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REPORT

on reform of the EU state aid rules on Services of General Economic Interest
(2011/2146(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Peter Simon

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on reform of the EU state aid rules on Services of General Economic Interest (2011/2146(INI))

The European Parliament,

- having regard to Articles 14 and 106 of the Treaty on the Functioning of the European Union and to Protocol No 26 thereto,
- having regard to the Communication from the Commission of 23 March 2011 on reform of the EU state aid rules on Services of General Economic Interest (COM(2011)0146),
- having regard to the Commission staff working document of 23 March 2011 on the application of EU state aid rules on Services of General Economic Interest since 2005 and the outcome of the public consultation (SEC(2011)0397),
- having regard to the public consultation organised by the Commission in 2010 on ‘state aid rules on services of general economic interest’,
- having regard to the ‘Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest’ of 7 December 2010 (SEC(2010)1545),
- having regard to Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings¹,
- having regard to Commission Decision 2005/842/EC 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 interest²,
- having regard to the Community framework for state aid in the form of public service compensation³,
- having regard to the Communication from the Commission of 19 January 2001 on European services of general interest⁴,
- having regard to the Communication from the Commission of 26 September 1996 on European services of general interest⁵,
- having regard to the opinion of the Committee of the Regions of 1 July 2011 on reform of

¹ OJ L 318, 17.11.2006, p. 17.

² OJ L 312, 29.11.2005, p. 67.

³ OJ C 297, 29.11.2005, p. 4.

⁴ OJ C 17, 19.01.2001, p. 4.

⁵ OJ C 281, 26.9.1996, p. 3.

the EU state aid rules on Services of General Economic Interest ¹,

- having regard to the opinion of the European Economic and Social Committee of 15 June 2011 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on reform of the EU state aid rules on Services of General Economic Interest²,
 - having regard to the judgment of the European Court of Justice of 24 July 2003 in the case of Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH³,
 - having regard to its resolutions of 5 July 2011 on the future of social services of general interest⁴, of 14 March 2007 on social services of general interest in the European Union⁵, of 27 September 2006 on the Commission white paper on services of general interest⁶, of 14 January 2004 on the green paper on services of general interest⁷, of 17 October 2001 on the Commission communication entitled ‘Services of general interest in Europe’⁸ and of 7 November 1997 on the Commission communication entitled ‘Services of general interest in Europe’⁹,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection (A7-0371/2011),
- A. whereas services of general economic interest (SGEI) have an important place in the shared values of the Union, and promote fundamental rights and social, economic and territorial cohesion, and are thus crucial to the fight against societal inequalities and, increasingly, also to sustainable development;
- B. whereas SGEI make a significant contribution to the Member States’ economic performance and competitiveness and thus not only help to prevent and overcome economic crises but also serve the cause of general economic well-being;
- C. whereas the successful implementation of the Europe 2020 strategy is bolstered by the provision of SGEI, and whereas these services can help with reaching growth targets in the areas of employment, education and social integration in particular, so that in the end the high level of productivity, employment and social cohesion that has been set can be achieved;

¹ OJ C 259, 2.9.2011, p. 40.

² OJ C 248, 25.8.2011, p. 149.

³ Case C-280/00, [2004] ECR I-07747.

⁴ Texts adopted, P7_TA(2011)0319.

⁵ OJ C 301 E, 13.12.2007, p. 140.

⁶ OJ C 306 E, 15.12.2006, p. 277.

⁷ OJ C 92 E, 16.4.2004, p. 126.

⁸ OJ C 140 E, 13.6.2002, p. 27.

⁹ OJ C 371 E, 8.12.1997, p. 4.

