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PRESS RELEASE

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State aid: Commission publishes updated Guide on services of general economic interest (SGEI)

The European Commission services have published an updated guide to explain how EU rules in the fields of state aid, public procurement and the internal market apply to services of general economic interest (SGEI). The guide provides simple and comprehensive answers to the most frequent questions asked by public authorities, service users and providers and other stakeholders. Originally published in 2010, it has now been revised to take account of the new state aid rules on SGEI that the Commission adopted in December 2011 and April 2012 (see [IP/11/1571](#), [MEMO/11/929](#) and [IP/12/402](#)) - the so-called "Almunia" Package.

Commission Vice President in charge of competition policy Joaquín Almunia said: *"Our new rules provide a clearer and more flexible framework to support the delivery of high-quality public services to citizens, be it the post office, public transport, hospitals or social services. The good application of these rules by public authorities and providers will increase transparency and guarantee an efficient use of public resources"*.

The guide provides detailed explanations on the scope of Member States to define SGEI, the requirements for the legal act that entrusts the provider with the SGEI and the rules on how the provider can receive compensation for the provision of the SGEI.

Under the new rules, a public service compensation of an amount below €500,000 per undertaking over three years is deemed free of state aid. In addition, social services are exempted from the obligation of prior notification to the Commission, regardless of the amount of the compensation they receive. All other SGEIs are exempted provided the compensation amount is less than €15 million a year.

The rules also foresee a more thorough scrutiny for compensations of a large amount where the aid has a higher potential to distort competition in the Single Market. In particular, the Commission checks whether EU rules on public procurement are respected, in order to ensure the best quality at the cheapest cost for taxpayers. Whenever possible, public authorities should foresee incentives for an efficient provision of the service.

The guide will be made available in all EU languages. The English version is already available as of today at:

http://ec.europa.eu/competition/state_aid/overview/public_services_en.html

The document provides useful guidance for the provision of social services, in addition to other SGEI. The importance of having high quality, efficient social services will be underlined by the Commission's forthcoming Social Investment Package.

Background

The 2013 Guide, like its predecessor, is a Staff Working Document prepared by the Commission's services to help public authorities to better understand and apply the most relevant EU rules for the provision of SGEI, i.e. state aid rules and internal market rules, in particular for public procurement.

Member States are largely free to define which services are of general interest. However, the Commission must ensure that public funding granted for the provision of such services does not unduly distort competition in the Single Market.

In 2003, the European Court of Justice ruled on the assessment of public service compensations in the context of EU state aid rules (case C-280/00 Altmark Trans). The ruling specifies the conditions under which public service compensations do not constitute state aid in the meaning of the Treaty on the Functioning of the European Union (TFEU).

In 2005 the Commission adopted the first SGEI package (also known as the "Monti-Kroes-Package", see IP/05/937) setting out the conditions under which state aid in the form of public service compensation is compatible with the TFEU. This package was replaced by the "Almunia package".

The new package adopted by the Commission on 20.12.2011 and 25.04.2012 (see [IP/11/1571](#), [MEMO/11/929](#) and [IP/12/402](#)) consists of four instruments:

- A Communication that guides Member States, public services providers and other interested parties, mainly by clarifying basic concepts of state aid that are relevant for SGEI, such as the notions of State aid, of SGEI, of economic or non-economic activity, etc.
- A Decision that exempts from prior notification to the Commission certain categories of public service compensations that meet certain conditions. The exemption provides for a simpler and more flexible approach for small services and social services¹. However public authorities still have to comply with state aid rules when they grant compensation to these services.
- A Framework that provides the basis for assessing large compensations granted to operators outside the social services field. Those cases have to be notified to the Commission, who then checks whether the compensation is granted in line with EU state aid rules. Beyond verifying that the provider is not compensated beyond the costs incurred to discharge the public service obligation, the new rules foresee a more thorough scrutiny for large amounts of compensation to make sure that distortions of competition are limited.

A "de minimis" Regulation under which public service compensations of less than €500 000 per undertaking over three fiscal years are deemed free of state aid in the meaning of EU rules, because they have no impact on competition in the Single Market.

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¹ The services concerned must meet "social needs as regards health and long term care, childcare, access to and reintegration into the labour market, social housing and the care and social inclusion of vulnerable groups".