

Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance)

CHAPTER III

SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID

SECTION 10

Aid for broadband infrastructures

Article 52

Aid for broadband infrastructures

1 Investment aid for broadband network development shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2 The eligible costs shall be the following:

- a investment costs for the deployment of a passive broadband infrastructure;
- b investment costs of broadband-related civil engineering works;
- c investment costs for the deployment of basic broadband networks; and
- d investment costs for the deployment of next generation access (NGA) networks.

3 The investment shall be located in areas where there is no infrastructure of the same category (either basic broadband or NGA network) and where no such infrastructure is likely to be developed on commercial terms within three years from the moment of publication of the planned aid measure, which shall also be verified through an open public consultation.

4 The aid shall be allocated on the basis of an open, transparent and non-discriminatory competitive selection process respecting the principle of technology neutrality.

5 The network operator shall offer the widest possible active and passive wholesale access, according to Article 2, point 139 of this Regulation, under fair and non-discriminatory conditions, including physical unbundling in the case of NGA networks. Such wholesale access shall be granted for at least seven years and the right of access to ducts or poles shall not be limited in time. In the case of aid for the construction of ducts, the ducts shall be large enough to cater for several cable networks and different network topologies.

6 The wholesale access price shall be based on the pricing principles set by the national regulatory authority and on benchmarks that prevail in other comparable, more competitive areas of the Member State or the Union taking into account the aid received by the network operator. The national regulatory authority shall be consulted on access conditions, including pricing, and in the event of dispute between access seekers and the subsidised infrastructure operator.

Status: This is the original version (as it was originally adopted).

7 Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.