

EC EXPERT QUESTIONNAIRE ON THE EVALUATION OF THE BROADCASTING COMMUNICATION

BACKGROUND

On 6 October, the Commission published an expert questionnaire in the context of the [Communication from the Commission on the application of State aid rules to public service broadcasting](#) ("Broadcasting Communication") which sets out how EU State aid rules apply to the financing of public service broadcasting under Article 106(2) TFEU. This expert questionnaire complements the public consultation published at the same time. See below ACT draft response.

EXPERT QUESTIONNAIRE

Scope, role of public service broadcasting and legal context (points 1 to 22 of the Broadcasting Communication)

Introduction and scope (points 1 to 8 of the Broadcasting Communication)

Question 1. In your view, has the Broadcasting Communication contributed to preserving a level playing field between public service broadcasters and private operators?

- Totally
- Partially
- **Neutral**
- Not at all
- Not applicable/no relevant experience or knowledge

See ACT answers further below throughout this questionnaire.

Please elaborate your answer (2000 character(s) max)

Question 2. Does the Broadcasting Communication adequately respond to market developments that have taken place since 2009?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

See ACT answers further below throughout this questionnaire.

Question 3. Does the Broadcasting Communication adequately respond to technological developments that have taken place since 2009?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

See ACT answers further below throughout this questionnaire.

Please elaborate your answer (2000 character(s) max)

Question 4. Footnote 8 of the Broadcasting Communication sets out that *“For the purpose of the present communication, the notion of ‘audiovisual service(s)’ refers to the linear and/or non-linear distribution of audio and/or audiovisual content and of other neighbouring services such as online text-based information services. This notion of ‘audiovisual service(s)’ must be distinguished from the narrower concept of ‘audiovisual media service(s)’, as defined in Article 1(a) of the Audiovisual Media Services Directive.”* Insofar as the definition does not evolve in the AVMS-D, the answer is “yes”. Should the forthcoming review change this, this development would need to be reflected.

In your view, is the above definition of ‘audiovisual service(s)’ within the context of the Broadcasting Communication still adequate today?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Insofar as the definition does not evolve in the AVMS-D, the answer would remain “yes”. Should the upcoming review change this, it would have to be reflected. It is definitely important that non-linear services are included and remain included in the review as PSBs are evolving more and more into this (highly competitive) field.

The role of public service broadcasting (points 9 to 16 of the Broadcasting Communication)

Question 5. Points 9 to 16 of the Broadcasting Communication describe the role of public service broadcasting. In your view, is this description still adequate today?

- Yes, but...
- No
- Not applicable/no relevant experience or knowledge

It should be noted that there should be no unlimited expansion of PSB offerings in the digital world. PSBs have more and more evolved into digital offerings, incl. availability on third party platforms. This should be reflected in their role and requires a precision of the PSBs’ remit, including quantitative limits.

Legal context (points 17 to 19 of the Broadcasting Communication)

Question 6. In your view, how well does the Broadcasting Communication respond to the legal developments in this sector that have taken place since 2009 (e.g., EU Courts case law, Commission decision practice, EU legislative and regulatory framework)?

- Very well
- Rather well
- Neutral
- Rather not well
- Not well
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The 2009 Communication does not provide sufficient clarity on how the public service remit applies to new media platforms and cross-border digital environments. Since 2009, PSBs increasingly

distribute content on global commercial platforms (e.g., YouTube) and monetise it through online advertising. This raises two issues insufficiently addressed today: (1) whether advertising-funded distribution on third-party platforms forms part of the public service mission, whether respective limits are effectively controlled and bypassing is prevented or constitutes a commercial activity requiring strict separation and transparency; and (2) how Member States should delimit the territorial scope of the remit when distribution occurs on platforms accessible outside the entrusting State's territory. Future guidance should provide objective criteria to define when platform-based activities fall within the remit, ensure revenue transparency, and require Member States to justify the public value of such activities while assessing their competitive impact on commercial broadcasters. Further, political developments in certain Member States that have led to the politicization of public service media in these Member States is concerning; whereby aid or measures equating to State aid have been set to prop up a political agenda or unfairly impact commercial players that are seen as not politically aligned with the government.

