



EUROPEAN COMMISSION

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Subject: State Aid SA.46285 (2016/N) – Lithuania.

Prolongation of the duration until 31 December 2020 and evaluation plan of regional aid scheme for the promotion of the development of strategic information and communication technology (ICT) projects on strategic ICT sites

Sir,

1. PROCEDURE

- (1) Pursuant to Article 108(3) TFEU, the Lithuanian authorities notified on 2 September 2016 a prolongation of the duration, from 1 January 2017 until 31 December 2020, of the regional aid scheme for the promotion of the development of strategic information and communication technology (ICT) projects on strategic ICT sites which was declared compatible with the internal market by Commission decision State aid No SA. 42225 of 18.02.2016¹. The Lithuanian authorities informed that the terms and conditions of the aid scheme remain unchanged.
- (2) According to recital 42 of the Commission decision State aid No SA.42225 (2015/N) of 18 February 2016, the Republic of Lithuania committed to carry out an evaluation of the scheme as set out in recital 144 of the Regional aid guidelines for the period 2014-2020 ("RAG")².
- (3) By letter of 2 September 2016, registered at the Commission on the same day (2016/084033), the Lithuanian authorities submitted the Supplementary Information Sheet for the notification of an evaluation plan provided for in Part

¹ Commission decision C(2016) 913 final (OJ C 142, 22.4.2016, p. 8).

² OJ C 209, 23.7.2013, p.1.

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III.8 of Annex 1 of Commission Regulation (EU) 2015/2282 of 27 November 2015 amending Regulation (EC) No 794/2004 as regards the notification forms and information sheets³.

- (4) By letter of 8 September 2016 (2016/085499), the Commission asked for supplementary information. Additional clarification on the case was provided by the Republic of Lithuania during a telephone conference held on 14 September 2016. By letter of 23 September 2016 (2016/092049), Lithuania provided the requested information and submitted an amended evaluation plan.
- (5) By letter dated 2 September 2016, Lithuania agreed to waive the rights conferred upon it by Article 342 TFEU and Article 3 of the Regulation (EC) No 1/1958⁴ and to have the present decision adopted and notified in the English language due to a risk of potential scheme suspension.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Objective of the aid scheme

- (6) The measure aims at promoting regional development and employment by facilitating the establishment of data centres providing high-value data processing and hosting services which would result in job creation.
- (7) The Lithuanian authorities informed that the measure is sectoral as the aid will be granted for initial investment in the ICT/data processing and hosting technologies sector only (NACE Code 63.11- data processing, web servers (hosting) and related activities)⁵.
- (8) Lithuania is an assisted area under Article 107(3)(a) TFEU in accordance with the Regional Aid Map for the period 2014-2020⁶. The maximum aid intensity for large undertakings is 25% gross grant equivalent (GGE).

2.2. Legal basis

- (9) The national legal basis for the scheme is the following:
 - a) Law on Investment of the Republic of Lithuania (1999, Official Gazette No 66-2127), hereinafter the "Law on Investment", Articles 2 and 13 as amended by the Law on Supplementing Articles 2 and 13 of the Law on Investment (2013, Official Gazette No 54-2688);

³ OJ L 325, 10.12.2015, p.1.

⁴ Regulation No 1 determining the languages to be used by the European Economic Community (OJ L 7, 6.10.1958, p. 385).

⁵ Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community, OJ L 293, 24.10.1990, p.1 as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p.1) and by Regulation (EC) No 1893/2006 of the European Parliament and of the Council (OJ L 393, 30.12.2006, p.1).

⁶ State aid No. SA. 38510 (2014/N), Commission Decision C(2014) 3155 final (OJ C 280, 22.8.2014, p. 25).

- b) Resolution No 1216 of the Government of the Republic of Lithuania on Amendment of Resolution No 916 of 18 July 2012: "On the Approval of the Description of the Procedure for the Provision of Services in the Electric Power Industry" (2013, Official Gazette No 133-6789) supplemented with the Article 21 of the Resolution 916 (2012, Official Gazette No 88-4609);
- c) Resolution No 986 of the Government of the Republic of Lithuania of 17 September 2014: "On the Approval of a Programme Concerning the Promotion of Investment and Development of Industry in 2014-2020", hereinafter the "Programme";
- d) Order of the Ministry of Economy of the Republic of Lithuania No 4-293 of 18th April 2016 "On the Approval of the Description of the Procedure for Granting State Aid in Strategic Technology Development Sites" hereinafter the "Order".

2.3. The nature and form of the aid

- (10) According to the Lithuanian authorities, the aid is to promote initial investment in data processing, provision of Internet server services (hosting), or related activities carried out at strategic ICT sites in the region concerned⁷.
- (11) The aid is granted in the form of an exemption from payment of part of the electricity bill (the "public interest service fee")⁸, i.e. the fee intended for public services for the portion of electric power consumed by investors that carry out data processing, provide Internet server services (hosting), or engage in related activities on strategic ICT sites⁹, and with which the Government of the Republic of Lithuania has concluded an investment agreement. In general, the "public interest service fee" is collected¹⁰ from electric energy consumers and producers using electricity for themselves¹¹.

⁷ Paragraph 11 of the Order.

⁸ The amount of the public interest service fee is determined for every calendar year by Order of the State Control Commission for Price and Energy (hereinafter "the CPE") in accordance to Item 1 of Part 1 of Article 5 of the Law on Energy No IX-884 of 16 May 2002 (as further amended) and Article 74 of the Law on Electricity No VIII-1881 of 20 July 2000 (as further amended). The model developed by Lithuanian authorities uses the public interest service fee equal to 0.0181 EUR/kWh, which is the average fee for 2010-2015. The same calculations use the price of electricity in Lithuania equal to 0.0986 EUR/kWh (source Eurostat, 2014 S1 data). Thus, the public interest service fee amounts to 18% of the electricity price. The percentage remains the same for the whole period of duration of the measure.

⁹ Pursuant to Article 2(18) of Law on Investment of the Republic of Lithuania (1999), a "strategic ICT site" means a territory where the electric power supply has especially reliability, which by resolution of the Government of the Republic of Lithuania is recognised to be a strategic object of technological development on the basis of the following criteria: (1) the reliability of the electric energy supply is ensured by the supply of electricity from not less than three independent power sources in the 110-kV power transmission network, and (2) within the territory the potential data processing, provision of the Internet server services (hosting), and related activities can be realised.

