



# The Financing of Public Service Broadcasting in Selected Central and Eastern European States

As Illustrated by Bulgaria, the Czech Republic, Hungary, Poland and the Slovakia.

## Introduction

Public service broadcasting arose after the changes that took place during 1989/1990 in the countries of Central and Eastern Europe, following the transition from national state broadcasting under party control to public service agencies. One of the aims of the transition was to achieve a greater degree of independence for broadcasting from state organisations, particularly governments, and for it to operate on the Western model, free from state influence. Therefore the question of financing public service broadcasting was one of immense significance, as the former state broadcasters had their own budget allocated from government expenditure. This was to be changed to ensure that it would no longer be possible to influence the broadcasters through the allocation of finance. There was the additional task of providing for private broadcasting alongside public service broadcasting in the future.

The countries studied here are seeking membership of the European Union. They are therefore aligning themselves in the transition to public service broadcasting and in broadcasting legislation with the models of the Member States of the European Union. In those states the predominant system is currently that of mixed financing, i.e. public service broadcasters can be financed both through advertising income and the licence fee. In a few cases, for example the Netherlands, there has recently been a retreat from financing through the licence fee. It has been replaced by a model of financing directly from the state budget (see IRIS 1999-10: 13). The following financing systems for public service broadcasting in Central and Eastern European countries are all based on one or other variation of mixed financing. Accordingly, the discussion about adapting this financing model to the developments in the broadcasting legislation market, currently being conducted within the EU, is highly relevant to the accession of additional EU members, both for the applicant countries and for the EU itself.

In general, the Member States of the EU have decided and continue to decide upon the public service contract and the specific financing of their public service broadcasters. However, the EU Member States are now beginning to review traditional financing models as they affect public service broadcasting in order to meet the proposed requirements for establishing equality of competition between public service and commercial broadcasters. In this context the need to maintain comparability between financing and public service duties must be borne in mind. The starting point for the discussion was the compatibility of licence fee or state financing with the competition provisions of the EC treaty, i.e. Articles 86 and 87 ff EC. It is also disputed what specific conclusions can be drawn from the protocol on public service broadcasting in the Member States, which, since the Amsterdam Treaty came into force, is to be taken as the primary legislation on the application of the aforementioned subsidy regulations. The principle that Member States have the authority to define the function of the organisations and the necessary means to carry it out could possibly be challenged by the Commission through the application of the right to competition. Hitherto the Commission's decisions in dealing with complaints from private broadcasters about alleged competitive disadvantage because of the licence fee have often been the subject of rulings by the Court of First Instance (see IRIS 1998-9: 5; IRIS 2000-6: 2). However, the rulings have made no

significant contribution to a solution of the problem. Currently an attempt is being made in close collaboration with the Member States to extend the data by collecting supplementary information (IRIS 1999-3: 4).

Recently the Commission has been reaching decisions predominantly on the question of the financing of public service theme channels, and has adjudged them as being compatible with the subsidy system (see IRIS 1999-3: 5; IRIS 1999-10: 6). Alongside its decisions in competition cases the Commission has made a number of attempts to establish guidelines, at variance with the consideration of an individual case, for the criteria for financing public service broadcasting in light of the duties allotted to it by Member States (see IRIS 1998-10: 7). Finally, as a starting point an attempt was made, assisted by the introduction of budgetary transparency, to establish a demarcation between the finances allotted to basic provisions and those for other activities (see IRIS 2000-2: 3).

There are particular difficulties here because the Member States – even within the Council of the European Union – have stated that the power to define the duties of broadcasters rests in principle with them and that this is contained in a development guarantee (see IRIS 1999-3: 4).

In view of these developments in the European Union and the future extension of the EU, the financing systems of the public service agencies in the countries of Central and Eastern Europe are especially interesting. In particular, there is the question of what these countries can contribute to the current discussion about the financing of public service broadcasting, and to what extent their financing systems can satisfy the competition provisions of an extended Europe.

To answer this question there has to be more detailed knowledge of the financing systems of public service broadcasting in the Central and Eastern European countries. To provide this, without neglecting the historical and political dimensions of the development of public service broadcasting in Central and Eastern Europe, is the intention of this contribution. The respective statutory financing model and its implementation in practice will be described in the cases of five selected countries. The financial situation of commercial broadcasting will also be considered briefly.

The reports on the countries were drawn up by the Institute of European Media Law and then supplemented with information made available by the national contributors. The following reports are the result:

## Bulgaria

Bulgaria passed a new Broadcasting Act in 1996, one of the last countries of the former Eastern Bloc to do so.<sup>1</sup> However, this was declared unconstitutional in several respects by the Constitutional Court in October 1996 and thereby effectively rescinded. For a transitional period until the law was passed again in 1998<sup>2</sup> there was therefore no valid legislation regulating the broadcasting sector. It was only in the area of licence allocation that valid legislation existed.<sup>3</sup>

The 1998 Broadcasting Act adheres to the provisions of the television guidelines (see IRIS 1999-1: 8 and IRIS 1998-9: 10). At first, however, the President cast his veto against the Act, in part because of the principle of the public financing of Bulgarian



National Television (BNT)<sup>4</sup> and the advertising limitations imposed on BNT. The Broadcasting Law was nevertheless passed by Parliament with only a few amendments (see IRIS 1999-1: 8) and its basic compatibility with the Constitution was confirmed by the Constitutional Court in 1999 (see IRIS 1999-10: 9).