Applicability of Article 107(1) TFEU [previously Article 87(1) EC Treaty] (points 20 to 31 of the Broadcasting Communication)

For ease of reference for ACT members, Article 107(1) reads as follows:

Article 107

(ex Article 87 TEC)

1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

State aid character of State financing of public service broadcasters (points 20 to 24 of the Broadcasting Communication)

Question 7. In your view, does the Broadcasting Communication provide clear and sufficient guidance regarding the interpretation of Article 107(1) on what constitutes State aid in the context of public service broadcasting?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Question 8. Do you consider that the criteria used to determine whether funding to public service broadcasters constitutes State aid remain appropriate and relevant?

- Yes, but...
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The criteria remain conceptually sound but still arguably insufficient for today's digital environment. They might not fully capture monetisation on third-party platforms, data-driven advertising models, or cross-border commercialisation. These gaps risk under-identifying hidden commercial advantages enjoyed by PSBs operating beyond their original remit or territory. Updated criteria should explicitly address platform-based revenue, algorithmic optimisation, and cross-border ad substitution to ensure competitive neutrality. Further, State aid can also take many forms by creating new barriers to freely operate, inform and/or entertain that affect the ability of non-public actors to deliver media pluralism.

Nature of the aid: existing aid as opposed to new aid (points 25 to 31 of the Broadcasting Communication)

Question 9. In your view, does the Broadcasting Communication provide clear and sufficient guidance regarding the qualification of aid to public service broadcasters as existing or new?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The current application of net-cost methodologies does not sufficiently capture revenues and cost savings derived from new media monetisation. When PSBs upload content to platforms with advertising or data-driven monetisation, these revenues may not be fully incorporated into the net-cost calculation, increasing the risk of hidden over-compensation. In addition, the lack of visibility into cross-border advertising substitution (ad-swapping) can distort competition in neighbouring markets, where commercial broadcasters face competition from publicly funded content monetised locally. To ensure fair competition, future guidance should mandate comprehensive revenue disclosure, platform-level reporting, inclusion of all digital revenues in the net-cost model, and independent verification of cost allocation for hybrid PSB/commercial activities.

Question 10. Is the guidance provided by the Broadcasting Communication on this issue still appropriate today, taking into account the market, technological, legal developments that have taken place since 2009?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Transparency is insufficient in several Member States, particularly regarding separation of accounts and disclosure of digital and cross-border revenues. PSBs increasingly engage in platform-based distribution and targeted advertising, but financial reporting often aggregates these revenues with traditional activities, preventing third parties from assessing whether public funding subsidises commercial operations. Cross-border retransmission and ad-replacement practices also lack transparency, as revenue flows and cost allocations are often undisclosed. A future Communication should impose minimum transparency standards, including: (1) standalone reporting for digital and platform-based activities; (2) disclosure of cross-border revenue streams; (3) detailed cost allocation methodologies; and (4) public availability of annual compliance reports to allow effective third-party scrutiny.

Question 11. Would additional guidance on the qualification of aid as existing or new be useful, for example regarding the introduction of new services by public service broadcasters or regarding other aspects?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The rules on new media are sometimes outdated and lack the granularity needed to address today's platform-driven ecosystem. The 2009 Communication assumes Member States will conduct ex ante tests for significant new services, yet many digital expansions—e.g., YouTube channels, short-form video publishing, personalised feeds, algorithmically optimised content—are introduced without structured assessment. These activities may (in certain Member States) generate advertising income, impact commercial media, or extend PSB influence beyond national borders. A future framework should: (1) define what constitutes a “significant” digital service; (2) require ex ante tests for monetised platform distribution; (3) mandate stakeholder consultation for digital expansions; and (4) limit inclusion of commercially optimised platform activities within the public service remit unless clearly justified by public value. Further, the banning, censorship (or excessive impediments) to commercial players that are inconsistent with the EU *acquis* should be assimilated as State aid.

