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**PUBLIC VERSION**

**WORKING LANGUAGE**

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**Subject: SA. 32021 - Broadband in the rural areas of Saxony  
Amendment of the Broadband scheme N 383/2009**

Sir,

## **I. PROCEDURE**

- (1) By letter dated 8 February 2010, the Commission considered the 'Amendment of the German broadband aid scheme 'N 150/2008 - Broadband in the rural areas of Saxony', adopted as case N 383/2009, as compatible with the Treaty on the Functioning of the European Union (hereafter TFEU).<sup>1</sup>
- (2) By an electronic notification validated 2.12.2010, registered at the Commission on the same date, Germany notified an amendment to aid scheme N 383/2009.

## **II. DESCRIPTION OF THE AID**

### **1. Summary of aid scheme N 383/2009**

- (3) The scheme, which is now to be amended<sup>2</sup>, foresees support for broadband investment in rural and remote areas of Saxony, which can take place by direct grants or by the placement

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<sup>1</sup> With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

<sup>2</sup> I.e. support scheme in the form as it was authorised by Commission decision N 383/2009.

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of ducts by the municipality which are made available to broadband operators. The legal basis is "*Richtlinie des Sächsischen Staatsministeriums für Umwelt und Landwirtschaft zur Integrierten Ländlichen Entwicklung im Freistaat Sachsen (RL ILE-2007), Teil A 1.4* on the basis of "*Eckpunkte für die Verwendung öffentlicher Mittel zur bedarfsgerechten Breitbandversorgung des Ländlichen Raums im Freistaat Sachsen.*"

- (4) Support should only be given in so-called white areas, in which there is currently no coverage with a minimum download bandwidth of 2 MBit/s and where such coverage will not be commercially achieved within the next three years. The support scheme follows the requirements of the Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks (hereafter 'the Broadband Guidelines')<sup>3</sup>. It in particular requires that the support plans are consulted with operators and that the areas targeted by State aid are properly mapped. The support is to be tendered out and the most economically advantageous offer should be awarded the contract. The chosen broadband operator needs to give access to his network on non-discriminatory conditions for at least seven years. The scheme ensures that the wholesale pricing will not be excessive. The scheme aims at retail prices which are similar to those in non subsidized areas and foresees a monitoring mechanism. Maximal support for a project is 500 00 EUR.
- (5) The scheme is valid until 31.12.2015.
- (6) The original budget was EUR 10 million.

## **2. *Amendment of the scheme as notified on 2 December 2010***

- (7) The notified amendment of the scheme concerns the increase of the overall budget of the measure from EUR 10 million to EUR 50 million. Germany stated that this is the only change to the scheme.

### **III. ASSESSMENT OF THE AMENDED AID SCHEME**

- (8) The aid falls under the provisions of Art. 107(1) for the TFEU. Germany has fulfilled its obligation under article 108(3) of the TFEU, by means of the simplified notification form, in accordance with Article (4)2.a of the Commission Regulation No. 794/2004.<sup>4</sup>
- (9) The Commission assessed the notified alteration on the basis of the Broadband Guidelines.
- (10) The German authorities wish to increase the overall budget of the aid measure up to EUR 50 million.
- (11) The Commission notes that the above-mentioned modification is the only change to the existing aid measure.
- (12) The Commission considers that this modification will not change the favourable assessment made in its previous decision on the aid measure and the scheme still complies with the above mentioned Broadband Guidelines.

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<sup>3</sup> OJ C 235 of 30.9.2009, p. 7.

<sup>4</sup> 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.

(13)The Commission has accordingly decided to consider the proposed modification to be compatible with the internal market pursuant to Article 107(3)c) of the TFEU.

## **DECISION**

The Commission has accordingly decided to consider the notified amendment to broadband scheme N383/2009 'Amendment of the German broadband aid scheme 'N 150/2008 - Broadband in the rural areas of Saxony' to be compatible with Article 107(3)(c) of the Treaty on the Functioning of the European Union and not to raise objections to it.

Germany is reminded that, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union, it is obliged to inform the Commission of any plan to extend or amend the 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 the authentic language on the internet site:

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Yours faithfully,

For the Commission

Joaquín ALMUNIA  
Vice-President of the Commission