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*Committee on Culture and Education*

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# **DRAFT REPORT**

on public service broadcasting in the digital era: the future of the dual system  
(2010/2028(INI))

Committee on Culture and Education

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **on public service broadcasting in the digital era: the future of the dual system (2010/2028(INI))**

*The European Parliament,*

- having regard to Article 14 and Article 106(2) of the Treaty on European Union,
- having regard to Protocol 29 annexed to the TEU on the system of public broadcasting in the Member States<sup>1</sup>,
- having regard to Article 11(2) of the Charter of Fundamental Rights of the European Union<sup>2</sup>,
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)<sup>3</sup>,
- having regard to its resolution of 19 September 1996 on the role of public service television in a multi-media society<sup>4</sup>,
- having regard to its resolution of 25 September 2008 on concentration and pluralism in the media in the European Union<sup>5</sup>,
- having regard to the Communication from the Commission of 2 July 2009 on the application of State aid rules to public service broadcasting<sup>6</sup>,
- having regard to Recommendation No R (96) 10 of 11 September 1996 of the Committee of Ministers of the Council of Europe to Member States on the guarantee of the independence of public service broadcasting,
- having regard to the Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 25 January 1999, concerning public service broadcasting<sup>7</sup>,
- having regard to Recommendation No CM/Rec(2007)2 of 31 January 2007 of the Committee of Ministers of the Council of Europe to Member States on media pluralism and diversity of media content,
- having regard to Recommendation No CM/Rec(2007)3 of 31 January 2007 of the

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<sup>1</sup> OJ C 83, 30.3.2010, p. 312.

<sup>2</sup> OJ C 83, 30.3.2010, p. 394.

<sup>3</sup> OJ L 95, 15.4.2010, p. 1.

<sup>4</sup> OJ C 320, 28.10.1996, p. 180.

<sup>5</sup> Texts adopted, P6\_TA(2008)0459.

<sup>6</sup> OJ C 257, 27.10.2009, p. 1.

<sup>7</sup> OJ C 30, 5.2.1999, p. 1.

Committee of Ministers of the Council of Europe to Member States on the remit of public service media in the information society,

- having regard to Recommendation No 1878 (2009) of 25 June 2009 of the Parliamentary Assembly of the Council of Europe on the funding of public service broadcasting,
  - having regard to the Declaration of 27 September 2006 of the Committee of Ministers of the Council of Europe on the guarantee of the independence of public service broadcasting in the Member States,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education (A7-0000/2010),
- A. whereas a democratic European society, the participation of citizens in public debate and access to information in the digital world depend on a vibrant and competitive audiovisual and written press sector,
- B. whereas broadcasting is still the main source of information for most citizens in the EU and as such is uniquely placed to influence people's values and opinions,
- C. whereas public service broadcasting makes a vital contribution to European audiovisual production, cultural diversity and identity, pluralism, social cohesion, the promotion of fundamental freedoms and the functioning of democracy,
- D. whereas the EU audiovisual landscape is unique, and is characterised by what has been described as 'the dual system' based on a true balance between public and commercial broadcasters,
- E. whereas such a coexistence of public and commercial broadcasters has ensured a diverse range of programming, which benefits all EU citizens and contributes to media pluralism, cultural and linguistic diversity, editorial competition (in terms of content quality and diversity) and freedom of expression,
- F. whereas changes in the audiovisual landscape in recent years, with the development of digital technologies and new media actors online, have impacted on the traditional dual broadcasting system,
- G. whereas newspapers and magazines are essential components of a pluralistic and diverse European media landscape,
- H. whereas the traditional boundaries in the media sector can no longer be upheld in the online environment since traditional media cannot survive without expanding into new platforms (SMS services, internet pages, applications for smart phones, etc.),
- I. whereas telecom and internet service providers, as well as search engines, are playing an ever increasing role in the new media environment,
- J. whereas public service broadcasting is a crucial asset in maintaining a public sphere in the digital era, which is characterised by audience fragmentation,

