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Subject: State aid No N 331/2007 – Germany (Thuringia)
Guideline for the promotion of innovative technology oriented collaboration projects, networks and clusters (promotion of collaboration)

Sir,

1. PROCEDURE

- (1) By letter dated 14 June 2007, registered at the Commission on the same date, the German authorities notified, according to Article 88(3) of the EC Treaty, the above mentioned aid scheme (*Richtlinie zur Förderung von innovativen, technologieorientierten Verbundprojekten, Netzwerken und Clustern (Verbundförderung)*).
- (2) The German authorities notified the scheme on the basis of the Community Framework for State aid for research and development and innovation (hereinafter "Framework")¹.
- (3) As the information received was not sufficient to assess the scheme's compatibility with the common market, the Commission considered the notification to be incomplete.

¹ OJ C 323 of 30.12.2006, page 1.

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Therefore, by letter of 18 July 2007, the Commission asked Germany for supplementary information. On 2 August a meeting took place between representatives from the German authorities and from the Commission.

- (4) On 31 August 2007 the German authorities provided additional information which still required further clarification. Therefore the Commission issued another information request on 19 October 2007 to which Germany responded by letter dated 27 November 2007, registered on the same day.

2. DESCRIPTION OF THE AID SCHEME: GENERAL PROVISIONS

2.1. Objective

- (5) The notified scheme aims at supporting collaboration between enterprises and between enterprises and research organisations in the field of future technologies (*Zukunftstechnologien*). The scheme is not sector specific, though focuses on the following areas: measuring- and control technology (*Mess-, Steuer- und Regeltechnik*), ICT and media technology, new materials (*neue Materialien und Werkstoffe*), optics and optoelectronics, production technology, micro- and nanotechnology, biotechnology, medical, environmental and energy technologies.
- (6) Collaboration in the meaning of the scheme can take place via a joint R&D project comprising the categories of industrial research and/or experimental development or via a network/cluster.
- (7) Furthermore the scheme promotes the costs of SME for the acquisition of industrial property rights.
- (8) The scheme is the successor of the aid scheme N 40/1996 which was approved by the Commission until 31 December 2006.

2.2. Legal basis

- (9) The scheme's legal basis is:
- Programme Guidelines (draft version): *Entwurf der Richtlinie zur Förderung von innovativen, technologieorientierten Verbundprojekten, Netzwerken und Clustern (Verbundförderung)*;
 - Budget law of Thuringia and implementing provisions: *Thüringer Landeshaushaltsordnung, insbesondere §§ 23, 44 sowie die hierzu erlassenen Verwaltungsvorschriften und deren Anlagen*;
 - Act on administrative procedures: *Thüringer Verwaltungsverfahrensgesetz*.

2.3. Implementing authority

- (10) The scheme will be implemented by the *Thüringer Aufbaubank*.

2.4. Beneficiaries

- (11) The German authorities expect to fund between 500 and 1000 enterprises and about 30 research organisations.

- (12) No aid can be granted to enterprises in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty².
- (13) Germany has undertaken to suspend the payment of aid under the present scheme to any enterprise that has received illegal and incompatible aid until the enterprise concerned has reimbursed or paid into a blocked account the incompatible aid with the recovery interest due.

2.5. Aid instrument

- (14) Aid will be provided in the form of non-repayable direct grants. An aid application must lead to a minimum aid amount of more than EUR 5,000 (*Bagatellgrenze*).

2.6. Duration and budget

- (15) The aid scheme is limited to 31 December 2013. The German authorities assured that it will only be launched after the approval of the Commission.
- (16) The estimated total budget is EUR 117 million, equally spread over the scheme's duration.

2.7. Incentive effect

- (17) The projects to be financed may only start after an application for aid has been made to the implementing authority.
- (18) As regards aid to clusters/networks and the R&D aid to large enterprises, the implementing authority will *ex ante* examine the incentive effect of the aid in order to ensure that the aid will serve as an incentive to undertake the eligible activities in addition to the beneficiaries' normal day-to-day activities. The beneficiaries have to demonstrate the incentive effect by reference to at least one of the following criteria: increase in project size, increase in scope, increase in speed, increase in total amount spent on R&D&I.

