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**Opinion of DGI (Directorate of Information Society and Action Against Crime,  
Information Society Department, Media and Internet Governance Division)  
Prepared on the basis of the expert opinion by Eve Salomon**

**ON**

**/Law on Public Television and Radio Broadcasting of Ukraine  
and proposed Amendments by the Head and Members of the  
Committee on Freedom of Speech and Information Policy,  
DGI(2015)3, 23 February 2015/**

# Table of Contents

<b>EXECUTIVE SUMMARY</b> .....	3
<b>INTRODUCTION</b> .....	5
<b>Thematic Priorities for Amendment of the Law</b> .....	5
1. Public Service Remit.....	5
2. Legal Establishment.....	6
3. Scope.....	7
4. The Supervisory Board.....	7
5. Funding.....	8
6. Accountability.....	8
7. Management Board.....	8
8. Audit Commission.....	8
<b>DETAILED COMMENTS</b> .....	9
<b>RECOMMENDED ADDITIONS</b> .....	15
<b>The Charter</b> .....	15
<b>The Regulations on the NPTRCU Audit Commission</b> .....	16

## EXECUTIVE SUMMARY

1. The amendments proposed by the Head of the Parliamentary Committee on Freedom of Speech and Information Policy generally meet with the Council of Europe's ("CoE") standards for public service media. A number of detailed points are set out in the section below (DETAILED COMMENTS) looking at each of the Articles in the Law, but the main exceptions which require changing are as follows:

- a) Proposed new Article 4.1<sup>1</sup>, should be amended to include an obligation for NPTRCU to ensure that news fairly presents facts and events and encourages the free formation of opinions as required by CoE legal standards<sup>1</sup>.
- b) The proposals for new Article 8.1 on the selection of members of the Supervisory Board from the parliamentary factions and groups. The amendment as currently drafted would cause too much uncertainty and would lead to a loss of confidence in the Board. A more straightforward proposal is set out below.
- c) Amendment 6 to Article 12 applies Article 9.2(3) to members of the Management Board. This sub-section should not apply as it disqualifies existing employees from television and radio companies.
- d) In Article 14.2, funding from local government or local administration should not be available for the NPTRCU as this is likely to lead to political interference, contrary to CoE standards.
- e) Article 15.2 should be deleted as neither the Cabinet of Ministers (nor their agent) should control the use or maintenance of NCPTRU assets as this puts them in a position of being able to exert influence over the NCPTRU.

2. All proposals to separate radio and television, or local/regional and national services should be rejected. Not only would the resource implications be considerable, but in a time of national crisis, any fragmentation of the national public service broadcaster will play directly into enemy desires to 'divide and conquer'. Public service media have a specific role with regard to "contribution to the reinforcement of democracy and social cohesion"<sup>2</sup>, and this is particularly so during time of crisis. Furthermore, the suggestions that local broadcasting should remain linked to local government (either through governance arrangements or funding) should be rejected as contrary to CoE principles: "the independence of public service broadcasting should be guaranteed expressly"<sup>3</sup>.

3. A number of other amendments should be made to the Law to ensure compliance with Council of Europe standards. These are detailed below but the main ones are:

- a) Provide further detail on the remit of the NPTRCU services;
- b) State that there can be no distribution of profits to the shareholder;

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<sup>1</sup> See the European Convention on Transfrontier Television. Article 7.3

<sup>2</sup> CM Recommendation No. R.(2012)1 on public service media governance

<sup>3</sup> CM Recommendation No. R(96)10 on the guarantee of the independence of public service broadcasting

- c) Include provision and funding for ‘information society’ services;
- d) Add to the eligibility criteria for members of the Supervisory Board, stagger the length of the initial term of office of the members, set the numbers of the Board to 17 and clarify that the factions and groups eligible to appoint members will be decided on the basis of proportional representation;
- e) Ensure funding is adequate to meet the current challenges for Ukraine, to ensure that there is a well-resourced, credible broadcaster to compete in the “information war”;
- f) Clarify the qualifying criteria and number of members of the Audit Commission

