

## State aid: Commission processes record number of broadband projects following new Broadband Guidelines

*A record number of Member State aid measures to support the installation of broadband networks have been approved by the European Commission in 2009 since the adoption by the Commission in September 2009 of Guidelines for the assessment of broadband projects under EU state aid rules (see [IP/09/1332](#) and [MEMO/09/396](#)). With a view to supporting economic recovery and the long term competitiveness of Europe, the guidelines provide an overview on how Member States can support broadband networks without unduly distorting competition in the Single Market and helped to accelerate the decision making process. Since September 2009, the Commission has endorsed almost €300 million of public funding to support the deployment of broadband networks thereby giving people and businesses better access to high and very high-speed internet and bringing Europe closer to its goal to build a knowledge-based society.*

### The Broadband Guidelines

As part of the European Economic Recovery Plan ([IP/08/1771](#), [MEMO/08/735](#)), the Commission adopted Guidelines for the financing of broadband networks in September 2009 ([IP/09/1332](#)). The Guidelines lay down the details on how public funding can be granted in line with the EU state aid rules for the deployment of broadband networks. The Guidelines provide a complete overview how broadband networks can be supported, ranging from measures not involving public funds (such as administrative measures) to classical state aid measures. The document provides a clear framework for both governments and industry stakeholders. It not only outlines the rules concerning aid to basic broadband networks (such as adsl, cable, wireless or satellite solutions), but also addresses the issue of investment into the new, very high speed, next generation access (“NGA”) networks.

Many European governments – as part of their economic stimulus programmes – have allocated significant amount of public funds for broadband development. The Commission itself earmarked up to €1 billion as part of the European Economic Recovery Plan to enhance broadband coverage in rural areas in all Member States. While the allocation of these funds is a choice of the Member States, the Guidelines help to channel both EU and national funds quickly and effectively ([MEMO/09/35](#)).

Projects designed in line with the Guidelines allow to channel public funds to areas where private operators currently have no commercial incentives to invest and stimulate competition and choice for consumers by ensuring open access of all service providers to the subsidised networks.

The adoption of the Broadband Guidelines has led to better-designed aid measures and an accelerated treatment, which has allowed the Commission to adopt ten decisions since September 2009.

In its decision to approve a fibre deployment project in the French department Hauts-de-Seine (see [IP/09/1391](#)), the Commission applied for the first time the provisions of the Guidelines regarding public service compensation for NGA projects. In this respect, the Guidelines indicate that building a broadband network can only be qualified as a public service if the network is passive, neutral, open and provides universal coverage in the territory concerned. In addition, the amount of the compensation for building the network cannot go beyond what is necessary to cover the additional costs to deploy the network in non-profitable areas.

The Commission also approved an aid scheme to encourage the deployment of NGA networks in very sparsely populated areas in Finland, that are not covered by private projects (case [N388/2009](#)).

In a recent German case approved in December 2009, municipalities will invest in and own specific ducts to encourage broadband deployment in underserved areas (case [N368/2009](#)). If such dedicated ducts are made available to broadband network operators without appropriate payment, this constitutes state aid. In this German case, such aid was found compatible, also considering that it concerned multi-fibre ducts which will allow several broadband operators to deploy their networks, thereby encouraging infrastructure based competition. In another German case (see [IP/10/141](#)) the Commission further clarified that, where a municipal authority is undertaking general civil works (such as digging up public roads), which can be useful also for the deployment of other utility networks (water, electricity, etc.), and allows the placement of ducts and passive infrastructure by broadband network operators at their own expense, this does not constitute state aid (case [N383/2009](#)).

In the case of Lombardy, (see [IP/10/140](#)) the Italian authorities decided not to limit in time the obligation of the selected operator to provide access to the subsidised ducts, in order to foster infrastructure-based competition for future investment in next-generation networks.

For an Irish scheme to provide affordable basic broadband coverage (case [N607/2009](#)), it was possible to use the simplified procedure for the assessment of certain types of state aid cases ([IP/09/659](#)). As a consequence, the Commission was able to approve a project within one month from the notification date.

In Cyprus, in a nationwide broadband project, the Government decided to divide the so-called "white areas" (currently underserved by broadband) into five regions, establishing that no single operator can win tenders to operate in all of these regions. Thereby the Cypriot authorities aimed to foster competition and encourage alternative operators to also benefit from the state aid measure (case [N423/2009](#)).

In all these decisions, the Commission stressed the need for awarding aid through public tenders, opening infrastructures to all operators on a technologically neutral basis and minimising distortions of competition through a thorough market research and consultation with existing operators. See annex for the list of decisions approved since 30 September 2009.

## Annex – The list of Commission decisions on state aid to broadband since 30 September 2009

#	Commission decision	Member State	Decision Date	Decision text
1	<b>N 331/2008 Réseau à très haut débit en Hauts-de-Seine</b>	France	30/09/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2008/n331-08.pdf">http://ec.europa.eu/community_law/state_aids/comp-2008/n331-08.pdf</a>
2	<b>N 172/2009 Broadband development in Slovenia</b>	Slovenia	19/10/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2009/n172-09.pdf">http://ec.europa.eu/community_law/state_aids/comp-2009/n172-09.pdf</a>
3	<b>N 418/2009 Northern Ireland</b>	United Kingdom	5/11/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2009/n418-09.pdf">http://ec.europa.eu/community_law/state_aids/comp-2009/n418-09.pdf</a>
4	<b>N 607/2009 Rural Broadband Scheme</b>	Ireland	4/12/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2009/n607-09.pdf">http://ec.europa.eu/community_law/state_aids/comp-2009/n607-09.pdf</a>
5	<b>N 423/2009 Broadband infrastructure deployment in Cyprus</b>	Cyprus	10/12/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2009/n423-09.pdf">http://ec.europa.eu/community_law/state_aids/comp-2009/n423-09.pdf</a>
6	<b>N 323/2009 Broadband Asturias</b>	Spain	14/12/2009	<i>Not yet published</i>
7	<b>N 388/2009 High-speed broadband pilot projects in Finland</b>	Finland	16/12/2009	<a href="http://ec.europa.eu/community_law/state_aids/comp-2009/n388-09-fi.pdf">http://ec.europa.eu/community_law/state_aids/comp-2009/n388-09-fi.pdf</a>
8	<b>N 368/2009 Amendment of the State aid broadband scheme N115/2008</b>	Germany	22/12/2009	<i>Not yet published</i>
9	<b>N 383/2009 Amendment of broadband in the rural areas of Saxony, Germany</b>	Germany	8/02/2010	<i>Not yet published</i>
10	<b>N 596/2009 Broadband Lombardy</b>	Italy	8/02/2010	<i>Not yet published</i>