

New European Commission *de minimis* Regulation for SGEI

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Antitrust & Competition Practice

On 25 April 2012, the European Commission adopted a new *de minimis* regulation on compensation granted to companies that provide **services of general economic interest (SGEI)**. Under the new regulation, compensation granted by public authorities for the provision of SGEI will fall outside the scope of EU State aid law if it does not exceed €500,000 per company over three years, more than double the previous threshold of €200,000. This will reduce significantly the administrative burden for providers of SGEI and public authorities in EU Member States.

EU State aid law prohibits all forms of public funding to specific companies or industries, which confers a benefit on those companies or industries. There are no general exceptions but funding may be approved under certain circumstances by the European Commission after notification by the Member State.

The new *de minimis* regulation is the last piece of a new SGEI package that replaced the old 2005 package on 20 December 2011 when three of its four instruments came into effect (see our previous coverage [here](#)). The introduction of a specific *de minimis* rule was postponed after Member States criticised conditions in a previous draft relating to the turnover of the provider and the size of the local authority. These conditions have now been removed.

The SGEI package provides a general explanation of the basic concepts of State aid in relation to SGEI. It details the conditions under which compensation for SGEI is deemed to be compatible with EU State aid rules and thus exempt from the notification requirement. It also sets out the conditions under which public funding for SGEI service providers does not constitute State aid and therefore requires no notification. In addition, it provides guidelines for the assessment of SGEI compensation that is not exempted from the notification requirement and must be assessed individually.

It is essential for private companies that receive public funding for SGEI to know the rules and ensure they can keep the compensation they receive without the risk of infringing State aid rules. Because public authorities can structure their funding measures accordingly, the *de minimis* exemption is a valuable tool when the amount of public funding is limited. Public services and compensation for these services should be structured in a way that makes the most of the new SGEI package.

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