

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2003)9 of the Committee of Ministers to member states on measures to promote the democratic and social contribution of digital broadcasting

*(Adopted by the Committee of Ministers on 28 May 2003
at the 840th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles that are their common heritage and fostering economic and social progress;

Recalling that the existence of a wide variety of independent and autonomous media, permitting the reflection of diversity of ideas and opinions, as stated in its Declaration on the freedom of expression and information of 29 April 1982, is important for democratic societies;

Bearing in mind Resolution No.1 on the future of public service broadcasting adopted at the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994), and recalling its Recommendation No R (96) 10 on the guarantee of the independence of public service broadcasting;

Stressing the specific role of the broadcasting media, and in particular of public service broadcasting, in modern democratic societies, which is to support the values underlying the political, legal and social structures of democratic societies, and in particular respect for human rights, culture and political pluralism;

Noting that the development of digital technology opens new possibilities in the field of communication, which may have a certain impact on the audiovisual landscape, both as regards the public and broadcasters;

Considering that the transition to the digital environment offers advantages, but also presents risks, and that adequate preparations must be made for it so that it is carried out in the best possible conditions in the interest of the public, as well as of broadcasters and the audiovisual industry as a whole;

Noting that in parallel with the multiplication of the number of channels in the digital environment, concentration in the media sector is still accelerating, notably in the context of globalisation, and recalling to the member states the principles enunciated in Recommendation No R (99) 1 on measures to promote media pluralism, in particular those concerning media ownership rules, access to platforms and diversity of media content;

Stressing the potential of digital television for bringing the information society into every home and the importance of avoiding exclusion, notably by the availability of free-to-air services and transfrontier television services;

Conscious of the need to safeguard essential public interest objectives in the digital environment, including freedom of expression and access to information, media pluralism, cultural diversity, the protection of minors and human dignity, consumer protection and privacy;

Noting that the governments of the member states have special responsibilities in this respect;

Convinced that the specific role of public service broadcasting as a uniting factor, capable of offering a wide choice of programmes and services to all sections of the population, should be maintained in the new digital environment;

Recalling that the member states should maintain and, where necessary, establish an appropriate and secure funding framework that guarantees public service broadcasters the means necessary to accomplish the remit which is assigned to them by member states in the new digital environment;

Conscious of the risk of democratic and social deficit which technological and market developments may entail, and agreeing that in the digital environment, a balance must be struck between economic interests and social needs, clearly taking a citizen perspective,

Recommends that the governments of the member states, taking account of the principles set out in the appendix:

- a. create adequate legal and economic conditions for the development of digital broadcasting that guarantee the pluralism of broadcasting services and public access to an enlarged choice and variety of quality programmes, including the maintenance and, where possible, extension of the availability of transfrontier services;
- b. protect and, if necessary, take positive measures to safeguard and promote media pluralism, in order to counterbalance the increasing concentration in this sector;
- c. be particularly vigilant to ensure respect for the protection of minors and human dignity and the non-incident to violence and hatred in the digital environment, which provides access to a wide variety of content;
- d. prepare the public for the new digital environment, notably by encouraging the setting-up of a scheme for adequate information on and training in the use of digital equipment and new services;
- e. guarantee that public service broadcasting, as an essential factor for the cohesion of democratic societies, is maintained in the new digital environment by ensuring universal access by individuals to the programmes of public service broadcasters and giving it *inter alia* a central role in the transition to terrestrial digital broadcasting;
- f. reaffirm the remit of public service broadcasting, adapting if necessary its means to the new digital environment, with respect for the relevant basic principles set out in previous Council of Europe texts, while establishing the financial, technical and other conditions that will enable it to fulfil that remit as well as possible;
- g. bring the basic principles contained in the appendix to this recommendation to the attention of the public authorities and the professional and industrial circles concerned, and to evaluate on a regular basis the effectiveness of the implementation of these principles.

Appendix to Recommendation Rec(2003)9

Basic principles for digital broadcasting

General principles

1. Given that, from a technological point of view, the development of digital broadcasting is inevitable, it would be advantageous if, before proceeding with the transition to digital environment, member states, in consultation with the various industries involved and the public, were to draw up a well-defined strategy that would ensure a carefully thought-out transition, which would maximise its benefits and minimise its possible negative effects.
2. Such a strategy, which is particularly necessary for digital terrestrial television, should seek to promote co-operation between operators, complementarity between platforms, the interoperability of decoders, the availability of a wide variety of content, including free-to-air radio and television services, and the widest exploitation of the unique opportunities which digital technology can offer following the necessary reallocation of frequencies.
3. Given that simultaneous analogue and digital broadcasting is costly, member states should seek ways of encouraging a rapid changeover to digital broadcasting while making sure that the interests of the public as well as the interests and constraints of all categories of broadcasters, particularly non-commercial and regional/local broadcasters, are taken into account. In this respect, an appropriate legal framework and favourable economic and technical conditions must be provided.
4. When awarding digital broadcasting licences, the relevant public authorities should ensure that the services on offer are many and varied, and encourage the establishment of regional/local services that meet the public's expectations at these levels.

