

European Commission
Competition DG
Place Madou, Madouplein 1
1210 Saint-Josse-ten-Noode /Sint-Joost-ten-Noode
Belgium

Subject: SA.62830 - State aid to public service broadcaster YLE for VOD and online learning services

With reference to the matter SA.62830 on State aid to public service broadcaster YLE for VOD and online learning services, Finland asks for permission to disclose the Commission's document COMP/C4/KK/ASz/ao D(2021)046215 pursuant to Article 5 of Regulation (EC) No 1049/2001¹. Finland submits that, in this particular case, there is an overriding public interest in disclosure of the related letter and annexes to it for securing a public debate in the matter.

We refer here above all to the identification of an "overriding public interest" pursuant to Article 4(2) of Regulation 1049/2001. We have great respect towards the Commission's longstanding and firm main rule of confidentiality of documents under this rule, and our intention here is by no means to negate that. Our intention here is, rather, to point to the case law of the Court of Justice according to which the notion of "public interest" should be subject to a balancing of interests.² In the matter at hand, there is a need to balance the interest to be protected by non-disclosure against, in particular, the right to freedom of speech and a broad and open public debate. In our view, Regulation 2015/1589³ should not prevent a broad and open public debate in this matter, either.

More specifically, disclosure of the document in question is important in order to protect the right to freedom of speech, and for allowing a broad and open public debate of the matter, especially given that decisions regarding the Finnish public broadcasting company are made by the Finnish Parliament. What is more, a previous Finnish state aid complaint by Medialiitto already raised a need for a wide (public) discussion. This new complaint by Sanoma has already featured in several Finnish medias. By securing a broad and open public debate, we would also thus have better possibilities for a more thorough review of the matter. Finally, in our national law, we have a broad freedom of information regime, which includes for instance a duty to produce and disseminate information for public authorities.⁴ This duty of promotion of openness is something that we take extremely seriously.

We remain waiting for your response in this important matter.

Yours faithfully,

Olli-Pekka Rantala
Director General
Services Department

Sini Wirén
Head of Unit
Basic Services Unit

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents OJ L 145, 31.5.2001, p. 43–48.

² See e.g. Joined cases C-39/05 P and C-52/05 P. Kingdom of Sweden and Maurizio Turco v Council of the European Union, see especially para. 45.

³ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification).

⁴ Finnish Act on the Openness of Government Activities 1999/621, section 20.