

## **SPEECH**

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### **Competition and respect of identity of social economy enterprises**

Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort

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## **Competition and respect of identity of social economy enterprises**

The Commission's political priorities are to promote competitiveness, employment and social cohesion in the European Union. This is more important than ever at this time of financial crisis and more gloomy economic times ahead. Let me say straight away that the policy of the Commission is not to discriminate against or favour certain categories of undertakings: all companies in Europe independently of their legal form have their part to play. Jobs will be ultimately created by enterprises and not by public authorities. And social economy enterprises have a particularly important role to play in the delivery of public services.

From a competition policy perspective, our objective is to ensure a level playing field between all undertakings in their respective fields, and that the competition rules apply to all undertakings independently of their aims or legal form. The criterion is engagement in an economic activity - whether the "entity" offers goods or services in a market. Ensuring a level playing field between all players ensures that they can function well, and deliver effectively the services and goods that we all want.

People care a lot about public services. So it is no surprise that there is constant debate about what services should be provided, and how those services are best delivered. The Commission has to steer clear of much of that debate. In particular, it is for the public authorities and governments in Member States, be they local, regional or national, to define which public services should be delivered and by which means. It is not for the Commission to decide on how many kindergartens should be established in a specific town or whether or not a hospital in a rural area should remain. It is also for the Member States to define the quality of these services.

State aid control comes into the picture when the services are provided by an enterprise and financed through a public budget, because overly generous compensation can enable the service providers to cross-subsidise their other commercial activities and thereby distort competition.

Since 2005, the Commission has clarified that even when funding for a public service constitutes State aid, it can be considered compatible with the Treaty. The 2005 Commission decision - the services of general economic interest (SGEI) decision - brought with it increased clarity and legal certainty particularly for local services. So called "small scale" services are exempted from notification – meaning compensation for costs of providing services up to 30 million Euros per beneficiary per year.

The Commission Decision also takes into account the specific characteristics of certain services by also exempting compensation for hospitals and social housing from notification, regardless of the amount concerned. Both sectors entail very high amounts of aid per undertaking, but with limited risks to competition, so a complete exemption is appropriate.

Of course, there are conditions set out in the Decision, in particular there has to be an act of entrustment, no over-compensation and transparency of accounts. The compensation can cover up to 100% of the costs of the public service including a reasonable profit.

The act of entrustment is simply the official act that empowers a company to carry out a SGEI. It spells out the mission of general interest, as well as the scope and the general conditions of the functioning of this service. It answers the question: what service is the company supposed to provide?

The State aid rules ask no more of the Member State than good administration. The specific form of the act (or acts) is for each Member State to decide - there is no standard "one size fits all"; it really depends what makes most sense both for the public authority entrusting the service, and for the activity concerned.

This is just common sense; setting out a clear statement about what service it is that is expected to be provided. Without this there can't be effective monitoring – by the public administration – of the delivery of that service, or of its cost.

There has also been a debate about a possible Regulation or Framework Directive on services of general interest and especially in relation to social services of general interest, but there is a very broad range of views in Member States and in the European Parliament, so agreement appears at least for now impossible. Moreover, the necessity of such a Regulation is not established. Article 16 of the existing Treaty and the draft new Protocol on services of general interest already stress the importance of these services and the general principles to respect. Where we are now is that the Commission should pursue its sectoral approach by updating existing rules or proposing new ones where necessary.

We recognise that stakeholders from the social services sector may have difficulty in understanding and applying our rules. This is why the Commission put in place an on-line service in January of this year, which is available to everyone, and around 70 questions on the application of EU rules have been raised and answered since then. These answers will be used for the update of the Frequently Asked Questions and answers already on the intranet, so we can give the greatest guidance possible to those who are confronted with the application of our rules. Therefore I invite you to make the most of it.

As you know, Member States are expected to submit their reports on the implementation of the SGEI Decision to the Commission by the end of December 2008. I hope many of you are feeding into that work. In July this year, the Commission gave guidance on the preparation of these reports and has been in direct contact with all those who have asked for further clarifications. The Commission will examine these reports in order to get a clear view of the actual implementation of the Decision and the difficulties that may have arisen in the different sectors in the different Member States.

This input from the Member States will be of vital importance for our own evaluation and report on the application of the package, which is due by the end of 2009. Between now and then, the Commission is intent on meeting those concerned with the provision of public services to see the practical issues that arise and to find possible solutions. The experience of the last months shows that an interactive cooperation between the Commission and the stakeholders can lead to practical solutions for practical problems. If you do have specific difficulties applying the existing rules, I would encourage you to contact DG Competition. We will be happy to organise meetings to examine concrete cases. I can ensure you that the Commission is committed to giving advice, answers, and follow-up, to all Member States and stakeholders' concerns.

I'm not going to comment on specific cases today but one specific word on co-operatives. Commissioner Neelie Kroes fully understands the specificity of co-operatives, and takes on board the positive benefits that undoubtedly derive from that. We will take that into account in our ongoing work.

Let me conclude. The Commission recognises the importance and valuable contribution of all of those social economy enterprises here today, to the economy and to society at large. There are tough times ahead, your contribution is going to be more important than ever.