

Brussels, 3 February 2004

Commission launches aid probe into Dutch public service broadcasters

The Commission today decided to launch a probe into the Dutch State's financing of Dutch public service broadcasters. The Commission's preliminary conclusion is that the Dutch State has provided the public service broadcasters with more funding than necessary to finance the public service. The excess funding, from the year 1992 onwards, is provisionally estimated at € 110 million. In addition, the Commission will investigate whether the beneficiaries of the public funds used these excess public funds to cross-subsidise their non-public service commercial activities.

The probe focuses on eight public service broadcasting associations and their umbrella organisation, which is also a public service broadcaster. The main task of these broadcasters is the broadcasting of information, culture, education and entertainment programmes through radio and TV. Moreover, as a secondary task they are free to supply programme material through a variety of other media. The Dutch State considers all of these tasks to be a public service. In return for providing the public service, the broadcasters enjoy annual payments from the Dutch State and receive additional State funding. This may take the form of ad-hoc funding, subsidies for co-production and free services from a public media facilities provider (hereafter referred to as "additional funding"). The present probe only concerns the "additional funding"¹.

After a preliminary investigation the Commission has doubts as to whether the "additional funding" facility is in line with EU rules on public subsidies, as contained in the EC-Treaty². The Commission believes that some "new media" activities, such as SMS-services that are performed by the public broadcasters are commercial activities outside the remit of their public interest tasks. Accordingly, such purely commercial activities should not be funded by the State.

In addition, the Commission wants to further investigate the issue of possible "cross-subsidisation". For this reason the Commission will investigate whether the public service broadcasters' activities in the markets for advertising and the acquisition of sports transmission rights are in line with normal market behaviour.

Apart from allowing the Commission to deepen its knowledge about the financial structure of the public service broadcasters at issue, formal proceedings also offer third parties – e.g. competitors and customers of the undertakings receiving public funds -- an opportunity to comment on the preliminary conclusions of the Commission.

¹ A special procedure exists for measures that already existed before the entry into force of the Treaty of Rome and essentially remained unaltered since that date. The annual State payments might constitute such a measure.

² A Commission Communication on the application of state aid rules to public service broadcasting lays down the interpretation of Article 86(2) of the EC Treaty in this sector (OJ C 320 of 15.11.2001).