¹⁰ The collection of the public interest service fee is regulated by Resolution of the Government No. 1157 of 18 September 2012 (as further amended) "Regarding approval of the description of the procedure for the administration of the levy of public interest services in the sector of electric energy". These regulatory provisions determine that the public interest service fee is paid directly to the operator of electricity networks. The public interest service fee is collected by electricity network operators, which then transfer it to the public service interest administrator. The collection of the public interest service fee may be performed either directly by electricity network operators invoicing the end buyer or

2.4. Beneficiaries

- (12) The beneficiaries of the scheme are undertakings of any size who carry out data processing, web server services (hosting) and related activities on strategic technology development sites, and who have signed an investment agreement with the Government of the Republic of Lithuania in accordance with the procedure laid down by the Civil Code and whose investment project meets all the requirements set in the RAG.
- (13) Lithuania expects that there will be between 1 and 10 beneficiaries.
- (14) The scheme will not apply to undertakings that are in difficulty in the meaning of the 2014 Guidelines on rescuing and restructuring aid¹². The Lithuania authorities committed to suspend the payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible with the internal market by a previous Commission decision.

2.5. Eligible projects

- (15) Under the scheme the only projects eligible are those which qualify as initial investment in the meaning of recital 20(h) of the RAG taking the form of setting-up a new establishment (i.e. data centres located at strategic ICT sites).
- (16) Under the scheme the acquired tangible and intangible assets forming part of the initial investment must be new, except for cases where the assets are acquired by small or medium-sized enterprises¹³.

2.6. Eligible expenditure

- (17) Where the eligible expenditure relates to tangible assets, the value of the investment is established as a percentage of the total costs on the basis of land, buildings and plant, machinery (cooling system, water supply system) and equipment (such as diesel generator set, servers, electronic components and electric cables)¹⁴.
- (18) Costs of preparatory studies or consultancy costs linked to the investment are not considered as eligible costs. In case of SMEs, up to 50% of eligible investment project costs related to preparatory studies and consultancy may also be deemed eligible expenditure¹⁵.

through electricity suppliers (either independent suppliers, if they provide collection services, or public suppliers).

¹¹ Clause 19 of the Resolution of the Government of the Republic of Lithuania No 916 of 18 July 2012 (as further amended) "Regarding approval of the description of the procedure for the provision of public interest services in the sector of electricity energy".

¹² Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p.1.

¹³ Sub-paragraph 17.4 of the Order.

¹⁴ Paragraph 14 of the Order.

¹⁵ Sub-paragraph 17.4 *in fine* of the Order.

- (19) In case of leasing of machinery or plant/equipment, the lease must take the form of financial leasing and must contain an obligation for the beneficiary of the aid to purchase the asset at the expiry of the term of the lease¹⁶.
- (20) Lithuania has confirmed that in cases involving the lease of tangible assets concerning land and buildings, the lease must continue for at least three years for SMEs and for at least five years for large undertakings following the completion of the investment¹⁷.
- (21) Where the eligible expenditure under the scheme relates to intangible assets, the value of the investment shall be established on the basis of expenditure entailed by the transfer of technology through the acquisition of patent rights, licenses, know-how or unpatented technical knowledge¹⁸.
- (22) Under the scheme, for large undertakings, the costs of intangible assets forming part of an initial investment shall not exceed 50% of the total eligible costs for the project. In the case of SMEs, all costs related to intangible assets are taken into consideration¹⁹.
- (23) Intangible assets are eligible for the calculation of investment costs if they fulfil the following conditions²⁰:
- (a) they must be used exclusively in the establishment receiving the aid;
 - (b) they must be amortisable;
 - (c) they must be purchased under market conditions from third parties unrelated to the buyer; and
 - (d) they must be included in the assets of the undertaking receiving the aid and must remain associated with the project for which the aid is granted for at least three years for SMEs and five years for large undertakings.

2.7. Administration of the scheme

- (24) The scheme will be operated by the Lithuanian Ministry of Economy. The Lithuanian Investment Promotion Agency ("Invest Lithuania")²¹ will evaluate aid

¹⁶ Sub-paragraph 17.1.2 of the Order.

¹⁷ Sub-paragraph 17.1.1 of the Order.

¹⁸ Paragraph 14 of the Order.

¹⁹ Sub-paragraph 17.3 of the Order.

²⁰ Sub-paragraph 17.2 of the Order.

²¹ The Invest Lithuania is an investment promotion agency whose main objective is to attract foreign investment: <http://www.investlithuania.com/>.

applications²², verify that all conditions set out in the description of the procedure for providing regional investment state aid for data centres are respected²³ and issue aid granting acts.

2.8. Budget and duration of the notified scheme

- (25) The aid scheme is exclusively financed from national public resources. The overall maximum budget foreseen under the scheme in the period until 2020 is EUR 220.51 million.
- (26) The scheme enters into effect after its approval by the European Commission. The notification covers the period from 1 January 2017 until 31 December 2020.
- (27) The Lithuanian authorities confirmed that the aid under the scheme shall be awarded to potential beneficiaries not later than the expiration of the RAG, i.e. investment agreements will be concluded by 31 December 2020.

2.9. Mechanism of granting aid under the scheme

- (28) The aid under the notified scheme will be granted on a discretionary basis, following a decision of the national authorities.

2.10. Own contribution

- (29) The beneficiary is obliged to participate with an own contribution of at least 25% of the eligible costs in accordance with recital 38 of the RAG.

2.11. Incentive effect

- (30) In order for the incentive effect to be fulfilled, the beneficiary will have to submit a written application for aid before starting the works. Following a confirmation that the aid has incentive effect²⁴ as per recital 61 of the RAG, that the aid does not lead to the manifest negative effects laid down in recital 121 of the RAG, and that all other compatibility conditions listed in the Order are respected, Invest Lithuania and the Ministry of Economy will coordinate the draft agreement on the investment which shall then be submitted for approval to the Government of the Republic of Lithuania²⁵.
- (31) Furthermore, the Lithuanian authorities committed to ensure that individual aid granted to large undertakings under the notified scheme will be limited to the minimum on the basis of a net extra cost approach, with regards to the

²² In accordance with paragraph 26 of the Order, the investment project shall be recognised as eligible for financing where the criteria of conformity is assessed positively in line with the goals set out in the regional development strategy for investment promotion and industrial development approved by the "Programme" and where the investment project scores at least 52 points during the expertise assessment ('formal scoring approach'). The criteria for assessment of the benefit and quality of the investment project are listed in Annex 3 of the Order.

²³ In line with recital 39 of the RAG, the check compliance carry out by the granting authority verifies the existence of an environmental impact assessment (when required) and ensure all relevant permits (cf. Annex 2, section 10 of the Order).

²⁴ In accordance with paragraphs 21 and 22 of the Order, large undertakings are subject to the presentation of a 'business plan' supporting the counterfactual described in the application form.

