

41<sup>st</sup> EPRA meeting  
Berne, 14-15 May 2015

### Plenary Session 1

## How to ensure a sustainable ecosystem for media content in Europe Focus on Consumption & Distribution aspects

### Background Paper<sup>1</sup>

Maria Donde, Ofcom (UK)

#### Introduction

The [EPRA Annual Work Programme](#) focuses this year on the ultimate goals of media policy, namely how to ensure a sustainable ecosystem for the supply and distribution of media content in Europe that is financially viable and offers a diversity of supply, content and exposure.

The yearly Plenary theme, with two sessions scheduled for spring and autumn, builds on the value of having a thriving creative base for Europe by looking at the ways to ensure a sustainable ecosystem for the supply and distribution of media content and the various roles that media regulators can play in the process.

The session in Berne will focus on **consumption and distribution aspects of media content** in Europe and will inter alia cover issues of **fragmentation of markets, access to platforms and content** for users and service providers. It will look at the **changes in distribution and consumption triggered by digital technologies** and analyse the **role that regulatory authorities play in documenting new consumption and distribution patterns** and in **providing fair access to content and platforms**.

In this paper, we provide a brief introduction to these topics, including an overview of how content has traditionally been created, distributed and monetised; of what we mean by a “sustainable ecosystem” and the extent to which regulators are responsible for supporting it; of trends in consumption and distribution changes and the challenges these pose to the old model of the (creation and) distribution of content; and speculation about the future of the content ecosystem.

The speakers at the Plenary will elaborate these topics, in particular:

- how the content ecosystem has developed; and the emergence of new players and new relationships in the content production sector, changes in the ecosystem
- the policy objectives of regulation in this area
- how recent changes in consumption and distribution have revealed gaps in regulation (and how the OTT space is coordinated) and how these might be addressed

---

<sup>1</sup> **Disclaimer: This background document has been produced for an internal meeting by EPRA, an informal network of 52 regulatory authorities in the field of broadcasting. It is not a fully comprehensive overview of the issues, nor does it purport to represent the views or the official position of EPRA or of any member within the EPRA network.**

- how new platform viewing is measured, and the technologies involved; and what the data shows, what changes are evident, and what patterns can be seen
- the relationship between audience data collection and content funding (advertising; informing production companies and broadcasters about audience preferences).

The subsequent panel discussion will develop the ideas presented by the two keynote speakers with references to specific cases, the day-to-day work of the two regulators represented, the different interventions that have been applied by regulators and their relative merits, how regulators document patterns in consumption and distribution of content and changes in the markets.

We also include a set of questions in this paper. These, like the paper as a whole, are intended to provoke thought and reaction ahead of the Plenary session, and to encourage as many EPRA members as possible to contribute their own views and experiences on these questions to the planned debate.

### **I. TV content industries in Europe: Broadcasters at the heart of the ecosystem**

In the EU, the television content industry has developed into a complex ecosystem with traditional broadcasters at its heart – and at the heart of the regulatory framework for content. Broadcasters have for many years played a central role in keeping this ecosystem alive: funding production directly and through commissioning and providing content for distribution by platforms to consumers.

Around them grew a huge industry comprising independent production companies, post-production services, distribution platforms, broadcasters (PSBs, commercial free to air, and subscription services) and device manufacturers – and, indirectly connected, businesses from the film and advertising industries<sup>2</sup>.

Until recently, that ecosystem has been relatively stable and relatively simple: content was created and funded through levies, subscription fees and/or advertising, and was distributed via one or two different technologies (cable, satellite, terrestrial spectrum) to a single device: the television.

The Public Service Broadcasting (PSB) system laid the foundations for the development of the content ecosystem in Europe, with most countries following the original model pioneered in the UK by John Reith. But the PSB model was not without its critics from the very beginning, and the premise on which it was built – the provision of enlightening and educational content and news, avoiding commercialisation through public taxation – led to accusations of elitism and paternalism, and a lack of plurality and choice.