Bulgarian National Television is dominant in Bulgaria, being Bulgaria's only nation-wide broadcaster with two channels (Channel 1 accessible to 90.2% of the population and *Efir-2* accessible to 81.4% of the population).<sup>5</sup> There is a growing number of local commercial channels, however.

The 1998 Broadcasting Act (see IRIS 1998-7: 13) established a National Radio and Television Council (NRTC). This is an independent public body for the electronic media, which supervises the programme content of all broadcasters and is involved in the allocation of licences to commercial broadcasters. Under Art. 32 of the 1998 Broadcasting Act the NRTC also has the duty to make recommendations on the level of subvention for BNT and to confirm the annual budget estimate of the Radio and Television Fund. In addition, it makes recommendations on setting the fees for broadcasting services.

Under Art. 70 Para. 3 of the 1998 Broadcasting Act the BNT has its own budget. This consists of:

- a) income from the Radio and Television Fund,
- b) subventions from the state,
- c) income from advertising and sponsorship,
- d) income from other activities related to broadcasting,
- e) donations and bequests from third parties, and
- f) interest and other income from activities related to broadcasting.

Under Art. 70 Para. 4 subventions from the state may a) be used for the preparation, production and dissemination of national and regional programmes, whereby the subventions are based on an hourly tariff for the programme costs, agreed by the Council of Ministers, and b) may be used for a specified subvention for capital purchases according to a schedule to be confirmed annually by the Minister of Finance. Since broadcasting began in Bulgaria, state subvention has been, in effect, the most significant and sometimes the only source of finance for both agencies. State subventions cover 55-60% of the BNT's total financial requirement.

The remainder of the finance required is made up from advertising and sponsorship income, which is specifically maintained as an income source in Art. 70 Para. 3 No. 3, with the permitted ceilings for advertising time being detailed in Art. 86 and being below the threshold of the television guidelines.<sup>6</sup>

The 1998 Broadcasting Act provides for a „Radio and Television Fund“ to be established. This Fund administers the income from the licence fee (see below) and fosters broadcasting activity (Art. 98). Under Art. 102 the Fund's income comes from the following sources:

1. monthly licence fees,
2. 80% of broadcasters' licence fees,<sup>7</sup>
3. 50% of the annual fees for supervising the operation of licences,
4. interest from the Fund's monies,
5. donations and bequests,
6. other sources as provided under a specific law.

The Fund's resources may only be used for specified purposes, which are set down in Art. 103:

1. financing the Bulgarian National Radio and the Bulgarian National Television,
2. financing the National Broadcasting Council,
3. financing projects of national importance related to the introduction and use of new technologies in broadcasting,
4. financing important cultural and educational projects,
5. financing projects and activities aimed at fostering the increasing spread of broadcasts throughout the population,
6. financing the administration of the Fund,

7. in payment to the National Electricity Company for the collection of licence fees.

The resources for the BNT provided under Art. 103 are not, however, freely available to it, but may be used only for specific purposes. Thus, under Art. 103 Para. 2 they may be used on the one hand for the preparation, production and dissemination of nationwide and regional programmes, where the level of subvention is proposed by them and determined by the NRTC for every programme hour, and on the other hand for investment and the purchase of equipment.

Overall no rules are set out in accordance with the purposes of the Fund as provided in Art. 103 as to what proportion of the total fund should be made available for which purpose. Thus the Fund has considerable room for manoeuvre. However, the Fund has not yet been established.

Public service broadcasting is, however, to be funded primarily through the licence fee. The income from the licence fee, which goes to the Fund, is set out in Chapter 5 of the Broadcasting Law „Financing Broadcasting Activity“. The premise is that the broadcast recipient pays for the service of a „broadcast programme“ and not simply, as before, for its transmission.<sup>8</sup> Under Art. 93 Para. 1 the licence fee is to be paid per registered electricity customer and is collected with the electricity bill by the electricity provider, the National Electricity Company, or is to be paid to it (Art. 95). Since this is automatically linked to the legal presumption that every owner of an electricity meter owns a radio or television set, under Art. 93 Para. 3 provision is made for those who have no radio or television set, but possess an electricity meter, to be released from the licence fee on making an appropriate declaration (for this procedure and its constitutional implications see IRIS 1999-10: 9). The licence fee may also be waived in the cases of persons with sight and hearing disabilities (Art. 96) and certain state institutions such as hospitals and kindergartens (Art. 97).

The level of the licence fee is determined under Art. 94. For individuals it is set at 0.6% of the minimum wage.<sup>9</sup> Legal persons and companies pay a monthly fee of 2.5% of the minimum wage (Art. 94 Para. 2).

However, no licence fees are currently being collected, since Art. 2 of the transitional and final dispositions of the 1998 Broadcasting Law provides that the financing of the public service broadcasters through the licence fee will not take effect until 2003, so that, thus far, BNT and NRTC are being financed from the state budget through annual subventions (Art. 2 Para. 2 of the transitional and final dispositions of the 1998 Broadcasting Act). Not until after then will state subvention be gradually reduced, in accordance with the following schedule:

- 2003: 50% financing through licence fee and state subventions
- 2004: 60% from the resources of the Fund
- 2005: 70% from the resources of the Fund
- 2006: 80% from the resources of the Fund
- from 2007: withdrawal of all subventions.

