



EUROPEAN COMMISSION

Brussels 4.5.2022
C(2022) 3047 final

PUBLIC VERSION

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Subject: State Aid SA.102127 (2022/NN) – Prolongation of the SFBB voucher scheme in Greece

Excellency,

1. PROCEDURE

- (1) On 11 April 2022, Greece notified to the Commission pursuant to Article 108(3) TFEU, a six months prolongation of an authorised aid scheme SA.49935 (the initial aid scheme), which the Commission had approved on 7 January 2019¹ (the 2019 decision).
- (2) The scheme was modified in case SA.56599, approved by Commission decision C(2020) 2781 final of 5 May 2020² (the 2020 decision). The initial aid scheme as modified expired on 31 March 2022.

¹ Commission Decision C(2018) 8363 final of 7 January 2019 in case State Aid SA. 49935 (2018/N) – Greece - Superfast Broadband (SFBB) Project. See https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_49935, (OJ C 52, 8.2.2019, p. 1–2).

² Commission Decision C(2020) 2781 final of 23 June 2020 in case SA.56599 - Modification of the Superfast Broadband (SFBB) Project,

Κύριος Νίκος Δένδιας
Υπουργός Εξωτερικών
Βασιλίσσης Σοφίας 5
10671 Αθήνα /Athens
ΕΛΛΑΔΑ/GREECE

- (3) By letter submitted on 30 March 2022, Greece exceptionally agreed to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (TFEU) in conjunction with Article 3 of Regulation 1/1958³ and to have this decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. Objective

- (4) The initial aid scheme was a vouchers scheme which aims to stimulate demand for superfast broadband services (SFBB services) (see recital 25 of the 2019 decision) by consumer and business end-users.
- (5) The present notification seeks to prolong the duration the scheme for 6 months, i.e. until 30 September 2022. The activation of the SFBB vouchers will be possible until no later than 30 September 2022.
- (6) The Greek Authorities clarified that this prolongation of the scheme is necessary due to delays encountered in implementing the SFBB vouchers scheme, mainly due to:
- (a) technical and administrative issues encountered by electronic communications services providers;
 - (b) the COVID-19 pandemic and the subsequent restrictions imposed, including the lockdown.
- (7) The Greek authorities expected that the technical and administrative issues encountered by electronic communications services providers since the approval of the initial aid scheme in 2019 (see recital 5 of the 2020 Decision) would have been properly addressed and solved in early 2020. On this basis, the Greek authorities had previously asked for a 24-months prolongation of the initial aid scheme until 31 March 2022.
- (8) However, starting from March 2020, as a result of the COVID-19 pandemic, the Greek authorities imposed a strict lockdown, which impacted all economic activities, including indoor and outdoor construction works, which further delayed the implementation of the aid scheme.
- (9) Because of the lockdown, the electronic communications providers, as well as the civil engineering companies, limited their outdoor works, which impacted the planned deployment of new infrastructures. The lockdown also affected indoor works necessary for the activation of vouchers, such as the deployment of the necessary internal building cabling and set-up of new connections in the end-users premises. Consumer behaviour changed, with less end-users than previously

https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_56599 (OJ C 220, 3.7.2020, p. 1–18).

³ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

expected applying for SFBB vouchers as a result of the COVID-19 restrictions (e.g. reluctance in engaging indoors works, difficulty in achieving consensus from a majority of tenants in multi-dwelling buildings for the works necessary).

- (10) The above-mentioned issues linked to the pandemic resulted in a further delay in the implementation of the scheme. The Greek authorities indicate that only from September 2020, end-users started effectively to request the activation of the SFBB vouchers and the take-up of the scheme increased.
- (11) The Greek authorities explained that, in their view, the effective start of the implementation of scheme is therefore October 2020. In October 2020, the majority of the issues that delayed the take-up of the measure were resolved. However, this delay made impossible the full implementation of the scheme by the end of March 2022.
- (12) In this regard, the Greek authorities indicated that the 2019 measure was designed to provide approximately 139 000 vouchers⁴. However, until the end of September 2020 only 13 552 vouchers (corresponding to less than 10% of the target number) were activated. As the implementation of the scheme progressed, by end January 2022 91 465 vouchers have been ordered by the providers, corresponding to EUR 32.9 million (corresponding to about 65.8% of the allocated budget).
- (13) The Greek authorities indicate that the additional 6 months for implementation will enable using the budget still available (about EUR 13 million) to offer to approximately 35 000 end-users the possibility to benefit from the SFBB vouchers. According to Greece, this is very relevant for the adoption of superfast broadband services in Greece, which already lags behind the average EU level (see Digital Economy and Society Index (DESI)⁵).
- (14) According to Greece, the effective duration of the measure would be 2 years: from the beginning of October 2020, when the implementation of the SFBB voucher scheme effectively started (see recital (6)), to 30 September 2022.

