

# EBU

OPERATING EUROVISION AND EURORADIO

# LEGAL FOCUS EBU PRINCIPLES FOR ELECTION COVERAGE IN NEW AND DEVELOPING DEMOCRACIES

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## **ABOUT THE EUROPEAN BROADCASTING UNION (EBU)**

The EBU is the world's foremost alliance of public service media organisations, with Members in 56 countries in Europe and beyond.

The EBU's mission is to defend the interests of public service media and to promote their indispensable contribution to modern society. It is the point of reference for industry knowledge and expertise.

The EBU operates Eurovision and Euroradio.

## **ABOUT THE EBU LEGAL DEPARTMENT**

In a fast-changing technological, political and regulatory environment, we advise our Members on specific legal issues, offering practical solutions in the fields of EU and national competition, copyright and media law that are specific to their needs. We analyse proposals, explore the implications with legislators and promote a legal framework which allows our Members to operate with optimum efficiency whilst continuing to contribute to the democratic, social and cultural needs of society. We also manage EBU membership and statutory matters and advise on all EBU contracts, including the Eurovision Song Contest, sports, news and networks.



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# THE PRINCIPLES

## IMPARTIAL AND INDEPENDENT

Free from political or commercial interference  
Clear and transparent editorial structures and processes  
Balanced treatment of candidates

## FAIR AND RESPECTFUL

Neutral, objective and integrity in reporting  
Respect for human dignity and privacy of candidates

## ACCURATE AND RELEVANT

Verification and protection of sources  
Respect of campaign rules

## CONNECTED AND ACCOUNTABLE

Accessible to the audience and open for comment  
A trusted source

# FOREWORD

Building on the EBU's Public Service Media Values and related Editorial Principles, the EBU Election Principles are designed primarily for operational use in Central and Eastern Europe and North Africa. They provide an overview of key considerations that all television and radio broadcasting editors face when deciding how to cover elections, be they local or national. The primary focus of the Principles is to provide help and guidance to EBU Members in new and developing democracies, although we trust that the comparative summary of national rules and standards will serve as a useful resource for all our Members.

As their name makes clear, public service media (PSM) exist to serve the public - the citizens - and they should regard election coverage as an extension of their normal work, albeit with an added intensity, as output during election periods comes under closer scrutiny from all quarters. A broadcaster confused about its audience and its loyalties might find itself diverging from best practice when under the pressure of an election campaign.

Television and radio broadcasters that implement the EBU values and principles in their daily work should encounter few difficulties in delivering balanced and objective election coverage. But as elections put journalists and politicians under a particular spotlight, the challenges increase. This booklet aims to suggest how these challenges might be approached.

To provide a perspective of the different possible approaches, reference is made where relevant to the regulations applied in various countries. Practical examples show how the principles might be applied in specific cases. These examples are purely illustrative, and each case must be decided based on an interpretation of the existing national rules, the specific national election system, and particular facts and context.

An election process - whether at local or national level - throws public service media into the spotlight. Any susceptibility to bias, any influence by political parties, any unfair or selective coverage or any suppression of a minority voice will be clear for all to see. So good editorial judgment becomes more crucial than ever. At the heart of everything lies the integrity and robustness of journalists who refuse to be deterred from asking the right questions and communicating the true facts.

But while elections present a great challenge, they are also a tremendous opportunity for PSM to demonstrate to their audience the crucial role they play in the promotion and protection of a good democratic process. We trust that the EBU Principles for Election Coverage will serve as a useful tool towards fulfilling that goal.

Available on our website, [www.ebu.ch](http://www.ebu.ch), the EBU Principles for Election Coverage aim to become a living multimedia document which will be constantly enriched and updated as a platform for the exchange of experience and ideas.

As ever, we would be delighted to provide further advice and support on request.

**Ingrid Deltenre**  
EBU Director General

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# 1. IMPARTIAL AND INDEPENDENT

## 1.1 FREE FROM POLITICAL OR COMMERCIAL INTERFERENCE

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Public service media (PSM) play an important role in elections. They need to earn their audience's trust by providing objective, independent and unbiased information from which all citizens can form their own opinions and ideas. PSM represent the public and so must address the topics voters want to see covered and ask the questions they want to see put.

### **Media professionals must not surrender to external pressure**

Inevitably, broadcasters and their journalists find themselves exposed to external pressure from interested parties (e.g. bribes, threats, incentives like employment contracts). If they submit to such pressure, their image and credibility will be compromised. And trust that is lost is very hard to rebuild.

### **Editorial guidelines and codes of conduct**

In this context, codes of conduct - guidelines based on professional and ethical standards - are useful tools as a safeguard. Journalists should remain non-partisan and resist any interference or pressure to influence election coverage.<sup>1</sup> Journalists should not promote candidates and/or political parties and should not get involved in election campaigns of any kind. They should not accept any financial offer, gift of any value or any favour from a candidate or party, as this could influence the independence of their work, create a conflict of interest or damage their credibility.

Journalists should not demonstrate any personal political views and should always ensure that a breadth and diversity of views is represented. More specifically, journalists should not wear or carry clothing, badges, stickers or any other item bearing the initials or slogans of a candidate or a party.

