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Basic Principles for the Funding of Public Service Broadcasting

The Future of the Broadcasting Licence Fee in Times of Media Convergence

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I. Introduction

- Financial situation of the European public service broadcasting bodies stable:
 - Licence Fee: total average of 60% of all revenue
 - Advertising: approximately 20%
 - Other sources: 13%
 - State budget: 7%
 - Growing pressure on existing funding system → reform inevitable
 - Advertising revenue in broadcasting on the decline
 - Ongoing developments in the field of convergence
 - Relevant legal background:
 - General european law evolved from basic right to freedom of broadcasting
 - Rulings of national constitutional courts, European Court of Human Rights
 - European laws on subsidies and government aid
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1. Obligation for Sufficient Funding

- Broadcasting of central importance to the intellectual climate and to free and open discussion in a democratic state
 - Guarantor of *freedom* of individual and public expression.
 - Neither state nor private bodies may dominate the broadcasting sector
- Ground task of public broadcasting: basic services
 - Provision of broadcasting for the whole population
 - Organization of a comprehensive programme
 - Ensuring a diversity of opinion
- To fulfil this task: constitutional right to the *necessary* funding
 - “Necessary” = balance between freedom of programme against the financial interests of the broadcasting receiver
 - Dynamic criterion: dependent on the *particular* circumstances

2. Independence from State Influence

- Broadcasters have programming freedom:
 - No manipulation of broadcasting for non-journalistic purposes
 - Political instrumentalisation must be forbidden
 - Governmental bodies must be kept from indirect as well as direct interference
- Programming freedom = essential factor to guarantee broadcasting freedom
- Programme freedom is closely linked to funding
 - State alone cannot be entrusted with decision on the amount of funding
 - If so: permanent danger of manipulation for reasons of media politics

3. Independence from Influence of the Advertising Economy

- Sole reliance on advertising revenue compromises mandate of basic services
 - Programme planning would have to take audience rating very strongly into consideration
 - Public broadcasting could no longer offer the necessary level of diversity of programme and opinion
- Positive effects of partial financing through advertising
 - Limitation of potential dependence on both, the state and the economy
 - Small amount of advertising spots can supply a large share of funding needs
- Legislator is not obliged to permit broadcasting corporations to air advertising; however overall financing has to be guaranteed

4. Providing for Independent Fee-Fixing Procedures (1/2)

- Independence must be guaranteed by a suitable procedure of fee-fixing
- Neither broadcasting corporation nor legislative body should be allowed to determine the funding needs unilaterally:
 - Broadcasting corporations cannot adequately guarantee that the money they request is the minimum they need to fulfil their mandate
 - Legislator/government would be in possession of a instrument of indirect influence onto programme structure
- Possible assessment methods:
 - Indexing of the funding revenue
 - Delegation of funding assessment to a committee of experts

4. Providing for Independent Fee-Fixing Procedures (2/2)

- German assessment procedure divided into three stages
- 1st Stage: Broadcasters calculate their financial needs and submit this sum to KEF (Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten)
- 2nd Stage: KEF checks and recalculates this sum under functional, not political aspects
- 3rd Stage: Parliamentary ratification of the licence fee
 - Limited possibilities to deviate from the amount fixed by KEF
 - No changes for reasons of programme or media politics

5. Current Developments

- European trends:
 - Reduction of advertising funding in favour of direct state subsidies
 - Financial means for public broadcasters levied from commercial broadcasting, telecommunications and internet providers
- Advantages:
 - Adequate funding can be ensured
 - Reduction of dependence on advertising revenue shortens probability of economic manipulation.
- Disadvantage: governmental or parliament influence increased considerably

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III. Requirements of EU Legislation on Government Aid (1/2)

- European law:
 - Public broadcasting = guarantor and safeguard of media pluralism
 - Only member states themselves shall define the public broadcasting mandate
- European Commission:
 - Repeated checks of funding systems concerning state subsidies
 - Aims: exclusion of overcompensation and disproportionality
 - German Funding model considered to be governmental subsidy, but justifiable under certain conditions:
 - Exact definition of public broadcasting mandate
 - Regular and effective supervision
 - Commission only holds independent and external supervision to be suited to ensure adherence to these conditions

III. Requirements of EU Legislation on Government Aid (1/2)

- Impact on Online Services:
 - Member States have to investigate effects of new online services
 - In Germany: "three-steps-test" on all new or altered digital services
 1. Satisfaction of democratic, social and cultural needs
 2. Extent of contribution to media competition in terms of quality
 3. Expenditure necessary for operation
- Possible interference with freedom from state
 - Intensive state control procedure could facilitate political manipulation
 - Control body should be independent from broadcasting corporations and governmental institutions
 - Too rigid definition of its mandate could restrict the programme freedom
 - "Three-steps-test" could prevent innovative and rapid reactions in the programme planning of the broadcasting corporations

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IV. Licence Fees in the Convergence Era (1/2)

- Traditional fixing point for licence fees: possession of a broadcasting receiver
- Difficulties arising from convergence:
 - Increasing prevalence of multifunctional devices (PC's or mobile telephones) where reception of broadcasting is only one feature of many
 - Increasing prevalence of people actually using these new receivers to receive television and radio
 - In particular the younger generation objects to licence fees
 - German jurisdiction has not finally decided whether licence fees have to be paid for these new devices
- Result: Need for a Reform

IV. Licence Fees in the Convergence Era (2/2)

- Reform options under discussion:
 - Minimal Reform: retention of existing model with minimal modifications
 - Fee levied from households and places of business
 - Poll tax: levied on every adult citizen, regardless of their actual media habits
- State of reforms in European states:
 - Germany: decision by the middle of this year
 - France: “little reform“; increase of the general licence fee from 2010
 - Finland: introduction of household/business fee proposed for 2012

Thanks for your kind attention!



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