2.1.1. Possible undue negative effect of the prolongation

- (15) The Greek authorities explained that in their view the additional 6 months for the implementation of the measure will not have undue negative effects on competition as the market conditions that lead to the approval of the initial aid scheme have not changed.

2.1.1.1. Lack of take-up in SFBB services

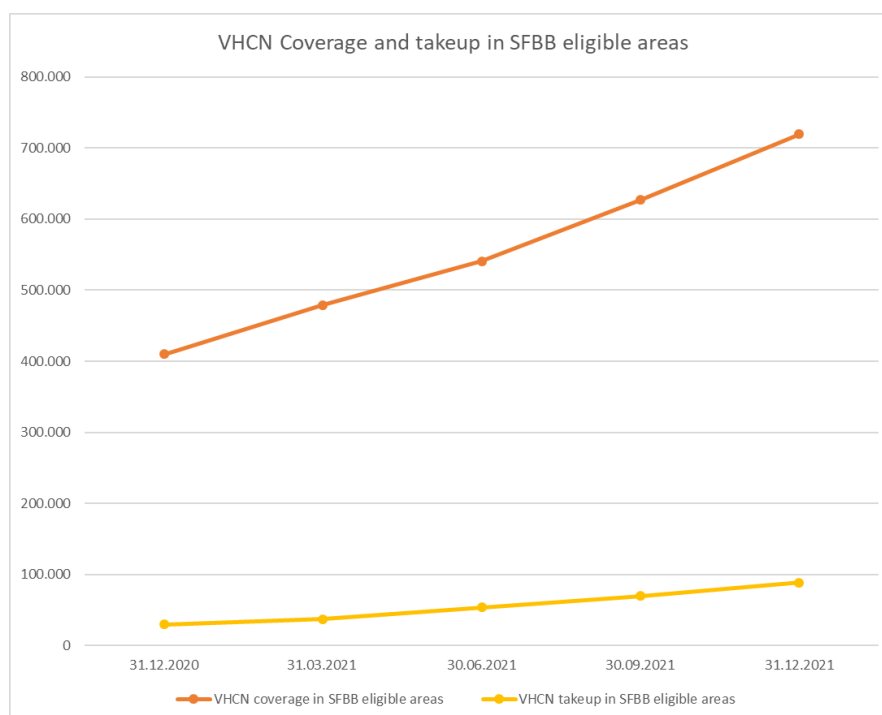
- (16) Electronic communications providers have announced plans for the deployment of infrastructure providing SFBB services. According to these plans, about 3.5 million end-users will be able to benefit from SFBB services. According to the Greek authorities, this would confirm that in Greece it continues to exist a mismatch

⁴ The overall budget of the 2019 measure was EUR 50 million, with a single voucher value (inclusive of VAT) of EUR 360, corresponding to approximately 139 000 vouchers.

⁵ <https://digital-strategy.ec.europa.eu/en/policies/desi-greece>

between take-up and availability of infrastructure⁶. Although take-up rate of SFBB services in Greece has improved, it is still lagging behind in take-up of SFBB services as indicated in DESI index⁷. Greece considers that in DESI SFBB services⁸ are encompassed by the definition of Very High Capacity Network (VHCN) services. Figure 1 depicts the evolution of VHCN services coverage in the areas, which are eligible for the SFBB vouchers versus a significantly less aggressive take-up in the same areas. According to the Greek authorities, this would clearly demonstrate that there is still lack in take-up of SFBB services.

Figure 1



2.1.1.2. Difference between coverage and take-up of SFBB services

- (17) The Greek authorities explained that there is no evidence that the implementation of the aid scheme has had a negative impact on the prices of SFBB services. The Greek authorities explained that after the expiration of the SFBB vouchers, the services providers tend to offer better services for the same price to retain customers. If confirmed, this trend would have a positive impact on the prices of broadband services in Greece, which continue to be higher than the average EU prices for comparable service. In the DESI index 2021, Greece has progressed on broadband price index⁹ with a score of 53 in 2020 compared to 49 in 2019 but it is still far below the EU average (which scores 69 on the scale of 100).

