



ΕΥΡΩΠΑΪΚΗ ΕΠΙΤΡΟΠΗ

ΓΕΝΙΚΗ ΓΡΑΜΜΑΤΕΙΑ ΤΗΣ ΕΠΙΤΡΟΠΗΣ

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Θέμα: ΑΠΟΦΑΣΗ ΤΗΣ ΕΠΙΤΡΟΠΗΣ (7.1.2019)

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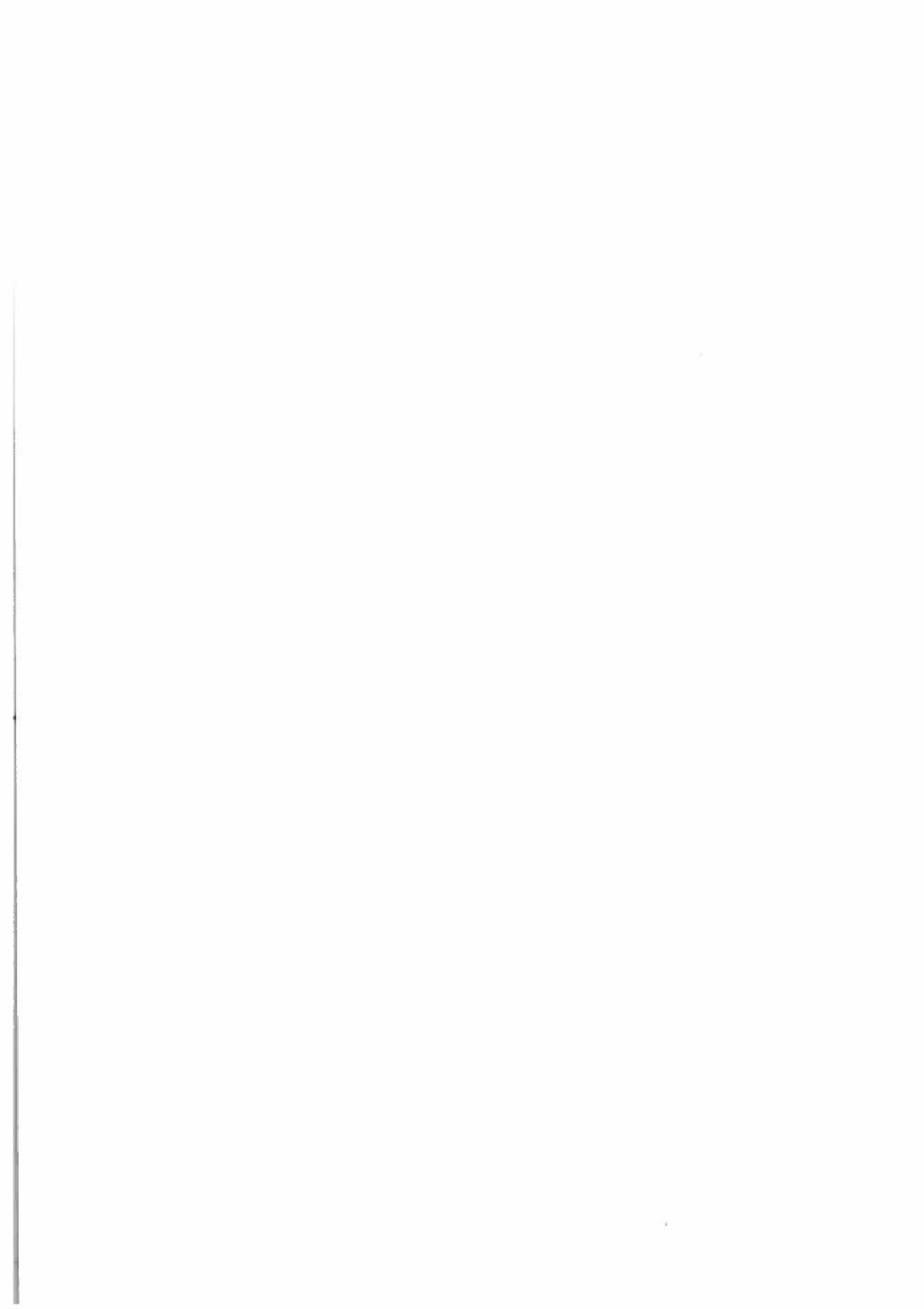
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Robert ANDRECS

Συνημμ. Έγγρ : C(2018) 8363 final

EL







EUROPEAN COMMISSION

Brussels, 7.1.2019
C(2018) 8363 final

**Subject: State Aid SA. 49935 (2018/N) – Greece
Superfast Broadband (SFBB) Project**

Sir,

1. SUMMARY

- (1) I am pleased to inform you that the European Commission has assessed the scheme "Superfast Broadband (SFBB) Project" ("SFBB" or the "measure") and decided not to raise objections as the State aid contained therein is compatible with Article 107(3)(c) Treaty on the Functioning of the European Union ("TFEU").