Furthermore, public funding led to accusations that the public service broadcasters could act as a mouthpiece for government. As a result, Europe saw the development of a commercial alternative, offering popular programming funded entirely through advertising and – eventually – subscriptions.

---

<sup>2</sup> According to the European Audiovisual Observatory, EU audiovisual revenues have remained at around the EUR 130 billion level for the last four years (to 2013). (European Audiovisual Observatory Yearbook 2014, p19).

This commercial alternative served not only to provide an alternative – independent – view, but also to act as a balance for the public service monopoly.

And commercialisation did not necessarily mean a reduction in quality or desirable content, because it was possible to offer commercial channels benefits in kind for the provision of certain types of content. Benefits included access to scarce spectrum, and the kinds of content that were deemed desirable for an open and pluralistic media – news, quality drama, local content – could be prescribed via quotas. In a multichannel environment, different kinds of benefits could be leveraged, such as prominence in an Electronic Programme Guide (EPG), and a must-carry regime.

Crucially, then, and perhaps in contrast with – for example – the United States, the idea of broadcasting developed in Europe as a cultural good rather than a purely consumer one. And alongside the development of the content infrastructure we therefore saw the development of a regulatory framework intended to ensure that this good continued to provide a set of desirable cultural and social benefits and maintain a pluralistic media supporting cultural diversity (the focus of EPRA’s second Plenary theme this year, which takes as its assumption that media pluralism and diversity of media content are essential for the functioning of a democratic society and are the corollaries of the fundamental right to freedom of expression and information).

#### **Questions for discussion:**

- What were the most successful elements of the traditional ecosystem? Where has it worked well and where less well? What lessons can be learned?

## **II. What is a desirable ecosystem?**

When we describe a desirable ecosystem, we talk about the distribution of original and high quality audiovisual content to the widest possible audience. As noted, this has to date been more or less successfully delivered in Europe by a plurality of institutions with different remits, ownership models and funding structures – all of which build up our current audiovisual landscape.

A key part of that delivery has doubtless been the continued understanding of the PSB system, and the characteristics of “high-quality” content that it has helped to develop. These are the characteristics that are supported by regulation, which safeguards the production of certain types of programming that are considered to be in the public interest.

The EBU has defined six core values shared by public service media<sup>3</sup>. These are:

- **Universality** - to reach everyone, everywhere
- **Independence** - to be trusted programme makers
- **Excellence** - to act with integrity and professionalism

---

<sup>3</sup> [http://www3.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Empowering-Society\\_EN.pdf](http://www3.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Empowering-Society_EN.pdf)  
<http://www3.ebu.ch/home/learning-and-networking/psm-values-review/aside/content-reference%40psm-values-review-the-tool.html>

- **Diversity** - to take a pluralistic approach
- **Accountability** - to listen to audiences and engage in meaningful debate
- **Innovation** - to be a driving force for innovation and creativity

Transposing PSB values to high quality content in general, we can describe it as being well-funded and produced, original (new content produced in Europe), innovative and challenging. High quality content should inform our understanding of the world, stimulate knowledge and learning, reflect cultural identity, and representing diversity and alternative viewpoints.

And it is a system that, ideally, offers wider support for creative industries, such as the film industry, the independent production sector and cultural institutions.

However, the formal PSB system is not a universal one, and of course different countries may define “public service” in different ways. Neither is it a fixed concept, but rather one that can be adapted to circumstances and as those circumstances change. Across Europe, the PSB system plays different roles, carries different responsibilities and is supported in a number of different ways. Moreover, the definitions are imposed by governments and regulators and therefore potentially don’t reflect the broadcasters’ own views of what public service should be.

Until very recently, the European regulated broadcasting sphere was made up of: state-owned and funded (or not) PSBs; commercial FTA services with public service obligations; and commercial services (for example, Pay-TV platform and subscription only channels). As discussed in more detail below, varying degrees of regulation applied to these services: heavier obligations were balanced by the benefits of access to scarce spectrum and prominence on platforms; and lighter obligations carried fewer incentives.

