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THE FUNDING OF PUBLIC SERVICE BROADCASTING

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Summary

The document provides a general overview of the various funding schemes for public service broadcasting in Europe, which are fundamentally different from the funding schemes of other services of general interest (such as "universal service funds" in telecommunications).

The analysis starts out from the assumption that "funding influences content", and that the kind of funding is relevant to the fulfilment of the public service remit in broadcasting. The choice of the funding scheme is therefore seen as an important way of influencing the activities of public service broadcasting organizations, and, in particular, the content of their programme services.

There is a consensus in Europe that public service broadcasting needs an appropriate, secure funding framework, and that public funding is an integral part of public service broadcasting systems. This has been confirmed by political and legal texts from both the Council of Europe and the European Union.

The document examines the implications, advantages and risks of various sources of funding such as:

- Broadcasting fees paid by viewers/listeners
- Concession fees paid by commercial operators
- Other sources of public funding
- Radio/television advertising
- Radio/television sponsorship
- Subscription fees for pay services.

The use of the terms "public" and "commercial" with regard to the activities of public broadcasting organizations and their sources of funding calls for a clarification:

Revenue which comes from the state budget or other public funds, or from mandatory fees paid by viewers and listeners (broadcasting licence fees), is generally referred to as "public revenue". In contrast, income from contractual transactions on the market (advertising, sponsorship, programme sales, etc.) is generally referred to as "commercial revenue".

The fact that such commercial revenue is derived from a broadcasting service, or is used to fund it, does not, however, mean that the broadcasting service itself is of a commercial nature. This is often a cause of misunderstandings. In Europe the predominant funding model for public service broadcasting is mixed funding, where a combination of public and commercial revenue is used to fund the public service activities. Whether a programme service is of a public service nature or a commercial nature depends solely on whether it falls within the public service remit as legally defined and specified by the competent bodies in a given State.

In other words: "commercial revenue" may contribute to the funding of public services, but "public revenue", which has been granted for the fulfilment of public services, must not be used to fund services outside the public service remit. Where public broadcasters embark on activities outside their public service remit, they must operate a strict separation of accounts. (This requirement also follows on from the recent European Directive on financial transparency.)

The predominance of mixed funding in Europe may be explained by the following considerations:

- In many countries, a single source of funding would not provide sufficient revenue to guarantee the fulfilment of the public service remit
- Reliance on one particular source of funding creates dependencies which run the risk of undermining the independence of the broadcaster and the effective fulfilment of the remit
- The combination of different sources of funding can encourage attentiveness to the various aspects of the public service remit
- A mixed funding system may be considered more robust in a rapidly changing environment, where certain sources may suddenly dry up while others grow and new ones emerge.

On the other hand, this document does not provide an in-depth analysis of issues related to the application of the European Union's rules on state aid (such as the decisions of the European Commission confirming the compatibility of public funding in the Portuguese¹, German² and British³ cases, or the pending complaints in the French, Italian, Spanish and other cases). Nor does it suggest any particular solutions for the future, regarding, for example, the funding of new services in the digital and converging environment.

¹ The decision of the European Commission of 7 November 1996, which cleared the public funding of RTP, was annulled by the Court of First Instance on procedural grounds (Judgment of 10 May 2000, Case T-46/97, SIC v Commission).

² With its decision of 24 February 1999 in Case 70/98, the European Commission cleared the public funding of two new thematic channels of ARD and ZDF (*Kinderkanal* and *Phoenix*).

³ With its decision of 29 September 1999 in Case 88/98, the European Commission cleared the public funding of the new 24-hour news channel of the BBC (*News 24*).

1. The funding of public service broadcasting: more than a financial issue

The funding of public service broadcasting goes beyond the mere provision of the financial means which are necessary for the fulfilment of the public service remit. The sources of the funding and the way it is provided are important considerations, since they have an impact on the organization and the programme activities of public broadcasting organizations. The choice of the funding system is therefore an issue at the heart of the public service broadcasting system.

1.1 Funding influences content

Apart from the fact that a sufficient *amount* of funding is necessary for the public service remit to be fulfilled, the *kind* of funding is also relevant to the fulfilment of this remit.

Although the rule "Who pays commands" cannot automatically be applied to broadcasting, the way funding is provided is likely to influence broadcasting output. Broadcasting journalists and managers are well aware of who ultimately pays their salaries: viewers and listeners, the government, or the advertising industry. Apart from the more psychological links and affinities there may also be hard economic pressures linked to particular sources of funding.

For example, the more dependent a broadcasting organization is on advertising/sponsorship revenue the more it will be under pressure to achieve high audience ratings with regard to those sections of the population which are of primary interest to advertisers. This leads to a typical "deformation" of programme schedules (e.g. of generalist channels), with preference being given to popular or relatively cheap mainstream programmes, avoiding difficult, controversial or experimental programmes, and neglecting the interests of certain age-groups and minorities. In short, the result is "commercialization".

Accordingly, a public service broadcaster which has to rely primarily on advertising/sponsorship revenue will find it difficult to cater for minority interests and to provide quality programmes which are distinctive from the offer of commercial broadcasters.

On the other hand, where a broadcaster has to rely primarily on direct State funding, there is the risk that the public authorities or political parties will use this "leverage" to gain influence over editorial policy. Even without such interference, broadcasting organizations may be inclined to "please" bodies which have decision-making power over their funding. They may be tempted to hold back "negative" information, avoid programmes which are critical of the government or of which those in power might take a dim view (self-censorship or self-adaptation).

The funding system is thus one of the factors determining to what extent and how the public service broadcasting remit is fulfilled.

The fact that the public service remit is laid down in law, with requirements for political neutrality and pluralism, and for quality and priority to be given to non-commercial criteria, will not preclude financial pressures. The legally-defined remit may thus come into conflict with the reality of the funding system.