There are no special regulations for the financing of commercial broadcasting. In Art. 111 No. 7 of the 1998 Broadcasting Act, and in Art. 67 Para. 1 No. 7 of the Telecommunication Act<sup>10</sup> it simply states that applicants for broadcasting licences must provide proof of their financial resources.

Since the BNT has hitherto held the monopoly of the television market it was able to take 70% of the total amount spent on advertising. This, however, is likely to change, since the first telecommunications licence for nation-wide Bulgarian private television went in December 1999 (see IRIS 2000-1: 7) to the *Balkan News Corporation*, which began transmitting on 1 June 2000 on the second nation-wide frequency.

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## Poland

Before the new Broadcasting Act<sup>11</sup> came into effect in Poland the state broadcaster (*PriTV*)<sup>12</sup> was a state agency without an independent legal constitution, which was under the control of the Government and Parliament and financed from the state budget. State television was supervised by a state committee for radio and television, located in the office of the Council of Ministers. In drafting the new Broadcasting Act it was decided to create an independent public broadcasting regime that would be under the control of neither the Government nor Parliament, but would be regulated and supervised by a National Broadcasting Council (NBC)<sup>13</sup>. With regard to the legal constitution of the public service broadcaster, it was decided to transform Polish Radio and Television into state limited companies, to which both the Broadcasting Act and civil law would be applicable. The limited companies are in the form of single person limited companies, whose sole owner is the Ministry of Finance. The Act on Radio and Television (Broadcasting Act)<sup>14</sup> which came into effect of 1 July 1993 has since been adapted to the "Television Without Frontiers" Directive (see IRIS 2000-6: 9).<sup>15</sup>

„Polish Television Ltd“ transmits from the state limited companies' two national channels (*TVP 1* and *TVP 2*).<sup>16</sup> There is also *TV Polonia* (a satellite channel for audiences abroad) and 12 regional channels, which are regional branches of Polish Television Ltd.

The NBC was established under Arts. 213 to 215 of the Constitution<sup>17</sup> at the same time as the Broadcasting Act came into effect, Arts. 5ff. Broadcasting Act. Its purpose is to preserve freedom of speech, the independence of the broadcasters and the interests of the audience, as well as protecting the pluralistic nature of the broadcasting system. The NBC supervises and regulates broadcasting activities both for public service and commercial broadcasting, which was introduced under the Broadcasting Act, Art. 2 Para. 1 Broadcasting Act.

The financing of public service broadcasting is dealt with in Art. 31 Broadcasting Act. According to that Article, only the public service broadcasters may receive the licence fee, interest on late payment and fines (Art. 31 Para. 1 No. 1), which are to be divided between the limited companies (Art 50 Para. 1 Broadcasting Act). The largest part of the income comes from the licence fee for the use of a television or radio set (the licence fee). Its level and method of payment is determined by order of the NBC (Art. 48 Para.3 Broadcasting Act). From 1 January 2000 the monthly licence fee is 11.50 Zloty (some 6.01 DEM)<sup>18</sup>. For certain groups of people, e.g. invalids or elderly people over the age of 75 years the licence fee can be waived under Art. 4 of the Order, provided that they can submit certain proof in support of their claim (Art. 5 of the Order).

Television sets have to be registered with the Post Office.<sup>19</sup> For this reason licence fees are also collected through the post offices<sup>20</sup>. The Minister for Telecommunications is responsible for the supervision and compliance of the obligation to register (Art. 49 Para. 1 RFG). The NBC is responsible for the allocation of the licence fee. By 30 June each year it distributes the income from the licence fee to the public broadcasters and their regional branches (Arts. 30 Para. 6, 50 Para. 2 Broadcasting Act). There are, however, no set rules governing the allocation, so the decision rests at the NBC's discretion.

In 1999 the income from the licence fee together with interest and fines came to 812,629 Zloty.<sup>21</sup> This sum was distributed in a ratio of 60:40 between the public service television and the public service radio agencies. For the television companies this income represented 29.2% of their total budgets.<sup>22</sup>

As well as their income from the licence fee, the public service broadcasters receive under Art. 31 Para. 1 No. 2 to 4 Broadcasting

Act income from the sale of rights, advertising and sponsorship contributions and other sources. Under Art. 31 Para. 2 they may also receive assistance from the state budget.

Income from advertising, including sponsorship, represented 67% of the total budget of public service television in 1999.<sup>23</sup> Income from the licence fee (plus interest and fines) and advertising/sponsorship came to 96.2% of the total income of public service television. In looking at the advertising market, public service television accounts for more than half the market (1999: 53.2%).<sup>24</sup> The television advertising market grew from 94.2 million Euro in 1993 to 677.2 million Euro in 1998; in the period from 1997 to 1998 alone the market grew by 38%.<sup>25</sup> In 1999 the total advertising revenue was 3,970,000,000 Zloty (some 2,075,913,000 DEM), of which 40.25% went to public service television.<sup>26</sup>

After the end of the state television monopoly there were already some 60<sup>27</sup> commercial broadcasters (14 of them television operators) at the beginning of 1993, which were transmitting their programmes without permission. During 1994 most of these operators received a licence. The fees for the licences were paid into the state budget.<sup>28</sup> There are three nation-wide television broadcasters (*POLSAT*, *POLSAT 2*, and *TVN*),<sup>29</sup> two supraregional ones and 188 regional and local operators. Five Polish language channels are transmitted from abroad (*RTL 7*, *HBO*, *Atomic TV*, *Discovery Channel Europe*, and *Animal Planet*). Additionally there are more than 460 cable television operators on the Polish market, serving 900 television cable networks.