The justification for regulation of this sector was grounded in the understanding that Europe’s unique creative industries needed support and that certain types of “desirable” content, from current affairs to regional news to children’s programmes, delivered cultural and social benefits that might otherwise be undersupplied.

As described in more detail below, the amount and variety of services available to viewers has now grown exponentially, which has had the interesting effect of demonstrating that regulatory obligations are not always necessary to motivate producers of that kind of content. Niche science channels, documentary channels and the like can also offer significant cultural and educational benefits to viewers, despite in most cases a lack of any requirement to produce such content or make any direct financial contributions such as supporting the independent production or film sector, or the production of European/local content.

And arguably the imposition of obligations may begin to render services unable to compete in a changing world, where viewers have access to a wider range of content from a wider range of sources and where increasingly the most popular content tends to be relatively homogenous versions of genre formats (talent shows, reality shows etc. ).

## Questions for discussion

- Do the rationales underpinning positive obligations for broadcasters still hold, and is the concept of “culturally beneficial content” still appropriate or relevant?
- What elements might be too fundamental to abandon?

### III. Regulation and Interventions

Successful regulation can help to balance public policy goals and creative sector investment by intervening in the market to ensure that legitimate commercial incentives did not undermine investment in original national production in Europe, while offering a variety of incentives and protections for regulated services.

As noted above, European regulators have used the levers available to them to encourage the production of European content through the imposition of quotas for European content and independent and new productions. Indeed, many Member States have imposed a far wider range of obligations than the minimum laid down in the Audiovisual Media Services Directive (from more detailed content quotas to financial contribution requirements) to help support and sustain their domestic content production industries. And in the way of benefits, regulators have been able to offer regulated services the use of scarce spectrum and a guaranteed level of visibility for viewers – thus also achieving the equally important goal of ensuring that high-quality content is widely available for as many people to watch as possible – that is, reach audiences and be delivered on channels that have a high reach among and impact on their target audiences.

Europe’s regulators can presently impose “must carry” and “must offer” rules in order to guarantee PSB and/or European content availability, and support discoverability using EPG prominence rules. Generally, domestic public service channels have found a natural home in the most prominent positions on EPGs, and audiences have tended to prefer domestic output. Meanwhile, content output and financial obligations are the subject of vigorous debate, in particular over the possibility of extending the obligations to new services and to services available in the EU but falling outside of the jurisdiction of any Member State.

But convergence (and its effects, as described below) may put pressure on the present framework. It is not clear, for example, how well suited the must carry regime is to the newer types of platform, some of which may not necessarily involve the provision of transmission services but could still act as gatekeepers sitting between a distribution network and a consumer. For example, it may be the case that must carry rules would not capture new online content aggregators/websites (such as Facebook, Google or Netflix), should these ever become a significant means of receiving TV programmes for a significant number of users.

In deciding how best to achieve the goal of sustaining Europe’s content industries in an increasingly converged media landscape, regulators and governments will need to consider to which services prominence rules and content quotas should be applied; how prominence applies to new user interfaces (e.g. where numerical lists become less significant and genre-based recommendations take on a greater role); what constitutes an EPG – i.e. which platforms and services will be captured;

and how any prominence or other obligations regime would practically be enforced (including considerations of jurisdiction)?

It will also be important to consider the effect of any regulatory change on commercial arrangements between platforms and channels, such as platform access charges or retransmission fees. And it will be important to consider net neutrality issues alongside any consideration of the availability of high quality content, given the potentially significant impact of audiovisual services on overall levels of online traffic, and the importance of ensuring that services offering high-quality content can continue to provide a technically adequate service level.

All of this places increasing importance on research of the regulated environment. The basic relationship between different players in the value chain is therefore continuing to evolve and it is important to continue to ensure that regulators understand that relationship through assessments of viewer habits, distribution methods and industry consolidation and fragmentation, which could help to provide answers to some of the key questions facing regulators about how deliver those policy goals. That said, the preliminary results of EPRA's third working group in 2015, on Research and Regulators, indicates that despite the importance of evidence gathering many media regulators lack the resources to devote to research.