- K. whereas public broadcasters in some Member States are confronted with fundamental, life-threatening problems, both financially and politically, which poses a direct threat to the very existence of the dual system,
- L. whereas it lies within the competence of Member States to define the public service remit and to provide for its funding,
- M. whereas public service media need sufficient public funding to enable them to fulfil their remit in terms of offering a high standard of cultural and news content,
- N. whereas some Member States still fail to respect European standards on freedom of expression, media pluralism, and the independence, remit and funding of public service media,
- O. whereas the EU currently does not have the appropriate instruments at its disposal to monitor, and react to, threats to the public media and the dual system in Member States or specific regions of the EU,
  - 1. Reaffirms its attachment to the dual broadcasting system, where private and public media play their respective roles, and access to information must be ensured irrespective of consumers' ability to pay;
  - 2. Underlines in particular the fundamental role of the European dual system in promoting democracy, social cohesion and integration, as well as in preserving and promoting both media pluralism and cultural and linguistic diversity;
  - 3. Highlights against this background the specific mission of public service broadcasting in the digital era to bring media content to as many European citizens as possible and to maintain a public sphere with the aim of overcoming audience fragmentation;
  - 4. Urges Member States to define the remits of public service broadcasters so that they can retain their distinctiveness through a commitment to original audiovisual production and high-quality programming and journalism regardless of commercial considerations;
  - 5. Recalls that, according to the principle of technological neutrality, public service broadcasters, within the remit of their mission, must have the opportunity to offer their services, including new services, on all platforms;
  - 6. Welcomes the Commission broadcasting Communication of July 2009 and calls on Member States to implement its guidelines in order to maintain a balance amongst the digital media services on offer, to ensure fair competition between public broadcasting and private media and thus to preserve a vibrant media landscape in the online environment;
  - 7. Recalls the body of Council of Europe recommendations and declarations, which have been agreed upon by all the EU Member States and which lay down European standards with regard to freedom of expression and media pluralism and the independence, organisation, remit and funding of public service media, particularly in the information society;

8. Reminds Member States of their commitments to these European standards and urges them to provide appropriate and stable funding for public service media to enable them to fulfil their remit, guarantee their political and economic independence, contribute to an inclusive information and knowledge society and avoid a division between information haves and have-nots;
9. Calls on the Commission and Member States to give a mandate to the European Audiovisual Observatory to monitor the way in which Member States adhere to these standards, and insists that Member States should be held accountable for failing to fulfil these commitments;
10. Calls on the Commission to give higher priority to the dual system as a part of the EU acquis during membership negotiations and insists that the progress achieved by candidate countries in this respect be monitored;
11. Calls further on Member States adequately to address the issue of underfunding of public service broadcasters;
12. Notes that transparency of ownership of private broadcasters is not guaranteed in all Member States, and calls on the Commission to monitor and support progress to this end;
13. Recalls the financial instruments of the EIB, and encourages public broadcasters facing financial difficulties to apply for a soft loan from the EIB for the renewal of their infrastructure, in particular for digitisation;
14. Encourages the various stakeholders to cooperate in order to ensure the sustainability of their respective business models and, in particular, encourages public and private broadcasters to cooperate with publishers on content sharing and to engage in partnerships;
15. Calls on the Commission to launch an initiative bringing together different media actors, to consider sustainable business models for digital media, to encourage exchanges of best practice, taking into account models that exist outside the EU, and to address copyright issues in this connection;
16. Invites the Commission to launch an initiative on a possible legal framework for content aggregators under which search engines would contribute to content creation;
17. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

## EXPLANATORY STATEMENT

Broadcasting is a unique sector. It influences people's values and opinions and is still the main source of information for most citizens in the EU. Therefore it has special significance for the protection and promotion of fundamental freedoms and democracy, including social cohesion.

### 1. Dual system part of EU acquis

As underlined by the Audiovisual Media Services Directive<sup>1</sup>, the EU audiovisual landscape is characterised by what has been described as 'the dual system'. The co-existence of public and commercial broadcasters has ensured a diverse range of programming. It contributes to media pluralism, cultural and linguistic diversity, editorial competition (in terms of content quality and diversity) as well as freedom of expression.

A strong, viable and well-funded public service broadcasting system is part of this. In a well functioning dual system, the public service broadcasters (PSB) can raise the standards in the market.

### 2. EU-commitment to the role of public service broadcasters (PSBs)

In the Protocol 29 of the TUE<sup>2</sup>, the EU has committed itself to the system of public broadcasting in the Member States, 'considering that it is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism.'

The importance of public service broadcasting has been reaffirmed in the Council Resolution concerning public service broadcasting<sup>3</sup> and its role in promoting cultural diversity has been recognised by the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

The Member States have also agreed within the forum of the Council of Europe to a corpus of recommendations<sup>4</sup>.

### 3. The dual system in the digital era: a system under pressure

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<sup>1</sup> Directive 2010/13/EU (OJ L 95, 15.4.2010, p. 1).

<sup>2</sup> Protocol on the system of public broadcasting in the Member States (OJ C 83, 30.3.2010, p. 312) formally known as the Protocol of Amsterdam.

<sup>3</sup> Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 25 January 1999 (OJ C 30, 5.2.1999, p. 1).

