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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Reform of the EU State Aid Rules on Services of General Economic Interest

1. INTRODUCTION

The purpose of this Communication is to launch the political debate with stakeholders and other institutions on the upcoming revision of the State aid Package on Services of General Economic Interest (SGEI) (also known as post-Altmark Package).

The Package includes a series of measures adopted in 2005, in particular the SGEI Decision¹ and the SGEI Framework², in which the Commission has clarified the application of the Treaty articles on State aid, i.e. Articles 106 and 107 TFEU, to compensation for SGEI.

The SGEI Framework expires in November 2011, and both the Framework and the Decision prescribe an evaluation of the rules based on a wide consultation. The Commission began this review process already in 2008. In parallel with this Communication, the Commission services are publishing a Report describing the Commission's practice under the current rules and the main issues arising out of the consultation.

The review of the Package must be seen in the context of the Commission's wider policy objectives in the area of public services. In its Communication "Towards a Single Market Act"³, the Commission undertook (proposal n° 25) to adopt, by 2011, a Communication and a series of measures on services of general interest, underlining that the EU and its Member States must ensure that public services are easier to operate at the appropriate level, adhere to clear financing rules, are of the highest quality and actually accessible to all.

2. PUBLIC SERVICES IN THE EU "ARCHITECTURE"

Public Services (generally identified in the Treaties as SGEI) occupy a vital role in the shared values of the Union⁴. They promote social and territorial cohesion, foster the well-being of people across the EU and make an important contribution to Europe's economic development. They range from large commercial services (network industries such as postal services, energy supply, electronic communication services or public transport services) to a wide range of health and social services⁵ (e.g. care services for elderly and disabled persons).

The Lisbon Treaty recognises the essential role of public services and, at the same time, their diversity in the European model of society. This twin approach is reflected in the new Protocol 26 to the Treaties, according to which the shared values of the Union include, in particular,

¹ Commission decision (EC) No 842/2005 of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ L 312 of 29.11.2005, p. 67.

² Community framework for State aid in the form of public service compensation, OJ C 297 of 29.11.2005, p. 4.

³ Communication From the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *Towards a Single Market Act - For a highly competitive social market economy, 50 proposals for improving our work, business and exchanges with one another*, COM(2010) 608 final/2 of 11 November 2010.

⁴ Article 1 of Protocol 26 to the Treaties.

⁵ For a description of social services of general interest see the Commission Communication *Implementing the Community Lisbon programme: Social services of general interest in the European Union*, (COM(2006) 177 final of 26 April 2006).

a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights

as well as

the wide discretion of national, regional and local authorities in providing, commissioning and organising [SGEIs].

Indeed, Article 14 TFEU mandates both the Union and the Member States, each within their respective powers and competences, to

take care that such services operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions,

and also provides a new legal basis for the European Parliament and the Council to adopt, on the basis of a proposal by the Commission, regulations establishing the principles and conditions referred to.

It must be noted in this context that the provisions of Article 14 TFEU are without prejudice to the application of competition rules to SGEI⁶. In particular, under Articles 106 and 107 TFEU, the compensation granted by public authorities for the performance of a SGEI is subject to State aid scrutiny, unless the four cumulative conditions laid down by the Court of Justice in its Altmark judgment are fulfilled⁷. The purpose of this Communication is to deal only with the reform of the State aid rules in relation to SGEI that the Commission has adopted pursuant to Articles 106 and 107.

EU competition rules do not apply to all services of general interest (SGI), but only to those that are “economic” in nature, i.e. to SGEI. Also social services of general interest (SSGI), which can be both economic and non-economic in nature, are only subject to EU competition law where they are indeed economic⁸. Moreover, according to Article 2 of Protocol 26,

[t]he provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.