2.8. Cumulation

- (19) The cumulation of aid granted under the notified scheme with aid received from other sources to cover the same costs is possible. In no case the cumulated aid can exceed the maximum aid intensities foreseen under the most favourable applicable Community rules. This limitation does not apply to aid granted in accordance with the Community guidelines on State aid to promote risk capital investments in SME³.
- (20) Aid under the scheme will not be cumulated with *de-minimis* support in respect of the same eligible expenses if this would circumvent the maximum aid intensities laid down in the Framework.
- (21) Aid applicants have to provide at any time all necessary information on all other financial support received or about to receive. Non compliance might trigger penal consequences and leads to the recovery of the overpaid aid.

² OJ C 244 of 1.10.2004, p. 2.

³ OJ C 194 of 18.8.2006, p. 2.

2.9. Further commitments

- (22) The German authorities undertook to submit annual reports on the implementation of the notified aid scheme which will also include the information necessary to demonstrate the incentive effect of the aid granted to large enterprises by the indicators aforementioned in point 2.7 above and which will give in case of clusters/networks a brief description of their activities and their effectiveness in attracting R&D&I activity.
- (23) The German authorities will publish the full text of the aid scheme on the following website: www.thueringen.de.
- (24) In case that an individual aid granted under the scheme exceeds €3 million, the German authorities will provide the Commission with the information requested in the standard form laid down in the Annex to the Framework.
- (25) The German authorities undertook to maintain detailed records regarding the granting of aid under the scheme for 10 years.

3. DESCRIPTION OF THE AID SCHEME: COLLABORATIVE R&D PROJECTS

3.1. Beneficiaries

- (26) All kind of enterprises, including SME falling within the Community SME-definition⁴, are eligible for aid for collaborative R&D projects. The enterprises must have an operating site (*Betriebsstätte*) in the *Land* of Thüringen.
- (27) Where research organisations in the meaning of point 2.2(d) of the Framework are involved in collaborative R&D projects, they are considered as enterprises and thus as beneficiaries in the meaning of State aid rules only if their promoted R&D activity exceptionally aims at commercialisation and is therefore of an economic nature. In such a case, the parameters of the Community SME-definition will be applied accordingly where appropriate.
- (28) On the contrary, if the promoted collaborative research activity of the research organisation consists of independent R&D for more knowledge and better understanding, including the dissemination of the research results, the research organisation is not considered as State aid beneficiary.

3.2. Aid amounts

- (29) Aid is in principle restricted to EUR 400,000 per beneficiary/per year and never will exceed EUR 7.5 million per beneficiary/per project.

3.3. The projects

- (30) Aid will be granted to projects at the R&D categories of industrial research and experimental development. A project can be aided for up to three years.
- (31) The German authorities define the R&D categories as follows:

⁴ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, OJ L 124 of 20.5.2003, page 36.

- (32) Industrial research is defined as planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components of complex systems, which is necessary for the industrial research, notably for generic technology validation, to the exclusion of prototypes as mentioned in the following point.
- (33) Experimental development means the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These may also include, for example, other activities aiming at the conceptual definition, planning and documentation of new products, processes and services. The activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use. The development of commercially usable prototypes and pilot projects is also included where the prototype is necessarily the final commercial product and where it is too expensive to produce for it to be used only for demonstration and validation purposes. In case of a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs. The experimental production and testing of products, processes and services are also eligible, provided that these cannot be used or transformed to be used in industrial applications or commercially. Experimental development does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements.
- (34) One project can consist of several categories of R&D.
- (35) The projects have to be carried out in collaboration, either between several enterprises of which one must be a SME, or between enterprises and research organisations. In the latter case, the results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D results which result from the activity of the research organisation are fully allocated to the research organisation. Should these research results be transferred to the participating enterprises, the research organisation receives from the enterprises compensation equivalent to the market price for the intellectual property rights which result from the activity of the research organisation carried out in the project. Any contribution of the participating enterprises to the costs of the research organisation shall be deducted from such compensation.

3.4. Eligible costs

- (36) Eligible costs are:
- (a) Personnel costs/expenditures, to the extent the staff is employed on the research project.
 - (b) Costs/Expenditures for instruments and equipment to the extent and for the period used for the research project. If such instruments and equipment are not used for their full life for the project, in case of aid on the basis of costs, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice, are considered as eligible. In case of aid on the basis of expenditures the residual value will be taken into account (*Restwertabgeltung*).

