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MM-S-PSB(2005)006

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**GROUP OF SPECIALISTS
ON PUBLIC SERVICE BROADCASTING IN THE INFORMATION SOCIETY**

(MM-S-PSB)

**1st meeting
2-3 May 2005
Human Rights Building, Strasbourg
Room 20 RC Jardin**

REPORT

Introduction

1. The Group of Specialists on Public Service Broadcasting in the Information Society (MM-S-PSB) held its first meeting in Strasbourg on 2 and 3 May 2005. The meeting was chaired successively by the Secretariat and Mr Thibault MULATIN (Belgium) following his election as Chair of the MM-S-PSB.
2. The list of participants appears in Appendix I. The agenda, as adopted, appears in Appendix II; the working documents are also mentioned there.
3. In the course of the meeting, the MM-S-PSB:
 - elected Mr Thibault MULATIN (Belgium) Chair of the Group for 2005;
 - considered the MM-S-PSB's terms of reference and discussed possible future lines of action for the Group, as well as its working methods and tools, and approved the work plan for 2005 prepared by the Secretariat;
 - held an exchange of views with Mr Christian NISSEN, the consultant commissioned to conduct a study on how the public service remit should be developed and adapted to the needs of the Information Society, so that he could present the interim version of his work and obtain any guidance from the Group with a view to its completion by the end of the year (cf document MM-S-PSB (2005) 5) ;
 - agreed to hold a hearing at its next meeting with representatives of public service broadcasting organisations and experts in the field of the use of new interactive technologies concerning the organisations' strategies in the Information Society for promoting wider democratic participation by individuals;
 - agreed to discuss at its next meeting, on the basis of replies to the questionnaire on implementation of Committee of Ministers Recommendation No R (96) 10 (see Appendix III), the current situation regarding the guarantee of the independence of public service broadcasting organisations in the member states.

Items 1 and 2 of the agenda: Opening of the meeting and adoption of the agenda

4. The Secretariat opened the meeting and welcomed the participants. By decision of the Steering Committee on the Mass Media (CDMM), four new groups of specialists had been set up, including the MM-S-PSB. The Secretariat provided general information on the Group of Specialists' first meeting. The agenda was adopted without amendment (cf document MM-S-PSB (2005) OJ1).

Item 3 of the agenda: Election of the Chairperson and the Vice-Chairperson for 2005

5. Mr Thibault MULATIN (Belgium) was elected Chair and Mr Gian-Luca MARSELLA (Switzerland) Vice-Chair for terms of one year, both unanimously.

Item 4 of the agenda:**Examination of the terms of reference of the MM-S-PSB**

6. The Secretariat presented the terms of reference assigned to the Group by the Committee of Ministers of the Council of Europe (cf document CDMM (2005) 2). The terms of reference would expire on 31 December 2006, with the possibility of renewal. As far as the content of the terms of reference was concerned, all the constituent elements were included in the Action Plan adopted at the 7th Ministerial Conference in Kyiv (cf document MCM (2005) 5). The Group considered the terms of reference point by point.

7. Particular attention was paid to the three key points in the terms of reference, namely (a) examining how the public service remit could be developed and adapted to suit the new digital environment; (b) monitoring the implementation by member states of Recommendation No R (96) 10 of the Committee of Ministers on the guarantee of the independence of public service broadcasting, with a view to providing further guidance on how to secure that independence; (c) examining strategies aimed at encouraging public service broadcasting organisations to assume an increased role in promoting wider democratic participation by individuals, *inter alia* with the aid of new interactive technologies.

8. One expert said that, under point (a) of the terms of reference, the Group should focus more on public service *remits* in the new digital environment than on the *institutions* that were required to discharge these remits. That demanded a broader and less conventional approach to the public service remit: in the context of the Information Society, the public service remit could be assigned to various institutions/entities/services, extending beyond conventional broadcasting. It would therefore be useful to deal more with public service *media* than with public service *broadcasters*. This idea was taken up again later during the discussion of the preliminary draft study by the Council of Europe consultant (see item 6 below).

9. In this connection, the EBU representative drew attention to the practice in certain states, which first defined the public service remit and then decided which institutions would actually discharge it: in that case, they could be broadcasters (including private ones) or other types of institutions/entities/services. The Group's discussions should therefore focus on the *content* of public service remits and the *way* in which they were discharged in the Information Society.

