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Subject: State aid SA. 32309 (2011/N) – Germany
Amendment of the Federal framework programme on duct support (Case N 53/2010)

Sir,

I. SUMMARY

- (1) I am pleased to be able to inform you that the European Commission has assessed the measure "Amendment to the *Federal framework on duct support for the creation of universal broadband coverage*" (*Änderung der Rahmenregelung der Bundesregierung zur Bereitstellung von Leerrohren durch die öffentliche Hand zur Herstellung einer flächendeckenden Breitbandversorgung*, hereafter: "the framework" (*Rahmenregelung*)) and decided not to raise objections as the State aid contained therein is compatible with Article 107(3)(c) of the TFEU¹.

II. PROCEDURE

- (2) Following pre-notification discussions, by letter dated 21 January 2011 pursuant to Article 108 (3) of the TFEU, the German authorities notified a modification to the framework

¹ 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.

Seiner Exzellenz Herrn Dr. Guido WESTERWELLE
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programme applying to the whole of Germany for promoting the deployment of NGA networks by means of duct support (*Leerrohrförderung*) and support in the form of construction works (*Bauarbeiten*). The Commission had authorised the original framework programme by decision of 12 July 2010.²

- (3) By letter dated 21 March 2011 Germany granted the European Commission an extension of the two months deadline to adopt a decision until 21 May 2011. Germany provided further information by mail of 21 April 2011.

II.1. The German Broadband Strategy

- (4) Currently, more than 23 million households (around 60% of the German households) use broadband. 99,2% of the households have the possibility to use broadband of a minimum of 384 Kbit/s, and 96,5% of a minimum of 1 Mbps.³ The German authorities consider performing broadband networks to be a necessary condition for rapid information and knowledge exchange which is key to economic growth. This also implies that higher speeds should be available on a greater scale. In particular business users have a demand for high performing internet services to offer their goods and services. Business users have a need for improved speed, reliability and quality of service for applications such as video conferencing, remote access to systems, flexible working and manipulation and transfer of video files.
- (5) Against this background, the German government developed an encompassing national broadband strategy⁴ in order to achieve two objectives:
- Until end 2010 performing broadband services above 1 MBit/s should be universally available and
 - as soon as possible, high performing internet services above 50 MBit/s should be universally available. As an intermediary goal it is foreseen that three quarters of the population should have access to such high performing networks by 2014.

III. DESCRIPTION OF THE MEASURE

- (6) **Objective of the modified amendment to the framework:** The objective of the original framework, which has been authorised in Decision N 53/2010, is to establish over time very high speed broadband networks in Germany with a view to foster economic growth. NGA networks are defined, section 2 of the framework, as very high speed broadband networks, which are able to deliver services with very high data transmission rates.⁵ Promoting very high speed broadband deployment is perceived to be a stimulus for the creation of jobs and expected to lead to an incremental increase of the GDP.

² Decision in case N 53/2010, http://ec.europa.eu/eu_law/state_aids/comp-2010/n053-10.pdf

³ Source: Breitbandatlas Deutschland, <http://www.zukunft-breitband.de/Dateien/BBA/PDF/breitbandatlas-bericht-2009-02.property=pdf,bereich=bba,sprache=de,rwb=true.pdf>

⁴ Available at: <http://www.bmwi.de/Dateien/BBA/PDF/breitbandstrategie-der-bundesregierung.property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf>

⁵ Further details on the original framework can be taken from Decision N 53/2010, paragraphs 8-14.

- (7) Under the current framework, only so-called NGA white areas according to paragraph 68 of the Commission's Broadband Guidelines⁶, could receive support. This covers the support in white NGA areas, in which no basic broadband infrastructure is present either (white area for basic broadband purposes, paragraph 40 of the Broadband Guidelines) or where only one basic broadband infrastructure would exist (grey area for basic broadband purposes, see paragraph 40 of the Broadband Guidelines). No support for NGA deployment can under the current framework be given in areas in which two basic broadband infrastructures exist (black areas for basic broadband purposes).
- (8) With the notified amendment to the framework, Germany intends to include into the framework these NGA white areas, which are black for basic broadband purposes (hereafter also referred to as new target areas). The German government finds that it increasingly encounters situations in which two basic infrastructure exist (copper and wireless⁷, copper and cable), but for which it is certain that none of the existing infrastructures will do a commercial NGA upgrade within the near future. However, due to the existence of two basic infrastructures, the respective region qualifies as a black area for basic broadband purposes.