- D. whereas cost-effective solutions by competing private undertakings are necessary in the interest of the citizen and essential against the background of the budgetary situation;
 - E. whereas SGEI are services that cannot always be provided, or cannot be provided adequately, without public intervention;
 - F. whereas social services of general interest (SSGI) play an important role in underpinning basic rights and make a major contribution to equality of opportunity;
 - G. whereas the current EU legislation provides for exemption from notification for hospitals and social housing, i.e. SGEI meeting basic social needs;
 - H. whereas Articles 106 and 107 TFEU provide the legal basis for the reform of state aid rules for SGEI, and Article 14 TFEU allows the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, to establish the principles and conditions for the operation of SGEI, particularly economic and financial conditions, without prejudice to the competences of the Member States;
 - I. whereas Protocol No 26 TFEU establishes that SGEI should be characterised by a high level of quality, safety and affordability, equal treatment and the promotion of universal access and user rights, and explicitly recognises their essential role;
 - J. whereas the Member States and their public authorities are in the best position to properly serve their citizens and thus are responsible for determining the precise extent and the way in which SGEI are provided, and whereas Article 1 of Protocol No 26 to the Lisbon Treaty explicitly recognises the wide discretionary powers of national, regional and local authorities to manage, commission and organise them;
 - K. whereas compensatory payments encompass all advantages granted by the state or through state resources in any form whatsoever;
1. Notes the aims of the reform proposed by the Commission in seeking to clarify the application of the rules on aid for SGEI, taking into account their diversity;
 2. Demands that the Commission provide clarification of the relationship between the rules of the internal market, and the provision of public services and that it ensure that the principle of subsidiarity is applied in the definition, organisation and financing of public services;
 3. Highlights the improvements in terms of application and comprehensibility that have been possible thanks to the measures taken in 2005, known as the Altmark package; points out that the public consultations have nevertheless shown that the legal instruments need to be even clearer and more straightforward, proportionate and effective;
 4. Stresses that the outcome of the public consultation also indicates that, apart from the administrative burden, other factors possibly militating against the application of the rules on state aid to SGEI have been uncertainties and misinterpretations, especially of key concepts in the rules such as ‘act of entrustment’, ‘reasonable profit’, ‘undertaking’, ‘economic and non-economic services’ and ‘internal market relevance’;

5. Welcomes the Commission's move to provide further clarifications on the distinction between non-economic and economic activities in the context of SGEI, in order to create greater overall legal certainty, and to avoid cases being brought before the European Court of Justice and infringement proceedings opened by the Commission; calls on the Commission to provide further clarification regarding the fourth criterion which the European Court of Justice stated in the Altmark judgment and to ensure that the method of calculation of reasonable profit is clear enough and appropriate to the diversity of SGEI; calls on the Commission, therefore, to avoid a closed list; suggests that, in doing so, the Commission should not confine itself to reiterating the case law of the European Court of Justice but should provide determining criteria to help understand and apply the concepts used; asks the Commission to elaborate its understanding of a genuine SGEI;
6. Is concerned about the additional requirements that the Commission wants to introduce in order to ensure that the development of trade is not affected to an extent contrary to the interests of the Union, and believes that these will result in legal uncertainty;
7. Stresses that the 'act of entrustment' is a guarantee of transparency which must be retained in order to give more visibility for citizens but that the scope for mandating (act of entrustment) should be enhanced, in particular by means of the more flexible application of the rules; calls for a project accompanied by a 'contract of objectives' to be considered as an eligible act of entrustment;
8. Stresses that any reform of the EU state aid rules must take into account the special function of SGEI and must adhere strictly to the principle of subsidiarity, as the primary responsibility for commissioning, providing, financing and organising SGEI, in accordance with Protocol No 26 TFEU, rests with the Member States and their national, regional and local authorities, which have wide discretion in that regard and freedom of choice;
9. Stresses that particular attention must be paid, when reviewing the rules, to ensuring that the Community concepts and terms used are clearly tailored to the nature of public services and the diversity of forms of organisation and stakeholders involved, and that they take proper account of the actual risk of an impact on trade between Member States;
10. Highlights the specific nature of SGEI at regional and local level, which does not affect competition in the internal market and where a simplified and transparent procedure should be possible that encourages innovation and the participation of small and medium-sized enterprises (SMEs);
11. Supports the concept of thresholds for exemption from the requirement of notification of state compensatory payments for SGEI, with the associated lessening of the administrative burden; suggests, on the basis of the consultations carried out, that the thresholds which determine the application of the SGEI Decision should be raised;
12. Stresses that the specific nature of SGEIs is recognised in Article 14 TFEU and Protocol 26 annexed to the Treaty of Lisbon, and recognises the special role of national, regional and local authorities in this connection; stresses that reform of the EU rules on state aid for SGEI is only part of the necessary clarification of the legal provisions which apply to SGEI through a European consistent legal framework; notes that any legal instrument will

have to ensure satisfactory legal certainty; calls on the Commission to bring forward by the end of 2011 a communication with measures designed to ensure that SGEI and SSGI have a framework enabling them to perform their tasks, as it undertook to do in the Single Market Act;