Overall it is anticipated that from 2003 to 2005 the basis for the financing of public service television will be primarily advertising (some 60%). However, the proportion of commercial operators receiving advertising income is growing, and it is estimated that the commercial operators will command 50% of the total amount spent on advertising.

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## Slovakia

Since the creation of Czechoslovakia in 1968 each part of the country, Czech as well as Slovak, has wanted to establish separate broadcasting bodies. Not until March 1991, when a new Act on Responsibilities was passed could the requisite responsibilities be transferred to the republics. Under the Slovak Television<sup>30</sup> and Slovak Radio<sup>31</sup> Act of 24 May 1991 the national radio and television agencies were established as public service agencies. On 30 October 1991 Act No. 468/1991 on the Diffusion of Radio and Television Transmissions (Broadcasting Act)<sup>32</sup> also came into effect, so that Czechoslovakia was the first country among the former Eastern Bloc states to introduce a new Broadcasting Act. This Act already provided for the co-existence of public service and commercial television operators and forms the basis of the broadcasting system for the Slovak and the Czech Republics.

Currently a new media Act is passing through the legislative processes of the Slovak Parliament (see IRIS 2000-4: 11), aimed at creating complete legislative harmonisation in broadcasting law with the legislation of the European Union.<sup>33</sup> The Act on the licence fee will also be amended so that the licence fee will be index-linked with inflation, to simplify the collection system for the fee and to reduce the number of persons whose licence fee is currently waived.

There are two public service television channels in Slovakia, *STV 1* and *STV 2*. The Slovak Television Council is responsible for supervising the independence of television and its compliance with programme regulations.<sup>34</sup> This body also has the task of agreeing Slovak Television's budget (Art. 10 e) of Law No. 254/1991 and Art. 7 Para. 1 of Law No. 255/1991). However, there

is criticism that the Council is not adequately independent, since its membership has a strongly political orientation.<sup>35</sup>

The basis for the financing model of public service broadcasting is the Broadcasting Act No. 468/1991, most recently amended by Act No. 187/1998 of 18 June 1998. Under Art. 9 Para. 5 of this Law public service broadcasting is financed through the licence fee raised from the use of a radio or television set. The precise level is set by special regulation.

Public service broadcasting is also financed through advertising income; Arts 6ff of the Broadcasting Act contain regulations on advertising that apply to both commercial and public service broadcasters.

Slovak Television is also partly financed from the state budget, cf. Art. 2 Para. 3 of Law No. 254/1991 on Slovak Television. Its subventions are set down there as individual budget heads.

The procedure for setting and collecting the licence fee was provided in Act No. 188/1999 of 6 July 1999,<sup>36</sup> which amended Act No. 212/1995<sup>37</sup> (see IRIS 1999-8: 9). In this the groups which have to pay the licence fee or for which it is waived are set out. Slovak Television is authorised to collect the licence fee. In order to determine who is liable to pay, the organisation receives information from the data bank of the monthly electricity bills.

It must however be appreciated that broadcasting in Slovakia remains strongly dependent on the state and the ruling party, which was reflected in a continuous reduction in the licence fee particularly through the years 1994 to 1996.<sup>38</sup> This also resulted in a reduction in the market share for public service broadcasting, with correspondingly reduced advertising income, especially after the rise of commercial television providers. At the same time the proportion of state subventions rose. Thus in 1994 these stood at only 240,000 SKK (some 12,280 DEM) for Slovak Television, but in 1998, at the peak of the crisis at 367,500,000 SKK (some 19,110,000 DEM). The situation seems to be stabilising slowly, with the proportion of state subvention falling in 1999 for the first time in five years to 271,734,000 SKK (some 14,130,000 DEM).

Slovak Television is 64% financed by the licence fee, 14% by advertising, 18% by state subventions and the remaining 4% by other business (commercial activity).<sup>39</sup>

Overall television takes a 73% share of advertising revenue.<sup>40</sup>

There are only a few commercial television providers in the Slovak Republic. *Markiza TV*, established since 1996, and<sup>41</sup> two other television operators are fighting for shares of the market, with *Markiza TV* with a market share of 50% being the leader of all the television broadcasters; the public service operators only achieve a market share of 18% (*STV 1*) and 6.3% (*STV 2*).

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## Czech Republic

The Czech Parliament also passed laws in 1991 on the transfer of state broadcasting to public service agencies.<sup>42</sup> Czech Television<sup>43</sup> was conceived in 1992, as the successor to the original Czechoslovakian Television, to be independent of the state, i.e. not under the influence of either Parliament or Government, as is seen under Art. 1 Para. 3 of Act No. 483/1991, where the state takes no responsibility for the actions of Czech Television, and *vice versa*. The basis for a dual broadcasting system was also established, as in the Slovak Republic through Act No. 468/1991, finally amended by Act No. 135/1997 on the execution of broadcast transmissions. In Art. 3 Para. 1 the co-existence of public service and commercial operators is provided for. Even after the end of Czechoslovakia this Act, apart from the provisions relating exclusively to Czechoslovakia, was maintained.