<sup>1</sup> This is emphasised as the first general principle in the Council of Europe Recommendation (2007)15 on measures concerning media coverage of election campaigns, a key reference text at the European level in this area. The Recommendation provides that any attack, intimidation or other type of unlawful pressure on the media and their journalists would constitute a serious violation of democratic standards and practice. Please see: <https://wcd.coe.int/ViewDoc.jsp?id=1207243&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75#>

## CASE STUDIES

*The governing party has funded the opening of a new asphalt road in a deprived rural area. The official opening is due to be held on the third day of the election campaign "because the Prime Minister is in the area". His press secretary says it should be top item in the news. What do you do? What if the road was funded by the local government which is controlled by the opposition. What if they did the work against the wishes of the national government, and the opening is being conducted by a leading opposition politician. Would your answer be different?*

As a rule of thumb, broadcasters should not undertake to cover any such event. The approach adopted by the **BBC** is to mark "elections" as a separate section within the news bulletin. This means all items get equal treatment in that section of the bulletin, and also that the message to viewers is clear - everything in this section is connected to the political campaign in some way and it is left to the audience to decide what to believe in the context of an on-going election battle.

*On the eve of an election campaign there is a big protest against the Government. The public service broadcaster is pressured by the Government not to report on the protest or to give it a very low profile.*

The questions to ask are: what is the public interest? What is the scope of the protest? What is the reason? What are the consequences for the ordinary people? Would the story be covered absent an election? PSM should remain neutral at all times and not give in to any pressure from government.

*Your political editor is following the governing party as it tours the country. He is offered free lunches most days by the press office of the Prime Minister. Is this a problem?*

In general, journalists should not accept favours or privileges of any kind (including free lunches or other entertainment) from one party or another. They must also be aware of the public perception of their actions and take care not to give the impression of any bias.

As the **Swiss-German Radio and Television broadcaster SRF** says in its guidelines for journalists, gifts may put journalists under an obligation of loyalty and gratitude, compromising their professional independence or credibility. SRF journalists may not accept any invitations for travel or excursions either free of charge or at reduced rates. If an invitation opens access which is important for journalistic reasons, the broadcaster should pay the journalist's expenses. Third-party services offered to all forms of media (entertainment at media conferences, invitations to premieres etc) may be accepted with the agreement of the journalist's supervisor on a case-by-case basis.

## 1.2 CLEAR AND TRANSPARENT EDITORIAL STRUCTURES AND PROCESSES

### Specific editorial guidelines addressing key voting issues such as polling and political party representation

Broadcasters should have clear and transparent editorial structures and processes during the electoral campaign for dealing with any coverage issues that may arise. They should have a set of specific election editorial guidelines (which would reflect the principles and the local law) and a formal editorial monitoring structure for the duration of the campaign. These guidelines would be an extension of the normal editorial guidelines, but would also deal with specific electoral issues such as party and candidate representation, opinion polls, audience participation, coverage in non-political programming, staff participation, etc. The editorial structure may vary from organisation to organisation, but it would be advisable to have a special editorial committee devoted to the election, chaired by a senior editor with representatives of key output areas. This committee should oversee all election issues related to programme planning, monitor the election coverage and deal with conflicts and external complaints.

### IN PRACTICE

In **Ireland**, RTÉ's editorial structure is called the Election Steering Committee. The monitoring of output across radio and television is an important part of RTÉ's procedures during elections and referendums. RTÉ sets up an Election Steering Committee that represents all output areas for all general elections, European elections, presidential elections and referendums. This Committee is chaired by the Director General and includes senior management from news & current affairs, radio programmes, television programmes and RTÉ Online. It coordinates RTÉ's coverage of the campaign and ensures that RTÉ's overall coverage is fair to all parties. Balance and fairness must be maintained both within individual programme strands and across all output. Formal monitoring of output is put in place in the run-up to elections to provide accurate information about election coverage on all RTÉ channels and to ensure that balance is achieved. Appearances by all candidates and their election teams are measured. Production teams assist the monitors and provide accurate information. The committee and its secretary also deal with parties' political broadcasts and ensure compliance with the electoral and broadcast supervisory procedures.

RTÉ Journalism Guidelines:

[www.rte.ie/documents/about/rte-journalism-guidelines-oct-2012-final.pdf](http://www.rte.ie/documents/about/rte-journalism-guidelines-oct-2012-final.pdf)



## 1.3 BALANCED TREATMENT OF CANDIDATES

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A distinction should be made between:

- **Election campaign news and current affairs coverage** (including discussion programmes such as interviews and debates), as well as entertainment programmes involving candidates produced by the media themselves under their own editorial responsibility; and
- **Direct access spots** (free or paid political advertising), where candidates and parties are given airtime to deliver their electoral messages or campaign material under the responsibility and control of the competent national regulatory authority.

The principles of independence and impartiality are equally important for these two types of broadcast, but they apply in different ways.

With respect to news and current affairs programmes, the emphasis is on content and editorial judgment. With respect to direct access spots, the emphasis is on a balanced approach to the number and length of political spots granted to each party.