²⁵ Paragraph 27 of the Order.

implementation of such investments in Lithuania due the higher prices of electricity.

2.12. Maintenance of the investment for a minimum period after its completion

- (32) According to the legal basis of the aid scheme, the aid beneficiary will have to maintain the investment in the Republic of Lithuania for a minimum period of three years for SMEs and of five years for large undertakings after its completion²⁶.

2.13. Aid intensity ceiling and cumulation

- (33) The aid is calculated as a percentage of the investment's eligible costs and will not exceed the applicable regional aid ceiling.
- (34) The maximum allowed aid intensity established by the scheme is 25% GGE in the meaning of recital 20(m) of the RAG. Therefore, the exemption from payment of the public interest fee must not exceed 25% of the present value of the tangible and intangible assets forming part of the initial investment, determined at the time of award of the aid on the basis of the reference rate set by the European Commission and applicable on that date. In case of aid awarded to SMEs, the aid ceilings may be increased as provided for in recital 177 of the RAG, with exception of aid to be awarded for large investment projects.
- (35) The scheme does not exclude the possibility of cumulating the aid awarded under this scheme with aid from other sources to cover the same eligible costs. Lithuania has confirmed that cumulation of aid is subject to the condition that the allowable aid intensities are in line with those foreseen in the Lithuanian Regional Aid Map for 2014-2020, taking into account all sources of public support. The aid application will require the applicant to provide the information needed to ensure that the aid granting authority will be able to enforce the cumulation rules effectively²⁷. Lithuania confirmed that mechanisms will be put in place in order to ensure that the cumulation rules are respected.
- (36) The Lithuanian authorities further confirmed that the beneficiary shall provide to the granting authority all necessary data regarding the aid already received for the project in the last 3 years in the same NUTS 3 area and where the investment will be located, as well as a declaration specifying regional aid and *de minimis aid* received or to be received for the same project by other granting authorities²⁸. As from 1 August 2015, a State aid Registry for granted aid and *de minimis aid* have been put into place gathering detailed information on the amounts received by the beneficiary²⁹.

²⁶ Paragraph 20 of the Order.

²⁷ Sub-section 7 of the Annex 1 of the Order.

²⁸ The information to be provided by the beneficiaries to the Ministry of the Economy covers the following data: (a) Status of the undertaking (SME or large undertaking), (b) State aid amount and (c) State aid intensity.

²⁹ Resolution of the Government of the Republic of Lithuania No 592 of 9 June 2015 "On the Establishment of the Registry for Granted State Aid and *de minimis Aid*".

- (37) Lithuania committed to apply the adjusted regional aid ceiling for investments above EUR 50 million according to the formula set out in recital 20(c) of the RAG³⁰.
- (38) Lithuania confirmed that where the aid is awarded to a beneficiary for an investment that is considered to be part of a single investment project at group level (as per recital 20(t) of the RAG), the aid must be scaled down for the eligible costs exceeding EUR 50 million.

2.14. Definition of large investment project and individual notification requirement

- (39) In accordance with recital 20(i) of the RAG a 'large investment project' is defined as initial investment with an eligible expenditure above EUR 50 million.
- (40) Lithuania committed to notify cases involving a total amount of aid exceeding EUR 18.7 million³¹.

2.15. Monitoring

- (41) The Lithuanian authorities agreed to submit a yearly report to the Commission on the application of the notified scheme.
- (42) In accordance with recital 193 of the RAG, Lithuania committed to transmit to the Commission information on individual aid exceeding EUR 3 million granted under the scheme.
- (43) Finally, the Lithuanian authorities agreed to maintain, for at least 10 years from the date of award of any aid under the scheme, detailed records containing the information and supporting documentation necessary to establish that all compatibility conditions are met, and that these records will be provided to the Commission upon request.

2.16. Contribution of the sectoral aid scheme to regional development

- (44) The Lithuanian authorities explained that the promotion of ICT projects is in line with the Government's strategic aim, in particular:
- (a) The National Progress Programme (NPP) for the period 2014-2020 adopted by the Government Resolution No 1482 of 28 November 2012, which establishes an objective to create an advanced and secure information and communication technology (ICT) infrastructure and solutions available for all inhabitants of Lithuania as well as to promote development and usage of such infrastructure by business³².
- (b) The Investment Promotion and Industry Development Programme for 2014-2020 approved by the Government Resolution No. 986 of 17 September 2014

³⁰ See also recital 12 (c) of Commission decision of 21.5.2014 (Lithuanian regional map for 2014-2020, State aid No. SA.38510 (2014/N)).

³¹ Paragraph 14 of the Order.

³² The NPP reflects the main provisions of the Europe 2020 strategy – Communication from the Commission of 3 October 2010 – Europe 2020 – A Strategy for smart, sustainable and inclusive growth [COM (2010) 2020 final – Not published in the Official Journal of the European Union (OJEU)].

'On the Approval of a Programme Concerning the Promotion of Investment and Development Industry in 2014-2020' which establishes the goal to attract investments with particular focus on the data centres.

- (c) The Lithuania's Digital Agenda adopted by the Government Resolution No 244 of 12 March 2014³³.
- (45) The aid scheme will complement and contribute to the achievement of the broader development strategy agreed with the European Commission for the 2014-2020 programming period in the context of the Partnership Agreement for Lithuania³⁴ and with the Operational Programme for the European Union Fund's Investments in 2014-2020³⁵, as attracting initial high value added investments under the measure would result in job creation, increase the demand for employees with an education in IT and related technical specialities and would allow the retention of such specialists in Lithuania.
- (46) Moreover, investments into ICT/data processing and hosting technologies would accelerate the establishment of supporting companies in the region which would enhance sustainable economic development and contribute to a long term competitiveness of the Lithuanian economy and a further reduction in regional disparities. At the same time the relevant investors would most likely bring the newest technologies, which would facilitate a move by local companies and partners to become more effective, to modernise their products and to improve their services.
- (47) Investments and development of data processing and hosting technologies would foster the elimination of regional differences between Lithuania and other regions, due in particular to the relative absence of good optic fibre networks connecting Lithuania with neighbouring countries, latency issues and the lack of a tradition of investing into the ICT sector and especially into data processing and hosting technologies in Lithuania³⁶.
- (48) Increased investments into ICT / data processing and hosting technologies would improve these indicators: new optic networks and connection to the main hubs are expected (e.g. Frankfurt). This would allow users of data transfer services to choose routes, ensure a higher speed of data transfer and considerably improve Lithuania's connectivity to the European fibre optic infrastructure, and these fibre infrastructure improvements would attract other potential investors to consider the region for investments into the same and similar fields.

