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Subject: State aid SA.35683 (2012/N) – Tax on advertising materials delivered to households - Denmark

Sir,

1. PROCEDURE

(1) On 08 November 2012 the Danish authorities notified the above-mentioned scheme concerning a tax on advertising materials delivered to households.

(2) On 09 January 2013, 03 July 2013 and 31 March 2014 the Commission requested additional information, which the Danish authorities provided on 06 February 2013, 07 February 2013, 13 November 2013, 27 November 2013, 10 February 2014, 24 February 2014, and 8 May 2014. Several informal exchanges of information took place as well, and a meeting was held with the Danish authorities on 18 September 2013.

(3) On 23 November 2012, 13 December 2012, and on 14 December 2012 the Commission received four complaints concerning the measure envisaged by the Danish authorities. The complaints were forwarded to Denmark on 12 February 2013, 5 March 2013 and 8 March 2013. Denmark provided its view on the complaints on 5 March 2013 and 25 April 2013.

(4) The Commission received additional submissions from the two of the complainants on 2 July 2013 and 8 July 2013. These were forwarded to Denmark on 10 September 2013. Denmark provided its view on the issues raised by the complainants on 13 October 2013.

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(5) The Commission met with one of the complainants on 27 February 2014. The respective complainant submitted additional information on 27 March 2014 which was forwarded to Denmark on 8 April 2014. Denmark provided its view on the issues raised by the complainants on 8 May 2014.

2. DESCRIPTION OF THE MEASURE

2.1 General overview

(6) According to the Danish authorities, some 167 000 tonnes of advertising materials were delivered to Danish households in 2010, representing about 80 kg or 1 400 items for each household receiving such material.

(7) Advertising material distributed to households has a significant impact on the environment, starting with paper production. In addition, a range of chemicals and other resources are used in the printing of advertising. The main environmental impact of advertising material distributed to households makes itself felt at the production stage.

(8) As per the waste hierarchy, in environmental terms, it is best to prevent waste. Used paper is waste – regardless of whether paper in the form of used advertising is collected for recycling. By its very nature, there is a greater environmental effect in avoiding the production of advertising than in using paper to produce it and then treat it in established waste systems.

(9) The notified measure concerns several exemptions from a tax on advertising distributed to households, and the application of a lower tax rate for the use of environmentally friendly paper.

(10) The aim of the tax is to reduce the quantity of waste-paper to the benefit of the environment by taxing printed advertising material distributed to households.

(11) Printed advertising material delivered to households is defined as items distributed without subscription or payment on the part of the recipient in order to promote the sale of goods and services.

(12) The tax will apply to all mail aimed at promoting the sale of goods and services that is delivered free of charge to the recipient, unless the legislation states that the item of printed advertising material is exempt from tax.

(13) The tax on printed advertising material delivered to households is designed as a weight tax levied per kilogram of material paid by the undertaking distributing the mail. The tax rate is set at DKK 4 (EUR 0.54)¹ per kg of advertising material².

¹ At the exchange rate on the notification date, EUR 1 = 7.4584 DKK.

² The legislation provides for a lower tax rate of DKK 3 per kg in 2013 in order to phase in during the first year the use of more environmentally friendly paper. As the tax shall be introduced starting with 2014, this rate would not apply. The Danish authorities explained that they would have to change the legislation in case they wish to introduce a lower tax rate during a certain period, and in such a case they would notify this separately.

(14) The Danish authorities' contend that, as a consequence of the tax on printed advertising material distributed to households, the quantity of such material will decrease by approximately 15%, to the benefit of the environment.

(15) The Danish authorities have stated that the duration of the measure is not limited in time, but undertook to re-notify the measure after 6 years.

2.2 Legal basis

(16) The national legal basis is the Draft Law No L 50 of 1 November 2012 on the taxation of advertising material delivered to households as presented before the Danish Parliament (Folketing) and adopted by the Danish Parliament under no. 1228 of 18 December 2012 (the "Advertising Taxation Act").

2.3 The reduced tax rate for the EU 'flower' Ecolabel paper

(17) A reduction in the tax is envisaged for advertising that carries EU's 'flower' Ecolabel (Ecolabel)³. For advertising carrying the 'flower' mark, the tax is DKR 2 per kg. The EU 'flower' mark on printed matter is aimed specifically at promoting material that: is more recyclable, releases fewer volatile organic chemicals (VOCs) and causes fewer environmental and health effects from chemicals. The criteria for awarding the label are scientifically established, taking account of the latest technological developments.

(18) The aim of differentiating the tax on the basis of the Ecolabel mark is thus to reduce further the impact of advertising material on the environment beyond the reduction arising from the smaller quantity of advertising material distributed to households due to the tax. Moreover, meeting the requirements in order to obtain the right to use the 'flower' mark involves certain costs for companies, as does continued compliance with the rules for the 'flower' mark.

(19) The Danish Environmental Protection Agency produced a comparison of the environmental effects of Ecolabel paper and average conventional paper. It shows that using Ecolabel paper brings environmental gains, especially in terms of NO_x, SO₂ and CO₂. If the environmental gains are weighed up against the calculated socio-economic prices, it is estimated that the environmental impact of paper with the EU 'flower' mark is roughly 50 % lower than the impact of average conventional paper. The reduced tax rate takes account of this difference in the environmental impact.

(20) The Danish authorities mention that the differentiation of the tax rates is based on the environmental difference between advertising material distributed to households with and without the 'flower' mark.

(21) Any firm that satisfies the conditions laid down in the law can benefit from the lower tax rate. The only criterion is that the printed advertising material must carry the Ecolabel.

³ 2012/481/EU: Commission Decision of 16 August 2012 establishing the ecological criteria for the award of the EU Ecolabel for printed paper (notified under document C(2012) 5364)

2.4. Direct Mail

(22) In their notification of the measure, the Danish authorities proposed to exempt certain types of direct mail from taxation under the Advertising Taxation Act. This tax exemption covered mail delivered by postal operators authorised to provide commercial postal services under the Postal Act under certain conditions. More precisely, this exemption applied solely to addressed mail covered by s. 1(3) in the Danish Executive Order no. 727 of 24 June 2011 on the Provision of Postal Services and Postal Service Providers and only to mail for which individual contracts with the customers have not been negotiated.

(23) The Danish authorities considered that, in these instances, the postal operator could not necessarily know the contents of the mail and therefore could not know whether it contained advertising material or not. Therefore, the purpose of the exemption was to safeguard the secrecy of the mails.

