

Unauthorized translation

Executive Order on subsidies for the distribution of daily newspapers

EXECUTIVE ORDER no. 1310 of 26/11/2007 (In force)

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Executive Order on subsidies for the distribution of daily newspapers

Pursuant to Sections 6 (5), Section 7 and Section 12 (1) in Act no. 570 of 9 June 2006 on subsidies for the distribution of daily newspapers, the following is laid down:

Criteria for subsidy

1. Subsidies are given to publishers for the distribution of commercially published daily newspapers in Denmark and from Denmark to the Faroe Islands and Greenland.

(2) The following conditions must be satisfied in order to be granted a subsidy under Subsection (1).

- 1) The newspaper must be published on at least five weekdays a week.
- 2) The newspaper must be aimed at a broad range of readers and must not be aimed at specific sectors or groups of specialists, members of individual political parties or associations.
- 3) At least half of the newspaper's content must consist of editorial material (i.e. not advertisements) in the form of articles, etc. within a broad range of subject matter and including reporting on current affairs, such that at least half of the editorial content must deal with political, socially related and cultural topics. At least one third of the editorial content must be produced independently by journalists with a view to being published in the publication in question.

(3) It is permitted for a newspaper not to be published for up to three consecutive weeks in June, July or August if the publisher notifies the Danish Library Agency of this, cf. Section 5. The publisher may change the weekly publishing pattern in connection with public holidays, if the publisher notifies the Danish Library Agency of this, cf. Section 5.

(4) The subsidy is calculated solely with reference to weekday copies that are distributed by subscription.

(5) A subscription is covered by the subsidy scheme if an agreement exists between a publisher and an end user to the effect that the end user has the copy delivered to his home address. An agreement to the effect that the publisher delivers a copy to a recipient with a view to the copy being forwarded to an end user, e.g. in the form of resale, is not covered by the subsidy scheme. It must be possible for the subscriber freely to cancel the subscription, and a subscription may thus not be linked in a compulsory way to other relationships such as, e.g. membership of an association or an employment arrangement,

between publisher and subscriber. For a subscription arrangement to be covered by the subsidy scheme it is a condition that the subscriber actively renews his subscription at least once a year, e.g. by means of payment. As far as free newspapers covered by the subsidy scheme are concerned, confirmation must be made in writing.

(6) If a subscription is taken out by a subscriber on behalf of another person as the end user, a copy covered by the subscription may be included in the scheme if the following conditions are satisfied:

- 1) the publisher sends the copy to the end user
- 2) the end user makes an independent decision to maintain the subscription, and
- 3) the end user confirms this at least once a year to the party that took out the subscription or the publisher.

(7) A newspaper that is distributed door-to-door anywhere, regardless of whether an agreement has been concluded between publisher and end user, is not covered by the subsidy scheme.

(8) Subsection 7 does not apply where copies are distributed door-to-door as part of temporary campaigns, or where a newspaper is distributed door-to-door once or twice a week, regardless of whether an agreement has been concluded between publisher and end user.

(9) Evaluation of a newspaper's content is performed in the form of an overall evaluation based on a number of issues each year. The evaluation is performed in connection with application and possibly during the subsidy year.

2. Subsidies are awarded to:

- 1) Morning newspapers with national coverage. This means a newspaper with an editorial deadline that is normally no earlier than 18:00 on the date immediately prior to the publication date and that is normally printed before 05:00 in the morning, and distribution of which takes place throughout the whole country on the publication date; and that in at least six of eleven publication districts, cf. Dansk Oplagskontrol, have a coverage rate (i.e. circulation in relation to number of households) of at least 0.1 per cent.
- 2) Afternoon newspapers with national coverage. This means a newspaper that is not a morning newspaper, and distribution of which takes place throughout the whole country on the publication date; and that in at least six of eleven publication districts, cf. Dansk Oplagskontrol, have a coverage rate (i.e. circulation in relation to number of households) of at least 0.1 per cent.
- 3) Morning newspapers without national coverage. This means a newspaper with an editorial deadline that is normally no earlier than 18:00 on the date immediately prior to the publication date and that is normally printed before 05:00 in the morning, and that does not have national coverage.
- 4) Afternoon newspapers without national coverage. This means a newspaper that is not a morning newspaper and that does not have national coverage.

(2) A newspaper may also mean several titles that share a main editorial office and/or the editorial content of which is predominantly the same and/or has joint circulation figures registered with Dansk Oplagskontrol.

3. Subsidies are awarded from three schemes: a primary scheme, a permanent supplementary scheme and a temporary five-year transitional scheme.

(2) It is a precondition for receiving a subsidy from any of the three schemes that the price of a subscription is defined independently of a subscriber's geographical place of residence.

(3) The total subsidy to a publisher of a newspaper under the schemes mentioned in Subsection (1) may constitute a maximum of 85 per cent of total costs for distribution of copies eligible for subsidy.

(4) The total distribution costs may include direct and indirect documentable costs for distribution of copies that are covered by the scheme in question.

The primary scheme

4. Subsidy rates are calculated according to a system of points on the basis of information about the number of weekday copies distributed by subscription every year as well as the amount allocated for this purpose by the Danish Finance Act for the year in question.

