

**Administrator**  
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European Commission  
Directorate-General Competition

**Re.: Evaluation of SGEI rules applicable to health and social services and the SGEI de minimis Regulation - Public consultation**

*The following response constitutes the official position of the Swedish Union of Tenants<sup>1</sup> regarding the Evaluation of SGEI rules applicable to health and social services and the SGEI de minimis Regulation - Public consultation.*

Currently there is no conclusive evidence to suggest that entirely market-based rental housing systems in Europe function any better than those that fully or partially regulate rents. Nor can it be said that dual rental systems – consisting of a market-based rental sector in combination with a social housing sector with regulated rents (e.g. UK, France) – yield better outcomes in terms of affordable rents, availability of good quality housing in close vicinity to labour markets than more universal systems (e.g. Sweden).

Housing is a merit good that individuals or a society should have access to based on a concept of need, rather than the ability and willingness to pay. The benefits to society of consumption of the good is simply greater than the individual him- or herself would be aware of or would prioritise. Unlike a private good, that has clear and immediate benefits to the individual consumer, the individual consumer will not be fully aware of the effects that housing has on his/her life. For instance, very few individuals will be aware that his/her own chances of social mobility or health status, or those of his/her children, might be affected by where geographically he/she lives or the quality of housing he/she lives in. Nor will the individual be aware of, at the time of consumption, that his/her housing consumption will have external benefits to society. For instance, the fact that the closer the person lives to an active labour market and/or in the vicinity of public transport, the greater the chances are that he/she will find a job and thus contribute tax revenue to society instead of drawing on societal means through e.g. an unemployment benefit.

Research on social mobility and urban planning<sup>2</sup> indicates that increased density of cities also means economic, social and ecological benefits to society and individuals. This suggests that society can justifiably ensure access to housing to citizens from a societal perspective.

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<sup>1</sup> The Swedish Union of Tenants have 534 000 household members and represent 3 million tenants in annual collective bargaining of rents in Sweden.

<sup>2</sup> <http://www.equality-of-opportunity.org/>

The housing market is affected by various market failures which need to be addressed either through regulation, incentives or sanctions. For instance, the physical planning of housing is usually not a competitive, unregulated market, and nor can it be in order to e.g. minimize harm to consumers or to avoid corruption. In the extreme cases, like in Sweden, local municipalities have a monopoly over planning whereas in most countries it is shared between central, regional and/or local public entities.

EU competition law provides for certain exemptions to the state aid notification requirements for social housing providers. However, the conditions for such exemptions remain very strict. Undertakings with a general service interest mission is allowed to provide assistance only *”for disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions”*<sup>3</sup>. Such a strictly limited definition of the target group has, not only created an unstable legal environment for the social housing sector and a major obstacle to achieving social cohesion as outlined in the Europe 2020 strategy, it has also proven a formidable obstacle to developing the affordable housing sector with reasonably priced housing made available to European Union citizens.

The problems relating to the very narrow interpretation of social housing as laid down in the SGEI rules, have been pointed out by a number of institutions during the last few years:

- In 2012, the European Economic and Social Committee, adopted an opinion highlighting the *“Issues with defining social housing as a service of general economic interest”*. The adopted opinion made a specific call for a legal framework *”favorable to the development of social housing in the EU”*, and that such a framework would address *”the specific needs of the sector”*<sup>4</sup>.
- In 2013 the Committee of Regions (CoR) launched a petition *“for a European social housing action framework”*. The petition called for the EU to allow local authorities to freely determine *”how social housing is organized and which households are eligible”* and to consider social housing as a productive investment.
- In 2013 a European Parliament own initiative report on social housing<sup>5</sup> in the EU was approved. The report highlighted how investing in social housing is more than ever a need, as it contributes to social inclusion, economic growth and environmental objectives. The report also asked the European Commission to set up an action framework for social housing in the EU in order to ensure consistency between the existing measures.

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<sup>3</sup> Commission decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU), recital 11.

<sup>4</sup> Opinion of the European Economic and Social Committee on ‘Issues with defining social housing as a service of general economic interest’ (own-initiative opinion), OJ C 44, 15.2.2013, p. 53–58.

