



Information, questions and answers relating to public services in the context of the package approach

General
<ul style="list-style-type: none">➤ <i>Public service provision in Switzerland can be maintained. Even under the package approach, core public services are not comprehensively and automatically subject to EU state aid rules.</i>➤ <i>The relevant factor is the scope of the single market agreements between Switzerland and the EU that contain state aid provisions. The sole sectors concerned are electricity, air transport and overland transport. Only here would state aid provisions apply.</i>➤ <i>Public services also remain possible in the area of these agreements, as not all support measures are classed as state aid (e.g. if there is no entrepreneurial activity at all or if no cross-border impact on trade is foreseeable).</i>➤ <i>Moreover, EU state aid rules include a large and dense network of exemptions, in particular for what are known as 'services of general economic interest' (e.g. emergency services, hospitals, childcare, social housing).</i>➤ <i>State support measures should be possible and come into play where the market does not work. Where it does play a role, however, it is also in a competitive Switzerland's interest to minimise distortions of competition arising from state support measures. Aid monitoring can help with this.</i>
General public service provision and state aid
<p>How will the package approach ensure that public service provision is not affected, e.g. in areas such as education, childcare, social housing, culture (museums, events, etc.) or sport (clubs, swimming pools)?</p> <ul style="list-style-type: none">➤ <i>In relations with the EU, the question of public service provision only arises where there is a single market agreement containing state aid provisions.</i>➤ <i>There is no such agreement in areas such as public education, childcare, social housing, culture or sport. The package approach therefore does not affect public services in these areas.</i>➤ <i>Furthermore, even within the EU, state aid rules provide for extensive exemptions, most notably in the area of public services (in EU language: 'services of general economic interest').</i> <p>Would state guarantees for cantonal banks/building insurers still be possible under the state aid rules?</p> <ul style="list-style-type: none">➤ <i>Yes. Neither the state guarantee for cantonal banks nor the building insurers are affected. There are no single market agreements with the EU in these areas.</i> <p>Would public service mandates and compensation for postal services be affected by state aid monitoring?</p> <ul style="list-style-type: none">➤ <i>No. Switzerland does not have a bilateral agreement with the EU that covers postal services.</i> <p>Would public services provided by the communes be affected (water supply, waste disposal, etc.)?</p> <ul style="list-style-type: none">➤ <i>No. There is no bilateral agreement with the EU in these areas.</i>➤ <i>Furthermore, even within the EU, state aid rules provide for extensive exemptions, most notably in the area of public services (in EU language: 'services of general economic interest').</i>

Would the structuring of federal and cantonal taxes be affected by adoption of the EU state aid rules? Would the fiscal autonomy of the Confederation, cantons and communes be guaranteed?

- *Yes. Fiscal autonomy remains guaranteed: each canton and commune can continue to have its own tax system.*
- *However, if, for example, selective tax incentives are granted within this system to individual companies, this could constitute aid that is not compatible with state aid rules.*
- *But here too, the basic prerequisite would be that it must involve a sector in which Switzerland and the EU have concluded an agreement that includes state aid rules.*

Overland transport

Will public service provision (national and regional transport) in Switzerland be affected by the possible adoption of EU state aid rules in the Overland Transport Agreement (OTA)?

- *No. Purely national transport (public service transport), i.e. transport exclusively within Switzerland, is not covered by the OTA.*
- *Only within the current scope of application of the OTA could state aid rules become applicable. This agreement concerns international road and rail transport (freight and passenger transport).*
- *In addition, there are numerous exceptions and justifications for state aid in EU state aid law, e.g. for compensation for public transport, and for promoting the transfer of traffic from road to rail.*

How could the pay and conditions of train personnel be affected? What about bus and other public transport drivers?

- *When issuing licences or concessions, Switzerland can stipulate employment standards for staff of all rail companies (Swiss and EU) that operate cross-border services into and out of Switzerland.*
- *Irrespective of the registration and licensing procedure, the cantonal tripartite commissions can already monitor local and industry-standard pay and working conditions under current law. This also applies to bus drivers, who are already subject to the posting regulations.*

Can key elements of Swiss public transport, such as regular-interval timetables and integrated ticketing in rail transport, be protected from the dynamic adoption of EU law?

