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Problems and Solutions for Public Service Broadcasting: Reflections on a 56 country study[1]

Chapter Forthcoming in:

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In the mid to late 20th century, a range of institutionalised settlements for broadcasting were established around the world. These set out rules for relationships between broadcasters and the State, the number of broadcasters, license conditions and geographical scope. In doing so, they determined, to a great extent, the potential share of the broadcasting audience and revenue enjoyed by various broadcasters. We can identify three main approaches: In the US and most Central and South-American media systems, the broadcasts with the largest share of audience were aired by private corporations with some rather weak legal requirements to serve the public interest in return for privileged distribution. In Western Europe and some similar markets such as Japan, Canada and Australia, public policy has consistently supported the provision of large scale public service broadcasting (PSB) with support from public funding and distribution privileges. In non-democratic societies such as China, broadcasters – whilst funded by advertising – remain part of the State and enjoy distribution monopolies or near monopolies. There are many hybrids, developmental trajectories and transition cases between these three fundamental types of broadcasting systems.

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[1] Parts of this Chapter were previously published as a working paper by the Open Society Foundation as '*Public Media and Digitization: Seven Theses'*. In Open Society Foundation: *Digital Journalism: Making News, Breaking News*. September 2014. 75-106. This chapter refers to the country reports of the Mapping Digital Media study in the shorthand form: MDM France, MDM Thailland and so on. Reports were published between 2011 and 2014.

Each of these models has disadvantages. Whilst there may be legal guarantees of public service broadcaster independence, in practice, government discretion over funding and top appointments often compromises independence. But commercial broadcasting companies are not immune from close and potentially corrupt relationships with governments, as they also rely on distribution privileges such as access to spectrum, and resources such as government-commissioned advertising. In all cases, relationships among broadcasters and the State constitute key challenges for the legitimacy and trust of both broadcasters and State institutions because of the profound influence broadcasting can have on public opinion.

Technological and market changes associated with the shift to the digital have forced a reassessment of the fundamental institutionalized settlement in each case. At the time of writing, policy debates about the fundamental settlement for the funding, distribution and legal framework of both State administered and public service broadcasters (SA/PSBs) are ongoing around the world. There is a wide range of potential outcomes, including the withering and eventual decline of the public service model. On the one hand, in those media systems with significant public service elements there may be a need to re-State the case for public media in a post-broadcasting world, with many claiming that its justification no longer holds in a world of unbridled consumer choice. On the other hand, with commercial media competing directly with free public media it may be that publicly-funded media rather than commercial media are best placed to thrive in harsh economic times.

There is also considerable uncertainty about the implications of digitisation for media independence. Media reform advocates have seen increased independence of both

public and private media from political interests as an inevitable outcome of the digital transition. The reality may be less rosy, given that of the rising powers of Brazil, Russia, India, China and South Africa, only India and South Africa have any conceivable claim to an independent public service broadcaster.

At a time when there is so much at stake, it is perhaps no wonder that academic and public debate about public service media is often polarised, self-interested and ill informed. On the one hand, commercial media claim they are in crisis and that the availability of free public media undermines their ability to sell independent news content over a range of platforms; on the other hand, public service media claim to be in crisis around the world due to the capture of policy by corporate interests, the undermining of their distribution privileges and the narrowing of their remit (Freedman, 2008). Experts are divided on this matter: As long ago as 1998, Michael Tracey announced the decline and fall of PSB, but Chris Hanretty (2012, p.7), having reviewed the available evidence, argued that "public service broadcasting enjoys far ruder health than the declinist narrative suggests."[2]

Comparative research is surprisingly unhelpful to those attempting to unravel the broader policy trends and directions in relation to 'State administered and public service media' (SA/PSM). A huge amount of scholarship and commentary on public service media around the world has focused on the normative 'ought' – setting out policy proposals and commitments that seek to influence the debate concerning the appropriate long term balance between State, public and private media post digital transition. Less attention has been dedicated to the empirical question of how public service media and

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[2] Hanretty's survey takes very little account of the PSBs of Central and Eastern Europe.

its regulation have in fact responded to the early years of the digital transition[3]. The Mapping Digital Media (MDM) study[4], perhaps the largest ever study of media policy, attempted to further our empirical understanding of PSB development by examining the impact of digitisation on SA/PSM in 56 countries around the world.

