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PUBLIC VERSION

WORKING LANGUAGE

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**Subject: State aid SA. 35233 (2012/N) – Italy
Broadband Marche-Amendment**

Dear Sir,

1. PROCEDURE

- (1) On 2 August 2012, the Italian authorities notified to the Commission, in accordance with Article 4 of Commission Regulation (EC) N° 794/2004¹, increases in the aid intensity of an authorised aid scheme. The original aid measure was approved by the Commission in April 2011 as State aid case SA.31851 (N 499/2010).²

2. DESCRIPTION OF THE MEASURE

- (2) The Italian authorities notified the increase in aid intensity under the simplified notification procedure laid down in Article 4 of Commission Regulation (EC) No 794/2004. This amendment does not fall within the scope of the simplified notification. However, the amendment is of a minor character and the scheme remains essentially the same as that approved by the Commission in state aid case SA.31851 until 31 December 2015.

¹ Commission Regulation (EC) N° 794/2004 of 21 April 2004 implementing Council Regulation (EC) N° 659/1999 laying down detailed rules for the application of Article [113] of the TFEU.

² State aid decision C (2011) 2546 final "*Broadband Marche*" of 11 April 2011, published in the OJ C/258/2011 of 10 September 2011.

S.E Giulio Terzi di Sant'Agata
Ministero degli Affari Esteri
Piazzale della Farnesina, 1
00135 Roma

- (3) The scheme seeks to offer enhanced access to broadband technology in Marche, in areas with no broadband connectivity or low broadband speeds.
- (4) The present amendment concerns an increase of the aid intensity from 40% to 60% for the part of the measure aiming at incentivising commercial operators to provide Internet enhanced connectivity in currently underserved areas.
- (5) The Italian authorities explained that the reason for the aid intensity increase was the lack of interest of private operators to roll out the infrastructure since the aid measure was introduced last year. Indeed, after the deadline to submit their application as set in the public tender published in the Official Journal of the Marche Region³, no applications were presented, nor were they after the extension of the said deadline. The subsequent consultation of the operators showed that the subsidy of 40% of the costs for the activation of the network and provision of services was insufficient to overcome the profitability gap and thus remedy the market failure.
- (6) Hence, in order to implement the scheme in full, the Italian authorities submit that the aid intensity needs to be increased. The notified aid intensity increase will be financed from the original budget which amounts to 7.46 million EURO.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) of the TFEU

- (7) The measure constitutes State aid within the meaning of Article 107(1) TFEU, as already described in Commission decision SA.31851 (N 499/2010)⁴.

3.2. Compatibility of the aid

- (8) As explained above, the notified amendment refers to an authorised aid scheme, which was originally approved by the Commission on 11 April 2011 as State aid case SA.31851 as being compatible with the internal market under Article 107(3)(c) TFEU. Besides the aid intensity, Italy will not alter any other conditions on which the original scheme was approved by the Commission.
- (9) Therefore the Commission sees no reason to depart from its previous positive compatibility assessment in SA.31851 (N 499/2010). Italy has demonstrated that a higher aid intensity is necessary in order to overcome the profitability gap. Furthermore, the original ceiling of 40% was introduced by Italy itself without this being required by the Broadband Guidelines⁵. Thus, the aid can be considered to be compatible with the internal market in accordance with Article 107(3)(c) TFEU, on the basis of the conditions stipulated in the Broadband Guidelines.

³ BUR Marche n.99 del 24/11/2011

⁴ For reference, see footnote 2.

⁵ Communication from the Commission — Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks Text with EEA relevance, OJ C 235, 30.9.2009, p. 7–25.

- (10) In view of the duration of the scheme (until the 31 December 2015), the Commission would like to draw the Italian authorities' attention to future revisions of the Guidelines, which might make appropriate measures to the scheme necessary.

4. CONCLUSION

- (11) The Commission therefore finds the notified amendment of the measure SA.31851 is compatible with the internal market in accordance with Article 107(3)(c) of the TFEU and has accordingly decided not to raise objections to the notified measure.
- (12) The Commission reminds Italy to submit annual reports on the application of the aid scheme.
- (13) The Commission furthermore reminds Italy that the Commission has to be notified, according to Article 108(3) TFEU, of all plans to prolong or alter this aid scheme.

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State Aid Greffe
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Yours faithfully,
For the Commission

Joaquín Almunia
Vice-president