³³ The Lithuania Agenda's objectives largely reflect the the EU's Digital Agenda targets, namely complete 30 Mbps coverage and 50% 100 Mbps coverage by 2020.

³⁴ http://ec.europa.eu/contracts_grants/pa/partnership-agreement-lithuania-summary_en.pdf

³⁵ Operational programme for the European Union Funds' Investments in 2014-2020 (CCI number: 2014LT16MAOP001).

³⁶ Comparing to other EU countries, Lithuania is lagging behind with investment into data processing, hosting and related activities sector. Investment per person employed in information and communication sector and specifically in data processing, hosting and related activities sector is equal to EUR 5.0 thousand and EUR 2.2 thousand respectively.

- (49) Potential investments into ICT/data processing and hosting technologies are deterred by the high price for electricity in Lithuania³⁷, which makes initial investments into ICT / data processing and hosting technologies less attractive than in many other European regions³⁸.
- (50) The Lithuanian authorities indicated that the aid will be limited to the minimum amount needed to achieve the aim of the notified scheme, and that the aid intensity might therefore be much lower than 25% of the gross grant equivalent. Only the difference between the net present value of the investment in Lithuania with the net present value in an alternative location will be authorised as aid.
- (51) According to the Lithuanian authorities, the notified scheme will result in job creation (it is estimated that the measure would create an average of 305 direct jobs and 243 additional indirect jobs per year over a period of 12 years), increasing the demand for employees who have an education in IT and related technical specialities, and allowing for the retention of such specialists in Lithuania, which would contribute greatly to the development of that sector.

3. EVALUATION PLAN

- (52) The RAG³⁹ provide that certain aid schemes may be subject to an evaluation in order to further ensure that distortions of competition and trade are limited. The requirement may be imposed for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen. The present aid scheme has novel characteristics (the first ever scheme aimed at attracting large data centres). The Lithuanian authorities therefore agreed to carry out an evaluation of the scheme, in conformity with the guidance in the Commission Staff Working Document on Common methodology for State aid evaluation⁴⁰. They duly notified an evaluation plan for the scheme, described in its main elements hereafter.
- (53) The notified evaluation plan contains the description of the following main elements: 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 for the submission of the final evaluation report, the approach for the selection of the independent body conducting the evaluation, and the modalities for ensuring the publicity of the evaluation.
- (54) As far as the objectives of the scheme are concerned, the Lithuanian authorities confirmed that ICT infrastructure and cloud computing services are among Lithuania's Smart specialisation priorities. The measure aims to increase

³⁷ The price of electricity in Lithuania is one of the highest in Europe. In the first semester of 2014 the price of electricity in Lithuania was equal to 0.986 EUR/kWh, whereas the average price of the electricity in the 28 European Union Member States was only 0.0754 EUR/kWh (source: Eurostat, 2014 S1: <http://epp.eurostat.ec.europa.eu/>). In addition, energy consumption accounts for over 80% of the total operating expenditure of the data centres.

³⁸ Nordic countries, United Kingdom, Germany, Iceland and Ireland (source: Data Centre Risk Index, 2013 - <http://www.cushmanwakefield.com/-/media/global-reports/data-centre-risk-index-2013.pdf>).

³⁹ Recitals 142-144.

⁴⁰ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

regional competitiveness, boost further investment in ICT and ICT-related job creation and incentivise further investments in fibre optics infrastructure connecting Lithuania with other European and global data hubs⁴¹.

3.1. Evaluation questions and result indicators

- (55) The evaluation questions address both the direct impact of the aid on the beneficiaries and the scheme's indirect impacts (in terms of both positive and negative externalities). The result indicators are linked to the evaluation questions and to the objectives of the scheme.
- (56) The direct impact of the aid on the beneficiaries will be analysed on the basis of evaluation questions on the amount of private funds attracted. Moreover, specific attention will be paid to the incentive effect and behavioural/outcome additionality. In this regard, specific questions are included in the plan with the objective to assess to what extent the investment aid has encouraged companies to invest in the region, to what extent the aid scheme had positive impact on job creation and whether the economic operator would have adopted a different approach in the absence of the aid scheme.
- (57) With regard to the evaluation questions on the direct effects, the following result indicators will be used: (1) amount of private investment attracted; (2) share of applicants indicating that without the measure they would not have carried out similar investments in Lithuania and share of investments that were not expected to be profitable in the absence of aid (backed up by business plans and internal documents showing that aid is needed), and (3) the net number of direct jobs created and net amount of investment by beneficiaries.
- (58) To capture the indirect impacts of the aid scheme, the evaluators will analyse employment evolution in subcontracting firms, the growth of the ICT sector in Lithuania and trends in innovations in the country. In addition, the evaluation will assess the impact of the scheme in terms of changes in the connectivity of Lithuania to European infrastructures and the attractiveness of careers in ICT. Furthermore, study will also look into the indirect effects on the beneficiaries' competitors as well as on the non-beneficiaries of the measure in Lithuania or in neighbouring Member States. The evaluators will also assess whether the aid may have resulted in businesses relocations from other regions or from neighbouring Member States.
- (59) With regard to the evaluation questions on the indirect effects, the following result indicators will be used: (1) net number of indirect jobs created⁴² and number of new ICT and related companies; (2) new investment in improving fibre optics connections to the European data hubs; (3) attractiveness of municipalities to investors; (4) share of graduates from ICT and share of students enrolled in ICT; (5) market concentration in NACE Division 63.11⁴³ and comparative

⁴¹ See section 2 above for a detailed description of the objectives and the expected impact of the measure to be evaluated.

⁴² The number of indirect jobs created will be estimated from the data on contractors of investors, as well as interviews and/or surveys of the contractors.

⁴³ Market concentration will be calculated with Herfindahl-Hirschman Index (HHI), with employment in individual companies. If sufficiently precise data on individual companies can be obtained from commercial databases providing micro-level firm data, then turnover will also be used to assess HHI.

electricity prices for beneficiaries and other enterprises (6) number of investments that resulted from relocation from other regions or neighbouring Member States and number of investments that were planned in neighbouring Member States or in less advanced regions than the one chosen for the project.

- (60) The evaluation questions on appropriateness and proportionality of the aid scheme will, in particular, assess the efficiency of the aid schemes's design by comparing the amount of aid provided and expected returns. The result indicator chosen to measure the proportionality and the appropriateness of the aid are the expected profitability (as judged by business plans) as well as a qualitative expert assessment of the scheme.