10. At the same time, one expert expressed reservations about the term "public service media", pointing out that most Council of Europe documents referred to "public service broadcasting." In this connection, another expert said that public service broadcasting was mentioned in the MM-S-PSB's terms of reference (points (b) and (c)), so the Group could not ignore it. However, focusing on it alone would be unjustified and too narrow, given current and future trends in the Information Society.

11. The MM-S-PSB agreed to adopt this broader approach in its work, looking at public service media and focusing on the content of their remits and the way they were discharged in the Information Society.

Item 5 of the agenda:**Definition of orientations for the work of the MM-S-PSB**

12. The Secretariat presented a draft work plan for the MM-S-PSB for 2005 (cf document MM-S-PSB (2005) 004) which it had prepared, taking account of points (a), (b) and (c) of the Group's terms of reference. The expected results should be as follows:

- (a) Study on how the public service remit should be developed and adapted to the needs of the Information Society;
- (b) Monitoring report on the independence of public service broadcasters in Council of Europe member states;
- (c) Document compiling ideas on public service broadcasters' strategies in the Information Society for promoting wider democratic participation by individuals.

13. The EBU representative pointed out that points (a) and (c) were quite closely related (one of the key components of the public service remit was precisely to promote wider democratic participation by individuals) and it would therefore be justified to address the two topics together, without, however, prejudging the practical outcomes, which could be different. In contrast, point (b) covered the independence of public service broadcasting organisations and should be explored as an entirely separate issue.

14. The MM-S-PSB endorsed this approach and agreed first to consider points (a) and (c), and deal with point (b) separately. That was justified from the point of view of the results expected from the MM-S-PSB's future work. On the one hand, under the work plan, the consultant's study (a) should subsequently serve as a basis for a possible report/policy paper on how to develop the public service remit and adapt it to the needs of the Information Society. On the other, a possible document summarising the key ideas to emerge from the hearing (c) could also flow into the report/policy paper. At the same time, discussion of public service broadcasters' strategies for promoting wider democratic participation by individuals with the aid of new technologies could be carried forward in the Group beyond the said report/policy paper.

Study on how the public service remit should be developed and adapted to the needs of the Information Society – point (a)

15. The Secretariat announced that a consultant (Mr Christian Nissen, Denmark) had been commissioned to prepare a study on how the public service remit should be developed and adapted to the needs of the Information Society. The preliminary draft study was due to be discussed later at the meeting (see item 6 below): the consultant had been invited to an exchange of views with the Group to present the interim version of his work and obtain any guidance from the Group so that it could be completed by the end of the year.

Document compiling ideas on public service broadcasters' strategies in the Information Society for promoting wider democratic participation by individuals – point (c)

16. In the draft work plan, the Secretariat proposed organising, for the Group's second meeting in November, a hearing on public service broadcasters' strategies in the Information Society for promoting wider democratic participation by individuals, in order to speed up the Group's discussion of the issue. Following the hearing, the Group could draft a document compiling the key ideas on the subject.

17. The Group welcomed the idea of holding a hearing on the theme proposed and discussed two questions of principle: what specific issues should be debated and who should take part in the hearing?

18. As far as the content of the hearing was concerned, the Group agreed that the participants should focus on strategies for encouraging public service media/broadcasting organisations to assume an increased role in promoting wider democratic participation by individuals, *inter alia* with the aid of new interactive technologies. “Democratic participation” should, in principle, cover public participation in political debate (during and outside election campaigns) and interaction and dialogue between public service media and listeners/viewers. As interactive technologies were mentioned among other possibilities, it was agreed that both linear and non-linear audiovisual services should be addressed.

19. As far as the participants were concerned, it was agreed that the following would be invited: two or three public service broadcasters with experience of the use of new communication technologies, including interactive technologies, in political debate in society; an expert on interactive technologies who could give a presentation on modern techniques that could be used to bring about greater democratic participation by individuals; and a political/legal expert who had conducted research on the subject. The names of specific experts were mentioned. The EBU representative agreed to contact some of them about the hearing.

