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### Discussion Paper

## **Services of general interest strengthen democracy and social cohesion**

We,

- the Association of Public Service Broadcasters in Germany (*ARD*), Deutschlandradio and Deutsche Welle,
- the Federal Association of Non-Statutory Welfare (*Bundesarbeitsgemeinschaft der freien Wohlfahrtspflege*),
- the Federal Association of German Housing and Real Estate Enterprises (*Bundesverband deutscher Wohnungs- und Immobilienunternehmen*),
- the German Cultural Council (*Deutscher Kulturrat*),
- the German Rural District Association (*Deutscher Landkreistag*),
- the German Association of Cities (*Deutscher Städtetag*),
- the German Association of Towns and Municipalities (*Deutscher Städte- und Gemeindebund*),
- the German Association for Public and Private Welfare (*Deutscher Verein für öffentliche und private Fürsorge*) and
- the German Association of Local Utilities (*Verband kommunaler Unternehmen*)

have jointly discussed and formulated the following statements and are seeking dialogue with the competent actors involved in national and European policy and legislation. We are guided

in this by the fundamental idea that the importance of preserving and promoting the concept of general interest must be at the heart of present and future societal debates. For this purpose we want to do our part and create opportunities to shape the dialogue with the participation of the public. It is our common wish that the following positions give rise to substantial exchanges amongst all interested stakeholders.

### **The diversity of general interest in the social market economy**

Services of general interest are at the heart of the German and European economic, social and legal systems. Services of general interest include basic services in areas such as water, sewerage and waste management, housing, energy provision, public transport, health, social, youth and family affairs, culture and broadcasting. In Germany they are traditionally provided by institutions such as cities, rural districts, municipalities and their public enterprises, non-profit/welfare organizations, churches, cultural institutions and public service broadcasters. Services of general interest are essential to our society as a whole and all its members. They enable participation and promote social justice and democratic coexistence. They help create a decent way of life and are essential factors for solidarity and cohesion in our society. The market alone does not create a socially acceptable order. Services of general interest are therefore an essential foundation of the social market economy. The challenge for policy-makers and legislators is to ensure that they are developed in a targeted and sustainable way.

### **Efficient, cost-effective, transparent and tailor-made services for all**

Against the backdrop of the global financial and economic crisis, a re-evaluation of services of general interest is needed. The constant criticisms of the services themselves and their public and non-profit providers that accompany general trends of deregulation, liberalization and privatization, are often unfounded and inaccurate in their generality. In the public debate about these services of general interest their providers are repeatedly accused of inefficiency and lack of transparency, flexibility and modernity. In reality, however, providers of services of general interest are facing up to change in the economy and society in many ways. They reform and adapt themselves within a constantly altering environment in order to be able to continue to offer extensive high quality services on competitive terms. It is in the interest of society as a whole that they are secured in their capacity to develop and to prosper. Providers and producers of services of general interest are obliged to operate efficiently, economically and transparently, especially in times of scarce public resources. And, indeed, they are acting accordingly. It is also true that they have to offer their services in a way that enables them to cover their costs. It has to be acknowledged that competition and an economically-oriented perspective for the sector of services of general interest can have a positive impact, for example in terms of efficiency and cost consciousness. Entrepreneurial thinking and acting

can also play a productive role in this sector. This thinking and acting must, however, be aimed at securing and further developing high-quality services of general interest. The forced application of a pure market philosophy would be harmful to the interests of society as a whole. Where institutions of general interest operate in the market, they are subject to the rules of national and European competition law. These should, however, not be applied in a way that would run counter to the very provision of those services. The principle of subsidiarity must be respected. The Member States themselves as well as their regional and local authorities have a crucial role to play in shaping services of general interest.