For that reason, the German authorities notify an extension of the framework to cover areas, which are NGA white/black areas for basic broadband purposes under specific conditions which will be explained below.

- (9) **Relation to the authorised framework:** The general conditions of the framework as authorised by the Commission in its decision N 53/2010 also apply fully to the notified amendment of the framework. Below, the general conditions resulting from the already authorised framework will be summarised. Further details can be taken from Decision N 53/2010. The conditions, which apply *specifically* to the newly included NGA white/black basic broadband areas will be mentioned where relevant.
- (10) **Legal basis:** The amendment will change the framework regulation of the federal government, the *Rahmenregelung der Bundesregierung zur Bereitstellung von Leerrohren durch die öffentliche Hand zur Herstellung einer flächendeckenden Rahmenversorgung* ("Rahmenregelung"), which has been authorised by Decision 53/2010.
- (11) **Budget/Duration:** The German authorities state that it is very difficult to give an estimate on the budgetary spending. The inclusion of NGA white areas, which are black for broadband purposes into the framework is stated by the German authorities to be at around EUR 50 million. The amendment to the framework starts with the approval of the notified scheme by

⁶ Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks, OJ C 235 of 30.9.2009, p.7, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:235:0007:0025:EN:PDF>. According to paragraph 68 of these Guidelines, NGA white areas are defined where no NGA networks are present and not likely to be built in the near future by private operators.

⁷ In the notification, the German authorities describe as an example the use of the digital dividend, which refers to spectrum which has become available by the digitisation of television transmission. This spectrum can be used for broadband purposes. These frequencies have been tendered out for use and successful bidders have been legally obliged to use the spectrum in particular in rural areas. This means that even in rural areas there is a second, wireless infrastructure present. Still, due to topographic peculiarities of certain areas and also due to technological constraints (e.g. number of users sharing an available bandwidth) it is by no means guaranteed that a NGA upgrade will result from this.

European Commission and is valid until 31.12.2015, i.e. the scheme has the same expiration date as before.

- (12) **Target areas:** As explained above, the amendment of the framework targets NGA white areas, which are black for basic broadband purposes. NGA networks are defined in the framework as very high speed broadband networks, which are able to deliver services with very high data transmission rates.

Definition of a black area for basic broadband purposes: According to the newly introduced section 4 a of the framework, an area is defined as black for basic broadband purposes if there are two broadband infrastructures which provide a minimum download speed of 2 MBit/s. However, it should further be noted that the current framework has an intervention threshold (*Eingriffsschwelle*) of 25 MBit/s for budgetary reasons (see N 53/2010, paragraph 24) which also applies to the new target areas. I.e. in areas where there is already basic broadband infrastructure of at least 25 MBit/s, no support will be given. The threshold of 25 MBit/s does not contain any definition of NGA services. As explained above, NGA services are very high speed broadband networks, which are able to deliver services with very high data transmission rates, i.e. the scheme aims at the construction of an infrastructure which enables the provision of services which could not be delivered before on the current infrastructure.

According to section 6 (6) of the framework the chosen operator has to demonstrate that after project realisation end consumers will be able to receive such NGA services. In cases in which the effective provision of services to the end consumer depend on the quality and length of the existing copper cable, the chosen bidder has to ensure that a provision with high speed services will be realised within 2 years after project realisation. Before its conclusion, the agreement between the chosen bidder and the public award authority (*öffentliche Hand*) has to be communicated to the regulator (*Bundesnetzagentur*), which has ten days to react. The regulator will in particular verify the existence of open access provisions in the contract as well as verify that the wholesale prices can be set in line with regulated prices in case the access seeker and the broadband operator do not reach an agreement.

Justification of an NGA upgrade: According to section 4 a) of the framework, the award granting authority has to demonstrate that even in view of a possible modernisation of the existing infrastructure by the existing operators, the offered services on those networks do not meet the need of citizens and undertakings in that area. According to section 4a, subparagraph b) of the framework the construction of a subsidised NGA infrastructure is only possible, if the documented need by citizens and undertakings justifies such support.

