

# Position Paper

## UEAPME<sup>1</sup> comments on the State aid package on Services of General Economic Interests (SGEI)

### 1. General remarks on Services of General Interests (SGI)

Given their weight in the economy and their importance for the production of other goods and services, services of general interest (SGI) are fundamental factors for competitiveness and cohesion, in particular terms for attracting investment in less-favoured regions.

The quality, efficiency and non-discriminatory provision of SGI are also conditions for the smooth functioning of the Single Market and for further economic integration in the European Union.

SMEs, Crafts and Trades rely on a wide range of SGI - some of which have a great strategic importance (telecommunications, energy, transport, education, social protection facilities etc) - and considerably depend on high quality, affordability, continuity of supply, safety and security of supply of these services.

Given that SMEs also have to finance SGI through taxation and user charges, they are very interested in the efficient production of SGEI to ensure that services are delivered in a competitive manner.

For this reason, SMEs are in general in favour of the private provision of SGI within a competitive environment. However, UEAPME respects the provision by the European Treaty, which allows each public entity to decide on its own how its public services should be provided.

### 2. General comments on the State aid package on compensations granted for the provision of services of general economic interests (SGEI)

UEAPME welcomes the review of the so-called "Monti - Kroes" package from 2005 with the aim to provide further clarification on the concept of undertakings and economic activities and the definition of State resources.

Furthermore, UEAPME agrees with the core principles of the regulations, which are based on an explicit entrustment act, compliance with transparency and public procurement rules, a clear definition of compensation and over-compensation and rules for the selection of providers.

All these principles are in line with the demand of SMEs for an efficient and effective provision of such services.

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<sup>1</sup> UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

### 3. Specific comments on the proposal for a de minimis aid regulation

UEAPME has in general no objection to simplifying the procedure for small municipalities, which entrust public services obligations to small companies. However, the concrete proposal made by the Commission may create some problems as regards an effective control of over-compensation and will increase complexity of the state aid system:

- The current “Monti - Kroes” package requires for all public service obligations an entrustment act and defines rules for compensation / overcompensation. This regulation is the only effective base for private companies to complain against distortion of competition, if companies or other entities entrusted with public services obligations are cross-financing other market activities (i.e. in cases of over-compensation).

The new de minimis regulation, which does not require any form of entrustment or any rule for the compensation of public services obligations, will take away any possibility for private companies to complain against the abuse of the general rules created by the Commission and by the Court of Justice.

- Therefore, UEAPME asks for conditionality as regards the use of the de minimis regulations. The regulation should only apply in cases where there is an entrustment act that includes clear rules for compensation. This would allow private companies to complain at least before national judges in cases of abuse and distortion of competition.
- If such conditionality is not ensured, UEAPME would propose to refer just to the general de minimis regulation, which allows only state aid up to € 200.000 within three years, compared to € 450.000 / 3 year in the current proposal. This would also avoid additional complexity by applying to different “de minimis” regulations in the area of State aid.

### 4. Specific comments on the proposal for decision on public services compensation (block exemption)

UEAPME welcomes the reduction of the maximum amount of aid (compensation), which has not to be notified, to € 15 Million per year. However, we have serious concerns about the general inclusion of all compensations to hospitals and social services regardless of the amount of aid into the block exemption.

During the last years the provision of private services in the health and social sector has improved significantly in many countries, which has increased the effectiveness of such services as well the quality and variety of these services. The proposed regulation risks destroying these markets and may increase the cost and limit the supply in these sectors. Therefore, UEAPME asks the Commission to restrict these exemptions to the absolute minimum.

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