commission considers this to be sufficient to ensure the respect of the principle of technological neutrality.

(dd) Step change

- (107) The measure provides for a "step change" in terms of mobile network and services availability. The FMI will make significant new investments by financing the deployment, operation and maintenance of passive mobile infrastructure in mobile network coverage gaps. This will enable the provision of mobile services to end users in currently unserved areas. The mobile services that will be provided via the state-financed passive mobile infrastructure will ensure data transmission rates of at least 50 Mbps per antenna sector at the antenna and a latency period of less than 150 milliseconds. The passive mobile infrastructure will only be built if it is guaranteed that for every site at least one MNO, but ideally several or all MNOs at the same time, will provide the mobile services to end users (as confirmed by the binding declarations of readiness to use the infrastructure and the pre-signed cooperation agreements, see at recital (20) above). The deployment of the passive mobile infrastructure under the measure will thus bring significant new capabilities to the market in terms of mobile services availability, capacity and speeds. It will also bring significant new capabilities to the market in terms of mobile service competition as all MNOs will be able to use the state-financed passive mobile infrastructure at the same time.

¹⁹ Mostly used in areas not covered by mobile communications services, for example on oceans, in deserts and other regions without human settlement.

(ee) *Wholesale access conditions*

- (108) Third parties should have effective wholesale access to a subsidised infrastructure, under market conditions.
- (109) As explained at recitals (37) - (39) and at recital (97) above, all four MNOs currently active in Germany will have open, fair and non-discriminatory access to the state-financed passive mobile infrastructure. The access to the passive mobile infrastructure will not be limited in time and the access obligations will be enforceable irrespective of any change in ownership, management or operation of the subsidised infrastructure.
- (110) The exact access conditions under the lease agreements for each site will be determined in each case by negotiation between the FMI and those MNOs that have submitted binding declarations of readiness for operating the site in question. The agreed terms and conditions will thereafter also be applicable to all other MNOs that express their interest in leasing the passive mobile infrastructure at a later point in time. All MNOs will be informed of the exact access conditions for each site and it will be clarified that the respective conditions are the same for all MNOs.
- (111) Disputes among operators regarding wholesale access conditions, including pricing, will be submitted to the Federal Network Agency that should take the final decision.
- (112) This approach will ensure transparency and the equal and non-discriminatory treatment of MNOs also with regard to the wholesale access pricing.

(ff) *Monitoring and claw-back mechanism*

- (113) The German authorities have committed to closely monitor the implementation of aid measures during the entire duration of the projects.
- (114) A claw-back mechanism is not required. The state-financed passive mobile infrastructure will be owned by the state of Mecklenburg-Western Pomerania. It will be operated and managed by the fully state-owned in-house company FMI, which will limit its activities at the wholesale level by maintaining the infrastructure and by granting open, fair and non-discriminatory access to all MNOs.
- (115) Any revenue from the FMI's project management activities and the operation of the passive mobile infrastructure will be considered income of the dedicated trust assets and thus direct income of the state of Mecklenburg-Western Pomerania (see at recitals (25) and (26) above).

(gg) *Transparency and reporting*

- (116) The authorities in Mecklenburg-Western Pomerania have committed to publish on a central website at least the following information on the measure: the full text of the approved *Grundsätze des Ausbaus der Mobilfunkversorgung in Mecklenburg-Vorpommern im Rahmen eines Masteninfrastruktur-Treuhandvermögens* and any potential implementing provisions, the name of the FMI as the beneficiary and the aid amount in the form of dedicated trust assets. Such information shall be published after the granting decision has been taken

and shall be kept for at least ten years and shall be available for the general public without restrictions. The FMI is obliged to provide entitled third parties with comprehensive and non-discriminatory access to information on the state-financed passive mobile infrastructure deployed under the measure.²⁰

- (117) Furthermore, the Mecklenburg-Western Pomeranian Ministry for Energy, Infrastructure and Digitalization (*Ministerium für Energie, Infrastruktur und Digitalisierung*) as the aid granting authority shall consolidate key information on the implementation of the measure and report every two years to the European Commission.²¹
- (118) The German authorities have confirmed that these requirements regarding transparency and reporting will be respected.