(2) The individual publications are awarded the following points for each issue that is eligible for a subsidy:

- 1) Morning newspapers with national coverage: 2.28 points
- 2) Afternoon newspapers with national coverage: 1.86 points
- 3) Morning newspapers without national coverage: 1.86 points
- 4) Afternoon newspapers without national coverage: 0.70 points

(3) Subsidies may be awarded as a maximum for the distribution of 7.2 million copies per annum.

5. Every year, within a deadline defined by the Danish Library Agency, publishers of every newspaper for the distribution of which a subsidy is being applied for pursuant to this Act must submit an application to the Danish Library Agency. The application must satisfy the following conditions:

- 1) The application must document that the newspaper satisfies the newspaper criteria described in Section 1 (2).
- 2) The application must contain a forecast of the number of copies with entitlement to a subsidy that are expected to be distributed by subscription for the following calendar year.

(2) On the basis of the information submitted pursuant to Subsection (1), the Danish Library Agency calculates provisional subsidy rates in accordance with Section 4 for the four kinds of newspapers under the primary scheme.

(3) The provisional subsidy rates are announced to publishers as far as possible at the beginning of December, with a view to applying them to the quarterly payments of subsidies during the following calendar year, cf. Subsection (4).

(4) Quarterly payments take place on the basis of the following conditions:

- 1) At the end of each quarter the publishers report the number of copies eligible for subsidy for each newspaper during the quarter. The reports must have been received no later than eight working days after the end of the quarter.
- 2) On the basis of the reported number of copies and the calculated provisional subsidy rates, the Danish Library Agency pays the subsidies on account to the individual publishers no later than one month after the end of the quarter.
- 3) When the total number of copies has been reported after the end of fourth quarter, the Danish Library Agency may, if the circumstances support this, make any necessary

corrections to subsidies for this quarter, in order to make sure that the total payments of subsidies do not exceed the appropriation under the Danish Finance Act.

The supplementary scheme

6. Subsidies may be paid under the supplementary scheme by application with a view to promoting diversity in the range of newspapers available.

(2) This covers newspapers that receive subsidies under the primary scheme, and that otherwise satisfy one of the following criteria:

1) The newspaper is a small newspaper with national coverage, where the proportion of editorial content (i.e. not advertisements) constitutes at least 75 per cent. A 'small newspaper' means a newspaper with a total daily circulation of less than 50,000 copies. The total daily circulation figure includes both copies that are eligible for a subsidy and copies that are not eligible for a subsidy.

2) The newspaper is aimed at a national minority in Denmark.

(3) The subsidy is calculated by defining a fixed rate per copy within the scheme that is eligible for a subsidy. The rate is calculated by defining the size of the appropriation under the Danish Finance Act in relation to the total number of copies that are eligible for a subsidy.

7. The application is submitted to the Danish Library Agency within a deadline set by the Danish Library Agency. The application must satisfy the following conditions:

1) The application must document that the newspaper satisfies the criteria described in Section 6 (2).

2) The application must contain a forecast of the number of copies that are eligible for a subsidy and that are expected to be distributed by subscription for the following calendar year.

(2) On the basis of the information reported pursuant to Subsection (1), the Danish Library Agency calculates provisional subsidy rates under the supplementary scheme pursuant to Section 6 (3).

(3) The provisional subsidy rates are announced to publishers as far as possible at the beginning of December, with a view to applying them to the quarterly payments of subsidies during the following calendar year, cf. Subsection (4).

(4) Quarterly payments take place on the basis of the following conditions:

1) At the end of each quarter the publishers report the number of copies that are eligible for a subsidy for each newspaper during the quarter. The reports must have been received no later than eight working days after the end of the quarter.

2) On the basis of the reported number of copies and the calculated provisional subsidy rates, the Danish Library Agency pays the subsidies on account to the individual publishers no later than one month after the end of the quarter.

3) When the total number of copies has been reported after the end of fourth quarter, the Danish Library Agency may, if the circumstances support this, make any necessary corrections to subsidies for this quarter, in order to make sure that the total payments of subsidies do not exceed the appropriation under the Danish Finance Act.

Calculation of subsidies under the primary scheme and the supplementary scheme after the end of the subsidy year

8. Before 1 April in the year after the subsidy year, the publisher must submit documentation of the number of copies eligible for a subsidy in Denmark, including the Faroe Islands and Greenland, as well as documentation of total distribution costs in connection with the copies of the newspaper eligible for subsidy. This documentation must be undersigned by the publisher's auditor.

(2) More detailed rules on documentation are laid down by the Danish Library Agency.

(3) On the basis of the documentation submitted, the Danish Library Agency produces an annual statement of:

1) The amount available under the schemes corresponding to the appropriation under the Danish Finance Act for the year in question.

2) The total number of copies eligible for the subsidy under the schemes.

(4) On the basis of the annual statement, cf. Subsection (3), the Danish Library Agency calculates the final subsidy rates using the methods described in Section 4 and Section 6

(3). The final subsidy rates are used to calculate the subsidies that the individual publisher was entitled to receive during the previous calendar year with reference to the restriction in Section 3 (3).

