



State aid rules and the financing of public service broadcasting

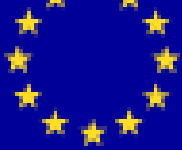
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DG Competition, State Aid

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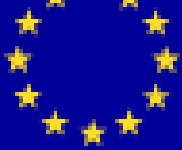
Legal Framework

- Article 87 (1) EC Treaty: prohibition of State aid (e.g. direct contributions from State budget or through distribution of levy on TV-set holders)
- Article 86 (2) EC Treaty: exemption possibility for public service activities
- “Amsterdam Protocol”: Recognition of special status of public service broadcasting (PSB)
- Broadcasting Communication of 2001 (interpretative tool of the Commission)
- “SGEI”-Package (July 2005): conditions of compatibility for financing of public services



General principles for State financing of PSB

- **Member States' freedom to organise public service broadcasting and its financing** (“Amsterdam Protocol”) subject to limited control by Commission of manifest errors in public service definition and undue distortions of competition.
- **Compatibility criteria for State financing (Art. 86 (2) EC):**
 - Service in question must be a “service of general economic interest” and clearly defined (“definition”);
 - Undertaking concerned must be explicitly entrusted with the provision of this service (“entrustment”);
 - Limitation of State aid to what is necessary for fulfilment of public service task (“proportionality”).



Broadcasting Communication 2001

- **“Definition”**:
 - Wide definition including balanced and varied programming acceptable;
 - Need for a precise definition of the public service tasks and predictability for other market players.
- **“Entrustment” and control**:
 - Monitoring of compliance with public service obligations;
- **“Proportionality”**
 - PSB may perform purely commercial activities such as advertisement or sale of programmes, but these activities should not benefit from State financing and requirement to keep separate accounts;
 - Safeguards against cross-subsidisation into commercial activities;
 - Safeguards against market distortions e.g. undercutting of prices on the advertisement market.