3.2. Envisaged methodology to conduct the evaluation

- (61) For analysing the result indicators, the Lithuanian authorities are going to use different methodologies in line with the Commission Staff Working Document on Common methodology for State aid evaluation.⁴⁴
- (62) The evaluation will comprise quantitative methods (mainly counterfactual methods), which will be complemented by theory-based evaluation techniques to improve the quality of the results.
- (63) The counterfactual methods will allow the evaluators to compare the effect of aid on the beneficiaries or territories with control groups which did not receive aid. The control groups will be carefully chosen separately for each evaluation question and correspond to either a certain municipality, region or beneficiary. This type of analysis will be carried out only if it is possible to identify adequate control groups. The Lithuanian authorities expect that a propensity score matching and a difference-in-differences approach will be used in the evaluation. Given the nature of the aid to be measured and the availability of the data, the Lithuanian authorities intend to employ the most robust methodology at hand.
- (64) The quantitative component will include a preliminary analysis of statistical economic and social data, to gain relevant contextual information on the environment the beneficiaries will operate in; in some cases, descriptive statistics will also provide answers to certain evaluation questions. Then, the causal effect of the aid scheme will be assessed through a counterfactual analysis.
- (65) The Lithuanian authorities explain that the theory based evaluation will help to (i) triangulate the results; and to (ii) provide evidence-based explanations of why the intervention produced/did not produce the expected effects. Both aspects are important for answering evaluation questions, and proposing viable recommendations, and neither can be implemented by employing only counterfactual analysis methods. Therefore, the whole structure of the evaluation will rely on a mixed-methods approach.
- (66) The robustness of such methodology much depends on the choice of the control group. Due to the logic of the intervention and evaluation questions, three plausible control groups have been selected at different levels (NUTS2 region, municipality and firm level).

⁴⁴ Commission Staff Working Document on Common methodology for State aid evaluation, Brussels, 28.5.2014, SWD(2014) 179 final.

3.3. *Data collection requirements*

- (67) The Lithuanian authorities confirm that all the indicators will be collected, either from the beneficiaries or from other sources, to answer the evaluation questions. The preferred data sources for the indicators to be used for counterfactual analysis are Eurostat, the Annual Municipality Performance Index prepared by the Lithuanian Free Market Institute and monitoring data/commercial business reports as provided by companies such as Creditreform Lietuva or Creditinfo Lietuva among others. At the municipality level, the most similar municipalities will be chosen according to the data made available by the national statistical office (i.e. Statistics Lithuania) as well as by the Municipality Performance Index. At the firm level, location and turnover indicators will be used for the propensity score matching. In this regard, the Commercial databases providing micro-level firm data will be the preferred data source. The contextual data will be collected from Statistics Lithuania, Eurostat and other databases which provide aggregate public data. The data will include:
- (a) Data on ICT sector, especially NACE Divisions 63 and 63.11 (turnover, employment, foreign direct investment, expenditure by municipality, depending on availability);
 - (b) General macroeconomic indicators;
 - (c) Firm dynamics (births, deaths, survival rates);
 - (d) Community innovation survey data on innovations in sectors.
- (68) On the other hand, the theory-based impact evaluation will rely on interviews, desk research, surveys and data collected from aid applications which will include questions on the reasons for choosing a specific region for the investment. In addition, information will be collected from beneficiaries (e.g. data on number of directed jobs created (data collected twice a year); amount of private investment in funded projects (data collected annually) and comparative electricity prices for beneficiaries (data collected annually).
- (69) Surveys and interviews with aid beneficiaries may be used as a complementary source of data collection (surveys or interviews with sub-contractors of the beneficiaries may also be conducted). For other sources of data previous evaluations and studies, expert interviews are also envisaged. According to the Lithuanian authorities, this will enable triangulation of the results and conclusions of the evaluation.
- (70) The data collection will be subject to the Lithuanian statistical confidentiality rules which are intended to safeguard the privacy of citizens, preserve competition among economic agents and ensure the confidence of information providers in the statistical system. The data used for evaluation will be made publicly available only in aggregate and/or anonymous forms, unless it is publicly available, or a particular respondent agrees that non-anonymous data can be published (e.g. interview data).

3.4. Proposed timing of the evaluation, including the date of submission of the final evaluation report

- (71) The Lithuanian authorities have foreseen three milestones in the evaluation plan. A first report ("Methodological report") will cover the evaluation methodology (including the data collection instruments, definition of samples, criteria for selection of cases for case studies, assumptions and hypotheses for the theory of change, etc). A second report ("Interim evaluation report") will present preliminary findings regarding the implementation of the measure. The final report will include findings on the implementation of the aid scheme together with recommendations for the design of similar measures.
- (72) The first report will be delivered three quarters after the date of the beginning of the first project. The second report will be delivered during the last quarter of 2018⁴⁵. The Lithuanian authorities committed to share the findings of the Interim evaluation report with the Commission.
- (73) The final evaluation report will be prepared by the external evaluator in the second quarter of 2020⁴⁶. The Lithuanian authorities have committed to submit the final evaluation report to the Commission by 30 June 2020.

3.5. Independent body selection to conduct the evaluation, or criteria for its selection

- (74) The evaluation will be conducted by a team of independent external experts that will be selected through a transparent, non-discriminatory and objective public procurement procedure under the applicable provisions set out in the Law on Public procurement of the Republic of Lithuania.
- (75) The successful bidder will be selected on the basis of the following criteria: the technical quality of the proposal, the quality of the technical team, past relevant experience in public policy evaluations and the price. The criteria for the selection of the entity conducting the evaluation will include requirements related to the global adequacy and coherence of the proposal and the evaluation methodology design. The qualifications and experience of the entity conducting the evaluation and of the members of the evaluation team in carrying out evaluative research concerning public policy evaluations will be taken into account as well. The evaluation team will need to demonstrate that it meets the minimum requirements in terms of technical capacity, namely the experience and the skills of the members of the technical team and the technological and organisational capacity to perform the evaluation. The evaluation team will also need to demonstrate that it has the financial capacity to perform the evaluation.
- (76) Invest Lithuania and the Ministry of Economy will regularly monitor the progress of the evaluation.

⁴⁵ If no projects are presented by the time, or if less than an year passed from the beginning of the first project, the interim evaluation report will have to be prepared later, in period N+Q5 at the latest. "N" represents the year of the beginning of the first project.

⁴⁶ If no projects begin by the second quarter of 2020, there will be no material to cover in the final evaluation report. Therefore, there would be no evaluation report.