Activities which are not regarded as economic for the purposes of the competition rules are, for instance, air navigation safety⁹ or anti-pollution surveillance¹⁰ because these activities are linked to the exercise of State prerogatives and to the fulfilment of State responsibility

⁶ More precisely, Article 14 TFEU is "Without prejudice to Articles 93, 106, and 107...". It therefore confirms the application in the context of SGEI of these provisions and the measures that have been adopted on the basis thereof.

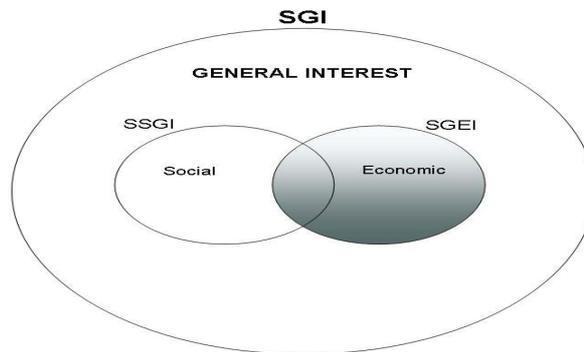
⁷ See below chapter 2.

⁸ In the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Accompanying the Communication on "A single market for 21st century Europe" Services of general interest, including social services of general interest: a new European commitment (COM(2007) 725 final), the Commission stated: "*Non-economic services*: these services, for instance traditional state prerogatives such as police, justice and statutory social security schemes are not subject to specific EU legislation, nor are they covered by the internal market and competition rules of the Treaty. Some aspects of the organisation of these services may be subject to other rules of the Treaty, such as the principle of non-discrimination".

⁹ Case C-364/92 *SAT Fluggesellschaft* [1994] ECR I-43.

¹⁰ Case C-343/95 *Diego Cali & Figli* [1997] ECR I-1547.

towards the population¹¹. Similarly, the management of compulsory social security schemes pursuing an exclusively social objective is not considered an economic activity for the purposes of competition rules.¹²



Providers of SGEIs are also only subject to competition rules, in general, and to State aid rules in particular, insofar as the application of those rules does not obstruct the fulfilment of their tasks. Indeed Article 106(2) TFUE provides that

undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

3. FUNDING OF PUBLIC SERVICES AND STATE AID CONTROL

An important aspect in the provision of public services is the compensation that public authorities may need to grant the providers for the performance of these tasks. The importance of this aspect has been underlined by the economic and financial crisis. The crisis has not only affected many people across the EU and made them more dependent on high quality public services. It has also, due to the efforts currently underway in many EU Member States to reduce public budget deficits, lead to a stronger focus on the economic efficiency of public spending and the need to boost productivity across the board.

Article 106 TFEU reserves to the Commission the task of controlling the conformity of such compensation with competition rules.

But not all State funding for public services which have an economic nature is to be regarded as State aid. According to the ruling of the Court of Justice in the *Altmark* case¹³, there is no

¹¹ The chart below merely illustrates the different concepts and does not seek to represent the respective size of the economic and non-economic sectors.

¹² Case C-159/91 *Poucet et Pistre* [1993] ECR I-637; Case C-218/00 *Cisal and INAIL* [2002] ECR I-691, paragraphs 43-48; Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 *AOK Bundesverband* [2004] ECR I-2493, paragraphs 51-55. It is required that the scheme functions according to the principle of solidarity, offering insurance benefits independently of contributions. The Court has however considered that other Treaty provisions (e.g. internal market rules) may be applicable, see case C-350/07 *Kattner* [2009] ECR I-1513.

¹³ Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH* [2003] ECR p. I-7747.

State aid where (1) the public service obligations are clearly defined; (2) the parameters used to calculate the compensation are established in an objective and transparent manner; (3) compensation for the public service merely covers costs and a reasonable profit; and (4) where the undertaking is chosen by a public procurement procedure allowing for the selection of the tenderer capable of providing those services at the least cost to the community, or the compensation is determined on the basis of an analysis of the costs of an average “well-run” undertaking in the sector concerned. If any one of these cumulative conditions is not met, then the State intervention may be regarded as State aid and in principle has to be notified to and assessed by the European Commission.