- *Yes. Regular-interval timetables and integrated ticketing are major achievements of the Swiss rail system, which are to be safeguarded as exemptions from the dynamic adoption of EU law.*

Will a train travelling from Germany to Switzerland be able to pick up passengers in Switzerland?

- *Yes. This is already possible today, but only in cooperation with SBB (prohibition of cabotage). Once it has crossed the border, the train is considered to be an SBB service.*

The EU expects Switzerland to open up international rail passenger transport between Switzerland and the EU (opening of the market for international passenger transport; IPT). What would the consequences be?

- *Market opening of IPT means that EU companies could offer transport services to Switzerland on their own account and in their own name (e.g. Berlin–Frankfurt–Freiburg–Basel–Bern), including 'cabotage as a secondary purpose', without being obliged to cooperate with Swiss railway undertakings. The same right would also apply to Swiss railway undertakings in other EU countries.*
- *However, SBB's cooperation with EU railway undertakings can also be continued and expanded in the event of IPT market opening. Even in the EU (in all our neighbouring countries), the majority of IPT is still provided under cooperation agreements.*
- *Switzerland can also stipulate social standards in favour of employees for all railway companies (Swiss and EU, such as Flixbus) when granting licences or concessions. Wages and working conditions in line with local and industry standards can continue to be monitored.*

- *Regular-interval timetables and integrated ticketing would remain guaranteed even if the IPT market were to be opened up.*

Health

Why is a health agreement important for Switzerland?

- *Close cooperation across borders is necessary to tackle serious cross-border health threats in Europe. The COVID-19 crisis provided a reminder of this. Switzerland currently has no access to the relevant EU health crisis mechanisms.*
- *The envisaged health agreement aims primarily to strengthen cooperation with the EU in the area of public health and to enable Switzerland to participate in EU networks and mechanisms relevant to crisis management. This would allow Switzerland to strengthen its early warning and response capabilities and better protect the health of the Swiss population. Such cooperation is important not only in crisis situations but also for crisis prevention.*

What impact would a new health agreement have on public service provision in the healthcare sector? Would healthcare in Switzerland be affected?

- *The health agreement that Switzerland is seeking to conclude will have no impact on public service provision in the healthcare sector. Switzerland would still be able to organise and finance its health system as it sees fit.*
- *For Switzerland, the focus is on health security. This would enable Switzerland to participate in the mechanisms for dealing with cross-border health threats, the European Centre for Disease Prevention and Control (ECDC) and the EU's multi-annual health programme (EU4Health).*
- *The organisation and financing of healthcare systems are the responsibility of individual EU member states. The EU Commission merely has a supporting role.*

Would Swiss hospitals be obliged to admit foreign patients?

- *No. There is no general obligation to admit foreign patients.*
- *However, foreign patients may already be treated in Swiss hospitals on the basis of the Agreement on the Free Movement of Persons. However, hospitals are able to take capacity constraints into account and charge the usual costs.*

Is there a risk of a deterioration in pay conditions for care staff?

- *No. No negative impact on wages in the healthcare sector is envisaged as a result of a health agreement.*
- *Even with such an agreement, Switzerland would continue to be responsible for the organisation and financing of its own healthcare system.*

How would a health agreement affect the cantons' hospital lists? Would European hospitals have to be included on the lists?

- *There is nothing to suggest that the health agreement will have any impact on the cantons' hospital lists.*

Electricity

How will liberalisation of the Swiss electricity market benefit end consumers?

- *Switzerland will implement the liberalisation of the electricity market with an elective model. This means that households will have the choice of remaining in the basic supply or switching to the free market.*

- *Households and SMEs that opt for the free market will also be given the opportunity to switch back to the basic supply under certain conditions.*
- *On the free market, households and SMEs can benefit directly from low electricity prices. However, prices can also rise rapidly. The prices of basic suppliers will remain regulated. This protects households and SMEs to a certain extent from major price fluctuations.*
- *Today, households and SMEs are not only restricted in their choice of supplier, but often also in their choice of type of electricity. This will change if the market is opened up.*
- *Market opening also has other advantages:*
 - *Competition would increase the pressure on electricity suppliers to make better and cheaper offers to households and SMEs. At present, competition only exists for major customers.*
 - *Opening up the electricity market will enable end consumers to choose from a wider range of innovative products (e.g. with regard to the integration of renewables, heat pumps and e-mobility).*
 - *Opening up the electricity market will enable the sale and exchange of locally generated electricity ('Quartierstrom') without having to meet specific requirements.*

What effect will an electricity agreement have on local structures in the electricity sector?

- *There are currently around 610 integrated electricity suppliers in Switzerland, with an obligation to supply the country's 2,136 communes.*
- *Digitalisation and efficiency gains are already leading to market consolidation. This means that small, local electricity companies will merge or become part of a larger energy company.*
- *Liberalisation of the electricity market would open up suppliers to competition for electricity supply, which should lead to greater consolidation. This opens up the possibility of very small electricity suppliers merging to form a larger company at a regional level, for example, in order to position themselves more professionally with regard to market liberalisation.*
- *System operation remains a monopoly, however, even under electricity market liberalisation, and cross-subsidisation of system operation and electricity supply is already prohibited under current law.*

Subsidies to promote renewable energies would no longer be permitted under an electricity agreement. This would jeopardise security of supply.

- *That is not the case. The promotion of renewable energies is permitted as a matter of principle in the EU. The new 'sliding market premium' instrument also exists in EU member states (e.g. Germany¹) and should be compatible with an electricity agreement and the state aid provisions it contains.*
- *Under EU state aid rules, fixed operating subsidies such as the current 'market premium for large-scale hydropower plants' are not permitted.² However, in the present market environment with high electricity prices, market premiums are no longer being paid out in Switzerland.*
- *Switzerland is physically closely integrated in the European electricity system. Cooperation with the EU is therefore key to ensuring security of supply and electricity trading.*

In 2022, the federal government created a new winter reserve (hydropower reserve, reserve power plants). Is it compatible with an electricity agreement?

- *EU internal electricity market rules also allow national measures to ensure security of supply, as long as they can be justified. Several EU member states also have reserve power plants.*
- *The hydropower reserve and the reserve power plants in Switzerland were designed closely in line with EU requirements. In addition, they are only used in extreme situations outside the market in order to avoid distortions of competition.*

¹ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5811

² See the guidelines applying to operating subsidies: Communication from the EU Commission 31.7.2014, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1.

- *Discussions regarding the compatibility of the reserves with EU law must be conducted as part of the electricity negotiations. It is possible that the EU will demand adjustments to the structure of the reserves to make them compatible with EU law.*

Would state guarantees for power plants still be possible?

- *The Swiss electricity industry is almost entirely publicly owned. Public ownership is also widespread in the EU's internal electricity market, without posing problems (cf. municipal utilities (Stadtwerke) in Germany/Austria and EDF in France). Measures to restructure/rescue companies in difficulty are also possible under EU law.*
- *However, whether any explicit or implicit state guarantee could constitute state aid and whether it would be permissible depends on its form and would have to be examined on a case-by-case basis.*

Could consumers remain with basic supply under an electricity agreement?

- *Yes. With the elective model, households and SMEs can continue to benefit from a basic supply at regulated electricity prices and with price controls. Switching to the free market is voluntary. Depending on the legal arrangements, it will also be possible to switch back to the basic supply at a later date.*
- *Switzerland would not need exemptions in order to introduce an elective model and maintain the basic supply. EU law allows member states to introduce regulated electricity prices for households and businesses below a certain consumption threshold, and a number of EU countries make use of this option.*
- *Following electricity market opening, the elective model will also give end consumers the opportunity to freely choose their electricity supplier. This will allow them to benefit from a wider range of offers and innovative products (e.g. relating to the integration of renewables, heat pumps and e-mobility).*