Social Housing as SGEI

Manifest error
Social housing is fully in line with the basic objectives of the EC-Treaty. It is a legitimate element of public policy and as it is limited to what is necessary it is in the interest of the Community that social housing is supported ».

Mario Monti Commissioner Competition

... what is necessary ?
Social Housing Friendly

Social = Poor
Overcapacity – Manifest error

I don’t want to be a Housing Minister
3 Options for SOCIAL HOUSING PUBLIC SUPPORTS

- **SH : a non-economic activity** > time limited « informal understanding » between DG COMP and UK to let SH in this grey zone in order to avoid any notification process on this merit good, no longer applying.

- **SH : a common economic activity** – art.107 > obligation of notification to the Commission > small and time limited supports to develop affordable housing in an open way to every interested investors (ex swedish regime for elderly or students, new draft reform of the « public communal housing » following a complaint on illegal State Aids to public municipal housing undertakings).

- **SH : a SGEI** – art.106.2 > exemption from notification under conditions > a permanent regime of compensation to SH Undertakings entrusted with a particular mission of general interest (ex the « SGEI » of social housing in FR, D, DK, ITA, AUT, UK or NL) > legal act of SGEI entustrment + manifest error of qualification SH as SGEI (EC narrow scope of SH).
EC Definitions of SH as SGEI based on IRL case 2001

- **DG COMP Decision on State Aid in IRL (2001)**: "Beneficiaries of these measures are **socially disadvantaged households** whose economic circumstances do not permit them to purchase or rent houses on the open market". *(Irish conception of social housing)*

- **DG COMP letter to the NL (2005)**: « Public service have a social character. The definition of SH undertaking activities must have a direct link with **socially disadvantaged households**, social housing for others households is not a public service, an overcapacity of supply of SH must be avoided by the selling of those dwellings ». *(transposition of the Irish conception to the Dutch one)*

- **DG COMP Monti-Kroes package of November 2005**: « undertakings in charge of social housing providing housing:
  - for **disadvantaged citizens**,
  - or **socially less advantaged groups** which due to solvability constraints are unable to obtain housing at market conditions »

- **DG EMPL SSIG Communication (2006)**: « social housing as housing for **disadvantaged persons** or **socially less advantaged groups** »

- **DG COMP Decision on NL (2009)**: "Limitation of social housing to a clearly defined target group of **disadvantaged citizens** or **socially less advantaged groups**"
Article 1

The shared values of the Union in respect of SGEI within the meaning of Article 14 TFEU include in particular:

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising SGEI as closely as possible to the needs of the users;

- the diversity between various SGEI and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;

- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.
MS SH / 1000 inhabitants – manifest error

Swedish reform: Public Housing under art.107 (no SGEI)
Dutch draft reform: SGEI only under 33.000 euros users income
French case: Income ceilings are to high
Who’s next? Austria, Denmark, Finland, UK?

DG COMP manifest error of SGEI test
DG COMP genuine SGEI test
only socially disadvantaged households

Art.107
Art.106.2
**Residual conception**
Exclusion from Housing market

**Generalist conception**
Income ceiling and/or priority

**Universal conception**
No income ceiling
Priority or Reservation

**Exclusion**

**Exclusion + difficulties to access including workers**

**Exclusion + difficulties to access + others (equalisation – mix)**

**33.000 euros**
SGEI Art.106.2 non SGEI - Art.107

**LOCAL HOUSING MARKET**

**MS Social Housing conceptions**