(24) However, in the course of the procedure, the Danish authorities came to the conclusion that the exemption for certain types of direct mail was no longer necessary on grounds of mail privacy. In this context, by letter of 24 February 2014, the Danish Ministry of Taxation committed that the Government will propose to the Danish Parliament a legislative amendment of the notified Advertising Taxation Act, in which direct mail is no longer tax exempted.

(25) The Commission takes note of the Danish authorities' commitment and therefore considers that this part of the notified measure is no longer of any relevance. Should this commitment not materialize in practice, the Danish authorities would need to notify the measure and the Commission would need to assess such tax exemption for direct mail from a State aid point of view.

2.5. Information on public service obligations

(26) In their notification of the measure, the Danish authorities proposed also to exempt information on public service obligations from taxation under the Advertising Taxation Act. The main purpose of information on public service obligations is to inform the households affected of future changes or other measures in connection with services such as electricity, gas, water, waste management, etc. This involves primarily practical information such as material from a contractor on turning off the water, information on the collection of bulky waste etc.

(27) Accordingly, the Danish authorities consider this information to be in the public interest and not aimed at promoting the sale of goods and services, even though it is disclosed in connection with commercial activities. The fact that such information can bear the printed name and contact details of the relevant public service undertaking is solely for information purposes in order to fulfil the public service obligation (i.e. to enable individual households to contact the undertaking performing the task if necessary).

(28) After further analysis of the characteristics outlined above, the Danish authorities concluded that the information relating to public service obligations should not be deemed as actual advertising and thus it falls outside the scope of the Advertising Taxation Act. Therefore, the Danish authorities decided that the information relating to public service obligations should no longer be part of the measure notified to the Commission.

(29) The Commission agrees that, in light of the above, information on public service obligations can be deemed as falling outside the scope of the Advertising Taxation Act. Therefore, the Commission considers that this part of the notified measure is no longer of any relevance.

2.6. Publications on activities concerning associations covered by the Adult Education Act (evening school catalogues)

(30) In their notification, the Danish authorities proposed to exempt from taxation, under the Advertising Taxation Act, publications on activities concerning associations covered by the Danish Act on Public Support for General Adult Education, Voluntary Participation in General Education and Day High Schools and on Evening Schools ((lov om støtte til folkeoplysende voksenundervisning, frivilligt folkeoplysende foreningsarbejde og daghøjskoler samt om Folkeuniversitetet), (the "Adult Education Act").

(31) The objective of this exemption is to promote adult education through the activities performed by associations covered by the Adult Education Act, through a tax exemption for their publications (school catalogues). The aim of the Adult Education Act is to promote and enhance their members' capacity and desire to play an active and committed role in the life of the community through public free educational activities for adults. Their publications are therefore considered by the Danish authorities to be mainly in the public interest, and to be aimed at improving the general level of public information.

(32) Associations under the Adult Education Act are associations with a non-commercial objective and are non-profit organisations. These associations may engage in financial activities but any profit generated through course fees or the society's activities must be used by the associations within the area covered by the Adult Education Act. If a general association is dissolved, any profit generated through course fees and other activities must, under this Act, must be used for non-profit purposes. Therefore, according to the Danish authorities, they are different from commercial firms that offer educational services. For instance, unlike commercial providers, these associations are not allowed to award qualifications for their courses.

(33) According to the Danish authorities, these evening school catalogues are issued only once or twice per year, mainly at the start of the academic year. Therefore, they account for a very small amount of waste paper from advertising material. As the primary purpose of these publications is not to promote the sale of good and services, but rather to foster the common good and to enhance the general level of public awareness, the Danish authorities take the view that this tax exemption should be considered to be in line with the nature and rationale of the taxation system at hand.

(34) It should also be noted that, according to the Danish authorities, in terms of VAT, the exempted associations will be comprised by Title IX, Chapter 2 "Exemptions for certain activities in the public interest" of the VAT Directive (2006/112/EU).

(35) Only publications by associations covered by the Adult Education Act and seeking to promote participation in the associations' activities are eligible for the concerned tax exemption to the Advertising Taxation Act.

(36) The Danish authorities estimate the following figures concerning the total number of associations covered by the Adult Education Act: (1) around 15,000 associations engaging in

voluntary adult education activities, (2) around 1,500 associations for adult education, (3) roughly 100 university committees across the whole country and (4) 4 university departments in Copenhagen, Aarhus, Odense and Aalborg. The total amount should, therefore, be around 16,600 associations for the whole territory.

(37) Although the Danish authorities cannot provide an exact figure for the quantity of advertising material distributed by the associations covered by the Adult Education Act, they estimate that this quantity is very small. The Danish authorities assume that each Danish household receives around 1.5 kg of material a year from associations under the Adult Education Act. If each household of Denmark (a total of 2.6 million) receive material from such associations, considering there are roughly 16,600 associations under the Adult Education Act and that the tax imposed is always 4 DKK/kg, the tax exemption in its entirety would amount to DKK 15.6 million (i.e. approximately EUR 2.1 million) per year. This would be equivalent to a yearly amount of about DKK 900 (i.e. approximately EUR 120.6) per association.

2.7. Phone directories

(38) Printed, local telephone directories distributed free of charge and without subscription are proposed to be exempted from tax under the Advertising Taxation Act.

(39) The objective of the measure is to provide contact and communication possibilities for people who to a lesser extent have access to the internet, in particular elderly people and people in sparsely populated areas.

(40) The phone directories which are proposed to be exempted from tax are printed directories which contain information on names and addresses of people and businesses in the geographical area covered by the directory concerned. Moreover, they typically contain local information such as opening hours of public services and general information such as alarm numbers and important numbers for on-call doctors, police and gas services etc. Telephone directories typically also contain a map of the local area and information about the structure of the local council etc. All undertakings and private individuals are registered free of charge in their local telephone directory. Published once a year such directories are distributed free of charge to households, shops, offices and institutions.

(41) According to the Danish authorities, the telephone directories are used primarily by Danes aged 65+ and in sparsely populated areas. The reason for this is that internet-based solutions are not as frequently used by these population groups. Furthermore, sparsely populated areas have many holiday homes, and it is argued that tourists on holiday typically have less local knowledge and access to internet-based solutions than the local population. Therefore, telephone directories are often used to look up local traders and maps of the local area.

(42) The publication of such telephone directories is financed exclusively by advertisements in the form of advertisements for local traders. In return for a fee, it is possible to have your name and telephone number emphasized and to show the kind of services that the relevant undertaking provides. The purpose of such advertisements is not to promote the sale of goods or services but rather to draw the attention to the relevant undertaking.

(43) The criteria according to which telephone directories are covered by the tax exemption are stated in Section 2(4) of the Act. According to these criteria, telephone directories must:

- a. list at least 80% of the publicly accessible names, addresses and telephone numbers of private individuals, firms, associations and public authorities within a particular geographical area,
- b. be issued annually,
- c. be distributed in the geographical area referred to under point 1 above, and
- d. have at least 60% editorial content.

(44) The aforementioned requirements have been laid down with a view to ensuring that telephone directories continue to enhance communication between people and increase their opportunities of contact with each other and thus do not change character and come to resemble advertising distributed to households. All telephone directories that meet the above-mentioned criteria will be covered by the tax exemption. This applies to both existing and future telephone directories.

(45) Records show that most telephone directories are distributed in less densely populated districts, and fewest in the cities. For example, approximately 1.25 telephone directories per house (and holiday home) were distributed in the outlying districts of Tønder and Ærø in 2012, whereas only approximately 0.7 were distributed in the same year in Ballerup and Lyngby-Tårnbæk (in the outskirts of Copenhagen).

(46) There are a number of enterprises that publish telephone directories. The largest is Eniro, which published approximately 172 different local telephone directories in 2012. There are a further 38 smaller publishers of local Danish telephone directories, and an untold number of strictly local publishers. There are no regional or national telephone directories.

(47) The Danish authorities consider the aid to be a necessary measure. It is the Danish authorities' assessment that, if the scheme were to be discontinued and a tax levied on telephone directories, there would be a risk that a significant proportion of the Danish population – especially the older generation and people living in remote areas – would no longer be able to maintain communication and keep up contacts to the same extent. The aim of the measure is to ensure that people in these sections of the population, in particular, are able to communicate and stay in contact with each other.

(48) It is estimated that, in future, the exemption for telephone directories will become less important, since the number of directories in the current format is in decline as more and more people seek internet-based solutions. It is also expected that, as a result, advertising will move to the electronic media.

2.8. Weekly free newspapers

(49) Local weekly newspapers distributed free of charge directly to households without subscription and fulfilling certain criteria, as set out below, are proposed to be exempted from tax under the Advertising Taxation Act.

(50) The objective of the measure is to ensure that a large part of the Danish public has access to local news and democratic debate, which is considered to be of major importance to the public.

(51) According to the Danish authorities, the justification for the tax exemption is that to many local communities, local weekly newspapers are the main source of local news and democratic debate, and that they because of their specific content cannot be substituted either for regional or nationwide media or for advertising to households. Such newspapers are distributed free of charge to households, companies and public institutions, and in addition left in public places or shops to be picked up for free by those interested. There is no subscription scheme for such local weekly newspapers, which depend heavily on advertisement income.

(52) According to the Danish authorities, the weekly newspapers contribute to the democratic and cultural debate and raise the general level of awareness within the public, in a similar way as the daily press. The primary target of the weekly newspapers is local news. Sample testing of the accounts of around 60% of the weekly newspapers showed that 98% of all weekly newspapers would suffer financial losses if they were not to be exempted from the tax for advertising to households. The Danish authorities therefore consider the measure in question necessary in order to ensure that a large part of the Danish public has access to local news and democratic debate, which is considered to be of major importance to the public.

(53) Local weekly newspapers are defined in the Advertising Taxation Act⁴, §2, stk.4, and have to fulfil the following objective criteria:

- a. Be distributed at least twice a month during at least 10 months per calendar year, or at least once a month during at least 36 weeks per calendar year;
- b. Editorial content stemming from different sources;
- c. No direct association between the editorial material and advertisements;
- d. Not be aimed to promote one or several products;
- e. Not be aimed at marketing a specific activity;
- f. The main objective of the distribution other than commercial advertising;
- g. Be subject to the Danish Media Liability Act (medieansvarsloven); and
- h. Contain at least 25% editorial material, on an average of four editions.

(54) All weekly newspapers, existing as well as future ones, which fulfil these criteria may benefit from the tax exemption. The criteria are set out in order to ensure that the weekly newspapers continue to be a source of local news transmission and democratic debate without changing character into advertisements directly delivered to households. Editorial content in weekly newspapers is set out as articles, readers' letters, lists of events, obituaries etc. covering local retailing conditions, local traffic news, local sports, educational news, local politics etc. It follows from the fact that a weekly newspaper is subject to the Media Liability

⁴ Reklameavgiftsloven.

Act that the editor is registered with the Danish Press Board (Pressenævnet), and thus responsible for the weekly newspaper's content.

(55) It follows from a report on the use of news media by the Danish population that weekly newspapers are the most utilised printed news media, read by around 53% of the population, whereas national newspapers are consumed by 32% of the population, while local dailies and free papers are consumed by 28% of the population. Some households may very well consume several types of media in parallel.

(56) The local weekly newspapers do not fulfil the same needs as for instance a nation-wide daily. The financing of the weekly newspapers depend on advertisements. Typically, advertisements as well as editorial content found in the weekly newspapers will have a local focus. The cost for such ads to be distributed directly to households through commercial advertisement products would be higher than for nation-wide retail chains in view of the limited geographical scope and number of the local ads, since nation-wide advertising implies lower distribution costs. The Danish authorities therefore explained that the local advertisements cannot be considered equivalent to the nation-wide advertisements. Because of the heavy dependence on advertisement income, the Danish government estimates that, without the tax exemption, a large majority of local weekly newspapers would in the short term make losses and eventually cease to exist. An existing aid scheme for written media⁵ allows for aid to written media available in all of Denmark, independent of technological platform, in order to support media pluralism and the dissemination of socio-political news to the citizens in Denmark. Under that scheme, the aid is awarded with a view to supporting the production of editorial content of quality. The two schemes consequently have different objectives. Local weekly newspapers are not excluded from the existing aid scheme if they fulfil the eligibility criteria, but cumulation of aid from the two schemes is not possible. The tax exemption is not considered to have any impact on the aid scheme for written media in that it serves the purpose of neutralising a fee which would have negative effects on the viability of local weekly newspapers.

(57) According to the Danish authorities, the tax is calculated on the estimated tonnage of local weekly newspapers. In 2010, there existed 264 such newspapers, of which the total weight amounted to 42.600 tons. In accordance with the eligibility criteria, such newspapers should consist of at least 25% editorial content, which leaves 75% of advertisements. Only the weight of the latter category is taken into account when calculating the total amount of the tax to be subject to exemption. The Danish authorities work with the assumption that 70% of all advertising material subject to the exemption fall within the category of the Ecolabel which would result in a tax exemption for local newspapers amounting to 85 million DKK annually.

3. INFORMATION RECEIVED FROM THIRD PARTIES

3.1. Complaint submitted by FK Distribution A/S

(58) On 23 November 2012 the company FK Distribution A/S submitted to the Commission a complaint regarding the notified measure.

(59) The complainant argues that the tax and the exemptions foreseen by the Danish authorities in the Advertising Taxation Act constitute a distortion of competition. Allegedly,

⁵ Commission decision of 20 November 2013 in State aid case SA.36366 – Production and innovation aid to written media.

the fact that certain printed advertisements are not subject to the tax or benefit from exemptions from the tax amounts to State aid as it leads to discrimination between undertakings or products which – in light of the environmental protection purpose invoked by the State – are in similar factual and legal situations. Allegedly, these printed advertisements have the same impact on the environment as advertising materials distributed to households and compete with them, hence there is no necessity for aid and they should be treated in the same way by the tax. Moreover, the complainant argues that the aid is not proportional as required by point 159 of the Community Guidelines on State Aid for Environmental Protection ("EAG")⁶.

(60) In response to the argumentation of the Danish authorities that the tax will result in a shift towards online advertising, the complainant mentions this would not be possible in the foreseeable future due to the habits of Danish consumers. The complainant bases its assertions on data from the Danish Competition and Consumer Authority, which shows that the grocery stores (super markets) account for only 3% of the total online advertising, whilst 78% of their advertisements are placed in the printed advertisements distributed door to door (unaddressed advertising, weeklies and dailies).

(61) The complainant alleges that since mid-2013 Danish consumers who have chosen not to receive advertising materials have a possibility to select the companies from which they wish to receive advertisements, thus receiving only material they are interested in (NejTak+ scheme). The complainant, as well as Post Danmark, offers this opportunity. If this scheme would be used to its full extent the complainant estimates that the quantity of advertising materials delivered to households would drop by 39%. Nevertheless, this possibility of choice is not exempted from the tax, which the complainant finds problematic.

(62) The complainant mentions the following printed advertisements which in his view compete with advertising material that is distributed door to door:

- (i) Printed advertisements not distributed door to door, but collected by customers in shops, at train stations, in pedestrian streets, etc. The complainant alleges that the legislation recognizes that the environmental impact of printed advertisements is due primarily to the production phase. The distribution and transportation of printed advertisements are less important from an environmental perspective. Therefore, the advertisements that are not distributed to households have the same environmental impact as the ones that are.
- (ii) Weekly free newspapers. The major part of a Danish weekly free paper consists of printed advertisements. The editorial content of a weekly free paper differs greatly from the editorial content of a daily paper or of a tabloid as they cover articles, readers' letters, list material, name material, food recipes, obituaries, job notices, sports news, strip cartoons and so on. The complainant puts forwards that that weekly newspapers and unaddressed advertisements are similar in the sense that they both are distributed for free one or two times a week, they contain advertisements from many different retailers which make it easy and convenient to look for good offers. They are often read together and are regarded in the same way by the consumers. Some 90% of the advertisers advertising through FK Distribution by way of advertising material are also advertising through the weekly newspapers, hence there would be a clear overlap of customers. This would mean there is a very clear overlap of customers between the

⁶ OJ C 82, 1.4.2008, p. 1.

two. Therefore weekly papers are very similar to advertisements and they constitute their main competitor, the tax exemption giving them a competitive advantage as they will be able to sell advertising space at a lower price. Allegedly, the exemption for weekly free newspapers does not pass the balancing test and is not compatible with Article 107 (3) (c) of the Treaty on the Functioning of the European Union (TFEU).

- (iii) Printed advertisements in self-addressed envelopes (Direct Mail). Direct Mail is also a printed advertisement that is inserted in a self-addressed envelope; hence there should be no difference from the advertisements that are inserted in plastic wrappers. In addition, the exemption is not necessary in view of protecting the confidentiality of letters as postal operators can easily verify the contents of Direct Mail, since they have lower, dedicated tariffs for Direct Mail which would only apply to such advertising materials.
- (iv) Printed advertisements distributed against payment from the recipient such as inserts in daily newspapers distributed to the recipients as a consequence of a subscription agreement. They are allegedly identical to the advertisements distributed door to door. Moreover subscription papers are occasionally distributed door to door free of charge to non-subscribers. Allegedly, even though they have to abide by the Act on media support (L 20) daily newspapers still have a lot of room to include further advertisements which means that the tax could cause a possible shift to advertising by this means. Additionally, FK Distribution contends that since the Act on media support aims at supporting the democratic debate at both national and local level, it is no longer credible for the Advertising Taxation Act to also have as aim the support of democratic debate. FK Distribution goes on to mention that the Advertising Taxation Act is not designed in an appropriate way to achieve such a cultural aim.

3.2. *Complaint submitted by Bladkompagniet A/S*

(63) On 13 December 2012 the company Bladkompagniet A/S submitted to the Commission a complaint regarding the notified measure.

(64) The complaint concerns exclusively the exemption from the tax for Direct Mail for which no individual terms have been negotiated, but for which the distributor uses, for example, price lists. Apparently, the exemption would benefit without a sound objective reason only one distributor of Direct Mail, thus providing it with an uncompetitive advantage that amounts to State aid that is not compatible with the internal market.

3.3. *Complaint submitted by the European Letterbox Marketing Association*

(65) On 14 December 2012 the European Letterbox Marketing Association (ELMA) submitted to the Commission a complaint regarding the notified measure.

(66) The complainant puts forward that the exemption from the tax regarding Direct Mail and the fact that advertisements that are not distributed to households are not subject to the tax amount to a serious and unjustified distortion of competition.

(67) Allegedly the environmental concerns which justify the tax will not actually be sufficiently addressed if the tax is not applied to all printed paper.

3.4. Complaint submitted by the International confederation for printing and allied industries a.i.s.b.l.

(68) On 14 December 2012 the International confederation for printing and allied industries a.i.s.b.l. ("INTEGRAF") submitted to the Commission a complaint regarding the notified measure.

(69) INTEGRAF alleges that the proposed legislation discriminated against one specific type of advertising medium, i.e. unaddressed printed advertising. INTEGRAF highlights the significant economic consequences of the proposed tax and the allegedly incorrect environmental argumentation related to the draft law.

4. ASSESSMENT OF THE MEASURE

4.1. Existence of Aid

(70) A measure constitutes State aid in the sense of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU") if four cumulative conditions are met:

- (a) The measure confers an economic advantage.
- (b) The advantage is granted to certain undertakings or for the production of certain goods only (selectivity).
- (c) The advantage is financed through State resources.
- (d) The measure distorts or threatens to distort competition and affects trade between Member States.

The Commission will examine concurrence of these four conditions for the different reductions or exemptions of the tax on advertising materials, notified here-in.

4.1.1. The reduced tax rate for the Ecolabel paper

(71) In order to determine whether a measure confers a selective advantage to certain undertakings in fiscal cases, firstly the system of reference needs to be identified (i.e. what the "normal taxation" in the Member State would be from which the favourable tax treatment deviates). Secondly, it should be assessed whether a given measure constitutes derogation from this system in as much as it differentiates between economic operators which are in a legal and factual situation that is comparable in the light of the objective pursued by the measure⁷. If the measure in question does not constitute a derogation from the reference system, it is not selective. However, if it does (and therefore is *prima facie* selective), it still has to be verified, in the third step of the test, whether the derogatory measure is justified by

⁷ Case C-143/99, *Adria-Wien Pipeline GmbH* [2001] ECR p. I-8365, paragraph 41.

the nature or the general scheme of the system of which it is part ⁸ and thus falls out of the scope of application of Article 107(1) of the TFEU⁹.

The overall design of the tax

(72) As set out above under recitals (17) to (21), a new tax is introduced on advertising distributed to households designed as a weight tax levied per kilogram of material. The tax rate is of DKK 4 per kg of advertising material. This tax constitutes the general system of reference for the assessment of selectivity by the Commission.

(73) The tax applies to all mail aimed at promoting the sale of goods and services that is delivered free of charge to the recipient without any subscription or payment from his part. The legislation provides for several exemptions from the tax.

(74) The purpose of the tax in question is to reduce the volume of paper waste for the benefit of the environment.

Derogation from the overall design of the tax

(75) The tax appears to treat all printed advertised material delivered to households for free having the same environmental impact in the same way. Firms have a choice to make use of the Ecolabel paper or not. The use of Ecolabel paper is the only condition to qualify for the lower tax rate (DKK 2 per kg instead of DKK 4 per kg). The application of the lower tax rate is thus based on objective criteria. Given the scope of the tax, i.e. environmental protection, the lower tax rate for EU ‘flower’ Ecolabel paper appears to have an objective rationale.

(76) With regard to the general system of reference, the lower tax for Ecolabel paper would appear to constitute a derogation. Instead of paying the full tax including for the purpose of achieving its environmental scope, i.e. the “normal taxation”, the undertakings concerned only pay a lesser amount taking into account the lower environmental impact of their activity. This favourable treatment is effectively awarded to all undertakings which use this type of paper.

(77) However, firms liable for the unreduced tax rate appear to be in the same legal and factual situation as firms liable for the reduced tax rate given the objective pursued by the tax which is environmental protection as they perform the same activities, i.e. distributing advertisements to households. Therefore, the measure appears to be *prima facie* selective.

(78) Nevertheless, the Danish authorities pointed out that the reduced tax rate for Ecolabel paper appears to be in proportion to the environmental impact of such paper, which is 50% lower than that of regular paper. In fact, the Commission notes that in order to obtain the Ecolabel, printed paper must comply with wide set of environmental criteria. While it is not very easy to quantify the environmental impact of complying with the respective criteria, different studies show that compliance with the respective criteria is likely to significantly reduce the environmental impact of the Ecolabel paper¹⁰. The Commission considers that the

⁸ Case C-143/99, *Adria-Wien Pipeline GmbH* [2001] ECR p. I-8365, paragraph 42. See also Case C-88/03, *Portugal v Commission* [2006] ECR p. I-7115, paragraph 52, and Case C-487/06 P, *British Aggregates Association* [2008] ECR p.I-10515, paragraph 83.

⁹ See for example joined cases C-78/08 to C-80/08, *Paint Graphos and others*, para. 49 and the following.

¹⁰ For example, by reducing the ink used (from 26.5 kg to 1.8 kg) the overall environmental impact of the paper will be reduced by about 56%; replacing the active agents in the process where water is recycled (using

potential total savings in terms of environmental impact obtained from complying with the Ecolabel criteria justifies the 50% tax reduction notified by Denmark for the Ecolabel paper.

(79) Consequently the lower tax rate for Ecolabel paper is justified by the nature or the general scheme of the system of which it is part and thus falls out of the scope of application of Article 107(1) of the TFEU.

Conclusion on the existence of aid

(80) In view of the above, the Commission concludes that the proposed lower tax for advertising that carries Ecolabel is not selective and, hence, does not involve State aid.

4.1.2. Publications on activities concerning associations covered by the Adult Education Act (evening school catalogues)

Effect on intra-EU trade

(81) Trade between Member States is only affected if the measure is at least potentially suitable to affect such trade. In this respect, as regards the specific nature of the subsidized activity, it should first be underlined that, contrary to commercial educational services, the main objective of associations covered by the Adult Education Act is to promote a sense of democracy and active involvement in civic life specifically at local level. The potential of these associations to affect intra-EU trade seems, if at all, negligible. In order to determine whether the subsidies to be granted in relation to this particular tax exemption could affect trade between Member States, a number of elements were examined.

(82) First, the area of attraction of the associations under the Adult Educational Act is deemed very limited due to their local nature. The targeted audience of the courses offered by these associations is mainly confined to the vicinity of the respective associations in order to reinforce the sense of community and the classes are provided mostly in Danish. The providers of adult education are local non-profit entities (approximately 16,600 associations, essentially micro- or small, in the whole Denmark), with no cross-border activities, that offer courses, frequently in the evenings, to local inhabitants. Moreover, the publication and distribution of brochures is limited to the local area of attraction of the respective association.

(83) Secondly, as regards the activities offered by the associations under the Adult Education Act, they consist mainly of programs from local sports associations, folk universities, evening classes, etc. It should thus be distinguished between measures that support the activities of such associations and measures directed, for instance to the development of universities or business schools which involve internationally renowned courses and aim at a national or even international market. The latter are typically widely promoted outside the municipality or region where they are located and may thus attract people from other Member States. On the contrary, classes organised by the associations under the Adult Education Act are of a different nature, i.e. focused on a purely local level, carried out mostly in Danish and of a much smaller scale.

Kathon instead of the biocide benzalkonium chloride is likely to reduce the overall environmental impact by around 69%; applying biological treatment of wastewater, using exclusively recycled paper instead of exclusively virgin paper and changing the cleaning agents would also contribute to reducing the environmental impact of the Ecolabel paper by 16 to 26%.

(84) Finally, the amounts seem to be very limited and are estimated at an annual average of DKK 15.6 million (i.e. approximately EUR 2.1 million) for all associations, or DKK 900 (i.e. approximately EUR 120.6) per association. Even for the larger associations, the amounts would not be as high as to be deemed to affect intra-EU trade. Due to the small amounts involved, it can be argued that the tax exemption could hardly lead to demand or investments being, even potentially, attracted to the municipalities or regions concerned and could hardly be considered to create obstacles to the establishment of undertakings from other Member States.

Conclusion on the existence of aid

(85) In the light of the above arguments, the Commission considers that the exemption of associations covered by the Adult Education Act from Advertising Taxation Act will not have an effect on trade between Member States. Therefore, the existence of State aid within the meaning of Article 107(1) TFEU can be excluded at the level of associations covered by the Adult Education Act.

4.1.3. Phone directories

State resources

(86) The measure in question is an exemption from the normal operation of the national tax system and therefore clearly involves State resources, which are foregone.

Economic advantage

(87) The measure provides an economic advantage to the beneficiaries in the form of a tax exemption, which compensates part of their distribution costs. The measure favours only certain undertakings or the production of certain goods, in that it favours only undertakings publishing local phone directories for distribution free of charge in the Danish language in the period concerned, thereby excluding all other publishing and non-publishing undertakings. The relevant publishers will, therefore, be relieved from costs which they would otherwise have to bear in carrying out their activities.

Effect on competition and trade between Member States

(88) The measure confers a selective advantage to its beneficiaries. By favouring certain publishing undertakings operating in markets which are open to competition and trade, the aid measure affects or may affect competition between publishing undertakings and intra-Union trade of publishing products.

(89) The product in question, i.e. local phone directories distributed free of charge, is clearly of local character, however, it cannot be excluded that (at least in some areas) foreign publishers distribute phone directories directly to households in Denmark. In doing so they would also be eligible for the respective exemption, which would be liable to distorting competition within that sector. In addition, Danish publishers benefiting from the measure can also pursue activities in other Member States (for instance by producing publications in different languages). Therefore it cannot be excluded that the measure has an effect on trading conditions within the Union.

Conclusion on the existence of aid

In light of the above, the Commission has come to the conclusion that the investigated tax exemption for local phone directories distributed free of charge constitutes State aid within the meaning of Article 107(1).

4.1.4. Weekly free newspapers

State resources

(90) As with the phone directories, the Commission notes that the measure in question is an exception from the normal operation of the national tax system, by which the Member State foregoes State resources.

Economic advantage

(91) The measure in question provides an economic advantage to the beneficiaries in the form of a tax exemption, which compensates part of their distribution costs. The measure favours only certain undertakings or the production of certain goods, in that it favours only media undertakings publishing local weekly newspapers for distribution free of charge in the Danish language in the period concerned, thereby excluding all other publishing and non-publishing undertakings. The relevant publishers will, therefore, be relieved from costs which they would otherwise have to bear in carrying out their activities.

Effect on competition and trade between Member States

(92) As concluded above, the proposed measure confers a selective advantage to the publishers of weekly free newspapers. The Commission also remarks that by favouring certain publishing undertakings operating in markets which are open to competition and trade, the aid measure affects or may affect competition between publishing undertakings and intra-Union trade of publishing products.

(93) The product in question, i.e. local weekly newspapers distributed free of charge, is of local character, however, it cannot be excluded that foreign publishers distribute newspapers directly to households in Denmark. In doing so they would also be eligible for the respective exemption, which would be liable to distorting competition within that sector. In addition, Danish publishers benefiting from the measure can also pursue activities in other Member States (for instance by producing publications in different languages). Therefore it cannot be excluded that the measure has an effect on trading conditions within the Union.

Conclusion on the existence of aid

(94) In light of the above assessment, the Commission considers that the new subsidy scheme for weekly free newspapers constitutes State aid within the meaning of Article 107(1).

4.2. Legality of the Aid

(95) Denmark has notified the measures and has subjected their application to the approval by the Commission. Denmark has thus fulfilled its obligations under Article 108(3) TFEU.

4.3. Compatibility of the Aid

(96) In Section 4.1, above, the Commission identified State aid in tax exemptions for the publishers of free phone directories and of weekly free newspapers. The Commission will further assess, for each category, whether such aid can be declared compatible with Art. 107(3) TFEU.

4.3.1. Weekly free newspapers

(97) The Commission notes that the measure aims to support a major source of information on local news, politics, trade and other circumstances, thereby contributing to the democratic debate and the dissemination of socio-political information.

(98) The Commission acknowledges that there are no existing frameworks and guidelines that can be applied to assess such kind of aid measure. The Commission, therefore, considers that the assessment of the compatibility of the new subsidy scheme with the EU State aid rules needs to be based directly on Article 107(3)(c) of the TFEU which states that “aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest” may be considered to be compatible with the internal market.

(99) In order for the aid measure to be compatible with Article 107(3)(c) it must not affect trading conditions to an extent contrary to the common interest. The trade-off between the advantages, such as the legitimate policy goal of a democratic state to ensure that citizens have access to social and political information, on the one hand; and the disadvantages, i.e., distorting competition and trade because of the exemption of certain publications from taxation due to their news content, on the other hand, needs to be assessed. The new subsidy scheme should also be proportionate to the goal pursued, and as such its scope evaluated.

(100) To the extent that the aid measure contributes to media pluralism, the Commission also takes into account Article 11 of the Charter of Fundamental Rights of the European Union, which states that freedom and pluralism of the media should be respected as essential elements of the common vision of a democratic Europe.