Question 12. In your experience, were there any practical difficulties in determining whether aid to public service broadcasters qualifies as existing or new in your Member State?

- Yes
- No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

Several developments since 2009 are not adequately addressed in the current framework. First, the rise of global platforms (YouTube, Meta, TikTok) enables PSBs to monetise content internationally, creating new revenue streams and potential market distortions. Second, cross-border retransmission combined with local ad-swapping alters competitive dynamics in adjacent markets sharing the same language. Third, algorithmic distribution and personalised recommendation systems affect media pluralism and competition, yet fall outside the remit definition and ex ante tests. Fourth, the absence of minimum reporting thresholds allows Member States to treat compliance qualitatively, impeding effective oversight. A future Communication should explicitly address platform-based monetisation, cross-border spillovers, algorithmic distribution, and require harmonised reporting standards to ensure transparency and protect competition.

Furthermore, Member States instruments must ensure that competition issues by private broadcasters and streamers can be adequately addressed, esp. when it comes to markets effects.

Assessment of the compatibility of State aid under Article 107(3) TFEU [previously Article 87(3) EC Treaty] (points 32 to 35 of the Broadcasting Communication)

Question 13. According to point 35 of the Broadcasting Communication, “Unless a funding measure is specifically aimed at promoting cultural objectives, Article 87(3)(d) would generally not be relevant”. In your view, does this statement remain adequate?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Assessment of the compatibility of State aid under Article 106(2) TFEU [previously Article 86(2) EC Treaty] (points 36 to 97 of the Broadcasting Communication)

Definition of public service remit (points 43 to 53 of the Broadcasting Communication)

Question 14. In your view, does the Broadcasting Communication provide clear and sufficient guidance on the definition of the public service remit?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The guidance is arguably no longer sufficiently clear given digital expansion and cross-border reach. Many PSBs undertake monetised activities on global platforms or publish extensive online content without clear linkage to democratic, social, or cultural needs. The Communication should require measurable remit obligations, explicit treatment of digital platforms, and safeguards against territorial spillovers, ensuring that remit definitions remain proportionate and do not distort adjacent markets.

Furthermore, it needs to be ensured that PSBs shall not be able to set up a commercial product through their subsidiary companies. Changes in the digital value chain lead to more competition in the exploitation of rights. Where there is sufficient commercial interest and offerings, PSBs shall not interfere with their own commercial models.

Question 15. Is the definition of public service remit (as set out in the Broadcasting Communication) still adequate, in light of the market and/or technological developments that have taken place since 2009?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Technological and market developments have outpaced the 2009 remit definition. It does not anticipate algorithmic distribution, platform-based monetisation, personalised feeds, or globally accessible content. As a result, Member States apply divergent standards, allowing some PSBs to fold commercial, ad-funded online activities into the remit. Updated guidance should distinguish public-value digital services from commercially optimised activities and clarify territorial limitations. Effective control of existing limitations of the PSB remit on MS level should be exercised. In certain

MS, recently introduced limitations are not exercised (e.g. the remit should be broad and not primarily focus on commercially relevant content, esp. in prime time).

Question 16. Does the Broadcasting Communication adequately explain when the definition of the public service remit would be considered a manifest error?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The notion of manifest error is too abstract to guide practical assessment. It provides limited help in situations where PSBs expand into commercial digital markets, publish text-based portals, or monetise content abroad. Manifest errors should include unjustified extensions into revenue-driven platform activities, remit additions lacking measurable public value, or services that foreseeably distort competition in neighbouring linguistic markets.

Question 17. Would additional guidance on the definition of public service remit be useful?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Question 18. In your experience, were there any practical difficulties in determining the activities covered by the public service remit and activities falling outside the public service remit in your Member State?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Arguably, yes. Determining which digital activities fall inside or outside the remit is increasingly difficult. PSBs often classify monetised online channels, text-rich portals, and social-media services as public service extensions without measurable justification. Cross-border distribution—especially where local ad substitution occurs—further complicates classification. There have been attempts to bypass MS limitations (e.g. no online advertising, limited exploitation of non-EU content online) through commercial operations of subsidiary companies or through vague definitions of legitimate content. Clearer EU-level criteria are needed to distinguish public-value services from commercial expansions.