13. Emphasises that, under Article 106(2) TFEU, undertakings entrusted with the operation of services of general interest are subject to the rules prohibiting and controlling state aid only 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 by national, regional or local authorities; highlights, in this regard, the clear stipulation in Article 14 TFEU that the Union and the Member States, each within their respective powers and within the scope of application of the Treaty, shall take care that such services operate on the basis of principles and conditions to enable them to fulfil their mission; calls therefore for the reform of the EU state aid rules to take account of both these articles and to ensure that compensation granted to SGEI does not come with an excessive burden for public finances or low quality of the services provided;
14. Deems that the forthcoming Commission proposal on EU 2020 Project Bonds could and should be a major vector for the development of services of general interest in the Member States as well as at EU level; underlines that procedures established with that purpose should be explicitly laid down in a project eligibility framework to be defined following the ordinary legislative procedure;
15. Considers it extremely important that compensation payments to SGEI do not distort competition or harm other non-compensated companies operating in the same sectors or markets;
16. Points out that access to compensation for the net cost of delivering public services is among the economic and financial conditions necessary for undertakings entrusted with the operation of public services to perform properly the particular tasks assigned to them by public authorities, especially in these times of crisis, in which public services are playing a vital role as an automatic stabiliser, protecting the most vulnerable sections of the public and thus helping to mitigate the social impact of the crisis;
17. Would emphasise here that the development of public-public cooperation, by pooling resources, offers great potential for increasing efficiency in the use of public resources and modernising public services to meet the new needs of people in their local areas; also emphasises the importance of cross-border cooperation;
18. Asserts emphatically that public services must be of high quality and accessible to all sections of the population; views with concern, in this regard, the restrictive stance taken by the Commission, which, in relation to state aid for social housing associations, classifies the services provided by such associations as SSGI only if they are reserved for socially disadvantaged persons or groups, this restrictive interpretation being at odds with the higher goal of fostering an appropriate social mix and universal access;
19. Is of the opinion that good-quality services are based on the human rights of European citizens; and that this rights-based approach should be strengthened;

20. Recalls the substantial investment needed to upgrade infrastructure, especially in the regions where it is most lacking and in particular in the areas of energy, telecommunications and public transport, in order to enable the provision of future smart energy or broadband services;
21. Calls on the Commission to include investment costs for infrastructure necessary to the functioning of SGEI within the costs that compensatory payments may cover; reminds the Commission that the provision of SGEI is sometimes based on long-term public investment aid rather than on annual compensation payments;
22. Calls on the Commission, when negotiating bilateral trade agreements, to accept the public-sector provisions of SGEI and SSGI in partner countries;

Simplification/proportionality

23. Welcomes the Commission's intention to ensure, through a more diverse approach to the application of state aid rules, that the administrative burden placed on the public authorities and on service providers is proportionate to the potential impact of the measure concerned on competition in the internal market;
24. Calls therefore for the provisions to be framed in such a way as to ensure that they can be applied correctly and that they place no unnecessary burden on the public authorities and the undertakings entrusted with the operation of services of general interest, enabling them to perform in full the specific tasks assigned to them; asks the Commission in that context to make it easier to understand the rules and foresee the obligations regarding public compensation payments for SGEI and thus attain greater legal certainty for public authorities and service providers;
25. Calls on the Commission, as part of the intended simplification of the state aid rules, to introduce greater flexibility and transparency in the monitoring of over-compensation and in particular to improve measures to prevent over-compensation; suggests, to this end, that, in the case of multiannual contracts, checks for over-compensation should be carried out only at the end of the contractual period and in any event at intervals of no more than three years and that transparent criteria should be set for the calculation of compensation payments for SGEI, as this would result in significant time and cost savings for both service providers and the public authorities;
26. Calls on the Commission to ascertain from the public authorities and operators whether the 'Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest' of 7 December 2010 effectively fulfils its purpose; asks the Commission, should it prove necessary, to provide the public authorities and operators with a learning tool to guide them towards the proper application of these rules;
27. Calls on the Commission to simplify the rules for mandating; asks that a call for proposals accompanied by a target-based contract be deemed to constitute a mandate;

