



Legal Framework conditions applicable to State aid to public service broadcasting

The Protocol on the system of public broadcasting in the Member States, annexed to the Treaty ([Amsterdam Protocol](#)).

Communication from the Commission on the application of State aid rules to public service broadcasting, adopted by the Commission on 2 July 2009 ([Broadcasting Communication](#)).

Commission decisions on State aid to public service broadcasting (1999-2014)

	Decision name	Member State	Decision date
38	SA.32635 (2012/E) – Financement de la RTBF – Belgique	BE	07/05/2014
37	SA.37136 (2013/N) - Financement de la station de radio locale France	FR	08/11/2013
36	SA.7149 (C85/2001) – Financing of Portugal's public broadcaster RTP during the years 1992-1998	PT	20/12/2011
35	SA.33294 (2011/NN) – Financial support to restructure the accumulated debt of the public service broadcaster RTP – Amendment of decision NN 31/2006	PT	20/12/2011
34	SA.27688 (C19/2009) - Aid for the restructuring of TV2/Danmark A/S	DK	20/04/2011
33	C2/2003 – Financing of TV2/Danmark	DK	20/04/2011
32	SA.32019 (2010/N) – Danish radio channel FM4	DK	23/03/2011
31	SA.30587 (N95/2010) – Création d'une station de radio locale France Bleu Maine	FR	22/07/2010
30	C27/2009 (ex. N34b/2009) – Subvention pluriannuelle pour France Télévisions	FR	20/07/2010
29	C38/2009 (ex. NN58/2009) – New tax-based funding system for public broadcasting in Spain	ES	20/07/2010
28	E5/2005 – Yearly financing of Dutch public broadcasters	NL	26/01/2010
27	C38/2009 – Investigation into the new financing of RTVE	ES	03/12/2009
26	E2/2008 – State funding for Austrian public service broadcaster ORF	AT	28/10/2009
25	C27/2009 (ex. N34b/2009) – Investigation into the new financing of France Télévisions	FR	01/09/2009
24	N287/2008 - Rescue Aid to TV2/Danmark A/S	DK	04/08/2008
23	N279/2008 – Capital injection for France Télévisions	FR	16/07/2008
22	E8/2006 – State funding for Flemish public broadcaster VRT	BE	27/02/2008
21	E4/2005 – State aid financing of RTE and TNAG (TG4)	IE	27/02/2008
20	E3/2005 – Financing of public service broadcasters in Germany	DE	24/04/2007
19	NN8/2007 – Financing of workforce reduction measures in favour of RTVE	ES	07/03/2007
18	NN31/2006 – Financial support to public service broadcaster RTP	PT	04/07/2006
17	C2/2004 – Ad-hoc financing measures of Dutch public service broadcasters	NL	22/06/2006
16	N 638/2005 – Aide à la création de la chaîne corse Via Stella	FR	22/03/2006
15	E14/2005 – General financing system for RTP	PT	22/03/2006
14	N54/2005 – Chaîne française d'information internationale	FR	07/06/2005
13	E9/2005 – Licence fee payments to RAI	IT	20/04/2005
12	E10/2005 – Licence fee payments to France 2 and 3	FR	20/04/2005



11	E8/2005 – Financing of Spanish national public broadcaster RTVE	ES	20/04/2005
10	N313/2004 – Recapitalisation of TV2	DK	06/10/2004
9	C2/2003 – Financing of TV2	DK	19/05/2004
8	C60/1999 – Ad-hoc payments to France 2 and 3	FR	10/12/2003
7	C85/2001 – Ad-hoc payments to RTP	PT	15/10/2003
6	C62/1999 - Ad-hoc payments to RAI	IT	15/10/2003
5	N37/2003 – BBC digital curriculum	UK	01/10/2003
4	N631/2001 – BBC licence fee	UK	22/05/2002
3	NN2/2002 – ZDF Medienpark	DE	03/04/2002
2	NN88/1998 – BBC 24 hours news channel	UK	12/09/1999
1	NN70/1998 – Kinderkanal/Phoenix	DE	24/02/1999

(*) **Commission decisions:** the Commission issues the following types of decisions – as defined in the Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (*Official Journal L 83, 27.03.1999, pages 1-9*), see [State aid legislation](#).