## INTRODUCTION

The Law on Public Television and Radio Broadcasting of Ukraine was adopted by the Verkhovna Rada in 2014, No. 40 (“the Law”). Since then, a number of proposed amendments have been tabled for initial consideration by the Committee on Freedom of Speech and Information Policy (“the Committee”). The Parliament has asked the Council of Europe for an official analysis of the consolidated amendments to the Law. This analysis, prepared by Eve Salomon of the UK, an expert for the Council of Europe, considers both the Law and the proposed amendments to assess their compliance with European standards, in particular the European Convention on Transfrontier Television and the European Convention on Human Rights, to which Ukraine is a signatory to both. In addition, the Law has been analysed with regard to international good practice, and in particular the following Committee of Ministers of the Council of Europe Recommendations: R(96) on the Guarantee of Independence of Public Service Broadcasting, CM/Rec(2007)3 on the Remit of Public Service Media in the Information Society, CM/Rec(2012)1 on Public Service Media Governance which follows from the Declaration of the Committee of Ministers on Public Service Media Governance dated 15 February 2012. When considering the amendments, particular attention will be given to those amendments, in final wording, proposed by the Head of the Committee, although some reference will be made to other key themes proposed by other members of the Committee.

Ever since 1990, post-communist governments in Central and Eastern Europe have begun the reform of broadcasting by introducing private commercial broadcasters and by transforming State broadcasters into public service broadcasters. Ukraine is one of the last counties in Europe to pass a law on public service broadcasting (Belarus is still outstanding) and remains with Russia as the only two countries to have passed a law which has not yet been implemented. In the current context of conflict with Russia, *it is imperative that Ukraine establish a well-funded, quality public service broadcaster to be a major player in “the information war” in order to build a strong sense of nationhood and the establishment of a united Ukraine.*

### Thematic Priorities for Amendment of the Law

There are a number of issues which require additional amendment to ensure that the Law meets with European standards and good practice.

#### 1. Public Service Remit

CoE CM/Rec(2007)3 on the Remit of Public Service Media in the Information Society sets out various elements of the public service remit:

- a. A reference point for all members of the public, offering universal access
  - a. News, information, educational, cultural sports and entertainment programmes aimed at the entire population and which offer added public value compared to the offerings of other content providers.
  - b. Public service media should be made available on all significant distribution platforms, and funded to be so.
  - c. Both generalist and specialist programmes should be offered, for all generations
- b. A factor for social cohesion and integration of all individuals, groups and communities
  - a. Public service media should be adapted to the digital world and promote social cohesion at local, regional, national and international levels

- b. Content should be created by and for all social groups and generations, including minority groups, disadvantaged groups, disabled people, and so on with attention to gender equality issues. Special attention should be paid to filling the market gap of provision for these groups.
  - c. Public service media should promote and contribute to inter-cultural and inter-religious dialogue.
  - d. Digital inclusion should be promoted.
- c. A source of impartial and independent information and comment, and of innovatory and varied content which complies with high ethical and quality standards
    - a. Public service media should provide independent and impartial news and current affairs content on both traditional and new media services.
  - d. A forum for pluralistic public discussion and a means of promoting broader democratic participation of individuals
    - a. Open debate should be promoted, with a platform for public debate. Public service media should be a platform for disseminating democratic values.
    - b. Public service media should foster citizens' interest in public affairs and encourage them to play a more active part in elections and in public life.
    - c. Public service media should play a leading role in public scrutiny of national and international governmental organizations.
  - e. An active contributor to audiovisual creation and production and greater appreciation and dissemination of the diversity of national and European cultural heritage.
    - a. They should invest in new, original content and support the creation and production of domestic work, reflecting local and regional characteristics.
    - b. They should support music, arts and theatre and play a central role in education, media literacy and life-long learning.
    - c. They should be active in the preservation of cultural heritage and develop digitized archives.
    - d. Public service media should promote respect for cultural diversity and protect the cultural heritage of minorities and communities.

For the most part, these elements of the public service media remit are missing from the Law. If they cannot be added at this late stage into the Law, they should be incorporated into the Charter.