The 1991 Act on the execution of broadcast transmissions incorporates only a part of the television guidelines into national legislation. A complete harmonisation was proposed by the Government in Summer 1999 (see IRIS 1999-9: 13).<sup>44</sup>

Czech Television broadcasts on two channels: *CT1* (available to 98% of the audience) and *CT2* (available to 89% of the audience). The Broadcasting Council of the Czech Republic,<sup>45</sup> established by Act No. 103/1992,<sup>46</sup> primarily has the duty to supervise the commercial providers (cf. Art. 2 of Act No. 103/1992). The Czech Television Council,<sup>47</sup> established under Act No. 483/1991 (cf. Art. 4 Para. 1 of the Act) has, alongside its supervisory responsibilities, (Art. 8 Para. 1b of Act No. 483/1991) also the duty to agree the budget of Czech Television. The Czech Television Council is financed under Art. 8 Para. 3 from the income of Czech Television, unlike the Broadcasting Council, which is financed from the state budget (Art. 8 of Act No. 103/1992).

Since 1993, Czech Television has no longer received state subventions. The financing of public service broadcasting is regulated under Paragraph 2 of Act No. 468/1991 on the execution of broadcast transmissions. Under Art. 9 Para. 6 of the Act the public service broadcasters receive the licence fee. Additionally Art. 6 lays down regulations with respect to advertising that apply to both commercial and public service broadcasters.

The basis for the financing of Czech Television is to be found in Art. 10 of Act No. 483/1991. According to this, Czech Television may receive income a) from the licence fee and b) from its own business activities. These activities are more closely defined in Art. 11 Para. 1 of Act No. 483/1991. In Art. 11 Para. 2 the maximum airtime permitted for advertising is set out. This makes it clear that advertising is seen as a business activity in the sense of Art. 11 Para. 1 and Art. 10 b).

Before 1994 the legislative bases for the payment of the licence fee and its collection were contained only in regulations that had not been voted upon. However, in December 1994 the Act on Radio and Television Licence Fees<sup>48</sup> was passed. It also sets out the level of the monthly licence fee, so that any increase in the fee requires the passing of a new Act by Parliament.

Licence fees are collected through the Czech Post Office, which is also responsible for the registration of the owners of radio and television sets (Art 5). If a fee payer has not yet paid in the month after the licence fee is due, he is required to pay it directly to Czech Television.

A first step towards the independence of Czech Television was made in 1991, when the licence fee was raised from 25 Krone to 50 Krone (some 2.70 DEM). In 1993 Czech Television took a major proportion of the total advertising revenue, although by 1995 this proportion had considerably decreased to 15.7% because of the rise of commercial television. Public service television was only able to cover its budget by using the reserves created in previous years and by the sale of property. Currently, however, the financial situation can be called stable, as in 1998 income from advertising and other commercial activities for public service television came to 22.8% of its total budget;<sup>49</sup> income from the licence fee, which has stood at 75 Krone (some 4.34 DEM) per month since 1997, amounted to 65% of the total.<sup>50</sup>

There are two broadcasters in the private sector (*Prima TV* – pre-1997 *Premiéra TV* and *Nova TV*)<sup>51</sup> with nation-wide coverage, and several regional and local television broadcasters.

*Nova TV* has now achieved a 45% (1999) market share, while the public service broadcaster *CT 1* has fallen from a market share of over 60% in 1993 to 28% (1999).<sup>52</sup> The private sector is predominantly financed through advertising income, and receives the greater part of it (in television 75-80%).<sup>53</sup>

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## Hungary

Before the political changes, national television (*MTV*),<sup>54</sup> which transmits on two channels, was under the political and financial supervision of the Hungarian Government.<sup>55</sup> It was financed through its own budget allocation within the state budget. Additionally *MTV* was financed through the licence fee and advertising.

For a brief period in 1988/89 it was possible to establish commercial radio and television stations in Hungary and to obtain frequencies for them, although there was no specific legislation for this. This opportunity ceased in 1989, but the allocated frequencies were not withdrawn.<sup>56</sup>

The Act I on Radio and Television („Media Act“), which came into effect on 1 February 1996,<sup>57</sup> was passed in December 1995. It created a dual system for public service and commercial broadcasters.

There are three nation-wide public service television broadcasters, *Magyar 1* (formerly *MTV 1*; available to 100% of the population), *Magyar 2* (formerly *MTV 2*; available to 55% of the population) and *Duna TV* (available to 45.3% of the population), with the latter two only available by cable and satellite.<sup>58</sup> Under the Media Act (Art. 30 Para. 1), Hungarian Television is obliged to make its programmes available to the great majority of the population, while *Duna TV* is primarily a channel for viewers of Hungarian nationality outside Hungary. Art. 30 Para. 2 of the Media Act defines the great majority of the population for television reception as 80% of the population.

Under the Media Act three foundations „to protect public service broadcasts and their independence“ (Arts 53ff.) were established.<sup>59</sup> The task of the foundations was to provide national public service broadcasting and to protect its independence. To this end, National Hungarian Television (*Magyar Rádió*) was established in the form of an individual limited company (Art. 64 Para. 1).