2. PROCEDURE

- (2) Following informal contacts, the Greek Authorities pre-notified the measure on 13 April 2018.
- (3) Various updates of the pre-notification documents and in particular of the ex-post evaluation plan were submitted by the Greek authorities between 24 April 2018 and 10 October 2018.
- (4) By letter of 6 June 2018, the Greek authorities have provided a language waiver and exceptionally agreed to waive their rights deriving from Article 342 TFEU in conjunction with Article 3 of the EC Regulation 1/1958 and to have the planned Decision on the proposed support measures adopted and notified in English.
- (5) The measure was notified to the Commission on 1 November 2018. Greece confirmed that the language waiver letter of 6 June 2018 is part of the notification.

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3. CONTEXT

- (6) There is widespread consensus on the crucial impact on, and benefits to, economies and societies of ubiquitous broadband connectivity: it supports business efficiencies and growth, ensures that economies can remain competitive, and enables citizens to enhance their skills and learning and to benefit from online services and offerings, including key public services.
- (7) Broadband connectivity is of strategic importance for European growth and innovation in all sectors of the economy and to social and territorial cohesion. The Europe 2020 Strategy ("EU2020") sets ambitious targets for broadband development. One of its flagship initiatives, the Digital Agenda for Europe ("DAE")¹, acknowledges the socio-economic benefits of broadband and sets the following targets for broadband development in Europe: (i) to bring basic broadband to all Europeans by 2013 and by 2020, (ii) for all Europeans to have access to much higher internet speeds of above 30 Mbps and (iii) for 50% or more of European households to *subscribe* to internet connections above 100 Mbps.
- (8) The DAE was complemented in 2016 by the Gigabit Communication² which sets out a vision for a European Gigabit society, where the development of very high capacity networks (VHCN) should enable the widespread use of products, services and applications in the Digital Single Market.
- (9) The Gigabit Communication defines as strategic objectives for 2025: (i) 100% coverage of all households with download speeds of at least 100 Mbps, upgradeable to 1 Gbps, (ii) 1 Gbps symmetric for all main socio-economic drivers such as schools, transport hubs and main providers of public services as well as digitally intensive enterprises, (iii) uninterrupted 5G coverage for all urban areas and all major terrestrial transport paths until 2025.
- (10) However, despite progress Europe's average performance in broadband coverage and take-up is still lagging behind EU targets. In mid-2017, the EU coverage with speeds above 30 Mbps was 80% and 50% in Greece compared to the EU target of 100% coverage by 2020 and the uptake of broadband services offering download speeds above 100 Mbps was 15.4% compared to the EU target of 50% by 2020.
- (11) With policy strongly emphasizing actual coverage, there is scope for demand-side measures to complement supply-side measures by supporting take-up. Among such demand-side measures, vouchers schemes may be used to support subscriptions of broadband services by reducing the cost for end-users (consumers and business).
- (12) The SFBB project is a demand stimulation vouchers scheme that aims to maximize the take-up of broadband services providing internet access with download speed

¹ Communication from the Commission to the European Parliament, the Council, the Social Committee and the Committee of the Regions, COM (2010) 245 final *A Digital Agenda for Europe*.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM (2016) 587 final *Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society*, accompanied by the *Commission Staff Working Document* (14.9.2016 SWD(2016) 300 final).

of at least 100 Mbps readily upgradable to 1Gbps. According to the Digital Economy and Society Index ("DESI") 2018 report³ in Greece the take up of NGA services is the lowest in EU. According to Greece, one of the main reasons is the high fixed broadband prices, which are significantly higher than the EU average (Greece ranks 25th in terms of Broadband Price Index according to the DESI 2018, one rank lower than the previous year).

- (13) The Greek Authorities have carried out a mapping and market assessment exercise in 2018 aiming to assess the presence of suitable NGA infrastructures as well as the number of service providers in the intervention areas. Based on this exercise, the Greek Authorities have confirmed that suitable NGA infrastructures are present or will be deployed in the near future and that there are at least 4 service providers able to provide the required SFBB services.
- (14) According to the Greek Authorities at the end of 2019, 60% of the total access lines are expected to qualify as NGA networks. FTTC/VDSL⁴ vectoring and FTTC/G.Fast⁵ will be the main architecture/technology used in NGA deployment, since it will cover almost 95% of the subscribers (approx. 2 600 000 subscribers) in the allocated outdoor cabinets. The rest of these lines (133,000 subscribers) will rely on FTTH/GPON⁶. The latter 133,000 lines will be the target of the notified measure and are offered by at least four telecommunication operators.
- (15) The Greek Authorities have indicated that the infrastructure able to provide broadband services with such characteristics is already available but that take-up is unsatisfactory.
- (16) Greece considers the measure necessary to support take-up by reducing the acquisition costs for SFBB services especially in the context of the current economic situation in Greece, where the Greek authorities have noted hesitation on the part of citizens in subscribing to any service which would increase the monthly obligations of their households.
- (17) The measure is intended to contribute to bridge the longstanding digital divide in Greece.