### **Comprehensive and continuous quality services beyond what is feasible on the market**

What is needed is a rebalancing of the relationship between the state and the private sector in the respect of the concept of general interest. The guarantee by the European Union, the Member States and their administrative subdivisions for the provision of services of general interest in the above-mentioned areas will not be effective and duly delivered as required and desired by society, if their implementation was handled solely by private companies and the "functioning market" and "competition" were to become the prevailing standards for the appraisal of the range and quality of those services. The market orientation of private companies cannot adequately satisfy the needs of society in the sufficient provision of these services, neither quantitatively nor qualitatively. Quality and scope of the comprehensive provision of services of general interest go far beyond what can be refinanced on the market. Their provision is much more than just compensation for market failure. Hence, in order to sustain comprehensive and continuous service provision public and non-profit providers are needed which must be able to refinance themselves appropriately and to continue to exist in competition with private sector providers. Due action in favour of the concept of general interest at national, regional and local levels is of particular importance especially in times of economic crisis. The upheaval accompanying the current global economic and financial crisis, in Europe and nationally, strongly underlines this. Setting a course against a broad basic political sense and the societal interest in this context would undermine social peace and democracy. It is therefore important to provide effective public services which are aimed primarily at meeting social needs (*citizens' value*) rather than at focussing on economic profit maximisation (*shareholders' value*). Ultimately, a prosperous economy requires well-functioning and efficient systems of general interest. As part of a functioning infrastructure, they are an important prerequisite for the success of economic and entrepreneurial activities in Germany and Europe.

### **Broad leeway for need-based and diverse services of general interest**

In Germany, there is a variety of well-developed structures and facilities of general interest. They significantly contribute to the continuous provision of these services for a decent way of

life. They are at the core of what is provided by society in order to serve the general interest in modern, efficient and democratic state systems. The quality, variety and effectiveness of services of general interest are safeguarded in many ways. Firstly, there needs to be an appropriate consideration of what defines and constitutes a given service of general interest, and how and by whom it is to be entrusted to a service provider. Within this context it is important to ensure sufficient room of manoeuvre for the entrusted organisations and institutions in terms of discretion and decision-making, as they act against the background of their detailed knowledge and experience of conditions at the respective service level. Finally, there has to be public supervision of the due process to contract, provide and finance these services. An overly restrictive contracting and commissioning of services, however, would reduce the organisational autonomy of the service providers in a way running the risk to jeopardise any adequate service provision. This would also be contrary to institutional and organizational self-government rights which are enshrined in national constitutional and European law.

### **Services of general interest for democratic accountability, participation and inclusion**

An appropriate regulatory framework will make it possible to secure both comprehensive and targeted public services for the long term. Private sector actors cannot and sometimes do not wish to see themselves committed in the same extent to the general interest and being subordinated to respective public supervision. It is precisely by entrusting services of general interest to public and non-profit institutions that social needs can continuously, comprehensively and sustainably be satisfied, while at the same time pursuing the fulfilment of general interests and thus organizing democratic monitoring, involvement and participation.

### **Regulated competition for community-based services**

The aim of market liberalization and deregulation in the European Union, not least the breaking up of previously public monopolies, is to achieve regulated competition to foster diverse, high-quality, affordable, community-based, consumer-friendly and universal services. That presupposes an effective application of competition law in the EU and the Member States. The increased dominance of private companies as a result of the liberalization and deregulation processes runs counter to these objectives. The advocates of deregulation and liberalization are called upon to explain these developments. In any event the providers of public services represent diverse, community-based offers for all citizens based on the concept of general interest.

### **For the preservation and promotion of existing and well functioning systems of general interest**

It is important to preserve and strengthen efficient systems of general interest in the EU Member States. Their social relevance is recognized nationally and at the European level and safeguarded by appropriate legal and political measures. Where the systems of general interest function well at the national level, they must not be jeopardized by European regulation. The supervision over - potential or actual - abuses in Member States' decisions should remain under the auspices of the European Commission, yet at the same time, the Member States should have extensive leeway for decision-making. In cases where national systems of general interest are not yet sufficiently developed, the key precepts for action, even in the light of European competition and state aid rules, should not necessarily be based on deregulation and liberalization, but rather on the reform of service systems and their providers. Also, in this context the subsidiarity principle applies.

### **Conclusion**

We, the signatories of this discussion paper, are convinced that with respect to our existing responsibilities for services of general interest a purely market-oriented solution is incapable of ensuring their comprehensive and sustainable provision. Although in some areas the market-based approach of recent decades has overcome rigidities and led to efficiency gains, general and blanket accusations of comprehensive and industry-specific mismanagement in services of general interest are nevertheless unfounded. The signatories stand for high quality, comprehensive, transparent and diverse services for society, whose fundamental basis is their commitment to the concept of general interest. In order to ensure their effective provision, it needs public and non-profit service providers. This also requires responsible political and legislative action by the relevant decision-makers at all levels in the European Union, its Member States and their subdivisions, who are committed to these principles of the concept of general interest. The signatories call on the policy makers and competent legislative authorities responsible to engage in dialogue on these matters.