### Critical assessment by journalists

As the programming under the control of the broadcaster exists to serve the public, journalists must be prepared to criticise and investigate. They should be guided by the question: what really matters to the voters and what do they think? Journalists should pursue answers for all questions that are important to the audience: what has the candidate done? What was not done? Is there any controversy in the candidate's statements? Are there any conflicts of interest? Who has benefited and will benefit from the candidate's promises? How is the candidate going to address issues that matter to the audience, e.g. schooling, health care, infrastructure, security?

### 1.3.1 ELECTION CAMPAIGN NEWS AND CURRENT AFFAIRS COVERAGE

### A variety of legal frameworks

In certain countries (e.g. France, Italy), election campaign news and current affairs coverage are addressed and regulated by law, complemented by detailed rules adopted by the national media regulatory authority.<sup>2</sup> In other countries (e.g. the United Kingdom), there is a combination of regulation and self-regulation.<sup>3</sup> In yet other countries (e.g. Denmark, Sweden, Norway, Switzerland), there are no formal rules on media election coverage at all, and it is left purely to broadcasters to determine the character of their election programmes, in terms of both form and content.<sup>4</sup>

<sup>2</sup> See CSA Délibération n° 2011-1 du 4 janvier 2011 relative au principe de pluralisme politique dans les services de radio et de télévision en période électorale <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXTO00023492991>

<sup>3</sup> See OFCOM PPRB Rules and Guidance for broadcast coverage of elections: <http://stakeholders.ofcom.org.uk/binaries/consultations/ppbs/statement/statement.pdf>

<sup>4</sup> Media authorities in Norway Medietilsynet and Swedish Broadcasting Authority monitor broadcaster's fulfilment of tasks, but they do not interfere in the production of news or election formats. In Switzerland, there is no laws governing election coverage. Swiss broadcaster SRG SSR different regional television and radio channels (e.g. RTS, SRF, etc.) benefit from a high degree of independence and autonomy in election programming (according to the specific political situation of their language region) subject to the respect of minimum requirements set in the Federal Act on Radio and Television: respect of personality rights, obligation to present facts and events fairly, in objectivity, to express diversity of facts and opinions and ensure equal opportunities.

In all cases, however, PSM are duty-bound to show the full picture of the political spectrum in accordance with their public service remit. There are two main ways this can be achieved:

- **Principle of equal access:** each candidate or/and party (irrespective of their power base or popular support) is allocated the same amount of airtime;
- **Principle of proportionality:** candidates and/or parties are allocated time according to certain objective criteria, e.g. results of previous elections; the number of seats currently held in Parliament; number of candidates standing; number of seats contested; support in current opinion polls.

Each approach has advantages and disadvantages. An approach based on strict equal access has the attraction of apparent fairness, from one point of view, but risks overloading and diverting attention from important candidates. Also, absolute equality may be more difficult to achieve and less justified in the context of news and current affairs coverage which are impacted by external factors. On the other hand, an approach based on existing party representation may work towards the status quo by ensuring that the main parties and issues are heard while smaller and newer parties are marginalised.

**Care should be taken to avoid privileging the incumbent**

Common practice in many countries is to give equal and sufficient time to main candidates and/or parties, and less coverage to minor candidates/parties. In this respect, it is important to take into account the advantage of the incumbent. Candidates in official positions should not gain advantage from additional coverage of their official duties. Avoiding privileged treatment to those currently in power should be a primary objective.<sup>5</sup>

Whatever approach is adopted, editorial judgment is decisive in ensuring balanced coverage. Journalists must assess which are the most important issues for voters, and the relative significance of the party or candidate being reported. Ultimately, the success of any election coverage will depend on the professionalism and the independence of the public service broadcaster and its journalists.

<sup>5</sup> This particular aspect is emphasised in Council of Europe Recommendation (2007)15.

## CASE STUDIES

*The governing coalition asks that during the campaign period, news is spread as follows: 40% governing party, 40% opposition, 20% other news. Should the PSM agree to this? What if "other news" always concerns the government's achievements?*

The broadcaster should consider whether the opposition is split between different parties. If so, this would appear to be disproportionately in favour of the governing party. The broadcaster should have recourse to established and transparent rules and should not make programming decisions based on specific requests from any particular party. It is for the broadcaster - or sometimes national laws/regulations - but definitely not for any political party to decide on what the balance of coverage should be.

*During a presidential election campaign you give equal airtime to Candidate A and Candidate B. Yet, your station is accused of being biased.*

Allegations of bias are very common at election time and usually they are difficult to either prove or disprove. It is essential to have a system of checks and balances within each news organisation to look out for and correct any imbalances in coverage. Questions to consider are: Were your camera shots and angles manipulative? Were the questions balanced? What was the language used? The broadcaster should take care to ensure that any errors identified are rectified in future broadcasts and to defend itself robustly against any unjustified accusations.

### 1.3.2 POLITICAL DEBATES

Each public service broadcaster decides on the programme formats used to cover an election campaign. These may include talk shows, interviews, in-depth reports, discussions or debates.