- (c) Costs/Expenditures for contractual research, technical knowledge and patents, bought or licensed from outside sources at market prices, where the transaction has been carried out at arm's length and there is no element of collusion involved, as well as costs/expenditures for consultancy and equivalent services used exclusively for the research activity.
- (d) Other operating expenses, including costs/expenditures for materials, supplies and similar products incurred directly as a result of the research activity.
- (e) Additional overheads (only in case of aid on the basis of costs) incurred directly as a result of the research project.

3.5. Aid intensities

(37) Aid intensities for research projects are limited to:

Activity	Small enterprises	Medium sized enterprises	Large enterprises
industrial research	70%	60%	50%
experimental development	45%	35%	25%

(38) The aforementioned aid intensities include a bonus of 10 percentage points for medium sized enterprises and a 20% bonus for small enterprises.

(39) A non-cumulative bonus of 15 percentage points can be added up to a maximum aid intensity of 80% if:

- The project involves an effective collaboration (no subcontracting) between at least two enterprises which are independent of each other and the following conditions are fulfilled:
 - No single enterprise bears more than 70% of the eligible costs of the collaboration project.
 - The project involves collaboration with at least one SME.
- The project involves an effective collaboration (no subcontracting) between an enterprise and a research organisation and the following conditions are fulfilled:
 - The research organisation bears at least 10% of the eligible project costs.
 - The research organisation has the right to publish the results of the research projects insofar as they stem from research implemented by that organisation.
- In case of industrial research, if the results of the project are widely disseminated through technical and scientific conferences or published in scientific or technical journals or are freely accessible via other information media.

(40) For industrial research, the maximum aid intensity including the applicable bonuses will not exceed 80% of eligible costs for small enterprises, 75% of eligible costs for medium-sized enterprises and 65% of eligible costs for large enterprises. For experimental development the maximum thresholds are 60% for small enterprises, 50% for medium-sized enterprises and 40% for large enterprises.

- (41) If a R&D project consists of several categories, the overall eligible costs will be allocated to the appropriate categories in order to determine the applicable aid intensities.

4. DESCRIPTION OF THE AID SCHEME: AID TO THE COSTS OF INDUSTRIAL PROPERTY RIGHTS FOR SME

- (42) The scheme also promotes SME which want to acquire industrial property rights. The claim must occur in the course of a promoted collaborative R&D project and must stem from the SME's part of the project.
- (43) The aid intensities are limited to 35% of the eligible costs for medium sized enterprises and to 45% for small enterprises. The maximum aid amount is at EUR 10,000.
- (44) The eligible costs/expenditures are the following:
- (a) All costs preceding the grant of the right in the first legal jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted.
 - (b) Translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions.
 - (c) Costs incurred in defending the validity of the right during the official prosecution of the application and possible opposition proceedings, even if such costs occur after the right has been granted.

5. DESCRIPTION OF THE AID SCHEME: AID TO CLUSTERS AND NETWORKS

5.1. Beneficiaries

- (45) Beneficiary of the aid is the coordinator (*Koordinierungsstelle*) of the cluster/network. The coordinator is a separate legal entity (*juristische Person*), often in the legal form of a registered association (*eingetragener Verein*), set up by enterprises with an operating site in Thüringen and, as the case may be, research or educational organisations.

5.2. Goals

- (46) Via the cluster/network the coordinator aims at triggering and supporting innovation- and technology oriented cooperation of in particular SME but also other innovation partners, and thus at improving the conditions for innovation and at establishing sustainable and sound cooperation structures. The coordinator also organises training of skilled workers.
- (47) Clusters/networks⁵ must be important for the economic development of Thuringia and contribute to a better economic performance or to the creation of employment.
- (48) Aid under the scheme may relate to the animation of already existing clusters/networks operating for example in the field of car industry, life science instruments, media, micro technology, optics, etc., or to new clusters/networks, e.g. in the field of production

⁵ According to the German authorities, a cluster has reached a higher degree of interconnectedness (*Vernetzung*) than a network.

technology (*Fertigungstechnik*), metal processing, electronic measuring- and instrument technology (*elektronische Mess- und Gerätetechnik*), information technology, etc.. The decision to promote a cluster/network is based on the individual assessment of the aid application, taking into account the technological specialisation of the cluster/network, potential market volumes of the activities in the cluster/network, the existing regional potential and the already existing research capacities.

