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Position Paper

SGI Europe response to the Call for Evidence on the evaluation of the 2009 Broadcasting Communication

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Introduction

SGI Europe, representing enterprises and employers providing services of general interest across Europe, sees the evaluation of the 2009 Broadcasting Communication as an opportunity to reposition State aid as a genuinely strategic instrument for enhancing European competitiveness and cohesion.

State aid rules must strike the right balance, providing flexibility for Member States to meet national, regional and local needs, while safeguarding the integrity of the single market and aligning State aid with the EU's broader economic and strategic objectives. Services of general interest - in broadcasting and beyond - must be empowered to contribute fully to the success of Europe's economic, social, and green ambitions.

The framework governing public funding for Public Service Media (PSM) is a structural precondition for safeguarding independent, high-quality journalistic, educational and creative content in the EU. Therefore, the revision of the Broadcasting Communication should be seen as a structural component of the EU's wider effort to secure economically viable, independent public and private media. These efforts should lead to ensuring that European citizens continue to have access to trustworthy information and the preservation of pluralistic media in the face of foreign interference, disinformation and dominance by platforms.

As the cross-sectoral social partner representing providers of Services of General Interest from a broad range of sectors, SGI Europe's contribution reflects shared beliefs from multiple stakeholders.

Adequacy of the current broadcasting State aid rules

Overall, the 2009 Communication on the application of State aid rules to public service broadcasting (Broadcasting Communication) has been effective in providing guidance for stakeholders on the application of State aid rules for the financing of public service broadcasting. The text maintains the necessary balance between financial transparency and proportionality and respect for Member States' wide discretion in defining public service remit and financing their services through State aid.

Furthermore, the Communication has been very successful in improving the transparency of the financing of public service broadcasting. It offered added value by consolidating case practice and providing clarity regarding the application of the complex EU State aid rules to PSM. It also applied the requirements in the Transparency Directive to the PSM sector. As a result, compared to the previous situation where guidance did not exist, this framework provided much needed legal certainty on compatible PSM financing to all relevant stakeholders.

While the 2009 text remains fit for purpose, a targeted amendment could help better reflect the new converged media environment, for example, through updated definitions, or eliminating the ex-ante evaluations. In particular, this ex-ante test has resulted in an increased administrative burden, hindering PSM's capacity to innovate and adapt with the necessary speed to the audience's evolving expectations and needs.

However, any revision should maintain the architecture and core features of the current Communication. The rules in the Communication are sufficiently clear and simple and have significantly increased legal certainty.

State aid rules in a new competitive landscape

Profound market changes and changes in the competitive landscape since 2009 and new EU laws adopted in recent years could justify a targeted update of the current Broadcasting Communication. In particular, new competitive imbalances arising from the digital convergence have resulted in a disadvantage for PSM.

Over the last fifteen years, the transformation driven by digitalisation and convergence has led to a globally converged ecosystem that is dominated by very large online platforms. These platforms control content access and advertising and can often push national PSM into isolation. In this context, the 2009 Communication's rigid rules on the oversight of new online services, overcompensation and caps on financial reserves may hinder the ability of PSM to fulfill their activities or to finance big technological investments or multi-year rights acquisitions. This has a direct and significant impact on PSM's investments in content, which, in turn, threatens employment and production output across the European audiovisual value chain.

Considering the above, any revision of the 2009 Communication should remove obsolete constraints, while prioritizing the ability of PSM to act as crucial democratic and cultural counterweights in the new digital landscape.

Additionally, a potential revision of the Broadcasting Communication should maintain technological neutrality and recognize that digital services across all formats – from video to images, audio or text - are now a core part of the public service remit. This would acknowledge the evolution that has taken place during the last years and that has led Public Service Broadcasters to adapt to audiences' new consumption habits.

Coherence of the Broadcasting State aid framework with other rules

PSM cannot solely be viewed from the economic and market perspective that often characterizes competition policy, including State aid. As emphasized in the Amsterdam Protocol, and confirmed by the European Media Freedom Act, PSM have a democratic, social and cultural role that must be taken into account. Any changes to the Broadcasting Communication should therefore ensure consistency between this instrument and the European Media Freedom Act.

The 2009 Broadcasting communication is also coherent with the SGEI rules. If it were to be revised, this coherence should with the broader SGEI architecture should be maintained and ensured.

Conclusion

PSM financing is critical for the entire European content ecosystem. Large investments by PSM support the independent production sector, create essential jobs in the EU, and promote local and national production. Strong public financing of PSM ensures that they can provide quality information and that their coverage is impartial, directly countering disinformation and political polarization, strengthening democracy and ensuring pluralism in the EU.

The Broadcasting Communication is one of the most developed EU instruments addressing how public value can be financed through public resources without distorting competition in the single market. Its evaluation offers an opportunity to reaffirm that public service media must be able to evolve and to innovate across new technological and distribution environments. Furthermore, this evaluation can serve as a footprint for the revision and update of other public funding rules for SGEIs, reaffirming that SGEI are not residual interventions resulting from market failures, but structural contributors to Europe's competitiveness, resilience, and social model.