As mentioned, the legal basis for State aid control of SGEI compensation lies in Articles 106 and 107 TFEU¹⁴. The Package, in particular the SGEI Decision and the SGEI Framework, has clarified the application of State aid rules to SGEIs. Whilst the SGEI Decision specifies the conditions under which compensation to companies for the provision of public service obligations is considered compatible with the State aid rules and is exempted from notification to the Commission, the SGEI Framework defines the conditions under which compensation not covered by the Decision can be approved by the Commission.

Since their entry into force in 2005, the SGEI Decision and the SGEI Framework have been the most important basis for the Commission's assessment of a large number of SGEI related State aid cases. In addition to the SGEI Decision and the SGEI Framework, a number of sector-specific State aid rules have been put in place¹⁵.

The revision of the Package is part of the Commission's Work Programme for 2011¹⁶. The revision was also mentioned in President Barroso's letter accompanying his State of the Union address to the European Parliament¹⁷.

4. THE REVIEW OF THE SGEI STATE AID RULES

The overall objective of the reform of the State aid rules for SGEI is to boost the contribution that SGEI can make to the wider EU economic recovery. Member States need, in fact, to guarantee certain services at affordable conditions to the general population (e.g. hospitals, education, social services, but also communications, energy or transport). National, regional and local authorities are responsible and enjoy a large discretion in providing, commissioning and organising SGEI. At the same time, however, an efficient allocation of public resources for SGEI is key to ensuring the competitiveness of the EU and economic cohesion between the Member States. Efficient and high quality public services support and underpin growth and jobs across the EU. Social services, in particular, also help to mitigate the social impact of the crisis.

4.1. The result of the consultation

In line with the requirements of Article 9 of the SGEI Decision and point 25 of the SGEI Framework, the Commission has conducted a wide consultation and has obtained input from

¹⁴ Article 14 TFEU applies without prejudice to these provisions.

¹⁵ See the Annex to this Communication.

¹⁶ Annex 1 of Commission Communication COM(2010) 623, Commission Work Programme 2011, 27.10.2010, p. 4.

¹⁷ Press Release Memo/10/393, *Letter by President Barroso to the Members of the European Parliament*, 07.09.2010.

Member States and other stakeholders on the practical application of the State aid rules in this field:

- In 2008 and 2009 the Commission asked Member States to report on the application of the current Package. As a result of these reports, it appears that Member States generally welcome the Package and the legal certainty it has brought. Instead of advocating a complete overhaul of the Package, most Member States consider that some of the provisions of the Package should be revised to facilitate compliance with the State aid rules at different levels of the national administration.
- In 2010, the Commission launched a public consultation on the application of the current Package. This consultation generated interest from a wide range of organisations. Overall, the Commission has received more than 100 responses. The opinions expressed of course differ significantly depending on the nature and activity of the organisation concerned. But the general tone of the submissions is broadly in line with that of the above Member State reports.

In parallel with this Communication, the Commission services are publishing a Report describing the Commission's practice under the current rules and the main issues arising out of the consultation.

Overall, the consultation process has confirmed that the existing legal instruments were a necessary and appropriate response in the light of the *Altmark* ruling. Since their entry into force, they have been applied to a large number of State aid cases. The consultation has also shown that, in certain areas, e.g. in the social services sector, the Package has not always been implemented as foreseen. This might be due to a lack of awareness on the side of the authorities concerned as well as to the complexity of the existing Package.

Many stakeholders feel that the existing legal instruments have made a positive contribution to the overall objective of legal certainty. However, the consultation also showed that there is scope for improvement. In particular, there is a need for clearer, simpler, more proportionate and more effective instruments to ensure an easier application of the rules and hence to promote a more efficient delivery of high quality SGEIs to the benefit of people living in the EU.

