

## Appendix

# Guiding Principles for Public Service Media Governance

## The context: challenges facing Public Service Media

These Guiding Principles were drafted by the MC-S-PG with the following members – Tim Suter, (Chair)....and adopted by the CDMC at its ....meeting on ...June 2011.

Public Service Media<sup>1</sup> across Europe face an unprecedented range of significant challenges:

### **The challenge of securing the right level of independence from the state**

The first priority for Public Service Media must be to ensure that its culture, policies, processes and programming reflects and ensures editorial and operational independence.

For some organisations, the shift is from being the state broadcaster – with strong links to the government, and weaker accountability to the wider audience or civil society – to becoming genuine Public Service Media, with editorial and operational independence from the state. For many Public Service Media organisations (PSMs), this shift requires a significant raising of quality standards and editorial ambition.

However, even in countries with more strongly developed and deeply rooted systems of public service broadcasting, the relationship between the PSM and the government which sets its overall remit and secures its funding is one that needs constant vigilance. Recent changes to the funding arrangements in France, decisions in the UK to use the licence fee to fund non-BBC services – these are just two examples of decisions that have once more focused attention on the relationship between Public Service Media and the state.

### **The challenge of transformation from Public Service Broadcasting to Public Service Media**

The traditional model of public service broadcasting is increasingly impacted by the emergence of alternative ways of creating and distributing content, and engaging with audiences. While broadcasting relies on linear transmission of programmes, emerging digital media give traditional broadcasters, and other content creators and providers, new and exciting possibilities of reaching audiences with a greater degree of interactivity and personalised choice. PSMs must therefore look afresh at their public purposes and determine the correct balance of broadcast and other services that will best match audience need with available resource.

PSMs across Europe are responding at different pace, depending on the maturity of their market and the extent to which their resources or the freedom they enjoy within their remit permit them to diversify. But even where PSMs are less well placed to take advantage of new means of production and distribution, they are nevertheless aware that their audiences are increasingly accustomed to greater levels of choice and control over the services available to them from others in the market. It therefore follows that, no matter at what speed, or to what depth, PSMs nevertheless need to be actively encouraged to respond positively and effectively to these changing audience expectations.

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<sup>1</sup> By referring to Public Service Media in these guiding principles is reflected the fact that, for all Public Service Broadcasters, the transition to a more diverse range of content and services is both inevitable and welcome, even if it happens at different speeds, and responds to different opportunities in different countries. By adopting Public Service Media as its generic term, the Committee of Ministers of the Council of Europe has recognised the need for Public Service Broadcasters to embrace these changes: the focus of this report is in helping such institutions embrace the need for change to deliver on these new goals. The term Public Service Media is therefore used throughout these guiding principles

## **The challenge of justifying the “dual system” in today’s market**

All PSMs now operate within a wider, potentially global, market, characterised by increasing competition and the disruptive power of new business models which are now competing directly for revenue with previously established players. Against this background, apparently settled systems of funding for public service broadcasting are under increasing scrutiny, such that all PSMs, and not only those already offering a more diverse range of services, are challenged to justify both the level and the allocation of their spend.

The requirements imposed upon EU Member States to put in place some form of “ex ante” test before PSMs can launch new services is an example of the increased scrutiny that these organisations are now subject to, driven not least by the determination of market players to ensure that public funds are not used to stifle legitimate private enterprises. PSMs therefore have to be responsive in how they define their goals, how they justify them within their overall remit, and how they define the public benefit they will be able to deliver.

## **The wider context of public service provision**

PSMs are typically institutions with obligations to meet a wide range of content objectives, funded primarily by public funding (even if supplemented by commercially generated revenue).

Consideration is sometimes given to the possibility of a “distributed” approach to public funding where the PSM might share public resources with other media companies who enter into some form of contract with the State to deliver specific content outcomes. In certain circumstances, such approaches might be appropriate, but they are currently remote from the experience of most countries, and are therefore not specifically addressed reporting these guiding principles.

However, the guiding principles are designed to operate at the level of the PSM itself, including in cases where some content production is outsourced, for example, with a view to supporting pluralism and diversity of content. Furthermore, these principles could provide some guidance in those cases where a PSM may be charged with distributing public funding to a range of other organisations.

## **Conclusion**

Taken together, these challenges – technological, societal, cultural and financial – explain why established policy around Public Service Media should be re-assessed, and also why PSMs themselves can no longer take comfort in easy assumptions about their role and status.