To ensure the adequate funding, availability and discoverability of public service and high-quality, European content, then, interventions have to keep up with technological change, determining whether existing levers are still relevant and how they can be applied to the new circumstances in which we find ourselves. It will also be important to consider what is practically achievable, and whether self-regulatory options might – or already – produce positive outcomes in this sphere.

#### **Questions for discussion:**

- What difficulties have regulators experienced in applying the available interventions to the services they regulate? Which have been successful, and which less so?
- What is the role of the regulator in analysing viewing and distribution data? What happens if a regulator doesn't have the resources to carry out extensive research?

#### **IV. Changes in consumption and distribution**

We can observe that the content ecosystem has undergone profound changes in the last few decades, characterised by an exponential growth in the number of different audiovisual services, greater competition, a fragmentation of previously highly concentrated audiences, and changes in the old value chains.

2015 has already seen a number of studies – including research carried out for the European Commission by the European Audiovisual Observatory<sup>4</sup> – indicating that the market for online and on-demand services is growing exponentially and that traditional linear TV viewing is beginning a long-expected decline. Experts are eager to stress that linear TV viewing remains strong but we

---

<sup>4</sup> <http://ec.europa.eu/digital-agenda/en/news/development-european-market-demand-audiovisual-services>

seem for the first time able to observe a clear pattern of decline, and the early stages of cord-cutting.

Available indicators from the European Audiovisual Observatory's 2014 yearbook show declining linear TV revenues and increasing VOD revenues, suggesting that levels of viewing may also be falling for linear TV and increasing for non-linear majority of EU Member States.<sup>5</sup> The overall share of linear TV viewing has remained relatively high, even in markets like the UK where a high proportion of viewers use both linear and VOD services, but it is among younger viewers that on-demand is gaining the most. That said, global TV revenues overall continue to rise<sup>6</sup> and pay-tv is particularly strong. Assessing the VOD market is particularly difficult because of the absence of standardised viewing data, but there is no doubt that consumer spend on online audiovisual content has risen exponentially in the last five years.

A report from Accenture of April 2015, gives the most recent indications of a fundamental shift in viewing habits, a global decline in TV viewing of 13% in the past year, the increased popularity of short-form clips as entertainment and a move to watching long-form content on a wide range of devices<sup>7</sup>.

Viewers are also benefiting from this range by choosing to watch different types of content on different devices. For example, football might most commonly be viewed on big screens (and indeed be a driver for the market in televisions) while daily news would not. Television series are watched both on linear and timeshifted services, but we have also seen the emergence of „binge viewing“<sup>8</sup>. Furthermore, the noted desire and willingness by viewers to seek out content and watch it at their own convenience has moved the balance of viewing type to „lean forward“ from the previously ubiquitous „lean back“ experience.

The media and communications industry has undergone radical changes in the last decade, driven by the move to digital technologies (including first and foremost broadcasting) and the growth of broadband, connected devices and DVRs. The role of technology cannot be overstated in the revolution that has taken place in media consumption/distribution. Delivery mechanisms, purely in terms of the variety of means of digital distribution, have blossomed and new digital technologies such as DVB-T2, HEVC 265 and LTE have lowered transmission costs – and in the case of terrestrial broadcasting allowed for more efficient use of spectrum – resulting in wider choice on all platforms and in particular more convenient data services delivered to internet enabled devices.

New services and platforms have launched directly as a result of the development of new technology, such as broadcasters' catch-up services (including, through use of the HbbTV standard, directly through set-top-boxes and TV sets) subscription VOD services (such as Netflix), transactional VOD services (iTunes) and ad-hoc short-form audiovisual content providers of vast variety (e.g. YouTube). Audiences now have a much wider choice of content and when and how to watch that

---

<sup>5</sup> European Audiovisual Observatory Yearbook 2014, [www.coe.obs.int](http://www.coe.obs.int) (notably p 104).

<sup>6</sup> Ofcom: International Communications Market Report, 2014  
[http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr14/icmr/ICMR\\_2014.pdf](http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr14/icmr/ICMR_2014.pdf).