4. DESCRIPTION OF THE MEASURE

Granting Authority

- (18) The granting authority is the Ministry of Digital Policy, Telecommunications and Media. The vouchers will be directly paid to the service providers chosen by the end-users to provide the SFBB service.

³ <https://ec.europa.eu/digital-single-market/en/scoreboard/greece>

⁴ FTTC: Fiber To the Cabinet; VDSL: Very-high-bit-rate digital subscriber line.

⁵ G.fast is a digital subscriber line (DSL) protocol standard for local loops typically shorter than 500 m, with performance targets typically between 100 Mbps and 1 Gbps.

⁶ FTTH: Fiber To The Home; GPON: Gigabit Passive Optical Network.

Objective

- (19) The measure is a vouchers scheme which aims to stimulate demand for SFBB services (see recital (25)) that are or will be offered by any eligible telecommunication operators (see recital (34)).

Legal basis

- (20) The notified State aid scheme is based on the following legal acts: the “Superfast Broadband Voucher Project (Superfast Broadband)” - Joint Ministerial Decision no. 39734/207 (Government Gazette B’ 1907/29.05.2018) of the Ministers of Digital Policy Telecommunications and Media, Economy and Development, and Education Research and Religious Affairs) and the “Participation Guide for the Superfast Broadband Voucher Project (Superfast Broadband)” - Ministerial Decision no. 151.137/337-Γ/04.06.2018 (Diavgeia Internet Uploading Number (ΑΔΑ): 6ΑΡ646ΜΠΥΓ-ΓΡ3) of the Minister of Digital Policy Telecommunications and Media.
- (21) The Greek Authorities have also confirmed that the present State aid decision is an integral part of the legal basis.

Duration

- (22) The measure will enter into force after approval by the Commission. Citizens and undertakings⁷ will be able to benefit from SFBB vouchers for a maximum of 24 months following the entry into force of the scheme and the activation of vouchers. The activation of the vouchers will be possible until 31 March 2020. An extension of this deadline may be considered subject to a positive evaluation of the measure, the availability of funds and subject to re-notification under State aid rules.

Budget

- (23) The maximum overall budget of the measure is estimated at EUR 50 million. The measure will be funded from national resources, under the general budget of the State. Any future potential modification of the Scheme will have to be notified in line with Article 4 of Commission Regulation (EC) 794/2004 as amended by Commission Regulation (EU) 2015/2282.⁸

Standstill obligation

- (24) The Greek Authorities have confirmed that the granting of the aid is conditional upon the decision of the Commission on the notified SFBB project, pursuant to the standstill clause of Article 108(3) TFEU and to Article 3 of Council Regulation No

⁷ Greece clarified that vouchers would be extended not only to citizens but also to the self-employed.

⁸ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (Official Journal L 140, 30.04.2004, p. 1-134), as amended by Commission Regulation (EU) 2015/2282 of 27 November 2015 amending Regulation (EC) No 794/2004 as regards the notification forms and information sheets (OJ L 325, 10.12.2015, p. 1-180).

2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union⁹, according to which new aid measures must not be put into effect before the Commission has taken a decision authorising it.

Scope of the notified measure

- (25) SFBB services are broadband services, whether on a stand-alone or a bundled service offer basis, which include at least the following components: (i) the necessary terminal equipment (modem/router) for operation, and (ii) access to the Internet with download speed of at least 100Mbps readily upgradeable to 1Gbps. In addition, Greece imposes a condition that, in order to benefit from the vouchers scheme, any operator must open its network via wholesale access available on an open and non-discriminatory basis to any telecommunication service provider, offering a FTTH/Virtual Local Unbundling (VLU) product¹⁰ able to ensure a downlink speed of at least 100Mbps, directly upgradeable¹¹ to 1Gbps, and a wholesale service price of less than or equal to the regulated wholesale prices approved by the Greek National Regulatory Authority ("NRA") EETT, as applicable.
- (26) The Greek Authorities have clarified that the obligation to offer a FTTH/VLU wholesale product aims to guarantee freedom of choice to end-users, in order to ensure that end-users may procure such services from various operators in addition to vertically integrated operators. The NRA has confirmed that so far FTTH/VLU is the only wholesale product whose technical characteristic and operational provisions are sufficient to enable all operators potentially interested in offering SFBB services to efficiently use wholesale access on an open, non-discriminatory basis from any infrastructure owner. However, the Greek authorities have confirmed that should the NRA also validate other wholesale access product for these services, this will be taken into account.
- (27) The SFBB vouchers will be available to citizens and undertakings who wish to obtain a new SFBB service (or to upgrade an existing service to an SFBB service) from any telecommunication service provider able to offer such services over a suitable existing broadband infrastructure.
- (28) The Greek authorities have stated that there is sufficient infrastructure to offer such services even if take-up remains low (see recitals (13) and (15))¹². According to the

⁹ OJ L 248 of 24.9.2015, p.9.

