

Commission Decision of 19 May 2004 on measures implemented by Denmark for TV2/Danmark (notified under document number C(2004) 1814) (Only the Danish text is authentic) (Text with EEA relevance) (2006/217/EC)

- Article 1 The aid granted between 1995 and 2002 to TV2/Danmark in...
Article 2 (1) Denmark shall take all the measures necessary to recover...
Article 3 Denmark shall inform the Commission within two months following notification...
Article 4 This Decision is addressed to the Kingdom of Denmark.

ANNEX

Information on the implementation of Commission Decision 2005/217/EC

1. CALCULATION OF THE AMOUNT TO BE RECOVERED
 - 1.1. Please provide the following details on the amount of unlawful...
 - 1.2. Please explain in detail how the interest to be paid...
2. MEASURES PLANNED AND ALREADY TAKEN TO RECOVER THE AID
 - 2.1. Please describe in detail what measures are planned and what...
 - 2.2. By what date will the recovery of the aid be...
3. RECOVERY ALREADY EFFECTED
 - 3.1. Please provide the following details on the amounts of aid...
 - 3.2. Please attach proof of repayment of the amounts of aid...

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- (1) OJ C 59, 14.3.2003, p. 2.
- (2) OJ C 320, 15.11.2001, p. 5.
- (3) See footnote 1.
- (4) By Act No 335 of 4 June 1986, which entered into force on 1 July 1986.
- (5) Act No 578 of 24 June 1994, as amended by Act No 666 of 5 July 1996, Act No 75 of 29 January 1997, Act No 138 of 19 February 1998, Act No 208 of 6 April 1999, Act No 551 of 20 June 2000, Act No 203 of 22 March 2001, Act No 701 of 15 July 2001 and Act No 1052 of 17 December 2002.
- (6) Section 18(1) of the Broadcasting Act.
- (7) Section 6a(2) of the Broadcasting Act.
- (8) Order No 1346 of 18 December 2000.
- (9) Order No 874 of 9 December 1998 on radio and television services provided by satellite or cable; Order No 1349 of 18 December 2000 on local radio and television services.
- (10) Section 6e and Section 6e(5) of the Broadcasting Act.
- (11) Order No 740 of 21 August 2001 on keeping separate accounts for Danmarks Radio's and TV2's public service activities and any other activities, adopted for the implementation of Commission Directive 2000/52/EC (OJ L 193, 29.7.2000, p. 75).
- (12) Sections 61 to 63 of the Broadcasting Act.
- (13) Section 38 of the Act on radio communications and the assignment of radio frequencies and Section 48 of the Radio Frequencies Act.
- (14) The Media Agreement 1997 to 2000.
- (15) Introduced by Act No 1208 of 27 December 1996 and incorporated in Section 60a of the 1997 version of the Broadcasting Act and repealed on 1 January 2002 by Act No 259 of 8 May 2002. The rate of the fee was set per inhabitant of the local area covered by the fee and increased every year.
- (16) Advertisers can purchase advertising time on Danish television stations on two bases: gross rating points (GRPs), which refer to the total audience of 12 years and over, or target rating points (TRPs), which refer to a narrower target group. TV2 is the only station in Denmark that also sells time on the basis of GRPs.
- (17) Judgment of the Court of 13 March 2001 Case C-379/98 *PreussenElektra AG v Schlesweg AG* [2001] ECR I-2099, in particular paragraph 61.
- (18) Judgment of the Court of 16 May 2000 Case C-83/98 *French Republic v Ladbroke Racing Ltd and Commission of the European Communities* [2000] ECR I-3271, paragraph 50.
- (19) See point 17 of the Communication from the Commission on the application of State aid rules to public service broadcasting and Commission Decision (EC) No 631/2001 of 22 May 2002 concerning the BBC licence fee.
- (20) See in particular paragraph 58.
- (21) Point 10 of the Commission Notice on the application of the State aid rules to measures relating to direct business taxation (OJ C 384, 10.12.1998, p. 3).
- (22) Point 2.1.2 of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 71, 11.3.2000, p. 7).
- (23) See Aid No NN 70/98, 'State aid to public broadcasting channels *Kinderkanal and Phoenix*' (OJ C 238, 21. 8.1999, p. 3).
- (24) Judgment of the Court of 24 July 2003 Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH, and Oberbundesanwalt beim Bundesverwaltungsgericht* [2003] ECR I-7747.
- (25) Judgment of the Court of 13 July 1988 Case 102/87 *French Republic v Commission of the European Communities* [1988] ECR 4067 and Order of the President of the Court of 17 March 1989 Case 303/88 *Italian Republic v Commission of the European Communities* [1989] ECR 801.