Social services

28. Calls on the Commission to come up with special *de minimis* arrangements for SSGI that can be assumed to entail no substantial detriment to trade between Member States; suggests, to this end, that appropriate higher thresholds be proposed for social services of this type;
29. Supports the retention of the existing exemption without thresholds for hospitals and social housing; welcomes the Commission's assertion that it wishes to exempt further categories of SSGI from the requirement that aid to them be the subject of notification; calls on the Commission to ensure that compensation payments for all SGEI meeting essential social needs as defined by Member States, such as care of the elderly and of people with disabilities, the care and social inclusion of vulnerable groups, child and youth welfare, healthcare and access to the labour market are exempted from the requirement of notification;
30. Considers that the special remit and character of SSGI should be protected and clearly defined; calls on the Commission, therefore, to assess what would be the most effective way of attaining this objective, taking into account the possibility of sector-specific rules;

Local services

31. Welcomes the Commission's intention to introduce a '*de minimis*' rule in respect of state aid to undertakings entrusted with the operation of SGEI where the locally limited scale of the activity means that only a negligible impact on trade between Member States is likely and where it is ensured that the compensation is used exclusively for the operation of the SGEI in question; asks the Commission to assess whether SGEI in the field of culture and education should also be the subject of a special arrangement;
32. Calls on the Commission to propose appropriate thresholds for the '*de minimis*' rule for compensation payments to undertakings entrusted with the operation of SGEI, so that these services can be dealt with by a simplified procedure and the considerable administrative burden on service providers be significantly reduced without negative effects on the Single Market; suggests as a possible reference in this respect the combined indices of amount of compensation payment and level of turnover of the undertaking entrusted with the operation of the service by the local authority; considers furthermore that a threshold for a period of three financial years might be more appropriate in order to ensure the necessary flexibility;
33. Recalls that SGEI providers have a variety of different statuses, such as associations, foundations, voluntary and community organisations, non-profit organisations and social enterprises; recalls that some of those operate exclusively at local level, do not engage in commercial activities and reinvest locally any profits from services of general interest;

Quality and efficiency aspects

34. Emphasises how important it is for SGEI to be of high quality and the need for them to be universally accessible; points out in this regard that the Commission's responsibility, under the TFEU competition rules, is confined to monitoring state aid for the provision of SGEI, and that these do not provide a legal basis for setting quality and efficiency criteria at European level; considers that the definition of quality and efficiency for SGEI should

be established with due regard for the subsidiarity principle;

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36. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

1. Importance of services of general interest

Services of general interest are not only crucial to individuals but are also tremendously important to the well-being of society as a whole. Such services are highly diverse, and national, regional and local authorities within the EU have discretion in determining what constitutes a service of general interest, i.e. which services ought to be offered in the interests of the general public. However, all such services have this much in common: they are services regarded by the state or state authorities as particularly important to all members of the public but they cannot be provided, or cannot be provided adequately, without state intervention. The state intervenes to ensure that all members of the public have access to these services and/or that they are provided for all members of the public at an affordable price and a high level of quality.

The services provided make an important contribution to economic performance and competitiveness and promote social, economic and territorial cohesion in the EU. Successful implementation of the Europe 2020 growth strategy, particularly in the areas of employment, education and training and social integration, is furthered by the provision of services of general interest. Of particular significance are social services of general interest (SSGI), which have an important role in underpinning basic rights and make a major contribution to equality of opportunity.

2. Reform of the state aid rules on services of general economic interest

Under Article 106(2) TFEU, compensatory payments made by the state or state authorities to undertakings entrusted with the operation of *economic* services of general interest are subject to the rules contained in the EU treaties, and specifically 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. Article 14 TFEU also stipulates that the Union and the Member States, each within their respective powers and within the scope of application of the Treaty, shall take care that such services operate on the basis of principles and conditions – particularly of an economic and financial nature – to enable them to fulfil their mission. Reform of the EU state aid rules must therefore take account of both these articles, and it must be ensured that the rules do not prevent undertakings entrusted with the operation of SGEI from being appropriately compensated.

