

# EBU

OPERATING EUROVISION AND EURORADIO

# LEGAL FOCUS **GOVERNANCE PRINCIPLES FOR PUBLIC SERVICE MEDIA**

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The European Broadcasting Union (EBU) is the world's foremost alliance of public service media (PSM). Our mission is to make PSM indispensable.

We represent 115 media organizations in 56 countries in Europe, the Middle East and Africa; and have an additional 31 Associates in Asia, Africa, Australasia and the Americas.

Our Members operate nearly 2,000 television and radio channels alongside numerous online platforms. Together, they reach audiences of more than one billion people around the world, broadcasting in almost 160 languages.

We strive to secure a sustainable future for public service media, provide our Members with world-class content from news to sports and music, and build on our founding ethos of solidarity and co-operation to create a centre for learning and sharing.

Our subsidiary, Eurovision Services, aims to be the first-choice media services provider, offering new, better and different ways to simply, efficiently and seamlessly access and deliver content and services.

We have offices in Brussels, Rome, Dubai, Moscow, New York, Washington DC, Singapore, Madrid and Beijing. Our headquarters are in Geneva.

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# GOVERNANCE PRINCIPLES FOR PUBLIC SERVICE MEDIA

## INDEPENDENCE

No undue interference by political or economic powers

## ACCOUNTABILITY

Answerable to supervisory bodies and to the public at large

## TRANSPARENCY

Open and responsive

## SUSTAINABILITY

Capable of serving the evolving needs of society

*'The effective governance of public service media, to the equal benefit of all members of the public, is an important element and a specific example of the larger concept of good governance in democratic society.'*

Committee of Ministers of the Council of Europe, Declaration on PSM governance, 15 February 2012

# FOREWORD

The EBU Legal Focus on public service media (PSM) governance complements the Legal Focus on public funding published in February 2015. Indeed, governance and funding are strongly interrelated, as without secure and appropriate funding, it is not possible to ensure the independence and sustainability of PSM.

Both papers are part of the EBU's efforts to produce practical tools to help its Members in a period of rapid change, in line with the strategic 'VISION2020' exercise that the EBU has been conducting over the past two years.

European PSM organisations, like the entire media sector, are facing tremendous challenges to keep pace with the technological revolution, digitisation, convergence, globalisation, and changing consumption patterns. Many of them are also under pressure in terms of editorial independence, budget constraints, remit and/or are undergoing fundamental reforms.

In this context, PSM governance is today very much in the spotlight. Indeed, good governance appears to be a decisive factor in determining whether organisations will be able to meet the current challenges and continue to play their vital role in the new media ecosystem.

The aim of the present document is to bring to light key governance principles, in line with the EBU Core Values of Public Service Media adopted by the General Assembly in Strasbourg in 2012.

While *independence, accountability, transparency* and *sustainability* are fundamental principles for PSM governance and should apply universally, the way in which they are implemented may vary from country to country, in line with different constitutional, cultural and political systems and traditions. There is no one-size-fits-all governance model for PSM; a solution that works well in one system may not necessarily work in another. Accordingly, this paper often suggests several options and we hope that it will inspire national debates and provide practical guidance at all levels.

It is for legislators and public authorities to provide an adequate framework for PSM to support these principles and to ensure their effective implementation. Good governance principles must also be actively embraced by PSM organisations themselves and guide the priorities and decisions of senior management.

Adherence to these principles can help to build public trust in PSM, increase their legitimacy and ensure that they remain indispensable in the future.

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# 1. INTRODUCTION & BACKGROUND

## What is Governance and what does it mean for PSM?

'Governance' is generally understood as the framework of rules and practices which determine how an organisation is directed: who takes decisions, how stakeholders can make their voice heard and how the organisation is held accountable.

In the case of public service media (PSM) organisations, 'governance' refers to the 'external' governance arrangements, normally found in the law on PSM, and to the 'internal' arrangements made by the governing bodies of PSM, both executive and supervisory.

A modern approach to governance also covers the way the legal framework is implemented in practice, how the actors behave within the framework and the relationship with external stakeholders: audiences, public authorities, economic players and civil society.

Accordingly, the authors of this paper have not only reviewed the laws and regulations in place in different European countries, but also the available empirical research, in particular on media freedom, independence and pluralism (for example the MEDIADEM reports 2010-2013,<sup>1</sup> the INDIREG report 2011,<sup>2</sup> and the OSF 'Mapping Digital Media' reports 2011-2014<sup>3</sup>).

PSM's basic governance requirements stem from their role and function in democratic societies: to foster democratic debate, to underpin media freedom and pluralism, to support social cohesion and to contribute to Europe's cultural diversity. Ultimately, the application of good governance should serve to realise both organisational and societal goals.

The role of PSM is closely linked to European values and fundamental freedoms. PSM should serve as an institutional guarantee for media freedom and pluralism, and promote the values of democratic societies.

## What are the relevant European standards?

In line with this human rights dimension of PSM, European standards have mainly been established by the Council of Europe's Committee of Ministers and Parliamentary Assembly, and the European Court of Human Rights. Of particular importance are the Recommendations and Declarations of the Committee of Ministers on the independence (1996<sup>4</sup>, 2006<sup>5</sup>), the remit (2007<sup>6</sup>) and the governance of PSM (2012<sup>7</sup>). This last Recommendation laid down a number of guiding principles related to PSM independence, accountability, effective management, responsiveness and responsibility, and transparency and openness.

<sup>1</sup> MEDIADEM, 'European Media Policies Revisited: Valuing & Reclaiming Free and Independent Media in Contemporary Democratic Systems', is an EU-funded research project. MEDIADEM reports available at: <http://www.mediadem.eliamep.gr/findings/>.

<sup>2</sup> 'Indicators for independence and efficient functioning of audiovisual media services regulatory bodies' (INDIREG) is a study conducted on behalf of the European Commission. Final Report, February 2011, see: <http://www.indireg.eu/>.

<sup>3</sup> 'Mapping Digital Media' is a research project by the Open Society Foundations, which examines the impact of the 'digital switchover' on journalism, democracy, and freedom of expression in 56 countries, see <http://www.opensocietyfoundations.org/projects/mapping-digital-media>.

<sup>4</sup> Council of Europe Recommendation No. R (96) 10 of the Committee of Ministers to Member States on the guarantee of the independence of public service broadcasting (11 September 1996), see [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%281996%29010&expmem\\_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%281996%29010&expmem_EN.asp).

<sup>5</sup> Council of Europe Declaration of the Committee of Ministers on the guarantee of the independence of public service broadcasting in the Member States (27 September 2006), see <https://wcd.coe.int/ViewDoc.jsp?Ref=Re%282006%2912&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>.

<sup>6</sup> Council of Europe Recommendation Rec(2007)3 of the Committee of Ministers to Member States on the remit of public service media in the information society (31 January 2007), see <https://wcd.coe.int/ViewDoc.jsp?id=1089759>.

Governance should also reflect and support the values of public service media. In 2012, the EBU General Assembly adopted a Declaration on the Core Values of Public Service Media,<sup>8</sup> which have been identified as *universality, independence, excellence, diversity, accountability* and *innovation*.

### **What are the major challenges ahead?**

PSM are facing a number of critical challenges: How to defend their values and their independence against outside pressures? How to be successful on new media platforms? How to remain relevant, especially to the younger audiences? How to gain and preserve the audience's trust? How to gather legitimacy and public support?

While good governance does not necessarily provide the answer to all these challenges, it can certainly help organisations become more effective and responsive, to connect to the audience and other stakeholders in new ways, to adapt to new situations, to innovate and to generally meet the challenges of a complex new media environment.

How PSM should respond to fundamental and on-going changes in audience behaviour, technologies, media markets and societies has also been the object of a collaborative EBU project, 'VISION2020'. Major findings and recommendations were published in the spring of 2014 as an eReport.<sup>9</sup> Among the priorities identified were organisational changes and a transformation of organisational culture and leadership, with a particular emphasis on connecting with a 'networked society', building trust with the audience and delivering return on society.

While good governance is crucial for a positive public perception of PSM organisations and their acceptance by society, poor governance (characterised, for example, by political interference, a lack of impartiality and professionalism, unresponsiveness to audience needs, and an inability to reform themselves) will likely lead to the decline of PSM in every respect, in terms of programme quality, audience share, reputation and legitimacy.<sup>10</sup> In certain countries this may put the very existence of PSM at stake.

### **How to accommodate the diversity of governance systems in Europe?**

There is a great diversity of PSM systems in Europe in line with different political and legal systems, cultures and traditions. PSM organisations may also be at different stages of development, for example transitioning from purely linear broadcasting to online publishing, or from a 'State' broadcaster to an independent PSM organisation.

PSM organisations also need to be deeply rooted in the societies which they are committed to serve. Reforms should therefore be the result of an inclusive democratic process, involving various stakeholders, including civil society, and ideally based on a multi-party consensus.

Therefore, the purpose of this paper, as for the Legal Focus on public funding,<sup>11</sup> is not to prescribe an 'ideal model' of PSM but to suggest a number of principles reflecting best practice. These may serve as a guide for all those involved in PSM governance at any level, and in particular for those designing new governance arrangements.

<sup>7</sup> Council of Europe Recommendation CM/Rec(2012)1 of the Committee of Ministers to Member States on public service media governance <https://wcd.coe.int/ViewDoc.jsp?id=1908265> and Declaration of the Committee of Ministers on public service media governance <https://wcd.coe.int/ViewDoc.jsp?id=1908241> (15 February 2012).

<sup>8</sup> [http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Empowering-Society\\_EN.pdf](http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Empowering-Society_EN.pdf).

<sup>9</sup> See <http://www3.ebu.ch/publications/vision2020-full-report>.

<sup>10</sup> See Ghinea and Avădani, 'Does media policy promote media freedom and independence? The case of Romania', MEDIADDEM, Case study report, 2011, p. 21-23, see n. 1 above.

<sup>11</sup> <http://www3.ebu.ch/contents/publications/public-funding-principles-for-ps.html>

## 2. INDEPENDENCE

### How to ensure editorial independence and institutional autonomy?

#### 2.1. CONCEPT OF INDEPENDENCE

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**Preventing undue interference by political or economic powers**

Editorial independence and institutional autonomy are absolutely essential for PSM to avoid undue interference by political or economic powers, regarding for example the content of programmes or the hiring of staff. Moreover, without a sufficient level of independence, PSM cannot sustain their credibility and will lose popular support. PSM can only be successful in fulfilling their role if they are, and are perceived as being, truly independent from the government and from other political and economic powers. The most important element in the relationship between PSM and their audiences is trust.

In view of the influence which PSM have on public debate and opinion forming, political and economic powers will always be tempted to exert their influence on PSM. Therefore independence calls for constant vigilance and should never be taken for granted. Moreover, dependence on political and funding decisions can increase PSM's vulnerability to outside political pressures.

**Independence cannot be 'absolute' - PSM need to be 'connected'**

At the same time, PSM are embedded in a country's democratic system, they exist to serve citizens and society, they depend on public funding and they form part of an economic and cultural audiovisual ecosystem. PSM therefore cannot act in isolation but only in interaction with other stakeholders, or in other words, they have to be 'connected'; therefore 'absolute' independence from other stakeholders is not a realistic or justifiable objective.

That said, the level of independence should be sufficiently high so that PSM organisations are able to fulfil their remit in an objective and impartial way, to contribute to media freedom and pluralism and to fulfil their democratic, social and cultural role for society, in line with the Preamble of the Amsterdam Protocol.<sup>12</sup>

**Independent supervisory bodies should serve as 'buffers' between PSM and political powers**

To reduce the risk of undue interference, most countries have introduced legal safeguards and supervisory systems which distance PSM from political institutions, in particular from the executive and legislative branches, but also from political parties. These safeguards often take the form of independent supervisory bodies, which act at arm's length from the political powers and can serve as buffers between them and the management and editorial staff of PSM.

**De jure and de facto independence depend on a variety of legal, political and cultural factors**

Apart from the legal and structural frameworks, PSM independence may be influenced by a variety of other factors, such as political and social structures, political and corporate culture, and the interaction among stakeholders at a particular time. Therefore, a distinction is often made between *de jure* (formal) independence and *de facto* (real, operational) independence.

<sup>12</sup> Protocol on the System of Public Broadcasting in the Member States, attached to the EU Treaties, see: <http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Media%20Law/Reference%20Texts/EU%20-%20Public%20Service%20Media/REF%20EU-Protocol%20of%20Lisbon-30.3.2010.pdf>.

Even an optimum legal framework and organisational structure may fail to produce the desired outcome if the corporate climate, the political culture or the behaviour of the main actors does not support the independence of PSM. On the other hand, in certain countries, for example in the UK and Nordic countries, PSM can rely on a strong political culture to defend their independence and may therefore be less dependent on legal and organisational safeguards.

The legal framework and the formal governance structure are one aspect, how they are implemented and practiced is clearly another. Accordingly, *de facto* independence depends on two elements: firstly, the implementation in practice of the rules on formal independence, and secondly, 'soft' factors such as informal norms, practices and perceptions - and not least the public's expectation about how independent a PSM organisation should be.

Factors which put independence at risk and which should be avoided include: politicisation of appointments, revolving-doors and career paths between PSM organisations and ministries or political parties, the lack of stable funding or of other resources, and the bypassing of the formal institutional framework by structural legislative changes (for example, the overturning of decisions taken by supervisory bodies, or the early termination of their mandate).

**Independence and accountability need to be balanced and can mutually reinforce each other**

A high level of independence of PSM needs to go hand in hand with a high level of transparency and accountability. These should not be seen as conflicting objectives but as aims which can underpin each other. Transparency and accountability 'reconnect' PSM to the society which they serve and to the democratically legitimised institutions. These aspects are examined in more detail in the chapter on ACCOUNTABILITY.

#### **The Manole case**

In its judgment of 17 September 2009 (Manole a.o. v Moldova), the European Court of Human Rights inferred from Art. 10 (freedom of expression) of the European Convention on Human Rights a positive obligation for the State to put in place a legal framework to ensure the independence of PSM (TRM in the case of Moldova) from political interference and control.<sup>13</sup>

According to the Court, if the State decides to create a public broadcasting system, 'the domestic law and practice must guarantee that the system provides a pluralistic audiovisual service'.

The Court found a violation of Art. 10 since during the period in question 'when one political party controlled the Parliament, Presidency and Government, domestic law did not provide any guarantee of political balance in the composition of TRM's senior management and supervisory body, for example by the inclusion of members appointed by the political opposition, nor any safeguard against interference from the ruling political party in these bodies' decision-making and functioning'. In particular, the Court considered it necessary that the rules for appointing the members of the supervisory council provide adequate safeguards against political bias.

<sup>13</sup> Manole and others v Moldova, judgment of 17 September 2009, no 13936/02. See Berka and Tretter, Public Service Media under Article 10 of the European Convention on Human Rights, available at: <http://www3.ebu.ch/contents/publications/public-service-media-and-article.html> and Voorhoof in IRIS 2009-10:3/1, see: <http://merlin.obs.coe.int/iris/2009/10/article1.en.html>.

## 2.2. PSM STRUCTURE AND LEGAL STATUS

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### **PSM as independent institutions entrusted with a public service remit**

PSM should be organised in the form of *independent institutions* which are entrusted with a public service remit and committed to public service values.

It is not the place here to discuss possible alternative or complementary models, such as the entrustment of public service tasks to commercial companies or the public tendering of programme funding. However it is worth noting that the basic questions of independence and accountability arise in such models as well, and arguably are more easily addressed and monitored with the independent institution model.

### **PSM organisations must not be part of other State institutions**

As independent institutions, PSM organisations must have a legal personality of their own. They must not be part of other State institutions, in particular the government. Where broadcasting is run by the Ministry of Information, it is clearly State broadcasting, not public service broadcasting. State broadcasting, which lacks safeguards for independence and pluralism, is not in line with the requirements of Art. 10 of the European Convention on Human Rights with regard to freedom of expression.

PSM may be organised in the form of a public law entity or a private law company, in line with different national legal traditions. The denomination of public law entities may differ from country to country (e.g. public 'foundation' or 'corporation'). Private law solutions often use the form of commercial (limited or listed) companies but may also be foundations or associations.

### **Public ownership and public funding should not mean State control**

Whereas public ownership is inherent to the notion of public law entities, in practice PSM in the form of private law companies are usually publicly owned as well. Most organisations are publicly funded, at least in part, and have a not-for-profit purpose. This of course requires effective safeguards to ensure that State ownership and State funding do not result in overall State control (see 3.7 below).

### **Decentralisation of PSM can contribute to media pluralism and independence**

Depending on the centralised or decentralised (federal) character of individual countries, or to address the needs of a multi-lingual or multi-ethnic population, there may be one or several PSM organisations in a country, or PSM organisations themselves may be decentralised.

For example, in Germany, one PSM organisation (ARD) consists of regional broadcasters at *Länder* level, which in addition to their regional radio and TV services provide a limited number of joint nation-wide services, whereas the second organisation (ZDF) was established to provide exclusively nation-wide services. In Belgium, there are separate PSM organisations for the Flemish and French speaking communities (VRT and RTBF). And in Poland, a number of regional public service radio stations exist alongside the nationwide public radio and TV organisations PR and TVP. However, the most frequent case is that national PSM have regional branches and services as part of the same organisation (e.g. France 3 as part of France Télévisions).

### **Decentralisation may be structural or functional, regional or by type of media**

Decentralisation in its various forms, notably by including different voices and perspectives to the media output, clearly contributes to media pluralism. It can also support independence, in particular where it benefits from the fragmentation of political powers in a federal system.

This leaves the question whether public radio services and television services should be provided by separate entities, or whether these should be merged in view of media convergence and the increasing importance of multimedia services via the internet. Synergies created by a converged ('tri-medial') organisation need to be carefully balanced against the possible loss of a plurality of voices, in particular as regards centralised news production.

**Outsourcing of production needs special attention**

The outsourcing of audiovisual production, in particular the commissioning of audiovisual works to independent producers, is also often mentioned as a means of extending the plurality of voices. PSM organisations often have a higher requirement to work with independent producers than other broadcasters, which only have to fulfil the 10% minimum requirement under the AVMS Directive. However, the desired effect on pluralism may not always be achieved in light of the increasing concentration in the audiovisual production sector. Moreover, ensuring the respect of public service values and objectives, including editorial independence and quality standards, is imperative, and special attention is required when audiovisual productions are commissioned to independent producers or otherwise outsourced.

## **2.3. INDEPENDENCE OF PSM SUPERVISION**

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**Independence and balanced composition of supervisory bodies**

The supervisory bodies of PSM have a key role to play in respecting and ensuring the independence of PSM.<sup>14</sup>

It would be unrealistic to expect a supervisory body to fulfil its role of guarantor of independence if it is not itself independent and composed in a balanced or pluralistic way. In particular, State representatives or politicians must be prevented from gaining a determining influence in these bodies.

**Clear distinction and separation between executive and supervisory bodies**

PSM supervisory bodies must also be independent from PSM management. Whereas private company law does not necessarily require complete separation between executive (i.e. managerial) and supervisory functions, such a separation has been promoted as a basic organisational principle of PSM since the late 1990s.

The Council of Europe, in its Recommendation on the independence of PSB, distinguished clearly between management and supervisory bodies, with distinct roles and responsibilities.<sup>15</sup> The European Commission, in its 2001 Broadcasting Communication, required effective supervision of the fulfilment of public service obligations 'by a body effectively independent from the management'.<sup>16</sup>

Although the structure, composition and function of the supervisory bodies are dealt with in more detail in the chapter on ACCOUNTABILITY, the means to protect and promote their independence are addressed here.

<sup>14</sup> For example, Art. 23 (b) of the BBC's Royal Charter of 2006 asserts that the BBC Trust must in particular 'secure that the independence of the BBC is maintained'.

<sup>15</sup> This approach was re-confirmed in 2012 by the Council of Europe Recommendation on PSM governance.

<sup>16</sup> 'Communication from the Commission on the Application of State Aid Rules to Public Service Broadcasting' (par. 54): [http://ec.europa.eu/competition/state\\_aid/legislation/broadcasting\\_communication\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/broadcasting_communication_en.pdf).

### 2.3.1. APPOINTMENT PROCEDURES FOR SUPERVISORY BODIES

#### Appointments for supervisory bodies should follow an open and transparent procedure

Nomination and appointment procedures for the members of supervisory bodies are of particular importance. They should be open and transparent and there should be procedural safeguards to ensure a balanced and pluralistic composition. Special consideration should be given to the representation of minorities (see also 3.2. below).

It is not obvious how to design effective safeguards to prevent the majority of posts in the supervisory body from being filled with 'friends' of the government or of the majority parties. However, there are a number of legal procedural safeguards commonly used for this purpose.

#### Means to ensure independent pluralistic composition:

#### Qualified majority in parliament

- *Qualified (3/5, 2/3 or 3/4) majority in parliament for the election of the members of the supervisory body:* in an ideal case, this can lead to a cross-party consensus in parliament and the appointment of independent personalities that are respected across political boundaries; however, it can also lead to a mere partitioning of the posts among the political parties. Moreover, this safeguard becomes totally ineffective if the government parties together hold a qualified majority in Parliament (as shown by the recent example in Hungary); if the political climate is highly polarised, there is the risk of a mutual blockage, with the consequence that no functioning supervisory body may be constituted at all. Sometimes a proportional voting system is used instead, so as to mirror the strengths of the political parties in parliament (e.g. in Belgium and Germany for the parliamentary representatives in the supervisory body).

#### Reliance on institutional pluralism

- *Cooperation of several State institutions in the appointment process (depending on the political system):* for example, some members may be appointed by the parliament, others by the government, and still others by the president or by a second chamber of parliament. Such a system was originally developed in France and exported to a number of Central and Eastern European countries (such as Poland, Bulgaria and Romania). But here again, if the office-holders all belong to the same party and if this party also holds a majority in parliament, the protection becomes ineffective.

#### Special rights for the opposition

- A rarely explored model consists in *an equal number of members being appointed by government and opposition parties;* however, such a model runs the risk of over-politicisation and polarisation, thus leading to dysfunctional bodies. A variant of this model exists in Albania since 2013, whereby nominations are made by civil society groups but where the successful candidates are selected by a parliamentary committee, with equal rights for the parliamentary majority and the opposition.<sup>17</sup>

<sup>17</sup> See Art. 94 Law No 97/2013 on Audiovisual Media. A similar system foreseen in Art. 9 of the same Law for the appointment of the members of the board of the audiovisual regulatory authority has been analysed by Irion, Ledger, Svensson and Fejzulla. 'The Independence and Functioning of the Audiovisual Media Authority in Albania', study commissioned by the Council of Europe, Amsterdam/Brussels/Budapest/Tirana, October, 2014. The authors recommend changes to strictly favour candidacies based on their merit in terms of professional expertise over political support by either the majority or the opposition. Available at: <http://www.indireg.eu/?p=487>.

**Involvement of civil society**

- The risk of over-politicisation may indeed be lower in alternative systems where a majority or large parts of the membership are nominated by various groups of society (like traditionally in Germany or recently in Ukraine<sup>18</sup>) or by institutions which are considered as politically neutral. However, the success of such options may depend on the existence of a strong and well-developed civil society and organisations and institutions which have not been 'colonised' by political parties.

In practice, national systems often combine two or more of the safeguards mentioned above. There is probably no 'perfect' appointment system, and the final outcome is likely to be influenced as much by the political culture as by the legal safeguards. It is also necessary to take into account different national traditions such as whether elected members of the (national or regional) parliament should be allowed to be members of PSM supervisory bodies. While this is totally excluded in some countries, it is allowed and considered perfectly normal in others (as long as they have no determining influence).

**A vigilant public opinion and political culture which respects PSM independence**

Accordingly, although specific safeguards are important, the most effective protection may be transparency of the appointment process and a political culture and critical public opinion which does not tolerate any political party seizing control of PSM. Effective protection can be achieved if attempts to hold a majority of posts in the supervisory body or to influence the content of programmes are likely to lead to a public outcry and cause political damage to the powers seeking such control.

**2.3.2. INDEPENDENT STATUS**

**Representing the interests of society**

The supervisory body of PSM should collectively represent the interests of society in general, and not the interests of those who nominated or appointed its members.

Members of the supervisory body should be appointed for a fixed but renewable term of reasonable duration (4-6 years). It can be useful to foresee membership on 'staggered' terms; for example, if a six year term is the rule, every two years one third of the members could be renewed. This can strengthen the independence and continuity of work and avoid a situation where after each election or change of government the supervisory body is completely recomposed.

**Protection against dismissal or revocation during the term of office**

Members of the supervisory body also need legal protection for the independent exercise of their functions. They should not be bound by instructions, they should not fear revocation by those who nominated them and they should be protected against dismissal (apart from objectively justified cases specified by law, such as incapacity to fulfil their functions).

The supervisory body also needs to respect the sphere of competencies of the management and of the editorial staff. In particular, it should not interfere in purely operational matters and not exercise any preview or *ex ante* control of programmes.

<sup>18</sup> See Art. 8 Law on Public Service Broadcasting of Ukraine of 17 April 2014.

### The ZDF Case

In its judgment of 25 March 2014, the German Federal Constitutional Court held that, to ensure media freedom and pluralism, the independence ('Staatsferne') and pluralistic composition of the two supervisory bodies of ZDF, the Television Council ('Fernsehrat') and Administrative Council ('Verwaltungsrat'), needed to be reinforced.<sup>19</sup>

In particular, the Court required that the number of representatives of the State or close to the State (including members of government, members of parliament, political appointees, elected officials and holders of responsible functions in political parties) must not exceed one third of the total membership in each of the supervisory bodies.

Moreover, it held that the legislator must take effective measures to ensure pluralism in the representation of relevant groups of society, without the executive exercising any determining influence on the selection or appointment of representatives of civil society.

In addition, independence of all members of the supervisory bodies in the exercise of their functions was to be reinforced by ensuring that they were not bound by instructions and that they could only be dismissed for important reasons.

Finally, it required the legislator to ensure a minimum of transparency for the work of the supervisory bodies.

## 2.4. INDEPENDENCE OF PSM MANAGEMENT

The management of PSM may lie in the hands of a 'monocratic' organ (e.g. director general, president, chief executive officer) and/or a 'collegiate' or corporate body (e.g. board of management), with particular responsibilities entrusted to its chair. The term 'management' as used in the present document covers both monocratic and collegiate bodies.

The management structure of PSM organisations should be similar to that of well-run commercial companies, subject to a number of specificities outlined below.

### 2.4.1. APPOINTMENT PROCEDURES FOR THE MANAGEMENT

**PSM management should not be appointed by the executive or legislative powers but by independent supervisory bodies**

Independent supervisory bodies should play a key role in appointing the top management team. This so-called 'decentralised' model has been adopted by the great majority of European countries.<sup>20</sup> Compared to a nomination or appointment by the government or parliament, this has the advantage of 'distancing' to some extent the decisions from political powers. The underlying assumption is that decisions by independent supervisory bodies are less politicised and more reliant on a candidate's qualifications than direct appointments by political bodies (government, president or parliament).

<sup>19</sup> More information available on the EBU legal website, see: <http://www3.ebu.ch/fr/contents/news/2014/04/german-constitutional-court-stre.html>.

<sup>20</sup> See Psychogiopoulou, Anagnostou, Craufurd Smith and Stolte, A comparative analysis of the freedom and independence of public service broadcasters in fourteen European countries, MEDIADEM, Comparative Report, 2012, p. 19-21, see n. 1 above. Exceptions are for example Italy, Slovakia, Spain and Romania; in the latter case, the Board of TVR still seems to combine managerial and supervisory functions (see Ghinea and Avădani, n. 10 above, p. 22). Since 2012, several European countries including France and Greece have moved from an appointment by the president or government to an appointment by an independent supervisory body (by the independent regulator CSA or the Supervisory Council of NERIT respectively).

In all cases, the director general should have the opportunity to nominate or recommend candidates for the management team.

**Appointment procedures must be open and transparent**

Whoever is in charge of nominations or appointments, it is crucial that the selection and appointment procedures are transparent and that decisions are based on objective criteria and are open to public scrutiny. For example the call for candidates should be published on the website.

**Selection based on appropriate criteria of professional expertise and experience**

Basic procedural requirements for the appointment process should be laid down in law, as should the material criteria for the selection of the most suitable candidates, in particular professional expertise and experience. To lead and manage a media organisation requires particular skills; appointments for mainly political reasons can have a devastating effect on the whole organisation.

**Respect for gender equality**

In the case of collegiate management bodies, it makes sense to require a balanced representation of women and men. In all instances, women and men should have equal access to management posts.<sup>21</sup>

To ensure that the appointment of the director general (or of the top management team) is based on a broad consensus in the supervisory body, a qualified majority (for example two-thirds of members) should be required. However, the threshold should not be too high, to minimise the risk of blockage. There are cases where the post of a director general remained vacant for a long time due to a combination of strict qualified majority requirements and political polarisation - another reason to distance supervisory bodies from politics.

Sometimes several bodies cooperate in the appointment process, for example the (internal) supervisory board of a PSM organisation and the (external) national regulatory authority in a given country. This can provide additional checks and balances but may in some circumstances also delay or complicate the process. In Poland, the supervisory boards of TVP and PR organise the selection of candidates for the management of their respective organisations, and the independent regulatory authority (KRRiT) then appoints the management based on their recommendation.

#### **2.4.2. CLEAR DEFINITION OF COMPETENCES**

**Day-to-day operations must be under the management's exclusive responsibility**

It is important to clearly define the tasks and competences of management in a legal instrument.

Management should be solely responsible for day-to-day operations, and as a principle there should be no need for prior approval by external persons or bodies.

<sup>21</sup> As required by Council of Europe Recommendation (2013)1 on gender equality and media, Guideline 4. See also Recommendation (2012)1 on public service media governance, Guideline 27.

**Supervisory bodies must not be allowed to exercise any prior control over programming**

Management should also assume ultimate editorial responsibility for the programme output, although certain responsibilities may be delegated to editors-in-chief. Supervisory bodies should not exercise any prior control over programmes. This rule is enshrined in the Council of Europe Recommendation on the independence of public service broadcasting.

It is important that management itself be ready to defend editorial independence against any attempts of interference.

**2.4.3. INDEPENDENT STATUS**

**The governance framework must shelter management from any political or other interference**

The legal framework and internal rules must avoid placing the management at risk of any political or other type of interference.

It must be clear that the members of the management exercise their functions strictly in the interests of the organisation and in line with its remit and do not receive any mandate or take instructions from any outside person or bodies (other than the supervisory bodies within their clearly defined area of competence).

Strict rules are also necessary to avoid conflicts of interest, including incompatibility rules and limitations with regard to other functions which may be exercised by members of the management, and with regard to advantages which they may receive or interests which they may hold in other undertakings.

The term of office of the director general and/or management board should be fixed by law and be of reasonable duration (for example 4-5 years, with the possibility of re-appointment).

**Safeguards against politically motivated dismissals**

While there must be a possibility for dismissal by the supervisory body if the management has failed in fulfilling its tasks or has otherwise lost the confidence of the supervisory body, there need to be safeguards against politically motivated dismissals. In particular, dismissals should require a qualified majority (e.g. two-thirds) in the supervisory body.

**Parliaments should not have the power to dismiss the PSM management, for example by rejecting an annual report**

Some countries provide that the management is dismissed if the annual report is rejected by parliament, after its presentation by the PSM management to a parliamentary committee. Such a system opens the door to undue political interference, it undermines the role of the supervisory body, it may lead to self-censorship with regard to editorial content and cause instability at management level.<sup>22</sup> In fact, countries with such systems often have an overly high level of turnover of PSM directors general.

<sup>22</sup> See Psychogiopoulou, Anagnostou, Craufurd Smith and Stolte, see n. 20 above, p. 43.

## 2.5. PARTICULAR INSTRUMENTS AND TOOLS

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A number of areas and instruments deserve particular attention, and in practice some tools have proven their value in strengthening the editorial independence or institutional autonomy of PSM.

### 2.5.1. EDITORIAL STANDARDS AND ETHICS CODES

**PSM organisations should draw up and publish editorial guidelines or codes of ethics**

To strengthen editorial independence and impartiality, it is of great importance for PSM to adopt, implement and publish editorial guidelines or codes of professional ethics. These are equally important to enhance the accountability and transparency of PSM (see 3.3.4 below).

Editorial independence needs to be reflected in the way journalists work, and the independent, impartial and pluralistic editorial approach of PSM should naturally also be visible in the programme output. Particular care should be taken to ensure that news and information programmes do not show any bias.

**Need for strong journalistic culture of professionalism, impartiality and independence**

Published editorial guidelines are important to guide and protect journalists and media workers. PSM staff needs to be committed to high professional standards. Clearly enunciated and published editorial principles can also help editorial staff to better resist outside pressures.

In this respect, it is important that, as long as they act in line with the editorial guidelines, journalists and media workers are given full protection and support by the management and the supervisory body against attacks from inside or outside the organisation.

**PSM staff must not take instructions from outside the organisation**

The guidelines should contain clear commitments to editorial independence and pluralism, including the prohibition of taking instructions from persons or bodies outside the organisation. They should ensure respect for diversity of views and opinions and specify principles to achieve impartial and balanced reporting.

The EBU has developed a number of Editorial Principles based on its Core Values of PSM, which may guide PSM organisations in drafting editorial guidelines.<sup>23</sup> The EBU Editorial Principles include requirements regarding independence and impartiality, fairness and respect, accurateness and relevance, and connectedness and accountability.

### 2.5.2. WORKFORCE AND CORPORATE CULTURE

**Autonomy in personnel matters is a necessary part of institutional autonomy**

Freedom in matters of personnel and staff policy is an essential part of the *institutional autonomy* of PSM, and should be used to strengthen editorial independence, impartiality and pluralism.

Accordingly, recruitments should be under the sole responsibility of the PSM organisation, and no other State authorities should be involved, for example by making a prior screening or selection of candidates (apart from security-related checks where required).

<sup>23</sup> [http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Editorial%20Principles\\_EN.pdf](http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Editorial%20Principles_EN.pdf).

**Recruitment policy should promote diversity of the workforce**

PSM organisations should adopt clear rules and procedures for the appointment and promotion of staff, based on criteria of competence, integrity and non-discrimination. Particular attention should be given to gender equality and the representation of minorities. Promoting diversity in the workforce should be an underlying objective.

**Decisions must not be influenced by political favouritism**

Recruitments or dismissals based on political preferences must be prevented, in particular as regards the editorial staff. Similarly, scenarios whereby journalists thought to be too controversial or inquisitive are dismissed should also be prevented.<sup>24</sup>

**A high level of employee protection can underpin editorial independence**

Measures to strengthen the professional status of journalists and the rights of media workers may be helpful in this respect. The Council of Europe Declaration on the independence of PSB puts much emphasis on the protection of employees. Whereas in some countries PSM employees enjoy a high level of protection through the legal framework or collective agreements, in other countries there is most certainly room for improvement. However, collective agreements must not be an obstacle to effective management and change (see chapter on SUSTAINABILITY).

PSM employees should naturally have the right of association and the right to engage in legitimate industrial action, subject to restrictions laid down by law to guarantee the continuity of the public service.

**A corporate culture asserting independence and diversity**

More generally, it is important to promote a corporate culture based on core PSM values, which include independence and diversity. This requires a commitment at all levels, including from top management. Any threats or attacks on journalists or attempts of outside interference, for example, should lead to a forceful response by the management and the internal hierarchy, which should take all appropriate measures to protect the employees.

**Safety of journalists must be paramount**

It goes without saying that management must also take all reasonable preventive measures to protect staff exposed to dangerous situations and ensure that they have received adequate training before taking up dangerous missions.

**2.5.3. AUTONOMY IN THE CONTEXT OF REMIT AND FUNDING**

**Decisions on remit and funding should respect programme autonomy and budgetary flexibility**

Although the institutional autonomy of PSM organisations is limited in terms of remit and funding, as they cannot themselves define their remit or determine their public funding, it is nevertheless essential to protect a high level of programme autonomy and financial or budgetary flexibility.

While here it is not the place to examine these issues, which are closely linked to the EU State aid rules, it may suffice to say that an appropriate, transparent and democratic system to define and regularly update the public service remit, and an appropriate and secure funding framework which guarantees PSM organisations the financial means necessary to fulfil their remit, are essential prerequisites for PSM independence.

<sup>24</sup> See Council of Europe 2006 Declaration on the independence of public service broadcasting, paragraph 23 of the Appendix.

**Safeguards are needed to prevent political decisions on remit or funding to be used to exert editorial pressures**

Any decisions on the remit or the level of funding should be taken only after proper consultation of the PSM organisation. Legal safeguards should be in place to ensure that the decision-making power over the public service remit or the funding may not be used to exert political pressure on PSM organisations or to influence their editorial policies. For more detail, see the Legal Focus on public funding.

The legal framework must also allow enough flexibility for PSM organisations to adapt their programmes and services to evolving needs of society and market changes and to reallocate resources accordingly.

# 3. ACCOUNTABILITY & TRANSPARENCY

## How to ensure openness and responsiveness to the public?

### 3.1. CONCEPT OF PUBLIC ACCOUNTABILITY

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**Accountability to supervisory bodies, but also to the public at large**

Accountability refers to the formal and informal mechanisms through which PSM organisations are held to account. The governance frameworks determine to whom and for what PSM organisations are accountable and through which procedures accountability is effectively achieved.

While for a long time the main focus was on accountability to supervisory bodies in various forms, more recently this concept has been extended to other stakeholders and the public at large; this in turn requires new means to allow interested stakeholders and the general public to be more directly involved.

However, formal supervision by supervisory bodies retains its importance and is also evolving to meet new demands, in particular regarding transparency.

**Supervision should be distanced from political powers**

As already examined in the previous chapter on INDEPENDENCE, supervision should be exercised 'at arm's length' from political powers: not by democratically elected institutions directly but by independent supervisory bodies. The role of the parliament and government is merely to set the legal framework for PSM but never to interfere with operational or supervisory matters.

**The status of supervisory bodies and their powers need to be clearly defined in law**

The legal PSM framework should clearly define the tasks of the supervisory bodies, the scope and limits of their powers, their composition and status, in particular in terms of independence and pluralism. It should also provide for procedures through which supervision is organised and the obligations of PSM organisations in this regard (for example, concerning provision of information). As already mentioned, no prior control must be exercised by supervisory bodies over programming.

**Independent supervision must not be undermined by the exercise of ownership rights**

It is important that the central role of independent supervisory bodies is not undermined by parallel or overlapping accountability mechanisms.

In some countries, special rights are granted to the 'founder' (for PSM in the form of public entities) or the 'owner' or 'shareholder' (in case of private entities) of PSM organisations. Such rights are often exercised by the Minister of Finance. These situations may be in line with general legal principles in the country concerned, but they are in conflict with the need for independence of PSM from the State and the fulfilment of PSM's remit in the interests of society. A good solution to avoid this problem (where it exists) is to establish a foundation, which then either operates the PSM services itself (as in Austria) or owns and oversees separate PSM organisations (as in Sweden).

**PSM should be transparent and open to the public, and actively seek and respond to feedback**

In modern democratic societies, the public should have the right to full visibility on how PSM are organised and managed, how the money is spent, and how the journalistic work is carried out. There is also a legitimate public expectation to have some influence on PSM, especially on how the public service remit is fulfilled.

This means that PSM as an institution have to be transparent and open, even more so than private sector companies, and act responsibly and responsively in the eyes of the public. This includes, for example, explaining how editorial decisions are taken, how high journalistic standards are ensured, how diversity of output is promoted, and how feedback from the audience is taken into account. Some PSM organisations have regular radio or TV programmes dealing with this.

Openness, just like independence, is most certainly a precondition for building trust with the audience, which is an important source of legitimacy for PSM.

**Connecting to a networked society and audiovisual ecosystem**

Being connected to networks of people, communities, cultural organisations and civil society can also be seen as essential in the new media world, which is characterised by a personalisation of services and a more active involvement of users as contributors and co-creators. Moreover, in the digital world, PSM are part of the creative economy and audiovisual ecosystem, where they must be in a position to build partnerships and alliances with other creators and distributors of public value content.

### 3.2. PSM SUPERVISORY BODIES

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**The primary supervision should be entrusted to an independent supervisory body**

Although a great variety of supervisory systems for PSM exist across Europe, in line with the different legal, political and cultural systems and traditions, there is generally *one primary supervisory body*. This body is referred to here as 'supervisory body' although different terminology (council, trust, authority, etc.) may be used at the national level. It may be complemented by specialised supervision, in particular areas (e.g. financial supervision by a Court of Auditors, see below).

The supervisory body should represent the interests of the public. It is bound by the legal framework in place, and in particular the public service remit as defined in the law. In addition, it has a special role as a guarantor of the independence and pluralism of PSM.

#### **Internal or external supervisory bodies**

**Supervisory bodies may be internal or external to the PSM organisation**

In many countries, primary supervision is exercised by governing bodies which are a part (i.e. an 'organ') of the PSM organisation itself, the so-called 'internal model'.<sup>25</sup> This is the case, for example, for the BBC Trust in the UK, YLE's Administrative Council in Finland and the Broadcasting Councils of ARD and ZDF in Germany. Other countries have entrusted external bodies with the primary supervision of PSM. These can be the independent national regulatory authorities for the audiovisual sector or specific bodies set up for PSM, such as a foundation (as in Sweden, see 3.1 above) or other entity which exercises ownership rights on behalf of the State in PSM organisations.

<sup>25</sup> Psychogiopoulou, Anagnostou, Craufurd Smith and Stolte, see n. 20 above, p. 22-26.

The internal model of supervision, where the governing body is part of the organisation, as in public enterprises, is sometimes criticised because of the risk that the supervisory body may become too close to the organisation it oversees. On the other hand, an outside body regulating the whole audiovisual market may not be best placed to supervise company management and take strategic decisions in the interest of PSM. It is possible to steer a middle course and to combine the primary supervision by an internal body with the monitoring of legal compliance by an outside body, or to create a specific supervisory body for PSM separate from both the PSM organisation and the regulatory authority.

In reality, most systems are mixed, with internal primary supervision complemented by supervision by external bodies (for example OFCOM, the independent regulator, complements the role of the BBC Trust in the UK).

**Supervisory bodies need own staff and resources**

Whether supervisory bodies are internal or external, it is important to ensure independence in both directions: vis-à-vis the government (and other political and economic powers) on the one hand, and vis-à-vis the PSM management and staff it is supervising on the other. To be independent, supervisory bodies need own staff and resources and the ability to resort to outside experts.

**Composition of supervisory bodies**

**Choice between smaller supervisory bodies selected according to skills, and larger bodies reflecting diversity of society**

There are basically two models in Europe for the composition of supervisory bodies: smaller bodies with members selected primarily according to skills, and larger bodies with members selected primarily in the interest of diversity.

Most countries have relatively small bodies, with 8 to 12 members, comparable to commercial companies of similar size. Members are chosen on the basis of professional experience and skills (such as management, media, journalism, culture, technology, finance, accounting, regulation) which should ideally complement each other within the body. A certain balance of gender is also often required. Other countries have opted for larger bodies to better represent various interest groups and reflect the diversity of society.

The responsibility of PSM to pay particular attention to the needs of minority groups should be mirrored by an appropriate representation of such groups in supervisory or advisory bodies.<sup>26</sup> This could involve the presence of representatives, in particular as regards important ethnic or linguistic minorities, in the supervisory body or in programme advisory bodies (see 3.3.2 below).

**Working procedures**

**Need to ensure independence, pluralism and professionalism**

The nomination and appointment procedures and safeguards for independence, pluralism and professionalism in the composition of these bodies have already been examined in the chapter on INDEPENDENCE, as have the protection of the independent status of members, terms of office, rules on incompatibilities and conflicts of interest.

<sup>26</sup> See Council of Europe Recommendation on the remit of PSM in the information society, Guiding Principles 8 and 9.

The chairperson and vice-chairperson may either be appointed according to a special procedure laid down by law, or elected by the supervisory body itself. Within the legal framework, the body should draw up its internal rules and procedures. Meetings should be held as often as needed but a minimum of four meetings per year should be foreseen. It should be possible to hold deliberations at short notice whenever necessary.

**Compensation should be determined by law; amounts should be published regularly**

It is normal for members of the supervisory body to receive compensation or remuneration for their work and the time needed for the exercise of their functions. The criteria for awarding payments or other advantages should be clearly specified in the law, and the amounts received by members should be published on a yearly basis.

**The supervisory body should reach out to the public and work in a transparent way**

As a principle, the work of the supervisory body should be as open and transparent as possible. Whenever possible, meetings should be public and minutes and decisions should be published. The body should reach out to the public, organising hearings and consultations where appropriate.

### **3.3. COMPLEMENTARY MECHANISMS TO STRENGTHEN ACCOUNTABILITY AND RESPONSIBILITY**

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#### **3.3.1. SPECIALISED SUPERVISORY BODIES**

**External auditing by court of auditors or similar body**

As already mentioned, general supervision is often complemented by more specialised forms of supervision.

In many countries, there is a specific financial control by an independent court of auditors or similar institution, in particular for the use of public funds, helping ensure their correct and efficient use. Such financial control may come on top of the auditing of the accounts by an external audit firm.

Especially in cases where the main supervision lies with an internal supervisory body, secondary 'legal' supervision by an external body and limited to checking legal compliance (e.g. 'Rechtsaufsicht' in the German legal system) may be in place. Such legal supervision may be exercised by the audiovisual regulatory authority (e.g. in Finland), by a special body (e.g. the Broadcasting Commission in Sweden) or by the government (e.g. in Germany). However, intervention by the government should only take place in extraordinary circumstances, where the supervisory body has clearly failed to fulfil its duties.

#### **3.3.2. REGIONAL AUDIENCE COUNCILS/PANELS**

**Feedback from audience panels**

Certain legal frameworks foresee special advisory bodies on programme matters; for example, the BBC Trust is advised by Audience Councils for England, Northern Ireland, Scotland and Wales respectively. In other countries (e.g. Sweden and Austria) PSM organisations have, on a voluntary basis, established informal audience panels in different regions. In Switzerland, the public service broadcaster is advised in each language area by regional associations, which are open to all members of the public. In Germany, the Councils of the individual ARD broadcasters, organised on a regional basis, have programme sub-committees to carry out this role.

### 3.3.3. OMBUDSMAN OR SIMILAR STRUCTURE

#### An ombudsman or similar structure to act as an interface with the audience

In some countries (e.g. Denmark, Slovenia, Spain and Switzerland) ombudsmen or 'users' editors' or 'advocates' have been appointed within PSM organisations. Although their exact role and status may vary from country to country, they normally have a certain degree of autonomy and part of their role is to deal with complaints and suggestions received from members of the public, mainly with regard to programme content. They may also have a role in investigating breaches of editorial guidelines or codes of ethics. While in principle they do not have decision-making powers, they play an advisory role both internally and publicly. Within the organisation they can make recommendations, raise awareness among programme makers and promote transparency and accountability. Their communication towards the public is usually via a dedicated website or programme slot.

A similar system exists in France. *France Télévisions* has appointed mediators ('*Médiateurs*') for news and information, and television programmes in general. They serve as an interface with viewers and play an essential role in the dialogue and debate with the public. Mediators give opinions on particular cases, and can decide to make certain opinions public. They may also intervene on screen. A parallel system has been set up by *Radio France*.

In other countries, it is the supervisory body that has a role in dealing with complaints (such as the BBC Trust whose Editorial Standards Committee hears appeals about BBC management decisions on editorial complaints).

### 3.3.4. INTERNAL GUIDELINES AND CONTROL SYSTEMS

#### Guidelines for journalists and programme-makers

The importance of *editorial guidelines and codes of conduct* has already been emphasised in the chapter on INDEPENDENCE. They are also a key instrument to improve quality and accountability and can be used by the public and various other stakeholders as a benchmark to assess the work of journalists and the programme output of PSM.

To be effective and credible, guidelines may need to be underpinned by some internal assessment mechanism. An ombudsman (see 3.3.3 above) or an internal body involving programme makers<sup>27</sup> can also play a useful role in this context. Editorial errors are inevitable and must be appropriately addressed. They must be discussed, corrected and if necessary an apology must be issued.

Editorial and production standards can serve as a useful guide not only for PSM staff and freelancers, but also for independent producers involved in commissioned productions (see for example the BBC's *Editorial Guidelines*<sup>28</sup>). Internal quality control systems can also be used to promote the public value for society of programmes and services (see chapter on SUSTAINABILITY).

<sup>27</sup> Some German PSM organisations (e.g. NDR, SWR and WDR) have adopted editorial statutes which define participation rights of programme makers with regard to programme-related matters as well as bodies and procedures to resolve conflicts between journalists and their superiors on such matters.

<sup>28</sup> <http://www.bbc.co.uk/editorialguidelines/guidelines/>. These guidelines were previously referred to as 'Producer Guidelines'.

**Internal control systems for financial auditing, risk management and legal compliance**

Internal control systems are part of modern management practices and found in most private commercial companies.

These should include an *internal audit system*, with a dedicated internal audit function and, where appropriate, an audit committee as part of the management board. This system should be complemented by risk management, including legal compliance. To be effective, such internal control systems should be supported by internal guidelines.

**Clear and transparent procurement processes**

Of particular importance are the ways in which PSM organise and control their procurement activities and are transparent vis-à-vis potential suppliers of goods and services, including independent producers and freelancers. In principle different rules and procedures apply for programme-related contracts (e.g. the acquisition or commissioning of programmes and other programme material) than for contracts for the supply of other goods and services. In the first case special attention must be given to editorial independence and aspects of cultural or social significance, whereas in the second case PSM organisations often fall under EU or national public procurement rules. PSM organisations should clarify their procurement processes accordingly, and ensure that all relevant opportunities and tenders are published, ideally on a dedicated place on their website.<sup>29</sup>

### **3.4. OPENNESS AND RESPONSIVENESS**

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**Transform organisational culture and leadership to strengthen openness and responsiveness**

Citizens have a legitimate expectation that 'their' PSM organisations are:

- 'transparent and open', in the way they are governed and fulfil their remit, and in the way they interact with audiences and other stakeholders,
- 'responsive and responsible', in the way they integrate audience and stakeholder feedback, and in the way they implement high editorial and production standards.

The Council of Europe Recommendation on PSM governance puts much emphasis on the above aspects, which are considered as essential parts of a new operational culture.

#### **3.4.1. PUBLICLY AVAILABLE INFORMATION**

PSM organisations should take a proactive approach in providing information about themselves, their processes and decisions. All relevant information should be provided publicly on the website, without waiting for requests for information.

**Publish an annual report**

Often PSM organisations are under a formal obligation to publish *annual reports* which must include a minimum set of information. In practice, annual reports are also used to showcase the PSM organisation and its services and achievements in a broader way. Annual reports are often the basis for a wider political debate on the role, remit and funding of PSM, for example in parliament. However, there should be no need for approval of the annual report by parliament; similarly, any rejection of the report should not automatically lead to the dismissal of the management (see 2.4.3 above).

<sup>29</sup> See for example <http://www.bbc.co.uk/supplying/opportunities/>

**Create a dedicated space on the website with all relevant information**

PSM organisations should not limit themselves to a yearly publication, but should publish all relevant information about themselves regularly, via all appropriate media, and in particular via a dedicated space on their website. This would be a place for the public and interested stakeholders to find, for example, policies, rules and procedures applicable to editorial matters (including complaints) but also to matters of procurement or recruitment.

**Adopt high standards of transparency**

PSM organisations should adhere to high standards of disclosure and transparency. The information provided in annual reports and on the website should be at a level comparable to the information required, in each country, from listed commercial companies. The OECD has also published 'Principles of Corporate Governance' which include rules on disclosure and transparency, and have inspired national regulations and self-regulatory codes.<sup>30</sup>

**Checklist for information disclosure**

The following elements should be considered for publication:<sup>31</sup>

- legal framework and governance structure (including supervisory body/bodies)
- members of management boards and supervisory bodies (including required qualifications, selection/nomination process, role and functions)
- financial and operating results, including the costs and funding arrangements for the fulfilment of the public service remit
- foreseeable risk factors
- audit report
- sources of funding (e.g. licence fee, direct State funding, commercial revenue)
- allocation of the funds for different activities
- compensation for key executives (i.e. director general and members of the management board, collectively or individually) and members of the supervisory body
- public service remit (with which the PSM organisation has been entrusted)
- objectives/goals set by the management
- editorial guidelines (ethics codes and programme standards)
- procurement rules, processes and opportunities
- other policies (e.g. on recruitment, gender equality, diversity)
- list of services and assessment of fulfilment of the remit
- assessment of the achievement of other objectives (including gender equality report)
- contribution to society, based on a set of indicators (see below section on SUSTAINABILITY)
- contact points and channels for interaction (e.g. ombudsman, mediator), to which the public and other stakeholders may revert (also with regard to complaints and the right to reply)

<sup>30</sup> See: <http://www.oecd.org/daf/ca/2014-review-oecd-corporate-governance-principles.htm>.

<sup>31</sup> Based on Council of Europe Recommendations, OECD Principles of Corporate Governance (2004), Swiss Code of best practice for corporate governance (2014), EBU project 'Assessing Transparency' (2015), conducted by the Media Intelligence Service.

### 3.4.2. INTERACTION WITH THE PUBLIC AND OTHER STAKEHOLDERS

#### **Develop the means for consultation and dialogue with the audience and with other stakeholders**

As already mentioned, it is necessary for PSM organisations to engage with their audience and to establish an active and meaningful dialogue with citizens and other stakeholders. This means that PSM organisations should consider that actively seeking feedback from the audience and managing the relationship with other stakeholders are part of their duties.

#### **Use online tools and social networks**

This may be through formal or informal consultations and surveys, including the use of online tools, and events and hearings organised locally. It should also include the use of social media and social networks.<sup>32</sup> It is important to create channels of communication, or a 'public space', where not only politicians and vested interest groups but also ordinary citizens are encouraged to express their views and expectations regarding PSM activities.

Social media are becoming a natural component of journalism. They are a very useful tool to engage with the audience. By opening up to social networks, by going where the audience is, in particular the younger audience, PSM can also become relevant for those who have no pre-established relationship with PSM.

#### **Better understand audiences**

Interaction with the audience and the gathering of feedback in various forms should also help PSM organisations to better understand the needs and expectations of citizens and other stakeholders, to assess their own performance and draw relevant conclusions.

#### **Systematically process audience feedback and communicate about it**

It is of course essential that PSM organisations respond to the input they receive, communicate their conclusions and integrate them into their future approach. This needs to be done in a credible and visible manner. It may mean explaining editorial decisions which have been contested, or showing how feedback received will be used to shape the future editorial offer. In some cases, it may also be possible to invite the public to participate in decision-making processes.

As consultations with the public are, to a large extent, informal and depend on the initiative of the PSM organisation and its staff, it is important that interaction with the audience and other stakeholders becomes part of the corporate culture. This may require a change of mentality in favour of more openness and responsiveness. Experience on how to organise the dialogue with the audience should be shared and could be a subject of ongoing training, in particular for editorial staff.

#### **Consider a 'media campus'**

Some PSM organisations have also started to open up their premises for, or to co-locate them with, other organisations which are active in related sectors (e.g. universities, research institutions, start-ups and other companies in the media, internet, creative or technological sectors). It is thus possible to create a 'media campus' and foster exchanges, cooperation, synergies and partnerships. There are two concrete examples of this kind of project, developed by YLE in Finland, 'Pasila Studio' in Helsinki and 'Mediapolis' in Tampere.<sup>33</sup>

<sup>32</sup> EBU Media Online has set up 'Social Newsroom' as a collaborative space for members to share knowledge and discuss best practice and challenges in the use of social media by PSM; it also organises a Social Media Trends Annual Workshop. See <http://www3.ebu.ch/about/media-online>.

<sup>33</sup> Mediapolis is an international campus in Tampere that concentrates on content production and information and communications technology and brings together companies and students, see <http://www.mediapolis.fi/en/about/>.

### **The SR Social Media Handbook for Journalists**

Social media have become a natural part of the everyday lives of people all over the world.

Sweden is among the countries where social networks have rapidly gained a high number of users. SR (Sveriges Radio) was among the first to use social media as a tool for communicating with the audience. In 2013 it published a Social Media Handbook (available in English) as a guide for PSM journalists.<sup>34</sup> It was written by experienced members of the SR staff.

Social media can be used to spread public service content, expand networks, gain new knowledge and receive invaluable help for the journalistic work.

<sup>34</sup> [http://sverigesradio.se/press/bilder/swedishradio2013\\_socmed.pdf](http://sverigesradio.se/press/bilder/swedishradio2013_socmed.pdf).

# 4. SUSTAINABILITY

## How to assess PSM's contribution to society and facilitate innovation?

For PSM, the principle of sustainability refers not only to PSM's ability to fulfil their remit and play a vital role in European democratic societies, but also their ability to adapt and respond to new technological, social and political challenges and to be a driving force for innovation and creativity.

In that respect, PSM must have the means to maintain their conventional activities but also to innovate in areas such as technology, content, organisational structures and workforces.

### 4.1. CONTRIBUTION TO SOCIETY

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#### 4.1.1. CONCEPT OF CONTRIBUTION TO SOCIETY

**PSM's positive impact on society in general**

The concept of contribution to society encompasses not only a clear and dynamic definition of PSM's role and remit and the assessment of their performance in fulfilling the remit but also their value to society in a broader sense.

Indeed, to strengthen PSM legitimacy and relevance, it is also necessary to demonstrate PSM's overall contribution to society. They are not just content providers and their different activities can have an impact on many areas of society (e.g. employment or the environment). This approach not only refers to performance output but also to the positive effect of PSM activities on society in general. To assess this requires not only examining how PSM organisations fulfil their remit but also how they develop corporate social responsibility and side activities (e.g. digital literacy projects or technology innovation).

#### 4.1.2. FULFILMENT OF THE PSM ROLE AND REMIT

**A public service remit in the interest of society**

It is well-established and inherent to the concept of PSM that they must serve the public interest. PSM can be considered as 'owned' by the public and their relationship with the audience is often described as a 'pact'. The PSM remit is defined in relation to the needs of society as a whole and not just those of the market or commercial stakeholders.

The Amsterdam Protocol states that it is for each Member State to set up and organise its public service broadcasting system and to define its public service remit in relation to the democratic, social and cultural needs of society.

An assessment of the value of PSM services to society is therefore inherent to the process of defining and adapting the public service remit, which is part of the legal framework of PSM. Such assessments may be more or less formalised, depending on the procedures chosen (which may be legislative or other), but in principle there is always a public debate and an open consultation, which allows all stakeholders to express their views.

All European countries have defined, to varying degrees, the remit of their public service broadcasters as well as the means needed to fulfil it. In accordance with the different national legal traditions, the public service remit is defined by law, in the formal sense of the term, or an equivalent act (e.g. the BBC Charter) and may be accompanied by a complementary instrument (e.g. decree, management contract or licence) which specifies the nature of the public service obligations.

**The definition of the public service remit should be flexible and dynamic, adapted to the new digital environment**

According to the 2009 Broadcasting Communication the definition of the public service remit should be as precise as possible. Therefore the scope of PSM services should be clear for all stakeholders, whilst allowing for sufficient flexibility to rapidly adapt public service activities to new developments. The remit should be reviewed periodically, as should the means and instruments (e.g. legal, technical, financial and organisational) to fulfil it, in order to ensure that all audiences are adequately served. There is also the need to reconcile a clear definition of the remit with the respect of PSM's editorial independence and programme autonomy (see above section on INDEPENDENCE).

**New audiovisual services**

New types of PSM services (e.g. online) can be introduced by an amendment of the law or other legal instrument setting out the public service remit. Some EU countries have introduced a specific prior evaluation procedure to consider whether 'significant new audiovisual services' offered by PSM provide value for society in line with the criteria mentioned in the Preamble to the Amsterdam Protocol, i.e. whether they serve the democratic, social and cultural needs of the society, while duly taking into account their impact on the market.

This procedure is based on the Commission's *ex ante* test (also referred to as the 'Amsterdam test') as presented in the 2009 Broadcasting Communication. The latter suggests a process for assessing new media services and expressly states that 'it is within the competence of the Member State to choose the most appropriate mechanism',<sup>35</sup> reflecting the different constitutional systems throughout Europe. Furthermore, 'Member States shall be able to design a procedure which is proportionate to the size of the market and the market position of the public service broadcaster.'<sup>36</sup>

**PSM should not be prevented from innovating and launching new online services**

However, if a specific *ex ante* test is implemented by a Member State, it must not be too burdensome because that risks stifling innovation and preventing from launching new online services needed to compete in increasingly globalised markets.

**PSM funding should be linked to the organisation's remit**

It is particularly important to have sufficient funding to cover the remit and funding should be assessed in a parallel process. The level of funding must be stable and should not change every year in an unforeseeable way. It must be sufficient, appropriate and long-term. It must allow PSM to fulfil their remit, ensure continuity of service, introduce new technologies, and plan for new services to meet new audience demands (see the Legal Focus on public funding).

<sup>35</sup> Paragraph 86, see n. 16 above.

<sup>36</sup> Paragraph 89, see n. 16 above.

Moreover, PSM organisations themselves have the overall obligation to assess and report on their performance in the fulfilment of their remit and activities.

For example France Télévisions (FTV) reports yearly to Parliament's cultural affairs and finance committees on the implementation of its 5-year contract on objectives and means. This report allows the CSA, France's regulatory authority, to draw up an annual review of FTV's fulfilment of its public service remit.

#### **4.1.3. ASSESSMENT OF PSM CONTRIBUTION TO SOCIETY**

**Developing the 'contribution to society' concept can strengthen PSM legitimacy**

Assessing contribution to society goes beyond evaluating PSM performance output and relates to the various positive effects that PSM deliver to the society as a whole: to individuals, communities but also to the media ecosystem and industry. This includes, for example, effects on employment, creative industries, diversity of cultural expressions, media pluralism, informed citizenship, media literacy, public health and the environment. It is the idea that PSM represent much more than programmes and services measured in terms of market share and reach. In an increasingly competitive environment, PSM have to be more distinctive, deliver greater value for money, and perform more effectively.

A key challenge is to identify the main areas (e.g. social, cultural, environmental and technological) where they can produce valued and valuable output and contribute something to society as a whole.<sup>37</sup> Developing the 'contribution to society' concept not only offers a strong instrument for measuring success and defining priorities in PSM programmes and services. It can also help determine the allocation of resources and strengthen the legitimacy of PSM activities.

**PSM should develop internal mechanisms to assess their contribution to society**

A number of measures can be developed by PSM themselves in order to strengthen the public value orientation of their activities and to demonstrate their contribution to society. Some PSM organisations have started to do so. These measures could include for instance:

- clear criteria defining value for society
- key performance indicators
- internal quality control systems
- effective monitoring systems

Demonstrating the contribution PSM make to the industry, to the economy, to technology and to education, and the positive impact they have on society, on individuals and on communities is a challenge. For example, some of the characteristics of broadcast content such as 'quality' and 'creativity' are not easy to quantify in economic or monetary terms.

<sup>37</sup> See France Télévisions sustainable development activities: [http://www.francetelevisions.fr/engagements/developpement\\_durable.php](http://www.francetelevisions.fr/engagements/developpement_durable.php)

The EBU has launched an instrument to carry out self-assessments and/or peer reviews to evaluate Members' performance based on the EBU Core Values of PSM. In parallel, the project '*PSM Contribution to Society*' (building upon the EBU VISION2020 strategy and currently ongoing) is producing a set of indicators and a methodology to assess and report on PSM's contribution to society.

**Essential for PSM organisations to demonstrate their contribution to society**

PSM organisations need to communicate publicly about their contribution to society. The presentation of fundamental information is essential in providing a clear overview of performance and evolution of the organisation. This should include information on their activities, the fulfilment of their remit, and the benefits for citizens and the impact on society as a whole. Reporting this information, through an annual report, or a 'public value report' as produced by ORF, should be part of every PSM organisation's communication strategy.

PSM should explain their role and remit to citizens, in particular to younger generations, and develop marketing actions, reinforcing their brand's visibility and making clear the values attached to it.

#### **BBC Annual Report**

Each year the BBC reports to licence fee payers and audiences in the Annual Report and Accounts.<sup>38</sup> The Annual Report includes two separate reports. Part 1 is the BBC Trust's review and assessment of BBC performance during the year. Part 2 is the BBC Executive's report on its own performance during the year. They are published on the BBC's website.

The BBC Trust is required to review the performance of all BBC services and other activities once every five years. Each review is based on the public value framework: audience reach, quality, impact and value for money ('RQIV').<sup>39</sup>

Also in the UK, OFCOM conducts a general review of all public service broadcasters.<sup>40</sup>

#### **ORF Public Value Report**

In Austria, ORF has launched a number of initiatives<sup>41</sup> on how to measure PSM contribution to society which includes the following elements: how to define distinctive quality, how to open a dialogue with the audience on media quality, how to implement an internal quality control system, and combined with external evaluation: how to make ORF's public value visible and how to communicate about it.

ORF's core activity in the context of value for society is the publication of Public Value Reports supported by Audience and Experts Panels which provide indications on how to develop programming and internal processes.

<sup>38</sup> <http://www.bbc.co.uk/annualreport/2014/home>.

<sup>39</sup> [http://www.bbc.co.uk/bbctrust/governance/tools\\_we\\_use/public\\_value\\_practice.html](http://www.bbc.co.uk/bbctrust/governance/tools_we_use/public_value_practice.html).

<sup>40</sup> <http://stakeholders.ofcom.org.uk/broadcasting/reviews-investigations/public-service-broadcasting/annrep/psb14/>.

<sup>41</sup> These initiatives can be found on the ORF corporate website focusing on public value: <http://zukunft.orf.at>.

## 4.2. INNOVATION

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### 4.2.1. CONCEPT OF INNOVATION

What does the concept of innovation mean for PSM? How does the new digital media environment affect PSM management and governance? Does it mean evolving from traditional broadcasters, which are often centralised and top down organisations, into much more open, participatory and responsive organisations? How to adapt, where necessary, organisational structures, processes and workforces in response to new technological and societal challenges, market globalisation and convergence?

Innovation is a concept with multiple meanings. In everyday language, innovation is often used as a synonym for invention, change, novelty, transformation. Thus innovation implies introducing something new, but what is new is not necessarily an invention and can rather be a new combination of existing ideas, competencies and resources that lead to the creation of new processes, products, services and business opportunities.

**PSM as part of a fast-moving audiovisual ecosystem and digital creative economy**

Today the requirement for innovation in the media industry has become both more urgent and more challenging as the pace and scope of technological development have increased. Innovation and technology are inextricably linked. Technological developments are fuelled by innovation and PSM organisations must in turn innovate to respond to these developments.<sup>42</sup>

If PSM want to successfully fulfil their public service remit and democratic role in the new digital media environment, if they want to maintain their relevance and public value for society and be beneficial for citizens (who are not simply consumers), if they want to remain a trusted source of reliable information and high quality content, then they should continuously review their organisational structures, processes and workforces. They need effective management, they need to be open to creativity, new ideas and perspectives and to build external partnerships with private entities or stakeholders as well as with the public.

**The necessity to remove the practical, technical or legal obstacles**

However, a number of obstacles may hold PSM organisations back, or prevent them from innovating. These include not only internal governance issues (e.g. outdated internal procedures and/or old management styles) but also legal or practical issues (e.g. an inflexible public service remit definition or funding allocation, overly powerful trade unions blocking necessary change, or regulatory restrictions).

<sup>42</sup> See Michael Glowacki and Lizzie Jackson, 'Public Media Management for the Twenty-First Century - Creativity, Innovation, and Interaction', Routledge Research in Cultural and Media studies, 2014.

#### 4.2.2. FOSTERING INNOVATION

Although the different issues to be tackled may vary significantly depending on the specificities of each PSM organisation, common trends and indicators can be identified to address the ongoing evolution and to help PSM organisations innovate.

#### Transform corporate structure and culture

The Council of Europe Recommendation on public service media governance proposes a set of criteria that PSM can use to assess their system of governance. According to the Recommendation, 'effective management' relates to innovation and is defined as 'the processes by which the goals and purposes of the organisation are turned into practical and outcome-oriented activities.' It stresses that 'it is essential that the way PSM manage themselves and their resources should be focused on how to achieve change and should allow them to adapt to rapidly transforming conditions.'

The transition to a networked PSM organisation entails a gradual yet fundamental shift in the corporate structure and culture of PSM.<sup>43</sup>

PSM should be prepared to innovate at different levels: internal management, including organisational and workforce, but also external management, such as cooperation and partnerships with third parties and the building of a new relationship with the public.

#### Rethink resource allocation to meet new audience needs

As stressed by the Council of Europe Recommendation, 'audiences' demands for different kinds of content, delivered in different ways and with far greater levels of interactivity and engagement will require public service media organisations to re-examine their organisation and processes. If they are to thrive and prosper in the future, they need to be able not only to sustain their existing services, but also to develop new ways of meeting and serving their audiences, which are increasingly used to accessing and participating in media in more direct and interactive ways.'

PSM organisations need 'to ensure that their internal resources and capacity are effectively brought to bear upon the changing demands of the audience', in particular the younger audiences, 'and are able to respond effectively to innovation in content and delivery.'

'A properly functioning governance system will be the way in which the organisation defines, within the public service remit, the vision and overall purpose of the organisation and ensures that it is best equipped to fulfil its remit.'

<sup>43</sup> VISION 2020, Connecting to a networked society, an EBU Project, 2014, [http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Vision2020-Full\\_report\\_EN.pdf](http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Publication%20Library/EBU-Vision2020-Full_report_EN.pdf).

<sup>44</sup> See Christian S. Nissen, 'Organisational Culture and Structures Public Media Management, In Search of a Model for the Digital Era', in Glowacki and Jackson, see n. 42.

Christian Nissen, former Director General of the Danish Broadcasting Corporation, believes that 'the real challenge for management and the leaders of tomorrow's PSM - as in most other businesses - will be to establish and develop creative organisations that attract and nourish creative talents to get them work together towards a common end.'<sup>44</sup>

### **Measures for creating an innovation-friendly environment**

Depending on each organisation's state of affairs, measures in the following fields could be taken:

- Staff diversity, gender equality** • making progress towards increased staff diversity at all levels and a more balanced participation of women and men of all experience levels in decision-making processes;
- Training opportunities** • providing training opportunities that enhance the participation of staff in the delivery of services at all levels of the organisation and for all media professionals;
- Appropriate recruitment policies** • establishing appropriate transparent recruitment policies that lead to the creation of a diverse workforce with the necessary skills to produce and deliver services that meet the changing patterns of consumer behaviour;
- New corporate culture** • adapting working procedures and corporate culture in line with new objectives, reinforcing internal dialogue;
- Good workplace conditions** • ensuring that workplace practices and policies are in place so that all employees in the organisation can work in an environment free from discrimination and harassment. In general, human resources management is one of the key factors in organisational change, it includes creating a good workplace atmosphere and encouraging a motivated and effective workforce.

### **Adapt the internal structure in response to the new technological environment and market changes**

- A multi-platform production and delivery strategy** One of the biggest challenges is the need to address the overall internal structure of a PSM organisation to ensure higher efficiency and flexible work units and greater interdisciplinary cooperation among production departments. An organisation-wide strategy and roadmap for multi-platform production and delivery should be developed.
- Creation of a digital innovation or strategy unit** Creating a special unit (i.e. digital innovation unit), task force, or working group for designing and implementing an innovation strategy might be one option. In practice this implies achieving an overall and integrated perspective of the ongoing changes, leading the transformation, fostering a collaborative atmosphere, creating certainty by means of a proper internal communication strategy, developing collaboration and synergies among units and offices.

### **Have the right management and supervisory talent and skills**

- Appropriate recruitment policies for top management** Managerial culture and practices should be adapted and a multimedia and multi-platform vision adopted.  
The best editorial leaders may not always have acquired the most appropriate management skills during their careers and ways to fill this gap can be devised, either through training or specific external recruitment, and getting fresh thinking into the senior management team by more diverse recruitment at the top.  
Moreover, regular re-evaluation of the composition of supervisory and management bodies to reflect societal developments and needs should be considered.

## **Collaboration and partnerships with third parties**

In the new media environment, partnerships between PSM and other stakeholders will certainly play a much greater role. However, entering into partnerships is not always easy for PSM, owing to a number of external and internal constraints.

### **Build partnerships while securing core public service values**

From a PSM perspective, partnerships can be of strategic importance to help transform the organisation itself, to make it more innovative and to keep pace with technological change, to extend the reach of programmes and connect with new audiences such as young people, or re-connect with existing audiences, to sustain quality content, to strengthen ties with society, and last but not least to make savings or develop new sources of income.

However, PSM must not compromise on core public service values. They need to preserve their independence and identity and ensure proper quality management. This can be difficult if partnerships are unbalanced to the detriment of PSM. And where PSM are in a stronger position, they must be very careful to not be accused of imposing their interests unilaterally.

Limits to cooperation may also be posed by requirements set or imposed under media and competition law. The challenge is to ensure the necessary scope for such partnerships and to reassure stakeholders that such cooperation does not undermine public service values or harm other economic players. In addition, there needs to be a clear separation between public service and commercial activities. Depending on the market situation, open partnerships may withstand legal tests more easily than exclusive ones.

For example, the setting-up of open content platforms with other media (e.g. in the form of joint on-demand platforms or media players) can improve citizens' access to information and help media companies sustain their business models in competition with dominant internet players. This type of partnership could be an answer at the national level to competition from Netflix and other global players.

### **PSM need to develop appropriate partnership policies**

Of course, partnerships already exist in various forms at different levels and in different areas, for example with the independent production sector or with the film industry. But within the new media ecosystem there are many more options for possible new partnerships and PSM need to develop policies for how to deal with them.

Likely candidates for partnerships include commercial media companies (e.g. broadcasters or quality print/online media), other parts of the creative industry (e.g. producers), telcos and other distribution companies, technology companies, device manufacturers, other public service institutions (e.g. educational or scientific) and civil society organisations (e.g. charities, special interest groups).

### **BBC: A History of the World in 100 Objects (HOTW)**

The partnership between the BBC and the British Museum in 2010 for HOTW<sup>45</sup> was unprecedented in scale and outcome and consisted of a 100-episode series programme, broadcast on BBC radio and website. It showed the BBC's commitment to arts and culture in its programmes and services and enabled support to the wider creative industry and delivered greater value to audiences. The project was based on joint investment of capacity and resources and joint responsibilities.

While the BBC and the BM formed the core of the initiative, museums, schools and individuals throughout the country provided objects and descriptions. The project was valued for its high quality content and accessibility but also originality and simplicity. The cross media delivery of the project was also a success factor.

### **Finland's joint media platform: TeeVee**

TeeVee<sup>46</sup> is a content aggregator of the programmes of the three main Finnish national TV channels (MTV3, NELONEN and YLE). It provides easy access and shortcuts to the best online TV content in Finland. Users can browse through programme categories, create their personal favourite lists and bookmark programmes for viewing later. It is available for all devices, in Apple Store and Google Play.

### **NLziet platform in The Netherlands**

Three major Dutch broadcasting groups, RTL, SBS and NPO formed NLziet,<sup>47</sup> a streaming service offering the public the possibility to watch the most popular TV shows in HD, on any device, without advertising. Programmes are available for 365 days after the original broadcast (and sometimes 7 days before the televised broadcast). Launched in July 2014, the service is available for a monthly fee.

### **Building a new relationship with the public, in particular young audiences**

The issue at stake is how to strengthen public engagement and participation in PSM and make full use of online services to innovate and reach all segments of the audience, including younger audiences.

<sup>45</sup> See: <http://www.bbc.co.uk/corporate2/insidethebbc/howwework/partnerships.html>.

<sup>46</sup> See: <http://www.teevee.fi/>.

<sup>47</sup> See: <https://www.nlziet.nl/>.

**Foster (young) users' collaboration and creativity**

PSM should develop new frameworks for public participation and interaction and explore the potential of the internet and social media. There are an increasing number of potential ways and means for the public to be involved, ranging across creation of content, comment and conversation.

One example is crowdsourcing, the practice of obtaining ideas or content from the public or various stakeholder groups. This approach can strengthen the links between the PSM organisation and the public, who are creative and empowered citizens, involved in the production of content using technology-driven innovation.<sup>48</sup>

**Make better use of online services, in particular social networks**

Moreover, the use of second screen devices, social networks and participative platforms help promote content and increase audience awareness of the PSM offer. They also allow for experimenting new communication, collaboration and partnership formulas with the public.

**BBC Taster**

In January 2015, the BBC launched a new online service featuring experimental ideas that users are invited to 'try, rate and share'.<sup>49</sup> It allows the BBC to showcase new, experimental editorial and technical ideas in the testing phase and provides a chance for users to give feedback on the ideas they like the most. The BBC then decides which pilots and prototypes to develop further.

BBC Taster brings together editorial and technology experts and opens the process up for audiences. The initiative should enable the BBC to gain a greater understanding of audience desires, and help it to create more original content across all platforms.

**VRT News Start-up: Open VRT**

VRT Start-up,<sup>50</sup> launched in June 2013, engages users by providing new ways of interacting with content. It runs 'insight sessions' where it presents simple ideas (usually ideas that can be developed in less than two weeks) to potential viewers in order to collect feedback and to encourage greater discussion and learning. The content strategy is based on 4 'pivots': *publication* (e.g. prioritising the web, Facebook, YouTube and Snapchat); *label* (e.g. reworking existing VRT programmes for younger audiences); *content* (e.g. news focusing on 'BESLAG' - beautiful, entertaining, serious, LOL, amazing, geeky); and *format* (e.g. short videos).

**France Télévisions: La Fondation**

France Télévisions' 'La Fondation'<sup>51</sup> focuses on youth who are distanced from culture, supporting and producing innovative projects that promote access to all forms of culture, to all types of artistic expression and to the audiovisual sector.

<sup>48</sup> See Lizzie Jackson, Participating Publics, Implications for Production Practices at the BBC, in Glowacki and Jackson, see n. 42.

<sup>49</sup> <http://www.bbc.co.uk/taster>

<sup>50</sup> <http://beta.openvrt.be/>.

<sup>51</sup> <http://www.fondationfrancetelevisions.fr/>.





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