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**Subject: State aid SA.36366 (2013/N) – Denmark**  
**Production and innovation aid to written media**

Sir,

**1. Procedure**

- (1) By letter dated 2 October 2013, registered on 4 October 2013, the Danish government notified the European Commission (the “Commission”) of the redirection of the existing aid scheme for printed media from distribution aid to production aid. The title of the notified aid scheme is “Production and innovation aid to written media” (*Produktionsstøtte til skrevne medier samt etablering af en innovationspulje*).
- (2) The Danish authorities have provided a language waiver and agree that the decision will be adopted in English as the authentic language.

**2. Detailed description of the aid measure**

- (3) Before 2004, Denmark had entrusted the Danish Post with a service of general economic interest (SGEI) to distribute newspapers and magazines at reduced tariffs in comparison with the actual costs of delivery incurred. In 2004 (magazines) and 2006 (dailies), this distribution aid scheme was amended to re-direct the aid to the publishers (rather than to the Danish Post), leaving them free to choose the means of distribution. The Commission approved the modified schemes on the basis of Article 87(3)(c) EC<sup>1</sup>, by decisions dated 16.5.2006 (N25/2006) and 12.10.2006 (N306/2006).

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<sup>1</sup> Now Article 107(3) c) TFEU.

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- (4) The now notified aid scheme is intended to enter into force on 01.01.2014 for a period of six years, and will be subject to revision in 2016/2017. The aid scheme is intended to respond to significantly changed media consumption behaviour due to new technologies spreading information, which in turn would create a growing need to provide better focused support for the creation of content, rather than just distribution, and high quality journalism.
- (5) In the notified aid scheme the distribution aid for daily newspapers<sup>2</sup> will be replaced by aid for editorial content in newspapers, in printed as well as in digital form. The production aid will be calculated on the basis of the specific editorial cost from the previous year and cannot exceed 35% of that cost with an aid ceiling of DKK 17.5 million (app. € 2.5 million) per year for each newspaper/publication. 55-60 media are expected to benefit from the scheme. Media in other Member States can also benefit for publications that target a Danish audience provided their contents foster a Danish democratic debate by covering socio-economic issues, political or cultural subjects.
- (6) The Danish government foresees that some newspapers will be particularly affected by the termination of the current scheme. In order to prevent irreversible damage by allowing these media to adjust to the new conditions on this market and to facilitate the transition from the current system to the new, a transitional scheme is set out for a three-year period, to be fully phased out by 2017. Media which experience a reduction of aid when the new scheme enters into force will receive aid equal to approximately 50% of the difference between the previous aid scheme and the new scheme in the first year (2014). The aid amount calculated on the basis of the initial 2014-figures is then reduced by 1/3 in 2015, and by 2/3 in 2016. It is estimated that approximately 18 media will be eligible for support under the transitional scheme.
- (7) The new scheme will also foresee a supplementary production aid for smaller, nation-wide printed newspapers which produce content of particular significance to society and the democratic debate. These beneficiaries need to fulfil additional criteria; it must be printed nationwide at least 4 days a week with a total circulation of less than 40.000 copies per release, at least 75% of the publication must consist of editorial content, and at least 1/3 of the publication's total content must constitute independent journalistic material created for the purpose of publication in the news media concerned. According to the Danish government only 5 newspapers are eligible for this supplementary aid. The Danish government considers that a continuation of the possibility for the small national newspapers to receive additional aid is appropriate when introducing a new scheme for comparable online media, since this would strengthen the overall proportionality of the scheme and level out the playing field between traditional publishing and new innovative methods used to reach the audience.

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<sup>2</sup> Aid schemes N25/2006 and N306/2006. The distribution aid scheme for magazines (N 631/2003) will not be affected by the notification.

- (8) Another supplementary scheme to be introduced is that for freestanding internet based media (*i.e.* media not available in print), which aims at creating equal conditions of competition between freestanding, written internet-based media, which are not published by an undertaking already receiving direct or indirect media aid for other media platforms, and web-based versions of daily newspapers. According to the Danish government, the freestanding internet-based news media will not in the same way as e.g. the web-based versions of the printed daily newspapers benefit from editorial synergy effects and, therefore, the freestanding internet-based media are assessed to be in greater need of support. The purpose of this supplementary scheme is to increase media pluralism, and freestanding internet based media eligible for supplementary aid must in a similar manner as printed newspapers publish a high level of desired content and the provision of additional aid is therefore necessary.
- (9) In addition, the award authority can award aid to innovative projects on a case by case basis, which can concern the development of existing media or the establishment of new ones. The funds of the innovative pool will in particular be granted to projects which either seek to establish a new independent media or to develop an existing media. Important criteria will be the projects' ability to increase media diversity and provide societal and cultural information to the benefit of democratic debate, including the exploitation of new platforms or new technologies, and aid will be awarded based on the business case for each project. The budget for such projects is expected to be in the range of DKK 20 million p.a. (app. € 3 million). In accordance with Article 108(3) TFEU, Denmark commits to notifying any case of aid for the rescue or restructuring of newspapers, which is also a possibility foreseen under the future scheme.
- (10) **Eligibility criteria:** The new **main subsidy scheme** benefits publications which fulfil the following criteria:
- Printed news media and written internet based news media, the content of which is targeted at a Danish audience and which produce independent journalistic and editorial content.
  - The medium must be independent, following an assessment set out in the explanatory memorandum to Section 5(2)(i) of the draft bill. The medium must have an editor-in-chief and a paid editorial staff equivalent to at least three full-time positions.
  - The medium must target a wide circle of users and not be targeted towards professions, industries, members of employers', workers' or trade associations, political parties or civil servants etc.
  - The medium must not be fully or partly owned by public institutions or publicly funded companies. Nor must the medium be owned by 2/3 or more of employers', workers' or trade associations.

- The medium must be delivered or made available to the users and be accessible to everyone in Denmark on equal terms, possibly in return for payment of a fee.
- At least 50% of the content of the medium must be editorial (not advertisements) in the form of articles, etc., covering a wide range of subject areas and current news items.
- The editorial content of the medium must primarily cover political, socio-economic and cultural subjects.
- At least 1/6 of the editorial content must constitute independent journalism created for the purpose of publication in the news medium concerned.
- The medium must be published at least 10 times annually.

Small national daily newspapers which fulfil the eligibility criteria of the main scheme as set out above, must in addition fulfil the following eligibility criteria for supplementary distribution aid:

- The medium must be a printed, national medium which is published at least 4 days a week and which has a total circulation of less than 40.000 copies per release.
- At least 75 % of the publication must consist of editorial content covering a wide range of subject areas and current news items.
- At least one third of the publication's total content must constitute independent journalism created for the purpose of publication in the news medium concerned.

Freestanding internet based media which fulfil the eligibility criteria of the main scheme as set out above, must in addition fulfil the following eligibility criteria for supplementary aid:

- At least 75% of the publication must consist of editorial content covering a wide range of subject areas and current news items.
- At least one third of the publication's total content must constitute independent journalism created for the purpose of publication in the news medium concerned.

In addition to the production aid scheme, the so called **innovation pool** will grant project aid for i) the establishment of a new independent media, ii) development of existing media, and iii) feasibility studies. The innovation pool will be managed by the Media Board and according to the Danish government the general eligibility criteria for the innovation pool are the following: the ability of the projects to increase media pluralism and the dissemination of

information of general interest to society as well as cultural views to the benefit of democratic debate, including whether the medium exploits new platforms of technology on the one hand, and an assessment of the economic conditions of the project on the other hand. As for the latter criterion, the Media Board will base itself on an evaluation from an external auditor.

The objective of the start-up support is to promote pluralism and innovation in media by granting aid for start-up of new, independent news media which will in future be able to meet the eligibility criteria for production aid. In addition to the eligibility criteria for production aid, applicants must meet the following criteria:

- The content of the medium must be independent journalistic news reporting of self-produced editorial material.
- No later than six months after aid has been pledged, the medium must fulfil the same criteria as those applicable to media receiving production aid under the main scheme. The new medium must have an editor-in-chief whose employment combined with any other editorial staff amounts to the equivalent of at least one full time position.

The medium must furthermore be able to satisfy the Board that the medium will be financially independent after a start-up period of maximum three years, possibly with the production aid the medium is expected to obtain at the time.

Projects fulfilling the eligibility criteria for start-up aid, may also be granted aid to feasibility studies. Such studies are normally carried out prior to the investment in physical installations, materials, premises and production plants/platforms and prior to engaging journalistic and editorial staff to any significant extent. It is considered that it may generally be difficult for new media to secure the remaining financing for the physical establishment until feasibility studies have been carried out and, therefore, separate aid for feasibility studies may be granted without a requirement that the study must be followed up by an application for start-up aid.

Development aid may only be granted to media fulfilling all eligibility criteria for receiving production aid under the main scheme, except for the requirement of engagement of staff equivalent to three paid full time positions. The medium must have an editor-in-chief, whose employment combined with any other editorial staff is equivalent to at least one paid full time position. Thus, development aid may also be granted to existing media which are not (yet) eligible for production aid under the main scheme. The development projects supported are required to be of certain significance to the medium in question, in that the implementation of the project is expected to generate a more long-term effect on the medium when the aid ceases. Unlike for start-up aid, no maximum aid period has been established for development projects. It is expected that the majority of the development projects will be completed within a period of three years. The Media Board may in special circumstances decide to grant development aid to projects running for a longer period. In such cases, the Media Board will be required to ensure that the development

aid does not amount to permanent operating aid. Aid to the development of existing media may be granted to projects that are designed to maintain, improve or develop the production and dissemination of editorial content or to implement a transition to new technologies or infrastructure. These projects are considered to have the potential to increase the availability of editorial content for the audience in compliance with the overall objectives. Projects fulfilling the eligibility criteria for development aid may also be granted aid to feasibility studies. Aid for feasibility studies of development projects will help ensure that the project has a potential to support the development of the medium. It is considered that existing media, especially small and medium-sized media, will benefit from feasibility studies prior to a development project, as the medium thereby gains an external evaluation of the project while at the same time providing the State with an evaluation of the feasibility of the project. Aid for feasibility studies under development aid may be obtained separately without a requirement of the feasibility study being followed up by an application for aid for the development project in question.

- (11) **Legal basis:** A proposal for legislation – Lov om mediestøtte – was presented to Parliament on 2 October 2013 and will provide the legal basis for the new subsidy scheme.
- (12) **Objective:** According to the Danish government, the objective of the new subsidy scheme is to support media pluralism and the dissemination of socio-political news to the citizens in Denmark.
- (13) **Selection board:** As part of the introduction of the new aid scheme, a new specialised and independent board, the Media Board, will be established, replacing, *inter alia* the existing Newspaper Board. The Media Board will administer the distribution of funds within the new aid scheme and monitor recipient compliance with the rules. The Media Board will consist of seven members, appointed by the Minister for Culture and serve four-year-terms. The Danish government proposes that the decisions of the Media Board not be subject to administrative appeal, in order to safeguard the independence of the press and in view of the general independence of the political system. According to the Danish government, however, it will be possible to bring the decisions of the Media Board before the Parliamentary Ombudsman (*Folketingets Ombudsman*) and Courts for review.
- (14) **Form of the aid:** The aid takes the form of a direct grant.
- (15) **Beneficiaries of the aid:** As set out in paragraphs 4 to 8 above, beneficiaries of the aid are printed news media and written internet based news media, the content of which is targeted at a Danish audience and which produce independent journalistic and editorial content.
- (16) **Budget of the new subsidy scheme, eligible costs, aid intensity and cumulation:** The annual budget for the production aid is expected to be DKK 363.6 million (app. EUR 52 million) in 2014, 2015 and 2016, which is in line with the distribution aid expenditure of today (DKK 359.5 million in 2013). **The production aid** will be measured on the basis of the medium's total

editorial costs as stated in the latest financial year closed. Included in editorial costs must be, *i.a.* wages for staff whose main task is creative editorial final production, salaries for editors-in-chief, freelance fees, and purchase of editorial products from external suppliers, including purchase of news from agencies. Redistribution within or outside the group is to be deducted in the statement of the medium's editorial costs, and the production costs of joint editorial teams covering several media must be distributed to the individual medium. The aid must not amount to more than 35% of the medium's editorial costs. In addition, the annual maximum amount of aid that a medium can receive is DKK 17.5 million. Approximately 55-60 media annually are expected to obtain aid under the main scheme.

- (17) The intention is to spend an additional DKK 42 million over 3 years on a **transitional scheme** (DKK 21 million in 2014, 14 million in 2015, and DKK 7 million in 2016). The redirection of aid from distribution of printed newspapers to production of editorial content will reduce the aid for media distributing many copies but having only few editorial resources as compared to other media. As a result, a number of local and regional daily newspapers will receive less aid. The largest daily newspapers will meet the aid threshold of the main scheme. The purpose of the cap of the main scheme is to ensure a redistribution of aid from large to smaller and to new media. The transitional scheme is introduced in order to ensure that the daily newspapers most affected by the redistribution have a better chance of adjusting to the new financial framework and prevent that the redirection causes existing media to go out of business. Approximately 18 media are expected to be eligible for funds from the transitional pool.
  
- (18) The total aid granted under **the supplementary pool for small national newspapers** amounts to approximately DKK 39 million a year. Aid will only be granted from the supplementary pool if the aid granted under the new main scheme is less than the total amount of aid received by the medium under the existing distribution scheme in the latest financial year closed. The combined production aid (main scheme + supplementary scheme) must not exceed the total editorial costs of the medium.
  
- (19) As for **the supplementary pool for certain internet-based news media**, the combined aid under the main scheme and the supplementary pool must not exceed 50% of the total editorial costs of the internet-based medium, and the total aid must not exceed DKK 17.5 million a year. In order to increase dissemination of aid and to avoid cumulation with other forms of media aid, internet-based news media having the same owner or distributor as another medium which receives direct or indirect aid, e.g. under the aid schemes applying to broadcasting, will not be eligible either, in order to ensure that aid is only granted to freestanding internet-based media in the greatest need of support. Approximately five media are expected to obtain such aid.
  
- (20) The total budget of **the innovation pool** is expected to amount to DKK 20 million a year. As for the three subcategories of aid, i) **start-up aid** has a maximum aid intensity of 60% of the eligible costs, with a possibility for the media board to decide, regarding projects important to children, young people

or other special groups in society, that aid can amount to 75% of the eligible costs. Aid may be granted to all types of costs of start-up of a new medium, including aid for investment in tangible installations, materials, premises and production plants/platforms as well as operating costs. Start-up aid is granted for a maximum of three years, and the same medium cannot receive production aid, development aid and restructuring aid at the same time.

ii) **Development aid** may only be granted to media fulfilling all eligibility criteria for receiving production aid under the main scheme, except for the requirement of engagement of staff equivalent to three paid full time positions. The medium must have an editor-in-chief, whose employment combined with any other editorial staff is equivalent to at least one paid full time position. Thus, development aid may also be granted to existing media which are not (yet) eligible for production aid under the main scheme. The development projects supported are required to be of certain significance to the medium in question, in that the implementation of the project is expected to generate a more long-term effect on the medium when the aid ceases. Unlike for start-up aid, no maximum aid period has been established for development projects. It is expected that the majority of the development projects will be completed within a period of three years. The Media Board may in special circumstances decide to grant development aid to projects running for a longer period. In such cases, the Media Board will be required to ensure that the development aid does not amount to permanent operating aid. Development aid is limited to 40% of the eligible costs, but aid may be granted up to 75% of the eligible costs of development projects of particular importance to children, young people and other special groups. It is considered that in general the need for aid to encourage undertakings to carry out development projects is less significant than the need to support the establishment of completely new media. In addition, the requirement regarding a larger degree of own contribution indicates that the medium, replying on an expected positive outcome, is willing to bear the major part of the financial risk involved in the project.

Lastly, within the innovation pool, both in the case of start-up aid and development aid respectively, there is a possibility for receiving iii) **aid for feasibility studies**, which in both cases may be granted up to 75% of the eligible costs for conducting the study. General eligibility criteria are those applying for start-up aid and development aid, respectively.

- (21) The production aid will be measured on the basis of the medium's total editorial costs as stated in the latest financial year closed. The aid must not amount to more than 35% of a medium's editorial costs with a cap of maximum DKK 17.5 million as the maximum annual amount a medium may receive. The purpose of these limitations is to redirect aid from large to smaller media, ensuring proportionality of the scheme. In cases where media fulfil the eligibility criteria for any of the supplementary schemes in addition to those of the main scheme, cumulation will be possible.
- (22) **Duration:** The notified subsidy scheme will enter into force on 1 January 2014. All will be subject to revision within three years, and the maximum

duration is set to six years, with a transitional scheme to be in place for three years.

### **3. Assessment**

#### **3.1 Existence of aid**

- (23) To be characterized as state aid within the meaning of Article 107(1) of the TFEU<sup>3</sup>, four conditions must be fulfilled: (1) there must be a transfer of state resources; (2) the measure in question must involve an economic advantage to the recipient; (3) the measure must distort, or threaten to distort, competition; and (4) the measure must affect trade between Member States.
- (24) **State resources and imputability to the State:** The money used for the new subsidy scheme constitutes state resources within the meaning of Article 107(1) TFEU and is imputable to the State because it is money which comes from the Danish State budget and is distributed according to State legislation. The State, therefore, exercises control over the money.
- (25) **Economic advantage:** The new subsidy scheme under investigation provides an economic advantage to the beneficiaries in the form of direct grants, which compensate part of their production costs. The relevant publishers will, therefore, be relieved from costs which they would otherwise have to bear in carrying out their activities. The new subsidy scheme is selective because it concerns a specific economic sector. Furthermore, it is not addressed to all publications but only to those that fulfil specific criteria.
- (26) **Distortion of competition:** Since the publications eligible for funding under the new subsidy scheme may compete with other publications in the EU publishing sector, the new subsidy scheme is liable to distorting competition within that sector.
- (27) **Effect on Community trade:** The media which are subsidised can also be in competition with media of other Member States. It can therefore not be excluded that the new subsidy scheme may have an effect on trade between Member States.
- (28) **Conclusion:** In light of the above assessment, the Commission considers that the new subsidy scheme constitutes state aid within the meaning of Article 107(1) TFEU.

#### **3.2 Compatibility**

- (29) The Commission takes note that the objective of the new subsidy scheme is to ensure widespread availability of publications, contributing to democratic debate and dissemination of socio-political information.
- (30) There are no existing frameworks and guidelines that can be applied to assess such kind of aid measures. For this reason, the Commission considers that the

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<sup>3</sup> Treaty on the Functioning of the European Union.

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.

- (31) In order for the new subsidy scheme to be compatible with Article 107(3)(c), the trade-off between the advantages, *i.e.*, pursuing the goal of facilitating the development of the economic activity in question, which supports the legitimate policy goal of a democratic state to deliver social and political information to a large number of people; and the disadvantages, *i.e.* the possible effects on trading conditions, needs to be assessed. The new subsidy scheme should also be proportionate to the goal pursued, and as such its scope evaluated.

### **3.2.1 Objective of the Measure**

- (32) The objective of the new subsidy scheme is to ensure the dissemination of information and promotion of debate. The new subsidy scheme will ensure that media content of high quality is produced to Danish citizens, while the choice of the most suitable technological platform for reaching the citizens will be left to the media themselves. With its focus on content rather than technological platform with a view to ensuring media pluralism and the availability of socio-political news to citizens, the aid scheme promotes values in conformity with the TFEU as expressed in Article 11 of the Charter of Fundamental Rights of the European Union.

### **3.2.2 Necessity**

- (33) The new subsidy scheme was devised on the basis of a study of the Danish media market<sup>4</sup>, which concluded that while time spent on consumption of news increases every year, the share of printed media in such consumption decreases. News media have generally been dependent on generating revenues from advertisements and subscription fees. However, the profitability of this business model has changed radically in recent years due to the increased popularity of the internet, with a growing number of free online media, and a number of new players which provide opportunity for advertisement without necessarily being engaged in dissemination of independent socio-political content in Denmark.
- (34) The market analysis submitted by the Danish government shows that information and news content cannot be compared to traditional consumable products or goods. Media content is non-rival and non-excludable in the sense that the same article or story may be consumed by an undefined number of readers at no added cost. As a consequence, it is difficult to hinder consumers from getting access to content even where the consumer does not pay for the media. Although the availability of media content has generally increased, the

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<sup>4</sup> Analysis of the Danish News Media, Danish Agency for Culture, 2013.

willingness among consumers to pay for the production of the content has thus decreased, also for high quality products. However, the production of high quality information content, such as news based on investigative journalism may incur high operating costs. This development and changes of market structures and conditions lead to an increased market failure in terms of reduced editorial content and potentially in the long term reduced quality.

- (35) In these circumstances, incentives for a private media undertaking to produce high quality socio-political and independent content available to all citizens on equal terms are limited. 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 cultural diversity. The Commission considers that the new scheme, being targeted at remedying the increased risk of market failure in terms of reduced editorial content and potentially in the long term reduced quality, can be considered necessary.

### **3.2.3 Proportionality**

- (36) The Commission considers the new subsidy scheme to be proportional. The new scheme is a revision of a previous scheme, and brings about a redirection of distribution aid to production aid, benefiting both printed and written internet based media. It contributes to ensuring that media content of high quality is produced for the Danish public, while leaving the choice of distribution platform to the media themselves.
- (37) The eligibility criteria, notably that on editorial content, are intended to be an incentive to beneficiaries to carry out activities that they would otherwise not carry out, or to a lesser extent, without the aid. The scheme has been designed to partly subsidise the additional costs incurred by media which accept to engage in the production and circulation of high quality content promoting a democratic debate. Furthermore, as the editorial content criteria require that at least half of the media's content shall constitute editorial material, the remaining space for advertising is reduced correspondingly. Aid is considered necessary to cover at least part of the extra costs incurred. The exclusion of publications targeting or owned by specific sectors or social groups ensures that only publications of general interest are aided.
- (38) The transition from a distribution scheme to a production scheme does not result in an increased level of state aid to media in Denmark. The introduction of platform neutrality implies that aid may be distributed to a larger and more diverse group of beneficiaries in the future. The aid intensities under the main scheme are modest and in line with the aid intensities approved by the Commission in its previous decisions on distribution aid<sup>5</sup>. The maximum aid intensity is set at 35% of the total editorial costs. The aid amount is in any event capped at DKK 17.5 million (approximately EUR 2.3 million). The cap combined with the budgetary limits of the scheme implies that the individual aid intensities are expected to be significantly lower than 35%. The individual

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<sup>5</sup> See recital 2.

aid ceiling will ensure that the largest media do not benefit disproportionately. This conclusion is based on information gathered on the total editorial costs and turnover data from the media corporations expected to be entitled to aid under the new scheme. Following this, the main part of the scheme is rather considered to lead to aid intensities of maximum 25%.

- (39) The supplementary scheme for small, printed national newspapers is targeted at such newspapers which produce content of particular significance to society and the democratic debate. This supplementary scheme is considered justified in view of its objective; the contribution to the democratic society which is considered particularly valuable. Currently four media fulfil the criteria for such aid. The additional editorial content criteria and the limited number of copies entail that these newspapers may have particular difficulties diluting their costs. The higher aid intensities are therefore justified in order to enable the beneficiaries to stay in business.
- (40) The supplementary scheme for freestanding written internet based media (*i.e* media not available in print), targets media which publish a high level of desired content, which entails higher costs justifying additional aid. The total aid of the main and supplementary scheme may not exceed 50% of the total editorial costs.
- (41) The innovation pool is set up to support the establishment of new independent media and the development of an existing media. This particular aid may be granted to projects that are designed to maintain, improve or develop the production and dissemination of editorial content or to implement a transition to new technologies or infrastructure. It is designed to overcome the high entry barriers for new media to the Danish media market, to reduce future market concentration and favour media pluralism this particular aid and is considered justified in view of its objectives. It follows from the analysis of the Danish market that no new paid newspaper has entered the Danish market since 2002, but a number of free ones have, of which only one survived. The Danish government considers that these are strong indications that the structure and conditions on the media market imply entry barriers which are difficult to overcome for new media. Projects eligible for innovation aid may increase the availability of editorial content for the audience in compliance with the overall objectives.
- (42) As regards the transitional scheme, it is foreseen that some newspapers will be particularly affected by the termination of the current scheme. In order to prevent that this results in unwarranted and irreversible effects for the undertakings concerned, the transitional scheme is introduced to allow those especially affected news media to adjust to the new conditions. In view of the above, the relation between the overall objective to be achieved on the one hand, and the eligibility criteria and the aid intensities on the other hand, the scheme is considered proportionate. The eligibility criteria as set out by the legislative proposal are considered objective and measurable and the setting-up of an independent body for the assessment and decisions on applications for aid, whose decisions are subject to legal revision, are considered appropriate measures.

### **3.2.4 *Effect on Trading conditions Not Contrary to the Common Interest***

- (43) The scheme addresses a market failure by incentivising newspapers and written internet based news media to promote the production of high quality independent editorial content to an extent which the market would not generate without public support. There is likely to be very limited distortion of competition due to the fact that the new scheme, as opposed to the current distribution scheme, allows the support of written internet based media on the same conditions as apply to the printed press, thereby levelling out the playing field between media operating on different technological platforms.
- (44) The scheme is open to all written news media which produce editorial content targeted at a Danish audience, allowing foreign newspapers or online sites to receive aid on equal terms with Danish news media insofar as they meet the eligibility criteria. However, newspapers are in general subject to very limited cross-border trade due to the inherent national character of such products. With a particular view to the fact that the Danish language area is small, Danish newspapers, whether printed or online, cannot in general be considered substitutable with foreign papers. It is unlikely that publications in another language would be real substitutes and in turn that subscribers or advertisers would switch between them due to the subsidy. Therefore, the Commission considers that any effect on trading conditions is likely to be very limited and not contrary to the common interest.
- (45) It should also be noted that the measure is not discriminatory against foreign publishers, the scheme having ensured the eligibility and equal treatment of applicants based in other Member States.
- (46) In addition, the Commission recalls that the scheme contributes to media pluralism and the dissemination of socio-political news to the citizens of Denmark, in line with 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.
- (47) In light of these considerations, the Commission considers that the scheme has a limited effect on intra-EU trade and competition as compared to the aim of preserving media pluralism and high quality media content.

## **4. Conclusion**

- (48) The Commission has accordingly decided to consider the aid scheme to be compatible with the internal market in accordance with Article 107(3)(c). The Commission has accordingly decided not to raise any objections.
- (49) Finally, the Commission notes that the Danish authorities accept the decision to be adopted in English.

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>.

Your request should be sent by registered letter or fax to:

European Commission  
Directorate-General for Competition  
For the attention of the State Aid Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

Fax No: +32 2 29 61242

Yours faithfully,

For the Commission

Joaquín ALMUNIA  
Vice-President