European Commission: Commission Approves Danish Financing for Public Radio Channel FM4 and Public Service Broadcaster TV2

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In two press releases on 23 March 2011 and 20 April 2011, the European Commission reported on its recent decisions approving Danish financing measures.

The first decision concerns the approval of funding for the new public radio channel FM4 using financial resources from the license fee. According to the Commission, this could constitute State aid since the amount of DKK 800,000 is paid out of the budget of the Danish State and favours a single undertaking. However, when the four criteria from the Altmark judgment are met, State measures compensating public service costs do not qualify as State aid under Article 107(1) TFEU. Since in this particular case the Commision does not consider itself to be in a position to determine whether the fourth condition is met, it assessed the compatibility of the measure with the internal market under Article 106 (2) TFEU and the Communication on the application of State aid rules to public service broadcasting.

The Commission concluded that the provider of FM4 will perform a service which is clearly in the public interest and that the compensation for this service will cover its actual costs and a reasonable profit. Further, the operator of the new channel will be appointed by an open tender procedure that will take into account the quality of the proposed business plan, the programme profile and the amount of funding requested. The conditions of the Broadcasting Communication are met as well and the compensation does not affect the development of trade to an extent that would be contrary to the interests of the Union. Instead, the measure intends to promote competition on the Danish public service radio market, since this market is currently dominated by the public broadcaster DR, which has an audience share of almost 80%. Thus, the project is in line with EU State aid rules and therefore approved by the Commission.

The second press release concerns two decisions regarding the funding of the Danish public service broadcaster TV2.

The first of these regards the funding mechanism that was in place between 1995 and 2002. The case had started already in 2003 with a probe by the Commission into the possible overcompensation of TV2 (see IRIS 2009-2/4 for an overview of the proceedings before both the Court of First Instance and the Commission). Until 2004, TV2 was financed by both license fees and advertisement income. After 2004, the only income has been provided by the commercial channels and advertising revenues. Whereas a previous decision of the Commission in 2004 declared the funding mechanism illegal, the Commission now concluded that the State compensation for public service obligations was necessary and proportionate. Moreover, the Commission stressed the importance of public service broadcasters for the cultural, democratic and public debate in the Member States.

The second decision authorises restructuring aid for TV2. This aid is intended to restore the broadcaster’s long term viability. TV2 will put into practice a new business model that enables the broadcaster to levy subscription payments for its main public service channel as of 2012. Provided that TV2 becomes viable without continued State support, the Commission concluded that the restructuring plan is in conformity with the rescue and restructuring aid guidelines.

“State aid: Commission approves aid for Danish public service broadcaster TV2”, IP/11/497, Brussels, 20 April 2011

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/497&format=HTML&aged=0&language=EN

“State aid: Commission approves Danish Government financing for new public radio channel FM4”, IP/11/350, Brussels, 23 March 2011

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/350&format=HTML&aged=0&language=EN

European Commission decision of 23 March 2011 regarding Danish radio channel FM4, C(2011)1376 final, Brussels, 23 March 2011

http://ec.europa.eu/competition/state_aid/cases/238589/238589_1203304_76_2.pdf