**Debates should be the opportunity to challenge candidates' positions**

Debates provide politicians with the opportunity to face the public directly. Moderators should use this opportunity to ask candidates questions the audience would ask. What are the candidates' promises? How will they realise these promises? Without some challenging questioning, the debate can turn into the mere promotion of leaders/individuals without in-depth discussion of the issues. As long as politicians are treated with respect, interviewers should feel free to repeat questions whenever the replies have been evasive or unclear. In any debate or interview, the moderators or interviewers are the voice of the audience and they should do what they feel the audience would expect.

**Context of the debate must be publicised**

Often editors are faced with the reality that not all candidates wish to participate in a debate, as front-runners have more to lose. Generally, debates are not mandatory by law. Editors may justifiably decide to proceed with a debate in the public interest rather than giving any candidate the power of veto over the debate. In such a case, the background must be explained to the audience.

As regards the number of participants in any debate, it may be useful to apply selection criteria if there are many candidates. Such a selection could be carried out based on the results of previous elections or of reliable opinion polls, or according to the number of candidates being fielded by the party in question (particularly important in relation to new parties). In Sweden, all parties having views relevant to the questions on the agenda must be invited. In Britain, no matter who is invited, the broadcasters must list all parties taking part in that particular election or constituency. (This may be done onscreen at the end of the programme, especially if the list is long.) It is essential that broadcasters are always transparent about the criteria they have applied.

#### EXAMPLES OF CRITERIA FOR THE SELECTION OF PARTIES/ CANDIDATES TO PARTICIPATE IN POLITICAL DEBATES

- Results of previous elections (e.g. minimum number of seats currently held in Parliament)
- Results of current opinion polls (e.g. minimum percentage of votes)
- Minimum number of official candidates registered or standing
- All political parties taking part in a particular election

In order to retain audience interest, a debate might last between one and two hours,<sup>6</sup> depending on the number of participants. Common practice shows that holding a total of three debates strikes a good balance, allowing for the recovery from mistakes and for a much wider range of issues to be discussed.

**Clear rules as to the format**

The format of the debate may be on the basis of strict or loose time slots per candidate. Unregulated debate is generally more exciting, but is more vulnerable to abuse. On the other hand, rules that are too strict may not allow time for spontaneous, revealing arguments to emerge.

Overall, the broadcaster is heavily dependent on a skilled moderator to ensure that all participants in a debate have a fair opportunity to present their views and to reply to any direct questions or accusations from another participant.

## CASE STUDIES

*The debates are carried on national TV. The leading opposition party, which represents a large ethnic minority, says the debates should be translated. What now?*

Ideally a broadcaster should allow, wherever practicable, politicians to express themselves in their own languages, providing interpretation or on-screen subtitles. In Switzerland, each regional channel of SSR SRG has tailored programmes for national elections.

*A vociferous opponent of EU membership has gained a lot of ground in the campaign. It is belatedly decided to invite him to take part in the final live TV debate of the campaign. But he says he cannot attend because he is already committed to participating in a rally far from the capital. What can you do?*

In this case, it would be advisable to propose another date for the debate, to allow the individual to participate. If that is not possible and the party cannot propose another participant, then a full explanation should be given at the beginning and end of the debate that the party was unable to participate due to other commitments.

<sup>6</sup> In France, debates may go on for three hours or longer.

## IN PRACTICE

In **Malta**, the Broadcasting Authority issued a Directive in 2013 setting out detailed rules for debates between leaders of political parties during the election campaign. The principle of equal treatment is applied not only to the allocation of time but also to the behaviour of presenters and the audience. Responsibility for ensuring fair treatment of participants is placed on the producer, presenter and broadcaster. In particular, the Directive covers:

- The role of the audience, including balance, permissible questions (impartial, balanced, relevant, provided to the editor in advance and a maximum of two, or as agreed with the participants), and conduct in session (no interruption during debate).
- Pictures of the audience, including no individual reactions to answers to questions (wide shots allowed), close-ups only when putting a question or being individually addressed by one of participants.
- The role of the presenter, including ensuring adherence to maximum speaking times permitted and to an equal, just and impartial debate. Presenters must ensure that the programme is conducted in a civilised way. They must not allow interruptions when the leaders are talking, and they must use every element of their skill to ensure that viewers can follow what is being said by the politicians. The presenter should not make any gestures, signs or movements that could distract the attention of the participants.
- Programme structure, including introductions (each participant has one-and-a-half minutes or a time agreed beforehand), equal time for all participants to answer questions, open debate with equal camera exposure, equal time for concluding remarks, a running order set out in the programme (e.g. leader of the opposition should open and the incumbent prime minister should close; in case of a debate between the deputy leaders an agreement should be reached between participants and the producer, or by lots).
- Content of debates to be agreed between the producer and the party representatives to ensure impartiality and fair treatment.
- No televoting or survey on which leader performed well.