¹⁰ With technical specifications and minimum features that comply with the Greek National Regulatory Authority (EETT) Decision 808/002/27.4.2017.

¹¹ The service is considered to be directly upgradeable when its actual download speed can be upgraded to 1Gbps in up to 3 business days, without requiring works in the end-user's residence, except replacing the terminal equipment if necessary.

¹² This is confirmed by the 2018 Digital Economy and Society Index (DESI) <https://ec.europa.eu/digital-single-market/en/desi>

Greek Authorities this is due to the fact that there is great hesitation on the part of citizens in appropriating any service that will increase the monthly obligations of their households, especially in the current economic situation (see recital (16)). Greece considers that this constitutes a barrier to its fulfilment of the EU objectives. The measure will encourage operators to accelerate the marketing of SFBB Services, which could otherwise not reach the market so swiftly, according to the Greek authorities. The Greek authorities estimate that the percentage of SFBB vouchers that will be used to upgrade existing NGA subscriptions will be limited and that the measure will have a minimum impact on existing telecommunication operators operating NGA networks. In any case, this will be monitored, and the results will be made available to the Commission.

Economic value of the voucher

- (29) The total economic value (inclusive of VAT) of an SFBB voucher under the notified measure amounts to a maximum of EUR 360 over a period of two years. The voucher will cover part of the set-up cost (corresponding to the connection with a modem/router, etc.), i.e. a one-off connection cost amounting to EUR 48, and high speed Internet connection costs amounting to EUR 13 per month for a maximum of 24 months. The value of the voucher has been set as follows: 1) the Greek authorities relied on the regulated wholesale price for the FTTH/VLU service, which in Greece is the only regulated wholesale product that can ensure access to the Internet with download speed of at least 100Mbps readily upgradeable to 1Gbps¹³; 2) at the same time, this base price was further benchmarked against retail prices of FTTC services (as services available on the Greek Market closest to the FTTH services with regard to download speeds), and 3) a further benchmarking against retail prices for FTTH services which became available in the market in the meantime.
- (30) The value of the voucher will cover a part of the cost to subscribe or to migrate to a high speed broadband service and is therefore expected to incentivize the adoption of such services. The percentage of the cost actually covered by the voucher cannot be defined a priori. It will greatly depend on the end—user's choice of provider and type of service.
- (31) The voucher will be paid by the public authorities directly to the service provider chosen by the end-users to provide the SFBB service. The amount of the voucher will be deducted from the end-user's invoice.

Beneficiaries

- (32) The beneficiaries of the aid will be the citizens and undertakings who will be able to subscribe to SFBB services as well as the telecommunication services providers,

¹³ So far, The National Regulator EETT has not defined any framework for the physical unbundling for FTTH/FTTB networks. Therefore, the SFBB project is consistent with the only available and validated by the Greek NRA wholesale service framework (VLU for FTTH/FTTB network).

who will be able to offer SFBB services to the above mentioned citizens and undertakings.

- (33) Prior to the granting of a voucher, end-users who are undertakings (including self-employed individuals) are required to declare that they do not exceed the limits for *de minimis* aid (laid down in Regulation (EC) 1407/2013), taking into account aid either already granted or received or applied for and approved, including the aid applied for within the framework of this measure.
- (34) The project is open to all telecommunications service providers able to provide SFBB services. Any service provider expressing an interest in establishing a business in the provision of SFBB services is eligible for participating in the voucher scheme provided that it is licensed for the provision of electronic communications services (Broadband Access/Internet Access).
- (35) The vouchers will be eligible for public funding only as far as they will be used to procure SFBB services over an infrastructure that is open to all service providers without any discrimination, on wholesale terms prescribed by the Greek national regulatory authority EETT.

Target areas

- (36) All areas of Greece where SFBB services are available will be eligible. The vouchers will be available to citizens and undertakings only in areas where there are existing SFBB infrastructures able to provide SFBB services. The Greek Authorities will set up an information system that will perform all necessary checks and authorizations.

