

Letter dated: 5 July 2012
From: Giorgos Zodiatis, Deputy Permanent Representative of Cyprus to the European Union
To: Gert-Jan Koopman, Deputy Director-General for State Aid, Directorate-General for Competition
Ref: 30.07.016.019.001

Dear Mr Koopman,

SUBJECT: Report on services of general economic interest to be submitted pursuant to the Decision of the European Commission of 28 November 2005

With reference to your letter COMP/A-3/JW-jc(2012)059570 of 7 June 2012 regarding the above subject, I hereby forward you the Republic of Cyprus's report.

Yours sincerely,

Giorgos Zodiatis

Deputy Permanent Representative

SUBJECT: Republic of Cyprus - Report on services of general economic interest to be submitted pursuant to the Decision of the European Commission of 28 November 2005

A. State aid to the Cyprus News Agency

The only case in which the Republic of Cyprus applies the above Decision of the European Commission (hereinafter the 'Commission') is in aid granted to the Cyprus News Agency (hereinafter the 'CNA'). This aid consists of existing aid No CY 6/2003 and was notified to the Commission as part of the interim mechanism procedure as aid for a service of general economic interest. The aid granted to the CNA in 2009, 2010 and 2011 amounted to EUR 1.56, 1.998 and 1.991 million respectively.

2. The CNA is the only news agency that has its head office in Cyprus. It operates as a public corporation and it is managed by a seven-member Board of Directors appointed for a three-year term of office. It employs 40 members of staff, of whom 27 are journalists.

3. In 2003, certain amendments were made to the Cyprus News Agency Law (hereinafter referred to as 'the Law') to make the annual State subsidy compatible with the Community acquis in the area of aid to services of general economic interest.

4. The above Law expressly defines a 'public information service relating to Cyprus' as the continual, full, accurate and objective information of the public in Cyprus, aimed at serving the democratic, social and cultural needs of Cypriots and foreigners living in Cyprus, the Cypriot overseas community and interested international or national news agencies or foreign news organisations.

5. The Law also lays down the precise activities to be carried out by the CNA for it to fulfil its mission. They are:

- > collecting information and data in Cyprus and abroad for the objective compilation of news;
- > making this news available to all those who wish to use it, against a reasonable fee or free of charge if this is decided by the Board of Directors;
- > disseminating and publishing, in Cyprus and abroad, news and information bulletins, photographs, articles, analyses, pictures and descriptions, audio or video recordings and, generally, news in any form which, with advances in technology, is likely to prevail in the area of news coverage and dissemination;
- > concluding cooperation agreements with other agencies or similar bodies.

6. The Law expressly states that the aid from the State for carrying out the above service must not go beyond its additional costs.

7. Pursuant to the Law, the CNA must keep separate accounts for, on the one hand, its activities associated with the provision of a public information service relating to Cyprus, and on the other hand its commercial activities. The Law provides that the maintenance of accounts should be in line with current commercial practices and generally accepted cost accounting principles so as to ensure that:

- > the internal accounts corresponding to different activities are separate;
- > all costs and revenues are correctly assigned or allocated on the basis of consistently applied and objectively justifiable cost accounting principles;
- > the cost accounting principles according to which separate accounts are maintained are clearly established.

8. The Law also provides that the Auditor General of the Republic must issue a report indicating the existence of any financial flows between the commercial activities and the activities associated with the provision of the public information service in Cyprus. This report is submitted to the Council of Ministers and to the House of Representatives for information.

B. State aid in the area of social housing and hospitals

9. Cyprus does not grant any state aid to specific bodies or undertakings in the area of social housing. As regards aid to hospitals, we would point out that Cyprus has public hospitals which are not legally or financially independent. They report directly to the Health Ministry and their expenditure is included in the Ministry's budget. Public hospitals provide free health services to

around 83% of the Cypriot population. The remaining 17% of the population pays fees for health services, up to a certain limit which varies depending on each patient's income. Therefore, the State also covers part of the hospitals' costs for this part of the population. The State also buys specialised health services from private hospitals for periods of one to three years depending on the case, selected on the basis of public procurement procedures as provided for in the relevant Cypriot legislation.

10. However there are plans, to be implemented in the coming years, to radically restructure the public system. Under the new system, Cypriot patients will be able to go to the hospital of their choice, irrespective of whether it is a public or a private hospital. The State will compensate the hospitals for the costs they incur in providing services to insured persons.

11. In the Republic of Cyprus's previous report on the implementation of the Commission's Decision, which was sent to the Commission in December 2008, we raised the question of the application of Community state aid rules to state funding of public hospitals, asking the Commission to present its views on this matter. We would therefore like to remind you that the concerns we expressed at the time included the following two points:

a) the economic nature of the activities which public hospitals provide within the public health system following the judgments of the Court of First Instance, and then of the European Court of Justice, in the FENIN¹ case;

b) the effect on intra-Community trade arising from such aid, particularly in the case of small isolated countries such as Cyprus, mentioning as an example the Commission's decision on aid to hospitals in Ireland².

12. In the Commission's recent Communication of January 2012 on the application of the European Union state aid rules to compensation granted for the provision of services of general economic interest, the Commission states (Part 2.1.4 of the Communication) that given the case law in the FENIN case, public hospitals in certain Member States may not be able to be classified as undertaking economic activities if they operate as part of a national health service based on the principle of solidarity, offering universally free healthcare to affiliated persons. Furthermore, concerning the criterion of effect on intra-Community trade, the Communication (paragraph 40) gives the above-mentioned Commission's decision on Irish hospitals as an example of aid that does not affect trade.

13. Given the above, we still have the same serious doubts that we expressed in our report to the Commission, concerning the economic nature of the activities of Cypriot hospitals and also the effect on intra-Community trade arising from their state funding. Given these doubts that this does in fact constitute a case of state aid and in view of the radical restructuring of the Cypriot health system, we did not consider it appropriate to evaluate this aid's compliance with the Commission Decision of 28 November 2005. It goes without saying that the question of the possible existence of state aid to hospitals will be reassessed after the health system reform, with the aim of ensuring that the new system complies fully with the Community rules on state aid.

Office of the Tax Inspector, Control of State Aid (E.E.K.E.), Nicosia - Cyprus

E.E.K.E. 25.02.001.14

3 July 2012

¹ T-319/99 and C-205/03, respectively.

² State aid No 543/2001- Ireland, Capital allowances for hospitals, 27.2.2002.