The Mapping Digital Media study reports 56 country *case studies* of media policy between 2009 and 2014. Whilst there are numerous methodological challenges as regards making global claims on the basis of country reports, the latter are useful means to generate hypotheses, and, in combination with data from other sources, to develop mid-range theoretical insights on the institutional processes of policy change related to PSB. Quantitative or audience data present comparability problems, but the study was conducted according to a common template provided by an editorial commission, including the author of this chapter, and dedicated a section to 'State administered and public service broadcasters'.

Findings: Public Service Media and the Digital Transition

The detailed findings of the MDM reports are summed up in the reports themselves, and also in a separate summary published by the Open Society Foundations in 2014 (Tambini, 2014). In the following section, some of the key findings are reviewed. This chapter then provides some key observations on public service media policymaking

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[3] There are some exceptions, see Brevini (2013).
[4] All the reports for the Mapping Digital Media Study can be found at http://www.opensocietyfoundations.org/projects/mapping-digital-media. Readers should refer to the country reports: Throughout this chapter, when referring to the media in a given country, I am drawing upon the findings of the report for that country.

processes and subsequently outlines a conceptual framework that can be applied in multiple settings.

One key finding of the reports is that whilst public service broadcasters are in decline, the demise of the sector has been exaggerated. Moreover, there are some ways that the sector is stronger than commercial models. In the last century, whilst the overall broadcasting audience continued to grow in all countries, the *share* of audience for public service broadcasting has declined. Recently, declines in audience share for the main public service broadcasting channels have been related to the explosion of channel choice and digitisation, but in fact trends started earlier – with the end of the public service monopolies between 1960 and 1990. MDM data show that this decline has continued in the period of the study since 2005. The rise of commercial, subscription and private broadcasters has inevitably resulted in audience decline, but not audience collapse. In some countries such as Sweden, Morocco and Turkey, audience declines are smaller. Revenue of public broadcasters, on the other hand, is declining more slowly than audience shares, because license fee and other forms of public funding do not decline proportionately to the audience[5].

Whilst the audience and revenue for public service channels might be holding up rather well, the remit of those channels is increasingly contested, in part because of political pressure, but more fundamentally because the increase in channel choice empowers audiences and in many cases encourages public broadcasters to take a more populist route to retain audience in a competitive environment. In effect, despite public service broadcasters having been accused of weakening their remits in order to chase audience

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[5] These points are discussed at length in Tambini (2014). See also Ofcom 2012, Fig. 3.18; Kleis Nielsen and Linnebank (2011).

share, public service remits have been strengthened by more consistently enforced regulatory frameworks such as the European public value framework[6].

Nevertheless, although media reformers saw the digital transition as an opportunity for the reform of State broadcasters and their conversion into PSBs, there is very little evidence that this has occurred in practice. In Thailand, Taiwan and other countries there are some signs that more independent, public service oriented broadcasters are being established, but such efforts are isolated and fragile.

Technological changes such as digitisation will not inevitably lead to the rise of stronger, more independent, public service broadcasters. Nor will they end PSB. Long term institutional changes are neither inevitable outcome of structural and technological changes nor are they purely the projections of policymakers. Rather, they emerge through the interplay between decisions, ideas and the long-term structural and institutional processes we have just described. The interaction between structure and agency, micro and macro aspects takes place through policy debate and in the redefinition of the governance settlement. It is to that decision-making process that I now turn.

Media Wars

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[6] The European Framework is described in: Communication from the European Commission on the application of State aid rules to ublic service broadcasting (*Official Journal C 257* of 27 October 2009). See also MDM country reports, section 6; Ofcom, *International Communications Market Report* 2012, Fig. 3.1; Fig. 3.18.

Is PSB policymaking a process of what Giandomenico Majone (1989) called 'rational decisionism' – an inclusive, rational-critical process of deliberation over the public interest, or is it a more contested site of competing private and sectoral interests?

It was this aspect that provided perhaps the most marked results from the study. All over the world, regardless of degrees of development of media systems or democratic governance structures, the process of PSB policymaking was described as opaque, conflict-ridden and subject to capture by private interests. More detailed findings of the study have been published separately (Tambini 2014), and this reflection focuses on the process questions: How is policy on public service media made around the world, and how might the policy process be rendered more transparent, inclusive and effective?

It has long been acknowledged that because of the size and influence of PSBs, policy debates become politicised 'Media Wars' (Jakubowicz, 2001, p.70, Voltmer, 2013, pp.151-157, Price and Raboy, 2003, p.226), when once-settled policy balances (such as funding, the relationship with commercial competitors and new services) are contested. The charge made by these authors, who draw on the experience of Central and Eastern Europe since the 1990s, is that through broadcasting policy, political actors are involved in a contest for influence over PSB and its opinion forming power. What is the evidence of the battles that are being fought over SA/PSM around the world? Is civil society involved? And to what extent are the subtle balances between government, political parties, public media and private media being altered by the processes of digitisation?

One marked finding of the country reports was that whilst rapid technology change demands rapid policy change and tends to thrust urgent questions into the policy arena,

the technical complexity of the PSB debate impedes civil society involvement. Furthermore, public interest reforms are often contested and difficult to legitimise. Technological and market change may thus offer a clear rationale for policy change, but nonetheless may be exploited for political purposes. For example, the removal of advertising from PSB services in France by the Sarkozy administration was justified in terms of market changes but may have been seen as an attack on media freedom or independence of the PSB. Where political party systems are based on cleavages between pro and anti-market parties, there may remain the suspicion that parties favour the corresponding public or private broadcasters (see Kuhn in Iosifidis, 2010, p.162; MDM France, 2013, p.35). Similarly, in Spain the combination of financial crisis and digital reform led to a new funding settlement based on a new PSB tax and advertising controls but a lack of consensus in favour of such reforms.[7]

These complex new settlements offer ample potential for obscure political deal-making. Voltmer (2013) argues that conflicts between governments and PSBs follow a pattern. "At the center of the ongoing conflicts over public service broadcasting in the region are attempts by governments to compromise the independence of the broadcast organisation by manipulating the regulatory and administrative bodies. The issue of who controls these bodies has been contested right from the start of media transformation in Eastern Europe" (Voltmer, 2013, p.156). This politicization of policy debate is not confined to one region: In the U.S., policy debates about the (very small) subsidies provided to PSM are conducted with reference to a politicized set of assumptions about perceived State interference and liberal bias.[8]

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[7] See Arriaza Ibarra (2013).
[8] Analyses of policy processes in relation to PSB include Des Freedman (2008) and, focusing more on comparative analysis, Just and Puppis (2012). See also Iosifidis (2007).

The 'media wars' thesis casts doubt on optimistic views that digitisation and the consequent increase in openness of markets improves transparency of media-State relationships and contributes to the breakup of opaque media-State relationships and other forms of 'political parallelism' (Hallin and Mancini, 2004). But some theorists offer a more optimistic view of the political and policy process and the role of ideas in policymaking processes.

Künzler (2012) argues that a pragmatic discussion about ideas for change is the crucial variable in determining the degree to which structural shifts (such as digitisation and other forms of technological and market change) are linked to outcomes (such as media liberalisation or the decline of PSB). His analysis suggests that policy outcomes are not the direct result of technological changes but are mediated by ideas about the role of broadcasting in society. In the light of the reports however, it is clear that power and opaque sectoral interests play a crucial role in PSB debate in most cases which might suggest that Künzler's arguments should be re-examined.

The key constituencies in the PSB debate are:

- Government, Parliament and political parties who can control access to key resources and also influence the institutional and regulatory framework by influencing public opinion;

- competing media which might want access to resources such as spectrum, but may also want to keep control of the advertising market, and who also have very important resources in terms of influence over politicians;

- SA/PSBs themselves who possess key resources such as lobbying and access as well as control over news agendas and framing, and who also have clear institutional interests.

In summary, the MDM reports suggest that policymaking on PSB is particularly contested and opaque because, in addition to policy issues being technical, PSB is a key gatekeeper for framing reality with huge influence over the political and cultural life of the nation. The fourth constituency – citizens – is largely missing from public debate on the future of the media. The relationships among State/government/political parties and the SA/PSB remain a constant source of conflict and contest.

The future of SA/PSB is not being decided in a rational process of evidence-based policy debate over long-term priorities and the public interest. Whilst broadcasting policy can occasionally spill over into popular consciousness – and even street protests as it did in Georgia in 2008, and in South Korea in 2014 – policy discussion on the role of both State and public service broadcasters tends to be a process in which a very small clique of interested parties input into technical issues (e.g. standards, distribution costs, spectrum planning and competition policy) that determine the long term viability of public service media. The results are not promising. As the project correspondent in Bosnia put it, PSBs in Bosnia-Herzegovina are "still not capable of fulfilling their public role (…) The influence of politics in the media and the heritage of the past are still very strong" (MDM Bosnia and Herzegovina, 2012, p.38). Pressures that are brought to bear on broadcasters are not transparent. Even the role of Parliament, as opposed to opaque contacts between politicians and the media, is in most cases limited

due to the subtle, obscure reciprocities in the context of which broadcaster power is allocated and regulated.

Transforming PSM: A Guiding Framework

There has been a sustained effort on the part of media reform campaigners and NGOs to use the reform opportunities triggered by digitisation to encourage the transformation of State-administered broadcasters into genuinely independent public service broadcasters. Many of those involved saw the digital transition as an opportunity to open up markets[9]. Where PSBs were firmly established prior to the introduction of digital media, civil society campaigns have focused on renewal: The transformation of public service broadcasting into 'public service communications' (Tambini and Cowling, 2004), or 'public service media' (Iosifidis, 2007; 2011; Jakubowicz in Klimkiewicz, 2010[10]).

The following section outlines a simplified normative framework for civil society claims-making on public media. Given the variety of media systems worldwide and the national level on which PSB questions tend to be resolved, there can be no unified policy prescription. In some countries, the 'PSB' being subject to capture, liberalisation of spectrum allocation and an increasing involvement on the part of commercial providers might be in the public interest. In another context, the PSB should be assisted and strengthened during its transition to public service media, perhaps at the cost of commercial media. However, in each case, the necessity for transparency in the various elements of the public service media compact requires new frameworks which can also outline some new roles for critical policy research.

[9] See, for example, Smith (2012) and Mendel (2011).
[10] See also Council of Europe, Committee of Ministers CM/Rec (2007) 3 on the *Remit of Public Service Media in the Information Society*, and Lowe and Steemers (2012).

A Simplified Framework for PSB Advocacy: Promoting Civil Society Involvement in a New "Settlement" on PSM [11]

Table 4.1 sets out in a simplified form some of the key institutional relationships between broadcasters and the State in different contexts.

<TABLE 4.1 HERE>

There is an urgent need for such simplifying frameworks for policy advocacy in relation to SA/PSB. This can be provided by the following outline plan:

1. *Civil society should lead an audit of regulatory assets*. Law and regulation can offer a range of benefits to media. These include access to spectrum and public funding for broadcasting, but also legal privileges such as journalistic privilege and shield laws, fiscal benefits such as VAT exemptions, distribution privileges such as must-carry rules, application of sector specific competition regulation, net neutrality rules and rules on prominence such as Electronic Programme Guide regulations. Civil society should develop simple ways of presenting the value and benefit of such assets to the media and argue that they should be offered in the public interest or not at all.

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[11] This chart presents, in a simplified way, some of the key elements of the institutional relationship between broadcasters and the State. Syvertsen (2003) presented the role of PSB in terms of a balance of privileges and obligations, and a similar framework was also used by Ofcom (2004).

2. Civil society should make clear that benefits, privileges and regulatory assets should be offered in return for benefits to the public, and certainly not to private interests such as those of individual politicians, parties or incumbent regimes. This requires *two key institutional guarantees: transparency in the award of all media privileges and independence of the relevant regulatory authority*, whether that authority is a court or a sector regulator.

3. A key objective of advocacy is to clarify that access to such regulatory assets and privileges should be *conditional on those institutional guarantees and on an assessment of whether the public interest is thereby served*. If this is not the case, then a market solution rather than intervention on behalf of the public is likely to benefit the public. These privileges are the gift of the public and should be awarded only in return for public benefits.

4. The digital transition undermines most elements of the pre-existing social compact for the media. Therefore, all elements of the 'electronic media social compact' need to be revisited and reviewed during the digital transition. There should be a policy review which includes *a call for a new 'settlement' on public service* in electronic media. If crucial tests of independence, transparency and public accountability are not met, there should be a public call for removal of privileges.

The Distribution Settlement

Many State administered and public service media have legal obligations to be universally available, but to ensure that broadcasters do reach the vast majority of citizens requires a range of further interventions. Digitisation has triggered a widespread need to renegotiate the basic settlement for distribution of PSB services. In the analogue world, PSB enjoyed major distribution privileges, principally in the form of rights to use spectrum for terrestrial wireless distribution of radio and television services. PSBs tended to own and operate the transmitter network and did not pay market prices (if any price) to use frequencies. New distribution platforms such as satellite, cable and IPTV undermine the value of such distribution privileges. The distribution settlement has only rarely been debated in the open, and then this has occurred in a rather piecemeal, ad hoc fashion. *Spectrum Pricing and Auction Arrangements, Retransmission Fees* i.e. fees paid by PSBs for distribution on Pay TV platforms (see MDM Slovakia, 2013, p.3; MDM Peru, 2012, pp.29-30) and *Net Neutrality* rules are examples of key aspects of the digital distribution settlement for public service media.

New platforms

The ability of public policy frameworks to give distribution privileges to public service media is much diminished on new platforms. The issue of net neutrality for IPTV services carried by PSBs has risen up the agenda as a growing proportion of consumers in some key PSB markets such as Japan and the Netherlands (Ofcom, 2012) use IPTV as a principle means of access to PSB/PSM services. If networks are able to deploy traffic management to prioritise some services over others, this opens up a scenario whereby PSBs will need to pay for distribution on IP platforms or see their services suffer from slowdowns in comparison to other services. This is why PSBs at the

European level have become involved in advocating for positive net neutrality regulation.

There are many instances of State broadcasters and public broadcasters acting as the enemy to market entry, thereby preventing the pluralisation that digitisation should make possible. In Kazakhstan, the State broadcaster has been permitted to launch a number of niche television channels on the DTTV platform (MDM Kazakhstan, 2013). These benefit from rules such as must-carry, with the additional implication that they make it much more difficult for new entrants to benefit from newly released commercial broadcasting licences.

The Funding Settlement

All over the world, the funding mechanisms for public broadcasting are under pressure. The PSB lobby group, the European Broadcasting Union, is openly discussing alternatives to the licence fee. Advertising funding has proven to be particularly vulnerable and volatile in recent years. As debates in France and Spain illustrate, the removal of advertising from PSM, as well as its overall regulation under the European Audio Visual Media Services Directive will be key policy decisions that impact the viability of PSM.

New funding models are emerging, such as the 'sin tax' in Thailand (on alcohol and tobacco); and new commercial, advertising and hybrid models are being created. Increasingly, these pose questions in terms of personal data and the relationship with the individual viewer. The trend in Europe to shift funding from the receiver licence fee to

taxation (as in Finland) or to a general household charge (as in Germany) raises questions for PSB independence. Where new mechanisms such as distributed funding are considered, these should be entirely independent of existing broadcasting institutions and political interests. New income models as alternatives to the licence fee should be developed to commission and subsidise public service content for publication on multiple channels (Price and Raboy, 2003; Ofcom, 2012. See also Hanretty (2012), Nissen (2006); Just and Puppis (2012, pp.357-8)).

The Competition, Remit and New Services Settlement

Are PSBs able to innovate and grow onto new platforms or are they viewed as organisations that primarily exist for broadcasting? In practice, whether PSBs are free to innovate and launch new services depends on the legal, policy and regulatory framework they are operating in. In some cases, the framework proactively enables new service development by setting out a long term strategy. In others, it is the lack of effective regulation that permits PSM innovation. The MDM reports reveal in a large number of cases that existing regulation has significantly hindered new service development.

For example, in a number of countries (for example, Macedonia), new services cannot be launched without a change in the law approved by Parliament. Elsewhere in Europe a 'public value test' approach has become the norm for PSBs. State broadcasters are usually more free to launch new services than are PSBs with genuine operational independence. In Nigeria, the State broadcaster was free to launch new DVB-H services and a long list of others. Swedish PSB, like Japan, and Germany until recently, restricts

PSB new services strictly to the PSB remit. It does not allow advertising-funded services and requires a 'clear connection' to broadcasting services. In Thailand, a PSB online plan has set out the long term objective of developing services that go beyond the broadcast content, including niche services (MDM Thailand, 2010, p.26).

Policy activity on PSM is problematic because of its political sensitivity. Constant negotiation with government about the role of PSM in the new sector is itself a threat to independence of media and policy. Determining the future of SA/PSB tends to involve non-transparent reciprocities and powerbroking rather than debate on the long term public interest.

It is useful to recall that where the State has some control over broadcasters, the struggle to make them independent is likely to be hard fought and pose difficult questions about working directly with political parties. Where there is control of PSB by local elites, reform processes can come to an abrupt halt when opposition forces suddenly stop the reform upon coming to power and enjoying influence and patronage at the PSB (as was the case in Romania, Macedonia and Serbia). Advocacy and coalition-building strategies should predict and plan with this in mind, maintaining distance from all political parties or a cross-party/ bipartisan approach.

In conclusion, civil society needs to reclaim the debate about media organisations and their public responsibilities. In order to do so, it needs to a) find ways of radically simplifying this debate in order to open it to non-experts, b) make abundantly clear the social contract setting out responsibilities and reciprocities between media organisations

and the public, and c) undermine and expose the opaque reciprocities between media organisations and private and State interests.

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