20. The representative of the European Association for Viewers Interests (EAVI), which had observer status with the MM-S-PSB, welcomed the possibility of taking part in the hearing to express the views of listeners and viewers. EAVI had, in fact, prepared a study on the matter; it could be distributed for information purposes to MM-S-PSB members and the participants in the hearing.

Monitoring report on the independence of public service broadcasters in Council of Europe member states – point (b)

21. The Secretariat announced that it had prepared and sent to CDMM members a questionnaire on the state of implementation of Recommendation No R (96) 10 in the member states on the current situation regarding the guarantee of the independence of public service broadcasting organisations (see Appendix III). The questionnaire focused on the key points in the Recommendation such as editorial independence and institutional autonomy; supervisory and management bodies; and funding framework.

22. The deadline for replying to the questionnaire was **15 July 2005**. On the basis of the replies received, the MM-S-PSB was to draw up a monitoring report on the independence of public service broadcasters in Council of Europe member states. It was agreed that such a report could be most useful for the future work of the MM-S-PSB, whose terms of reference required it to monitor implementation of Recommendation No R (96) 10 and, if necessary, provide further guidance to member states on how to secure the independence of public service broadcasters.

23. At the close of discussion of this item, the Group approved the work plan without amendment.

Item 6 of the agenda:**Examination of a preliminary draft study by a consultant of the Council of Europe on how the public service remit should be developed and adapted to suit the Information Society; exchange of views with the consultant**

24. The Group held an exchange of views with Mr Christian Nissen, the consultant commissioned to conduct a study on how the public service remit should be developed and adapted to the needs of the Information Society. The purpose of the exchange of views was to discuss substantive aspects of the draft study and provide the consultant with guidance/suggestions so that he could carry forward his work and complete it by the end of the year (cf document MM-S-PSB(2005)005).

25. The Group expressed great appreciation for the draft produced by the consultant, which covered the essential issues regarding the topic in question. The MM-S-PSB welcomed the unconventional approach to the public service remit proposed by the consultant, namely addressing the public service remit assigned to the media in general rather than just broadcasting organisations. This innovative and forward-looking approach was fully justified, given the Group's terms of reference, which required it to consider how the public service remit could be developed and adapted to the needs of the Information Society, which was marked by an expanding range of media, in addition to conventional broadcasting.

26. During the discussion with the consultant, the members made a number of suggestions, including:

- define from the outset the meaning assigned in the study to the terms "public service remit" and "Information Society";
- expand chapter 6 on the public service remit, which should be the central chapter of the study;
- set out arguments supporting the view that the authorities could now assign the public service remit not only to broadcasting organisations but also to other services, including new communication services;
- add a (brief) new chapter on the growing role of public service media in promoting wider democratic participation by individuals (point (c) of the Group's terms of reference);
- make a clearer distinction between the concepts of "citizens" and "consumers";
- expand on and fine-tune the references to the European Commission's policies on competition and the funding of public audiovisual media (6.2, paragraph above figure 6.1) or public service governance (8.3, paragraph 4);
- clarify the concept of "cultural integration" and relate it to the concept of "subsidiarity".

27. It was agreed that the members of the Group would send the Secretariat any additional comments or suggestions within two weeks of the meeting so that the consultant could take them into account as he continued his work on the study.

28. With regard to the definition of the public service remit, it was agreed that members would send the Secretariat brief contributions on the way it was defined in their respective countries as soon as possible.

29. In this connection, the EBU representative said that his organisation had a survey, which had been completed by some of its members, on the public service broadcasting remit in the new digital environment. Although the document was incomplete (the complexity of the issue meant that not all public service remits were incorporated in legislation), the EBU could make it available to the MM-S-PSB shortly. The Group welcomed the proposal and believed that the document could be useful for its future work.

30. With regard to deadlines, it was proposed that the consultant should prepare a new version of the draft study **by September 2005** so that it could be circulated among MM-S-PSB members for any additional comments/proposed amendments before the Group's meeting in November.