## The role of Governance in meeting these challenges

In its Recommendations and Declarations the Council of Europe Committee of Ministers has affirmed the crucial role of Public Service Media in maintaining and upholding democratic debate and engagement, and have made very clear the steps governments need to take to guarantee the independence of Public Service Media.

However, the current guiding principles are based on the assumption that the range and depth of the challenges facing these organisations, as set out above, mean that these steps need to be complemented and underpinned by a robust redefinition of the crucial role of governance for the PSMs themselves, and a clear set of guiding principles for both governments and PSM to follow.

For this reason, we have identified a common approach to defining best practice in governance, with the aim of helping both governments and PSM to determine the appropriate responses.

### A new definition of governance

Traditional definitions of governance are insufficient to take full account of the new and more complex media environment. Narrow definitions typically focus on the precise legal and administrative steps taken to ensure the appropriate composition of boards and managing structures. They tend to concentrate on the detail of appointment procedures, the terms of tenure and permissible grounds for dismissal, conflicts of interest and methods by which the organisation will be held accountable.

While these issues are all of fundamental importance in a proper and well-functioning governance system, they must be placed in a broader context.

In this wider context, governance is:

***the sum of the systems, processes and behaviours organisations adopt to ensure***

- ***that they are best equipped to fulfil their remit;***
- ***that the decisions they take will be appropriately informed;***
- ***and that the management priorities are properly aligned with the organisation's overall purpose.***

In practice, therefore, a properly functioning governance system will be the way in which the organisation:

- Defines the vision and overall purpose of the organisation
- Sets and monitors delivery of its objectives
- Secures the endorsement of its key stakeholders
- Secures and protects the appropriate level of independence
- Ensures that its decisions are consistent with its remit, properly taken and fully followed through

It is vitally important that member states should review, and where necessary strengthen, the governance arrangements designed to guarantee editorial and operational

independence as well as appropriate funding; and that this should be accompanied by a matching obligation on PSMs themselves to assess the adequacy of their internal governance arrangements.

### **A new framework for governance**

The principles:

- That all PSMs face the same need for robust governance systems, which all meet the basic criteria we have identified;
- That this need is universal and is not undermined by the fact that there is a different degree of development within individual countries or markets;
- That good governance is a self-reinforcing system – and that action taken in any part of the governance system should therefore serve to influence and reinforce best practice across the whole system;
- That the output of our work should include a framework for both governments and PSMs themselves to review their own governance system and determine where change and improvement are needed.

An interlocking set of criteria that PSMs can use to assess their system of governance are proposed in the current guiding principles. They are designed to operate at every level within the organisation: they relate to the highest decision making level of the media organisation, but they are also directly related to structures, processes and behaviours operating throughout the company.

This approach is set out in figure 1 below:

Fig.1

**Tier 1: Structures**

**Independence**

- Funding
- Appointments
- Legal / Regulatory Basis
- Journalistic standards and codes

**Accountability**

A structure that identifies:

- Accountable to **whom**
- Accountable for **what**
- **How** to be held accountable
- **When** to be held accountable

**Tier 2: Management**

**Effective Management**

A management structure and approach which

- Is prepared to rethink the resource allocation to meet new audience need
- Seeks and empowers new skills in the workforce
- Has the right senior managerial talent and skills

**Tier 3: Culture**

**Transparency and Openness**

- Making management information more widely available
- Publishing agendas and minutes
- Developing partnerships
- Taking new opportunities to meet and engage with audiences

**Responsiveness and Responsibility**

- Immediate, unmediated, and consistent channels of communication with audiences
- Active debate with the audience
- Integrating and using feedback
- Journalistic and general editorial codes

## High-level view of the model

The model operates at three levels:

- The first level is concerned with the formal structures and processes that between them make the essential features of the governance framework:
  - The steps taken to secure **independence** – the primary goal of any PSM governance framework, since without independence the PSM cannot be guaranteed to operate effectively or deliver against its wide set of public purposes and maintain its focus as purely to serve the public interest;
  - the **accountability** framework – the way in which it identifies its stakeholders, and the mechanisms through which it is held to account, and which ensures that the independence of the organisation is focused on meeting the needs of its stakeholders!

These two aspects of the organisation effectively balance each other: the independence granted to the PSM to protect it from undue influence from the state or any other party is balanced by the PSMs obligation to be fully accountable to the state and to its many stakeholders.

- The middle level deals with the effective **management** of the organisation: the processes by which the goals and purposes of the organisation are turned into practical and outcome-oriented activities. In this context, a key goal is to ensure that the resources and capacity of the organisation are effectively brought to bear upon the changing demands of the audience, and able to respond effectively to innovation in content and delivery
- The third level comprises the interlocking systems and behaviours which, taken together, define the operational **culture** of the organisation. As well as being mutually reinforcing, these systems and behaviours are also likely to enhance the capacity of the organisation to connect with audiences and stakeholders, and to ensure that it is best placed to identify audience need, understand the scope for change, and be best placed to Implement it:
  - **Transparency** – the ways in which the PSM makes its processes and decisions open to audiences and stakeholders, thus supporting the formal approaches to accountability;
  - **Openness** – the extent to which the PSM is open to new ways to engage and interact with audiences, and finding ways to partner with other organisations;
  - **Responsiveness** – the ways in which the PSM responds to audience and stakeholder feedback, and integrates the results of an active and meaningful dialogue with audiences into its future approach;
  - **Responsibility** – the ways in which PSM guarantee high journalistic and other production standards, and set the criteria by which their output should be judged.

Taken together, the formal structures, their translation into effective management goals, and the systems and behaviours that create the culture of the organisation are mutually

reinforcing: the structures will be more effective and are more likely to win public and political support, if they are the product of an organisation that demonstrates the right culture: while the right culture will be driven by an organisation that is confident in its formal governance arrangements.

**The guiding principles contain characteristics, rather than precise mechanisms which will inevitably vary from organisation to organisation. These variations will be driven by different legal systems and by different political cultures, and will reflect different social systems and levels of engagement by groups in society. But the outcome of such a framework would be a system of governance that is outward focused, robust, capable of taking well informed and future facing decisions, and one that is best placed to command the support of all relevant stakeholders.**

In the sections that follow, each of these characteristics is taken in turn and describe both their importance, as well as their contribution to the wider system of governance.



# Tier 1: Structures

## ***Securing and Maintaining Independence***

Independence is the core requirement for every PSM: without demonstrable independence of action and initiative, from government as well as from any other vested interest or institution, PSMs cannot sustain their credibility and will lose (or never gain) popular support as a forum for carrying forward the national debate and holding power to account.

Securing and safeguarding independence is therefore a primary role of any framework of PSM governance, and this is why independence has figured at the heart of all of the relevant Council of Europe standards.

The fundamental requirement is that the editorial autonomy of the PSM should be guaranteed, and the structures necessary to ensure independence of editorial action clearly and unambiguously set out.

We believe these guiding principles can be summarised under three key headings:

### **Regulatory and Policy framework**

PSMs operate within a statutory and policy framework which sets out the responsibilities of the various different parties involved: government, parliament, regulatory authorities (including audit and other inspectorates) and the PSM itself, as well as any specified engagement from designated third parties (civil society, market representatives etc).

However it is configured, the effect of such a framework should be such that:

- there is explicit recognition of the scope and reach of the PSM remit – and absolute clarity about whose role it is to set it and review it
- the policy goals for public intervention are clearly and consistently laid out – including unambiguous support for the principles of freedom of expression and journalistic inquiry
- there is clarity about the responsibility of the regulator in relation to the PSM
- the regulator is required to operate openly and transparently of regulatory action, and is itself guaranteed independence from the state in its decision making powers.

### **Funding**

While it inevitably remains the state's responsibility to set both the method, and the level, of funding, it is nevertheless imperative that the system should be so designed that:

- it cannot be used to exert editorial influence or threaten institutional autonomy – either of which would undermine the operational independence of the PSM
- the PSM is consulted over the level of funding required to meet their mission and purposes, and their views are taken into account when setting the level of funding
- the funding provided is adequate to meet the agreed role and remit of the PSM, including offering sufficient forward security as to allow reasonable future planning
- the process for deciding the level of funding should not be able to interfere with PSM's editorial autonomy

## **Appointments**

As public institutions, it is legitimate for the state to be involved in the appointment of the highest supervisory or decision making authority within the PSM. For the avoidance of doubt, this involvement should not normally extend to appointments at executive or editorial management level. Furthermore, any such appointment processes should be so designed that:

- there are clear criteria for the appointments, which are limited to, and directly related to, the role and remit of the PSM
- the appointments cannot be used to exert political or other influence over the operation of the PSM
- the appointments are made for a specified term which can only be shortened in limited and legally defined circumstances – which should not include differences over editorial positions or decisions

## **Accountability**

PSMs are ultimately, and fundamentally, accountable to the public. However, the public is composed of an increasingly complex range of institutional and other stakeholders:

- the public as represented by the **state** – through government and parliament, as well as other independent regulatory and supervisory bodies;
- the **public** directly as audience and as citizens and participants;
- the public as represented by **civil society** groups as well as wider communities of interest

The precise nature of this accountability will necessarily differ between countries, determined by political systems, cultural and civil society traditions and the wider development of the market. It is not the purpose of the guidelines to define exactly to whom PSMs should be held accountable, or the precise mechanisms for doing so.

Instead, the guidelines set out the characteristics that any system of accountability should display if it is to give both the PSM and its stakeholders confidence that it is fit for purpose.

Any accountability framework should offer clear answers to four questions:

- **Accountable to whom?** PSMs should operate within a framework that clearly establishes the bodies to whom they are to be held accountable: but they should also themselves identify those organisations and representatives to whom, even if they are not covered by a formal relationship, the PSM should nevertheless be prepared to give account of themselves. PSMs should include their own staff among the groups to whom they should consider themselves accountable
- **Accountable for what?** The accountability framework should make clear the public purposes and wider responsibilities for which they are to be held accountable. These will include the purposes set out in the remit, but may also go wider to embrace issues of value for money and efficiency. Where the PSM is charged with collaboration with other market players – for instance, through its requirements to commission work from independent third parties, or through its wider responsibility to share its Research and Development or training, these responsibilities should be clearly set out and the outcomes for which the PSM will be held accountable should be clearly set out
- **Held accountable how?** The framework should set out clearly the information that the PSM is required to supply, and the access that they should offer to their stakeholders
- **Held accountable when?** In addition to establishing a clear timetable for annual reports and other audit processes, the framework should set out the terms on which the PSM is required to consult with stakeholders ahead of its key decisions

## Tier 2: Effective Management

It is not our purpose to attempt to explain how PSMs should manage themselves. Nevertheless, if our focus is on ensuring that PSMs have a governance framework that can meet the challenges outlined in the first section of this document, then it is essential that the way they manage themselves and their resources should be focused on how to achieve change, and should allow them to adapt to rapidly transforming conditions.

Above all, it is essential that the organisation can feel confident that the decisions it takes have been properly considered and weighed, with the appropriate mix of skills brought to bear and the right level of engagement across the organisation.

This is particularly true as management is called upon to respond to the challenge of rapid innovation – both of content and of process.

### Internal management and resource allocation

PSMs, coming from a tradition of stable schedules and linear services, comprising more or less fixed volumes of a known asset (i.e. programmes) have a tendency to become fixed in their internal management systems:

It is clear that the demands of audiences for different kinds of content, delivered in different ways and with far greater levels of interactivity and engagement will require PSMs to re-examine their organisation and processes.

If PSMs are to thrive and prosper in future, they need to be able not only to sustain their existing services, but also to develop new ways of meeting and serving their audiences – audiences increasingly used to accessing and participating in media in more direct and interactive ways:

- they must use the new opportunities afforded by the internet and other new and more interactive distribution platforms to find new ways of expressing enduring public service goals, reinterpreting them as technology enables wider user choice;
- they must use their brand to enable all parts of society to participate in the richness of content and experience that new media makes available – thus giving real energy and drive to a media literacy and digital empowerment agenda.

PSMs should therefore be prepared

- to **innovate in the way they allocate resource** to allow for new media or different ways of serving audiences to receive the necessary levels of funding and management time and focus;
- to look for **new and more diverse skills** among their workforce, particularly focusing on the skills necessary to produce and deliver services that meet the changing patterns of consumer behaviour;
- to focus on how best to meet **senior management challenges**, recognising that the best editorial leaders may not have learnt the most appropriate general and

strategic management skills during their editorial career, and devising ways to fill these gaps either through training or by specific external recruitment; and also to recognise the value of getting fresh thinking into the senior management team by more diverse recruitment at the top.

## Tier 3: Culture: Transparency and Openness; Responsiveness and Responsibility

The formal structures described above are those that comprise any governance system: the legal framework, the protection for independence and the way that operational decisions are aligned with the overall remit.

But these need to be given life within the organisation as well, by the way that it chooses to operate – the systems it has for engaging with audiences, the behaviours it inculcates across its staff: in short, its **culture**.

In future, PSMs will need to adopt a new set of relationships with the public – relationships that are based on the linked values of **transparency** – how the PSM lets the audience see what it is doing;, and **openness** – how the PSM opens itself to new ideas and influences, seeking new partners and creative opportunities to work collaboratively.

PSMs will also need to demonstrate high levels of both **responsiveness** – how the PSM actively engages in debate and dialogue with its audience; and **responsibility** – how it creates and reinforces a cultures of journalistic and production standards against which it invites its stakeholders to judge it.

These characteristics should also underpin the way in which the PSM deals internally with its own staff and other suppliers.

### Transparency

While Accountability describes the range of structured relationships that PSMs need if they are to ensure that their decisions are appropriately informed and their actions properly supported, this will be importantly underpinned if PSMs also operate to a high degree of transparency.

Among other things, this will mean that:

- groups who may not have been not formally consulted can nevertheless feel engaged with the way in which the PSM operates and its motivations
- operational decisions that have not been subject to formal consultation are nevertheless more likely to be open to public scrutiny
- and the information that the PSM relies on to take its decisions will be widely available and understood.

Among the approaches to transparency that PSMs could consider are the following:

- making financial and audience performance information available on a more regular and open basis
- opening up the work of the board and key decision making bodies by publishing agendas and minutes where possible

## **Openness**

While Transparency ensures that the operation of the PSM itself is more widely understood, PSMs also need to be receptive to new ideas and influences. This is particularly important at times when, as now, the nature of audience engagement and the ways in which media services are reaching them is changing so rapidly.

Public Service Media must therefore operate with a culture in which, not only their content but also their whole operation reflects an openness based upon participation and engagement, whilst maintaining the requisite quality and standards within the scope of the public service remit, actively seeking out new ideas and approaches to identifying and serving public need.

This could typically include:

- exploiting the widest range of opportunities to meet and engage with audiences – especially using interactivity and participation, and not confined to broadcast or distributed content but also making use of engagement beyond the content itself
- exploring opportunities to involve the audience more in shaping the editorial offer, not least by using new technology to build deeper and richer opportunities for access
- exploring the widest possible range of partnerships with other public - and commercial – providers to deliver the greatest benefit to the audience
- exploring ways in which content created using public funds can be made universally available and put to enduring use by future audiences
- exploring, in particular, ways in which younger audiences can be attracted to public service content by using a wider range of techniques and ways of interaction with them.

## **Responsiveness**

As well as making themselves as transparent as possible, and open to new ideas and influences, PSMs need to be responsive to the concerns and issues raised by audiences and other stakeholders.

At the highest levels, these may well be picked up through the formal processes and structures of accountability: but at a day to day level, PSMs need to demonstrate that they are actively seeking the views and opinions of their stakeholders, and are committed to responding and engaging with them.

To this end, PSMs will need to consider how they can:

- develop channels of communication with audiences and stakeholders that are immediate, unmediated and consistently – and universally – available
- encourage active debate with audiences about editorial standards and journalistic ethics – through structured as well as informal processes
- develop ways in which audience feedback can be demonstrably integrated into and editorial decision making,

## Responsibility

PSMs occupy a uniquely privileged place in public debate and democratic processes: and their independence is prized precisely because of the expectation that PSMs will reflect and promote open and public debate, to underpin wider democratic goals. PSMs need to be confident that they can hold power to account on behalf of the public whose interests they serve without political interference.

However, this role carries with itself great responsibility: and Public Service Media should ensure that they operate to the highest editorial and journalistic standards.

These will be fostered by the interplay of culture and codes:

- PSMs should actively promote a culture of responsible, tough journalism that seeks for truth. There should be a culture of rigorous inquiry and debate, characterised by even handed treatment of conflicting views and an appetite for internal challenge and review;
- This will be reinforced and protected by the existence of clear, and publicly available, codes of journalistic and production conduct, which will set out the rules that the PSM intends to operate, and against which its output should be judged;
- PSMs should ensure that there are clear and widely publicised processes of internal editorial control and complaint handling, with duties and responsibilities of the editor in chief clearly set out;
- These codes should not be limited to journalistic behaviour but should also embrace wider issues of editorial standards and ethical behaviour.