European Commission: Investigation into the Funding of National Public Service Broadcasters

IRIS 2008-4:1/8

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The Commission has closed its investigation into the financing of the *Vlaamse Radio- en Televisieomroep* (Flemish Radio and Television Broadcasting – VRT). After complaints from several private competitors were received in 2004, a preliminary investigation on behalf of the Commission had found the VRT financing regime to be in breach of EC Treaty state aid rules. These rules declare subsidies liable to distort competition to be incompatible with the common market (Article 87).

The VRT's funding measures pre-existed the entry into force of the EC Treaty and, therefore, amounted to "existing aid" under Article 88(1). As a result, the Commission could not take action against aid already paid, but was able to demand that "appropriate measures" be taken to ensure future compatibility. The Belgian authorities undertook a series of legal modifications in 2005 and 2006. However, in a preliminary view issued in July 2006, the Commission requested that Belgium provide further clarification, in particular as regards the definition of the public service remit (also in relation to new media services); effective supervision and control and adequate mechanisms to prevent overcompensation for public service activities (see IRIS 2006-8: 8).

Since then, the Belgian authorities have undertaken a number of commitments to alleviate the Commission's concerns. These aim at outlining the limits of the public service remit and entrustment of public service obligations. They include safeguarding measures, such as an *ex ante* evaluation by an independent advisory body and third parties for new services; a Framework for merchandising and related activities; supervision by an independent body; a public service consultation carried out every five years and corrective measures to avoid overcompensation.

The Flemish authorities now have 12 months to implement the proposed amendments, under Commission supervision.

A similar story unfolded over the Irish public service broadcasters *Radio Teilifís Éireann* (RTÉ) and *Teilifís na Gaeilge* (TG4) (see IRIS 2005-4: 4). The investigation begun in March 2005 was closed, after Ireland submitted commitments in January 2008 guaranteeing precise public service remits; explicit entrustment of new

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activities; independent supervision; transparency of accounts and enhanced controls. Ireland has until December to implement the new measures.

Investigations into state funding of public broadcasters in Germany were closed in April 2007, while others are still ongoing in several Member States, notably the Netherlands and Austria (see IRIS 2008-3: 7).

All the above assessments of state aid measures in the broadcasting sector are made in the light of the requirements set out in the Commission's 2001 Communication on the application of state aid rules to public service broadcasting.

"State aid: Commission closes investigation into financing of Flemish public service broadcaster VRT", Brussels, Press release of 27 February 2008

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