Investigation of past investments: In particular it has to be demonstrated that investment in the past three years, which the existing infrastructure operators have undertaken to modernise the system did not achieve satisfactory results. In this regard the municipality will contact the existing operators in writing and keep record of the replies. By doing so, the municipality will establish that past upgrades of the network within the last three years have not been sufficient to meet the demands of citizens and undertakings located in that area. The demand of the citizens and undertakings will be established by a survey (Abfrage).

Entry barriers: The award granting authority has to demonstrate that there are high entry barriers for a commercial upgrade. This in particular will be the case, if the award granting

authority can either show that there are geographic problems which would hinder such an upgrade or if the authority can demonstrate that investments in NGA infrastructure would – without State support – not be profitable, taking ordinary depreciation periods into account. The latter criterion does not replace the requirement that an open consultation on operators' investment plans for the next three years has to be carried out.

Absence of successful regulatory intervention: According to section 4 a), subsection b) of the framework, it is assumed that regulatory means, in particular access regulation on existing networks will not achieve the desired result of a NGA upgrade, if the regulator (*Bundesnetzagentur*) confirms that in writing.

- (13) **Subject of the aid:** The types of support have not changed from the original framework and can also be applied in the newly covered target areas. According to section 3 of the framework, three situations of public support are to be distinguished, namely i) the placement of ducts for use of the operators, ii) the provision of such ducts with dark fibre or iii) the construction works being carried out by the municipality. The support will mainly be granted for the creation of a backhaul infrastructure, but in some instances the support might also cover the last mile infrastructure to the end consumer.
- (14) **Public consultation:** The German authorities consulted relevant stakeholders about the introduction of the new target areas. The *Bundesnetzagentur* was likewise consulted on the draft as a whole.⁸ According to the German authorities the draft framework programme did not meet with any concerns.

However, as the notified amendment enters into a framework programme, a consultation will take place in each geographic area for which the public support covered by the framework programme is envisaged. In this consultation, credible NGA investment plans of the operators within a three year planning perspective will be assessed by the awarding authority. The target area and the intention of State intervention will be published on the award authority's website and publication gazette.

- (15) **Detailed mapping and coverage analysis:** Based on the consultations which will be carried out by each awarding authority, maps will be drawn, which identify whether and to which degree the area to be covered with public support is already covered with broadband services, both NGA (for determining whether the areas is NGA white) and for basic broadband areas (to identify whether the area is white, grey or black for basic broadband purposes).
- (16) **Tender process:** An open and non-discriminatory tender procedure will be carried out for each area for which ducts/fibre support is considered in order to choose the broadband operator which will be enabled to use the duct for his broadband deployment. The award

⁸ By email dated 8 February 2011, the German authorities contacted several stakeholders on the modification to the framework and addressed cable operators associations, satellite providers, general representations of telecommunications and new media operators and the association of broadband operators. The regulator was consulted by correspondence of 12 April 2010.

criteria are tailored to meet the requirement of the Broadband Guidelines that the most economically advantageous offer should be chosen⁹.

- (17) **Technology/Use of existing infrastructure:** The technology which should be employed in the supported ducts network infrastructure will be as a rule glass fibre as taking into account the current market and technological development, the only infrastructure that is able to deliver NGA networks¹⁰. Existing infrastructure should be used as far as possible. The existing infrastructure of the incumbent will be useable via detailed regulatory access rights by other operators.
- (18) **Wholesale access:** The access modalities described in the original framework and in Commission Decision of N53/2010 of ducts access and third party access also apply to the newly included target areas. This means that ducts held by the municipality will be permanently open for access and the infrastructure of the chosen operator for a minimum of 7 years on active and passive infrastructure. It should further be noted that access is regulated under the German telecommunication law for the provider with significant market power but that sections 18 and 21 of the German Telecommunication Acts provide a possibility for the national regulator to intervene for network access also in cases of undertakings without significant market power.
- (19) **Benchmarking:** Wholesale access prices should be, according to section 6 of the framework, oriented at the prices which exist in other, more competitive areas or on the regulatory prices which have been authorised by the regulator, i.e. the Bundesnetzagentur, for similar access products. This requirement applies also to the new target areas. In case an access seeker and the operator of the subsidised network cannot reach agreement within a reasonable time - which should not delay access - on the access prices, the regulated prices for the incumbent as set by the national regulator will also apply to the network operator chosen by tender procedure.
- (20) **Clawback mechanism:** The framework programme provides for a clawback mechanism in line with Commission Decision of N53/2010, which will also apply for the new target areas.
- (21) **Monitoring:** The granting authorities have to regularly monitor the projects in accordance with the national household regulation. Projects co-financed by EU funds will also be regularly scrutinised in accordance with the EAFRD and the ERDF regulation. Under German administrative law (Verwaltungsverfahrensgesetze des Bundes und der Länder) the aid granting authorities can revoke the respective administrative acts with the operator or make contractual claims, should the stipulated requirements (e.g. achieving NGA coverage within 2 years of project completion) not be fulfilled.
- (22) **Ex post monitoring towards the Commission:** According to section 6 of the framework, Germany commits to inform the Commission at the latest until 31.03 of each year for the previous year on the individual cases concerned by the notified amendment of the framework