In 2005, the Commission explained the practical application of the provisions on the prohibition and control of state aid in the SGEI Framework and the SGEI Decision, which expire at the end of the current year and are therefore being revised. The SGEI Framework, the Decision and the ‘Guide to the application of the EU rules on state aid [...] to services of general economic interest’ effected significant improvements with regard to applying the rules and making them comprehensible. However, the public consultation undertaken by the Commission in 2010 on the package of measures currently in force showed that the legal instruments need to be even clearer and more straightforward, proportionate and effective. The administrative burden entailed in applying the rules is too heavy, particularly for small local authorities, and is often quite out of proportion to the measure at which the rules are

directed. It also emerged from the consultation that, apart from the administrative burden, other factors possibly militating against application of the rules on state aid to SGEI have been uncertainties and misinterpretations, especially of key concepts in the rules, such as ‘act of entrustment’, ‘reasonable return’, ‘undertaking’, ‘economic and non-economic services’ and ‘internal market relevance’.

One basic problem is the fact that the financing and organisation of public services in the EU hinges on rulings in individual cases and on legal interpretations. In the absence of a clear legislative framework it is impossible to eliminate the uncertainties and misinterpretations. Now that a new legal basis has been created, in the form of Article 14 TFEU, for a horizontal legislative framework determining the principles and conditions, particularly economic and financial conditions, on which public services operate, the necessary legal certainty and clarity can at last be provided. The Commission should therefore bring forward a proposal for such a horizontal legislative framework, as a matter of urgency, by the end of 2011. At the same time, it should be borne in mind that reform of the EU rules on state aid for SGEI is only part of this urgently necessary framework. Account must also be taken of the need for special sector-specific legislation for certain services.

3. Core considerations

3.1 Simplification, clarity and proportionality

The aims of the reform proposed by the Commission – seeking to clarify application of the rules on aid for SGEI and to ensure specific and proportionate treatment for the different types of SGEI in accordance with their diversity – are to be welcomed. The concern to simplify application of the state aid rules, so that the administrative burden on the public authorities concerned is proportionate to the impact of a given measure on competition in the internal market, could also improve the way that the rules are implemented. In this regard, the rules on the prohibition and control of state aid to undertakings entrusted with the operation of public services should be framed in a manner appropriate to the capacities of the level of administration responsible, in order to ensure that they are applied correctly and, in particular, that the undertakings entrusted with operating public services can perform in full the tasks assigned to them.

The existence of thresholds for exemption from the requirement to give notification of state compensatory payments for SGEI serves to lessen the administrative burden. To lessen it further, an overall raising of the current thresholds determining application of the SGEI Decision should therefore be considered. Another potential means of promoting simplification would be through the introduction of a ‘de minimis’ arrangement in respect of state aid to undertakings entrusted with the operation of SGEI where the locally limited scale of the activity makes the likely impact on trade between Member States negligible. It must, however, be ensured here that the compensation is used solely for the operation of the SGEI in question. An approach based on the combined indices of size of municipality, amount of compensation payment and level of turnover of the undertaking entrusted with operating the service might be an appropriate choice.

3.2 Social services

In the case of social services of general economic interest which, by their nature, are restricted

to a given locality, special higher compensation thresholds should be considered, on the assumption that compensation not exceeding such levels will not adversely affect trade between Member States. Consideration should be given to extending the general exemption from the requirement for notification of aid so as to cover other types of social service of general economic interest, such as care facilities for elderly people or people with disabilities, or healthcare provision.

Public services must be of a high quality and accessible to all sections of the population. At the same time, the special remit and character of SSGI should not only be protected but should also be clearly defined under sector-specific rules. The restrictive stance taken by certain Member States which, in relation to state aid for social housing associations, classify the services provided by such associations as SSGI only if they are reserved for socially disadvantaged persons or groups is a matter of concern, as such a limited interpretation is at odds with the higher goal of fostering an appropriate social mix. In order for social services of general economic interest to perform their special function they must be open to all members of the public irrespective of income or resources.

3.3 The broad discretion enjoyed by national, regional and local authorities

SGEI must be of a high quality and universal access to them must be promoted. Primary responsibility for commissioning, providing, financing and organising SGEI rests with the Member States – a principle enshrined in Protocol No 26 TFEU. The EU treaties thus place particular emphasis on the broad discretion enjoyed by national, regional and local authorities within the Union in relation to SGEI. The EU state aid rules can therefore be reformed only in strict adherence to the principle of subsidiarity. Furthermore, the Commission's responsibility, under the TFEU competition rules, is confined to monitoring state aid for the provision of SGEI, and the only basis for setting European-level quality and efficiency criteria is Article 14 TFEU, with observance of the subsidiarity principle. It is also the case that if undertakings entrusted with the operation of SGEI are selected on the basis of efficiency criteria then the fourth condition set by the Court of Justice ruling in the Altmark case is fulfilled and, subject to observance of the three remaining conditions, the compensatory payments made to such undertakings do not, according to the case law of the Court, constitute state aid within the meaning of Article 107(1) TFEU.