⁶ See recitals (12) to (16) of the 2019 decision.

⁷ <https://digital-strategy.ec.europa.eu/en/policies/desi-greece>

⁸ See recital (25) of the 2019 decision.

⁹ The Broadband Price Index measures the prices of broadband services as the percentage of household income

2.2. Legal basis and standstill obligation

- (18) The notified measure is based on the following legal acts: (i) the ‘Participation Guide for the Superfast Broadband Voucher Project (Superfast Broadband)’ - Ministerial Decision No 49/14.01.2022 (Diavgeia Internet Uploading Number (ΑΔΑ): Ω3ΛΨ46ΜΠΥΓ-ΣΔΟ); (ii) Ministerial Decision 477 30/3/2022 (Diavgeia Internet Uploading Number (ΑΔΑ): ΩΜΘΨ46ΜΠΥΓ-ΨΦΓ for the prolongation of the scheme.
- (19) Greece confirmed that no other modifications are proposed to the initial aid scheme, as amended, as part of the notified measure and that all other conditions of that scheme are unaltered

2.3. Evaluation reports

- (20) Greece submitted the interim evaluation reports of the initial aid scheme (see recitals (46) to (60) of the 2019 decision).
- (21) On 8 March 2022, the Commission provided comments and recommendation that Greece committed to implement.
- (22) Greece committed to submit the final evaluation report by June 2022 and an additional evaluation report by December 2023.

3. LEGALITY OF THE AID

The Commission notes that Greece has continued to apply the measure after its expiry. This constitutes new aid which was not covered by the 2019 decision and which was therefore granted in breach of Article 108(3) of the TFEU.

4. ASSESSMENT OF THE MEASURE

4.1. Existence of the aid

- (23) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (24) The initial aid scheme constituted State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (61) to (68) of the 2019 decision. The amendments referred to in recital (5) did not affect that conclusion. The notified prolongation of the initial aid scheme does not alter the previous conclusion of the Commission that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

4.2. Compatibility

- (25) The initial aid scheme is compatible with the internal market pursuant to Article 107(3)(c) TFEU. The amendments referred to in recital (5) above did not affect that assessment as confirmed in the respective Commission decisions thereon. The Commission therefore refers to the respective assessment of the 2019 decision.
- (26) The Commission considers that the prolongation for a limited period of time of the initial aid scheme, as amended, is appropriate to ensure the full exploitation of the SFBB voucher project as initially envisaged.
- (27) Regarding *ex-post* evaluation, Greece will submit a final evaluation report to the Commission by June 2022 in compliance with the requirement set out in recitals (46) to (60) of the 2019 decision. An additional evaluation report will be submitted to the Commission by December 2023 (see recital (20)). The report will fully take into account the Commission's comments to the report submitted on 21 January 2022 (see recital (20)). The scheme will be suspended if the final evaluation report is not submitted in good time and sufficient quality.
- (28) On the basis of the information provided by the Greek authorities concerning the additional delays encountered in particular in the wake of the COVID-19 pandemic and the resulting restrictions, including the lockdown, the continuous lack of take-up of SFBB services as well as the current prices of SFBB services and their evolving trend (see section 2.1.1.1), the Commission concludes that the prolongation of the scheme for a short duration does not result in undue negative effects on competition and trade. The Commission confirms the compatibility assessment contained in recitals (71) to (87) of the 2019 decision and recital (21) of the 2020 decision.
- (29) Greece confirms that the notified measure does not introduce further amendments to the initial aid scheme, as amended, and that all other conditions of that scheme are unaltered (see recital (19)).
- (30) The Commission has taken due consideration of the fact that such measure facilitates the development of certain economic activities and of the positive effects of that measure on tackling the low take up of the SFBB services in Greece when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of that measure outweigh its potential negative effects on competition and trade.

5. CONCLUSION

The Commission regrets that Greece continued to apply the measure after its expiry, in breach of Article 108(3) of the TFEU.

However, the Commission has decided, on the basis of the foregoing assessment, 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
<mailto:Stateaidgreffe@ec.europa.eu>

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