5.3. Set-up

- (49) A cluster/network shall involve at least eight SME and must grant free access to its services and offers.
- (50) The users of the cluster/network must pay the market price or the best possibly realised price for the services and offers of the cluster/network. Users who are members of the cluster/network in accordance with the legal set-up of the cluster/network, e.g. as a registered organisation (*eingetragener Verein*), and who thus pay membership fees, may pay accordingly reduced prices for the services and offers.

5.4. Eligible costs and aid intensities

- (51) As a matter of principle all eligible costs/expenditures must be linked to the following activities of the coordinator⁶:
 - (a) Marketing in order to recruit new enterprises/members to take part in the cluster/network and to facilitate their networking;
 - (b) Organisation of training programmes, workshops and conferences to support knowledge sharing.
- (52) Eligible are investment costs/expenditures for instruments and equipment the coordinator needs to perform his aforementioned activities, especially for office furniture and computer equipment. The aid intensities are at up to 30% for large enterprises, at 40% for medium sized enterprises and at 50% for small enterprises.
- (53) Further eligible are the personnel costs/expenditures of the coordinator, e.g. for project managers and assistants, and the administrative costs/expenditures linked to the aforementioned activities, including the renting costs for the coordinator's office space. The aid to these operating costs is limited to five years. Its intensity will either not exceed 50% of the eligible costs, or it will be granted in a degressive way with up to a 100% in the first year, falling in a linear fashion to zero by the end of the fifth year⁷.

5.5. Maximum aid amount

- (54) Aid per cluster/network will in general not exceed EUR 200,000 per year. Only in case of a special political interest (*Landesinteresse*) it can reach up to EUR 400,000 per year.

⁶ The activities may be subcontracted.

⁷ The maximum aid intensities will be over 5 years: 100% , 80%, 60%, 40%, 20%.

6. ASSESSMENT

6.1. Existence of aid within the meaning of Article 87 (1) of the EC Treaty

6.1.1. *Direct State aid to enterprises*

- (55) The notified scheme allows a limited number of enterprises⁸ to be relieved, by means of State resources, of a part of the R&D&I costs which they would normally have to bear themselves. Consequently, the financial aid from the State strengthens the position of the enterprises in relation to their competitors in the Community and therefore has potentially distorting effects on competition. Products of benefiting enterprises are or might be subject to intra-Community trade and therefore the aid is likely to affect trade between Member States.
- (56) The Commission comes therefore to the conclusion that the notified scheme constitutes State aid within the meaning of Article 87 (1) of the EC Treaty.

6.1.2. *Indirect State aid to enterprises through research in collaboration with publicly funded research organisations*

- (57) According to point 3.2.2 of the Framework, in case of collaboration projects carried out jointly by enterprises and publicly funded research organisations, the Commission considers that no indirect State aid is granted to the enterprises through the research organisation due to the favourable conditions of the collaboration if one of the following conditions is fulfilled:
- (a) The participating enterprises bear the full cost of the project.
 - (b) The results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D&I results which result from the activity of the research organisation are fully allocated to the research organisation.
 - (c) The research organisation receives from the participating enterprises compensation equivalent to the market price for the intellectual property rights which result from the activity of the research organisation carried out in the project and which are transferred to the participating enterprises. Any contribution of the participating enterprises to the costs of the research organisation shall be deducted from such compensation.
- (58) As pointed out in (35) above, the scheme complies with the aforementioned options (b) and/or (c) and is hence in line with the provisions of point 3.2.2. of the Framework.
- (59) The Commission can therefore conclude that the enterprises directly benefiting from the scheme do not receive any additional indirect State aid through the participation in collaboration projects with publicly funded research organisations.

⁸ Including research organisations whose promoted research activities aim at commercialisation (compare point (27) above) .