Item 7 of the agenda:

Other business

31. None.

Item 8 of the agenda:

Dates of next meeting

32. The MM-S-PSB agreed to hold its next meeting in Strasbourg on 3 and 4 November 2005.

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Appendix I**List of participants****MEMBERS STATES:****ARMENIA**

Ms Nouneh SARKISSIAN, Managing Director, Internews, Media Support NGO,
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AZERBAIJAN

Mr Elnur Sultanov, Department for Human Rights and Democratisation, Ministry of Foreign Affairs,
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BELGIUM

Flemish community

<Apologised/Excusé>

Mr Marc CHATELET, Deputy Director, afdeling Media en Film, Ministerie van de Vlaamse
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<Apologised/Excusée>

Ms Saskia DIERICKX, Deputy Director, afdeling Media en Film, Ministerie van de Vlaamse
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French Community

Mr Thibault MULATIN, Chargé de mission, Service Général de l'Audiovisuel et des Multimédias,
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BULGARIA

<Apologised/Excusée>

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GERMANY

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RUSSIA

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SLOVAKIA

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OBSERVERS:

EUROPEAN COMMISSION/COMMISSION EUROPEENNE

Mr Emmanuel JOLY, European Commission, Directorate General for Information Society and Media, Audiovisual and Media policies: Digital rights; Task force on coordination of media affairs, 1049 Bruxelles

EUROPEAN BROADCASTING UNION (EBU)

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Mr Jacques BRIQUEMONT, Responsable des affaires publiques, Union Européenne de Radio-Télévision, Bureau de Bruxelles, Rue Wiertz 50, B - 1050 BRUXELLES

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THE EUROPEAN ASSOCIATION FOR VIEWERS INTERESTS (EAVI)

Mr Paolo CELOT & Mr Uwe HASEBRINK

EUROPEAN FEDERATION OF JOURNALISTS (EFJ)

<Apologised/Excusé>

Mr Gustl GLATTFELDER

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PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

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Mr Rüdiger DOSSOW

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JAPAN

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SECRETARIAT :

Mr Jan MALINOWSKI, Head of Media Division, Directorate General of Human Rights - DG II/ Chef de la Division Media, Direction Générale des Droits de l'Homme - DG II

Mr Eugen CIBOTARU, Administrator, Media Division, Directorate General of Human Rights – DG II/Administrateur, Division Media, Direction Générale des Droits de l'Homme - DG II

Mrs Lindsay YOUNGS, Principal Administrative Assistant, Media Division, Directorate General of Human Rights – DG II/Assistante Administrative Principale Division Media, Direction Générale des Droits de l'Homme - DG II

INTERPRETERS/INTEPRETES

Mme Martine CARALY

Mme Bettina LUDEWIG

Mme Christine TRAPP

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Appendix II

Agenda

1. Opening of the meeting

2. Adoption of the agenda

Working document:

- Draft agenda
(Document MM-S-PSB (2005) OJ1)

3. Election of the Chairperson and the Vice-Chairperson for 2005

Working document:

- Election of the Chairperson and Vice-Chairperson
(Document MM-S-PSB (2005) 1)

4. Examination of the terms of reference of the MM-S-PSB

Working documents:

- Compendium of the terms of reference of the CDMM and its subordinate bodies
(Document CDMM (2005) 2)
- Extracts from the report of the 61st and 62nd meetings of the CDMM (11-14 May and 2-5 November 2004)
(Document MM-S-PSB (2005) 2)
- Extract from the report of the Bureau of the CDMM meeting (7-8 September 2004)
(Document MM-S-PSB (2005) 3)

5. Definition of orientations for the work of the MM-S-PSB

Working documents:

- Political texts adopted at the 7th European Ministerial Conference on Mass Media Policy in Kyiv: Action Plan, sub-theme 2 (Cultural diversity and media pluralism in times of globalisation)
(Document MCM (2005) 5)
- Compendium of the terms of reference of the CDMM and its subordinate bodies
(Document CDMM (2005) 2)
- Draft work plan for the MM-S-PSB for 2005
(Document MM-S-PSB (2005) 4)

- Extracts from the report of the 61st and 62nd meetings of the CDMM (11-14 May and 2-5 November 2004)
(Document MM-S-PSB (2005) 2)

Information documents:

