



## Diversity of Voices Proceeding

Broadcasting Notice of Public Hearing CRTC 2007-5

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Comments of CBC/Radio-Canada  
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## **Executive Summary**

This proceeding is concerned with one of the fundamental purposes of broadcasting regulation in Canada; namely, to shape “a broadcasting system that reflects the varied demographics of the country and ensures that a diversity of voices is available to audiences”.

A diversity of voices is clearly critical to the proper functioning of a democracy and to the life of a dynamic and culturally varied society. It is not enough simply to have many types of programming. It is also necessary for the many different perspectives of individuals and groups to find voice in that varied programming. Similarly, it is not enough simply to have multiple ownership groups. Programming diversity, encompassing different genres in a multitude of languages that reflect different ethnic groups and geographic regions, is also required.

When assessing the numerous measures available to the Commission to promote a diversity of voices in Canada, and in determining which of these should be applied to Canadian private sector broadcasters, it is important to recognize the role public service broadcasters play in achieving diversity goals.

By its very nature, public service broadcasting provides a variety of programming aimed at the full demographic mix of Canadian society. From the perspective of a plurality of voices, public service broadcasting seeks to provide impartial, independent news and information programming, as well as non-news programming which is distinctive in style and content.

To the extent that public service broadcasting is strong, the regulatory measures imposed on private broadcasters can be lighter and greater freedom can be granted to the play of market forces.

In this submission, CBC/Radio-Canada provides the Commission with an examination of several aspects of this issue. Specifically this document provides:

- i) an international perspective on the importance of a diversity of voices in broadcasting and the ways in which a number of countries approach this issue;
- ii) a review of the role of CBC/Radio-Canada under the *Broadcasting Act* with respect to diversity; and
- iii) observations regarding the current Canadian situation and the Commission's rules promoting diversity of voices.

One theme is common in the approaches taken by public policy makers in Australia, France, Germany, and the United Kingdom: all of these countries employ strong public service broadcasting as an effective tool in promoting a healthy diversity of voices.

This is true to such an extent in the United Kingdom that there are no specific rules regarding concentration of ownership of television stations in the private sector. While there are express limits in place with respect to concentration of ownership in the private sector in the other three countries, the presence of a strong public service broadcaster clearly provides an important counterbalance to media concentration and ensures that a diversity of voices will be available.

With regard to the Canadian approach to promoting diversity of voices, the Corporation is of the view that the existing measures have generally worked well and have provided the Commission with a reasonable degree of discretion while, at the same time, providing adequate guidance to industry participants.

Moreover, CBC/Radio-Canada is of the view that the long term trend should be towards simplifying any measures which might constrain market transactions, rather than tightening or elaborating such rules.

The Corporation notes that such an approach for Canada would be consistent with the international experience surveyed in this document, which suggests that policy makers, in general, rely on public service broadcasting to ensure diversity of voices and to permit them to take a relatively lighter-handed approach to private sector ownership and oversight.

In light of these factors, CBC/Radio-Canada has only two proposals with respect to measures aimed at diversity. First, there should be a general rule that no person or group of persons should be permitted to own or otherwise control more than a certain portion of all licensed discretionary services available on each licensed BDU service. Second, there should be a general rule that no single entity should be able to own or control more than two BDUs in a single territory, and that within the Canadian market, no single BDU should control more than a certain portion of the market. Any such rules which limit the level of ownership interests in discretionary and BDU services would apply on a going forward basis.

In CBC/Radio-Canada's view, the adoption of these two rules would fill a gap in the current regime while, at the same time, enabling greater reliance on market forces over the longer term. CBC/Radio-Canada submits that this would be the most effective way of achieving the twin goals of a diversity of voices and a primarily market-based broadcasting system.

## Introduction

1 This proceeding is concerned with one of the fundamental purposes of broadcasting regulation in Canada; namely, to shape “a broadcasting system that reflects the varied demographics of the country and ensures that a diversity of voices is available to audiences”<sup>1</sup>.

2 In pursuit of this goal the Commission has relied on a wide variety of regulatory tools but with only two essential and practical objectives: “to ensure that the broadcasting system offers a diversity of voices,”<sup>2</sup> and that Canadian programming “has reasonable access to the system.”<sup>3</sup>

3 The first of these two objectives, diversity of voices, comprises both diversity in the types of programming available – news, sports, entertainment, culture, education, etc., as well as diversity in style and in perspective – including political perspective. This latter element - diversity in style and in perspective - is often referred to as a plurality of voices, and is generally associated with different ownership groups. It encompasses, but is not limited to, diversity in perspective or editorial voices in news and information services.

4 Both of these elements of diversity are fundamental to the proper functioning of a democracy and to the life of a dynamic and culturally varied society. It is not enough simply to have many types of programming. It is also necessary for the many different perspectives of individuals and groups to find voice in that varied programming. Similarly, it is not enough simply to have multiple ownership groups. Programming diversity, encompassing different genres in a multitude of languages that reflect different ethnic groups and geographic regions, is also required.

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<sup>1</sup> *Diversity of Voices Proceeding*, Broadcasting Notice of Public Hearing CRTC 2007-5, 13 April 2007 (BNPH 2007-5) at paragraph 1.

<sup>2</sup> *Ibid.*, at paragraph 6.

<sup>3</sup> BNPH 2007-5 at paragraph 6.

5 These two aspects of diversity together ensure a rich interchange of experiences and views, and feed a vibrant culture.

6 However, as the Commission itself has noted, there remains a second critical objective to this exercise: Ensuring that the programming that reflects this diversity of voices has reasonable access to the system.

7 Ensuring Canadian programs have access to the Canadian broadcasting system has never been more important or more difficult.

8 While the Internet and multi-media outlets now provide seemingly limitless sources of information and news, it is not clear how much of this content is Canadian, and whether it is from a broad array of independent sources.

9 Indeed, dealing with access issues within the system at this point in time is increasingly problematic for Canadian broadcasting policy makers. With increased foreign content and choice potentially available on the Internet and on multi-media platforms, increased domination of English Canadian television by foreign programming<sup>4</sup>, increased control of new media content by the BDU and telecom carriers of that content<sup>5</sup>, and with continuing small market constraints for French-language Canadian programming, the Commission's access challenge is formidable.

10 In CBC/Radio-Canada's view, access and diversity of voices are fundamentally linked. A diversity of voices necessarily entails a diversity of Canadian programming that reflect the needs, interests and experiences of all

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<sup>4</sup> Since 1991, and the coming into force of the current *Broadcasting Act*, prime-time viewing to English Canadian programming has dropped from 27% to 22% in 2005.

<sup>5</sup> Although not a specific component of the present proceeding or of these comments, it is worth noting the importance of unfettered access to new distribution platforms, as well as the associated issue of net neutrality. As large vertically integrated media entities increasingly merge with Internet and cell phone service providers, opportunities and business interests to promote one's own content become very real. If not kept in check, this behaviour can ultimately impact the maintenance of a diversity of voices in Canada.

Canadians, from a variety of perspectives. However, this diversity of Canadian programming from multiple perspectives will be available to, and benefit Canadian viewers and listeners only if it has reasonable access to the broadcasting system.

11 In CBC/Radio-Canada's submission it is important to keep these different objectives in mind when examining the issues raised by BNPH 2007-5. For example, while the Corporation believes it was very important that the Commission re-affirmed its common ownership policy in the recent CTV-CHUM transaction, this is but one part of the picture. Diversity of programming, plurality of voices and access to the system are each central to ensuring that the objectives of the Broadcasting Act are met and that the Canadian broadcasting system is a success story.

12 It is also important to recognize that these different elements can be and are addressed by means of different regulatory measures. Controls over ownership can help support a plurality of voices. However, ownership measures do not in themselves necessarily ensure a significant diversity in style or perspective.<sup>6</sup> Neither do they ensure either programming diversity or reasonable

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<sup>6</sup> It is important to recognize that diverse ownership does not necessarily result in a diversity of styles and perspectives. If all private broadcasters are chasing the same central mass audience, their programming may be remarkably similar. However, diversity of ownership is the simplest proxy for a plurality of voices. This point was made very clearly in Ofcom's 2006 *Review of Media Ownership Rules*:

2.12 There is currently no generally accepted way of measuring the degree of viewpoint plurality in the media. As a proxy for viewpoint plurality, the media ownership rules aim to ensure plurality of media ownership. This approach assumes a correlation between viewpoint and ownership plurality: different owners may be different sources of news and may also provide different perspectives on what is going on in the world.

2.13 Clearly, this proxy is imperfect:

- Ownership plurality *does not ensure a plurality of news sources*. For example, two local radio stations might have different owners and yet obtain all their news from the same source;
- Ownership plurality *does not necessarily ensure editorial or viewpoint diversity*. Whilst diversity of ownership may have an effect on plurality, it may also be the case that different sources of news offer the same perspective. In addition, journalists, editors or producers, rather than owners, may have a more direct impact on the views expressed via a media outlet.

2.14 However, in the absence of a better means of assessment, ownership plurality remains the best proxy for viewpoint plurality.



access to the system by different elements of society. In order to properly promote these objectives, additional measures must come into play.<sup>7</sup>

13 When assessing the measures that should be applied to private sector broadcasters, it is important to recognize the role public service broadcasters play in achieving diversity goals.