Public consultation

- (37) A public consultation was carried out from 2 to 23 February 2018 and was published on the Ministry of Digital Policy, Telecommunications and Media's website.¹⁴ It collected input regarding private investment plans (until the end of 2018) for the coverage of infrastructures able to support download speeds of above 100Mbps, upgradable to 1Gbps, and was answered by four service providers. The results were used to estimate the population scope of the SFBB Project (see recital (14) above).
- (38) An additional public consultation was carried out from 27 March 2018 to 10 April 2018¹⁵ on the Implementation Guide of the SFBB. The relevant information on the

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<http://www.mindigital.gr/index.php/%CE%B1%CE%BD%CE%B1%CE%BA%CE%BF%CE%B9%CE%BD%CF%8E%CF%83%CE%B5%CE%B9%CF%82/1936-nga-2018>

¹⁵ The Greek Authorities clarified that no extension of the consultation period was requested.

project has been made available on the website of the Ministry of Digital Policy, Telecommunications and Media.¹⁶

- (39) Contribution from six stakeholders were received and taken into account by the Greek Authorities. No particular concerns in relation to the SFBB Implementation Guide were raised, while certain comments received gave rise to a number of (minor) amendments to the implementation methodology and procedures described in the Guide. Three major Greek telecoms operators sent a letter to the Greek Authorities endorsing the initiative and expressing the willingness to take into account the SFBB plan in their investment strategies.

Transparency

- (40) The vouchers will be awarded in a transparent manner and it will be ensured that the public authorities, economic operators, the interested stakeholders and the Commission have easy access to all relevant acts and pertinent information about the measure. Greece commits to comply with the transparency requirement as laid down, *mutatis mutandis*, in recital 78(j) of 2013 Broadband Guidelines (as amended by Communication C(2014) 3349/2). To this purpose the Greek Authorities have made available a dedicated central website¹⁷. Information on individual aid granted will be also published on the Transparency Award Module (TAM).

Monitoring

- (41) The Greek Authorities committed to closely monitor the implementation of the measure during the entire duration of the vouchers scheme. The Implementing Body of SFBB (Executive Agency for ICT of the Ministry of Digital Policy, Telecommunications and Media) will regularly monitor and review the project's sound implementation. The audits will involve sample inspections for a random sample of beneficiaries. It may be carried out on-site, remotely or administratively, either during implementation or after completion of each SFBB connection. The service providers will be required to provide access to sites, information systems and documents, for each SFBB connection, and to facilitate the proof of compliance with the minimum specifications of the provided SFBB Services, including but not limited to: (i) the information system (Network Management System, NMS) that monitors the connection's operating status and synchronization speed, (ii) equipment located in the operator's facilities that is involved in the operation of each connection, (iii) the technical specifications of the above equipment, (iv) the technical specifications of the wholesale service used for the operation of each connection, including evidence that it can readily ensure its upgrading to 1Gbps.

¹⁶ <http://www.mindigital.gr/index.php/26-g-g-t-t/%CE%B1%CE%BD%CE%B1%CE%BA%CE%BF%CE%B9%CE%BD%CF%89%CF%83%CE%B5%CE%B9%CF%83/2121-super-fast-broadband>

¹⁷ <http://www.et.gr/index.php/anazitisi-fek>

- (42) The project's information system foresees the ability to extract aggregate reports, in order to ensure smooth implementation and to identify and timely address possible problems. Some of the data collected will be used also in the context of the ex-post evaluation (see Section 7).

Cumulation

- (43) The Greek authorities have confirmed that they will not combine the notified aid measure with other aid measures. Irrespective of which public authority is granting aid in Greece, the Greek authorities will ensure that the total aid granted is accounted for and compatible with state aid rules, including the rules on cumulation of aid.

Incentive effect

- (44) The Greek authorities indicated that State support is needed to incentivise take-up of SFBB services in the Greek market given that, especially in the current economic situation there is great hesitation on the part of citizens in appropriating any service that will increase the monthly obligations of their households. Greece considers this as a barrier towards reaching the DAE objectives. Greece argues that cost for consumers remains a significant barrier as a profitable scale for the service can only be achieved over a longer period of time and the economic situation would have to improve sufficiently to render the service affordable (or both). According to the Greek authorities, without any State interventions, the take-up of SFBB services would remain more limited and would take a longer time. A public consultation was carried in which three of the major Greek telecom operators expressed their full support to the initiative as well as the willingness to take it into account in their investment strategies (see also recital (39)).

Special reporting requirements

- (45) The Greek Authorities will submit annually to the Commission the reports provided for by Article 26 of Council Regulation (EU) 2015/1589¹⁸. Furthermore, the Greek Authorities will provide to the Commission an annual report with the key information on the application of the measure, including as concerns beneficiaries, take-up rates and price evolution (See Section 7).
- (46) In view of the novel characteristics of the scheme, which proposes a vouchers scheme designed for support of demand for certain categories of speeds in the broadband sector, Greece has submitted a proposed ex-post evaluation plan, taking into account the best practices recalled in the Commission Staff Working Document on Common methodology for State aid evaluation¹⁹. Accordingly, the evaluation aims to verify (i) whether the assumptions and conditions which led to

¹⁸ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

¹⁹ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

the compatibility decision have been realised; (ii) the effectiveness of the aid measure in light of its predefined objectives; (iii) its impact on markets and competition and that no undue distortive effects arise under the duration of the aid scheme that is contrary to the interests of the Union. The main elements of the evaluation plan are described below.