The public service broadcasting remit includes content requirements and objectives which are related to the democratic, social and cultural needs of each society. These needs are complex, evolve over time, and cannot simply be determined once and for all. Similarly, the way in which these needs are catered for, in operational terms, has to be adapted continuously. It is therefore impossible to define the content-related dimension of the public service remit in narrow, static terms, or to quantify programme requirements such as quality, pluralism, varied and balanced programming, consideration of majority and minority interests, etc.

In view of this, the interpretation, implementation and regular evaluation of the remit may become more important than its legal definition. Hence the importance of organizational and procedural safeguards, and of an appropriate funding system.

1.2 Funding as a means of steering the implementation of the public service remit

If funding influences how the public service remit is implemented, the funding system can be used as a means of achieving the desired results. It is one of the main ways of determining the "behaviour" or "output" of broadcasting organizations.

Ideally, the funding system should be stable and secure; it should not expose public service broadcasters to political pressure, or leave them dominated by market forces and economic pressures. In contrast, it should create an incentive for public service broadcasters to fulfil their remit in a way which matches in full the actual democratic, social and cultural needs of society, i.e. of all sections of society. It should also be dynamic enough to maintain the competitiveness of public service broadcasters and to allow them to respond to new developments and needs.

The broadcasting fee (also called "licence fee" or "broadcast receiving licence fee") is often seen as a means of funding *sui generis* which best corresponds to public broadcasters' role of serving society as a whole, offering something to each member of the public. The fact that the fees are paid by viewers and listeners reinforces the link between the public broadcasting organization and the public for which it exists, even if the level of the broadcasting fee is fixed by Parliament or other public institutions. Broadcasting journalists and managers are continually made aware of whom the programming is made for, and who ultimately has to be satisfied. And viewers and listeners know what they are paying for, they can assess its value, and they can express their legitimate expectations. Naturally enough, this mode of funding is often combined with particular mechanisms ensuring accountability vis-à-vis the public, including various groups of society.

1.3 Public funding as an integral part of the public service broadcasting system

The importance of the funding framework for the fulfilment of the public service remit in broadcasting has been recognized, at the European level, in a number of policy documents and legal texts.

The first comprehensive pan-European document on public service broadcasting was the 1994 *Prague Resolution on the future of public service broadcasting*.⁴ It has since been reaffirmed, in its overall thrust, on various occasions, and is still a valid basis. It emphasizes the need for states to maintain and, where necessary, establish an appropriate and secure funding framework which guarantees public service broadcasters the means necessary to accomplish their missions. In this regard, it recognizes a variety of sources of funding, including broadcasting licence fees, public subsidies, advertising and sponsorship revenue, proceeds from sales of audiovisual productions, etc.

The 1996 *Council of Europe Recommendation No. R(96)10 on the guarantee of the independence of public service broadcasting* provided additional guidelines.⁵ Without giving preference to any particular method of funding, it highlights the need for safeguards to ensure public service broadcasters' editorial independence and institutional autonomy. With particular regard to public funding (broadcasting fees and contributions from the state budget) it stresses the need for safeguards, which should address the decision-making power of public authorities, the criteria for fixing the level of funding, continuity of funding, financial supervision, etc.

Finally, the 1997 *Amsterdam Protocol on the system of public broadcasting in the Member States*, which as part of the new EC Treaty entered into force on 1 May 1999, reaffirms that it is for the Member States to organize public service broadcasting, define its remit and provide for its funding. The primary purpose of the Protocol is to define the areas of competence of the European institutions and of the Member States with regard to public service broadcasting, particularly concerning the application of European competition rules (including the rules on state aid). At the same time, the Protocol recognizes the links between remit, organization and funding.

The Preamble of the Protocol mentions the central point of reference for establishing public service broadcasting: the democratic, social and cultural needs of each society and the need to preserve media pluralism. The public service remit, to be defined by each Member State, is thus closely linked to the communications needs of each society. The organization of public service broadcasting and the provision of funding have to be seen as means for achieving the fulfilment of this remit. The choice of the funding system is thus closely linked to the organization of public service broadcasting.

⁴ Resolution No 1, adopted at the 4th European Ministerial Conference on Mass Media Policy, organized by the Council of Europe, Prague, 7-8 December 1994. The document is available at the website of the Media Division of the Council of Europe (<http://www.humanrights.coe.int/media/>) under "intergovernmental work".

⁵ In particular Guidelines 17-18 and the Explanatory Memorandum thereto. The Recommendation and the Explanatory Memorandum are available at the above-mentioned website under "basic texts".

Although the Protocol uses the neutral term "funding", which includes both public and other funding, its main focus, in the context of its adoption, is of course public or mixed funding.⁶ It has become clear that, at least in a competitive environment, it will not be possible for a broadcaster to fulfil a public service remit without any public funding. This is demonstrated by the problems created by the introduction of commercial broadcasting for those public broadcasters which had to rely heavily on advertising/sponsorship income, in particularly in countries without a licence fee tradition (e.g. Spain). There are also other countries where efforts are being made to increase the amount of public funding, with a view to reducing dependency on advertising income and strengthening the public service character (e.g. France).

1.4 Other revenue of public broadcasting organizations

Revenue of public broadcasting organizations from advertising, sponsorship, sales of programmes, holdings etc. is often called "commercial revenue" in contrast to "public revenue" from broadcasting fees, state subsidies etc. Such revenue is characterized by the fact that it is obtained via contractual transactions on the market and is dependent on market prices⁷.

The use of such revenue for the funding of public services reduces the amount of public funding needed for the fulfilment of the public service remit. This revenue is taken into account when decisions are made on the level of public funding. Consequently, mixed funding of this kind cannot be called "double" funding (a term often used by detractors) since it does not lead to a situation where the same programmes or services are paid for twice.

It is important, in this context, to distinguish cases where "*commercial revenue*" contributes to the funding of public broadcasting services (i.e. services falling within the public service remit as defined) and cases where public broadcasters provide "*commercial services*" (i.e. services falling outside the public service remit).

Public broadcasting organizations may be allowed to offer such services outside the public service remit. However, in that case the commercial services must be clearly separated from the public services. This is normally done through *structural* separation (subsidiaries, joint ventures, etc.). As a minimum measure, there must be effective *financial* separation, to avoid cross-subsidization of commercial services from funds granted for the provision of public services. The requirement of separation of accounts for public service providers which also provide services outside their public service remit has recently been laid down, for all sectors, in a European Commission Directive⁸.

⁶ The adoption of the Protocol was a reaction by Member States to the complaints launched by some commercial broadcasters with the European Commission, claiming that the systems of public or mixed funding in certain Member States were incompatible with the competition and state aid rules of the EC Treaty.

⁷ However, public funding may also be made dependent on market developments, as in the case of indexation of the broadcasting fee or indirect funding from commercial broadcasters (concession fees). See below.

⁸ Commission Directive 2000/52/EC of 26 July 2000 on financial transparency within certain undertakings (amending Commission Directive 80/723/EEC), published in the *Official Journal* of the European Communities No. L 193/75 of 29 July 2000.

In other words: "commercial revenue" may contribute to the funding of public services, but "public revenue", which has been granted for the fulfilment of public services, must not be used for the funding of services outside the public service remit.

As a consequence, and to avoid any misunderstanding, the terms "commercial revenue" and "commercial service" (or commercial activity) need to be clearly distinguished. The fact that a broadcasting service is (partly) funded from advertising revenue does not mean that the broadcasting service in question becomes (partly) a commercial service. What counts, in this respect, is whether the service remains within the public service remit conferred on a broadcaster or whether it falls outside that remit.

1.5 Funding of universal service: a completely different issue

The public service remit in broadcasting is very different from universal service obligations in telecommunications and other sectors. So are the means of funding.

Whereas the public service remit in broadcasting is mainly about programmes and the provision of content, universal service obligations concern network access (including minimum services provided over such networks). In its reply to the Convergence Green Paper, the EBU has explained these differences in detail.⁹

The European Union's regulatory framework for telecommunications requires national regulatory authorities to place obligations on network operators to ensure that a minimum set of services, of specified technical quality, is available to all, independently of their

⁹ See the following extracts from the [EBU Reply to the Convergence Green Paper \(April 1998\)](#) regarding Question 6 (Would a more universal service-approach be appropriate to achieve this?):

"Establishing parallels between telecommunications and media regulations is not something that could be justified by convergence. Since telecommunications law deals with carriage, and broadcasting law with content, it is not possible to transpose legal solutions from one sector to the other.

An example is universal service in telecommunications vis-à-vis public service in broadcasting. The only "universal service" aspect of the public service remit in broadcasting is the obligation to cover the entire (national, regional) population, to the extent that this is practical. This is a technical obligation which is quantifiable and can be required of a given provider of (terrestrial) transmission services. However, the main elements of the public service remit (the democratic, social and cultural functions, quality and diversity, internal pluralism, transparency, etc.) are not clearly definable and quantifiable. There are many creative ways of achieving the given objectives in the overall programme offer, and the results are not objectively measurable. Therefore it is mainly the organizational and funding structure of a public service broadcaster (separation from the State and to some extent from market forces) which makes it possible to translate the public service remit into concrete programming, and to ensure that all the means available are used in the public interest, to fulfil this remit. The particular structures of public service broadcasters (internal pluralistic safeguards, transparency, public accountability, public funding, non-profit-making purpose, etc.) allow the fulfilment of given content-related objectives to be reconciled with editorial independence.

This means that for these content- and organization-related aspects of the public service broadcasting remit, the solutions retained for universal service obligations in telecommunications cannot work. These aspects of the public service remit can be achieved only by setting up a specific not-for-profit organization. They cannot be split up into a number of quantified obligations and be made the subject of tenders."

geographical location, at an affordable price. The minimum set of services is defined in EU legislation and currently includes connection to the fixed public telephone network, with voice telephony, fax and voice band data transmission via modems (i.e. access to the Internet) and related services such as emergency numbers, operator assistance, directory services and public pay-phones.¹⁰ The EU legislation gives national regulatory authorities the option of establishing a "universal service fund" to which all operators contribute, with a view to compensating the universal service provider(s), where universal service provision represents an unfair burden.¹¹ However, few regulatory authorities have established such funds.

Universal accessibility of services is an essential part of public service broadcasting, but, compared to the content dimension, is only of an auxiliary nature. It is a corollary to the obligation to provide programming for *all*, and refers to technical coverage. Public service broadcasters are normally under an obligation to cover the whole (national, regional) territory, at least as far as their major programme services are concerned.¹² Traditionally, universal accessibility has been achieved through terrestrial transmission networks. New means of transmission (satellite, cable) and digital technology have raised new issues, which have been addressed *inter alia* by must-carry rules for cable television networks, rules on the ability of digital decoders to display signals transmitted in the clear,¹³ and rules on access to public broadcasting services via electronic programme guides. It should also be noted that many broadcasters neither operate networks nor provide transmission services themselves, in contrast to telecommunications operators.¹⁴ Another difference is that universal coverage requirements regarding broadcasting are not defined at the EU level (a logical consequence of the fact that the public service remit is defined by the Member States).

2. The different sources of funding

2.1 Broadcasting fees paid by viewers/listeners

The broadcasting fee¹⁵ is the traditional means of funding for public service broadcasting, and it is often regarded as the most appropriate source of funding. It exists in most European states; exceptions are Spain, Luxembourg and (as far as television is concerned) Portugal. In some countries, the broadcasting fee is a levy which is added to the electricity bill (and which

¹⁰ See Articles 2 and 3 of the Voice Telephony Directive (Directive 98/10/EC).

¹¹ See Article 5(1) of the Interconnection Directive (Directive 97/33/EC).

¹² See also [Article 3§3\(a\) of the EBU Statutes](#) and the [Regulation under Article 3§4](#).

¹³ See Article 4(a) of the Television Standards Directive (Directive 95/47/EC).

¹⁴ According to a recent survey by the EBU Strategic Information Service, the following EBU members in EU and EFTA Member States own and operate a terrestrial network for the transmission of their *television* broadcasting services: ORF, RTBF, VRT, YLE, ARD (First channel), ERT, RAI and RTE. With regard to *radio* broadcasting services, there are more members operating their own transmission network.

¹⁵ The term "broadcasting fee" is understood here as comprising all kinds of special fees or levies, irrespective of their denomination under national law, which have to be paid by viewers and/or listeners receiving (or being equipped to receive) broadcasting services, and whose receipts are used, directly or indirectly, entirely or partly, to fund public service broadcasting.

is sometimes calculated as a percentage of the electricity bill); this is to be regarded as a particular method of collecting the fee (see below). In the Netherlands, the Parliament has decided to replace the traditional broadcasting licence fee by a special levy as a supplement to income tax.¹⁶

Originally, the broadcasting "licence" fee was seen as a fee to be paid to the state for *permission* to receive radio/television services. In view of the freedom to receive information, as laid down in Article 10 of the European Convention on Human Rights, it would nowadays be difficult to assume that reception of radio or television services was subject to authorization by the public authorities. Consequently, the broadcasting fee is nowadays generally regarded either as a fee paid for the (possible) reception of public broadcasting services, as a special contribution to the funding of public broadcasting services, or as a kind of tax used (entirely or partly) for the funding of public service broadcasting. The obligation on radio and/or television households to pay the fee (contribution, tax) is independent of whether or not the households actually (wish to) receive public service broadcasting services. This element of *solidarity* (or, as detractors say, its involuntary character) distinguishes it from fees paid by subscribers to commercial pay-TV broadcasters.

Most countries distinguish between a radio and a television fee. In exceptional cases, broadcasting fees exist for radio only (e.g. Portugal) or for television only (e.g. Finland). An issue raised recently is whether the new digital and on-line services of public service broadcasters should be funded from the general radio and/or television fee (although analogue television households have no access to them), or whether such services should be funded from other sources, e.g. payments from households technically equipped to receive such services (see the discussions on the introduction of a "digital licence fee" in the United Kingdom).¹⁷

Sometimes a share of the receipts from broadcasting fees is used for other purposes, such as the funding of the activities of broadcasting/media authorities (e.g. in Germany), support schemes for audiovisual productions and archives (e.g. the INA in France), for more comprehensive terrestrial transmission coverage, or as income for the general state budget.

Since the level of the broadcasting fee has to remain socially acceptable, it is normally impossible to cover, through the fee alone, the entire financial needs for the fulfilment of the public service remit. This is particularly true with regard to smaller countries, countries with various linguistic or cultural regions, other decentralized countries (federal states), and countries with a low *per capita* income.¹⁸

¹⁶ The new system, which entered into force on 1 January 2000, guarantees NOS a fixed amount of public funding which is indexed to inflation and is collected as part of the income tax.

¹⁷ The introduction of a separate digital licence fee had been proposed in the report of the Independent Review Panel chaired by Mr Gavyn Davies (The future funding of the BBC, July 1999) for the Department for Culture, Media and Sport. Although a digital supplement was regarded as a fairer way of funding new digital services than taking funding from the general licence fee, it was strongly opposed by commercial competitors, who feared that it could discourage people from taking up digital television. In February 2000, the idea was abandoned by the UK Government, which proposed instead an increase in the general licence fee.

¹⁸ Only in the United Kingdom (BBC), Norway (NRK) and Sweden (SVT) does it seem possible to cover current funding needs, by and large, through funding from the broadcasting fee.

- ***Obligation to pay, reductions and exemptions***

As a mandatory fee, the broadcasting fee needs a legal basis. The obligation to pay the fee has to be laid down by law. Often a condition for the requirement to pay is the possession of receiving equipment (radio or television set); the definition of receiving equipment may, however, need to be reviewed, given the possibility of receiving radio and, increasingly, television services via PCs too.

In line with the general principle of solidarity, there are normally cases where no broadcasting fees, or only reduced ones, have to be paid. Such reductions and/or exemptions have been foreseen mainly for social reasons, i.e. in cases where the annual income of households does not exceed a certain amount, or where people receive social security payments. Other possible criteria for reductions/exemptions are age, disability, unemployment and retirement. In some countries, the broadcaster's loss of revenue through such reductions and exemptions is compensated through allocations from the state budget (e.g. Ireland and France).

- ***Fixing the level of the broadcasting fee***

The amount payable, i.e. the level of the broadcasting fee, is often also fixed in law; otherwise, at least the criteria and procedures for setting the amount are normally specified by law. In many countries (including France, Germany and the United Kingdom), it is the Parliament that determines the fee, either for a number of years ahead or for an unlimited period. In other countries it is the Government or a Ministry that does so. Thus the public service broadcaster itself does not fix the fee.

The primary criterion for fixing the level of the fee is the financial needs for the fulfilment of the public service broadcasting remit. Revenue from other sources which the broadcaster may reasonably expect to obtain (in particular from advertising/sponsorship) naturally has to be taken into account. The public service broadcaster is normally called upon to specify (and justify) those needs and to anticipate the development of other revenue.

The fact that a political decision (normally by Parliament) has to be taken on the level of the fee, and particularly with regard to its adjustment to rising costs and/or extended tasks, exposes public service broadcasting to potential political pressure. For this reason, efforts have been made in many countries to make the decision-making process as objective and transparent as possible, including proper consultation of public broadcasting organizations, in line with the above-mentioned Council of Europe Recommendation.¹⁹ Attempts have also

¹⁹ Recommendation No. R(96)10 on the guarantee of the independence of public service broadcasting (see above).

been made to introduce automatic factors which prevent dependence on *ad hoc* decision-making, an example being automatic inflation adjustment. In this context it needs to be recognized that costs in the broadcasting sector have usually risen at a faster rate than has been the case for the economy as a whole, which should lead to an adjustment *above* the *general* rate of inflation.²⁰

Model requirements for the decision-making process, aimed at safeguarding the independence of public service broadcasting from public authorities, were formulated by the German Federal Constitutional Court in its decision of 22 February 1994. The starting point for the Court was the close connection and interdependence between programme autonomy and the provision of funding. On the one hand, the State, in its role as a guarantor of broadcasting freedom, has to ensure sufficient funding for public service broadcasting. On the other hand, its decision-making power in this field may represent a means of gaining influence over the broadcasters' programme policy. In the case in point, the Court considered it necessary for the legislators of the *Länder* to revise the system and to lay down additional safeguards. In view of the practical limits for determining the level of the fee by material criteria, the Court considered that an appropriate *structuring of the decision-making process* was the most effective way of guaranteeing a proper decision and preventing abuse. Further to this decision, the *Länder* have strengthened the powers and the independence of the "KEF" Commission. The role of the latter is to verify and assess the financial needs (as set forth by the public broadcasters) and to make recommendations for necessary adjustments to the broadcasting fees. (The level of the broadcasting fee is fixed by an Interstate Treaty, signed by the Minister-Presidents and ratified by the Parliaments of all the *Länder*.) Although these recommendations are not legally binding, it is difficult for legislators not to follow them.²¹

- ***Collection of the broadcasting fee***

In view of the historical background to the broadcasting fees it is not surprising that their collection was, in the past, often entrusted to the national PTTs. However, the different understanding of the broadcasting fee (i.e. the change from a telecommunications licence fee to a funding instrument for public service broadcasting), the separation of regulatory and operational functions in the telecommunications sector, and the transformation of the former monopoly PTTs into private commercial companies competing in a liberalized market have removed the primary reasons for this solution.

The options are

- (a) collection by the public service broadcasters themselves, or by a collecting agency set up by them (e.g. the GEZ in Germany)²²

²⁰ For example, in February 2000 the UK Government announced plans to increase the broadcasting licence fee 1.5% above inflation in subsequent years.

²¹ These changes have been introduced by the Third Treaty amending the Interstate Broadcasting Treaty, which entered into force on 1 January 1996.

²² Own collection is gaining ground with systems in place in, for example, Denmark, Norway, Sweden, Slovakia, Croatia, Slovenia, Israel (data from 1998).

- (b) collection by public authorities (in particular, tax or media authorities)²³
- (c) collection by third parties which have been entrusted by law with the task of collecting the fees (e.g. electricity²⁴, post/telecommunications²⁵ or other utility companies)
- (d) collection by third parties which have been given this task following a public tendering procedure.

It seems that collection by electricity companies can be an efficient solution, particularly in countries with a less developed administrative infrastructure. This solution may, however, become more difficult in the future owing to liberalization of electricity markets. Whatever body is in charge of collection, to work effectively it needs to be given appropriate powers, and, in particular, access to data from registration authorities (unless it has gathered equivalent data itself, as has usually been done by electricity and other utility companies in a monopoly or quasi-monopoly position).

In line with the origins of the broadcasting fee and given the fact that income is not always used exclusively for the funding of public service broadcasting, in many countries the income is not directly transferred to the public service broadcaster but transits through the state budget or a special fund.²⁶

Main advantages

Revenue from the broadcasting fee is stable and secure, predictable, less volatile than other means of funding; it reduces dependence on advertising revenue and on state allocations; the broadcasting fee establishes an additional link between public broadcasting organizations and viewers and listeners; in most countries, public acceptance of the broadcasting fee is relatively high.

Main disadvantages

Revenue is static (the number of radio/television households is no longer increasing significantly), with a very limited potential for growth; increases in the level of the broadcasting fee may be unpopular and politically difficult to achieve; the need to adapt the fees periodically may create dependency on state institutions, unless adequate procedures guarantee objective and independent decision-making; state-aid rules of the European Union may create complications and uncertainty; the collection may be difficult to organize, with an important evasion rate;²⁷ political and social acceptance of the broadcasting fees may decrease over time (detractors may see the broadcasting fee as an anachronism in the digital environment).

²³ For example, in France, Belgium (data from 1998).

²⁴ For example, in Greece, Cyprus, Turkey, the Former Yugoslav Republic of Macedonia, Algeria, Morocco, Egypt (data from 1998).

²⁵ For example, in Poland, the Czech Republic, Hungary, Italy and Austria (data from 1998). In Austria the system has since been changed to a collecting agency co-owned by ORF.

²⁶ However, a direct transfer takes place in *inter alia* Germany and Denmark

²⁷ According to estimates from the EBU Statistics Network, the rate of evasion ranges from 5-6% in certain Western European countries (the United Kingdom and the Netherlands) to 30% or more in certain Central and Eastern European countries.

2.2 Concession fees paid by commercial operators

In most countries, commercial broadcasters have to pay fees for their broadcasting licences and for the use of frequencies as public resources. The proceeds from these fees are normally used to finance the activities of the independent broadcasting authorities. Often the fees do not correspond to the full value of the frequencies; in return, terrestrial broadcasters frequently have to fulfil special obligations, with regard to programming or technical coverage, which can be regarded as a consideration for the awarding of frequencies.

The fees paid by commercial operators are rarely used for the funding of public service broadcasting. An exception is Finland, for historic reasons.²⁸ The current system, introduced in 1999,²⁹ is based on an extra-budgetary "State Television and Radio Fund", which is used to finance the activities of YLE (besides covering the cost of collecting fees, the supervision of compliance by broadcasters, and support measures). The income for the Fund comes from television fees, which are payable by viewers for use of a television set, and from concession fees (also called operating licence fees), which are payable by television and radio operators holding a licence under the Act on Television and Radio Operations. The concession fees are calculated, in accordance with a progressive scale, on the basis of turnover regarding "all advertising and sponsorship income relating to television and radio broadcasting taking place under the licence and intended to be received in Finland, as well as other income accruing from the broadcasting operations".³⁰

Legally speaking, financing through such a fund is also a form of public funding, even if part of it comes from commercial operators. The "counterpart" of this levy imposed on the advertising/sponsorship and other commercial income of private channels is a ban on radio/television advertising and sponsorship on public channels.³¹

²⁸ The commercial broadcaster MTV3 started its operations on the channels of YLE; when it subsequently acquired its own channel, transmission thereof was still carried out by YLE's terrestrial network. MTV paid a lump sum to YLE, which included payment for airtime and for transmission capacity. Later a distinction was made between payment for transmission capacity and payment of a "public service fee". This public service fee was paid direct to YLE, on the basis of a negotiated agreement, a practice which was continued until 1998.

²⁹ The Act on the State Television and Radio (745/1998) entered into force on 1 January 1999.

³⁰ According to the Act on the State Television and Radio (see previous footnote).

³¹ A new Act amending the 1993 Act on YLE, which entered into force on 1 January 1999, abolished sponsorship on YLE channels, thus complementing the already existing ban on radio and television advertising (laid down in the 1993 Act and previous operating licences of YLE). There is, however, an exception in that the Council of State has the right to grant YLE, on exceptional grounds, a programme-specific right to broadcast advertising. Such a right (regarding advertising but not, apparently, sponsorship) has been granted for the transmission of certain major sports events included on a list.

The Finnish model has attracted some attention across Europe since the European Commission's Competition Directorate-General gave the impression that it favoured such a funding scheme, compared to the usual mixed funding, where public broadcasters are funded from the broadcasting fee and from advertising/sponsorship on their own channels.³² A similar model has been tried in Estonia, where Estonian public television (ETV) voluntarily gave up television advertising in exchange for financial compensation paid by the commercial television stations, a practice that failed because the commercial operators defaulted on the payments.

Main advantages

Funding is dynamic and follows general market trends; public broadcasters benefit indirectly from the stronger growth of advertising/sponsorship revenue in the commercial sector; the need for increases in the broadcasting fee (as the second main source of funding) may be reduced and (smaller) increases may be easier to obtain; public and commercial broadcasters do not compete for advertising revenue, which addresses concerns by (European) competition authorities; public broadcasters are not under pressure to maximize their audiences; nor are they tempted to give preference to majority interests over minority interests.

Main disadvantages

The advertising/sponsorship revenue of commercial channels is unstable and unpredictable; advertising growth may slow down even in the commercial broadcasting sector; the basis for calculating the fee is difficult to determine (advertising/sponsorship and/or pay-TV gross or net revenue); commercial broadcasters can only cover a small part of public broadcasters' financial needs, if at all, especially in less profitable markets; the overall level of funding available for the broadcasting sector may decrease (if radio/television advertising on public channels is abolished, the advertising revenue of commercial channels may not grow by the same amount); public broadcasters become dependent on the success of commercial competitors; competition from abroad can destabilize the funding scheme (since concession fees can hardly be imposed on broadcasters established abroad); pay-TV operators, which do not benefit from the abolition of advertising/sponsorship on public channels, may challenge the fee.

³² An internal DG IV discussion paper of September 1998 argued that a solution which reserved advertising/sponsorship revenue exclusively for commercial operators and public funding exclusively for public service broadcasters would limit possible distortions of trade, since public service broadcasters would no longer compete on the advertising market.

2.3 Other sources of public funding

Especially in countries where there is no broadcasting fee, or where the level of the fee is too low to be a major source of income, it is necessary for public service broadcasting to rely on other sources of public funding. These may include allocations from the state budget, from special funds, support programmes, etc.; they may also include *ad hoc* measures such as capital increases, restructuring aid, etc.

To be stable and secure, such funding needs a clear legal basis (apart from the law approving the state budget), which projects the level of funding for an appropriate period of time. Dependence on annual decisions (on the state budget) or on *ad hoc* measures would create a climate of insecurity and would undermine a public broadcaster's ability to plan ahead and invest.

To avoid exposure to undue interference in editorial and other matters, it is important for the decision-making process on such funding to be structured in an appropriate way, and, in particular, to be transparent and based on objective criteria. Additional safeguards could be the establishment of an extra-budgetary fund or the involvement of an independent body of experts. The funding should be fixed for a period of several years, if possible with automatic adjustment mechanisms (linked to inflation, increases in the state budget, or other appropriate criteria). This implies regular reviews at the end of such periods.

In principle, the requirements for the decision-making process should be similar to the requirement for fixing the broadcasting fee (see above). However, two important differences need to be kept in mind. The first is that where public funding is provided from the state budget, it automatically reduces the financial means available for other state activities, and may therefore come into conflict with other political objectives; funding may also suffer from general budgetary restrictions. The second is that whereas funding based on the broadcasting fee requires political decisions to be taken only in the case of necessary *adjustments* (increases in the fee), other sources of public funding often need decisions even for the mere *continuation* of the funding. Therefore, in comparison, the broadcasting fee is normally regarded as a more stable and secure source of funding.

Where broadcasters are funded from the state budget and no safeguards exist to protect decisions on funding from undue political influence, it is hardly valid to speak of truly independent public service broadcasting. Even where a broadcaster is, organizationally speaking, at a distance from the state, the "umbilical cord" of funding can mean that in reality it remains a state broadcaster.

Main advantages

Funding can be quickly adapted to needs; no problem with collection and public acceptance of the broadcasting fee; the burden is spread in a way that is socially fairer, since the broadcasting fee system cannot be as sophisticated as the general tax system; the public service broadcaster remains firmly rooted in public service traditions.

Main disadvantages

Strong dependency on political decisions; considerable exposure to undue political influence; public broadcasters may become alienated from their viewers and listeners; they may suffer from chronic underfunding in the public sector; *ad hoc* decisions on public funding may be challenged by (European) competition authorities.

2.4 Radio/television advertising

As long as public service broadcasters were in a monopolistic or quasi-monopolistic situation, advertising on public channels responded to a twofold interest: it allowed advertisers access to radio and television viewers and it opened up for public service broadcasters a particularly lucrative source of revenue. Through the sale of relatively little advertising time, it was possible to cover a large proportion of (and, in some countries, virtually the entire) funding needs of public service broadcasting. This extra income was also in the interests of viewers and listeners, since it meant that the broadcasting fee could be kept to a minimum level, whereas tight limitations on radio/television advertising protected viewers/listeners against there being a disagreeable amount of advertising.

With the introduction of commercial broadcasting, the market for radio and television advertising expanded rapidly, but this increase mainly benefited commercial operators. With shrinking audience shares, a viewer/listener profile less attractive to advertisers, occasionally falling prices for advertising owing to the increased offer of advertising time, and extra restrictions for advertising on public channels, public service broadcasters had to face more or less dramatic reduction in their share of the advertising market. In parallel, the share of advertising in the overall funding of public service broadcasting generally decreased. For example, for ARD and ZDF the share of advertising income in the overall budget fell from between 15% and 40% in the mid-1980s to between 5% and 10% in the late 1990s.

This development has prompted calls, particularly from commercial operators and some politicians, to change the system, abolishing advertising on public channels altogether and funding public service broadcasting exclusively from public funds. Such a separation may also suit competition authorities.³³ However, it would not contribute to public service broadcasters' independence and competitiveness, and could also be dangerous in view of the question marks hanging over the long-term future of the broadcasting fee.

In any case, income from radio/television advertising remains an important source of revenue for the great majority of public broadcasters (with the exception of the BBC, DR, NRK, SVT, YLE, and a number of others, mainly radio broadcasters). In most countries, an increase in the broadcasting fee compensating for the abolition of radio/television advertising revenue would

³³ See previous footnote.

push the broadcasting fee beyond any socially and politically acceptable level. Consequently, the political tendency is towards a strengthening of the existing special limitations on radio/television advertising on public channels, rather than towards more radical measures.

As an EBU enquiry on limitations on television and radio advertising (and sponsorship) has shown, practically all public broadcasters are subject to stricter rules than those imposed on their commercial competitors, and those foreseen in the "Television without Frontiers" Directive. These restrictions take on different forms, depending on the various national systems, and may include: stricter limitations on advertising time per day or per hour, stricter rules on advertising breaks, more restrictions regarding advertising for alcoholic beverages or other products/services, no advertising on Sundays and public holidays, etc.; probably the most severe restriction is the prohibition of advertising on particular channels³⁴ or other services (e.g. teletext).

Main advantages

Dynamic source of funding, develops in line with the market; growth rate for radio/television advertising tends to be higher than that of public funds; advertising income creates an incentive to respect public tastes and preferences; facilitates the production/acquisition of popular programmes; helps to maintain the competitiveness of public service broadcasters in the acquisition of sports rights; protects against marginalization as a minority interest service; underpins independence from public authorities; reduces the risk of political interference; facilitates the funding of new services.

Main disadvantages

Unstable source of funding; may be undermined by new technological developments which allow viewers to skip advertising³⁵; depends on market developments and, in particular, on a channel's audience share; may lead to a programme policy which is more concerned about maximizing audiences than about the public service remit; this may result in neglect of minority interests, and priority being given to popular programmes, especially during prime time; editorial decisions may be exposed to commercial pressures; strong presence of advertising may blur the distinctiveness and public service character of programme services.

³⁴ Such as for the new thematic channels of ARD and ZDF mentioned in footnote 2 above.

³⁵ For example, personal video recorders (PVRs).

2.5 Radio/television sponsorship

What has been said about radio/television advertising applies, to a large extent, to radio/television sponsorship too. The main difference is that revenue from sponsorship is normally much smaller than that from advertising³⁶. It should not be overlooked, however, that sponsorship may be of particular importance for certain programme categories.

For example, sponsorship, in the form of the provision of donated products and services, has become standard practice within feature films and films made for television, as a means of reducing production costs.³⁷ Prizes in game shows, and in competitions for viewers or listeners, are also usually donated by sponsors.

In the sports domain, sponsorship of the sports event itself, of timing and data services, of the transmission on television (television sponsorship in the strict sense), and television advertising before and after the event, during natural breaks, and increasingly also during the event³⁸, are normally co-ordinated and form part of an integrated concept of commercial communications.

Despite its limited share in the overall funding, sponsorship is therefore essential to allow public broadcasters to offer a full range of programmes. Otherwise, they could find it difficult, if not impossible, to compete for the acquisition of premium content (in particular sports programmes).

Accordingly, it would not seem realistic to prohibit *all* forms of sponsorship on public service channels. However, as the above-mentioned EBU enquiry has shown, public broadcasters are often subject to restrictions which are tighter than the general rules. Restrictions may include the prohibition of sponsorship for certain programme categories (e.g. children's programmes, documentaries, religious programmes) and limitations on sponsorship credits (e.g. limited duration, no animation). Exceptionally, public broadcasters are even subject to a general ban with very limited exceptions (e.g. the BBC, YLE).