28.9.2011

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on Economic and Monetary Affairs

on the Reform of EU state aid rules on Services of General Economic Interest
(2011/2146(INI))

Rapporteur: Gunnar Hökmark

SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the Commission's plans to review the SGEI state aid rules with the objective of unlocking the potential of such services for social cohesion, environmental sustainability and economic prosperity; recalls the potential of the industries that are defined in Member States as SGEIs, and their importance not only for the competitiveness of Europe and its sustainable economic growth in accordance with the EU 2020 terms and targets, but also as potentially emerging, globally competitive industries, as proven, for example, by the telecom sector;
2. Emphasises the role of local, regional and national authorities in ensuring the provision of certain services that are affordable to the citizens; welcomes Commission proposals to further clarify state aid procedures for the benefit of the authorities; recommends that the Commission give due consideration to improving the processes and mechanisms defined within the state aid rules, with a view to achieving simplification and legal certainty and ensuring access to clear advice and decisions regarding compliance in a timely manner;
3. Recalls that undistorted competition and the transparent application of state aid rules to SGEIs are key to avoiding protectionism, to reinvigorating the single market and to providing better public services; notes that the way compensation for the provision of SGEIs is granted affects public finances and the efficient use of public resources; believes that a high level of transparency, achieved through strict reporting obligations and the availability of information on all SGEI state aid allocations, is vital in preventing distortions of competition;

4. Emphasises from this perspective, in the interests of consumers, the importance of competition, including cross-border competition, new actors and investments, as well as innovation, new business and entrepreneurial ideas; recalls, however, that the rules of competition applicable to undertakings entrusted with the operation of SGEIs must be in line with the Treaties, and should not, therefore, obstruct the performance of the particular tasks assigned to such undertakings, nor the realisation of the internal market;
5. Recalls that the reform's overriding ambition should be to secure high-quality services, in a resource-efficient way and at affordable prices for citizens, but without losing sight of the need for sustainable and high-quality employment; is convinced that this ambition can be achieved, without limiting the opportunities for growth and competition, by state aid financing such services when appropriate, and not the providers;
6. Recalls the substantial investment needed to upgrade infrastructure, especially in the regions where it is most lacking and in particular in the areas of energy, telecommunications and public transport, in order to enable the provision of future smart energy or broadband services; believes that future state aid rules must be designed in a way that promotes job creation and incentivises private investment (e.g. from pension funds) in new infrastructure, without limiting competition and access to such infrastructure;
7. Believes that state aid should help stimulate local entrepreneurship and the local economy, create local jobs and promote competition in the telecom market and elsewhere;
8. Acknowledges the need for a clearer distinction between economic and non-economic activities under the state aid rules but warns against the introduction of an EU-harmonised framework or definition, as this would not only restrict the autonomy of local entities but would also hinder innovation and new business models, which are often introduced by SMEs.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.9.2011
Result of final vote	+: 33 -: 6 0: 0
Members present for the final vote	Bendt Bendtsen, Maria Da Graça Carvalho, Giles Chichester, Christian Ehler, Vicky Ford, Gaston Franco, Adam Gierek, Norbert Glante, Fiona Hall, Jacky Hénin, Romana Jordan Cizelj, Krišjānis Kariņš, Lena Kolarska-Bobińska, Philippe Lamberts, Bogdan Kazimierz Marcinkiewicz, Marisa Matias, Judith A. Merkies, Jaroslav Paška, Miloslav Ransdorf, Herbert Reul, Michèle Rivasi, Jens Rohde, Paul Rübig, Amalia Sartori, Francisco Sosa Wagner, Patrizia Toia, Ioannis A. Tsoukalas, Marita Ulvskog, Adina-Ioana Vălean, Alejo Vidal-Quadras, Henri Weber
Substitute(s) present for the final vote	Francesco De Angelis, Satu Hassi, Jolanta Emilia Hibner, Gunnar Hökmark, Bernd Lange, Alajos Mészáros, Algirdas Saudargas, Silvia-Adriana Țicău