Entrustment and supervision (points 50 to 55 of the Broadcasting Communication)

Question 19. In your view, has the Broadcasting Communication provided clear and sufficient guidance regarding the requirement of entrustment of public service broadcasters?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

It could be improved. Entrustment guidance lacks the specificity needed for a digital ecosystem. Entrustment acts often omit measurable KPIs, revenue reporting, or limits on platform activities. They rarely address cross-border distribution, enabling PSBs to monetise content in neighbouring linguistic markets without scrutiny. Updated rules should require explicit digital obligations, platform-level reporting, and assessment of territorial spillovers.

Question 20. Does the Broadcasting Communication provide clear and sufficient guidance on the requirements that must be met, if the Member State decides to extend the scope of the public service remit to cover new services? For more detailed questions on this issue, please see the questions related to the section “Diversification of public broadcasting services” here below.

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The existing guidance is insufficient for assessing new digital services. Many PSB expansions—monetised YouTube channels, short-form video strands, personalised content—are launched without ex ante evaluation. Future rules should define what constitutes a new service, require notification when monetisation is involved, mandate stakeholder consultation, and include special scrutiny for cross-border or platform-based services. In addition, there should also be the possibility of quantitative limits to new (online) services (comparable to channel limits in linear offerings) to exclude the danger of overcompensation.

Question 21. In your experience, were there any practical difficulties in applying the Broadcasting Communication’s requirements regarding the entrustment of public service remit in your Member State?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

Yes. Entrustment acts often lack enforceable metrics, making compliance assessments difficult. Digital and platform-based activities are frequently self-classified as public service services without independent verification. Cross-border retransmission with local ad substitution is rarely addressed, despite its competitive impact. Stronger requirements for KPIs, reporting, and cross-border impact assessments are needed.

Question 22. Points 53 to 55 of the Broadcasting Communication set out the guidance regarding the requirements on effective supervision of the fulfilment of public service obligations. In your view, is this guidance still adequate today?

- Yes, but...
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Supervision mechanisms were designed for linear broadcasting and do not reflect the complexity of digital markets. Supervisors often lack access to granular revenue data, platform algorithms, or targeting information. Without measurable KPIs, authorities cannot meaningfully assess whether PSBs comply with their remit or distort competition.

The basic principles (53 to 55) still apply. Supervision should be fully independent from State and PSBs.

Question 23. Do these provisions on supervision sufficiently address the need to ensure that the public service mission is carried out as mandated?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

No. The provisions do not ensure effective oversight in practice. Supervision often remains qualitative and self-reported, insufficient for monitoring monetised digital services, personalised feeds, or cross-border spillovers.

Question 24. Would additional guidance/clarification on the supervision requirement be useful?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Supervisory bodies need explicit rights to request digital revenue data, platform-level metrics, algorithmic information, and cross-border audience data. Updated guidance should establish EU-wide minimum standards for supervision.

Question 25. In your experience, were there any practical difficulties in the application of the requirements regarding the effective supervision of public service remit in your Member State?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

In certain MS there have been cases of clear mismanagement and lack of control, to a certain extent also regarding the (insufficient) level of transparency (publicity of supervision meetings). emit limitations by supervisory bodies.

Choice of funding of public service broadcasting (points 56 to 59 of the Broadcasting Communication)

Question 26. In your view, has the Broadcasting Communication provided clear and sufficient guidance on the various categories of funding schemes for the financing of public broadcasting?

- **Yes**

- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Transparency requirements for the State aid assessment (points 60 to 69 of the Broadcasting Communication)

Question 27. In your view, does the Broadcasting Communication provide clear and sufficient guidance on the requirements of financial transparency?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Financial transparency guidance is outdated. Digital revenues, especially from third-party platforms, are often not separately disclosed, and cost allocation for hybrid activities lacks consistency. This limits the ability of regulators and competitors to identify cross-subsidisation. Enhanced transparency rules should require platform-level reporting, disaggregated digital revenues, and clear cost allocation methodologies.