3.6. Modalities for ensuring the publicity of the evaluation

- (77) The Lithuanian authorities confirm that the evaluation plan and the final evaluation report will be made publicly available. The documents to be made public will be published in electronic form on the websites of Invest Lithuania⁴⁷ and the Ministry of Economy⁴⁸.
- (78) In addition, the involvement of stakeholders of the scheme will be ensured by organising meetings and group discussions concerning the evaluation. Stakeholders will also have the right to provide feedback on the process and outputs of the evaluation before a report is accepted.
- (79) The results of the evaluation will be used for the design of future schemes. Whether the schemes are direct successors, similar schemes, or even different schemes funded from other sources, the lessons learned will be used both by the granting authority and other public funding organisations to inform the design of their own support instruments.

4. ASSESSMENT OF THE MEASURE AND OF THE NOTIFIED EVALUATION PLAN

4.1. Legality of the measure

- (80) By notifying the prolongation of the duration of the aid measure before putting it into effect, the Lithuanian authorities respected their obligations under Article 108(3) TFEU.

4.2. Existence of State aid

- (81) According to the proposed aid measure, the aid in the form of an exemption from payment of a part of the electricity bill (the public interest service fee) will be awarded to undertakings carrying out investment projects on data processing, web servers (hosting) and related activities in technological development sites and who have signed investment agreements with the Government of the Republic of Lithuania.
- (82) The aid will be provided by public authorities through State resources (revenue foregone for the State) within the meaning of Article 107(1) TFEU as the public service interest fee is collected on behalf of the State by electricity network operators (from electric energy consumers and producers which use the electricity for themselves, subject to the actually consumed quantity of electricity) which then transfer the fee to the State.
- (83) The aid foreseen under this scheme constitutes an economic advantage because it allows the beneficiaries to reduce the investment costs that they should normally bear in order to develop this type of projects. It may therefore distort or threaten to distort competition by favouring certain undertakings which receive aid under the scheme over the ones which are not its beneficiaries. As this aid scheme supports investments in one particular sector of the economy, there is also a risk of distortion of competition on a sectoral level, as sectors excluded from the scheme are disadvantaged compared to the sector targeted by the scheme.

⁴⁷ <http://www.investlithuania.com/>

⁴⁸ <http://ukmin.lrv.lt/>

- (84) The measure is selective because it applies only to specific categories of undertakings⁴⁹ carrying out initial investments in Lithuania in the ICT/data processing and hosting technologies sector. Furthermore, the State has a discretionary power in selecting projects and awarding aid under the scheme.
- (85) In view of the fact that the scheme concerns a sector and undertakings involved in trade between Member States, there is a risk that the aid could affect that trade.
- (86) In light of the foregoing, the Commission considers that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU. The Lithuanian authorities do not contest that conclusion.

4.3. Compatibility of the scheme

- (87) The Lithuanian authorities have indicated that the primary objective of the scheme is to promote regional development and have therefore notified the scheme under the RAG. Having established that the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether it can be found compatible with the internal market. The Commission has examined the measure in the light of Article 107(3)(a) TFEU and in the light of the RAG.
- (88) To assess whether a notified aid measure can be considered compatible with the internal market, the Commission generally analyses whether the design of the aid measure ensures that the positive impact of the aid towards an objective of common interest exceeds its potential negative effects on trade and competition. To that end, the Commission assesses the scheme on the basis of the common assessment principles set out in sections 3.2 to 3.8 of the RAG:

a) Contribution to regional objective and need for State intervention

- (89) According to recitals 31 and 33 of the RAG, regional aid schemes should form an integral part of a regional development strategy with clearly defined objectives and should be consistent with and contribute towards those objectives. For aid measures outside an operational programme financed from the cohesion policy funds, Member States can demonstrate that the measure contributes to the objectives of a regional development strategy based on evaluations of past State aid schemes, impact assessments made by the granting authorities or expert opinions.
- (90) The notified aid scheme is confined to one area of activity, i.e. the beneficiaries of the aid are investors who carry out data processing, operate web servers (hosting) and/or carry out related activities in technological development sites. As regards the need for these investment projects and their contribution to regional development, the Commission notes that the aid scheme contributes to the achievement of the strategic aim of the Investment Promotion and Industry Development Programme for 2014-2020 approved by the Government Resolution No 986, which is a policy initiative addressed mainly to attract investments and increase competitiveness with particular focus on data centres, shared services, manufacturing etc., improving connectivity to the European optic fibre infrastructure and attracting other potential investors.

⁴⁹ See sub-section 2.4 above.

- (91) The aid scheme also contributes to the achievement of the goals of the Digital Agenda for Europe⁵⁰, in the framework of the Europe 2020 strategy, notably for Pillar I Digital Single Market and Pillar IV Fast and ultra-fast internet access.
- (92) The Commission notes that the European Structural Investment Funds (ESIF) normally do not cofinance fiscal or para-fiscal aid measures, such as the exemption of the public interest service fee. Furthermore, the notified measure is targeting all sizes of undertakings, whereas ESIF operations target SMEs only. Therefore, the notified scheme could not be co-financed under one of the ESIF operational programmes for the period 2014-2020, and this in spite of the fact that the aid scheme positively contributes to one of the pivotal objectives of the broader development strategy agreed with the Commission for the 2014-2020 programming period⁵¹ (i.e. more rapid smart growth, sustainable economic development and to enhance long-term competitiveness of the Lithuanian economy and a further reduction in regional disparities).
- (93) The Lithuanian authorities provided a study demonstrating that the measure aims to boost the overall economic activity and social development in Lithuania, and in particular to stimulate additional data centre investments, to reduce unemployment and to improve business climate in the most disadvantaged territory in which a data centre would be located. In order to demonstrate the aid scheme's advantages to regional development, the Lithuanian authorities developed an analytical grid which measures the data centre's impact in terms of six factors: (a) capital investment, (b) employment, (c) emergence of IT ecosystem, (d) infrastructure development, (e) publicity for the region, and (f) knowledge base (raising ICT-trained workforce).
- (94) Based on the experience of the Lithuanian authorities dealing with companies looking for the location of a data centre, the main factors that may affect a data-centre's location are: (1) availability, reliability, and cost of electricity, (2) telecommunication infrastructure, geographic location for a data centre in terms of (3) security and (4) climate and (5) logistics infrastructure. Lithuania scores well on all of the above listed criterion, except on the cost of electricity which is among the highest in Europe⁵². This makes initial investment into ICT/data processing and hosting technologies less attractive than compared with the same investments in many other European regions.
- (95) The aid scheme includes a system in which the granting authority prioritises and selects the investment projects according to the objectives of the scheme on the basis of a formal scoring approach⁵³.
- (96) In view of above, the Commission considers that the scheme is consistent with and contributes towards the development strategy of Lithuania as an assisted area.