There is no mention of expansion into additional digital or online services. It is particularly important that the Charter makes clear that, in the digital age, the NPTRCU has a major role to play in the provision of information services, and not just traditional television and radio (see further below under Scope).

Generally, obligations on the programme content of the new public services are not well fleshed out. One national TV channel is to focus on social and political matters, and the other on cultural and educational programming. It is not clear where sport fits in, or entertainment. There is no description of the programming of other, regional television services which one would expect to focus on local matters. As an example where this is done, see Polish public broadcaster PTV, where there is a requirement for 4 hours a day of local (news and information) programming.

## 2. Legal Establishment

The Law as proposed to be amended will set up the NPTRCU as a public joint stock company where the government holds 100% of the shareholding. This is a welcome proposal as it addresses

one of the major weaknesses of the original version of the Law. Under CoE standards, public service media (“PSM”) must be established as independent of the State, to avoid political interference with the work and output of the PSM.

However, the Law should make it clear that there can be no distribution of profits to the shareholder; any profits must be reinvested by NPTRCU to improve or extend its services.

### 3. Scope

The proposed amendments from the Head of the Committee to include all television, radio, and regional services is very welcome and particularly so given the current crisis in Ukraine.

In any circumstance, having all public services under one overall Supervisory Board and senior Management Board results in a much better use of resources and costs savings. It is also better for the content of the services. There can be considerable efficiencies of scale as a result of combining radio and TV, better news gathering and sharing of stories, resulting in improved news and information for the citizens. Having a consistent editorial policy is in the public interest.

This is especially so in the current situation facing Ukraine where there is a real risk that fragmentation of news and radio, national and local services, detracts from the national interest. It is inconceivable that at this time of crisis, local interests should be put ahead of national interests; a single NPTRCU can be a potent factor in delivering a strong sense of nationhood for the Ukrainian people at a time when this is most crucial.

There is no reference to must-carry in the Law. However, as a public broadcaster, NPTRCU services must have access to every household in Ukraine through effective application of must-carry rules.

Internet. One of the most important strategic changes required of the Law is the need to legislate for the present (and future) information age. With Ukrainian internet usage at 44% by the end of 2012, with 35% of households having domestic broadband,<sup>4</sup> the Law must provide for public service *media* and not merely “broadcasting”.

### 4. The Supervisory Board

The eligibility criteria for membership of the Supervisory Board need to be set out in greater detail to ensure that its members are competent to do the important job of the Board. There should be appropriate representation of men and women. Conflicts of interest should extend to close family members. Full recommendations are set out in the detailed section below.

It is important that not all members of the Supervisory Board retire at the same time as this will lead to a loss of institutional memory and consistency of approach. As the Law is currently envisaged, an entire new Board would be appointed after 8 years. It is preferable, in line with good governance practice, that the length of the initial terms of appointment are staggered so that some members serve for a total of 8 years, some for 7 and others for 6.

The proposed selection process for members of the Supervisory Board appointed by the parliamentary factions and groups needs amending, as the proposed amendments by the Head of Committee do not solve the problems of uncertainty if and when the number of factions and groups changes. The overall number of Supervisory Board members should be set at 17 (which in itself is a large number compared to other comparable Boards. For example, the Supervisory Board of

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<sup>4</sup> See Association of consulting firms [http://acf.ua/eng/news\\_galuz/how-many-ukrainians-use-the-internet](http://acf.ua/eng/news_galuz/how-many-ukrainians-use-the-internet)

Polish TV has just 5 members, the BBC Trust has 12) to include 9 appointed by the NGO conferences and 8 by the parliamentary groups and factions. If the number of factions/groups changes during the term of office of the Supervisory Board, this should not lead to a change in the members of the Supervisory Board; their terms are set and there should be no additions or subtractions to the Board. When new members are to be appointed, should the number or characteristics of the factions/groups have changed, then those factions/groups entitled to appoint should be decided on the grounds of proportional representation (with the factions/groups representing the largest numbers having first option of appointing new members).