6.1.3. Indirect State aid to enterprises through contract research or other services related to research, carried out by publicly funded research organisations

- (60) As mentioned in point (36)(c) above, such research services can be part of the eligible costs of an R&D project promoted under the scheme. If they are rendered by publicly funded research organisations, the scheme provides that the enterprises must pay for them the market price, or, where there is no such market price, a price which reflects the full costs plus a reasonable margin.
- (61) This provision is in line with point 3.2.1. of the Framework and the Commission can conclude that the enterprises directly benefiting from the scheme do not receive any additional indirect State aid.

6.1.4. State aid for the non-economic activities of research organisations

- (62) As mentioned in point (28) above, the scheme foresees financial support to research organisations which carry out their primary activities, namely independent R&D as described in point (28) above, thus their typical non-economic activities.
- (63) The German authorities assured to control, in order to avoid a cross-subsidisation of any economic activities of the research organisations via the public funding of the aforementioned non-economic activities, that these two kinds of activities and their costs and funding will be clearly separated.
- (64) As regards the financial support to the non-economic activities of the research organisations the scheme thus complies with point 3.1.1. of the Framework and the Commission concludes that this financial support does not constitute State aid within the meaning of Article 87 (1) of the EC Treaty.

6.2. Lawfulness of the aid

- (65) By notifying the aid scheme before its implementation, the German authorities complied with their obligation under Article 88 (3) of the EC Treaty.

6.3. Compatibility of the aid – legal basis

- (66) The Commission has assessed the compatibility of the measures under the notified aid scheme with the common market in the light of the R&D&I Framework which specifies the general provision of Article 87 (3) (c) of the EC Treaty in the field of R&D&I.

6.4. Compatibility of the aid – general provisions

6.4.1. Incentive effect

- (67) As mentioned in point (17) above, aid under the scheme can only be granted to projects that have not started before an application for aid has been submitted to the implementing authority.
- (68) On top of this requirement, for large enterprises and for aid to clusters/networks, the German authorities have undertaken to verify that an incentive effect is present before granting the aid by applying the indicators and criteria mentioned in point (18) above.
- (69) These provisions are in line with those set out in point 6 of the Framework.

6.4.2. Individual notification obligation

- (70) As mentioned in points (29), (43) and (54) above, the aid amounts are restricted per enterprise and project and these restrictions are below the thresholds triggering the individual notification obligation according to point 7.1 of the Framework. Therefore point 7.1 of the Framework will not apply to aid under the scheme.

6.4.3. Cumulation

- (71) Pursuant to point 8 of the Framework, the cumulation of R&D&I aid with any other aid received from local, regional, national or Community sources to cover the same costs is possible, up to most favourable maximum aid intensities foreseen by Community rules. Aid for R&D&I shall not be cumulated with *de-minimis* support in respect of the same eligible expenses if that would circumvent the maximum aid intensities laid down in the Framework.
- (72) As indicated in section 2.8 above the scheme complies with these conditions.

6.4.4. Further commitments

- (73) As pointed out in point (22) above, the German authorities undertook to submit annual reports on the implementation of the scheme, also including the information necessary to demonstrate the incentive effect of aid granted to large enterprises and the indicated information on clusters/networks. The annual reports will, for all enterprises, include the following information: the name of the beneficiary, the aid amount per beneficiary, the aid intensity and the sectors of activity where the aided projects are undertaken. These provisions are in line with point 10.1.1 of the Framework.
- (74) The German authorities submitted further commitments as described in points (23) - (25) above. These commitments are in line with the provisions of points 10.1.2 and 10.1.3. of the Framework.

6.5. Compatibility of the aid to collaborative R&D projects

- (75) The definitions of the R&D categories supported under the notified scheme and as described in point (32) and (33) above reflect the definitions laid down in point 2.2. (f) and (g) of the Framework.
- (76) The eligible costs as mentioned in point (36) above mirror the definitions as laid down in point 5.1.4. of the Framework.
- (77) The aid intensities for the different R&D stages foreseen in points 5.1.2 of the Framework are: 50% for industrial research and 25% for experimental development. The applicable bonuses of point 5.1.3 (a) of the Framework are: 10 percentage points for medium-sized enterprises and 20 percentage points for small enterprises. The scheme, as shown in point (37) and (38) above, complies with these provisions.
- (78) Point 5.1.3 (b) of the Framework allows for an additional non-cumulative bonus of 15 percentage points up to a maximum aid intensity of 80 % for exactly those cases described in point (39) above.
- (79) It can therefore be concluded that the scheme is in line with the Framework as regards the promotion of collaborative R&D projects.