In **Switzerland**, the national broadcaster SRG SSR has adopted very clear and precise internal guidelines on election coverage for its radio, television and online services, in particular regarding the criteria whereby candidates and political parties may participate in election programmes. Political parties, which have at least one seat in the Federal Parliament and will run for election are eligible to take part. New political parties may participate if they have submitted a candidate list in a certain number of cantons. Regarding programmes not specifically geared towards the campaign, pluralism and diversity of events and opinions must be respected, including features and variety shows. SRG SSR regional broadcasters must specify these criteria in regional guidelines. Each of the four Swiss regional broadcasters has developed its own detailed internal rules or guidelines on election campaign coverage. This includes, for example, high requirements for balanced coverage of elections and referendums, including equal opportunity for appearances by candidates and equal speaking time. As regards referendums, current affairs programmes must allot equal speaking time to the parties for and against any proposal. The programmes must also contain an appropriate amount of relevant and factual background information for an informed referendum decision.

### 1.3.3 FREE POLITICAL ADVERTISING

#### Direct access spots

Free political advertising allows politicians to address voters directly. In most European countries, candidates and/or political parties are granted free political advertising or spots, often (but not exclusively) on public service media.

In practice, the candidates and/or parties themselves are responsible for the content of their spots. PSM may put production facilities at the candidates' or parties' disposal, and are usually reimbursed for their technical costs either by the State or directly by the parties.

In some countries, the broadcaster has the possibility to preview the spot and reject it in limited cases (e.g. criminal offence, hate speech, defamation), subject to the national regulatory authority or to court scrutiny. This is the case in Germany, where the competence to decide upon the unconstitutionality of a party's messages lies with the Federal Constitutional Court.

#### Formal equality or proportionality principle

Determination of which candidates and/or parties should be given free political advertising time, and the amount of time or number of slots allocated to each candidate/party may be based either on the formal equality principle or on the proportionality principle (see above).

The advantage of equal distribution of free political advertising time is that it may give a chance to new and small parties. At the same time it can also lead to an overload of screen-time with obscure messages that can confuse the audience. The advantage of a proportionality approach is that it tends to focus on candidates most likely to succeed and on the most important issues. However, as mentioned above, this approach has a tendency to preserve the status quo.

Two important factors should be considered when deciding which approach to take for free political advertising: the way elections are held in the country and the kind of election.

## IN PRACTICE

In **Germany**, the ZDF-Staatsvertrag (State Treaty) stipulates that ZDF must grant German political parties appropriate broadcasting time during elections to the federal parliament if that party's election list has been accepted by the federal elections officer. In addition, parties and other political associations taking part in elections to the European Parliament have the same right, provided that at least one election list has been approved. Only commercial broadcasters can charge political parties with the costs entailed. It is for the parties to produce their own content for the slots, which are 90 seconds in duration. The number of spots per party depends on its political importance according to the results of previous elections, the duration of existence, continuity of its activities, the number of members, the level and extent of organisation and the representation in governments of Federal Republic and States of Germany. Political parties forming a parliamentary group in the Bundestag are granted at least half of the broadcasting time as for any other party. Furthermore, the broadcasting time for the strongest party may not be more than four to five times that of the smallest party. The broadcast of political advertisement begins about four weeks before the elections.

In **France**, the principle of pluralism applies to all elections. The French audiovisual national regulatory authority, the Conseil Supérieur de l'Audiovisuel (CSA), adopts a specific recommendation for each election that applies to the period (generally six weeks) preceding polling. Election coverage is based on the principle of fairness, evaluated according to representativeness of candidates, results in the previous elections, polls, etc.

The principle of strict equality is a specificity of the presidential election and applies to the last 15 days before the first round as well as to the period between the first and second rounds. In cases where legislation or regulations require that the official campaign be covered (for European, presidential and legislative elections), channels must broadcast spots of the official campaign in line with rules laid down by the CSA. The length of each spot and the timetable depends among other things on the representation of political parties in parliament. The broadcaster produces programmes based on the modalities defined by the CSA and each beneficiary has at its disposal short-format (two-minute) and long-format (four-minute) spots. In consultation with France Télévisions, the CSA decides the scheduling and broadcasting times for party political broadcasts on France 2, France 3 and France 5. The State reimburses the production and broadcasting costs for these spots after an assessment carried out by the CSA.

In the **United Kingdom**, specific provisions of the BBC's Charter and Agreement oblige the BBC to carry party political broadcasts (PPBs) including election broadcasts which are "free air time" - i.e. the parties do not pay for the time, and they have, subject to certain conditions, editorial control. The BBC does not produce the programme, contribute production facilities or have any input other than to compile them and conduct "top and tail" editing. As regards the allocation of airtime, each broadcaster has its own criteria. The BBC must have "due regard" for the views of the Electoral Commission. Each broadcaster then decides how many broadcasts to allocate to each qualifying party, taking into account past and/or current electoral support. Decisions are appealable to the BBC Trust (in the case of the BBC) or to Ofcom (for other broadcasters). As regards the length of the slots, the broadcasters offer parties a choice of 170, 230 or 290 seconds on TV. ITV is obliged to air its PPBs in "peak time"; the BBC normally transmits at 17:55 on BBC Two and 18:55 on BBC One.



### 1.3.4 PAID POLITICAL ADVERTISING

Although commercial advertising has been harmonised at European level (e.g. in the Audiovisual Media Services Directive 2010/13/EU), this is not the case with political advertising. In certain European countries, paid political advertising is allowed; in others it is prohibited to varying degrees (e.g. Belgium, Britain, Denmark, France, Sweden, Switzerland).<sup>7</sup> In any case, paid political advertising spots on PSM are very rare in Europe.

**Allocation of air time should be regimented**

Where paid advertising is permitted, the same decision must be taken with respect to the allocation of air time as for free political advertising, i.e. whether to apply the principle of equality or proportionality. Candidates and/or political parties should be given fair treatment in terms of access, timeslots and rates/pricing policies.

**Paid advertising should be clearly signalled as such**

Finally, the public should be informed that the spot is a paid political advertisement and should be readily recognisable as such through acoustic or visual means. This principle is emphasised in the Council of Europe Recommendation (2007)15.

<sup>7</sup> Note the judgments of the European Court of Human Rights stating that a total ban on paid political advertising could be seen as a violation of the freedom of expression (Article 10 ECHR), see Case VgT Verein gegen Tierfabriken v. Switzerland (2001), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-59535> and Case of TV VEST AS & Rogaland Pensjonistparti V. Norway (2009), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-90235>.

## 2. FAIR AND RESPECTFUL

### 2.1 NEUTRAL, OBJECTIVE AND INTEGRITY IN REPORTING

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**Clear distinction between private and professional opinion pieces**

Citizens should be informed about the candidates, the programmes of the parties and the issues up for debate in a neutral way. Journalists should withhold any personal views and opinions. Journalists must clearly distinguish between their private postings on social media (blogs, tweets etc) and what they write in their professional capacity.<sup>8</sup>

**Reshaping candidates' discourse should be avoided**

In general, elections are challenging for the media, especially in fragile democracies. In the race for votes, speeches may contain extreme opinions, aggressive and abusive language, blatant ignorance, and unrealistic promises. Such remarks should in general not be censored by journalists. Quotes from candidates and political party leaders should be reported without alterations and in context. Where translation is involved, care should be taken that the meaning is not distorted in any way. However, hate speech and speech directly inciting intolerance and even violence should not generally be reported (see below). Where such speech is inadvertently included in broadcasts, journalists should react immediately by seeking the views of opposing parties, human rights activists, etc.

**Neutral wording when reporting**

It is also advisable for journalists to take care about the language they use and to avoid such words as "assassination" and "genocide", which tend to inflame rather than inform. As far as possible they should not use words that can appear to take sides ("devastated", "extremist", "fanatic", etc) - although they should of course be reported if used by a politician, providing they are clearly attributed to the speaker.

<sup>8</sup> This is specifically mentioned in SRF journalistic guidelines.

## CASE STUDIES

*You have established that there is widespread vote-buying in some areas. You can only prove it by using hidden cameras. What now? (Does it matter which party is allegedly doing this?)*

All parties must be treated in the same way. Hidden cameras may be used to provide a factual account, but always check editorial guidelines, journalistic standards and local privacy laws.

*The leading party is making road safety a big feature of its campaign. What if the party leader is fined for using a pedestrian crossing on red? What if he's accused of speeding? Drunk driving?*

The broadcaster should provide a factual report after careful verification.

*During your interview of a party candidate, he/she attacks the independence of your coverage.*

A broadcaster should always provide a neutral factual report, including any criticism of itself. However, the journalist or broadcaster is free to defend itself in a factual way.

*The opposition leader is making a long speech. Most people are listening respectfully, but your cameraman spots a nice shot of a little old lady who has fallen asleep. Do you show it? What if the old lady sleeping becomes a "YouTube sensation" with thousands of views and comments?*

It is acceptable to show the shot as long as it is part of an overall picture of the event that is balanced and shows equally those listening to the speech. If the picture becomes a YouTube hit, this can be reported on factually, showing again the balanced footage.

## 2.2 RESPECT FOR HUMAN DIGNITY AND PRIVACY

Human dignity and the presumption of innocence should be respected. Any discourse/speech/statement/comment that contains any incitement to hatred based on race, sex, religion or nationality should not be reported.<sup>9</sup> Candidates' private lives should be respected and reporting in that area should be avoided, except when it is of public interest and essential for the understanding of an event or situation of public life. For example, substantiated evidence about corruption of a candidate would clearly be in the public interest. Also evidence that a candidate's private life is not in line with the "family values" that underpin their election campaign may be in the public interest.

### Right of reply

In cases where a candidate or a party is affected by a statement of fact in a programme, they should be granted a right of reply or equivalent remedies (free of charge).

If a broadcaster is asked to grant a right of reply during the campaign period, it should deal with the request rapidly and broadcast it with the same degree of prominence - and on the same channel at the same time - as the contested statement. It may be appropriate for the broadcaster to state that "Under the law, we are obliged to broadcast this reply. However, we expressly uphold our own original statement of the facts."

### CASE STUDY:

#### Hate speech or broadcast of a political campaign of an "extremist" political party that invites racial hatred and intolerance

*An extremist right-wing party requests airtime from the public broadcaster to broadcast its extremist manifesto to the public. Is the broadcaster obliged to grant the request on the basis of freedom of expression?*

A public service broadcaster should not be obliged and rather should take the responsibility not to grant airtime to an extremist party that invites racial hatred and intolerance.