## 5. Funding

“Securing and safeguarding independence is a primary role of any framework of public service media governance, and this is why independence has been at the heart of all of the relevant Council of Europe standards.”<sup>5</sup> The Recommendation goes on to say that the method of funding “cannot be used to exert editorial control or threaten institutional autonomy, either of which would undermine the operational independence of the public service media.”

To comply with this standard, there are two provisions in the Law (as proposed after amendment) which need to change. First, there should be no access to “local” funding, just State (and commercial) funding. This is in line with the organisational arrangements where a single NPCTRU is responsible for national and local/regional broadcasting. The State should be a funder for this, and not local authorities or government agencies as they would then be in a position to influence editorial content.

Additionally, the provisions giving the Council of Ministers control over the use and maintenance of NCPTRU assets should be deleted as this would undermine the operational independence of NCPTRU and could lead to a position where the Council of Ministers exerted political influence over content (for example, by refusing to maintain assets until and unless changes were made to content).

## 6. Accountability

“Public service media should be subject to constant public scrutiny and be accountable and transparent when performing their functions as they have the obligation to serve the public in all its diversity.”<sup>6</sup> Through the Charter, if not the Law, the NPTRCU should have clear obligations to publish its Annual Review and its annual plan, as well as its financial performance. It should be required to undertake public consultations on all major proposals.

## 7. Management Board

The criteria for disqualification for the Management Board is similar to those for the Supervisory Board. As such, the wording excludes existing senior staff with experience of working in TV or radio from eligibility to run the new public service broadcaster. This can be corrected by a simple change of words.

## 8. Audit Commission

The number of members of the Audit Commission and the criteria for eligibility should be stated. Additional material can be explained in the Audit Commission’s Regulations.

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<sup>5</sup> Para 22 of Recommendation CM/Rec(2012)1 of the Committee of Ministers to member States on public service media governance

<sup>6</sup> Article 1.4 Declaration of the Committee of Ministers on Public Service Media Governance dated 15 February 2012.



## DETAILED COMMENTS

### Article 1. Legal basis of the activity of Public Television and Radio Broadcasting of Ukraine as proposed to be amended by the Head of the Committee

The proposed amendments establish the NPTRCU as a public joint stock company, thereby correcting one of the main weaknesses of the original version of the Law. Furthermore, they clarify that the new company will encompass all existing State (including local) broadcasters: television (national and regional) and radio. This is very welcome and particularly so given the current crisis in Ukraine. As the proposed amendment says, “NPTRCU is an object of nationwide importance”. This is absolutely so.

***This provision should be further amended to make it clear that there can be no distributions of profits to the shareholder. Any profits must be reinvested to further the objectives of NPTRCU.***

### Article 2. Legislation in the NPTRCU field

No comment

### Article 3. Principles of the NPTRCU activity

No comment

### Article 4. Main tasks of the NPTRCU

The proposed amendment by the Head of the Committee with a new clause 1<sup>1</sup>, should be extended to ensure compliance with the European Convention on Transfrontier Television. Article 7.3 of the Convention requires, “The broadcaster shall ensure that news fairly presents facts and events and encourages the free formation of opinions.” This requirement should be included in the Act, with further discussion of how the NPTRCU will do this in both the Charter and Editorial Charter. For example if the NPTRCU is going to be a participant in a self-regulatory body with responsibility for assessing fairness in news, then this should be included in the Charter, with more detailed guidance in the Editorial Charter about how every major side of the story will be presented for matters which are politically, socially, or otherwise controversial.

It is noticeable that religious programmes, current affairs and documentaries are all missing from the list in paragraph 4, which should all be included. These should be added to the Law and can be addressed in more detail in the Charter and Editorial Charter.

Article 5. NPTRCU structure as proposed to be amended by the Head of the Committee

On which channel will sports and entertainment programmes fit (as required under Article 4.1(4))?

NPTRCU should also be required to provide key services online. See CoE Rec(2007)3 on the remit of public service media in the information society.