(5) Any unused funds under the supplementary scheme are transferred to the primary scheme for use in the same subsidy year.

The transitional scheme

9. Under the transitional scheme a subsidy may be awarded upon application to publishers whose finances are affected in a particularly negative way by the redistribution of the subsidy for the distribution of newspapers. The following conditions must be satisfied in order to receive a subsidy:

1) The publisher of the newspaper must document that the total distribution costs per distributed copy eligible for a subsidy, minus any subsidy under the primary scheme and the supplementary scheme, has risen by at least ten per cent in relation to the distribution costs per copy distributed under the previously valid publication subsidy scheme.

2) Applicants must submit a plan that indicates the likelihood of the creation of a basis for financially sustainable operations after the cessation of a temporary subsidy from the transitional scheme.

(2) The application is submitted to the Danish Library Agency within a deadline set by the Danish Library Agency.

(3) For a group of companies that publishes several newspapers, an evaluation of whether the percentage mentioned in Subsection 1 (1) has been exceeded is performed jointly for the eligible newspapers published by the group of companies. A definition of the concept of group of companies can be seen in the Companies Act Section 2.

(4) The size of the subsidy is laid down proportionately with reference to the size of the annual appropriation under the Danish Finance Act and to the costs exceeding the percentage specified in Subsection (1), paragraph 1. Subsidies awarded to the individual recipients may not exceed the actual extra costs incurred as mentioned in Subsection (1), paragraph 1.

(5) Any unused funds in a subsidy year are transferred to the primary scheme for use in the same subsidy year.

(6) Payment of subsidies from the transitional scheme takes place after the end of the subsidy year when the allocation committee, cf. Section 13, has concluded its review of the actual activities during the year, and the total subsidy from the primary scheme and the supplementary scheme has been calculated.

(7) In the case of newspapers that commence publication after the Act came into force, a calculation model is used according to which the allocation committee performs an assessment of the nature of the publication, and on the basis of this defines the number of copies that are to be included in a calculated increase in distribution costs.

Final payment

10. Final payment of the subsidy under the schemes mentioned above takes place jointly, when the allocation committee has concluded its review of the year's actual activities, and the joint subsidy from the three subsidy schemes has been calculated. The subsidy is paid for a calendar year.

(2) Any differences in conditions for the subsidies that the publishers have received during the course of the year in the form of payments on account are corrected at the same time.

(3) If changes in the individual newspapers' circumstances support it, or if the publisher does not undertake the envisaged activity, any subsidies already paid out or parts thereof must be repaid. Payment of subsidy can cease and any illegitimate paid subsidy be reclaimed at a time when, based on a collective assessment it must be considered obvious that the basis for subsidy no longer exists.

(4) If it emerges from the result of the final calculation that a recipient of a subsidy has been paid a greater amount on account than the amount for which the party in question is eligible, the amount overpaid may be claimed back in the form of a repayment or set off against the following year's subsidy.

11. In cases where the publisher is unable to document the number of distributed copies eligible for subsidy, or which expenses were associated with distribution, the subsidy will be claimed back in the form of a full or partial repayment.

Administrative provisions

12. Administration of the subsidy schemes is undertaken by the Danish Library Agency.

(2) It is a condition for the publisher of a newspaper to be able to receive a subsidy in a given financial year that the publisher provides the information required for allocation and payment on an application form, which is available from the Danish Library Agency. It is also a condition that the form is received by the Agency within a deadline that is specified each year.

(3) The correctness of the information on the application form is confirmed by the publisher's signature. It is the responsibility of the applicants to inform the Danish Library Agency immediately of any changes. If it is a desire that the subsidy be paid to someone other than the publisher, the publisher must declare this to the Danish Library Agency.

(4) Applicants and recipients of subsidies must moreover submit any information that the Danish Library Agency requests in connection with the processing of applications for subsidies and the administration of the regulations in this Executive Order.

13. An allocation committee decides, on the basis of the information submitted, whether a publisher of a newspaper is eligible for a subsidy under the provisions in Sections 1-10. The committee has the ultimate administrative authority.

(2) The committee consists of a chairman and four members, appointed by the Minister for Culture. None of the committee's members may be representatives of or employed by, or have significant personal (including financial) interests in individual publishing houses or distribution companies. The committee's term of office shall be four years.

(3) The chairman of the committee is appointed directly by the Minister for Culture. The chairman must be a legal expert and have an insight into the information business.

(4) The Minister for Culture also appoints a member with broadly acknowledged expertise on business economic conditions.

(5) One member is appointed at the recommendation of the Danish Newspaper Publishers' Association.

(6) One member is appointed at the recommendation of the Danish Union of Journalists.

(7) One member is appointed at the recommendation of the Association of the Danish Specialised Press.

(8) The Danish Library Agency provides secretarial assistance for the committee.

Commencement

14. This Executive Order shall come into force on 5 December 2007.

(2) Executive Order no. 1508 of 14 December 2006 on subsidy for the distribution of newspapers is simultaneously repealed.

Ministry of Culture, 26 November 2007

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