⁹ See paragraph 51 c) of the Broadband Guidelines. In line with fn.55 of the Guidelines the weighting of the selection criteria will be published in advance and at similar if not identical quality conditions, the bidder with the lowest amount of aid requested should in principle receive more priority points within the overall assessment of its bid.

¹⁰ In line with paragraph 53 of the Broadband Guidelines.

(namely NGA white/black basic broadband areas). The monitoring will reflect the individual regions which profited from the support (mapping). It will further demonstrate which technologies with which speeds existed before the support for the NGA upgrade was granted and which technology with which speed has been established with the help of that support. The monitoring report will also demonstrate which services can be offered to the end consumer thanks to the support granted under the modified framework.

- (23) **Beneficiaries:** The direct beneficiaries of the aid will be electronic communications operators offering broadband services on the backhaul. Indirect beneficiaries will be electronic communication operators utilising the new network for offering retail services to end users and last mile providers connecting to the infrastructure as well as residential and business users.

IV. ASSESSMENT OF THE MEASURE: PRESENCE OF AID

- (24) According to Article 107 (1) TFEU, “*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*”. It follows that in order for a measure to qualify as state aid, the following cumulative conditions have to be met: 1) the measure has to be granted out of State resources, 2) it has to confer an economic advantage to undertakings, 3) the advantage has to be selective and distort or threaten to distort competition, 4) the measure has to affect trade between Member States.
- (25) As already explained in Commission decision of N53/2010, the measure, which will now be amended, constitutes State aid. In this regard, reference is made to the assessment made in paragraphs 44 to 53 of Decision N 53/2010.

V. ASSESSMENT OF THE MEASURE: COMPATIBILITY

- (26) The Commission has assessed the compatibility of the scheme according to Article 107(3)(c) TFEU and in the light of the *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*¹¹. The Broadband Guidelines contain a detailed interpretation of Article 107(3)(c) TFEU in this area of State aid law.
- (27) As confirmed by the German authorities, all aspects of the measure are fully in line with the authorized broadband scheme. The measure aims at a well defined objective of common interest and will contribute to achieve the EU's paramount objective of "broadband for all" by enabling the households and businesses in Germany to have access to affordable high speed or very high speed broadband services.¹² As the Commission had further demonstrated in that decision, efforts from alternative instruments (including *ex ante* regulation) do not

¹¹ OJ C 235 of 30.9.2009, p. 7.

¹² See Commission's communication Europe 2020 – A strategy for smart, innovative and inclusive growth, COM (2010) 2020 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>
One of the flagship initiatives is the Digital agenda, which describes an aim to deliver sustainable economic and social benefits from a Digital Single Market based on fast and ultra fast internet and interoperable applications, with broadband access for all by 2013, access for all to much higher internet speeds (30 Mbps or above) by 2020, and 50% or more of European households subscribing to internet connections above 100 Mbps.

solve the problems related to the lack of supply (non-existence of infrastructure) of high speed broadband on the targeted areas and would fail to deliver the wider economic benefits of a widespread next generation broadband network. The market analysis and the public consultation will guarantee that in the targeted areas no very high speed broadband network investment would take place without public funding in the near future of three years, i.e. the scheme has an incentive effect.