6.6. Compatibility of the aid to the costs of industrial property rights to SME

- (80) Pursuant to point 5.3 of the Framework, aid to SME for the costs associated with obtaining and validating patents and other industrial property rights can be up to the same level of aid as would have qualified as R&D aid in respect of the research activities which first led to the industrial property rights concerned.
- (81) The eligible costs are all costs preceding the grant of the right in the first legal jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted as well as translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions.
- (82) Aid under the scheme for industrial property rights costs for SME, as described above under point (43), corresponds to these provisions and is even stricter as it limits the aid intensities for IPR that stems from industrial research to 35% for medium sized enterprises and to 45% for small enterprises. The scheme is therefore in line with the Framework.

6.7. Compatibility of the aid to clusters and networks

- (83) In accordance with point 2.2 (m) of the Framework, innovation clusters are groupings of independent undertakings - innovative start-ups, small, medium and large undertakings as well as research organizations - operating in a particular sector and region and designed to stimulate innovative activity by promoting intensive interactions, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to technology transfer, networking and information dissemination among the undertakings in the cluster.
- (84) As mentioned in point (47) above, the decision to grant aid is based on an analysis of the technological specialization of the cluster/network and the potential market volume of its activities. The German authorities will also take into account the already existing regional potential and research capacity when assessing the aid application. This complies with the 2nd last paragraph of point 5.8 of the Framework.
- (85) In compliance with point 5.8 of the Framework, the scheme foresees, as described in section 5.1 above, that the aid will be granted to the legal entity operating the cluster/network.
- (86) Point 5.8 of the Framework stipulates that access to the cluster's activities must not be restricted and the fees charged for participating in the cluster's activities should reflect the costs. As mentioned in section 5.3 above, the scheme fulfils these conditions.
- (87) Investment aid to the cluster operator for setting-up or animating a cluster is legal up to 30% for large enterprises, up to 40% for medium sized enterprises and up to 50% for small enterprises, where the cluster is operating in a region falling under the derogation of Article 87(3)(a) EC Treaty. Thuringia is currently an assisted region pursuant to Article 87(3)(a) EC Treaty since it has a per capita gross domestic product (GDP) of less than 75% of the Community average⁹. The foreseen aid intensities for investment aid, as mentioned in point (52) above, fulfil the conditions of the Framework.
- (88) Operating aid must be granted for a maximum duration of five years and must be either degressive (the aid amount may amount to 100% in the first year and fall in a linear

⁹ See Commission decision in State aid No N 459/2006 – Germany ("regional aid map 2007-2013"; Commission letter C(2006)4958 fin. of 8.11.2006).

fashion to zero by the end of the fifth year) or at not more than 50%. Eligible are the personnel and administrative costs related to marketing and managing the cluster, organising training, workshops and conferences to support knowledge sharing and networking between the members of the cluster. As mentioned in point (51) and (53) above, the scheme fulfils these conditions.

- (89) The Commission can therefore conclude that the investment aid for creating or animating innovation clusters/networks and the operating aid for the cluster/network animation granted under the scheme are in line with point 5.8 of the Framework.

7. CONCLUSION

- (90) The Commission finds that the aid granted on the basis of the aid scheme in question is compatible with the common market in accordance with Article 87 (3) (c) of the EC Treaty and has accordingly decided not to raise objections to the notified scheme.
- (91) The Commission further reminds the German authorities to submit annual reports on the implementation of the aid scheme which will comprise the information demonstrating the incentive effects of aid granted to large enterprises and the necessary information on the cluster/network activities.
- (92) The Commission reminds the German authorities that, in accordance with Article 88 (3) of the EC Treaty, all plans to refinance, alter or change the aid scheme have to be notified to the Commission.
- (93) 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/community_law/state_aids/index.htm

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B – 1049 Brussels
Fax No.: +32 2 296 12 42

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission