

Brussels, 25th February 2009

State aid: Commission issues guidance on state aid enforcement by national courts

The European Commission has issued a set of guidelines to assist Member States' courts in applying EU state aid rules. These guidelines are aimed at supporting national courts and potential claimants in relation to domestic state aid challenges, in particular concerning the recovery of illegal aid from the beneficiary, interim relief or possible damages actions. In addition, the guidelines cover how national judges can ask the Commission for information or opinions on the application of the state aid rules.

Competition Commissioner Neelie Kroes said: "National courts can play a vital role in the enforcement of the state aid rules and the Commission is determined to give them its utmost support. The rights of companies confronted with illegal aid to competitors must be adequately protected at national level."

The new guidance has two key aims: to explain the role of national courts in the state aid field as defined by the EU courts and to offer national courts practical and user friendly support in individual cases.

Article 88(3) of the EC Treaty provides that Member States may not implement state aid before it has been approved by the Commission ("standstill obligation"). This provision has direct effect in Member States' judicial systems and parties affected by the payment of unlawful state aid can bring direct action before national courts. The notice gives, *inter alia*, guidance on possible remedies against violations of the standstill obligation, such as the repayment of unlawful aid, damages claims, interim measures or interest payments.

The Notice also introduces two consultation mechanisms for national courts, which will be able to ask the Commission for information in its possession and/or for its opinion on the application of the state aid rules. Both types of support are based on established practice in the antitrust area.

The notice is the result of a comprehensive review of the Commission's 1995 notice on cooperation with national courts and takes into account recent legislative developments and case-law. It also draws on the conclusions of a detailed study on the enforcement of state aid law at national level of 2006 ([IP/06/477](#)), which found that, although the overall number of state aid cases before national courts had increased, actions aimed at challenging illegal aid were still relatively rare.

The notice is available in English, French and German on the Commission's website at:

http://ec.europa.eu/competition/state_aid/legislation/rules.html#courts

Further language versions will become available shortly.

See also [MEMO/09/82](#).