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**Reply to the Commission's consultation on the draft communication on the application of State aid rules to public service broadcasting**

The Danish Government appreciates the opportunity to give its views on the revision of the broadcasting communication.

The Government agrees that the audiovisual media market develops rapidly and that it is appropriate to look into the need for a revision of how the state aid rules apply to public service broadcasters. The Government also agrees that fair competition is an important feature in today's media market.

When responding to the Commission's hearing in March of last year the Ministry of Culture pointed out, that in its opinion there is no need for substantial changes. The Ministry also emphasized that the communication must take into consideration the differences between Member States' cultural traditions and the importance of respecting the independence of the media. All of this speaks for a European regulation at a general and not a detailed level.

However, the draft communication contains many new detailed conditions on new as well as traditional services, thereby potentially reducing the right of Member States to define the remit of their public service broadcasters as stated in the Amsterdam protocol and confirmed by the judgement of the Court of First Instance in the TV 2-case.

In particular, the Government would like to point to the proposed procedures concerning the introduction of new services. The ex ante evaluation of the services to determine whether they meet the democratic, social and cultural needs of society, and the market assessment as described imply considerable expense and the establishment of new supervisory bodies. Concerning the market assessment it seems that the proposal attaches undue importance to commercial offers in the market.

To specify these procedures in such detail does not seem expedient in view of the differences in cultural traditions and resources between the Member States. It also does not seem to be in accordance with the right of Member States to define the remit of their public service broadcasters.

It is important to leave it to Member States to identify the measures which ensure the most precise definition possible of the public service remit and the measures to evaluate new activities. The Government does not find it appropriate to specify at European level which elements should be included in such measures.

Another point of great importance is the question of how pay-services are dealt with. The examples given of what appears not to be acceptable public services point to a restrictive practice which does not seem to pay proper attention to the fulfilment of social, democratic and cultural needs of society of the programmes.

Please find in the attached note a fuller reply in Danish to the consultation.

Yours sincerely,

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Special Adviser