Question 28. Have the financial transparency requirements adequately addressed the need to ensure the proportionality of public funding of public service broadcasters?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Financial transparency requirements need to be clear enough to prevent bypassing, e.g. through subsidiary companies. The allocation of costs must be on a sufficiently detailed level.**Question 29.** Do the provisions on the separation of costs (in points 65 to 68 of the Broadcasting Communication) provide clear and sufficient guidance?

- Yes
- No
- **Not applicable/no relevant experience or knowledge**

See Q 28 above

Please elaborate your answer (2000 character(s) max)

Question 30. According to point 69 of the Broadcasting Communication, *“The Commission considers that financial transparency can be further enhanced by an adequate separation between public service and non-public service activities at the level of the organisation of the public service broadcaster. Functional or structural separation normally makes it easier to avoid cross-subsidisation of commercial activities from the outset and to ensure transfer pricing and the respect of the arm’s length principle. Therefore, the Commission invites Member States to consider functional or structural separation of*

significant and severable commercial activities, as a form of best practice.” In your view, does this provision continue to be relevant still today?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Yes, and the provision is more relevant today than in 2009. Functional or structural separation of commercial activities is essential to prevent cross-subsidisation in digital markets. Platform-based monetisation, targeted advertising, and cross-border distribution make separation more—not less—important. The Communication should strengthen this recommendation and require separation where commercial income is significant.

Net cost principle and overcompensation (points 70 to 76 of the Broadcasting Communication)

Question 31. In your view, does the Broadcasting Communication provide clear and sufficient guidance on how to define the amount of compensation for the public service broadcasters?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The guidance does not adequately address how digital and platform-based revenues should be factored into compensation. Many PSBs generate income from advertising on third-party platforms, yet these revenues are not always included in net-cost calculations. This creates risks of over-compensation and market distortion. Updated rules should mandate inclusion of all digital and cross-border revenues in the net-cost model.

Question 32. Do you consider the possibility provided by the Broadcasting Communication to retain yearly overcompensation above the net costs of the public service (as public service reserves) still adequate today?

- Yes
- No
- Not applicable/no relevant experience or knowledge

In the absence of a sufficient transparency level, the risk of over-compensation or cross-subsidisation increases. A reserve level of 10 % seems to high.

Question 33. In your experience, were there any practical difficulties in applying the Broadcasting Communication’s requirements regarding the net cost principle and overcompensation in your Member State?

- Yes
- No
- Not applicable/no relevant experience or knowledge

See Q32 above.

If yes, please provide examples and describe these difficulties (2000 character(s) max)

Financial control mechanisms (points 77 to 79 of the Broadcasting Communication)

Question 34. In your view, does the Broadcasting Communication provide clear and sufficient guidance on the financial control mechanisms?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The guidance does not provide sufficient detail on monitoring digital activities, platform-based revenues, or cross-border spillovers. Financial controls were designed for linear broadcasting and do not reflect the complexity of hybrid models. Modern financial oversight requires granular reporting on digital revenues, cost allocation, and cross-border activities, as well as mandatory independent verification.

Question 35. Has the requirement to have an external body, independent from the public service broadcaster, been adequate to ensure effective control?

- Yes
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

External bodies improve oversight but often lack the mandate or expertise to analyse digital monetisation, algorithmic distribution, or cross-border targeting. Independence alone is insufficient without robust data access and analytical capacity. Updated rules should specify minimum competencies and powers required for effective digital-era supervision.

Question 36. In your experience, were there any practical difficulties in applying the Broadcasting Communication's requirements regarding financial control mechanisms in your Member State?

