European Commission: Spain needs to recover incompatible aid from certain DTT operators

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On 10 June 2021, the European Commission concluded that the aid received by terrestrial operators for the digitisation and extension of the terrestrial television network in remote areas of Spain was against EU State aid rules. Following the annulment of a 2013 Commission decision (see IRIS 2013-7/5) by the Court of Justice for inadequate reasoning as to the selectivity of the measure (see IRIS 2018-2/5), an additional in-depth investigation confirmed that the measures adopted by Spain between 2005 and 2008 to facilitate the switch from analogue to digital television constituted incompatible State aid. The aid was granted for the digital switch-over as well as for the operation and maintenance of the digital television network. In particular, the measures lack technological neutrality, since they envisage digital terrestrial television (DTT) as the only technology for the subsidised digital switch-over. Alternative technologies (such as satellite) could not benefit from the aid measures. The measures are selective because they benefit only DTT operators, although DTT and satellite technologies are in a comparable factual and legal situation (satellite technology could have been used for the digital switch-over in remote areas). On this basis, the Commission concluded that the scheme cannot be considered compatible with the internal market on the basis of Article 107(3)(c) or Article 106(2) of the Treaty on the Functioning of the European Union (TFEU).

EU State aid rules require that incompatible State aid is recovered without delay in order to remove the distortion of competition created by the aid. Spain will have to determine the amount to be recovered from each individual beneficiary, in line with the methodology set out under the Commission decision.

SA.28599 Aid for the deployment of digital terrestrial television (DTT) - Spain (with the exception of Castilla-La Mancha)-ES

https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_28599

Press release of the European Commission of 10 June 2021

https://ec.europa.eu/commission/presscorner/detail/en/IP_21_2928

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