⁵⁰ Communication from the Commission of 19 May 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Digital Agenda for Europe [COM (2010) 245 final – not published in the Official Journal of the European Union]

⁵¹ Operational programme for the European Union Funds' Investments in 2014-2020.

⁵² See recital 49 and footnote 37 above.

⁵³ See sub-section 2.7 above.

- (97) Pursuant to recital 35 of the RAG, when awarding aid to individual investment projects on the basis of a scheme, the granting authority must confirm that the selected project will contribute towards the objective of the scheme and thus towards the development strategy of the area concerned.
- (98) In that context, the Lithuanian authorities confirmed that they will request applicants to provide relevant information in the application proceeding allowing the granting authority to select the projects whose will contribute mostly towards the objective of the scheme and thus towards the development strategy of the region concerned. In this regard the aid application that each applicant has to submit through an application form will facilitate the verification from the granting authority of the positive effects of the investment for the economic development of Lithuania, otherwise the investment agreement with the Government of the Republic of the Lithuania would not be concluded.
- (99) To ensure that the investment makes a real and sustained contribution to the development of the area concerned, the investment must be maintained in the area concerned for at least five years, or three years for SMEs after its completion⁵⁴.
- (100) To ensure that the investment is viable, the Member State must ensure that the beneficiary provides a financial contribution of at least 25% of the eligible costs through its own resources or by external financing, in a form that is exempt of any public financial support⁵⁵.
- (101) To avoid that State aid measures would lead to environmental harm, Lithuania committed to ensure compliance with Union environmental legislation, including the need to carry out an environmental impact assessment and to obtain all relevant permits⁵⁶.

b) Appropriateness of the scheme

- (102) According to section 3.4 of the RAG, the notified aid measure must be an appropriate policy instrument to address the policy objective concerned. When introducing a scheme outside an operational programme financed from the cohesion policy funds, Member States must indicate why regional aid is an appropriate instrument to tackle the common objective of equity or cohesion.
- (103) As mentioned in recital 94 above, the main handicap of Lithuania as a location for data centres is the relatively high price of electricity, which is an important location factor for investment in this sector. The measure will directly remedy the competition distortion as the aid takes the form of an exemption from payment of the public interest service fee.
- (104) In view of above, the Commission accepts that the measure is an appropriate instrument to achieve the regional development objective in the region concerned.

⁵⁴ The assets that are part of the assisted investment must remain in the area concerned for at least five years after completion of the investment project, unless they are replaced by items of equal or higher value. The replaced assets are not again eligible for aid.

⁵⁵ The notified scheme complies with this requirement (see sub-section 2.10 above).

⁵⁶ See sub-section 2.7 above, in particular, footnote 23.

c) Incentive effect

- (105) According to section 3.5 of the RAG, regional aid can only be found compatible with the internal market if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in a way that it engages in additional activity contributing to the development of an area which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner or in another location. The aid must not subsidise the costs of an activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.
- (106) Works on an individual investment can start only after the beneficiary has submitted a duly completed application form for aid.
- (107) Member States must introduce a standard application form for aid annexed to the RAG. In the application form, SMEs and large undertakings must explain counterfactually what would have happened had they not received the aid, indicating which of the scenarios described in recital 61 of the RAG applies. Large undertakings must submit documentary evidence in support of the counterfactual described in the application form, whereas SMEs are not subject to such obligation.
- (108) The Lithuanian authorities committed to carry out a credibility check of the counterfactual and confirm that regional aid has the required incentive effect. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the investment.

d) Proportionality of the scheme

- (109) According to section 3.6 of the RAG the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned.
- (110) Pursuant to recital 82 of the RAG, in case of schemes applicable to SMEs the maximum aid intensities from the regional aid map serve as safe harbours. As long as they are not exceeded the criterion "aid limited to the minimum" is deemed to be fulfilled and therefore the aid is proportional.
- (111) The Lithuanian authorities committed that, for aid to SMEs, increased intensities will be applied, except for aid awarded to large investment projects in line with the Lithuanian Regional Aid Map for the period of 2014-2020⁵⁷.
- (112) The aid granted to large undertakings under the scheme will be awarded on the basis of the "net-extra cost approach", calculated in accordance with recitals 79-80 of the RAG. The maximum aid intensities allowed as per the applicable regional aid map are used as a cap to the net-extra cost approach.
- (113) Lithuania further confirmed that it would respect the applicable regional aid ceiling, where appropriate taking into account any combination with other

⁵⁷ Recitals 10 and 11 (State aid No SA. 38510(2014/N))

regional investment aid, as established in the regional aid map for the period 2014-2020.

- (114) The Commission notes that the aid granted under the measure complies with the requirements on eligible costs as defined in recitals 94 to 102 of the RAG⁵⁸.
- (115) In view of above, the aid is considered to be limited to the minimum.

e) Avoidance of undue negative effects

- (116) For the aid to be compatible, according to section 3.7 of the RAG, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.
- (117) Pursuant to recital 115 of the RAG, aid may also have distortive effects in terms of increasing or maintaining substantial market power on the part of the beneficiary, and even where aid does not strengthen substantial market power directly, it may do so indirectly, by discouraging the expansion of existing competitors or inducing their exit or discouraging the entry of new competitors.
- (118) In line with the requirement set out in recital 120 of the RAG, the Commission notes, according to a study provided by the Lithuanian authorities, that the measure is addressed at undertakings operating in a global market (i.e. the data-centre market), which will continue to increase, with more than 60 new large data centres expected to be established in Western Europe by 2020⁵⁹.
- (119) The Commission notes that the aid granted under the measure is designed to remedy a very specific handicap of the Lithuanian economy, which undermines its attractiveness for investments in data-centres, i.e. its electricity price, which is significantly higher than the average of the 28 EU Member States. The nature and size of the aid is therefore designed to address a specific competitive disadvantage of the country for this specific sector. The measure is limited to the amount necessary to compensate for the additional cost of investing in Lithuania as compared to a counter-factual investment elsewhere. Moreover, data submitted by Lithuania show that the measure will have only a marginal impact on the geographical distribution of activities in the sector in the EU, as the Lithuania's market share in terms of ICT/data processing and hosting technologies sector is insignificant. In 2013, Lithuanian market share was equal to 0.2% of the EU 28 market in terms of turnover under the NACE Code 63.11 Data processing, hosting and related activities⁶⁰. In addition, the Lithuanian authorities estimate that, as a result of the measure, Lithuania will attract only a relatively small share of the expected increase in the capacity of the sector, which would result in a relatively

⁵⁸ See recitals 17 to 23 above.