- (47) The evaluation questions address the outputs and the effectiveness of the measure in target areas, the incentive effect of the aid, the demand-side effects as well as a selection of impacts and effects on competition. Furthermore, the evaluation questions address the proportionality and appropriateness of the aid.
- (48) The evaluation questions addressing the impact of the aid on the beneficiaries of the scheme will be answered primarily by means of a difference-in-difference analysis between the treatment group and the identified control group. Depending on the availability of data, the specific methodology to be used will be discussed and agreed upon with the Commission before the end of 2020.
- (49) The indirect effects on various types of end-users of the service will be assessed using surveys.
- (50) To assess the changes to parameters of competition arising from the measure (including crowding out), the evaluation will use descriptive analysis in order to determine the market position of operators for each NGA technology (FTTH, FTTC) and the prices of SFBB and other (i.e. VDSL) NGA services.
- (51) To assess the proportionality of the scheme, the evaluation will compare the notified measure against alternative measures in Greece and against selected measures in EU Member States (if data is available).
- (52) The evaluation will require additional and targeted data collection, including new surveys.
- (53) The evaluation will be conducted by experts with the necessary specific skills and evaluation expertise and independent from the granting authority. The Commission will be informed before the invitation to tender and subsequently, notably for comments on the detailed definition of the evaluation methods and the identification of appropriate control group(s).
- (54) Greece has committed that the evaluation will be conducted in accordance to the agreed evaluation plan in order to identify the causal impact of the scheme, undistorted by other variables that may have had an effect on the observed outcome.
- (55) An interim evaluation report will be submitted to the Commission in two phases, the first at the latest by 30.06.2019 and the second by 31.12.2019. The interim evaluation report will be focused on the implementation of the measure in terms of effectiveness and efficiency and to help improve its design in parallel with other measures included in the national NGA Plan. The final evaluation report will be submitted to the Commission by 31.12.2021.

- (56) The Commission will receive yearly short updates concerning the developments of the scheme, progress with data collection and updates on the evaluation design. In 2019, the short update will be substituted by the second interim evaluation report, which will be sent to the Commission by 31.12.2019.
- (57) The Commission will be informed with the shortest delay if some of the hypotheses made (e.g. on the availability of data) were not confirmed in practice thereby hindering the foreseen evaluation.
- (58) Greece has confirmed that all the data used for the evaluations will be made available to the Commission in anonymised form for the purpose of verification and replicability.
- (59) Greece has confirmed that the Evaluation Plan, Interim Evaluation Report(s) and the Final Evaluation Report will be published on the relevant website.
- (60) While not considering any successor scheme at this stage, Greece has committed to take into account the evaluation results for the development of any future interventions of similar scope, with the aim of increasing the future measures' effectiveness and reducing any negative effects on competition

5. STATE AID ASSESSMENT

5.1. PRESENCE OF AID

- (61) According to Article 107 (1) TFEU, “*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*”. It follows that in order for a support measure to be qualified as State aid, it has to be granted out of State resources and is imputable to the State, confer a selective economic advantage to undertakings, and it has to be capable to distort competition and affect trade between Member States.

State resources

- (62) As described in recital (23), the measure is financed by the Greek Authorities using public funds, which are allocated to the beneficiaries under the control of the authorities with an element of discretion, based on the legal basis mentioned in recital (20). Hence, State resources are involved and the measure is imputable to the State.

Selective economic advantage

- (63) The measure is mainly directed at end-users including consumers, who do not fall within the scope of application of Article 107(1) TFEU, and undertakings who will only receive support below “*de minimis*” levels as the Greek authorities have confirmed. In addition, with regard to direct end-users, the Commission notes that the scheme is open to all individual end-users including the self-employed purchasing SFBB services in Greece, irrespective of the sector of the economy in

which they operate. Furthermore, there are no restrictions on access to the scheme and information on how to benefit from the scheme is made publicly available by the Greek authorities. With regard to end-users that are undertakings, the Greek authorities have confirmed that they will only receive support as far as it will be below "*de minimis*" levels. The State has no discretion to choose the end-users, as all individual purchasers of SFBB services are entitled to a voucher. In addition, the scheme does not impose specific requirements on acquirers: the purchaser simply pays the price of the SFBB service less the value of the voucher, which the service provider claims from the Greek authorities.