<sup>7</sup> “Digital Video and the Connected Consumer” Accenture, April 2015 <http://www.accenture.com/us-en/landing-pages/industry/media-entertainment/nab/Documents/Accenture-Digital-Video-Connected-Consumer.pdf>

<sup>8</sup> <http://www.cinemablend.com/television/Unsurprising-Netflix-Survey-Indicates-People-Like-Binge-Watch-TV-61045.html>

content. The rapid globalisation of media markets has seen large foreign players, such as Netflix and Amazon, enter the UK market and many UK media companies acquired by global companies. And changes in distribution mechanisms have influenced and altered the players involved in content creation, creating multiple, parallel routes between service creation and consumption<sup>9</sup> with new relationships developing between previously unconnected parts of the value chain, and seen the development of user-generated content that at some ends of the spectrum now closely approximates professional content and can be effectively monetised. Moreover, all of these changes have placed new roles onto players who previously acted in very simple ways, turning service providers (telcos, ISPs, manufacturers) into potential gatekeepers, many of whom are subject to different regulatory frameworks (in particular, telecoms).

Developments in technology have also provided more opportunity for interaction (where IP connections are involved) and of course more precision in audience measurement. This in turn has changed the way content is monetised – and placed ever greater emphasis on data analysis, as multi-platform reporting became essential for monetising content across a plethora of screens, allowing marketing budgets to be used with more precision. This is why we are increasingly seeing the development and emergence of new services that measure online content consumption as well as or alongside traditional linear TV viewing (for example, in Germany the official audience ratings provider has just announced that it will be extending its service to include youtube views<sup>10</sup>).

This type of data measurement carries a number of potential implications, including for data privacy, but also wider plurality concerns over the provision of personalised or filtered content – particularly news content – when using search engines or social networks<sup>11</sup>.

An Enders Analysis report for Ofcom shows the extent to which new services on the internet have become central to people’s lives<sup>12</sup>. Services such as Vice Media, BuzzFeed and those provided by public institutions such as museums, theatres and libraries, are contributing to the delivery of public service/quality content objectives.

### Questions for discussion:

- What are the notable trends and changes in audience behaviour and in the value chain in recent years? What scenarios are possible for consumption and distribution in the coming years and how fast will change come?
- Are changes in audience expectations and consumption habits causing the development of new services and means of distribution – or vice versa? To what extent is the change in the way content is being distributed and consumed important for the AVMSD REFIT exercise and the upcoming Impact Assessment?

---

<sup>9</sup> “Regulation in the media internet telecoms value web”, TNO, October 2014. <https://www.tno.nl/en/focus-area/industry/networked-information/information-creation-from-data-to-information/regulation-in-the-media-internet-telecom-value-web/>

<sup>10</sup> <http://www.broadbandtvnews.com/2015/04/27/germany-to-integrate-youtube-in-tv-ratings-system/>

<sup>11</sup> This is the subject of an ongoing academic study by Professor Helberger at the International Institute for Information Law: <http://www.ivir.nl/onderzoek/profiling>

<sup>12</sup> “How online media services have fulfilled the public service objectives,” Enders, September 2014, [http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb3/1. Ofcom\\_report.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb3/1. Ofcom_report.pdf)



## V. What might a sustainable ecosystem of the future look like?

The European content ecosystem has relied until the present day on the ability to monetise content, and a regulatory framework that also incentivises the creation of certain “desirable” types of content.

Europe’s content industries have grown from this foundation, relying on broadcasters to pre-finance content production and distribute quality content to the widest possible audience. The different platforms provide the means for broadcasters’ content to reach viewers, ensuring the commercial viability of investment by delivering content to audiences and generating advertising revenue. Without content, platforms have no service to offer their customers. This has, therefore, been a mutually beneficial relationship and it has generally speaking supported the creative industries sector in Europe, resulting in a successful and competitive market in parts of the EU, ensuring both a high level of originations and the delivery of programming with purposes and characteristics valued by audiences.

The creative economy requires support, through investment in programmes, distribution mechanisms and access to audiences. In most cases, high-quality content is well-funded content, and that funding has traditionally been based on a “virtuous circle” (originally rooted in an analogue environment) where significant reach and large audience share drove scale advertising revenue (audiences monetised through scale ad revenues (or public funding)) which in turn produced scale investment in high quality content.

The rationales behind regulatory intervention, which have been in place for a very long time, are being tested by changes in the way that content is viewed and distributed. We don’t yet necessarily know what kind of ecosystem these changes will eventually create, but recognising the changes and tracking them and the pressures they put on the traditional regulatory levers might allow us to influence that in some way.

As noted above, broadcasters – for the most part, PSB, free to air services – have been responsible for driving original European content creation (whether those broadcasters are funded by public levies or advertising revenues). But this system may be under threat, with licence fees and public funding under political pressure and TV advertising revenue stalling across Europe<sup>13</sup> (despite some markets, such as the UK, remaining strong).

The specific challenges facing the PSB system will be considered in detail by EPRA’s first 2015 working group, but it is perhaps worth acknowledging that the system is in a state of flux across the EU. In the UK, Ofcom’s recent PSB Review showed that viewers value public service content purposes and characteristics (with 77% of viewers were satisfied with the model<sup>14</sup>). But, this is not necessarily the case in every European market. Daily audience share for PSBs in Bulgaria is 13% just 7.4% or 8.9% in Lithuania, 11% in Slovakia, 5.4% in Romania, and 17% in Portugal<sup>15</sup>. Meanwhile the

---

<sup>13</sup> “The sustainability of funding for original TV content in Europe is at risk,” Analysys Mason January 2015: <http://www.analysismason.com/About-Us/News/Insight/TV-content-in-Europe-Jan2015/>

<sup>14</sup> “Public Service content in a connected society,” Ofcom December 2014. <http://stakeholders.ofcom.org.uk/binaries/consultations/psb-review-3/summary/PSBR-3.pdf>

<sup>15</sup> European Audiovisual Observatory Yearbook 2014.

French public service sector, for example, has suffered from the decision to remove advertising from public service channels after 8 p.m., leaving them to rely largely on license fee revenue. The Spanish public broadcaster has been plagued by financial difficulties and accusations of lack of independence. In Italy, the publicly owned PSB and others with public service obligations are under review for the quality of their content and amount of cultural output<sup>16</sup>.

And a new piece of research for Ofcom by Ipsos Mori<sup>17</sup> suggests that people find it increasingly difficult to understand the concept of the PSB system, value other services equally, and that the ability to access content whenever, wherever and on every device is, for many, increasingly an expectation rather than a desire. This change in attitude could also have implications for wider attitudes to content, and reflect a change in audience preferences and the kind of content that will be easiest to fund in the future.

The development of new viewing habits and emergence of distribution platforms (whichever of these comes first) seems to suggest that viewers currently have a much wider range and choice of access to content than ever before. There is, however, little evidence that this has translated to investment in new content; quite often the increase in offerings is down to US imports and acquisitions, or the ability to receive non-EU services via the internet. Ultimately, it could be the case that these trends eventually result in a reduction in content investment in the EU and we enter a “vicious circle” of less production, less demand and less advertising and subscription revenues.

#### **Questions for discussion:**

- Is a sustainable ecosystem one that is commercial viable, or must it also deliver specific outcomes (education, information, pluralism etc. – or indeed, other outcomes)?
- Do broadcasters still offer the best route of funding for new content as well as the best method of distribution of content to the widest possible audiences? If so, should we consider different routes of funding for broadcasters? And if not, what should the scope of regulation look like?
- What is the best way to respond to the speed of change: a fundamental restructure of the regulatory framework, or incremental changes while the ecosystem is in flux?

---

<sup>16</sup> “The plurality deficit: public service broadcasting and institutional competition”:

<https://www.opendemocracy.net/ourbeeb/petros-iosifidis/plurality-deficit-public-service-broadcasting-and-institutional-competition>

<sup>17</sup> “An investigation into changing audience needs in a connected world,” Ipsos Mori, November 2014.

<http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb3/psb-review-ipsos-mori.PDF>