Main advantages

Helps to maintain the competitiveness of public service broadcasting for all programme categories, in particular as far as the acquisition of programmes and transmission rights is concerned. (In addition, similar advantages as above for radio/television advertising.)

Main disadvantages

Risk of interference by sponsors with regard to the content or scheduling of sponsored programmes. (In addition, similar disadvantages as above for radio/television advertising.)

³⁶ Revenue from television advertising is often 10-15 times higher than income from sponsorship for television programmes.

³⁷ Undue prominence for donated goods or services ("product placement") would, of course, come into conflict with legal principles (separation of advertising and programmes, and the prohibition of surreptitious advertising).

³⁸ Through new advertising techniques such as split-screen and virtual advertising.

2.6 Subscription fees for pay services

With the advent of pay-TV, subscription fees have become a fast-growing source of revenue for commercial operators. The new possibilities created by digitization are likely to accelerate the growth of this form of revenue. Pay-TV is often seen as the main driving force of digital television.

In contrast, other pay broadcasting services (e.g. pay-per-view, pay-radio) or new media services (e.g. information services on the Internet) against payment are still in an early stage, and it is not yet possible to gauge their success on the market and the new revenue streams which may be created.

On the other hand, Internet access providers, as well as cable television network operators, normally derive a substantial part of their revenue from subscription fees paid by consumers connected to their services or networks.

The question of whether, and to what extent, public service broadcasters could or should also offer services against payment to the public is still open, and it would probably be premature at this stage to give a definitive answer. At least it can be noted that the above-mentioned European legal and policy documents on public service broadcasting do not exclude such activities.³⁹

The fact that the traditional characteristics of public service broadcasting relate to the provision of *basic services free-to-air*, i.e. without additional payment by viewers or listeners, does not *a priori* exclude the provision of *additional* services against payment. Such additional services could be new thematic channels, but also on-demand services.

Main advantages

Access to a new and fast-growing source of revenue; would allow public service broadcasters to remain competitive vis-à-vis pay-TV operators, which are expected to command much higher sums for the acquisition of premium content (sports, feature films, etc.) than free-to-air broadcasters.

Main disadvantages

Use of this source of revenue may undermine the public broadcasting role and image as a service *for all*; it may weaken the social and political acceptance of the broadcasting fee (which may in the long term run the risk of being replaced by subscription fees).

³⁹ As far back as 1994 the *Prague Resolution on the future of public service broadcasting* stated (tentatively): "where appropriate, funding may also be provided from charges for thematic services offered as a complement to the basic service". The *Resolution of the EC Council and of the representatives of the governments of the Member States of 25 January 1999 concerning public service broadcasting* underscored the importance of public service broadcasting being able to benefit from technological progress and enhance the service provision, "including the development and diversification of activities in the digital age" (*Official Journal* No. C 30/1 of 5.2.1999).

2.7 Other revenue

Other possible revenue may come from programme sales, sub-licensing, merchandising, teleshopping, electronic commerce, the provision of (production, transmission, etc.) services to third parties, etc. It may also include revenue from the transfer of profits from commercial subsidiaries or joint ventures.

However, the traditional legal framework for public service broadcasting often severely limits access to such revenue. This is also often an obstacle to joint ventures and alliances with commercial companies outside the broadcasting sector, which would allow the possibilities of digitization and convergence to be exploited to the full.

Internet service providers and Internet access providers have been able to benefit from a growth in revenue considerably higher than that of radio/television advertising, and even of pay-TV fees. This revenue seems to come, to a large extent, from sources other than "traditional" banner advertising on Internet portals, and may include, besides subscription fees, the sharing of revenue with telephone operators and e-commerce operators, including cross-promotional activities.

Main advantages

Access to new sources of funding; diversification of revenue; increased possibilities for joint-ventures and alliances. (In addition, similar advantages as above for subscription fees for pay services.)

Main disadvantages

Possible "commercialization" and dilution of the traditional character of public service broadcasting; possible conflicts with the legal framework; legal insecurity. (In addition, similar disadvantages as above for subscription fees for pay services.)

2.8 Mixed funding

Mixed funding for public service broadcasting, i.e. a funding system *based on several sources*, is the reality in almost all European States. "Mixed funding" is also often understood as a mixture of "public" and "commercial" revenue. (Regarding the notion of "commercial revenue", see point 1.4 above.)

An overview of the current "funding mixes" of public service broadcasters may be found in the Statistical Yearbook of the European Audiovisual Observatory⁴⁰, which is based on data from the EBU Statistics Network and the annual reports of broadcasting organizations.

⁴⁰ <http://www.obs.coe.int/>

The predominance of mixed funding is not surprising. Firstly, there is normally no single source of funding available which, on its own, would be sufficient to provide the necessary financial resources. Secondly, reliance on one particular source of funding creates dependencies which run the risk of undermining the independence of the broadcaster and the quality and efficiency of the fulfilment of the public service remit. Thirdly, as each of the different sources of funding has particular advantages and disadvantages (as shown above), the combined use of the sources can maximize the advantages while limiting the disadvantages, provided that this is done in an intelligent way, i.e. adapted to the different legal, political and economic situations of the individual countries and markets. Last but not least, a mixed system is more robust in a rapidly changing environment, where certain sources may suddenly dry up while others grow and new ones may appear.

The funding systems of public service broadcasting in Europe are therefore characterized, on the one hand, by a strong and indispensable element of public funding, and, on the other, by a plurality of sources. The plurality of funding sources (and their legitimacy) has also been recognized in the two texts of the Council of Europe mentioned above⁴¹, as well as, implicitly, in the Amsterdam Protocol on the system of public broadcasting in the Member States.

⁴¹ The Prague Resolution on the future of public service broadcasting and Recommendation No. R(96)10 on guaranteeing independence of public service broadcasting.