II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 23 October 2007

on the State aid scheme C 33/06 (ex N 576/04) which Germany intended to implement for the introduction of digital terrestrial television in Bavaria

(notified under document number C(2007) 5094)

(Only the German version is authentic)

(Text with EEA relevance)

(2008/680/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to those provisions [1],

Whereas:

I. PROCEDURE

(1) By letter of 8 December 2004, registered on 10 December 2004, Germany notified the Commission in accordance with Article 88(3) of the EC Treaty of a measure concerning the financing of the rollout of digital terrestrial television in Bavaria by means of a subsidy for the transmission costs of commercial television broadcasters using the digital terrestrial platform.

(2) By letter of 31 January 2005, the Commission requested additional information to which Germany replied, after extension of the deadline, by letter of 22 March 2005, registered on the same day. A further request for information was sent on 20 May 2005 to which Germany replied by letter of 16 June 2005, registered on 24 June 2005. The measure had similarities to the public funding of digital terrestrial television in Berlin-Brandenburg where the Commission initiated the procedure on 14 July 2004 and adopted a final decision declaring the aid incompatible with the Common Market on 9 November 2005 [2].

(3) In view of the similarities between the two cases, the Commission and Germany agreed to suspend the notification procedure in the present case in order to allow the authorities to assess the consequences of the Berlin-Brandenburg decision for the present case.

(4) By letter of 12 April 2006, the Commission requested Germany to determine its position in the notification procedure referred to in recital 2 within one month. By letter of 12 May 2006, Germany informed the

[1] OJ C 202, 25.8.2006, p. 18, State aid C 33/06 (ex N 576/04) — Introduction of digital terrestrial television (DVB-T) in Bavaria — Invitation to submit comments pursuant to Article 88(2) of the EC Treaty.

[2] OJ L 200, 22.7.2006, p. 14.

Commission that it did not intend to withdraw or fundamentally change the notified measure. Germany, however, announced a small modification of the Bavarian notification which it, eventually, submitted by letter of 19 May 2006. The modification introduced a distinction between the subsidies granted to local television channels and those granted to the national television channels. By letter dated 19 July 2006, C(2006) 3175 final, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in view of the doubts about the compatibility of the measure with the EC Treaty.

(5) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ([1]). The Commission called on interested parties to submit their comments.

(6) Germany submitted its observation by letter registered on 2 October 2006. Comments on the opening were submitted by ESOA (European Satellite Operators Association) on 22 September 2006, ANGA (Verband Privater Kabelnetzbetreiber e.V.) on 22 September 2006, Deutscher Kabelverband on 26 September 2006 and ProSiebenSat.1 on 26 September 2006.

(7) Following further exchanges of information between the Commission and the German authorities, Germany informed the Commission by letter of 11 July 2007, registered on 17 July 2007, that the notified measure was no longer pursued, the notification was withdrawn and that only *de minimis* aid pursuant to Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid ([2]) was granted to three local commercial broadcasters in Bavaria.

II. **DESCRIPTION OF THE MEASURE**

(8) The objective of the measure was to support the introduction of digital terrestrial television in Bavaria by means of a subsidy for the transmission costs of commercial television broadcasters ([3]).

III. **COMMENTS FROM GERMANY**

(9) The German authorities, in the letter dated 11 July 2007, informed the Commission that the notified measure has not been implemented and that it is withdrawn.

IV. **ASSESSMENT**

(10) After the withdrawal of the notification, the procedure no longer has any relevance.

V. **CONCLUSION**

(11) Therefore, the Commission has decided to close the procedure laid down in Article 88(2) of the EC Treaty on the ground that it is without object, recording the withdrawal of the measure by Germany,

HAS ADOPTED THIS DECISION:

Article 1

After the withdrawal by Germany of the notified measure, the present proceedings have become without object. The Commission has thus decided to close the procedure laid down in Article 88(2) of the EC Treaty.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 October 2007.

For the Commission
Neelie KROES
Member of the Commission

([1]) OJ C 202, 25.8.2006, p. 18, State aid C 33/06 (ex N 576/04) — Introduction of digital terrestrial television (DVB-T) in Bavaria — Invitation to submit comments pursuant to Article 88(2) of the EC Treaty.

([2]) OJ L 379, 28.12.2006, p. 5.

([3]) For a detailed description of the measure, reference is made to the decision to initiate the procedure.