

# SGEI - Others - The Communication from the Commission on the application of State aid rules to public service broadcasting

1. **Page title:** Please insert the full SGEI topic reference (e.g. "SGEI Decision") and a short title (e.g. "Overcompensation")
2. **Table:** Fill in **only the green** fields. Please respect the instructions (they are essential to optimise search).
3. **Questions:** Please create 1 question page per question
4. **Creation date:** fill in following the pattern **yy y.mm.dd** (e.g. 2017.03.17)
5. When ready, click on **Save** at the bottom of the page:
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<b>SGEI topic</b>	SGEI - Others
<b>Key words</b>	The Communication from the Commission on the application of State aid rules to public service broadcasting
<b>Member State</b>	BG
<b>Question</b>	<p>The Communication from the Commission on the application of State aid rules to public service broadcasting (2009/C 257/01) requires supervision of the fulfilment of the public service obligations and control of the use of public funding in order to prevent overcompensation and cross-subsidisation from being granted. They should be carried out by an external body, which is independent of the management of public service broadcasters, has the power and the necessary capacity and resources to carry out supervision and control regularly and effectively.</p> <p>According to the Bulgarian legislation, the Council for Electronic Media (CEM) is an independent regulatory body that supervises the activities of public media service providers. In view of this, we consider it appropriate CEM to be designated as the supervisory and control authority in accordance with the requirements of the Commission Communication.</p> <p>Provided that CEM undertakes to develop the content, parameters and mechanisms for granting and control of State aid and to be responsible for the lawful provision and expenditure of the aid, we would like to receive your opinion about whether fulfilment of these obligations would prevent CEM from being considered as an independent body for supervision of the fulfilment of the public service obligations and control of the use of public funding within the meaning of the Communication.</p>
<b>Creation Date</b>	yyyy.mm.dd

<p><b>COMP Reply</b></p>	<p>The 2009 Broadcasting Communication foresees two types of monitoring obligation: (i) firstly, the Member States have to ensure effective supervision of the fulfilment of the public service obligations; (ii) secondly, the Member States have to establish a financial control mechanism that should be exercised by an authority that is independent from the entrusted undertaking</p> <p>As to the monitoring of the fulfilment of the public service obligation, monitoring is only effective if carried out by a body effectively independent from the management of the public service broadcaster. Such body has to have the powers and the necessary capacity and resources to carry out supervision regularly and such body has to have the power to impose appropriate remedies insofar it is necessary to ensure respect of the public service obligations.</p> <p>According to the 2009 Broadcasting Communication, financial control mechanisms would only seem effective if carried out by an external body independent from the public service broadcaster at regular intervals, preferably on a yearly basis.</p> <p>Member States have established different control mechanisms, both as regards the funding and the fulfilment of the public service. Control may be exercised for example by (i) national courts of auditors in addition to control by external auditing firms; (ii) specially appointed bodies or institutions; (iii) national or regional Parliaments.</p> <p>We understand that your question relates to both monitoring obligations and that the Council of Electronic Media (CEM) carries out both types of supervision in Bulgaria. Besides supervision, the CEM is the authority setting out the parameters for granting the aid and it is also responsible for granting the aid.</p> <p>Further to your question please note that the mere fact that CEM fulfils several functions (i.e. it sets out the parameters for granting the aid; it grants the aid; it carries out the supervision) does not prevent it from being considered as a body independent from the public service broadcaster as required by the 2009 Broadcasting Communication.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
<p><b>COMP Reply date</b></p>	<p>2020.06.15</p>
<p><b>COMP Responsible</b></p>	<p><input checked="" type="checkbox"/> Unit C Four ESTATE-AID-WIKI-C FOUR</p>

<sup>1</sup> SGEI topics:

- Concept of SGEI
- SGEI Communication
- SGEI de minimis regulation
- SGEI Decision

- SGEI Framework
- SGEI package and other rules (e.g. public procurement, GBER, EU funds)
- SSGEIs and public procurement
- Application of State aid rules and the rules on public contracts and service concessions to SGEIs
- Applicability of internal market rules to SGEIs and SSGEIs
- Applicability of the services directive to SGEIs and SSGEIs

<sup>2</sup> AT, BE, BG, HR, CY, CZ, DE, DK, EE, EFTA, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.