Article 6. NPTRCU Charter as proposed to be amended by the Head of the Committee

The proposed amendments are in themselves fine. However, the Charter should also include additional details of the programme remit of NPTRCU and each of its services, as well as provisions setting out in greater detail how the NPTRCU will be accountable. These should include requirements that:

- the Annual Report be published and include a full account of how the NPTRCU has fulfilled its remit, including how it has implemented the programme plan in accordance with the Editorial Charter;
- the programming policy will be reviewed annually. The NPTRCU should publish each year how it intends to implement the policy and will report on how it has performed against its intentions in each annual report;
- the Editorial Charter will ensure that reporting will be fair and unbiased. On all matters of political, social or other controversy, whenever one point of view is given, opposing opinions will also be aired, either by relevant spokesmen, or by presenters and journalists themselves. The annual report will include an assessment of how this has been implemented; and
- any proposed changes to the Charter will be subject to public consultation.

Article 7. Supervisory Council as proposed to be amended by the Head of the Committee

2. (1) No comment.

2. (2) It is welcome to make it clear that the Chairman of the Management Board of the NPTRCU selects his or her senior team, with approval from the Supervisory Board. The clause should make clear that early removal from office can only be done in accordance with the provisions in this Law.

2.(3) Again, the Law should make clear that early removal from office can only be done in accordance with the provisions in Article 10 of this Law. The Chairman should be selected from those members of the Supervisory Board who have been nominated by NGOs, and not by the parliamentary factions. This is important to ensure that there is not undue political interference in the work of the Supervisory Board.

2. (6) The Charter should make it clear that the annual report should include detailed accounts of how the NPTRCU has implemented the annual plan, and how this satisfies the Editorial Charter.

3. The Law should add, to make it clear, that the Supervisory Board cannot interfere in editorial decisions. See CoE Recommendation R(96)10, Part III.

Article 8. Composition and formation of the Supervisory Board as proposed to be amended by the Head of the Committee

8.1. There are considerable challenges with the proposed wording of new Article 8.1 in relation to the procedure for adding members to the Supervisory Board if the number of members appointed by the factions and groups of the Verkhovna Rada is 9 or more. The Law sets out the **nine** activities of NGOs from whom members will be chosen; this limits the number of NGO-selected members to **nine**. The number of members chosen by the factions and groups should therefore be strictly limited to **eight**. To comply with CoE requirements, it is correct that the number of political appointees should always be fewer than the number of members from civil society. It is therefore strongly recommended to adopt the proposed wording taken from the wording of the draft amendment No. 25 from P.d. Papiyev MM: “The Supervisory Board of NPTRCU shall consist of 8 representatives of parliamentary factions and groups of the Verkhovna Rada of Ukraine of the current convocation subject to the principle of proportional representation....”

It is not clear why NGOs in the activity of “local self-government” is included. This may be a problem with translation, but any group which is associated with local politics or local state administration should not be involved in the selection of members to the Supervisory Board.

8.5. The proposed amendment by the Head of the Committee is fine, except that if the faction or group which originally appointed a member whose powers have terminated has been disbanded, then a new member should be chosen by the next largest faction or group (according to the principle of proportional representation) who has not already chosen a serving member of the Supervisory Board. This should apply whether a members steps down before or at the end of his/her term of office, if – as is recommended below – staggered terms are introduced.

8.6. The terms of office should be staggered to ensure that the entire Supervisory Board does not get replaced at the same time. Institutional memory is important and it is best international practice to ensure that board appointments are spaced out so that only a number of members retire at any one time. It is suggested that of the original set of appointees, 6 members are appointed for 4 years, 6 for 3 years, and 5 for 2 years (all subject to one reappointment of 4 years). The selection of who shall serve for which initial term can be done by lottery.

8.7. Serious consideration should be given to paying the members of the Supervisory Board for their participation. If they are not paid, they will be less likely to take the job seriously and do the work that is required. They will also be more open to corruption. By way of example, the members of the Supervisory Board of Polish TV are paid an average state salary in accordance with the number of days worked.