The accounts of these foundations are kept according to Art. 54 Para. 4 of the Hungarian Fiscal Law. The initial capital of the foundations was set by the Hungarian Parliament under Art. 54 Para. 1 of the Articles of Foundation. The existing property (real estate and other property) of the former state television broadcasters was to be transferred under Art. 54 Para. 2 to the newly-established foundations.

The financing of these foundations, which is controlled by the state accounts office (Art. 60 Para. 5) consists according to Art. 60 of the Media Act of:

- a) the proportion set out in this Law of income for maintenance (broadcasting fees),
- b) the proportion set out in this Law of income for programme services (transmission fees/programme provision fees),
- c) income from the property of the public foundation, and
- d) income for other foundation purposes (state budget support, targeted support, and payments to the foundation).

Under Art. 60 Para. 3 the public foundations are not permitted to carry out any commercial activity. They cover their running costs from their proportion of the maintenance fees (licence fee), devoting the unused amount to support the public service broadcasters (Art. 60 Para. 4).

The maintenance fee which the Foundation receives is a form of licence fee,<sup>60</sup> since, under Art. 79 it is payable by owners of a television set. Exemptions from the duty to pay the licence fee are covered in Arts 80 and 81. The level of the maintenance fee is set annually through the central state budget under Art 79 Para. 2,<sup>61</sup> with account being taken of the competitive and prudent operation of the public service broadcasters, the maintenance of the programme service system and the financial needs of the public

service broadcasters, Art. 79 Para. 3. Under Art. 79 Para. 4 the National Broadcasting Council (NBC)<sup>62</sup> handles the collection of the maintenance fee through a company commissioned following a call for tenders. Owners of television sets are obliged under Art. 83 to provide this information of their own accord to the NBC.

To support the programme services of public service broadcasting a Programme Services Fund was established under Art. 77, with the NBC as administrator of the Fund (Art. 77 Para. 5). The resources of the Fund under Art. 77 Para. 3 come from the programme service fees (transmission fees/programme provision fees) which all broadcasters (cf. Art. 90 Para. 3) with the exception of the public service broadcasters (Art. 22 Para. 4) must pay; from the application and allocation fees from frequency allocation and other income from infringement of the law; the maintenance fees and state subsidies in the form of lump sum payments. The Fund's resources are exclusively dedicated to public service broadcasting and are held in the Fund under separate heads depending on their provenance (cf. Arts 77ff. under which the income is used for specific purposes, depending on its provenance).

Under Art. 84 Para. 2 the limited companies, established by the Foundations under Art. 64 and which carry out the duties of public service broadcasting, receive from the Foundations as their owners, proportions of the maintenance fees received by the Fund.

Hungarian Television receives 50% of the maintenance fees, Hungarian Radio 28% and *Duna TV* 14%. In addition, the foundations themselves receive 1% of the maintenance fees collected by the Fund to cover their running costs as well as 1% from the NBC.

The other income held in the Fund is used in proportions under Art. 78 to support public service programmes, e.g. for programmes produced in Hungary.

Furthermore the limited companies receive under Art. 75 Para. 1 a contribution from the state budget, at a level equal to the transmission costs. Under Art. 75 Para. 2 *Magyar Radio* can receive additional contributions for its support of artistic ensembles.

As well as the above income the public service broadcasters can also undertake commercial activity (Art. 75 Para. 3). This normally refers to advertising income. However the profits earned by the limited companies may only be used for running costs and developing the public service operators' programme services or developing their companies.

Overall the income of public service television in 1998 from public sources was 54.4%, from commercial activity (advertising) 45.6%, whereas the income from public sources in the preceding year had been only 36.7% (14.3% subventions and 19.3% licence fee with 3.1% in levies on goods and services), or 63.3% from commercial activity (54.8% advertising, 4.0% sponsorship, 8.5% other).<sup>63</sup>

Hungarian Television (*Magyar 1* and *2*) is not profitable and carries large debts. *Duna TV* is now in balance. The situation with Hungarian Television results mainly from the debts which it inherited from the former state television (*MTV*) and which date from before the Media Act came into effect. Since the Media Act came into effect a number of reform schemes have been initiated to reduce the debts. However, media experts are of the opinion that the Hungarian media market is too small to support three national television channels.

There are eight national commercial broadcasters in Hungary, only two of which (*TV 2* and *RTL Klub*) are terrestrial, with the others available by satellite and/or cable. In 1998 *TV 2* had a market share of 28.2%, *RTL Klub* 20.9%, compared with the public service broadcasters at 25.2% (*Magyar 1*) and 2.9% (*Magyar 2*). Additionally there are some 61 regional and local broadcasters.<sup>64</sup>

The majority of advertising revenue goes to the commercial television operators. In 1999 *TV 2* achieved an advertising share of 32.7%, and *RTL Klub* 26.9%. The advertising income of the public service operators however, is considerably less (*Magyar 1* 12.7%, *Duna TV* 1.7% and *Magyar 2* 1.1%).