- (64) With regard to the telecommunication operators, by supporting the take-up only of SFBB Services (see recital (25)) the measure is selective in nature as it confers an advantage to undertakings that are active only in one industry sector (telecommunications) and only in certain segments of the overall electronic communications sector (provisioning of SFBB services), to the exclusion of other electronic communications services.²⁰
- (65) The measure is designed in such a way as to channel its effects selectively towards identifiable undertakings or groups of undertakings under Article 107(1) TFEU. The measure stimulates demand for SFBB services which in turn can be provided only on certain types of broadband infrastructures. Only the service providers which have developed the very high performing infrastructures that can support such high speeds or that are able to use it on the basis of wholesale agreements with the infrastructure owners (provided that the infrastructure owners have deployed such very high performing infrastructures) will be able to benefit from the measure. The voucher scheme will lower the entry barrier for the adoption of SFBB services by end-users. The stimulation of demand for SFBB services could result in higher sales and thereby profits for the service providers (the providers will be in a position to satisfy the increased demand for SFBB services).
- (66) It follows that the aid granted to purchase SFBB services confers a selective economic advantage to the service providers able to provide such services to consumers.

Distortion of competition and effect on trade

- (67) The markets for electronic communications services (including the wholesale markets and the retail broadband markets) are open to competition at various levels between network operators as well as between service providers, who generally engage in activities that are subject to trade between Member States. By favouring certain operators, the notified measure is therefore liable to distort competition and affect trade between Member States. The measure distorts or threatens to distort competition on the retail broadband services market between providers selling SFBB services that can benefit from vouchers under the scheme, and those selling other broadband connectivity services, which can not. It can also distort or threaten to distort competition on the wholesale access broadband market between

²⁰ CJ, 15 June 2006 C—393/04 and C-41/05 *Air Liquide*, paragraph 31.

wholesalers selling additional access to SFBB service providers (the vouchers being set in relation to the related wholesale access price) and those selling other types of wholesale access for different purposes. In so far as the intervention is (at least potentially) liable to affect providers of electronic communications services from other Member States, the measure has an effect on trade.

Conclusion

- (68) In view of the foregoing, the Commission considers that the notified measure grants a selective economic advantage to the beneficiaries of the measure that are service providers able to provide SFBB services. The measure is funded through State resources, distorts competition and has an effect on trade between Member States. Therefore the Commission concludes that the notified measure constitutes State aid within the meaning of Article 107 (1) TFEU.
- (69) It is therefore necessary to assess whether the aid measure to the service providers able to provide SFBB services can be found compatible with the internal market.

5.2. LEGALITY OF THE AID

- (70) As explained in recital (24) above, the Greek Authorities have confirmed that the granting of the aid is conditional upon the decision of the Commission on the notified SFBB project, pursuant to the standstill obligation, according to which new aid measures must not be put into effect before the Commission has taken a decision authorising it.

6. COMPATIBILITY ASSESSMENT

- (71) The Commission has exclusive competence to assess whether aid can be found compatible with the internal market. Article 107(3) of the Treaty provides for certain exceptions to the general rule set out in Article 107(1) of the Treaty that State aid is not compatible with the internal market. The aid in question can only be assessed on the basis of Article 107(3)(c) of the Treaty, which stipulates that: "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", may be considered to be compatible with the internal market. The Broadband Guidelines²¹ while setting out specific criteria for the application of Article 107(3)(c) TFEU for the development of broadband networks, focus on supply-side measures supporting the deployment of broadband networks, but do not specifically address demand-side measures, such as vouchers schemes, aiming to incentivise the take-up of broadband services relating to already existing infrastructure. Thus, the Commission assesses the compatibility of the present measure with internal market, pursuant to Article 107(3)(c) TFEU.
- (72) Under Article 107(3)(c) of the TFEU, the Commission may declare a measure compatible if, on balance, its positive effects (attainment of an objective of

²¹ EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01).

common interest, appropriate instrument, necessity and proportionality) outweigh its negative effects, in particular, on competition.

Objective of common interest

- (73) The Commission notes that the objective of the scheme, namely to stimulate demand for SFBB services that are or will be offered by any eligible telecommunication operators, is in line with the broadband support policy of the European Union, as reflected in DAE, in particular the objective to ensure that "...50% or more of European households to subscribe to internet connections above 100 Mbps" and in the Gigabit Communication: "100% coverage of all households with download speeds of at least 100 Mbps, upgradeable to 1 Gbps".
- (74) Therefore, the notified scheme contributes to pursue objectives of common interest (take-up of broadband services) by supporting the take-up of SFBB services and benefits to service providers result in and are commensurate with an increase in the number of SFBB services purchased by end-users relying on the vouchers.

Appropriateness

- (75) The notified scheme is an appropriate means to pursue the objective of encouraging the take-up of more performing services and speeds thereby changing consumer preferences. The Digital Economy and Society Index Report 2018²² complemented by Eurostat data indicates that, broadband take-up is lower in countries where the price of broadband services accounts for a higher share of income, as is the case for Greece. The notified measure, by lowering the cost of subscribing to SFBB services in Greece is therefore expected to play an important role in increasing the take-up of such services. Any benefit to service providers as a result of increased demand for SFBB services is considered an inevitable effect of achieving the objective pursued by the scheme.