V.1.Design of the measure and the need to limit distortions of competition

- (28) In order to minimise the State aid involved and the potential distortions of competition, the notified measure has to meet a number of necessary conditions, laid down in paragraph 51 and 79 of the Guidelines. As mentioned above, the framework foresees that all the conditions applied to the NGA support under the current framework and which have been authorised by the Commission in Decision N 53/2010 will also apply to the inclusion of the new target areas.

Conditions of paragraph 51 of the Guidelines

- (29) The Commission therefore finds that the conditions mentioned in paragraph 51 of the Guidelines, i.e. the mapping exercise via market research and consultation, the conduct of an open tender procedure to find the most economically advantageous offer, technology neutrality and use of existing infrastructure as well as the access obligations including wholesale price benchmarking, and monitoring and clawback mechanism have been met¹³.
- (30) An important further requirement needs to be met for areas, in which already two basic infrastructures exist and where the rationale for the State intervention is a market failure to achieve a commercial NGA upgrade. The Commission finds that in areas in which two basic infrastructures are present, support for a NGA upgrade should only be granted, if there are mechanisms to ensure that higher speeds will reach the end consumer.¹⁴ The framework will in most cases result in a backhaul rollout and only as an exception a direct NGA connection to the end consumer. The last mile connection guarantees that the very high broadband speeds necessary to deliver enhanced services will always reach the end consumer.

However, backhaul networks are 'hybrid networks', which are able to sustain both basic and NGA types of networks. I.e. it depends on the investment choice of the telecommunication operators what type of last mile infrastructure they intend to deploy to connect to the backhaul networks. The framework provides the following guarantees in this regard: Section 6 (6) of the framework stipulates that the chosen bidder has to demonstrate that customers can now – via the subsidised network – avail of NGA services. Where due to distance and quality of the last mile copper cable such NGA speeds are not immediately available, the chosen bidder will ensure the availability of such NGA services for two years after the project completion. That could be e.g. done by making the respective contractual arrangements with the last mile operator which will ensure that the end consumer receive higher speeds. The agreement between the chosen operator and the award granting authority will be communicated to the regulator.

¹³ See paragraphs 62 seq. of Decision N 53/2010.

¹⁴ See Commission's decision in cases N 451/2010 – Germany Rothenburg Wümme and N 407/2009 – Spain, Xarxa Oberta.

Conditions of paragraphs 77, 78 of the Guidelines

- (31) As the amendment of the framework concerns the inclusion of NGA white areas, which are black for broadband purposes, the conditions of paragraphs 77 and 78 of the Guidelines need to be fulfilled. Paragraph 78 of the Guidelines first stipulates that the assumption in paragraph 77 of the Guidelines that no State intervention in such areas should be necessary, can be rebutted if the Member State shows that existing operators do not plan to invest in NGA networks in the coming three years. In this regard the historical investment pattern should be examined and demonstrated that the attempts of existing operators to upgrade were not satisfactory to meet the users' demands.
- (32) First, Germany will – as it does for all supported areas under the framework – conduct a proper consultation of all stakeholders and ask about their investment plans for the next three years. Existing operators will be contacted in writing to establish their investment plans. The replies will be documented.
- (33) Secondly, Germany will establish the need of the undertakings and users by a survey (*Abfrage*). Support for NGA investment can only be granted if the demand survey justifies such a need.
- (34) Thirdly, section 4 a) subsection b) of the framework requests the award granting authority to establish that the past investments carried out by the existing operators to upgrade the network within the last three years have not been sufficient to meet the demands. Existing operators will be contacted in writing about the modernisation measures undertaken by them in the last three years. That way the municipality will ascertain that the statement of the operator not to upgrade in the future is credible and does not contradict its past investment behaviour.