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- (26) Judgment of the Court of First Instance of 8 October 2002 Joined Cases T-185/00, T-216/00, T-299/00 and T-300/00 *Métropole Télévision SA (M6) (T-185/00), Antena 3 de Televisión, SA (T-216/00), Gestevisión Telecinco, SA (T-299/00) and SIC — Sociedade Independente de Comunicação, SA (T-300/00) v Commission of the European Communities* [2002] ECR II-3805.
- (27) Judgment of the Court of 17 September 1980 Case 730/79 *Philip Morris Holland BV v Commission of the European Communities* [1980] ECR 2671, paragraph 11; Judgment of the Court of 21 March 1991 Case C-303/88 *Italian Republic v Commission of the European Communities* [1991] ECR I-1433, paragraph 17; Judgment of the Court of 19 September 2000 Case C-156/98 *Federal Republic of Germany v Commission of the European Communities* [2000] ECR I-6857, paragraph 33.
- (28) *Altmark* see paragraphs 101 to 109.
- (29) Judgment of the Court of 27 March 1974 Case 127-73 *Belgische Radio en Televisie v SV SABAM and NV Fonior* [1974] ECR 313.
- (30) Recital 14 of Commission Decision 97/606/EC of 26 June 1997 pursuant to Article 90(3) of the EC Treaty on the exclusive right to broadcast television advertising in Flanders (OJ L 244, 6.9.1997, p. 18).
- (31) Commission Directive 2000/52/EC of 26 July 2000 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings (OJ L 193, 29.7.2000, p. 75).
- (32) Point 53 of the Broadcasting Communication.
- (33) For example, the profit margin on leasing masts is 100 %, on merchandising it has varied between 53,5 % and 100 %, on other programme sales the variation is 85,7 % to 92,3 %, while the margin for other sources of income varies between 62 % and 75 %.
- (34) Commission Decision 2004/339/EC of 15 October 2003 on the measures implemented by Italy for RAI SpA (OJ L 119, 23.4.2004, p. 1).
- (35) Judgment of the Court of 3 October 1991 Case C-261/89 *Italian Republic v Commission of the European Communities* [1991] ECR I-4437; Judgment of the Court of 14 September 1994 Joined Cases C-278/92, C-279/92 and C-280/92 *Kingdom of Spain v Commission of the European Communities* [1994] ECR I-4103.
- (36) Different categories of rating points, spot campaigns, etc.
- (37) The Gallup-meter system records how many gross rating points each station actually delivers. This figure has then been adjusted by the station to reflect TRPs delivered.
- (38) State aid C-60/99 (ex NN 167/95) France, *State aid in favour of France 2 and France 3*, 10 December 2003.
- (39) Both the Danish authorities and the complainant are of the opinion that the prices in Denmark can be compared best with other Northern countries as the market conditions are similar (size, viewing behaviour).
- (40) Figures were not yet available for 2002.
- (41) A major reason for the divide is the significantly smaller amount of time people in Nordic countries spent watching television. In Denmark average daily viewing was 156 minutes per capita in 2002 whereas it was 192 minutes in the EU.
- (42) In 2001 in the EU the fraction was highest in the southern Member States Portugal (60 %), Italy (54 %) and Greece (49 %). In the Netherlands (23 %), Finland (24 %), Austria (26 %) and Ireland (26 %) it turned out to be lower than in Denmark. In Sweden the share matched with that in Denmark
- (43) Television advertising expenditure as share of GDP were high in the southern countries as Portugal (6,66 ‰), Greece (4,04 ‰), Italy (3,22 ‰), and Spain (3,21 ‰).
- (44) Television advertising expenditure per capita was lower in 2001 in Finland (EUR 42) and Sweden (EUR 43) and at a similar level in the Netherlands (EUR 45). They were highest in the UK (EUR 90), Portugal (EUR 80) and Belgium (EUR 73).
- (45) CPM (cost per thousand) represents either the cost to generate 1 000 gross impressions within the group or the cost to reach 1 000 different individuals in the group.

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- (46) Television contact prices for Norway and Denmark are estimated on the basis of information from the local SBS station. The estimates for print media were provided by a media agency.
- (47) CPM for television is 13 in Denmark, 14 in Sweden and 18 in Norway.
- (48) CPM for print is 21 in Denmark, 17 in Sweden and 12 in Norway.

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