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## Closing Comments

Comparing the financial models described above, it is clear that all the models basically consist of mixed financing from the licence fee and advertising income. However, in almost all the countries there are additionally state subventions. Thus the Polish Broadcasting Act provides for the possibility of support from the state budget (Art. 31 Para. 2), Slovak Television is partly financed through state resources and in Hungary too the public service broadcasters have their transmission costs covered. In Bulgaria, since the financing model set out in the Broadcasting Act does not come into effect until 2003, state subvention is in place for the moment and for the foreseeable future. It is only in the Czech Republic that public service broadcasting has to finance itself from the licence fee and advertising or commercial activity alone.

The relationship between public service and commercial broadcasting in the area of advertising seems to have evolved in the majority of the above countries in such a way that commercial broadcasting is able to finance itself out of advertising income, and public sector broadcasting nevertheless still receives the greater part of the total advertising revenue. However, the broadcasting

market in the Slovak Republic has still not stabilised, since both the public service and the commercial broadcasters are struggling with considerable financial problems there. In Bulgaria, where the first commercial broadcaster has only recently been authorised, it has yet to be seen whether a dual media landscape will be able to maintain itself financially.

Finally it should be noted that in almost all the above countries, and contrary to, for example, the German model, payment of the licence fee is made through existing public service agencies (electricity companies or the post office) and not through specially created agencies.

The mixed financing systems of the public service broadcasters examined here show no basic differences, so far as their legislative bases are concerned, from the structures in the Member States of the EU. For this reason, in the continuing course of preparations for membership, the developments in the EU area which have been discussed will also be of significance for the structuring of the broadcasting systems of Central and Eastern Europe. The pressure of increased competition from commercial broadcasters, either already existing or newly-arrived in the market, will call into question the levels of public service broadcasters' income from advertising. The problem will then be to what extent the financial gap can be filled by raising the licence fee, especially against a background in which the economic capacity of households cannot be compared with the situation in the EU Member States.

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- 1) Act on Radio and Television of 18 July 1996 (DV 77/1996).
- 2) Act on Radio and Television 23 September 1998 (DV 117/1998), in force since 24. November 1998.
- 3) Act on Broadcasting Licences 13 October 1995 (DV 95/1995).
- 4) *Bulgarska Nacionalna Televiziia*
- 5) Source: Statistical Yearbook 1999, European Audiovisual Observatory (Ed.), p. 222.
- 6) For television the total advertising airtime per 24 hours is 15 minutes, with a ceiling of 4 minutes per hour which may not be exceeded (Art. 86 Para. 1 No. 1).
- 7) Licence fees payable by the operators of commercial broadcasting companies under Arts 116 ff. of the Telecommunications Law of 27 July 1998 (DV 93/1998).
- 8) Cf. Country Report "The Rights of Broadcasters in Bulgaria", by Radomir Tscholakov, in: "Broadcasting Legislation in the Reform States", Busek/Doralt/Holoubek (Ed.) "Rights of Broadcasters in Central and Eastern Europe", University of Economics Vienna, p.127.
- 9) For February 1999: 0.30 Leva (some 0.3 DEM per month), figures from Country Report "The Rights of Broadcasters in Bulgaria", loc. cit., p.128.
- 10) Telecommunications Law of 27 July 1998 (DV 93/1998).
- 11) *Ustawa o Radiofonii i Telewizji* (Law on Radio and Television (Broadcasting Law), passed on 29 December 1992 (Dz U 1993 No. 7, Pos. 34), in force since 1 July 1993.
- 12) Polish Radio and Television.
- 13) *Krajowa Rada Radiofonii i Telewizji*.
- 14) Act on Radio and Television, passed by Parliament on 29 December 1992, in force since 1 July 1993, amended (Dz U 1993 No. 7, Pos. 34; Dz U 1995 No. 66; Dz U 1995 No. 142, Pos. 701; Dz U 1996 No. 106, Pos. 496; Dz U 1997 No. 121, Pos. 770; Dz U 1997 No. 88).
- 15) Council Directive 89/552/EEC of 3 October 1989 as amended by Directive 97/36/EC of 30 June 1997.
- 16) *Telewizja Polska* 1 and 2.
- 17) Constitution of the Republic of Poland of 22 July 1952 (Dz U 1952 No. 33, Pos 232), last amended on 2 April 1997 (Dz U 1997 No. 78, Pos 483).
- 18) Art. 1 of the Regulations of the *NBC* of 27 June 1996 on the licence fee for the use of radio and television sets, Dz U 1996 No. 82, Pos. 383, last amended on 14 January 1997, Dz U 1997 No. 17, Pos. 95.
- 19) Regulations of the *NBC* of 16 July 1993, Dz U 1993 No. 70.
- 20) Arts 7 and 8 of the Regulations of the *NBC* on the licence fee.
- 21) Some 424,923 DEM (Figure from the 1999 Annual Report of the *NBC*).
- 22) Annual Report of the *NBC*, loc. sit.
- 23) 1,080,741.10 Zloty (some 540,370 DEM), of 1,027,936.80 Zloty (some 513,968