(hh) Conclusion on proportionality

- (119) In light of the considerations at recitals (89) - (118) above, the Commission considers that the State aid involved and the potential distortions of competition are limited to the minimum necessary under the measure.

(d) Conclusion on limited negative effects

- (120) The measure will only finance the deployment, operation and maintenance of passive mobile infrastructure in mobile network coverage gaps, determined following a specific consultation. The Commission recalls that the measure's final target areas are currently unserved by any mobile services, meaning that a customary end user smartphone has no reception and thus no access to any mobile services in these areas. The market consultation to be carried out by the FMI will further ensure that only those mobile network coverage gaps will qualify as final target areas where, without State aid, no company is willing to invest in passive mobile infrastructure in the next three years following the market consultation.
- (121) All four MNOs on the German market are incentivised by the measure to commit to private investments in passive mobile infrastructure in the measure's potential target areas during the market consultation to be carried out by the FMI in order to avoid competition with other MNOs in these areas, as a result of the wholesale access obligations. The Commission therefore considers that the measure does not crowd out any private investment.
- (122) In addition to that, following the intervention by the state of Mecklenburg-Western Pomerania in these areas, the FMI will grant open and effective access to the infrastructure to all MNOs under non-discriminatory conditions.
- (123) By enabling all MNOs active on the German market to offer their services in a competitive fashion, similarly to the profitable areas in other parts of the state of

²⁰ This information should be regularly updated (for example every 6 months) and shall be available in non-proprietary formats.

²¹ Such information should at least include, besides the information already made public on the central website, the date when the state-financed passive mobile infrastructure is put into use, the number of MNOs using it (for each single site), the number of businesses/households covered by the mobile networks using the state-financed passive mobile infrastructure and the take-up rates in the final target areas.

Mecklenburg-Western Pomerania, the notified measure avoids the creation of local monopolies which would result from a use of the passive mobile infrastructure by only one MNO.

- (124) Therefore, any negative effects of the measure, if any, are expected to be limited.

3.2.2.3. Transparency

- (125) The aid under the measure will be awarded in a transparent manner. Member States, economic operators, the interested public and the Commission will have easy access to all relevant information about the aid awarded under the measure (see at recitals (116) - (118) above).

3.2.2.4. Weighting the positive effects of the aid with any negative effects in terms of distortions of competition and adverse effects on trade

- (126) A carefully designed State aid scheme should ensure that the overall balance of the effects of the measure is positive in terms of avoiding adversely affecting trading conditions to an extent contrary to the common interest.
- (127) The measure provides for a “step change” in terms of mobile network and services availability. The measure therefore contributes to the development of the economic activities of mobile network deployment and operation and provision of mobile services to end users in mobile network coverage gaps in the state of Mecklenburg-Western Pomerania (see at recitals (64) - (67) above), which is in line with wider ambitions in terms of mobile services at Union level (see at recital (71) above). The deployment of passive mobile infrastructure in the measure’s final target areas would not be made without the measure (see at recitals (75) - (80) above). The measure will thus contribute to delivering mobile services in areas not served by such services, allowing thus for the mobility of users and seamless connectivity on the move. The measure will also provide better choice for consumers, higher quality and innovation and help to reduce inequalities and the digital divide in Mecklenburg-Western Pomerania. The overall impact on competition is deemed to be positive.
- (128) Moreover, as shown in section 3.2.2.2.(c) above, the measure is designed to keep negative effects on competition to a minimum (see at recitals (88) - (119) above). In particular, by granting access to the supported passive mobile infrastructure to all MNOs as described in recitals (37) to (39) above the measure avoids the creation of local monopolies and aims at creating additional competition in target areas.
- (129) In light of the above, the positive impact of the aid measure in developing the economic activity at issue outweighs any potential negative effects on competition and trade. On balance, the measure is in line with the objectives of Article 107(3)(c) TFEU as it facilitates the deployment and operation of passive mobile infrastructure and the provision of mobile services. Moreover, such aid does not adversely affect competition to an extent contrary to the common interest.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

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