Although the European Court of Human Rights recognised in its judgement, *Jean-Marie Le Pen v. France* (2010) and *Féret v. Belgium* (2009), that freedom of expression is especially important for elected representatives of the people, it said that it was crucial for politicians, when expressing themselves in public, to avoid statements that might foster intolerance, incitement to discrimination hatred or violence towards a group of people.

In **Belgium** in 2001, the public service broadcaster VRT adopted internal guidelines entitled "VRT and a democratic society" stating that the Flemish public broadcaster organisation cannot be an instrument for the dissemination of statements or opinions of organisations or political parties that do not respect the fundamental values of democracy and tolerance, and which openly incite hatred and discrimination.

These are in line with VRT's remit to "contribute to tolerance in society and to promote community relations in multiethnic and multi-cultural societies".

<sup>9</sup> See Article 6 of Audiovisual Media Services Directive 2010/13/EU.

# 3. ACCURATE AND RELEVANT

## 3.1 VERIFICATION AND PROTECTION OF SOURCES

### Accuracy is paramount

Every element of information and news (event, date, place, quote, etc.) provided should be accurate. Sources should be assessed and verified. The confidentiality of sources should be protected. Mistakes should be corrected rapidly and the correction given the same prominence as the original information. Contributions from audiences or candidates (e.g. by social media, email or other interactive mechanism) must be clearly identified.

### IN PRACTICE:

#### Broadcast of an unverified tweet unfair to presidential candidate

In **Ireland** in 2012, during a live presidential debate and just three days prior to polling, a tweet was attributed in error to the official Twitter account of one candidate who had already accused another candidate in the debate (standing as an independent) of raising funds for the former governing party, which he had denied. The tweet purported to support this allegation by saying that it would be made public at a press conference by his party the following day and allowed the issue to be reopened in the debate. The tweet led to a further discussion but the candidate to whose campaign it was accredited was not asked to confirm its truth, the tweet was subsequently found to have been sent by an individual and not an official campaign.

The Compliance Committee of the Broadcasting Authority of Ireland confirmed that the focus of the debate on the character and policies of candidates was appropriate. Accordingly, questions on the complainant's prior relationship with a political party were considered to be legitimate and in the public interest. Therefore there was a context for inclusion of the tweet in addressing these legitimate interests and the Committee considered that it is reasonable, in principle, for a presenter to reopen a topic if the programme as a whole does not breach the requirements of fair, objective and impartial treatment of all contributors to a programme. However, the Committee held that the broadcast of unverified information from a source wrongly attributed by the presenter was unfair to the complainant. His complaint was upheld.

## 3.2 RESPECT OF CAMPAIGN RULES

Campaign rules, as well as restrictions on reporting on opinion polls, surveys, projections of results or exit polls, before and during the elections, should be respected on all platforms. Surveys and opinions polls should be cited and treated carefully, and the audience provided with information on who commissioned, conducted and paid for the poll, on the methodology used, on the size of the sample and the margin of error, and on when the poll was taken. The election results should not be broadcast before the results have been officially announced by the relevant competent authority or until all polling stations have closed.<sup>10</sup>

Campaign rules can vary between broadcasters. For example, in Switzerland the start date of the coverage of election campaigns and the appearances of political candidates in programmes are decided by each broadcaster.<sup>11</sup>

The effectiveness of these rules can be questioned in the Internet era. Nevertheless, extra care is needed in reporting while polling is under way.

### IN PRACTICE:

#### Publication of electoral surveys or exit polls

In **France**, starting on the day before voting (hour zero), the "reserve period" begins: audiovisual media are no longer allowed to broadcast campaign messages nor to provide information on polls or surveys. Likewise, no new item that is linked to the campaign news can be put online or on catch-up TV sites during this period. On the day of the vote, it is strictly prohibited to broadcast any results, either partial or final, before 20.00 local time, when the last polling station closes. Any hint about the outcome of the elections (images taken in front of party headquarters or comments by party members) is also prohibited before 20.00.

In **Spain**, Article 69 on electoral surveys of the Spanish Organic Law 5/1985 related to the General Electoral Regime states that, "Within five days before the day of voting, the publication and communication or reproduction of electoral surveys are forbidden by any means of communication."

In **Sweden**, there are no legal restrictions. However, SVT has internal guidelines according to which it does not publish the results of exit polls before the closing of the voting, although it may publish other opinion polls.

In **Switzerland**, there are internal journalistic guidelines which stipulate that reporting on political opinion polls must always be presented as a snapshot, not as a forecast. The broadcaster must comply with the rules of the polls agency, Swiss Interview. When reporting on opinion polls, the following must be mentioned: the polling agency, the client, the survey period, the polling method, the number of people surveyed, the margin of error for individual statements, and the basic wording of the questions.

<sup>10</sup> The Council of Europe Recommendation (2007)<sup>15</sup> also mentions the possibility for States to prohibit the dissemination of the exit polls results until all polling stations have closed.