Necessity of the aid and incentive effect

- (76) The Commission considers that the measure is necessary and that it has an incentive effect that would lead the beneficiaries to change their behaviour. The information provided by the Greek Authorities about the Greek broadband market (see recitals (13) and (14)) shows that the take-up of NGA services is significantly lower and the prices are significantly higher than in the rest of EU. Indeed, as mentioned before, in the context of the current economic situation, there is hesitation on the part of citizens and undertakings to subscribe to any service which would increase the monthly obligations. The Commission agrees with Greece that these circumstances are a strong indicator that without the notified scheme, consumers and undertakings are unlikely to change their behaviour and purchase SFBB services.

²² <https://ec.europa.eu/digital-single-market/en/desi> - The Digital Economy and Society Index (DESI) is a composite index that summarizes relevant indicators on Europe's digital performance and tracks the evolution of EU member states in digital competitiveness

Proportionality of the aid

- (77) The Commission considers that the measure is proportionate. The notified scheme is limited in time and covers only a part of the set-up costs and monthly fee of SFBB services (see recitals (22) and (29)). The eligibility criterion (download speed of at least 100 Mbps, readily upgradable to 1 Gbps) is objective and in line with the EU policy objectives of the DAE and the Gigabit Communication. The objectives of the measures are defined in reference to speed capabilities without a priori discriminating or excluding any technological solutions that can support SFBB services. Any potential discrimination with other technologies providing lower speeds is thus justified by the purpose of the scheme. In any event, Greece has committed to take fully into account for the duration of the measure any further technological development that would support SFBB services, in line with the Communication and Staff Working Document – Connectivity for a Competitive Digital Single Market – towards a European Gigabit Society. The Commission therefore considers that the proposed support in favour of SFBB is adequate and proportional to promote the objectives of the scheme.

Avoidance of undue distortions of competition

- (78) The competition distortions due to the measure appear limited. At the level of the Greek broadband market, the Greek authorities expect the lines addressed by the current scheme to be about 133,000 provided by at least four telecommunication operators (see recital (14)), equivalent to about 5% of the Greek NGA market expected at 2019.
- (79) Moreover, the Greek authorities have committed to monitor that the take-up scheme will not be used to merely replace existing subscriptions of already above 30 Mbps but below 100 Mbps by subscriptions covered by the present measure, in order to limit risks of undue impact on private investments of existing telecommunication operators.

Transparency

- (80) As explained in recitals (40), the scheme ensures that stakeholders should have easy access to all relevant acts and pertinent information about the aid awarded thereunder. The Greek authorities have committed to comply with the transparency requirement as laid down, *mutatis mutandis*, in paragraph 78(j) of the Broadband Guidelines (as amended by Communication C(2014) 3349/2). In particular, the Greek authorities shall ensure the publication of all the relevant information on a dedicated website and information on the individual aid granted will be published on the Transparency Award Module (TAM).

Conclusions on the compatibility of the aid

- (81) It follows from the above that the Commission considers the measure to be compatible with the internal market on the basis of Article 107(3) (c) TFEU.

7. COMPATIBILITY ASSESSMENT OF THE SPECIAL REPORTING AND EVALUATION REQUIREMENTS

- (82) The Commission considers that the present scheme requires an evaluation in order to verify (i) whether the assumptions and conditions which led to the compatibility decision have been realised; (ii) the effectiveness of the aid measure in light of its predefined objectives; (iii) its impact on markets and competition and that no undue distortive effects arise under the duration of the aid scheme that is contrary to the interests of the Union.
- (83) Greece taking into account the best practices recalled in the Commission Staff Working Document on Common methodology for State aid evaluation²³, has submitted an evaluation plan for the measure. The main elements of the evaluation plan are described in recital (46) to (60) above.
- (84) The Commission considers that the notified Evaluation Plan contains the minimum elements necessary: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation.
- (85) The Commission notes that the scope of the evaluation is defined in an appropriate way. It comprises a list of evaluation questions with matched indicators for each and methodologies to address the questions. Data sources are individually defined for each question.
- (86) The Commission also acknowledges the commitments made by the Greek authorities to conduct the evaluation according to the Evaluation Plan described in the present decision by an independent evaluation body. The procedures envisaged for selecting such evaluation body are appropriate in terms of independence and skills. Moreover, the proposed modalities for the publication of the evaluation results are adequate to ensure transparency.
- (87) Finally, the Commission notes the commitment made by Greece to submit yearly short updates on the data collection, an interim evaluation in two phases by 30.06.2019 and by 31.12.2019 respectively, and the final evaluation report by 31.12.2021.

²³ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

8. 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) of the Treaty on the Functioning of the European Union.

The Commission reminds the Greek authorities of the requirement to submit annual reports on the application of the aid measure and to inform the Commission pursuant to Article 108(3) TFEU of all plans to amend and/or extend this 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 English on the Internet site: <http://ec.europa.eu/competition/eojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission



