



OPERATING EUROVISION AND EURORADIO

**DATE**

5 October 2015

Mrs Eveleine de Kler  
The Committee of Education, Culture  
and Science  
The House of Representatives

**COPY TO**

Members of Parliament

**SUBJECT**

Parliamentary debate on NPO

Dear Mrs. de Kler,

The European Broadcasting Union (EBU) is an alliance of public service media (PSM) organisations with 73 members spanning 56 countries.

The EBU is following with interest the on-going debate in the Netherlands about the definition of the public service remit of NPO and the transparency of NPO's programming costs.

NPO public service remit

With respect to the scope of remit, the EBU understands that the main issue being discussed by the Dutch Parliament is whether NPO should be permitted to show "entertainment" content on its channels.

In this regard, I would like to share with you the results of our recent questionnaire on the subject. The questionnaire asked each of the EBU's Members whether there are currently any restrictions on PSM organisations providing entertainment content in its respective country. Out of 38 responses received from across Europe and beyond, just one PSM is not permitted to use public funding for entertainment content - PBS in Malta (which relies instead on commercial funding for this genre). The situation there is currently under review.

I enclose a detailed table of the responses from each country for your information.

NPO cost transparency

Concerning transparency, the EBU understands that the Dutch Parliament is currently debating whether NPO should be transparent about the cost of each specific programme carried in its schedule.

Transparency is indeed very important for the trust and support of public service media. However, opening up the cost of specific programmes shown by NPO could expose it to an unacceptable level of political and public pressure on what content to show and not to show, thereby critically undermining NPO's editorial independence and programme autonomy.

**EUROPEAN BROADCASTING UNION**

L'Ancienne-Route 17A  
PO Box 45  
1218 Le Grand-Saconnex  
Geneva, Switzerland

Tel. +41(0)22 717 21 11  
Ext. +41(0)22 717 20 05  
Email: [dgo@ebu.ch](mailto:dgo@ebu.ch)  
[www.ebu.ch](http://www.ebu.ch)

As emphasised in numerous Council of Europe standards (e.g. *Council of Europe 2006 Declaration on the independence of public service broadcasting*), independence is a fundamental principle that is imperative for PSM to fulfil its democratic, social and cultural role in society. Not only would such an obligation inhibit NPO's independence, but it would also have a chilling effect on the exercise of NPO's right to freedom of expression under Article 10 of the European Convention of Human Rights, since the "creative space" of programme makers would be more exposed to outside interference. The critical role performed by the principle of freedom of expression in a democratic society has been emphasised many times by the European Court of Human Rights (e.g., *Manole and others v. Moldova, European Court of Human Rights, no. 13936/02*).

In addition, such a specific cost transparency obligation would lead to an inefficient allocation of public funds, since it would adversely affect NPO's position in future commercial negotiations vis-à-vis competitors (leading to higher bids by all parties). Disclosure of commercially sensitive information is in any case in breach of most rights holders' standard terms.

As far as the EBU is aware, the only country in the entire EBU area to have implemented such a granular cost transparency system is again Malta, where it is necessary due to the very specific (and cumbersome) PSM funding mechanism (according to which PBS must apply for public funding programme by programme). Rather, the norm is for PSM organisations only to make the aggregated costs of their programming public (e.g., by genre or channel). In the UK, the English and Wales High Court confirmed that the BBC was not obliged to release information about specific programme costs (including entertainment, current affairs and sports content) under the relevant freedom of information provisions because such data is held, among other reasons, for journalistic, literary and artistic purposes (*British Broadcasting Corporation v The Information Commissioner [2009] EWHC 2348 (Admin)*).

I hope that my letter provides you with useful information and reflection from an international perspective. I would be delighted, at your convenience to provide any further clarification on these issues in person to you and/or Members of Parliament.

With kind regards,



Ingrid Deltenre  
EBU Director General

Annexe