<sup>4</sup> Recommendation R (96) 10 of 11 September 1996 of the Committee of Ministers of the Council of Europe to Member States on the guarantee of the independence of public service broadcasting, Recommendation CM/Rec(2007)3 of 31 January 2007 of the Committee of Ministers of the Council of Europe to Member States on the remit of public service media in the information society, Declaration of 27 September 2006 of the Committee of Ministers of the Council of Europe on the guarantee of the independence of public service broadcasting in the Member States.

Unfortunately the broadcasting landscape in Europe is far from the ideal situation of a balanced, dual broadcasting system supported by two equally strong pillars.

#### Public service media and the dual system on a point of no return

In the transformational digital media context, public broadcasters in some Member States are confronted with fundamental and life-threatening problems, both financially and politically. ‘In most monitored countries, public service broadcasters suffer mounting politicisation and pressure, flawed funding models, and disintegrating reputations [...]’<sup>1</sup>.

Parallel to this evolution, several private broadcasters arouse discussion about their sincerity because of their close link with powerful economic conglomerates, or because the source of their funding stems from uncertain origins.

According to Protocol 29 of the TUE, the funding of PSBs is a matter for the national authorities. However, we have come to a critical juncture. Public media and by consequence the dual system in some Member States are at the brink of existence. EU audiovisual policy cannot be restricted to intervening in cases of overcompensation. If we are serious about our commitment to the dual system, we have to consider both the lack of financing and of editorial and managerial independence of PSBs.

#### From dual system to multi-player environment

Media policy in 2010 cannot be restricted to maintaining the balance between commercial and PSB. In the current media context, new big players such as telecom and Internet service providers as well as search engines play an increasingly important role. Citizen-journalism and user-generated content also challenge the traditional media players. The dual broadcasting system has evolved into a multi-player media environment.

#### Towards a new media ecology

In the new digital environment the free public offer of the PSB is a thorn in the flesh of many commercial media players. The result is growing hostility from publishers towards the online services offered by public media service providers. Hence, a balanced model of coexistence on the Internet is one of the main priorities of national and European media policy in the near future.

The European Commission in the revised Broadcasting Communication<sup>2</sup> considers ‘that PSB should be able to use the opportunities offered by digitisation and the diversification of distribution platforms on a technology neutral basis, to the benefit of society’.

The Communication aims to contribute to the coexistence of the different media players. To this end, it demands that when significant new audiovisual services are considered by the PSBs, their remit should be modified accordingly or an ex ante evaluation has to be undertaken (balancing their public service value against their impact on the market).

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<sup>1</sup> Open Society Institute, Television Across Europe, More Channels, Less Independence, 2008.

<sup>2</sup> Communication from the Commission on the application of State aid rules to public service broadcasting (OJ C 257, 27.10.2009, p. 1.)



#### **4. Suggestions for the future**

It's very difficult to formulate general, EU wide recommendations, because of the different legal and organisational context in the Member States. A 'one-size-fits-all' approach is definitely out of the question.

##### *Debate at all levels*

Intense national debates on how to create a healthy media ecology are to be encouraged. The revised Communication should be seen as an incentive to this. A reflection could be undertaken on defining minimal thresholds necessary to put the agreed principles into practice (sufficient funding, independent governance, editorial independence). The EU should encourage debate between Member States at different levels.

##### *Respect of European standards*

In the meantime, Member States have to live up to the engagements they agreed on within the Council and within the Council of Europe, and that they adhered to when accessing to the EU. A monitoring procedure in this respect is feasible and desirable.

In membership negotiations, the Commission should give higher priority to the dual system as part of EU acquis.

##### *Financing*

Financial support could be given to PSB through loans from the EIB in order to install or renew their infrastructure for digitisation.

##### *Encouraging cooperation: Establishing a 'win-win' situation for all*

The various stakeholders should be encouraged to cooperate. Sharing audiovisual content, exchanging formats and cross-references between platforms could benefit stakeholders. Cooperation based on the voluntary involvement of different partners, demands a mind shift, but could result in a win-win situation. Authorities should facilitate solutions to possible competition or copyrights issues in the interest of the society.

##### *Contribution to content*

Search engines should be encouraged to contribute to content creation, for example through creating a legal framework for content aggregators.

##### *EC efforts in reflection on media industry*

The EC must bring together the different media actors and stakeholders, in the search for a healthy and viable industry. The media are the fourth pillar of democracy. Important parts of it are going through really tough times. Respect for subsidiarity can go hand in hand with EU support for long term solutions. *'The dual system has never been a static end product, but*

*always a work in progress*<sup>1</sup>.

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<sup>1</sup> Doris Pack, key note speech, Warsaw Conference, Future or Funeral, 23.01.2010.