- Yes
- No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

Diversification of public broadcasting services (points 80 to 91 of the Broadcasting Communication)

Question 37. In your view, does the Broadcasting Communication provide clear and sufficient guidance on the diversification of public broadcasting services

- Yes, but...
- No
- Not applicable/no relevant experience or knowledge

Guidance is clear, but the practise has shown that the possibility of a technology neutral diversification has led to an excessive supply of digital PSB offerings in certain Member States (e.g. podcasts, social media presences). There should be limiting rules of PSB content on third party platforms.

Please elaborate your answer (2000 character(s) max)

Question 38. Points 84 to 91 of the Broadcasting Communication contain provisions regarding the prior evaluation procedure that must be carried out by Member States, when they envisage significant new audiovisual services. In your view, do these provisions provide clear and sufficient guidance?

- Yes
- No
- ☒ Not applicable/no relevant experience or knowledge

Ex ante-tests in certain MS can provide guidance. Yet, MS definitions on the applicability of these tests are not always sufficient or lack of quantitative restrictions in the non-linear world. Private broadcasters and streamers should be effectively heard ex ante on any market distortion issues.

Please elaborate your answer (2000 character(s) max)

Question 39. According to point 85 of the Broadcasting Communication, *“It is up to the Member States to determine, taking into account the characteristics and the evolution of the broadcasting market, as well as the range of services already offered by the public service broadcaster, what shall qualify as ‘significant new service’. The ‘new’ nature of an activity may depend among others on its content as well as on the modalities of consumption(51). The ‘significance’ of the service may take into account for instance the financial resources required for its development and the expected impact on demand. Significant modifications to existing services shall be subject to the same assessment as significant new services.”* In your view, is the notion of ‘significant new audiovisual services’ as defined above sufficiently clear?

- Yes
- ☒ No
- ☒ Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Question 40. In your experience, were there any practical difficulties in applying the Broadcasting Communication’s requirements regarding diversification of public broadcasting services in your Member State?

- Yes
- ☒ No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

See answer to Q 37.

Proportionality and market behaviour (points 92 to 97 of the Broadcasting Communication)

Question 41. In your view, does the Broadcasting Communication provide clear and sufficient guidance on the proportionality and market behaviour?

- Yes
- **No**
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

The guidance does not sufficiently address proportionality or market behaviour in digital and cross-border contexts. PSBs increasingly compete with commercial operators on monetised platforms, using public resources to gain visibility and scale. Cross-border distribution with local ad substitution further distorts competition. Updated guidance is needed to define acceptable conduct and prevent undue market interference.

In addition, it is (still) positive and valid that the Communication addresses the issue of “premium rights” incl. proportionality. PSBs should not use remit revenues to fuel their offers with commercially attractive content on a highly competitive market (fiction, sports rights). Instead there could be models of effective cooperation and sublicensing of rights to commercial operators.

Reference to „Altmark Trans“ criteria is positive, but needs transparent cost allocation on a sufficiently detailed level.

Question 42. In your experience, were there any practical difficulties in applying the Broadcasting Communication’s requirements regarding proportionality and market behaviour in your Member State?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

If yes, please provide examples and describe these difficulties (2000 character(s) max)

Difficulties arise where PSBs enter digital advertising markets or distribute content into neighbouring linguistic territories. Without clear boundaries or reporting obligations, PSBs may engage in commercially aggressive practices inconsistent with proportionality. Regulators require clearer rules to assess whether behaviour aligns with public-service obligations.

Final remarks

Question 43. Do you have any other suggestions/comments?

- **Yes**
- No
- Not applicable/no relevant experience or knowledge

Please elaborate your answer (2000 character(s) max)

Future guidance should prioritise digital transparency, clear remit boundaries, cross-border safeguards, and measurable KPIs for supervision. PSBs should not be allowed to monetise publicly funded content on commercial platforms without full revenue disclosure and strict separation from public-service funding. Cross-border ad substitution requires particular scrutiny.

Tbd here or Q 44: general remarks on the importance of a functioning “dual system” between PSBs and private broadcasters which is in the interest of any pluralistic EU approach.

Question 44. Please list any other competition/State aid concerns you may have in relation to public service broadcasting (*2000 character(s) max*):