- Resolution on public service broadcasting adopted at the 4th European Ministerial Conference on Mass Media Policy (Prague, December 1994)
- Recommendation No. R (96) 10 of the Committee of Ministers on the guarantee of the independence of public service broadcasting
- Recommendation Rec (2003) 9 of the Committee of Ministers on measures to promote the democratic and social contribution of digital broadcasting
- Report on public service broadcasting prepared by the Committee on Culture, Science and Education of the Parliamentary Assembly of the Council of Europe (PACE) (12 January 2004)
- Addendum to the Report on public service broadcasting prepared by the Committee on Culture, Science and Education of the PACE
- Recommendation 1641 (2004) of the PACE on public service broadcasting
- Reply from the Committee of Ministers (30 September 2004) to the Recommendation 1641 (2004) of the PACE on public service broadcasting
- Protocol to the Amsterdam Treaty on the system of public broadcasting in the member States
- Resolution of the Council and of the Representatives of the Governments of the EU Member States, meeting within the Council of 25 January 1999 concerning public service broadcasting
- Communication from the European Commission on the application of State aid rules to public service broadcasting (2001/C 320/04)
- Clarification by the European Commission concerning application of State aid rules to Public Service Broadcasting (IP/01/1429, 17/10/01)
- State aid: Commission requests Germany, Ireland and The Netherlands to clarify role and financing of public service broadcasters (IP/05/250, 03/03/05)
- Press release of the European Audiovisual Observatory on the financial situation of public radio-television companies in Europe (9/04/02)
- “The key role of the public service broadcasting in European society in the 21st century” – the EBU contribution to the Conference on public service broadcasting (Amsterdam, 1-3 September 2004)

- Chapters to be published in the book “Media between culture and commerce”, part B “The Future and Challenges of Public Service Broadcasting” (ed. Karol Jakubowicz)

6. Examination of a preliminary draft study by a consultant of the Council of Europe on how the public service remit should be developed and adapted to suit the Information Society; exchange of views with the consultant (2 May, 14:30-18:00)

Working documents:

- Preliminary draft study by a consultant (Mr Christian Nissen)
(Document MM-S-PSB (2005) 5)
- Compendium of the terms of reference of the CDMM and its subordinate bodies
(Document CDMM (2005) 2)
- Extracts from the report of the 61st and 62nd meetings of the CDMM (11-14 May and 2-5 November 2004)
(Document MM-S-PSB (2005) 2)
- Draft work plan for the MM-S-PSB for 2005
(Document MM-S-PSB (2005) 4)

7. Other business

8. Dates of next meeting

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Appendix III

**Questionnaire on the implementation of
Recommendation No. R (96) 10
of the Committee of Ministers of the Council of Europe
on the guarantee of the independence of public service broadcasting**

1. Are there public service broadcasting organisations in your country? If not, what are the reasons?
2. If yes, does the legal framework governing public service broadcasting organisations:
 - a. Expressly guarantee their editorial independence and institutional autonomy?
 - b. Define the competences of their supervisory bodies and boards of management?
 - c. Set out the principle that the staff of public service broadcasting organisations may not take instructions from individuals or bodies outside the organisation employing them without the agreement of the board of management of the organisation?
 - d. Expressly stipulate the exceptional cases in which these organisations may be compelled to broadcast official messages, declarations or communications, or to report on the acts or decisions of public authorities, or to grant airtime to such authorities?
3. Are the rules governing the status of the boards of management and supervisory bodies of public service broadcasting organisations, especially their membership, defined in a manner which avoids placing these bodies at risk of any political or other interference? If so, in which way?
4. Are the boards of management solely responsible for the day-to-day operation of the public service broadcasting organisations and accountable for the exercise of their functions only to their supervisory body?
5. Are the supervisory bodies of public service broadcasting organisations able to exercise any *a priori* control over the programming of these organisations?
6. Is the right to take part in trade union activities and to strike guaranteed without discrimination to the staff of public service broadcasting organisations? If so, in which way?
7. Is there an appropriate, secure and transparent funding framework guaranteeing public service broadcasting organisations the means necessary to accomplish their missions? If so:
 - a. Has a protection mechanism against any possible influence over the editorial independence and institutional autonomy of public service broadcasters by authorities with financial decision-making power been established?
 - b. Has the level of the contribution by the state or licence fee been fixed after consultation with the public service broadcasting organisation concerned?
 - c. Is the payment of the contribution or licence fee made in a way which guarantees the continuity of the activities of the public service broadcasting organisation and which allows it to engage in long-term planning?