Explanatory note on the reform of the childcare benefit system in the Netherlands – 30 June 2026

1. Introduction

In November 2024 and June 2025, two informal talks took place between the European Commission (EC), DG Competition, and the Dutch Ministry of Social Affairs and Employment on the reform of the Dutch childcare benefit system which is foreseen to be implemented in 2029. Based on these informal talks, the Dutch government concluded that the new system involves a risk of State aid and that the establishment of a service of general economic interest (SGEI) could serve as an appropriate solution. In the upcoming informal meeting on 30 June 2026, we would like to explain our plans and reflect on these with the EC. In addition, as the intended SGEI establishment has led to resistance in a part of the national childcare sector, we would also like to exchange thoughts on the alternatives proposed by the sector and elaborate on the possibilities to broaden support for the establishment of a SGEI.

Section 2 gives an overview of the State aid criteria accompanied by our assessment. Subsequently, section 3 will elaborate on which instruments, in addition to SGEI, have been considered to ensure permissible State aid. Section 4 then discusses our interpretation of the SGEI. In section 5, the position and response of a part of the sector regarding the envisaged SGEI designation will be further explained. Possible points for discussion are included in each section of this paper.

Key points of the childcare benefit system reform (recap)
- High income-independent childcare allowance for working parents.
- The childcare allowance is paid directly to the childcare organisations in the form of a subsidy.
- Shifting risks and responsibilities from parents to childcare organisations and the government.

2. State aid criteria

The Dutch authorities have assessed the five cumulative conditions for the presence of State aid and concluded that this involves a significant risk of State aid. The Dutch government assesses that the new benefit system fulfils four of the five conditions and that there is a significant chance that the last condition (i.e. selectivity) will also be met. As mentioned in the previous informal exchange, part of the sector argues that there is no State aid risk. This discussion with the sector, which is still ongoing, concerns the conditions of *economic advantage* and *selectivity.*

Part of the sector argues that childcare organisations do not receive *an economic advantage,* but act as a conduit where the advantage exclusively benefits parents. We do, however, consider that childcare organisations receive an economic advantage. These parties receive subsidies (childcare allowance) for the economic service they perform. The subsidy increases the demand and the use of childcare. This increases their turnover and possibly also their profits. In addition, parties can set their own rates.

Part of the sector also argues that there is no *selectivity* because the childcare allowance is available to all childcare organisations on equal terms and no other undertakings are in a comparable situation to childcare organisations from the point of view of the objective of the Childcare Act.[1] We have indicated two levels of selectivity.

- Sectoral selectivity: in principle, *all* undertakings are to bear their own costs. When the government removes a 'burden' for a certain group of companies with a subsidy (in this situation:

[1]See, for example, CJEU judgment of 14 December 2023, C-693/21 P and C-698/21 P, ECLI:EU:C:2023:989 (EDP Espana SA), paragraph 71.

childcare), there is a selective advantage for that group compared to companies in another sector that do not receive a subsidy.
- Within the sector: formal childcare providers receive a subsidy for the service they provide, as opposed to other forms of childcare such as a nanny at home, babysitting service and au pairs.

Discussion point 1: Could you reflect on our vision and on the position that part of the sector is taking with regard to selectivity? To what extent do you consider these approaches compatible with the State aid framework?

3. Appropriate State aid instruments

The instruments available for granting compatible State aid have been examined. We looked at Article 107(2)(a) of the Treaty on the Functioning of the European Union (TFEU), the General Block Exemption Regulation (GBER) and the SGEI package: the De minimis Regulation, the SGEI Decision and the Framework.

Our conclusion is that Article 107(2)(a) TFEU cannot be applied. There is no aid to individual citizens, which only leads to an indirect advantage for the sector. The GBER is also not applicable in our view, because the aid must fall into one of 16 specific categories designated by the GBER. Childcare is not included.

The SGEI package does offer possibilities to grant aid in a way that is compatible with the internal market, specifically, the De minimis Regulation and the SGEI Decision. This entails that we do not make use of the SGEI Framework. The Framework is specifically intended for State aid that cannot be brought under the De minimis Regulation and the Decision.

Discussion point 2: Do you agree with this approach of the Dutch government? Could you also explicitly address whether Article 107(2)(a) TFEU applies?

Discussion point 3: Has the Dutch government in its analysis considered all available instruments for granting compatible State aid, or are there any instruments that should be looked into?

4. Establishment of a SGEI

With the application of the De minimis Regulation and the Decision, the Dutch government wants to grant subsidy (childcare allowance) to childcare providers. Childminders remain below the € 750,000 threshold within three years (approx. 67,000 children in Q4 2025), so the De minimis Regulation can be applied to this group. For day care and out-of-school care, which constitute the most common forms of care (approx. 873,000 children in Q4 2025), the Decision could be applied. The SGEI will be designated for a period of 10 years.

In order to grant compatible State aid, we intend to define the service as follows, in line with the definition of childcare and the target group currently eligible for childcare allowance:

a. All activities related to the provision of childcare according to the legal definition: care, education and contribution to the development of children up to the first day of the month on which secondary education for those children begins and children entering secondary education up to the age of 12;

b. carried out by the registered childcare providers, the holders of a childcare organisation, childminders and childminder agencies;
c. for the benefit of all children whose parents meet the employment requirement, or
d. for children where the child is receiving childcare on the basis of an indication for the child in question (pre-school education due to a language or developmental disadvantage) or the parent (Social Medical Indication preventing the parent from working).

A mechanism to prevent overcompensation is provided for in the design of the SGEI. Organisations are periodically accountable to the market authority. In consultation with the sector, this period will be between 1 and 5 years. If overcompensation of more than 10% of an average annual amount is established over the entire period in which the SGEI is established, overcompensation needs to be repaid directly. This is in line with the 'multiannual approach', as described in the reply 141 of the Guide to the application of EU rules on State aid, public procurement and the internal market to services of general economic interest, and in particular social services of general interest.

Discussion point 4: Could you reflect on how we intend to define the SGEI? And could you indicate whether we can rely on the Guide for designing the accountability cycle and the method of recovery?

5. Sector response

The Dutch government has presented the plans for a SGEI to the sector, which has led to a negative response by a part of the sector.[2] Furthermore, this part of the sector does not see a State aid risk (see Section 2) and questions the decision to opt for a SGEI package since this would limit - in their view - entrepreneurship, investment, innovation and profit-making in the child care sector.

These parties have shared alternatives to the reform of the childcare benefit system, which in their view does not involve a State aid risk. The alternatives concern market-based measures, a voucher system and drawing rights.

- Regarding to the market-based measures, part of the sector proposes to impose conditions on dividend distribution (dividend regulation), solvency requirements and mandatory participation in periodic sector reporting and cost analysis.
- The voucher model is a financing structure in which parents who meet predetermined conditions are entitled to a credit granted by the government, with which childcare can be purchased. This credit is provided in the form of a digital and sometimes also physical voucher, which can be exchanged for a (partial) reimbursement of childcare costs.
- In the drawing rights model, parents take on the role of budget holder. They request a childcare budget that, when meeting the conditions, is awarded and managed by the performer on an individual budget account of the parents. The childcare organisation submits an invoice to the implementing organisation for payment from the individual budget of the parent.

In the view of the Dutch authorities, the above proposed regulatory instruments do not mitigate the State aid risk and do not prevent overcompensation. We also see that the voucher system de facto only changes the registration procedure, while the practical consequence of the drawing rights is giving parents insight into the use in relation to the statutory maximum reimbursed costs. We are of the opinion that these alternatives do not mitigate the State aid risk, since the assessment of whether

[2] Organisations that collectively represent about 40% of the sector.

a measure constitutes State aid does not depend on its form or purpose, but on its effects. In addition, the design of the proposed alternatives does not address the desired objectives for the new childcare benefit system, since these do not change the distribution of responsibilities and risks between the government, childcare organisations and parents.

To conclude, a part of the sector has a different assessment of the State aid risk in the new financing system, voicing major concern about entrepreneurship after the establishment of a SGEI and proposing alternatives to the SGEI package. We hope to convince the sector that establishing a SGEI is the only way forward for this childcare reform to succeed in light of EU State aid acquis.

Discussion point 5: What are your thoughts on the alternatives proposed by a part of the sector?

Discussion point 6: Do you know of similar cases in which the sector resisted the establishment of a SGEI? If so, what actions did the MS take to explain the existence of State aid and broaden support for the establishment of a SGEI?