1. Transition to the digital environment: the public

1.1 Safe transition to digital broadcasting

5. In order to guarantee the public a wide range of programme content, member states should take measures aimed at a high degree of interoperability and compatibility of reception, decoding and decrypting equipment and of systems granting access to digital broadcasting services and related interactive services.
6. Given that for consumers, the changeover to digital broadcasting means acquiring new equipment to decode and decrypt digital signals and, therefore, a certain amount of expense, and in order to avoid any form of material discrimination and any risk of "digital divide" between different social categories, member states should pay particular attention to ways of reducing the cost of such equipment.
7. With a view to bringing forward the date of the digital switch-over, member states should facilitate the public's change over to digital broadcasting. For example, they could encourage the industry to make available to the public a variety of decoding devices, including a basic decoding apparatus giving access to a range of minimum services.
8. Media literacy is a key factor in reducing the risk of a "digital divide". Hence, the public should be provided with wide-ranging information on the media. Suitable training courses in the use of digital equipment and new services are another appropriate measure to reduce the aforementioned risk. In particular, steps should be taken to enable the elderly and the less advantaged sectors of the population to understand and use digital technology. All these measures should be taken by the member states, broadcasters, regulatory authorities or other public or private institutions that are concerned with the transition to digital broadcasting.

9. The protection of minors and human dignity, and non-incitement to hatred and violence, notably that of racial and religious origin, as well as the impartiality of information and the protection of consumers, should continue to receive particular attention in the digital convergence environment.

10. Specific measures should be taken to improve access by people with hearing and visual disabilities to digital broadcasting services and their related content.

11. Member states should take all necessary measures to protect the privacy of individuals in the digital environment, notably by forbidding the misuse of personal data collected via the use of broadcasting and related interactive services.

1.2 Finding one's way in the digital environment

12. In order to help the public find its bearings in the new digital environment, member states should encourage broadcasters to produce information on their services for electronic programme guides (EPGs), as well as encourage manufacturers of digital set-top-boxes to include functions allowing information concerning programmes and services to be displayed, so as to give television viewers the basic information they need to make an informed choice among the myriad of programmes/channels and services available to them via digital platforms.

13. Without prejudice to complementary EPGs provided by broadcasters to present their own programming offer, providers of EPGs should propose to all service providers who so request, under fair, reasonable and non-discriminatory terms, a position on the EPGs which they operate. However, public service channels should be prominently displayed and easy to access. Providers of EPGs should also offer a clear classification of programme services by subject, genres, content and so on.

14. EPGs and digital decoders should be designed to be user-friendly for consumers, notably allowing them to decide on the display of programmes and services according to their preference. Particular attention should be paid to the specific needs of people with disabilities or people who lack knowledge of foreign languages. The use of EPGs as an advertising medium should prejudice neither their functionalities nor the integrity of programmes.

2. Transition to the digital environment: the broadcasters

2.1 General principles

15. When framing their policies on copyright and neighbouring rights, member states should ensure that these policies establish a balance between, on the one hand, the protection of rights owners' rights and, on the other hand, access to information, as well as the circulation of protected works and other content on digital broadcasting services.

16. The economic interests of broadcasters, platform operators and service providers should also be taken into account in the general context of combating piracy in the digital environment, in particular via measures on the legal protection of services based on, or consisting of, conditional access.

17. Access to many national, and even regional, broadcasting services is of great benefit to people who work, live or travel abroad, and contributes to the free flow of information and to a better understanding among cultures. In view of people's increased mobility in Europe and the deepening of European integration, it is important in the digital environment that the availability of free-to-air services and the accessibility of transfrontier audiovisual services are maintained and, where possible, extended.

18. In view of the fact that digital convergence favours the process of concentration in the broadcasting sector, member states should maintain regulation which limits the concentration of media ownership and/or any complementary measures which they may decide to choose to enhance pluralism, while strengthening public service broadcasting as a crucial counter-balance to concentration in the private media sector.

2.2 *Principles applicable to public service broadcasting*

a. *Remit of public service broadcasting*

19. Faced with the challenges linked to the arrival of digital technologies, public service broadcasting should preserve its special social remit, including a basic general service that offers news, educational, cultural and entertainment programmes aimed at different categories of the public. Member states should create the financial, technical and other conditions required to enable public service broadcasters to fulfil this remit in the best manner while adapting to the new digital environment. In this respect, the means to fulfil the public service remit may include the provision of new specialised channels, for example in the field of information, education and culture, and of new interactive services, for example EPGs and programme-related on-line services. Public service broadcasters should play a central role in the transition process to digital terrestrial broadcasting.

b. *Universal access to public service broadcasting*

20. Universality is fundamental for the development of public service broadcasting in the digital era. Member states should therefore make sure that the legal, economic and technical conditions are created to enable public service broadcasters to be present on the different digital platforms (cable, satellite, terrestrial) with diverse quality programmes and services that are capable of uniting society, particularly given the risk of fragmentation of the audience as a result of the diversification and specialisation of the programmes on offer.

21. In this connection, given the diversification of digital platforms, the must-carry rule should be applied for the benefit of public service broadcasters as far as reasonably possible in order to guarantee the accessibility of their services and programmes via these platforms.

c. *Financing public service broadcasting*

22. In the new technological context, without a secure and appropriate financing framework, the reach of public service broadcasters and the scale of their contribution to society may diminish. Faced with increases in the cost of acquiring, producing and storing programmes, and sometimes broadcasting costs, member states should give public service broadcasters the possibility of having access to the necessary financial means to fulfil their remit.