4.2. The key principles for reform

To achieve these goals, the Commission is considering basing the upcoming reform on two key principles:

- *Clarification*: where possible, the Commission is evaluating the possibility of providing additional clarity on a number of key concepts relevant for the application of the State aid rules to SGEI, including the scope of those rules and the conditions for the approval of SGEI aid by the Commission¹⁸;
- *Diversified and proportionate approach*: the Commission is also exploring ways to offer a more diversified and proportionate response to the different types of SGEI. It aims to make the degree of State aid scrutiny dependent on the nature and scope of the services provided. One element of this strategy could be to simplify the application of the rules for certain

¹⁸ See section 4.2 below.

types of small-scale public services of a local nature with a limited impact on trade between Member States and for certain types of social services. At the same time, the Commission could take greater account of efficiency and competition considerations in the treatment of large scale commercial services with a clear EU-wide dimension¹⁹

As a result, the reform will aim at ensuring a clear, simple and effective legal framework so as to make compliance easier for national, regional and local authorities, and at promoting the efficient delivery of SGEI fostering a smart, sustainable and inclusive economy.

The reform will be fully in line with the overall objective of EU State aid control, which is to ensure that Member States only implement State aid that contributes to an objective of common interest, is well designed and proportionate and does not distort competition and trade between Member States.

4.2.1. Clarification

The Commission services have in various ways attempted to clarify the State aid rules for SGEIs. As mentioned above, the Commission services published in 2007 a Frequently Asked Questions document. Moreover, in 2008, the Commission services launched the Interactive Information Service (IIS) for interested stakeholders who wish to post relevant questions on the SGEI rules directly online and to obtain a response from the responsible service inside the Commission.

The knowledge and experience gained through the IIS and through the Commission's case practice has been made available in late 2010 through an update of the 2007 Frequently Asked Questions (FAQs).²⁰ This updated Guide comprises more than 100 questions on many different topics related to SGEI. It provides additional clarity on a number of key concepts relevant for the application of the State aid rules for SGEI, including the scope of those rules, the conditions for the approval of SGEI aid by the Commission and the relationship between State aid and public procurement rules. Many questions deal with the social services sector, as public authorities and service providers in this sector have often reported difficulties in applying the relevant EU rules. Stakeholders have not had the opportunity to comment on the Guide as part of the consultation of the reform of the Package.

The consultation process has nevertheless highlighted that uncertainties and misunderstandings, in particular about the key concepts underlying the State aid rules for SGEI, may be among the reasons why the rules are sometimes applied incorrectly. The quest for more clarity goes beyond the provisions of the Package and also relates to the nature of the activity and the question whether a measure falls under Article 107 TFEU at all. Issues on which stakeholders have asked for more clarity and on which the Commission is considering to provide further guidance include inter alia:

- The distinction between economic and non-economic activities under State aid rules and the qualification of certain entities as undertakings;
- The limits Member States have under State aid rules when defining an economic activity as an SGEI;

¹⁹ See section 4.3 below.

²⁰ SEC(2010) 1545 final of 7 December 2010.

- The conditions under which compensation for certain SGEI provided at local level affects trade between Member States, thereby falling within the scope of State aid rules;
- The requirements which public authorities have to follow under State aid rules when they entrust an undertaking with the performance of an SGEI;
- The conditions under which compensation for SGEI does not involve State aid because the tender selects the provider at the least cost for the community or because the price charged is in line with that of an efficient and "well-run" undertaking;
- How to increase convergence between the application of State aid and public procurement rules; and
- The interplay between the rules of the Package and other sector specific SGEI rules.

Some of the issues mentioned derive directly from primary EU law as interpreted by the Court of Justice (see for instance the distinction between economic and non economic activities). The Commission's role in this respect is limited to providing clarification as to how it understands and applies the provisions of the Treaties. Within these limits, the Commission will evaluate the need for further clarification on the key concepts relating to the State aid rules for SGEI with a view to facilitating the correct application of these rules.

In addition, the Commission will discuss with Member States how to provide further practical clarification on the ground to the benefit of local actors and stakeholders.

4.2.2. *Diversified and Proportionate Approach*

The current Package applies in a more or less uniform way to a very wide range of economic sectors and actors. The Commission intends, in the context of the upcoming reform, to distinguish more clearly between different types of services depending on the extent to which State aid in these economic sectors poses a serious risk of creating distortions of competition in the internal market.

4.2.2.1. Simplification

Many public services organised by local communities are of a relatively limited scale and thus only have a minor impact on trade between Member States. Also certain types of social services present a series of particularities as regards their financing structure and their objectives. One way of adopting a more diversified approach could thus be to simplify the application of the State aid rules for these types of services. The Commission will generally seek to ensure that the administrative burden put on the public authorities concerned is proportionate to the impact that the measure has on competition in the internal market. In this context, the Commission will assess under which conditions and circumstances certain aides can be regarded as *de minimis*,²¹ for which types of services and under what conditions an individual State aid notification is required, and whether the thresholds which determine the application of the current SGEI Decision should be modified.

²¹ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, Official Journal L 379 of 28.12.2006.

4.2.2.2. Efficiency of Large-Scale Commercial Services entrusted with public Service Obligations

Whilst the Commission is determined to facilitate the application of the Package where justified, it will also seek to ensure high quality public services and efficient allocation of State resources, thus avoiding distortions of competition in the internal market as effectively as possible, as one of the key objective of the reform of the Package.

The Commission considers that the risk of distortions of competition in the internal market is particularly high in sectors characterised by large scale commercial activity with a clear EU-wide dimension where operators may be entrusted with public service obligations. In some of the relevant sectors, such as transport, telecoms, energy supply and post, this risk is also addressed in sector specific rules²². These sectoral rules either apply instead of the general SGEI Decision and SGEI Framework (e.g. transport) or in conjunction with it (e.g. post).

Under the current Package, compensation granted for the provision of SGEI can cover the costs incurred by the provider and a reasonable profit margin²³. The current Package does not, however, take into account how the costs incurred by the provider of SGEI compare to those of a well-run undertaking. Some of the costs compensated by Member States to providers may thus be generated by low efficiency levels. Such a situation tends to distort the functioning of markets and may ultimately harm service quality and efficient delivery. In addition, it is misaligned with the general public policy objective of efficiency in public spending and correct resource allocation.

In the framework of the current review, the Commission is therefore considering to what extent greater account of both efficiency and quality should be taken when deciding on the approval of State aid measures in relation to SGEI. This could also include measures aimed at achieving appropriate transparency in relation to public expenditure for SGEI or to the identification and definition of SGEI obligations (while respecting the Member States' wide discretion in this respect), as well as measures aimed at taking into account efficiency over the life of an entrustment with the provision of an SGEI.

5. NEXT STEPS

Consultation of the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and Member States as well as stakeholders on drafts of the new SGEI Decision and SGEI Framework is currently envisaged by July 2011.

²² Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ L 315, 3.12.2007, p. 1; Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3; Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L 52, 27.2.2008, p. 3; Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services.

²³ See article 5 of the SGEI Decision and section 2.4 of the SGEI Framework.

ANNEX - Legal Instruments Applicable to SGEI by Sector

	2005 Framework	2005 Decision	Sectoral State Aid Communications containing SGEI provisions	Relevant Sectoral Legislation containing SGEI provisions
Land Transport	Not applicable because under art. 93 TFEU	Not applicable because under art. 93 TFEU	Guidelines on railway undertakings ²⁴	Regulation on public passenger transport services by rail and by road ²⁵
Air Transport	Not applicable	Applicable ²⁶	Guidelines on air transport ²⁷ State Aids in the aviation sector ²⁸	Regulation on the operation of air services ²⁹ Ground-handling directive ³⁰
Maritime Transport	Not applicable	Applicable ³¹	Communication on ship management companies ³² Communication on motorways of the sea ³³ Communication on maritime transport ³⁴	Cabotage Regulation ³⁵

²⁴ Commission Communication C(2008) 184, Community guidelines on State Aid for railway undertakings, OJ C 184 of 22.7.2008, pp. 13-31.