The objective of the measure

(101) The objective of the tax exemption for local weekly newspapers is to support media pluralism and the dissemination of socio-political news to the public as regards matters of local interest. The required content of these publications focusing on issues such as political, socio-economic and cultural subjects particularly at local level make their existence socially desirable. Furthermore, information diffused by these newspapers can contribute to the general interest of safeguarding the pluralism of the media.

Necessity

(102) The local weekly newspapers, distributed free of charge, are considered to play an important role in maintaining media pluralism in the Danish society. Their primary target is local news, and specific conditions for the definition of local weekly newspapers are set out in the Advertising Taxation Act (see recital 53). These conditions ensure among other things that the local weekly newspapers serve another purpose than commercial advertising, that they contain at least 25% editorial material stemming from different sources, and that they are

distributed at least twice a month during at least 10 months per calendar year. The criteria are set out in order to ensure that these newspapers continue to be a source of local news transmission and democratic debate and not turn into pure advertisement material. However, the incentives for a private media undertaking to produce such socio-political and local content available to all citizens on equal terms and in a geographically restricted area are limited and financing is dependent on advertising revenues. Because of the conditions as to the editorial content imposed on local weekly newspapers distributed freely without subscription, these clearly serve a purpose of common interest which is not fulfilled by any other media and which distinguishes them from advertising material. Local weekly newspapers consequently serve a purpose which overrides the overarching purpose of the law from which they are proposed to be exempted, i.e. environmental gains through the reduction of waste.

(103) From a public interest perspective, the market, without state support, is unable to deliver the desired output which is deemed necessary in order to retain legitimate common objectives such as media pluralism, democratic debate and access to local information. The Commission considers that the tax exemption for local weekly newspapers, being targeted at remedying the increased risk of market failure as regards the provision of such local news material and information can be considered necessary.

Proportionality

(104) The measure aims to provide aid to certain local publications with political, social and cultural editorial content considered essential for society - and for which they do not receive payment - with the ultimate objective of encouraging the dissemination of local socio-political news and information to the public. Because the local weekly newspapers also serve other purposes than advertisement, their distribution frequency and minimum quantity of editorial material, among other things, being clearly defined in legislation in order to maintain their character of local news transmitters, they are proposed to be exempted from the tax in question. Sample testing provided by the Danish authorities shows that a vast majority of such newspapers would make financial losses in the absence of a tax exemption (recital 56). By not increasing the costs of distribution through the proposed tax, the measure therefore contributes to ensuring the continued viability of local weekly free newspapers, which have a significant part of their income from advertisement. Moreover, aid beneficiaries under the existing aid scheme for written media¹¹ cannot profit from the notified tax exemption and vice versa. By this mechanism, the Danish authorities reinforce the proportionality of the measure, and avoid that such publishers are overcompensated.

(105) Since the measure is available only to publications which fulfil the eligibility criteria, the measure has a limited effect on competition. In addition, the measure represents a strong incentive for local diffusion of socio-political news and information. The measure is designed to take into account the specific objective of availability of local news and information as well as local advertising, in all areas, including remote or sparsely populated areas, or areas where demand is weak. The Commission considers the tax exemption of local weekly newspapers distributed free of charge and independently of subscription to be proportional.

¹¹ Commission decision of 20 November 2013 in State aid case SA.36366 – Production and innovation aid to written media.

Effect on Trading Conditions Not Contrary to the Common Interest

(106) The Commission takes the view that publications which fulfil the eligibility criteria described in recital 53 are not substitutable to readers and therefore compete for readers at best only to a limited extent. Because of their primarily local focus, both in terms of editorial content and advertisements, the local weekly newspapers are highly specialised and limited in scope of interest of other readers than those located in a particular geographical area and do not provide content of general interest to a broader audience. Similarly, with regard to a potential competition for advertisements, it should be mentioned that advertisements found in the local weekly newspapers typically relate to small establishment with a local client base. The Commission is therefore of the view that local weekly newspapers eligible for the tax exemption do not substantially compete for the sale of advertisement space with other publications, of broader regional scope or with directly delivered advertising material, both of which categories fall outside the new subsidy scheme.

(107) It should also be noted that the measure is not discriminatory against foreign publishers, as eligibility and equal treatment of applicants based in other Member States is ensured.

(108) In light of these considerations, the Commission considers that the scheme does not adversely affect trading conditions to an extent contrary to the common interest.

Conclusion

(109) In light of the above, the Commission has come to the conclusion that the investigated tax exemption for weekly free newspapers constitutes State aid within the meaning of Article 107(1), but can be considered compatible with the internal market in accordance with Article 107(3)(c).

Phone directories

(110) As mentioned in recital (39), phone directories aim to provide contact and communication possibilities for in particular elderly people and people in sparsely populated areas. The Commission acknowledges that there are no existing frameworks and guidelines that can be applied to assess such kind of tax exemption for phone directories.

(111) The Commission, therefore, considers that the assessment of the compatibility of the new subsidy scheme with the EU State aid rules needs to be based directly on Article 107(3)(c) of the TFEU which states that “*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*” may be considered to be compatible with the EU State aid rules.

(112) In order for the aid measure to be compatible with Article 107(3)(c), the aid must not affect trading conditions to an extent contrary to the common interest. The trade-off between the advantages, *i.e.* pursuing the goal of facilitating the access of all groups of society to vital information and to means of communication; and the disadvantages, *i.e.* distorting competition and trade because of the exemption only applied to certain publications due to their content, needs to be assessed. The new subsidy measure should also be proportionate to the goal pursued, and as such its scope evaluated.

The objective of the measure

(113) The objective of the tax exemption for printed, local telephone directories is to provide contact and communication possibilities for, in particular, elderly people and people in sparsely populated areas. The fact that the content of these publications focuses on fulfilling the particular needs for certain groups in society of communication and access to local information make their existence socially desirable.

Necessity

(114) The printed, local telephone directories distributed free of charge are considered to play an important role for contact and communication possibilities for in particular elderly people and people in sparsely populated areas. However, the incentives for a private undertaking to produce such local directories are limited and financing is dependent on advertising revenues. Because of the conditions as to editorial content and coverage as regards listed telephone numbers imposed on printed, local telephone directories distributed freely without subscription, phone directories serve as a necessary instrument for the achievement of a common interest, which is not fulfilled by any other media and which distinguishes them from purely advertising material. Printed local telephone directories consequently serve a purpose which overrides the overarching purpose of the law from which they are proposed to be exempted, i.e. environmental gains through the reduction of waste.