⁵⁹ Digital infrastructure and Economic development – an impact assessment of facebook's data center in Northern Sweden, The Boston Consulting Group, June 2014, p. 24 and 25. The Lithuanian authorities estimate to attract with the measure 9 new data centres (1x25 MW capacity data center and 8x12,5 MW capacity data centres).

⁶⁰ Eurostat data and article "Take-up of cloud storage in Europe affected by privacy issues" (<http://www.computerweekly.com/feature/Take-up-of-cloud-storage-in-Europe-affected-by-privacy-issues>).

small increase in Lithuania's market share in the sector (namely from 0.2% in 2012 to some 0.8% by 2020).

- (120) Pursuant to recital 116 of the RAG, where one area attracts an investment due to the aid, another area loses out on that opportunity. These negative effects in the areas that are adversely affected by aid may be felt through economic activities and jobs (including those at the level of subcontractors) foregone.
- (121) In line with the requirement from recitals 121 and 126 of the RAG, the Commission notes that the aid scheme is applicable in Lithuania. The whole territory of the country qualifies as an assisted region on the basis of the derogation in Article 107(3)(a) of the TFEU. Furthermore, the Commission notes that when awarding aid under the scheme to individual projects, the granting authority will verify and confirm that without the aid the investment would not have been located in a region with a regional aid intensity which is higher or the same as the target region.
- (122) As required by recital 122 of the RAG, the Commission notes that, when awarding aid under the scheme to individual projects, the granting authority will notify individual aid granted to a beneficiary that has closed down the same or similar activity in another area in the EEA two years preceding the date of applying for aid or that, at the moment of the aid application, has concrete plans to close down such an activity within a period of two years after the investment to be subsidised is completed. This requirement also refers to activities carried out at group level⁶¹.
- (123) In line with recital 123 of the RAG, the Lithuanian authorities have provided all necessary information to conclude that the aid will not encourage relocation of data centres from other Member States to Lithuania as the lower electricity price due to the exemption from payment of the public interest service fee will still be higher than in other countries (e.g. Nordic countries) and it will only put Lithuania to a similar market position with other countries and it will grant to Lithuania a mere possibility together with other countries to be considered in a short list of potential investment locations for data centres.
- (124) In the light of the foregoing, the Commission considers that Lithuania has demonstrated that the negative effects will be limited to the minimum and that potential distortions of competition and trade remain limited.

f) Transparency

- (125) In view of recital II.2 of the Transparency Communication from the Commission⁶², Member States must ensure the publication on a comprehensive State aid website, at national or regional level, of a full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority or authorities; the identity of the

⁶¹ Paragraph 8 of the Order.

⁶² Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C 198, 27.6.2014, p. 30.

individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/large undertaking), the region in which the beneficiary is located (at NUTS level II) and the principal economic sector in which the beneficiary has its activities (at NACE group level). Such a requirement can be waived with respect to individual aid awards below EUR 500,000. Such information must be published after the decision to grant the aid has been taken, must be kept for at least ten years and must be available to the general public without restrictions.

- (126) The Commission takes note of the fact that Lithuania confirmed that all requirements concerning transparency set out in recital II.2 of the Transparency Communication will be respected.

4.4. Assessment of the evaluation plan

- (127) Pursuant to recital 142 of the RAG, the Commission may require that certain schemes be subject to a time limitation and to an evaluation.

- (128) The Commission considers that, as described in section 3 of this decision, the notified evaluation plan contains the minimum elements outlined in recital 144 of the RAG and is also consistent with the Commission Staff Working Document "Common methodology for State aid evaluation"⁶³ providing guidance on the drafting of an evaluation plan.

- (129) The evaluation plan gives a concise description of the key objectives of the scheme concerned and provides sufficient information to understand the underlying "intervention logic". The scope of the evaluation is defined in an appropriate way.

- (130) The evaluation questions are designed in a way as to assess the direct effect of the scheme on the beneficiaries compared to non-beneficiaries in order to measure the incentive effect of the scheme. The evaluation questions addressing indirect impacts are linked to the specificities of the aid scheme, both in terms of objectives and aid instrument. The Commission notes that the evaluation plan includes also suitable analyses focused on the performance of beneficiaries' competitors and on proportionality and adequacy.

- (131) The evaluation plan sets out and explains the main methods that will be used in order to identify the impacts of the scheme, and discusses why these methods are likely to be appropriate for the scheme in question.

- (132) The evaluation plan comprises a suitable list of result indicators. The evaluation plan explains the data collection requirements and availabilities necessary in this context. Data sources are individually defined for each question. It also describes possible constraints and risks that might affect the scheme's objectives and hence the expected effects. The Commission notes that the independent evaluator will be allowed to complement the existing data by surveys or interviews of aid beneficiaries.

- (133) The proposed timeline of the evaluation is reasonable in view of the characteristics of the scheme concerned and the relevant implementation periods for projects supported under the scheme.

⁶³ SWD(2014)179 final of 28.5.2014.

- (134) In view of the above, the Commission considers that the evaluation plan meets all requirements laid down in the RAG, is established in line with the common methodology proposed in the Commission Staff Working Document, and is suitable given the specificities of the novelty of the aid scheme to be evaluated.
- (135) The Commission also acknowledges the commitments made by the Lithuanian 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 are adequate to ensure transparency.
- (136) The Commission also notes the commitment by the Lithuanian authorities to fulfil the obligation to submit the final evaluation report by 30 June 2020.

4.5. Conclusion of the compatibility of the scheme

- (137) The assessment carried out above shows that the notified scheme can be expected to contribute positively to the economic development of Lithuania by creating a significant number of high quality direct and indirect jobs in the data processing, Internet servers services and related activities sector and by promoting the development of a data-centre industry in a growing market. As the whole of Lithuania qualifies as an Article 107(3)(a) region, the measure contributes to the objective of economic and social cohesion. At the same time, the assessment shows that the measure is appropriate, well targeted and proportionate and that the negative effects of the measure in terms of distortion of competition will remain limited. The Commission is therefore of the view that the positive effects of the measure can be expected to outweigh the negative effects.
- (138) The Commission concludes that the notified prolongation of the aid scheme until 31 December 2020 and evaluation plan meets all the compatibility criteria of the RAG, and can therefore be declared compatible with the internal market pursuant to Art. 107(3)(a) TFEU.

5. CONCLUSION

- (139) 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)(a) of the Treaty on the Functioning of the European Union.
- (140) The Commission notes that Lithuania agreed to have the present decision adopted in the English language.
- (141) The Commission reminds the Lithuanian authorities of their commitment to fulfil the reporting and monitoring obligations and that all plans to modify that aid scheme must be notified to the Commission.

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 Registry
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