- DEM) from advertising income alone, representing 25% higher advertising income than in 1998.
- 24) Annual Report, *ibid*.
- 25) Source: European Audiovisual Observatory.
- 26) 68% went to TVP 1 and 30% to TVP 2.
- 27) According to: *Internationales Handbuch für Hörfunk und Fernsehen* 1998/1999, Hans-Bredow-Institut (Ed.), Baden-Baden, p.467.
- 28) Art. 8 of the Regulations on Fees for the Granting of Licences for the Transmission of Broadcast Programmes of 3. June 1993 (Dz U 1993 No. 50, Pos. 232) in the version of 26 May 1995 (Dz U 1995 No. 79, Pos. 404).
- 29) *POLSAT* is available to 88% of the population and has a market share 25.1%; *POLSAT* 2 is available to 33% of the population, market share 1.3%; *TVN* has a market share 6.1% (Source: Statistical Yearbook 1999, loc. cit.).
- 30) Act No. 254/1991 of 24 May 1991, last amended on 6 November 1998 by Act No. 335/1998.
- 31) Act No. 255/1991 of 24 May 1991, last amended on 6 November 1998 by Act No. 335/1998.
- 32) Act No. 468/1991 on the Diffusion of Radio and Television Transmissions (consolidated) of 30 October 1991, amended by Act No. 597/1992 of 23 December 1992, Act No. 166/1993 of 30 July 1993, Act No. 325/1993 of 1 January 1994, Act No. 212/1995 of 1 November 1995, Act No. 220/1996 of 1 September 1996, Act No. 160/1997 of 1 July 1997, Act No. 283/1997, in effect since 1 December 1997, Act No. 187/1998 of 18 June 1998.
- 33) To come into effect: 1 October 2000.
- 34) *Rozhlasová rada* (Radio Council) or *Rada Slovenskej televízie* (Television Council), cf. § 7 of Act No. 254/1991 on Slovak Television, or § 7 Para. 1 of Act No. 255/1991 on Slovak Radio, both Laws last amended by Law No. 335/1998.
- 35) The Members and the Director of the Radio and Television Councils are nominated and dismissed by the National Council of the Slovakia (cf. § 8 Para. 1 and Art. 11 Para. 1 of Act No. 254/1991; Art. 7 Para. 1 and Art. 8 Para. 1 of Act No. 255/1991).
- 36) Act No. 188/1999, in force since 1 September 1999.
- 37) Act No. 212/1995 of 20 September 1995.
- 38) From 1994 to 1996 income from the licence fee fell year on year by 9%, and even after the raising of the licence fee for television from 50 to 75 SKK (75 SKK is some 3.90 DEM) there was no significant increase in this source of income (Source: statements by Slovak Television).
- 39) Source: Slovak Television (Figures for 1999).
- 40) Source: A-Connect; the total advertising revenue also includes 8% for radio and 19% for the press, total of 8.28 billion SKK (1999).
- 41) *TV Markiza* is available to 79% of the population (see *Internationales Jahrbuch*, p.377), the public service broadcasters STV-1 and STV-2, however, are available to 97.3% and 89.4% respectively.



- Only 4 months after going on air in 1996, *TV Markiza* had an advertising income equal to that of Slovak Television. Since 1999, *TV Markiza* has had an advertising market share of some 90%, at a time of simultaneous growth in the total advertising revenue for television from 1 billion SKK (1994/1995) to 4.89 billion SKK (1998).
- 42) Act No. 483/1991 of 7 November 1991 on Czech Television, Law No. 484/1991 of 7 November 1991 on Czech Radio.
- 43) *Ceská televize*.
- 44) Draft for a new Broadcasting Act (*Zákon o provozování rozhlasového a televizního vysílání a převzatého vysílání*) of 30 September 1999.
- 45) Act No. 103/1992 of 21 February 1992 on the Broadcasting Council of the Czech Republic, amended by the Acts: No. 472/1992, No. 36/1993, No. 331/1993, No. 253/1994, No. 301/1995, No. 135/1997.
- 46) *Rada České republiky pro rozhlasové a televizní vysílání*.
- 47) *Rada CT*.
- 48) Act No. 252/1994 of 8 December 1994 on the Radio and Television Licence Fee.
- 49) Source: Czech Television.
- 50) Source: loc. sit.
- 51) *Prima TV* is available to 57% of the population, *Nova TV* to 99.8% (Source: Statistical Yearbook 1999, loc. sit., p.231).
- 52) Source: Czech Television.
- 53) Source: loc. sit.
- 54) *Magyar Televízió*.
- 55) Resolution of the Council of Ministers 1047/1973 (IX.18) "CMR", amended by the Decrees of the Council of Ministers 116/1989 (XI.22), 1/1990 (I.4), 92/1990 (V.10).
- 56) See *Internationales Handbuch*, loc. sit., p. 5660.
- 57) Hungarian Radio and Television Law I, passed on 21 December 1995 (see IRIS 1996-1: 14), in force since 1 February 1996 (see IRIS 1996-3: 15).
- 58) Source: Statistical Yearbook 1999, loc. sit., p.316.
- 59) Hungarian Radio Foundation, Hungarian Television Foundation, *Hungária Television Foundation* (which already existed as a foundation and thus only had to be reorganised).
- 60) Primary condition is the possession of a television set.
- 61) Under Art. 122 of Law XC of 1998 on the Annual Budget of the Republic of Hungary and Art. 55 of Law CXXV of 1999 on the Annual Budget of the Republic of Hungary the level of the maintenance fee 640 HUF (1 USD is some 290 HUF).
- 62) *Országos Rádió és Televízió Testület (ORTT)*.
- 63) Source: Statistical Yearbook 1999, loc. sit., p.318.
- 64) Source: Statistical Yearbook 1999, loc. sit., p.316.

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