(115) From a public interest perspective, the market, without state support, is unable to deliver the desired output which is deemed necessary in order to retain legitimate common objectives such as access to local services and information and contact possibilities for in particular elderly people and people in sparsely populated areas. The Commission considers that the tax exemption for printed, local telephone directories, being targeted at remedying the increased risk of market failure as regards the provision of such local information material, can be considered necessary.

Proportionality and effect on competition and trading conditions

(116) The measure consists of a tax exemption of printed, local telephone directories distributed free of charge and without the need of subscription. The measure aims to provide contact and communication possibilities for local population, and in particular for elderly people and people in sparsely populated areas, who may have more difficult access to online content. The content of these publications focuses on fulfilling the particular needs of certain groups in society of communication and access to local information. By not increasing the costs of distribution through the proposed tax, the measure supports the production of such local information material that is needed to fulfil this objective. The Commission therefore considers that the measure is proportional.

(117) Since the measure is available only to publications which fulfil strict eligibility criteria, the measure has a limited effect on competition. In addition, the measure represents a strong incentive for local diffusion of public information and telephone listings. The measure is designed to take into account the specific objective of availability of local information as well as local telephone listings, with particular regard to remote or sparsely populated areas.

(118) The Commission takes the view that phone directories which fulfil the eligibility criteria, when compared to other publications, are not substitutable to users and therefore compete for users at best only to a very limited extent. Similarly with regard to competition

for advertisements, the Commission is of the view that printed, local telephone directories eligible for the tax exemption do not substantially compete for the sale of advertisement space with other publications or with directly delivered advertising material, both of which categories fall outside the new subsidy scheme.

Conclusion

(119) In light of the above, the Commission has come to the conclusion that the investigated tax exemption for local phone directories distributed free of charge constitutes State aid within the meaning of Article 107(1), but can be considered compatible with the internal market under Article 107(3)(c).

4.4. Other Issues Raised by the Complainants

(120) As the Danish Ministry of Taxation committed to amend the law so that Direct Mail is no longer exempted from the notified tax, the Commission considers that this part of the measure has been withdrawn from the notification of measures at stake (reduction or exemption from the tax on advertising materials). Therefore, the concerns of the complainants as regards this exemption are allayed.

Advertisements picked-up in public places

(121) The best option to reduce the impact on the environment of printed paper is to prevent the production of printed paper waste. Used paper is waste – irrespective of whether, as used printed advertising material, it is collected for recycling. Preventing the production of waste brings greater environmental benefits than from using paper to produce advertising material and then recycling the waste material.

(122) The amount of advertising delivered to Danish households is very high as shown in recital (6).

(123) In 2010 printed advertising material distributed to Danish households was of such a scale that, every week, individual households each received material weighing more than 1.5 kg. Some of this material is not even read in the households, but it is treated immediately as waste. Apparently, about 20% of consumers never read advertising sheets.

(124) Despite the possibility for Danish households to choose not to receive advertising material, the majority of them remain passive.

(125) On the contrary, advertisements that are not delivered to households, but that are available in public places tend to be picked up because the respective person is interested in the advertisement. The Danish authorities explain that such advertisements do not generate the same volume of waste as advertisements that are distributed directly to households.

Daily newspapers

(126) In the same way, Danish households choose to receive subscription newspapers. Inserts into subscription newspapers may either be of interest to customers or they can discard them. If the respective newspapers no longer appeal to households the subscriptions will be terminated. Moreover, subscription newspapers benefit from support under the Act on media support (L 20) and cannot increase the amount of advertising significantly otherwise they

cease to fulfil the conditions for support. An advertisement distributed in return for payment by the recipient, for example as an insert in a daily newspaper, constitutes a purchase, and therefore falls outside the range of items liable to the tax.

(127) The design of the tax seems to be linked to the great amount of waste arising from advertising material delivered to households for free linked to the passivity of Danish households in not exercising their right to opt-out. These appear to be different than advertisements picked-up on the street or in public places or received by choice (by subscription). . The Commission agrees that, in light of the above, advertisements that can be picked up in public places and subscription newspapers can be deemed as falling outside the scope of the Advertising Taxation Act.

Possibility to select advertisements (NejTak+ scheme)

(128) This possibility of selecting only some advertising materials is currently offered only to households who have actively chosen not to receive any advertisements in the first place. However, the majority of Danish households appear to remain passive when it comes to active choices. The Commission notes that Denmark has not notified any plans to grant an exemption for such schemes, offering households the possibility to select the advertisements they receive. The Commission considers that since they are delivered to households such advertising materials fall within the scope of the tax. Unlike the materials (e.g. newspapers) delivered against payment, the advertising materials that the households agreed to receive cannot be considered a purchase and therefore Denmark is entitled to treat them differently, since they are not in the same legal and factual situation.

No shift to online media

(129) The Commission takes note of the arguments brought forward by FK Distribution concerning the small amount spent by retailers on online advertising, presented in recital (60). The Commission further notes that according to the materials submitted by the complainant, online advertising represented 28% of the total advertising expenditure in Denmark in 2012. The tax would apply to unaddressed mail and direct mail. While the documents sent by the complainant show that these two categories represent respectively 15% and 8% of the total advertising expenditure, these categories have a much larger share of the advertising materials delivered to households (taken together they would represent around 40% of the advertisements materials delivered to households).

(130) The Danish authorities estimated that the tax would determine a 15% reduction of the quantity of printed advertising materials delivered to households. The Commission considers that the tax, by rendering printed advertising materials delivered to households more expensive, is likely to determine a reduction of the size and number of advertising, and therefore only a part of the respective 15% reduction estimated by the Danish authorities is likely to move to other forms of advertising. It cannot be excluded that a certain percentage would, as argued by the complainant, move to other forms of printed materials, however, the Commission considers that it is likely that a significant part of such advertising will move to non-printed forms of advertising. Therefore, the Commission considers that the tax, as designed by the Danish authorities, would have a significant effect in terms of reducing waste paper from households.

5. CONCLUSION

The Commission has accordingly concluded that the lower tax for advertising that carries EU's 'flower' Ecolabel as well as the tax exemptions for brochures of the associations covered by the Adult Education Act in Denmark do not constitute State aid.

The Commission has furthermore decided not to raise any objections to the exemption from the tax for advertising granted to phone directories and local weekly newspapers in Denmark on the ground that the aid is compatible with Article 107(3)(c) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-president