As a general comment, the appointment of men and women should be balanced (see CM/Rec (2012)1 Art.27)

#### Article 9. Requirements for the Supervisory Council members

9.1. See CoE CM/Rec (2012)1 Article 27 which states that there must be “clear criteria for the appointments that are limited, and directly related, to the role and remit of the public service media”. The criteria set out in the Law do not meet these requirements. It is recommended that all proposed nominees should have professional experience of at least 5 years in any of the fields of: broadcasting, programme or film production, journalism, law, economics, finance, accountancy, education, management, psychology, religion or the arts, or any other field directly relevant to the supervision of public media.

9.2. This paragraph should be amended as follows:

(1) convictions should be limited to serious convictions (for example, imprisonable offences), and not minor offences such as traffic violations;

(2) other local politicians should also be excluded, for example mayors or Oblast representatives;

(4) the provisions of conflicts of interests should extend to spouses and dependent relatives.

#### Article 10. Termination of powers of a Supervisory Council member

No comment.

#### Article 11. Meetings of the Supervisory Council

No comment.

#### Article 12. The Board

12.3 The annual general report should also include detailed accounts of how the NPTRCU has implemented the annual plan, and how this satisfies the Editorial Charter.

12.3(1) The Law should make clear that it is the Management Board (and not the Supervisory Board) that exercises editorial control.

12.5 The Board Chairman acts as editor-in-chief of the NPTRCU.

12.3(6) *as proposed to be amended by the Head of the Committee* This amendment MUST be changed to enable individuals with experience of working in broadcasting to be appointed to the Board. It should read as follows: “The Chairman of the Board and the members of the Board are subject to the restrictions provided in sub-sections (1) (2) and (4) of part two of Article 9 of this Law”. In other words, Article 9.2.(3) must be excluded.

To comply with CoE CM Recommendation R(96)10 Part II, paragraph 3, the termination of appointment of the Chairman or any member of the Board must be subject to duly reasoned arguments and may be appealed to the court.

#### Article 13. Audit Commission

The Law (or failing which, the Regulations on the NPTRCU Audit Commission) should set out:

1. the qualification criteria for the Audit Commission members. They should be professionally qualified in finance or accounting and be able to fulfill the duties set out in Article 13.2;
2. The number of members on the Audit Commission;
3. Whether someone can sit on both the Audit Commission and the Supervisory Board. if someone on the Supervisory Board is suitably qualified, it may be sensible to have dual membership; and
4. The remuneration payable.

#### Article 14. Funding sources of the NPTRCU

14.2 *as proposed to be amended by the Head of the Committee* Funding from the State budget, as provided for in Article 14.3, is acceptable given that commercial funding is also available for NPTRCU. However, the references to funding from *local* budgets should be deleted. As local/regional broadcasting will fall within the overall responsibility of NPTRCU, there should be no separate availability for local government funding as this is likely to result in political interference with local programming. This has been the experience with the Polish public

broadcaster, PTV, where the Polish National Regulatory Authority is currently investigating cases of local interference as a direct result of funding from local government sources.

14.3 Funding from the State will be at least 0.2% of the total expenditures of the State budget for the previous year. This will be in addition to advertising revenue and a license fee. However, for the first few years of operation, it is highly recommended that more than 0.2% of the State budget is allocated to the NPTRCU. According to the European Broadcasting Union, looking across Europe, an average of 0.39% of the State budget should be allocated to public service media<sup>7</sup>. The situation in Ukraine makes this particularly urgent: it will take a number of years for NPTRCU to develop a viable advertising revenue stream, and it will take several years for a license fee to be established and effectively collected in Ukraine. In the meantime, Ukraine is facing a crisis with Russia that is exacerbated by an intense information war. The most effective way of combating this information war would be to properly fund the NPTRCU so that it can quickly establish itself as the true voice of the whole Ukrainian peoples.

*14.4 as proposed to be amended by the Head of the Committee*

No further comments.

#### Article 15. NPTRCU assets as proposed to be amended by the Head of the Committee

Art.15.2 T Cabinet of Ministers should not be able to “control the use and maintenance of the assets transferred to the NPTRCU” as this gives the Cabinet of Ministers the ability to exert considerable control over the running of the NPTRCU. The important point is that NPTRCU cannot alienate property; how it uses its property and arranging for its maintenance should be entirely its prerogative. This paragraph puts a considerable restriction on the proper powers of independence of the NPTRCU and in order to comply with Council of Europe standards on the independence of public service media **must be deleted**.

#### Article 16. Audit

16.2. This should specify that the Audit of the NPTRCU may not be conducted by a member of the Audit Commission (or his/her firm) as this would constitute a conflict of interest.

#### Article 17. Broadcasting license

No comments.

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<sup>7</sup> An EBU comparison with other countries in Europe shows that national radio/TV broadcasters relying by more than 70% on State budget funding receive on average 0.39% of the national government expenditure. The countries looked at were Georgia, Hungary, Andorra, Cyprus, Estonia, Spain and Belgium (Wallonia)

## Article 18. Programming policy

No comments.

## Article 19. Editorial Charter and Council *as proposed to be amended by the Head of the Committee*

The proposals for establishing an Editorial Council are fine. No special provision should be made in this part for local broadcasting. The NPTRCU will be responsible for regional broadcasting and the Final and Transitional Provisions in the Law (as proposed to be revised) anticipates the introduction of community broadcasting which will cater for very local interests.

## Article 20. Broadcasting official messages

No comment

## Section IV. Final and Transitional provisions *as proposed to be amended by the Head of the Committee*

The proposal to introduce community broadcasting under the principles of public broadcasting is welcome and in compliance with Council of Europe standards.

## **RECOMMENDED ADDITIONS**

### **The Charter**

**The following matters should be addressed in the Charter referred to in Article 6:**

Article 3: further detail on the principles and remit of the NPTRCU

Article 4: Requirement for fair and accurate news, and for religious programmes, current affairs and documentary programmes.

Article 6: Any proposed changes to the Charter will be subject to public consultation.

Article 7: Requirement for the Supervisory Board to agree each year how the Management Board will fulfil the remit and satisfy the Editorial Charter, and to publish in each Annual Report how well each service has performed against its objectives.

- Members of the Supervisory Board nominated by the Council of Ministers may not be appointed as Chairman.
- The Supervisory Board cannot interfere in editorial decisions.

Article 8: Full eligibility criteria for the Supervisory Board should be set out, including the professional and experiential qualifications needed for the position, and also aiming at a balance

between men and women. The names of all proposed nominees should be published, together with an assessment of whether or not they meet the eligibility criteria, in advance of the Lottery. These reasons should be appealable.

Article 9: It is recommended that all proposed nominees should have professional experience of at least 5 years in any of the fields of: broadcasting, programme or film production, journalism, law, finance, accountancy, education, child psychology, religion or the arts, or any other field directly relevant to the supervision of public media.

- Disqualifications should only extend to convictions for serious, imprisonable offences (and not mere arrest)
- Local politicians should also be disqualified
- Conflicts of interest provisions should extend to spouses and dependent family members

Article 11: The Annual Report should be published and include a full account of how the NPTRCU has fulfilled its remit, including how it has implemented the programme plan in accordance with the Editorial Charter. The NPTRCU should consult publicly on any major proposal for change.

Article 18: The programming policy should be reviewed annually. The NPTRCU should publish each year how it intends to implement the policy and will report on how it has performed against its intentions in each annual report.

Article 19: The Editorial Charter will ensure that reporting will be fair and unbiased. On all matters of political, social or other controversy, whenever one point of view is given, opposing opinions will also be aired, either by relevant spokesmen, or by presenters and journalists themselves. The annual report will include an assessment of how this has been implemented.

Article 20: The provision for free airtime should be limited to times of emergency or national threat. In addition, free airtime should be given to major political parties and candidates during election periods, in accordance with the relevant election law.

## **The Regulations on the NPTRCU Audit Commission**

**The Regulations on the NPTRCU Audit Commission referred to in Article 13 should include:**

- The qualification criteria for the Audit Commission members. They should be professionally qualified in finance or accounting and be able to fulfill the duties set out in Article 13.2
- The number of members on the Audit Commission
- Whether someone can sit on both the Audit Commission and the Supervisory Board. If someone on the Supervisory Board is suitably qualified, it may be sensible to have dual membership.
- The remuneration payable.