Conditions of paragraphs 75 of the Guidelines

- (35) Paragraph 78 of the Guidelines further stipulates that for support in areas, which are considered black for basic broadband purposes, the conditions of paragraph 75 of the Guidelines also have to be fulfilled. The conditions, which were originally conceived for NGA support in grey NGA areas, in which an infrastructure already exists, need partial adaptation for a situation in which there is a complete lack of such NGA infrastructure and the support takes place in black basic broadband areas.
- (36) Demand for new services: The framework establishes in section 4 a) of the framework that the award granting authority will carry out a survey to establish that the documented need of residential users and businesses in that areas justifies a NGA investment.
- (37) The non-availability of network access to induce effective competition: Ex ante regulation can, as already shown above, normally not overcome the lack of NGA investment. However, the question arises whether such a NGA upgrade could be achieved by access to existing, basic infrastructure. Such access is regulated in Germany for the company with significant market power, but the regulator has also possibilities to intervene for companies without significant market power. The framework provides in section 4a) that ex ante regulation is assumed not to lead to the desired result of providing higher speed NGA services, if the regulator Bundesnetzagentur confirms that in writing. This covers the situation that during the consultation operators signal that they could provide a NGA upgrade by using ex ante regulation. If such a claim is made, the regulator will be asked to confirm whether ex ante regulation will be able to achieve the desired result or not.

- (38) Entry barriers: The framework further specifies that the award granting authority needs to document that high entry barriers exist for NGA coverage. The authority can in particular demonstrate the existence of geographic particularities which preclude potential entry by NGA network investors. The authority could also provide a calculation which demonstrates that a commercial investment without State support is not profitable.
- (39) Ex post monitoring: Germany further agreed to a detailed ex post monitoring on all cases supported under the notified amendment of the framework on a yearly basis.

Conditions of paragraphs 78 and 79 of the Guidelines

- (40) As already authorised in Commission decision N 53/2010, the framework contains conditions which fulfil the criteria laid down in section 79 of the Guidelines, which also apply to the notified extension of the framework to new target areas. In line with section 79, first indent, also in the new target areas access will be granted to municipal ducts on a permanent basis and to the chosen operator's active and passive infrastructure for at least seven years. Likewise will the obligation of full and effective unbundling according to paragraph 79 third indent apply to the new target areas.
- (41) On the involvement of the regulator according to section 79, second indent, the national regulator has been consulted on the extension of the framework to new target areas and had no objections. Secondly, the Bundesnetzagentur will continue to regulate ex ante or to monitor very closely the competitive conditions of the overall broadband market and impose, where necessary, the necessary regulatory remedies. It should be noted that this does not only apply to firms with significant market power, but that the German telecommunications law in section 18, 21 of the German Telecommunication Act also foresees possibilities for the German regulator to intervene for companies without such significant market power.
- (42) In addition, the regulator will be informed in advance about the contract essentials of the chosen operator and the municipality and has thus a possibility to react on subjects of open access and the respective pricing within a period of 10 days. If there is a possibility that a NGA upgrade might be granted via access to existing infrastructure, the regulator will be consulted to confirm whether the use of such ex ante regulation mechanisms could be used.

V.2. The distortions of competition and the effect on trade are limited, so that the overall impact of the measure is positive

- (43) The Commission concludes that the notified measure will offset a geographical and commercial handicap and is objectively justified to address the lack of availability of very high speed broadband services due to the commercial unattractiveness of upgrading existing broadband services. The Commission continues to consider the pro-competitive elements of the scheme by deploying ducts infrastructure, which allows several network operators to place their own fibre optic cables.

V.3. Conclusion

- (44) The Commission concludes that the compatibility criteria set out in the Broadband Guidelines are met, hence the aid involved in the notified measure is compatible with the internal market, according to Article 107(3)(c) TFEU. In view of the duration of the scheme, the Commission would like to draw the German authorities' attention to future revisions of the Guidelines, which might make appropriate measures to the scheme necessary.

VI. DECISION

- (45) On the basis of the foregoing assessment, the Commission has accordingly decided that the aid measure "*Amendment to the Federal framework on duct support for the creation of universal broadband coverage*" is compatible with the internal market, according to Article 107(3)(c) TFEU.
- (46) The German authorities are reminded that, pursuant to Article 108(3) TFEU, they are obliged to inform the Commission of any plan to extend or amend the measure. The German authorities are further reminded to fulfil the ex post monitoring obligation set out in the Decision and that they will send, at the latest 31.3. of each year, an overview of the support granted under the notified amendment of the previous year with the data described in (22) of this Decision.
- (47) 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/eu_law/state_aids/state_aids_texts_en.htm.

Your request should be sent by encrypted e-mail to stateaidgreffe@ec.europa.eu or, alternatively, by registered letter or fax to:

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Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President of the Commission