27.9.2011

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on the reform of EU state aid rules on Services of General Economic Interest (2011/2146(INI))

Rapporteur: António Fernando Correia De Campos

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the Commission's communication on the reform of EU state aid rules on services of general economic interest (SGEIs); recalls that, under the terms of Article 106(2) of the TFEU, services of general economic interest are subject to Treaty rules on state aid only 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; stresses the place occupied by the SGEIs in the shared values of the Union as well as their role in promoting social and territorial cohesion within the Union;
2. Stresses that the specific nature of SGEIs is recognised in Article 14 of the Lisbon Treaty and Protocol 26 annexed to the Treaty, and recognises the special role of regional and local authorities in this connection;
3. Takes the view that SGEIs' operating criteria should take account of market efficiency, continuity of supply and universal access, without losing sight of the effective safeguarding of social rights and consumer protection, democratic control and accountability;
4. Welcomes the Commission's move to provide further clarifications and criteria on the distinction between non-economic and economic activities, in order to avoid cases being brought before the European Court of Justice and infringement proceedings opened by the Commission; suggests that, in so doing, it should not confine itself to reiterating the case

law of the European Court of Justice but should provide determining criteria to help in distinguishing between these two types of activity; considers furthermore, that to combat this legal uncertainty, local and regional authorities ought to be provided with better information and more training to enhance their understanding of the rules on state aid;

5. Takes the view that the Commission's current responsibilities, taking decisions on a case-by-case basis, should be underpinned by clear criteria and objectives that can be accepted by the Member States, are limited to the internal market and reduce the scope for litigation;
6. Highlights the specific nature of SGEIs at regional and local level, which does not affect competition in the internal market and where a simplified and transparent procedure should be possible that encourages innovation and the participation of small and medium-sized enterprises (SMEs);
7. Considers with this in mind that higher de minimis thresholds for SGEIs are, in specific cases, an appropriate way to deal with these services in a simplified procedure and thus significantly reduce the considerable administrative burden on service providers without any negative effects on the internal market;
8. Recalls that the State aid rules should comply strictly with the subsidiarity principle and should guarantee freedom of choice for local and regional authorities as regards their methods of organising, funding and performing public service tasks;
9. Calls on the Commission to simplify the rules for mandating; asks that a call for proposals accompanied by a target-based contract be deemed to constitute a mandate;
10. Insists that any reform of EU state aid rules applicable to SGEIs should make it a priority to ensure that the SGEIs are of high quality, affordable and accessible to all, which implies guaranteeing appropriate levels of compensation for the undertakings responsible for supplying these SGEIs.

.RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.9.2011
Result of final vote	+: 27 -: 0 0: 8
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Cornelis de Jong, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Philippe Juvin, Sandra Kalniete, Edvard Kožušník, Toine Manders, Phil Prendergast, Mitro Repo, Heide Rühle, Matteo Salvini, Christel Schaldemose, Andreas Schwab, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler
Substitute(s) present for the final vote	Pascal Canfin, Frank Engel, Marielle Gallo, Anna Hedh, Maria Irigoyen Pérez, Othmar Karas, Constance Le Grip, Antonyia Parvanova, Sylvana Rapti, Olle Schmidt, Kyriacos Triantaphyllides, Anja Weisgerber

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	17.10.2011
Result of final vote	+: 27 -: 8 0: 1
Members present for the final vote	Burkhard Balz, Udo Bullmann, Pascal Canfin, Nikolaos Chountis, George Sabin Cutaş, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Gunnar Hökmark, Wolf Klinz, Jürgen Klute, Philippe Lamberts, Werner Langen, Astrid Lulling, Arlene McCarthy, Alfredo Pallone, Anni Podimata, Antolin Sánchez Presedo, Peter Simon, Peter Skinner, Ivo Strejček, Kay Swinburne, Marianne Thyssen
Substitute(s) present for the final vote	Sophie Auconie, Philippe De Backer, Saïd El Khadraoui, Ashley Fox, Olle Ludvigsson, Thomas Mann, Andreas Schwab, Theodoros Skylakakis
Substitute(s) under Rule 187(2) present for the final vote	Diana Wallis