<sup>11</sup> At RTS, coverage of the Federal Election in 2011 began seven weeks before polling day and ended just one day before. At SRF, the appearances of political candidates in programmes had to be registered with SRF's main editorial department from eight weeks before polling day. From four weeks before polling day, candidates are no longer permitted to make appearances in election programmes. From three weeks before polling day, no further candidate profiles were allowed to be broadcast. Appearances of candidates in entertainment shows, talks shows or sports programmes are forbidden.

In the **United Kingdom**, the BBC have some very clear guidelines<sup>12</sup> for the European elections which underline that, during the campaign, reporting of opinion polls should take into account three key factors:

- they are part of the story of the campaign and audiences should, where appropriate, be informed about them;
- context is essential, accuracy and appropriateness of the language used in reporting them should be guaranteed;
- polls can be wrong - there are real dangers in only reporting the most newsworthy polls - i.e. those which, on a one-off basis, show dramatic movement.

Thus, the general rules and guidance about reporting polls need to be scrupulously followed. They should:

- not lead a news bulletin or programme simply with the results of a voting intention poll;
- not headline the results of a voting intention poll unless it has prompted a story that itself warrants a headline and it is necessary to refer to the poll's findings to make sense of it;
- not rely on the interpretation given to a poll's results by the organisation or publication that commissioned it, but present the broadcaster's own view by looking at the questions, results and the trend;
- report the findings of voting intention polls in the context of trend. Poll results that defy trends without a convincing explanation should be treated with particular scepticism and caution;
- not use language that gives greater credibility to the polls than they deserve: polls "suggest", but never "prove" or even "show";
- report the expected margin of error if the gap between the contenders is within the margin. On television and online, graphics should always show the margin of error;
- report the organisation that carried out the poll and the organisation or publication that commissioned it; (e.g. "a ComRes poll for the BBC" - not "a BBC poll").

<sup>12</sup> BBC Editorial Guidelines: <http://downloads.bbc.co.uk/rmhttp/guidelines/editorialguidelines/pdfs/2014FinalEurLocElectionGdlines100414.pdf>

# 4. CONNECTED AND ACCOUNTABLE

## 4.1 ACCESSIBLE TO THE AUDIENCE AND OPEN FOR COMMENT

All media platforms, including online platforms and services, should be used to provide extra information and documents to supplement reporting and to enable audiences - in particular young people - to understand the election process and become engaged in it.

### Audience engagement to promote voter engagement

However, audience participation may be particularly tricky to manage at election time as all political parties are motivated to interfere and possibly manipulate. Greater editorial care is therefore required in particular for phone-in programmes or audience participation programmes where the nature of the programme does not absolve the broadcaster from impartiality and fairness requirements. That said, there is also a great opportunity during an election campaign to find new ways to engage with the audience and have the voters engage with the political system. PSM organisations that do not, for example, have a specific social media desk should perhaps consider setting one up for an election so all such activity can be monitored and the editorial supervised.

Moreover, PSM have a remit not only to inform and entertain, but also to educate. They should be able to provide and develop new services and applications to promote interest in elections and a broader democratic participation of individuals. Digital services should be used to explain editorial choices and enable audiences to comment and participate in the debate; the comments should be moderated. This principle has been stressed in several texts of the Council of Europe, in particular in the Recommendation (2007)3 on the remit of PSM in the information society.<sup>13</sup>

However, journalists and editorial staff should not themselves be allowed to use social networks and blogs to express opinions and views which raise questions about their independence and impartiality.

### IN PRACTICE

Apps which help voters to identify the party or candidate that stands closest to their views are popular in Germany, the Netherlands and other countries. Political programmes often refer to them and sometimes their results are compared.

In **Finland**, broadcasters YLE and MTV have integrated rival voting aid apps into their political coverage during elections. The apps are used on air to present not only the concerns of the electorate, but also the positions of political parties and/or candidates on key issues.

<sup>13</sup> See [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2007\)3&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)3&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75).



## 4.2 ACCOUNTABLE AND TRUSTED SOURCE

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### **Building and maintaining trust**

Trust is an absolutely crucial element of the PSM service. Once lost, trust is very hard to regain. Elections present a fundamental test of this truth, since any perception of polarised or biased coverage will damage a broadcaster's credibility, alienate viewers and listeners, and ultimately undermine the very existence of public service media.

Considering the special role of PSM in a democratic society, the principles of independence, impartiality, fairness and balance must apply to their linear and non-linear services alike. In short, professional and ethical standards and codes of conduct should be the same for every platform.

### **Transparency**

Finally, accountability is dependent on transparent practices. This means that all election principles, rules and standards should be open and available for review. There should be a quick and open procedure for handling complaints. The Council of Europe Recommendation (2012)<sup>14</sup> on PSM governance sets guiding principles regarding, in particular, the establishment of an accountability framework.<sup>14</sup>

### **Substantiveness**

At all times, PSM should be able to justify and back up every editorial decision with respect to their coverage of an election campaign.

<sup>14</sup> See <https://wcd.coe.int/ViewDoc.jsp?id=1908265>.

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