

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.

[^{F12a} As an alternative to establishing the eligible costs as provided for in paragraph 2, the maximum amount of aid for a project may be established on the basis of the competitive selection process as required by paragraph 4.]

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

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) No 651/2014, SECTION 10. (See end of Document for details)

pricing, and in the event of dispute between access seekers and the subsidised infrastructure operator.

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.

Textual Amendments

- F1** Inserted by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs (Text with EEA relevance).

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EU) No 651/2014, SECTION 10.