

3. The Federal Republic of Germany is ordered to bear its own costs.

**Judgment of the Court of First Instance (Seventh Chamber) of 6 October  
2009 — FAB v Commission**

**(Case T-8/06)**

(State aid — Digital terrestrial television — Aid granted by the German authorities to broadcasters which use the digital terrestrial television network (DVB-T) in Berlin-Brandenburg — Decision declaring the aid incompatible with the common market and ordering its recovery — Action for annulment — Meaning of State aid — State resources — Compensation for discharging public service obligations — Aid intended to promote culture — Legitimate expectations)

1. *State aid — Concept — Aid granted to private broadcasters to facilitate the changeover to digital terrestrial television without a public tendering procedure or call for tenders — Included (Art. 87(1) EC) (see paras 48-58)*
2. *Competition — Undertakings entrusted with the operation of services of general economic interest — Definition of services of general economic interest (Art. 86(2) EC) (see paras 63, 64)*
3. *State aid — Prohibition — Exceptions — Discretion of the Commission — Judicial review (Art. 87(3) EC) (see paras 77, 78)*
4. *State aid — Recovery of unlawful aid — Possible legitimate expectation on the part of the recipient (Art. 88 EC) (see paras 92, 93)*

**Re:**

APPLICATION for annulment of Commission Decision 2006/513/EC of 9 November 2005 on the State aid which the Federal Republic of Germany has implemented for the introduction of digital terrestrial television (DVB-T) in Berlin-Brandenburg (OJ 2006 L 200, p. 14).

**Operative part**

The Court:

1. Dismisses the action;
2. Orders FAB Fernsehen aus Berlin GmbH to pay the costs.

**Judgment of the Court of First Instance (Seventh Chamber) of 6 October  
2009 — Germany v Commission**

**(Case T-21/06)**

(State aid — Digital terrestrial television — Aid granted by the German authorities to broadcasters which use the digital terrestrial television network (DVB-T) in Berlin-Brandenburg — Decision declaring the aid incompatible with the common market and ordering its recovery — Principles of sound administration and proportionality — Rights of the defence)

1. *State aid — Prohibition — Exceptions — Discretion of the Commission — Judicial review — Limits — Possibility of adopting guidelines (Art. 87(3) EC) (see paras 50, 51)*
2. *State aid — Examination by the Commission — Discretion of the Commission — Principle of sound administration — Rights of the defence (see paras 77-79)*