14 By its very nature, public service broadcasting provides a variety of programming aimed at the full demographic mix of Canadian society. From the perspective of a plurality of voices, public service broadcasting seeks to provide impartial, independent news and information programming, as well as non-news programming which is distinctive in style and content.

15 To the extent that public service broadcasting is strong, the regulatory measures imposed on private broadcasters can be lighter and greater freedom can be granted to the play of market forces.

16 In keeping with the issues raised in the Commission's public notice, in this submission, CBC/Radio-Canada focuses exclusively on the diversity of voices objective and foregoes the broader treatment of reasonable access to the system.<sup>8</sup> We demonstrate the importance that policy makers attribute to public broadcasting in achieving this objective. Specifically, CBC/Radio-Canada provides information and comments in respect of three areas:

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<sup>7</sup> The Commission relies on many different measures in order to promote these goals, such as Canadian content quotas, programming genre requirements, ethnic licensing policies, BDU carriage regulations and subsidy mechanisms.

<sup>8</sup> A discussion of the objective of reasonable access will be provided in the context of the Corporation's submissions in the upcoming Review of the regulatory frameworks for broadcasting distribution undertakings and discretionary programming services (Broadcasting Notice of Public Hearing CRTC 2007-10), and the Commission's New Media Project Initiative.

i) an international perspective on the importance of a diversity of voices in broadcasting and the ways in which a number of countries approach this issue;

ii) the role of CBC/Radio-Canada under the *Broadcasting Act* with respect to diversity; and

iii) observations regarding the current Canadian situation and the Commission's rules promoting diversity of voices.

17 CBC/Radio-Canada has also included appendices providing factual information on diversity issues in four western countries which make good comparison points with Canada because of their size, level of economic development and mixed private/public broadcasting systems: Australia, France, Germany and the United Kingdom.

## The International View on Diversity

18 The importance of a diversity of voices in broadcasting is recognized in most democratic countries around the world. In general, regulators and observers distinguish between the two types of diversity identified above: diversity in programming; and, diversity in perspective or ownership. These two distinct concepts are sometimes referred to as “internal” and “external” diversity or as “diversity” and “plurality” or as “internal” and “external” plurality.<sup>9</sup>

19 Diversity in programming genres ensures both that different needs are met – entertainment, education, information – and that all sectors of society have a chance to express themselves and to watch or listen to programming that reflects their needs, interests and experiences.

20 Diversity in perspective or ownership helps ensure that a variety of perspectives are provided to the public. As noted above, it is not sufficient for there to be news, weather, sports and entertainment. There must also be different sources of programming if the full range of ideas and opinions in society are to be adequately reflected in the broadcasting media. While diversity in ownership does not necessarily ensure that there will be diversity in perspectives, it does significantly increase the chances.

21 The issue of access is also recognized in some countries as being important to maintaining a diversity of voices. For example, the European Union requires that the member countries take steps to ensure that European works have a prominent place in the services offered by broadcasters. The EU also requires that a percentage of these works come from independent producers.

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<sup>9</sup> For example, a 2005 UNESCO document, *Public Service Broadcasting: A Best Practices Sourcebook*, refers to “internal” and “external” diversity. The French refer to “internal” and “external” plurality. In the United Kingdom the terms “diversity” and “plurality” are used.

These two measures help ensure that programming reflects European experiences and concerns from a variety of perspectives.

22 Overall, the emphasis placed on safeguards relating to diversity generally depend on a number of factors, including the historical development of broadcasting in the country, the nature of the broadcasting system, the type of regulatory regime that exists, the degree of reliance placed on the public service broadcaster, if one exists, and more general political factors.

23 Later in this section the regulatory approach to diversity of voices in television and in radio is examined in four countries: Australia, France, Germany and the United Kingdom. The variety of approaches taken in these countries illustrates clearly the way in which historical and other factors can result in different solutions to a common problem.

24 At this point, however, it is worth highlighting one theme that is common to all these countries; namely, the role public service broadcasters play in ensuring there is a diversity of programming and viewpoints available to listeners and viewers.

### **The Role of Public Service Broadcasters**

25 The role of public service broadcasters<sup>10</sup> has been receiving greater attention in recent years. In 2005, UNESCO published *Public Service Broadcasting: A best practices sourcebook* which looks at public service broadcasting across the world and identifies key features and best practices. The publication of this document was stimulated, in part, by a perceived decline in the quality and diversity of broadcasting:

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<sup>10</sup> It is important to distinguish between public service programming – which a broadcaster can air and may be required to air – and a public service broadcaster that is dedicated to providing public service programming throughout its schedule. Public service broadcasters can be either privately or publicly owned, however, more often they are publicly owned and funded. It is also important to distinguish between public service broadcasters and state-owned broadcasters that act as a mouth piece for government.

There is an increasing awareness around the world that we are confronted with a progressive erosion of the public sphere. Commercial programming is driven by one purpose and ambition alone, which is to maximize advertising and other revenues by targeting the largest possible audiences through the most sensational, popular, and attractive content with no respect for public interest. This has raised worldwide concerns that if something is not done urgently to stem this progressive decline in the quality of broadcasting, the quality of democracy, education, and citizens' empowerment will be threatened.<sup>11</sup>

26 In response to this problem, UNESCO examined the role of public service broadcasters. *Public Service Broadcasting: A best practices sourcebook* aims both to clearly identify and to promote the role of public service broadcasters in democratic societies.

27 In this study, UNESCO identified four different characteristics of public service broadcasters – universality, diversity, independence and distinctiveness. Each of these characteristics relates to the overarching idea that a diversity of voices is required for a healthy democracy and a dynamic culture.<sup>12</sup>

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<sup>11</sup> UNESCO, *Public Service Broadcasting: A Best Practices Sourcebook* at page 18.

<sup>12</sup> It is worth quoting the description of public service broadcasters in the UNESCO document since it highlights the unique role such broadcasters play, especially in respect of diversity:

“In understanding the role of PSB, the following factors could be taken into account in judging whether a PSB system is playing the role it is expected to perform:

a) Universality: Public broadcasting must be accessible to every citizen throughout the country. This is a deeply egalitarian and democratic goal to the extent that it puts all citizens on the same footing, whatever their social status or income. It forces the public broadcaster to address the entire population and seek to be “used” by the largest possible number.

b) Diversity: The services offered by public broadcasting should be diversified in at least three ways: the genres of programs offered, the audiences targeted, and the subjects discussed. Public broadcasting must reflect the diversity of public interests by offering different types of programs, from newscasts to light programs. Some programs may be aimed at only part of the public, whose expectations are varied. In the end, public broadcasting should reach everyone, not through each program, but through all programs and their variety. Finally, through the diversity of the subjects discussed, public broadcasting can also seek to respond to the varied interests of the public and so reflect the whole range of current issues in society. Diversity and universality are complementary in that producing programs intended sometimes for youth, sometimes for older people and sometimes for other groups ultimately means that public broadcasting appeals to all.

c) Independence: Public broadcasting is a forum where ideas should be expressed freely, where information, opinions and criticisms can circulate. This is possible only if the broadcaster is independent, thereby, allowing the freedom of public broadcasting to be maintained against commercial or political influence. If the information provided by the public broadcaster was influenced by the government, people

28 The importance of a diversity of voices and the role of public service broadcasters has also been considered very recently by the Council of Europe. On 31 January 2007 the Council of Europe's Committee of Ministers adopted a recommendation on pluralism and diversity in the media which began by emphasizing the critical nature of the free flow of information of all types:

Recalling its Declaration on the freedom of expression and information, adopted on 29 April 1982, which stresses that a free flow and wide circulation of information of all kinds across frontiers is an important factor for international understanding, for bringing peoples together and for the mutual enrichment of cultures;<sup>13</sup>

29 The recommendation goes on to identify a number of steps member states should consider in order to ensure a diversity of media voices in the evolving broadcasting environment. Those steps include ownership rules for the private sector, but also highlight the role which can be played by a public service broadcaster:

Member states should encourage public service media to play an active role in promoting social cohesion and integrating all communities, social groups and generations, including minority groups, young people, the elderly, underprivileged and disadvantaged social categories, disabled persons, etc., while respecting their different identities and needs. In this context, attention should be paid to the content created by and for such groups, and to their access to, and presence and portrayal in, public service media. Due attention should also be paid to gender equality issues.<sup>14</sup>

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are less likely to believe the content. Likewise, if the public broadcaster's programming were designed for commercial ends, people would not understand why they are being asked to finance a service providing programming that is not substantially different from those provided by commercial broadcasters.

d) Distinctiveness: Services offered by public broadcasting must be distinguished from that of other broadcasting services. In public-service programming, in the quality and particular character of its programs, the public must be able to identify what distinguishes this service from other services. It is not merely a matter of producing the type of programs other services are not interested in, aiming at audiences neglected by others, or dealing with subjects ignored by others. It is a matter of doing things differently, without excluding any genre. This principle must lead public broadcasters to innovate, create new slots, new genres, set the pace in the audiovisual world and pull other broadcasting networks in their wake." UNESCO, *Public Service Broadcasting: A Best Practices Sourcebook* at pages 15 and 16.

<sup>13</sup> Council of Europe (Recommendation CM/Rec(2007)2).

<sup>14</sup> Council of Europe, (Recommendation CM/Rec(2007)2) at paragraph 3.2.

30 The Council of Europe's Committee of Ministers also issued a recommendation on 31 January 2007 regarding the mandate of public service broadcasters in the evolving communications environment<sup>15</sup>. This recommendation described the characteristics of public service broadcasters and emphasized their role in ensuring diversity.<sup>16</sup>

31 In addition, the recommendation describes in greater detail each of the elements of public service broadcasting in light of the evolving multi-platform broadcasting environment. A copy of the full recommendation is attached as Appendix C to this submission.<sup>17</sup>

32 As both the UNESCO document and the Council of Europe recommendations demonstrate, from an international perspective, public service broadcasters are considered to play a central role in ensuring diversity of voices

<sup>15</sup> Council of Europe (Recommendation CM/Rec(2007)3).

<sup>16</sup> These elements [of the public service mandate] have been referred to on several occasions in Council of Europe documents, which have defined public service broadcasting as, amongst other things:  
 a) a reference point for all members of the public, offering universal access;  
 b) a factor for social cohesion and integration of all individuals, groups and communities;  
 c) a source of impartial and independent information and comment, and of innovatory and varied content which complies with high ethical and quality standards;  
 d) a forum for pluralistic public discussion and a means of promoting broader democratic participation of individuals;  
 e) an active contributor to audiovisual creation and production and greater appreciation and dissemination of the diversity of national and European cultural heritage. Council of Europe, (Recommendation CM/Rec(2007)3).

<sup>17</sup> Key points in the recommendation relating to diversity of voices include:

- 3. Public service media should offer news, information, educational, cultural, sports and entertainment programs and content aimed at the various categories of the public ...
- 8. Public service media should integrate all communities, social groups and generations, including minority groups, young people, old persons, the most disadvantaged social categories, persons with disabilities, while respecting their different identities and needs. In this context, attention should be paid to the content created by and for such groups ...
- 14. ... Public service media should [provide] ... a forum for public debate, open to diverse ideas and convictions in society, and a platform for disseminating democratic values.
- 19. Public service media should play a particular role in the promotion of cultural diversity and identity, including through new communication services and platforms. ....
- 23. In their programming and content, public service media should reflect the increasingly multi-ethnic and multicultural societies in which they operate, protecting the cultural heritage of different minorities and communities, providing possibilities for cultural expression and exchange, and promoting closer integration, without obliterating cultural diversity at the national level.

in the broadcasting system. It is also implicit to this analysis that by relying on public service broadcasters in this way, it is possible to take a more light-handed approach to the regulation of private sector broadcasters in regard to diversity issues.

### **Diversity of Voices in Other Countries**

33 As indicated above, in order to get a better idea of how other countries deal with the diversity of voices issue, CBC/Radio-Canada has reviewed the regimes in four western, democratic countries: Australia, France, Germany and the United Kingdom. Like Canada, these countries each have a mix of public and private broadcasters with an advanced range of television and radio services. They are also each mid-sized countries with a level of economic and political development comparable to Canada.

34 For the sake of clarity and length, the survey is restricted to television and radio broadcasting and does not consider Internet or other platforms. Among other things, this permits easier comparison as between countries. A summary table is provided in Appendix A and excerpts from Public Service Broadcaster legislation from these countries is provided in Appendix B.

35 The variety of approaches taken in these countries illustrates the way in which historical and other factors can result in a range of regulatory approaches that can be taken to ensuring diversity of voices. It also demonstrates the key role played by public service broadcasters in ensuring that a diversity of voices is available to audiences.

#### Australia

36 Australia ensures a diversity of voices by means of restrictions on ownership for both television and radio, programming quotas for television



content and genres<sup>18</sup> and a strong reliance on the two public service broadcasters. These limits are supplemented by rules aimed at ensuring cross media diversity, as well as for radio, rules which require the retention of local production and local news in cases of transfers of ownership.

37 In the case of television, in 2006, the top three private broadcasters<sup>19</sup> held 62.4% of the market and the two public broadcasters held 15.5% of the market. The remaining 22.1% of the market was held by other private broadcasters. There are specific limits for television ownership – a maximum potential OTA audience of 75% of the Australian population.

38 Given that Australia’s commercial television sector is led by three broadcasting companies each vying for the same general audience, the diversity of programming provided by the two public service broadcasters, Australian Broadcasting Corporation (ABC)<sup>20</sup> and Special Broadcasting Service (SBS)<sup>21</sup>, is critical to ensuring that Australians have access to a wide variety of programs which reflect all aspects of Australian society.

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<sup>18</sup> Diversity in the programming content provided by private television broadcasters is ensured by way of a general regulation. The *Broadcasting Services (Australian Content) Standard 2005* applies to all private OTA television broadcasters and establishes quotas for Australian content as well as for specific genres. The purpose of the regulation is stated in section 2:

The object of this standard is to promote the role of commercial television broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity by supporting the community’s continued access to television programs produced under Australian creative control.

<sup>19</sup> The largest private broadcaster, Network Seven, had a 22.5% market share, and followed by Network 9 at 22.4% and Network Ten at 17.5%.

<sup>20</sup> Under its enabling statute the Australian Broadcasting Corporation (ABC) is required to provide “broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community”. When providing broadcasting services, ABC is also required to take account of “[its] responsibility ... to provide a balance between broadcasting programs of wide appeal and specialized broadcasting programs”, as well as “the multicultural character of the Australian community”. See Australian Broadcasting Corporation Act, 1983, sections 6(1)(a)(i), 6(2)(a)(iii) and 6(2)(a)(iv), respectively.

<sup>21</sup> The Special Broadcasting Service (SBS), was created to specifically address the needs of and give exposure to the diverse cultural groups in Australia. SBS’s Charter requires it to “provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia’s multicultural society” See Special Broadcasting Service Act, 1991, section 6(1). SBS provides television programs in 60 languages.

39 Australia's radio sector is diffuse. Four commercial broadcasters and the ABC radio network reach over 50% of the population. In addition there are six other private radio broadcasters whose reach exceeds 10% of the Australian population. There are specific limits on radio ownership – a maximum of two licences per licence area.

40 The public service broadcaster SBS has led the way with diversified programming aimed at Australia's ethnic minorities. It was also joined by many community based radio stations. Over time, the public service broadcaster ABC has also expanded the range of programming it provides via Radio Australia. As with television, these public service broadcasters play an essential role in ensuring there is a diversity of voices.

### France

41 The broadcasting industry in France reflects the relatively recent introduction of private sector broadcasting to that country. Prior to 1981 broadcasting (both radio and television) was the domain of state monopolies.

42 France ensures diversity in television ownership by means of a complex set of rules which limit the level of ownership any person may have in a single licensee, as well as providing graduated limits for ownership interests in several licensees.<sup>22,23</sup>

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<sup>22</sup> Ownership is governed by the Law on Freedom of Communication 1986, supplemented by subsequent laws and decrees.

<sup>23</sup> For example, no person may have more than a 49% interest in a company holding a national terrestrial television license unless the audience share is less than 2.5%. In addition, a person with more than a 15% interest in one national station is limited to less than a 15% interest in a second national station and, if the person holds more than 5% in each of two national stations, then the limit with respect to a third national station is less than 5%.

43 Despite these ownership rules, commercial television broadcasting is dominated by one broadcaster<sup>24</sup> which is a general interest service and had a 2006 audience share of 31.6% - equivalent to more than 50% of the private sector market. Its closest commercial competitor<sup>25</sup> trailed a distant second with an audience share of 12.5% or about 20% of the private market.

44 There are two public broadcasters in France: France Televisions and ARTE<sup>26</sup>. France Televisions is defined as “television of all citizens” and is mandated to ensure freedom of expression for all political and social elements of French society. Given that the public broadcasters have a collective 38.7% market share, their broad mandate is key to ensuring a diversity of voices in French television.

45 There are also a large number of discretionary channels (i.e., cable or satellite) owned by more than 10 ownership groups. However, only a third of French households subscribe to either cable or satellite television, so the diversity provided by the additional choice over such platforms is mitigated by the limited penetration they enjoy.

46 Private and public television broadcasters in France are subject to a common set of regulations aimed at ensuring that a diversity of programming and opinions is available to the public. There are quotas for French language television programming and specific programming obligations are also imposed on individual broadcasters.

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<sup>24</sup> TF1.

<sup>25</sup> The second largest commercial broadcaster is M6 which offers a service aimed at younger audiences. The third private sector broadcaster, Canal+ is a pay service offering movies and sports with a 3.4% market share.

<sup>26</sup> France Televisions operates three services – France 2, France 3 and France 5/ARTE. France 2 is a general interest service with a 19.2% audience share. France 3, also a general interest channel, includes regional programming through its regional stations and has a 14.7% audience share. France 5 is a part time service focusing on education and knowledge. France 5 broadcasts from 15:00 to 19:00 and shares a channel with the second public broadcaster, the cultural channel, ARTE which is a joint French/German undertaking.

47 In practice, the need for a diversity of voices in French television is addressed by means of regulations aimed at ensuring that commercial broadcasters offer a variety of programming, complemented by the major role played by public broadcasting.

48 The situation with respect to radio is quite different as the market is diffuse. France has enacted rules that limit ownership of radio licences exceeding 20% of the total terrestrial radio audience. In addition to the public broadcaster, Radio France, there are five classes of FM radio stations licensed<sup>27</sup>: The number of frequencies allocated to a licensee varies according to the class of licence.

49 The largest broadcaster is Radio France, the national public broadcaster, with a 20% audience share across all of its services. The largest private radio broadcasters<sup>28</sup> each operate several national radio networks and have audience shares around 18% to 19%. There are also nearly 1,000 independent radio stations some of which are affiliated with one of the national networks.

### Germany

50 The regulation of broadcasting in Germany is more complicated than in the other countries discussed here. Germany comprises 16 federal states each with its own broadcasting regulator. These state regulators establish state-specific rules<sup>27</sup> and also negotiate the terms of an overarching federal regulatory regime. Most states have public television and radio broadcasters, as well as private broadcasters licensed by the state authorities.

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<sup>27</sup> The five classes of FM radio stations licensed are: (A) non-profit local stations; (B) independent local or regional commercial stations; (C) independent local or regional stations affiliated to a national network with a thematic content; (D) commercial national networks with a thematic focus; and, (E) general interest commercial national networks.

<sup>28</sup> NRJ and RTL

51 A network of regional public broadcasters is known as ARD (*Arbeitsgemeinschaft der öffentlichrechtlichen Rundfunkanstalten Deutschlands* – Association of Public Service Broadcasters in Germany). While ARD enables co-operation among the individual regional broadcasters, they remain largely independent and address the needs of their specific region in accordance with their particular mandate.

52 In addition to ARD, there is a national public television broadcaster, ZDF (*Zweites Deutsches Fernsehen* – Second German Television) that was originally created by a treaty among all the West German states. In 2006, the public service broadcasters ARD and ZDF had a combined television audience share of over 43%.

53 Private sector television broadcasters are dominated by two groups - Bertelsmann/RTL and ProSieben/SAT.1 which together had an audience share of 44% in 2006. This is equivalent to 80% of the private sector audience market.

54 This level of concentration in private television was permitted to develop because of limited ownership regulation in the initial years. The current ownership rules provide that the accumulated audience share of television channels owned by a single company must not exceed 30%. This rule places limits on further consolidation but does nothing to reverse the dominance the two main groups have already achieved.

55 The character of the private television sector was influenced not only by the rules made by the state regulators but also by a number of decisions of the West Germany Federal Constitutional Court. Among other things, the Court ruled that private television broadcasters would be permitted to have lower programming obligations only if the public service broadcasters provided a sufficient range of public services.

56 As a complement to this ruling, the Court held that public service broadcasting should be given appropriate means to continue to provide a wide range of high-quality programs. The Court described this obligation as “*Grundversorgung*” or “basic service” which amounts to a requirement to provide a diversity of programs in all genres.

57 While private television broadcasters do not have the same diversity obligations as public service broadcasters, they are required to provide a platform for the major political and social interests in German society, as well as provide an opportunity for minorities to express their views<sup>29</sup>.

58 Overall, the German television market is dominated by two private sector and two public service broadcasters which collectively have an audience share of close to 90%. There is, therefore, limited diversity of ownership. Diversity of programming is provided in three ways.

59 First, there are a large number of discretionary services available over satellite and cable, although their audience share is small. Second, the over-the-air television broadcasters are subject to a number of public service regulatory obligations. Third, the “basic service” mandate of the public service broadcasters ensures both a plurality of perspectives and a diversity of voices.

60 The radio situation is significantly different from television in that there is greater variety in the approaches taken by the states to licensing. Some states have focused on having numerous local radio stations while others have preferred to have regional stations. Once again, however, diversity and plurality

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<sup>29</sup> In particular, the two nationally distributed general interest channels with the largest audience reach have to produce “regional window programs” which offer local content. In addition, any general interest or news channel with an audience share of 10 per cent or more has to give a minimum of 260 minutes airtime per week to an independent, third-party program provider.

is ensured by the role played by the state public service broadcasters and, on a national scale, by ARD.

61 Overall, the central role of public service broadcasters in ensuring a diversity and plurality of voices in Germany is clear. This point was made succinctly in the 2005 publication of the Open Society Institute on television in Europe:

Two separate systems have been set up in Germany to guarantee diversity and pluralism in broadcasting: a system to safeguard “internal” pluralism in the public service sector, and a detailed regulatory structure securing “external” pluralism in the private sector. Both pillars of this dual system are interlocked in the sense that market induced deficiencies of the private sector with regard to the range of programs on offer can be accepted as long as the public service broadcasters provide comprehensive service covering the whole range of program categories. Indeed, viewers in Germany probably have a larger variety of free-to-air programs to choose from than those in any other country in Europe – thanks to the diversification of channels in the private sector and to the strong presence of public service broadcasting.<sup>30</sup>

### The United Kingdom

62 The key feature of both television and radio broadcasting in the United Kingdom is the presence of a very strong public broadcaster – the British Broadcasting Corporation (BBC). The existence of the BBC has permitted the government to minimize regulatory restrictions on private sector television broadcasters and ease those applied to radio broadcasters.

63 There are no restrictions on the ownership of television services in the United Kingdom based on concentration concerns<sup>31,32</sup>. However, there are

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<sup>30</sup> Open Society Institute, Television Across Europe (2005) at page 779.

<sup>31</sup> There are five major television broadcasters in the United Kingdom: BBC, ITV, Channel 4, Five and BSkyB.

<sup>32</sup> BBC is the oldest and largest broadcaster with an audience share in 2006 of 31.6% across its two terrestrial services. ITV was the largest private broadcaster with a market share of 19.7%. The second

media cross-ownership restrictions and the Secretary of State has the authority to intervene in situations which raise concerns about a plurality of ownership, diversity of content or freedom of expression. In addition, in order to ensure a diversity of views in news, ITV, the largest private broadcaster with a market share of 19.7%, is required to source its national and international news from a single news provider, independent of the BBC.

64 As noted above, the United Kingdom has placed significant reliance on its public broadcasters to ensure a diversity of voices in television. There are three public television broadcasters: the BBC<sup>33</sup>, Channel 4<sup>34</sup> and S4C<sup>35</sup>. BBC is the largest television broadcaster with an aggregate audience share in 2006 of 31.6% across its two terrestrial services.

65 Taken together, the public service television broadcasters represent the primary mechanism for ensuring that viewers have access to a diversity of programming reflecting all of the regions, languages and cultural groups in the United Kingdom.

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public broadcaster, Channel 4/S4C, had a 9.8% share, followed by the private broadcasters Five (5.7%) and BSkyB (2.7%).

<sup>33</sup> The BBC is the largest public service broadcaster in the United Kingdom and is often considered a model for public broadcasters in other countries. The BBC's mandate is renewed every 10 years, most recently in 2006. Section 4 of the BBC's Charter sets out its new public purposes which include a focus on providing programming not available from commercial broadcasters:

- (a) sustaining citizenship and civil society;
- (b) promoting education and learning;
- (c) stimulating creativity and cultural excellence;
- (d) representing the UK, its nations, regions and communities;

<sup>34</sup> Channel Four Television Corporation was established to increase the level of program diversity available to viewers. Channel 4's purposes are set out in the Communications Act 2003 as "the provision of a broad range of high quality and diverse programming which ... appeals to the tastes and interests of a culturally diverse society".

<sup>35</sup> S4C provides Welsh language programming in Wales over-the-air and more widely over digital delivery systems. S4C has a focused purpose, namely support of the Welsh language and Welsh-speaking communities.



66 With respect to radio, the BBC is again the dominant broadcaster with an aggregate audience share across all of its services of 55%. Of the remaining audience tuning, about 70% of the listening is to the three main private sector broadcasters.<sup>36</sup>

67 Radio licences are granted on a local and national basis. While there are no restrictions on the total number of radio licences a person may hold, there are limits on the number of local radio stations that may be owned in the same market, as well as limits on the number of national and local multiplexes. As with television, there are limits on media cross-ownership in a region and the Secretary of State has an overriding discretion to block a proposed merger or acquisition if it threatens the plurality or diversity of voices.

68 From a content perspective, diversity of voices is promoted by means of the format restrictions imposed on a radio licence. This mechanism, together with the wide range of programming offered by the BBC, ensures that the needs and interests of the full range of ethnic and social communities are met.

## **Summary**

69 The survey demonstrates that the existence of a strong public service broadcaster can relieve the pressure on the regulator to intervene in the private sector with respect to diversity issues. This is true to such an extent in the United Kingdom that there are no specific rules regarding concentration of ownership of television stations in the private sector. While there are express limits in place with respect to concentration of ownership in the private sector in the other three countries, the presence of a strong public service broadcaster clearly provides an important counterbalance to media concentration and ensures that a diversity of voices will be available.

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<sup>36</sup> These are: Gcap, Emap and Chrysalis.

## The Role of CBC/Radio-Canada

70 CBC/Radio-Canada has a clear mandate to support and provide a diversity of voices in the Canadian broadcasting system. That mandate was established by Parliament and set out in section 3(1) of the *Broadcasting Act*:

3(1)(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;

(m) the programming provided by the Corporation should

...

(ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,

(iii) actively contribute to the flow and exchange of cultural expression,

(iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,

...

(viii) reflect the multicultural and multiracial nature of Canada;

71 This mandate is the driving force behind CBC/Radio-Canada's vision and mission to serve the Canadian public:

### ***Vision***

Connecting Canadians through compelling Canadian content.

**Mission**

To create audacious, distinctive programming. Programs designed to inform, enlighten and entertain. Programs that reflect Canadians and Canada's regions. Programs that help tie the country together and explain great national and international events. Programming in all genres, with emphasis on News and Current Affairs, drama and culture; and not forgetting our special responsibility to children.

72 CBC/Radio-Canada delivers on its mandate by providing a comprehensive range of news, information, entertainment and sports programs via 28 different services. It is the only Canadian broadcaster delivering Radio, Television, Internet and satellite-based services, in both English and French plus eight Aboriginal languages, to all Canadians. The Corporation's broadcasting reach extends across Canada and around the world, offering high-quality, distinctive content by, for and about Canadians, however and wherever they want it.

73 To deliver these wide range of services, CBC/Radio-Canada draws on contributions from a diverse range of independent voices. Diversity and independence at CBC/Radio-Canada starts from being arms-length from Government, including being directed by a diverse and regionally representative Board of Directors, but flows throughout the organization. Our news services are guided by an extensive code of Journalistic Standards and Practices and editorial control mechanisms that ensure they are balanced and accurate, Arts and Entertainment programming is commissioned extensively from independent producers offering a wide range of views and perspectives.

74 Today, 97 per cent of Canadians feel that CBC/Radio-Canada is essential and 90 per cent feel it is distinctive. Canadians understand that what CBC/Radio-Canada offers is available nowhere else: Like a distinctive voice and a forum for Canada's diverse regions and ethnic and cultural communities; In-depth coverage of the local, regional, national and international stories that

matter to Canadians; A wide variety of high-quality, innovative Canadian television drama in prime time commissioned from independent producers; Coverage of amateur sports and the best of innovative Canadian performing and fine arts; And a commercial-free, safe and entertaining programming for children.

75 CBC/Radio-Canada is achieving these high levels of success by utilizing Canadian programming to the greatest extent possible. CBC Radio and Radio de Radio-Canada's prime time schedules are 100 Canadian and CBC TV and Television de Radio-Canada's are overwhelming Canadian at 80 per cent and 88 per cent respectively. To sustain this high level of content, 95 per cent of CBC/Radio-Canada's programming budget is expended on Canadian programming.

76 CBC/Radio-Canada provides an excellent example of a public service broadcaster as defined by UNESCO. It provides universal service which is diverse in content, independent in development and delivery and distinctive in character. CBC/Radio-Canada also plays a role directly analogous to the public service broadcasters in Australia, France, Germany and the United Kingdom. The Corporation's services are key to maintaining a diversity of voices in the Canadian broadcasting system.

## Canadian Diversity Rules

77 As noted in BNPH 2007-5, the Commission has established a number of measures to ensure a diversity of voices in the Canadian broadcasting system. These measures range from general policies on diversity (e.g., regarding ethnic services) to common ownership policies for local broadcasting markets to broad policies regarding horizontal or vertical integration to specific licence conditions applicable to individual broadcasters.

78 At paragraphs 59 through 67 of BNPH 2007-5 the Commission invites comments with respect to fourteen specific issues relating to the diversity of voices. CBC/Radio-Canada recognizes the importance of each of the issues identified by the Commission. At the same time the Corporation is of the view that the existing measures have generally worked well and have provided the Commission with a reasonable degree of discretion while, at the same time, providing adequate guidance to industry participants.

79 Most recently, in regard to the takeover of CHUM by CTV, the Corporation believes that it was extremely important for the industry that the Commission confirmed its support for the existing common ownership policy for OTA licensees, and confirmed the overall importance of diversity of voices considerations in regard to concentration in a marketplace:

The Commission also concurs with the CBC's submission that the proposed transaction would result in a concentration of ownership that would have an unacceptable impact on the plurality and diversity of voices in the English-language market.<sup>37</sup>

80 Moreover, with these broad principles and full information and disclosure for the industry, as well as the general policy to place greater reliance on market

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<sup>37</sup> Broadcasting Decision CRTC 2007-165, paragraph 23.

forces in broadcasting, CBC/Radio-Canada is of the view that the long term trend should be towards simplifying any measures which might constrain market transactions, rather than tightening or elaborating such rules.

81 The Corporation notes that such an approach for Canada would be consistent with the international experience surveyed in this document, which suggests that policy makers, in general, rely on public service broadcasting to ensure diversity of voices and to permit them to take a relatively lighter-handed approach to private sector ownership and oversight.

82 Accordingly, CBC/Radio-Canada's comments are limited to two areas where the Corporation believes some change is required in the immediate term:

- i) the need for a simple rule with respect to common ownership of discretionary services; and,
- ii) the need for a simple rule with respect to common ownership of BDUs.

### **Discretionary Services**

83 Discretionary services have come to play a major role in the Canadian broadcasting system. The general view – which CBC/Radio-Canada shares - is that this will not change in the future. If anything, discretionary services will become increasingly important in the evolving, multi-platform world.

84 By their very nature, discretionary services provide diversity in programming since they vary across all genres. However, in practice that diversity could be constrained if a single broadcaster were to control a disproportionate share of the discretionary services in the system. Among other things, the opportunities for independent producers – each with a diverse voice - could be limited.

85 In CBC/Radio-Canada's view, it would be appropriate for the Commission to establish a simple rule which would place ownership limits over discretionary services. Any such rule would apply on a going forward basis only, and would grandfather all existing ownership arrangements. For example, the CRTC may wish to impose a limit that going forward, no person or persons may own or otherwise control more than 33% of licensed discretionary services. This would ensure that Canadians receive a diversity of voices on each licensed BDU platform.

86 In the Corporation's view, this rule would be simple to apply as it would require a straightforward calculation for each platform. At the same time, it would not unduly constrain private broadcasters as they would be free to develop different types of discretionary services for different platforms. They would simply be precluded from dominating any particular platform.

### **BDU Ownership**

87 On the question of BDU ownership, CBC/Radio-Canada is of the view that the general shift toward greater reliance on market forces must be balanced by the preservation of several distribution channels for programming services. In the absence of reasonable distribution alternatives, there can be no confidence that an adequate diversity of voices will actually be available to Canadians.

88 In particular, a concentration of ownership in BDUs would almost certainly lead to a narrowing of the carriage opportunities for programming services, especially independent services which are not affiliated with a BDU. This, in turn, would limit the diversity of services Canadians would be able to choose from since BDUs with common ownership would likely offer a similar portfolio of programming services.

89 In CBC/Radio-Canada's view, the preservation of diverse ownership in distribution channels is a necessary counterbalance to permitting greater reliance on market forces in respect of programming services. It would also enable greater reliance on market forces for carriage of programming services by BDUs over the longer term since a true distribution market would exist for programming services seeking carriage.

90 To date, the Commission has allowed very limited overlap of BDU ownership. In CBC/Radio-Canada's view, the current approach is inadequate as it is insufficiently well defined. The Corporation submits that a simple rule should be established for BDU ownership.

91 Such a rule would establish that no person or group of persons should be permitted to own or otherwise control more than two BDUs serving a single territory, and that within the Canadian market, a single BDU could control no more than a certain portion, such as 33%. Based on the current BDU situation, this should ensure that both programming services and BDU customers have a choice between at least two distinct ownership groups for BDU carriage or service in a territory. Again, any such rule would apply on a going forward basis only, and would grandfather all existing ownership arrangements.

92 CBC/Radio-Canada submits that this rule for the BDU marketplace would be simple to apply and would interfere in a very limited manner with market forces. The Corporation is also of the view that the adoption of the rule should not require the divestiture of any BDU licensees by any person or ownership group in order to come into compliance at this time.

### **Summary**

93 The importance of having a diversity of voices in the Canadian broadcasting system has long been recognized by the Commission and has



given rise to a number of measures to address this key issue. In CBC/Radio-Canada's view, those measures have worked well over the years.

94 Nonetheless, changes in the broadcasting environment and an evolving policy in favour of greater reliance on market forces suggests that, in general, there should be a long term loosening of constraints on private sector broadcasters aimed at ensuring a diversity of voices. This view is reinforced by the general recognition at the international level that public service broadcasters, such as CBC/Radio-Canada, play a critical role in providing a diversity of voices – a role which provides considerable leeway for market forces to operate in the private sector.

95 In light of these factors, CBC/Radio-Canada has only two proposals with respect to measures aimed at diversity. First, there should be a general rule that no person or group of persons should be permitted to own or otherwise control more than a certain portion of all licensed discretionary services available on each licensed BDU service. Second, there should be a general rule that no single entity should be able to own or control more than two BDUs in a single territory, and that within the Canadian market, no single BDU should control more than a certain portion of the market. Any such rules which limit the level of ownership interests in discretionary and BDU services would apply on a going forward basis.

96 In CBC/Radio-Canada's view, the adoption of these two rules would fill a gap in the current regime while, at the same time, enabling greater reliance on market forces over the longer term. CBC/Radio-Canada submits that this would be the most effective way of achieving the twin goals of a diversity of voices and a primarily market-based broadcasting system.

## Conclusion

97 It is critical to a democratic nation that differing views and opinions have an opportunity to be expressed and heard by the citizens of that democracy. At the same time, it is critical to a healthy society and vibrant culture that there be channels for the expression of the full diversity of experiences, beliefs, attitudes and world views of the members of that society.

98 In the context of the Canadian broadcasting system this means that it is critical that there be a diversity of voices across all of the platforms in the system. At the same time, in order for the broadcasting environment to develop in an efficient and innovative manner, market forces must be able to operate effectively, subject to the minimum constraints necessary to achieve other policy goals, including the maintenance of a diversity of voices.

99 The Commission faces a difficult balancing act when attempting to achieve these two goals – diversity of voices and reliance on market forces. However, that task is eased considerably by the recognition that regulators in many countries across the globe face this same challenge and the consistent conclusion is that it is necessary to place only limited restrictions on private sector broadcasters provided that a strong public service broadcaster exists to ensure a diversity of voices.

100 In CBC/Radio-Canada's view, the same conclusion is available to the Commission in respect of the Canadian broadcasting system. The Corporation has an express mandate from Parliament to reflect the full diversity of Canada in both official languages, across all of its regions and all of its ethnic groups. CBC/Radio-Canada has embraced this mandate and will continue to do so in the future.

101 CBC/Radio-Canada believes that the Commission's existing measures to ensure a diversity of voices have worked well. The Corporation is also the view that many of those measures may be able to be loosened over the longer term and greater reliance placed on market forces subject to three caveats.

102 First, the role of public service broadcasting must remain central to the Canadian broadcasting system. Second, a simple rule to ensure diversity of ownership in respect of discretionary services should be established. Third, a simple rule to ensure diversity of ownership of BDUs should also put in place. CBC/Radio-Canada believes the rules it has proposed would satisfy the last two requirements.

103 CBC/Radio-Canada is convinced that the presence of a strong public service broadcaster and the addition of two simple measures to protect diversity should enable greater reliance on market forces overall without sacrificing the diversity of voices in the Canadian broadcasting system. This, in turn, should help ensure that Canada remains a strong and dynamic democratic society with a vibrant and multi-faceted culture.

104 CBC/Radio-Canada appreciates this opportunity to file comments in this proceeding and believes that this submission provides a comprehensive review of the Corporation's position. However, should the Commission so request, we would be prepared to appear at the oral hearing.

## Appendix A

### Diversity Data for U.K., France, Germany, Australia and Canada

#### VERTICAL CONCENTRATION - RADIO

Canada	France	United Kingdom	Germany	Australia
<p>Restrictions on multiple radio ownership within a single market (depends on size of the market and number of stations operating in it)</p> <p>Competition Bureau reviews mergers and notes generally a 35% market share cap, however, there are many exceptions to this rule.</p>	<p>In relation to radio, limits on the accumulation of licences prevent the holding of licences for analog radio services whose total reach would exceed 150m people.</p> <p>In addition, no person may hold licences for radio services (both analog and digital) whose cumulative potential audience exceeds 20% of the total terrestrial radio audience.</p>	<p>Radio regulatory rules:</p> <ul style="list-style-type: none"> <li>- Two sets of rules involving point systems limiting the acquisition of local analog and digital licences within individual areas;</li> <li>- A set of rules also involving a point system restricting local cross-media ownership between local radio, Channel 3 and local newspapers</li> <li>- Restrictions on the ownership of national and local multiplexes;</li> <li>- The carrying out of a public interest investigation at the Secretary of States discretion; and</li> <li>- Restrictions on ownership by religious (and certain other) bodies.</li> </ul>	<p>Covered under the individual state (Lander) rules where the market structure in private radio reflects regional differences due to the diverse state jurisdictions.</p> <p>On a national level, the KEK notes that no group of radio broadcasters, controlled by the same company, comes close to the market share cap of 30%</p>	<p>A person may not control more than two radio licences within a licence area.</p>

### VERTICAL CONCENTRATION - TELEVISION

Canada	France	United Kingdom	Germany	Australia
<p>No television owner can own more than one stations operating in a given market</p> <p>Competition Bureau reviews mergers and notes generally a 35% market share cap, however, there are many exceptions to this rule.</p>	<p>For national terrestrial television one company can only own</p> <ul style="list-style-type: none"> <li>- a maximum holding in a national TV service (either analog or digital) of 49% where the licence holder has an average annual share of the total Tv audience exceeding 2.5%</li> <li>- a maximum holding of 33% in a local television service (either analog or digital) by the holder of a licence for national analog TV services having an average annual share of the total audience exceeding 2.5%</li> <li>- Where a person holds over 15% of a national analog TV service, may not hold an interest of more than 15% in another holder of such a licence</li> <li>- Where a person holds over 5% in two licences for national analog TV services, it may not hold an interest of more than 5% in another holder of such a licence</li> </ul> <p>Local terrestrial TV ownership must be below 49 per cent.</p>	<p>Public-interest considerations allow the Sec. of State to intervene in media mergers and cross-media mergers posing a threat to plurality of ownership, diversity of content, freedom of expression.</p>	<p>Covered under the Lander rules, the accumulated audience share of television channels, controlled by the same company, should not exceed 30% and is regularly monitored by the KEK.</p>	<p>A person may not control broadcasting licences whose combined licence area includes more than 75% of the population of Australia.</p> <p>A person may not control more than one television licence within a licence area.</p>

### Horizontal (Cross Media) Concentration

Canada	France	United Kingdom	Germany	Australia
<p>The CRTC will review mergers or issue licences with consideration of the financial viability of incumbents, diversity of voices, and other key criteria</p> <p>Relatively unlimited (CRTC examines broadcasters on a case-by-case basis; conditions of licence may require separation of editorial operations of the broadcaster and newspaper.)</p>	<p>No person may hold more than two of the following at <u>national</u> level:</p> <ul style="list-style-type: none"> <li>• Television services (either analogue or digital) with audience reach exceeding 4 million</li> <li>• Radio services with audience reach exceeding 30 million;</li> <li>• Editor or owner of daily newspapers of general circulation with a national share of circulation in excess of 20%</li> </ul> <p>At <u>local</u> level no person may hold more than two of the following:</p> <ul style="list-style-type: none"> <li>• Television services covering the relevant area (either national or local licence);</li> <li>• Radio services covering the relevant area (either national or local licence) whose potential audience exceeds 10% of the potential radio audience in the relevant area;</li> <li>• editor or owner of daily newspapers of general circulation in the relevant area.</li> </ul>	<p>Ban on cross-ownership of newspapers (with more than 20% of total circulation) and Channel-3 services; restriction on participation therein.</p> <p>May be prohibited between radio and newspaper or radio and television at the discretion of the Sec. Of State upon consideration of overlap of coverage areas, audience size and other key factors</p> <p>Public-interest considerations allow the Sec. of State to intervene in media mergers and cross-media mergers posing a threat to plurality of ownership, diversity of content, freedom of expression.</p>	<p>Covered under the Lander rules, the accumulated audience share of television channels, controlled by the same company, should not exceed 30%</p> <p>For companies that also play a dominant role in other media sectors, such as print and radio, the threshold is reduced to 25%.</p>	<p>Cross-media ownership rules will ensure that no fewer than five independent "voices" remain in metropolitan markets and four in regional markets.</p> <p>Cross media mergers involving a commercial radio, television and a newspaper in the same licence area outside mainland State Capitals will required clearance from the ACCC prior to merger.</p>

### Foreign Ownership Restrictions

Canada	France	United Kingdom	Germany	Australia
<p>The Broadcasting Act limits non-Canadian ownership (20% directly, 33.3% indirectly)</p> <p>Net foreign ownership limit of 46.7%</p>	<p>Non-EEA ownership of holders of licences for television or radio services is limited to a 20% maximum.</p>	<p>Non-EEA residents no longer disqualified from holding broadcast licences.</p>	<p>There are no limits on foreign ownership.</p> <p>Both main private broadcasters have extensive media holding across Europe.</p>	<p>Proposals by foreign interests to directly invest in the media sector will require prior approval by the Treasurer.</p>

## Appendix B

### Public Service Broadcaster Legislation (Selections)

#### Australia

#### Australian Broadcasting Corporation

##### AUSTRALIAN BROADCASTING CORPORATION ACT 1983 - SECT 6

##### Charter of the Corporation

- (1) The functions of the Corporation are:
- (a) to provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of national, commercial and community sectors and, without limiting the generality of the foregoing, to provide:
    - (i) broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community; and
    - (ii) broadcasting programs of an educational nature;
  - (b) to transmit to countries outside Australia broadcasting programs of news, current affairs, entertainment and cultural enrichment that will:
    - (i) encourage awareness of Australia and an international understanding of Australian attitudes on world affairs; and
    - (ii) enable Australian citizens living or travelling outside Australia to obtain information about Australian affairs and Australian attitudes on world affairs; and
  - (c) to encourage and promote the musical, dramatic and other performing arts in Australia.

#### Special Broadcasting Service

Special Broadcasting Service Act, 1991, section 6.

**(1)** The principal function of SBS is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society.

- (2)** SBS, in performing its principal function, must:
- (a)** contribute to meeting the communications needs of Australia's multicultural society, including ethnic, Aboriginal and Torres Strait Islander communities; and
  - (b)** increase awareness of the contribution of a diversity of cultures to the continuing development of Australian society; and



- (c) promote understanding and acceptance of the cultural, linguistic and ethnic diversity of the Australian people; and
- (d) contribute to the retention and continuing development of language and other cultural skills; and
- (e) as far as practicable, inform, educate and entertain Australians in their preferred languages; and
- (f) make use of Australia's diverse creative resources; and
- (g) contribute to the overall diversity of Australian television and radio services, particularly taking into account the contribution of the Australian Broadcasting Corporation and the community broadcasting sector; and
- (h) contribute to extending the range of Australian television and radio services, and reflect the changing nature of Australian society, by presenting many points of view and using innovative forms of expression.

## Germany

The wording of the **Basic Law of the Federal Republic of Germany** was largely influenced by the country's experience under the Nazi regime. This explains why it gives pride of place to basic rights, which are binding on all organs of the state. Considering that the media during the Nazi era were brought into line by the government apparatus, it is not surprising that their freedom has since been protected by the constitution. Article 5 (1) and (2) of the Basic Law reads:

"(1) Everybody has the right freely to express and disseminate their opinions orally, in writing or visually and to obtain information from generally accessible sources without hindrance. Freedom of the press and freedom of reporting through audio-visual media shall be guaranteed. There shall be no censorship

(2) These rights are subject to limitations embodied in the provisions of general legislation, statutory provisions for the protection of young persons and the citizen's right to personal respect."

Excerpt from the **Interstate Broadcasting Agreement** (Dated 31 August 1991 (incorporating the third amendment adopted between 26 August and 11 September 1996) )

### Preamble

This Agreement contains the regulatory framework for public service and private broadcasting in a dual system of the states in united Germany. It takes account of European developments in the field of broadcasting.

Public service broadcasting and private broadcasting are committed to the free formation of individual and public opinion and encourage plurality of opinion. Both broadcasting systems must be in a position to respond to the demands of national and international competition.

As new technologies increase the number of broadcasting services in Europe efforts will be made to secure greater variety of information and a broader range of cultural programmes in German-speaking areas. By means of this Agreement, but particularly through further regulatory and promotional measures in the Federal Republic of Germany, continuing support will be given for the production of European television programmes.

The existence and development of public service broadcasting must be secured. This includes its participation in all new technical means of production and transmission and in the provision of new forms of broadcasting. Its financial base, including the equalisation arrangement, must be guaranteed.

## **France**

### Freedom of Communication Act No. 86-1067 of 30 September 1986

#### TITLE III THE PUBLIC AUDIO-VISUAL COMMUNICATION SECTOR Article 43-11

(inserted by Act No. 2000-719 of 1 August 2000, Article 3, Official Journal of 2 August 2000)

The companies listed in Articles 44 and 45 [i.e. public channels France Télévisions, France 2, France 3, La Cinquième, ARTE, Réseau France Outre-mer, Radio France, Radio France Internationale] carry out public service assignments in the public interest. They shall offer the public, taken as a whole, a group of programmes and services which are characterized by their diversity and their pluralism, their requirement of quality and innovation, respect for the rights of the person and of constitutionally defined democratic principles.

They shall present a diversified offer of programmes in analogue and digital modes in the areas of information, culture, knowledge, entertainment and sport. They favour democratic debate, exchanges between different parts of the population as well as integration into society and citizenship. They shall promote the French language and highlight cultural and linguistic heritage in its regional and local diversity. They shall contribute to the development and broadcasting of intellectual and artistic

creation and of civic, economic, social, scientific and technical knowledge as well as to audio-visual and media education. (...)

They shall guarantee the integrity, independence and pluralism of information as well as the pluralist expression of currents of thought and opinion in respect for the principle of the equality of treatment and the recommendations of the Conseil supérieur de l'audiovisuel.

The institutions of the public audio-visual communication sector, with respect to the performance of their assignment, shall contribute to the external audio-visual action, the influence of the French speaking world and the broadcasting of the French language and culture throughout the world. They shall endeavour to develop new services that may enrich or complete their programme offer as well as the new technologies of production and broadcasting of audio-visual communication programmes and services.

## United Kingdom

Excerpt from the BBC Royal Charter (THE 19TH DAY OF JULY 2006)

### 4. The Public Purposes

The Public Purposes of the BBC are as follows—

- (a) sustaining citizenship and civil society;
- (b) promoting education and learning;
- (c) stimulating creativity and cultural excellence;
- (d) representing the UK, its nations, regions and communities;
- (e) bringing the UK to the world and the world to the UK;
- (f) in promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television

### 5. How the BBC promotes its Public Purposes: the BBC's mission to inform, educate and entertain

- (1) The BBC's main activities should be the promotion of its Public Purposes through the provision of output which consists of information, education and entertainment, supplied by means of—
  - (a) television, radio and online services;
  - (b) similar or related services which make output generally available and which may be in forms or by means of technologies which either have not previously been used by the BBC or which have yet to be developed.
- (2) The BBC may also carry out other activities which directly or indirectly promote the Public Purposes, but such activities should be peripheral,

subordinate or ancillary to its main activities. Overall, such peripheral, subordinate or ancillary activities of the BBC should bear a proper sense of proportion to the BBC's main activities, and each of them should be appropriate to be carried on by the BBC alongside its main activities.

(3) The means by which the BBC is, or is not, to promote its Public Purposes within the scope described in this Charter may be elaborated in a Framework Agreement (see article 49).

## **Appendix C**

### **Council of Europe**

#### **Committee of Ministers Recommendation**

#### **Recommendation CM/Rec(2007)3 of the Committee of Ministers to member states on the remit of public service media in the information society**

*(Adopted by the Committee of Ministers on 31 January 2007  
at the 985th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles that are their common heritage;

Recalling the commitment of member states to the fundamental right to freedom of expression and information, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Recalling the importance for democratic societies of a wide variety of independent and autonomous media, able to reflect the diversity of ideas and opinions, and that new information and communication techniques and services must be effectively used to broaden the scope of freedom of expression, as stated in its Declaration on the freedom of expression and information (April 1982);

Bearing in mind Resolution No. 1 on the future of public service broadcasting adopted at the 4th European Ministerial Conference on Mass Media Policy (Prague, December 1994);

Recalling its Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting and its Recommendation Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting, as well as its Declaration on the guarantee of the independence of public service broadcasting in the member states (September 2006);

Recalling Recommendation 1641 (2004) of the Parliamentary Assembly of the Council of Europe on public service broadcasting, calling for the adoption of a new major policy document on public service broadcasting taking stock of recent

technological developments, as well as the report on public service broadcasting by the Parliamentary Assembly's Committee on Culture, Science and Education (Doc. 10029, January 2004), noting the need for the evolution and modernisation of this sector, and the positive reply of the Committee of Ministers to this recommendation;

Bearing in mind the political documents adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, March 2005) and, more particularly, the objective set out in the Action Plan to examine how the public service remit should, as appropriate, be developed and adapted by member states to suit the new digital environment;

Recalling the UNESCO Convention on the protection and promotion of the diversity of cultural expressions (October 2005), which attaches considerable importance to, *inter alia*, the creation of conditions conducive to diversity of the media including through public service broadcasting;

Conscious of the need to safeguard the fundamental objectives of the public interest in the information society, including freedom of expression and access to information, media pluralism, cultural diversity, and the protection of minors and human dignity, in conformity with the Council of Europe standards and norms;

Underlining the specific role of public service broadcasting, which is to promote the values of democratic societies, in particular respect for human rights, cultures and political pluralism; and with regard to its goal of offering a wide choice of programmes and services to all sectors of the public, promoting social cohesion, cultural diversity and pluralist communication accessible to everyone;

Mindful of the fact that growing competition in broadcasting makes it more difficult for many commercial broadcasters to maintain the public value of their programming, especially in their free-to-air services;

Conscious of the fact that globalisation and international integration, as well as the growing horizontal and vertical concentration of privately-owned media at the national and international levels, have far-reaching effects for states and their media systems;

Noting that in the information society, the public, and especially the younger generations, more and more often turn to the new communication services for content and for the satisfaction of their communication needs, at the expense of traditional media;

Convinced therefore that the public service remit is all the more relevant in the information society and that it can be discharged by public service organisations via diverse platforms and an offer of various services, resulting in the emergence

of public service media, which, for the purpose of this recommendation, does not include print media;

Recognising the continued full legitimacy and the specific objectives of public service media in the information society;

Persuaded that, while paying attention to market and competition questions, the common interest requires that public service media be provided with adequate funds for the fulfilment of the public service remit as conferred on them;

Recognising the right of member states to define the remits of individual public service media in accordance with their own national circumstances;

Acknowledging that the remits of individual public service media may vary within each member state, and that these remits may not necessarily include all the principles set out in this recommendation,

Recommends that the governments of member states:

- i. guarantee the fundamental role of the public service media in the new digital environment, setting a clear remit for public service media, and enabling them to use new technical means to better fulfil this remit and adapt to rapid changes in the current media and technological landscape, and to changes in the viewing and listening patterns and expectations of the audience;
- ii. include, where they have not already done so, provisions in their legislation/regulations specific to the remit of public service media, covering in particular the new communication services, thereby enabling public service media to make full use of their potential and especially to promote broader democratic, social and cultural participation, *inter alia*, with the help of new interactive technologies;
- iii. guarantee public service media, via a secure and appropriate financing and organisational framework, the conditions required to carry out the function entrusted to them by member states in the new digital environment, in a transparent and accountable manner;
- iv. enable public service media to respond fully and effectively to the challenges of the information society, respecting the public/private dual structure of the European electronic media landscape and paying attention to market and competition questions;
- v. ensure that universal access to public service media is offered to all individuals and social groups, including minority and disadvantaged groups, through a range of technological means;

- vi. disseminate widely this recommendation and, in particular, bring to the attention of public authorities, public service media, professional groups and the public at large, the guiding principles set out below, and ensure that the necessary conditions are in place for these principles to be put into practice.

***Guiding principles concerning the remit of public service media in the information society***

**I. The public service remit: maintaining the key elements**

1. Member states have the competence to define and assign a public service remit to one or more specific media organisations, in the public and/or private sector, maintaining the key elements underpinning the traditional public service remit, while adjusting it to new circumstances. This remit should be performed with the use of state-of-the-art technology appropriate for the purpose. These elements have been referred to on several occasions in Council of Europe documents, which have defined public service broadcasting as, amongst other things:
  - a) a reference point for all members of the public, offering universal access;
  - b) a factor for social cohesion and integration of all individuals, groups and communities;
  - c) a source of impartial and independent information and comment, and of innovatory and varied content which complies with high ethical and quality standards;
  - d) a forum for pluralistic public discussion and a means of promoting broader democratic participation of individuals;
  - e) an active contributor to audiovisual creation and production and greater appreciation and dissemination of the diversity of national and European cultural heritage.
2. In the information society, relying heavily on digital technologies, where the means of content distribution have diversified beyond traditional broadcasting, member states should ensure that the public service remit is extended to cover provision of appropriate content also via new communication platforms.

**II. Adapting the public service remit to the information society**

- a. ***A reference point for all members of the public, with universal access offered***



3. Public service media should offer news, information, educational, cultural, sports and entertainment programmes and content aimed at the various categories of the public and which, taken as a whole, constitute an added public value compared to those of other broadcasters and content providers.
4. The principle of universality, which is fundamental to public service media, should be addressed having regard to technical, social and content aspects. Member states should, in particular, ensure that public service media can be present on significant platforms and have the necessary resources for this purpose.
5. In view of changing user habits, public service media should be able to offer both generalist and specialised contents and services, as well as personalised interactive and on-demand services. They should address all generations, but especially involve the younger generation in active forms of communication, encouraging the provision of user-generated content and establishing other participatory schemes.
6. Member states should see to it that the goals and means for achievement of these goals by public service media are clearly defined, in particular regarding the use of thematic services and new communication services. This may include regular evaluation and review of such activities by the relevant bodies, so as to ensure that all groups in the audience are adequately served.

**b. *A factor for social cohesion and integration of all individuals, groups and communities***

7. Public service media should be adapted to the new digital environment to enable them to fulfil their remit in promoting social cohesion at local, regional, national and international levels, and to foster a sense of co-responsibility of the public for the achievement of this objective.
8. Public service media should integrate all communities, social groups and generations, including minority groups, young people, old persons, the most disadvantaged social categories, persons with disabilities, while respecting their different identities and needs. In this context, attention should be paid to the content created by and for such groups, and to their access to, and presence and portrayal in, public service media. Due attention should be also paid to gender equality issues.
9. Public service media should act as a trusted guide of society, bringing concretely useful knowledge into the life of individuals and of different communities in society. In this context, they should pay particular attention to the needs of minority groups and underprivileged and disadvantaged

social categories. This role of filling a gap in the market, which is an important part of the traditional public service media remit, should be maintained in the new digital environment.

10. In an era of globalisation, migration and integration at European and international levels, the public service media should promote better understanding among peoples and contribute to intercultural and inter-religious dialogue.
  11. Public service media should promote digital inclusion and efforts to bridge the digital divide by, *inter alia*, enhancing the accessibility of programmes and services on new platforms.
- c. *A source of impartial and independent information and comment, and of innovatory and varied content which complies with high ethical and quality standards***
12. Member states should ensure that public service media constitute a space of credibility and reliability among a profusion of digital media, fulfilling their role as an impartial and independent source of information, opinion and comment, and of a wide range of programming and services, satisfying high ethical and quality standards.
  13. When assigning the public service remit, member states should take account of the public service media's role in bridging fragmentation, reducing social and political alienation and promoting the development of civil society. A requirement for this is the independent and impartial news and current affairs content, which should be provided on both traditional programmes and new communication services.
- d. *A forum for public discussion and a means of promoting broader democratic participation of individuals***
14. Public service media should play an important role in promoting broader democratic debate and participation, with the assistance, among other things, of new interactive technologies, offering the public greater involvement in the democratic process. Public service media should fulfil a vital role in educating active and responsible citizens, providing not only quality content but also a forum for public debate, open to diverse ideas and convictions in society, and a platform for disseminating democratic values.
  15. Public service media should provide adequate information about the democratic system and democratic procedures, and should encourage participation not only in elections but also in decision-making processes and public life in general. Accordingly, one of the public service media's roles

should be to foster citizens' interest in public affairs and encourage them to play a more active part.

16. Public service media should also actively promote a culture of tolerance and mutual understanding by using new digital and online technologies.
  17. Public service media should play a leading role in public scrutiny of national governments and international governmental organisations, enhancing their transparency, accountability to the public and legitimacy, helping eliminate any democratic deficit, and contributing to the development of a European public sphere.
  18. Public service media should enhance their dialogue with, and accountability to, the general public, also with the help of new interactive services.
- e. *An active contributor to audiovisual creation and production and to a greater appreciation and dissemination of the diversity of national and European cultural heritage***
19. Public service media should play a particular role in the promotion of cultural diversity and identity, including through new communication services and platforms. To this end, public service media should continue to invest in new, original content production, made in formats suitable for the new communication services. They should support the creation and production of domestic audiovisual works reflecting as well local and regional characteristics.
  20. Public service media should stimulate creativity and reflect the diversity of cultural activities, through their cultural programmes, in fields such as music, arts and theatre, and they should, where appropriate, support cultural events and performances.
  21. Public service media should continue to play a central role in education, media literacy and life-long learning, and should actively contribute to the formation of knowledge-based society. Public service media should pursue this task, taking full advantage of the new opportunities and including all social groups and generations.
  22. Public service media should play a particular role in preservation of cultural heritage. They should rely on and develop their archives, which should be digitised, thus being preserved for future generations. In order to be accessible to a broader audience, the audiovisual archives should, where appropriate and feasible, be accessible online. Member states should consider possible options to facilitate the accomplishment of such projects.

23. In their programming and content, public service media should reflect the increasingly multi-ethnic and multicultural societies in which they operate, protecting the cultural heritage of different minorities and communities, providing possibilities for cultural expression and exchange, and promoting closer integration, without obliterating cultural diversity at the national level.
24. Public service media should promote respect for cultural diversity, while simultaneously introducing the audience to the cultures of other peoples around the world.

### **III. The appropriate conditions required to fulfil the public service remit in the information society**

25. Member states should ensure that the specific legal, technical, financial and organisational conditions required to fulfil the public service remit continue to apply in, and are adapted to, the new digital environment. Taking into account the challenges of the information society, member states should be free to organise their own national systems of public service media, suited to the rapidly changing technological and social realities, while at the same time remaining faithful to the fundamental principles of public service.

#### **a. Legal conditions**

26. Member states should establish a clear legal framework for the development of public service media and the fulfilment of their remit. They should incorporate into their legislation provisions enabling public service media to exercise, as effectively as possible, their specific function in the information society and, in particular, allowing them to develop new communication services.
27. To reconcile the need for a clear definition of the remit with the need to respect editorial independence and programme autonomy and to allow for flexibility to adapt public service activities rapidly to new developments, member states should find appropriate solutions, involving, if needed, the public service media, in line with their legal traditions.

#### **b. Technical conditions**

28. Member states should ensure that public service media have the necessary technical resources to fulfil their function in the information society. Developing a range of new services would enable them to reach more households, to produce more quality contents, responding to the expectations of the public, and to keep pace with developments in the digital environment. Public service media should play an active role in the technological innovation of the electronic media, as well as in the digital switchover.

**c. *Financial conditions***

29. Member states should secure adequate financing for public service media, enabling them to fulfil their role in the information society, as defined in their remit. Traditional funding models relying on sources such as licence fees, the state budget and advertising remain valid under the new conditions.
30. Taking into account the developments of the new digital technology, member states may consider complementary funding solutions paying due attention to market and competition questions. In particular, in the case of new personalised services, member states may consider allowing public service media to collect remunerations. Member states may also take advantage of public and community initiatives for the creation and financing of new types of public service media. However, none of these solutions should endanger the principle of universality of public service media or lead to discrimination between different groups of society. When developing new funding systems, member states should pay due attention to the nature of the content provided in the interest of the public and in the common interest.

**d. *Organisational conditions***

31. Member states should establish the organisational conditions for public service media that provide the most appropriate background for the delivery of the public service remit in the digital environment. In doing so they should pay due attention to the guarantee of the editorial independence and institutional autonomy of public service media and the particularities of their national media systems, as well as organisational changes needed to take advantage of new production and distribution methods in the digital environment.
32. Member states should ensure that public service media organisations have the capacity and critical mass to operate successfully in the new digital environment, fulfil an extended public service remit and maintain their position in a highly concentrated market.
33. In organising the delivery of the public service remit, member states should make sure that public service media can, as necessary, engage in co-operation with other economic actors, such as commercial media, rights holders, producers of audiovisual content, platform operators and distributors of audiovisual content.