²⁵ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road, OJ L 315 of 3.12.2007, p 1-13. This Regulation allows and exempts from notification compensation granted in accordance with a number of requirements, which usually include a tendering obligation.

²⁶ SGEI providers in this sector can benefit from the exemption if they meet either the general thresholds (EUR 100m turnover, or EUR 30m compensation) or specific thresholds based on the number of passengers.

²⁷ Communication from the Commission of 9 December 2005, Community guidelines on financing of airports and start-up aid to airlines departing from regional airports, OJ C 312 of 9.12.2005, p. 1.

²⁸ Application of Articles 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State Aids in the aviation sector, OJ C 350 of 10.12.1994, p. 5-20.

²⁹ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293 of 31.10.2008, p. 3-18.

³⁰ Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports; OJ L 272 , 25/10/1996, p. 36.

³¹ SGEI providers in this sector can benefit from the exemption if they meet either the general thresholds (EUR 100m turnover and EUR 30m compensation) or specific thresholds based on the number of passengers.

³² Communication from the Commission providing guidance on State aid to ship management companies, OJ C 132 of 11.6.2009, p. 6.

³³ Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea, OJ C 317 of 12.12.2008, p. 10.

Broadcasting	Not applicable, but principles of sectoral Communication ³⁶ are similar	Applicable to the extent that the conditions provided in Article 2(1)(a) of the Decision are met ³⁷	Communication on public service broadcasting ³⁸	
Telecoms Broadband incl.	Applicable, together with guidelines	Applicable	Guidelines for rapid deployment of broadband networks ³⁹	Framework Directive ⁴⁰ , Universal Service Directive ⁴¹
Post	Applicable ⁴²	Applicable, but generally not relevant due to thresholds		3 rd Postal directive (from 2011 onwards) ⁴³
Energy	Applicable	Applicable		Third Energy Package including: Electricity market directive ⁴⁴ Natural gas market

³⁴ Communication from the Commission C(2004) 43, Community guidelines on State aid to maritime transport, OJ C 13 of 17.1.2004, p.3.

³⁵ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), OJ L 364, 12.12.1992, pp. 7–10.

³⁶ Communication from the Commission on the application of State aid rules to public service broadcasting, OJ C 257, 27.10.2009, p. 1–14. This Communication explains how the Commission applies the basic principles contained in the Protocol No. 29 on the system of public broadcasting in the Member States annexed to the TEU and to the TFEU

³⁷ As stipulated in para. 19 of the Communication on the application of State aid rules to public service broadcasting, OJ C 257, 27.10.2009, p. 4.

³⁸ Communication from the Commission on the application of State aid rules to public service broadcasting, OJ C 257 of 27.10.2009, p. 1; Communication from the Commission on the application of State aid rules to public service broadcasting, OJ C 320 of 15.11.2001, p. 5.

³⁹ Communication from the Commission, Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks, OJ C 235 of 30.9.2009, p. 7.

⁴⁰ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, OJ L 108, 24.04.2002, pp. 33-50

⁴¹ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, OJ L 108, 24.04.2002, p. 51-77

⁴² To be noted that pursuant to point 4 of the SGEI Framework, stricter rules contained in the sectoral Directives (which come into force in 2011) are to be respected.

⁴³ Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L 52 of 27.2.2008, p. 3.

⁴⁴ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211 of 14.8.2009, p. 55.

				directive ⁴⁵
Health	Applicable	Applicable for hospitals irrespective of thresholds ⁴⁶		
Social Housing	Applicable	Applicable irrespective of thresholds ⁴⁷		
Social Care	Applicable	Applicable		

⁴⁵ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, OJ L 211 of 14.8.2009, p. 94.

⁴⁶ Article 2(b) of the SGEI Decision.

⁴⁷ Article 2(b) of the SGEI Decision