<sup>5</sup> <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0155+0+DOC+XML+V0//EN>

The current design of the competition rules, in particular the rules applicable to SGEIs, where they so clearly seem to support a social housing model which is aimed at only residual needs (i.e. the individuals with the most acute need and the least ability to cater for their own needs) on the housing market, and thereby excluding large swathes of consumers, seems to be in contradiction with the very foundational principles of the European Union: the freedom of movement of the labour force. Soaring costs of housing expenditure would seem to put at risk the inclination of EU labourers to take the risky step of finding and accepting gainful employment in another EU country. The possible effect being that only the most well off would be capable of taking such a step.

The alternative to the above would be policies where opportunities for maximizing home ownership would be encouraged. However, research seems to suggest that home-ownership tends to decrease labour mobility due to lock-in effects in combination with higher transaction costs. Furthermore, increased home ownership may act as a wealth generator only for those households having been lucky enough to get on the property ladder at the right time.

The Swedish model on the housing market is based on a principle of universalism and general welfare and exists within a system built on solidarity. Social housing in the continental style, i.e. where access is means tested, does not exist. Rental levels are set according to the so-called utility value system under which rents are negotiated collectively on an annual basis and anyone has the opportunity of getting a rental contract in the entire stock without means testing.

However, since the financial crisis in the early 1990's the system has been under constant challenge and gradually municipal investment in constructing affordable rental housing has decreased, as a result of abolished state subsidies. This has happened without any modifications to the municipal legal obligation of ensuring availability of appropriate housing for the needs. Amendments of the Law (2010:879) on public utility municipal housing companies<sup>6</sup> followed in 2010. The purpose of the amendments of the law was to better harmonise it with the requirements of the EU competition law requirements. Consequently, the municipal enterprises were made to apply the same businesslike principles as the commercial sector, with some degree of maneuverability.

However, the combined effect of the Swedish 1990's crisis and the application of businesslike principles on municipal housing companies have had the effect of severely limiting construction and availability of affordable rental housing on the Swedish housing market. Instead, commercial interests have gradually invested in the premium segment of the housing market, effectively pricing out large segments of the Swedish consumers, at the same time as housing shortage has become global.

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<sup>6</sup> Lag (2010:879) om allmännyttiga kommunala bostadsaktiebolag.

From a competition policy point of view, currently the Swedish system on the housing market is surrounded by, on the one hand: the limitations as defined in the general block exemption regulation, which provides for certain exemptions in the form of environmental as well as certain infrastructure investments. On the other side: the rules relating to SGEIs limit investments into housing aimed at only disadvantaged citizens. To enable the housing market to better take into account the needs of citizens, the SGEI definition would need to be broadened to allow stakeholders on the local and regional markets to independently determine the needs of affordable housing.

With the EU member state adoption of the Social Pillar, it seems the EU institutions also have come to recognise housing as a service of general interest not only on the national level, but also the on the EU level. In the light of this, it appears illogical for the SGEI rules to limit the possibility of supporting construction of reasonably priced housing.

Finally, the Swedish Union of Tenants is in favour of tenure neutral policies. We are also firm believers that each EU member state should be free to choose which model should be applicable on the housing market, be it a residual, means-tested, or a universal model.

### **About the Swedish Union of Tenants**

The Swedish Union of Tenants is a democratic membership organisation for current and future tenants. We are politically independent and in excess of half a million households are members. This makes us one of the largest social movements in Sweden and also the main representative of tenants across the country. Our mission is everyone's right to quality housing at a reasonable cost. In addition, all tenants should be guaranteed accommodation that is secure over which they have influence in the context of their community.

The Swedish Union of Tenants negotiates for any tenant requiring our assistance – we represent nine out of ten rented households in the collective bargaining process. Each year more than 100,000 members require advice and help from the organisation in their dealings with landlords. Approximately 10,000 members have also chosen to get involved as elected representatives.

More information: <https://www.hyresgastforeningen.se/in-other-languages/>

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