After a preliminary examination (phase I decisions):

1. **decision does not constitute aid** - where the Commission, after a preliminary examination, finds that the notified measure does not constitute aid - **art. 4(2)**
2. **decision not to raise objections** - where the Commission, after a preliminary examination, finds that no doubts are raised as to the compatibility with the common market of a notified measure, in so far as it falls within the scope of Article 87(1) of the Treaty - **art. 4(3)**
3. **decision to initiate the formal investigation procedure** - where the Commission, after a preliminary examination, finds that doubts are raised as to the compatibility with the common market of a measure - **art. 4(4)**

After a formal investigation procedure (phase II decisions):

1. **decision does not constitute aid (after formal investigation procedure)** - where the Commission, after formal investigation procedure, finds that, where appropriate following modification by the Member State concerned, the notified measure does not constitute aid - **art. 7(2)**
2. **positive decision** - where the Commission, after formal investigation procedure, finds that, where appropriate following modification by the Member State concerned, the doubts as to the compatibility of the notified measure with the common market have been removed - **art. 7(3)**
3. **conditional decision** - where the Commission attached to a positive decision conditions subject to which an aid may be considered compatible with the common market or laid down monitoring obligations - **art. 7(4)**
4. **negative decision without recovery** - where the Commission finds that the aid is not compatible with the common market and shall not be put into effect - **art. 7(5)**
5. **negative decision with recovery** - where the Commission finds that the aid is not compatible with the common market and, as it was unlawful aid, the Commission decides that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary - **art. 7(5) with art. 14(1)**
6. **decision to close formal investigation procedure following the withdrawal of notification** – **art. 8(2)**

As regards **existing aid**, the Commission may **propose "appropriate measures"** to the Member State concerned – **art. 18**

Where the Member State accepts these measures, the acceptance is recorded by the Commission and they become binding upon the Member State – **art. 19**

Where the Member State concerned does not accept the appropriate measures, the Commission may open the **formal investigation procedure** (see above) – **art. 4 (4)**.

Other types of decisions:

1. **revocation of decision** - where the Commission decides to revoke its previous decision due to the fact it was based on incorrect information provided during the procedure which was a determining factor for the decision – **art. 9**
2. **information injunction** – where the Commission requires the Member State to provide the information on alleged unlawful aid in a situation in which the Member State despite a reminder did not provide the information previously requested or provided incomplete information - **art. 10(3)**



Articles on State aid to public service broadcasting

"Compatibility rules : Broadcasting"

by Angar Held

EU Competition Law, State Aid, Book II, Claeys&Casteels Law Publishers, 2016, chapter 24, pp.881-914

"The 2009 Broadcasting Communication"

by Lukas Repa, Nóra Tosics, Pedro Dias, Alberto Bacchiega

Competition Policy Newsletter, number 2009/3, p. 10

http://ec.europa.eu/competition/publications/cpn/2009_3_2.pdf

"Commission and Germany agree on better control for the use of State aid in the broadcasting sector"

by Lukas Repa and Nóra Tosics,

Competition Policy Newsletter 2009/1, p91

http://ec.europa.eu/competition/publications/cpn/2009_1_23.pdf

"Funding of public service broadcasting and State aid rules – two recent cases in Belgium and Ireland"

by Nóra Tosics, Ronald Van De Ven and Alexander Riedl,

Competition Policy Newsletter 2008/3, p81

http://ec.europa.eu/competition/publications/cpn/2008_3_81.pdf

"Increased Transparency and Efficiency in public service broadcasting"

by Pedro Dias and Alexandra Antoniadis

Competition Policy Newsletter, number 2007/2, p. 67

http://ec.europa.eu/comm/competition/publications/cpn/cpn2007_2.pdf

For further information

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