

## What's the legislation?

The objective of the Communication published July 2009 is to clarify the guidelines on state aid to public broadcasters to ensure fair competition. This follows a revision of the Broadcasting Communication from 2001, with particular focus on PSBs in the context of internet and mobile platforms.

## Timing

There is a new Communication adopted in July 2009.

## Why is this Communication important for the media?

Whilst the Communication is not legislation as such (ie not a draft directive or Regulation), its potential effect is nevertheless important. The objective of the original 2001 Communication was as follows:

'This Communication sets out the principles to be followed by the Commission in the application of Articles 87 and 86(2), of the EC Treaty to State funding of public service broadcasting.'

## What's at stake and what do we want?

This topic is crucial, not only for the future of public service broadcasting, but also for the future of commercial broadcasters and publishers online.

The debate centres on whether or not the rules surrounding state aid to public broadcasters need revising as they seek to expand into new media. It is our firm opinion that a revision has been essential. Since the last text was adopted in 2001, broadcasters have moved onto new platforms, have become far more ambitious and are now competing head on with publishers in the online environment. Public broadcasters have not only been migrating to digital TV platforms but also to the internet and, in many cases, morphing into online newspaper and magazine publishers – funded by the public purse – and competing head on with commercial publishers the press, thereby distorting competition and finally undermining the national free press.

The EPC therefore welcomes a clear Communication from the Commission on the application of state aid rules so that we can ensure that public service broadcasting is limited to an agreed definition of what a public service should provide rather than a free-for-all funded by the state to the detriment of all other players in the marketplace and often paid for directly by European consumers.

## What happens now?

EPC is calling on Member States to reassess some key areas when applying the guidance from the Commission to ensure a level playing field:

i) Remit: There is a need for Member States to define programming that meets the 'democratic, social and cultural needs of each society' and that guarantees pluralism. Without a clear remit, the Commission and Member State authorities will be unable to manage compliance effectively;

ii) Aid for new market developments: All online services are not an automatic element of the public service remit and they can have cross-border implications in terms of trade and audience.

The EPC welcomes the Communication's call for an ex ante test to assess the market impact of digital media services, to be carried out by an independent body;

iii) Pay services: the EPC is calling for stricter provisions to ensure that there is a clear distinction between 'public service remit' and commercial content products and services, particularly those where there is additional cost to the consumer such as on internet-related mobile activities.

It is incumbent on Member States to ensure that adequate checks and balances are put in place to keep the funding of public service broadcasting fair and proportionate in a free market.

A healthy media sector is dependent on fair play in the market (see fact sheet on media pluralism). This is especially pertinent now when newspapers are experiencing huge losses in advertising revenue and facing difficult and growing competition in the online environment by non-European players such as search engines and other content aggregators.

## Useful links

[http://ec.europa.eu/competition/state\\_aid/legislation/broadcasting\\_communication\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/broadcasting_communication_en.pdf)

[http://europa.eu/legislation\\_summaries/audiovisual\\_and\\_media/l26099\\_en.htm](http://europa.eu/legislation_summaries/audiovisual_and_media/l26099_en.htm)

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