

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (99) 1

### **OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON MEASURES TO PROMOTE MEDIA PLURALISM**

*(Adopted by the Committee of Ministers on 19 January 1999  
at the 656<sup>th</sup> meeting of the Ministers' Deputies)*

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

Stressing the importance for individuals to have access to pluralistic media content, in particular as regards information;

Stressing also that the media, and in particular the public service broadcasting sector, should enable different groups and interests in society — including linguistic, social, economic, cultural or political minorities — to express themselves;

Noting that the existence of a multiplicity of autonomous and independent media outlets at the national, regional and local levels generally enhances pluralism and democracy;

Recalling that the political and cultural diversity of media types and contents is central to media pluralism;

Stressing that States should promote political and cultural pluralism by developing their media policy in line with Article 10 of the European Convention on Human Rights, which guarantees freedom of expression and information, and with due respect for the principle of independence of the media;

Recognising that efforts by all member States and, where appropriate, at the European level, to promote media pluralism are desirable;

Acknowledging at the same time that a potential shortcoming of existing media pluralism regulatory frameworks in Europe is their tendency to focus exclusively on the traditional media;

Noting that there are already some cases of bottlenecks in the area of the new communications technologies and services, such as control over conditional access systems for digital television services;

Noting also that the establishment of dominant positions and the development of media concentrations might be furthered by the technological convergence between the broadcasting, telecommunications and computer sectors;

Aware that an active monitoring of the development of new delivery platforms, such as the Internet, and new services is necessary to assess the impact which new business strategies in this area could have on pluralism;

Convinced that transparency as regards the control of media enterprises, including content and service providers of the new communications services, can contribute to the existence of a pluralistic media landscape;

Recalling the importance of the editorial independence of newsrooms;

Noting that whilst it is necessary for European media undertakings to develop, account must also be taken of their impact on cultural and social values;

Recalling the orientations already provided in the past by the Council of Europe to the member States in order to guarantee pluralism in the media, in particular the principles contained in the declarations and resolutions adopted at the 3rd, 4th and 5th Ministerial Conferences on Mass Media Policy (Cyprus, October 1991, Prague, December 1994, and Thessaloniki, December 1997) and Recommendation No. R (94) 13 of the Committee of Ministers on measures to promote media transparency;

Recalling also the provisions on media pluralism contained in the Amending Protocol to the European Convention on Transfrontier Television;

Bearing in mind the work conducted within the framework of the European Union and other international organisations in the area of media concentrations and pluralism,

Recommends that the governments of the member States:

- i. examine the measures contained in the appendix to this recommendation and consider the inclusion of these in their domestic law or practice where appropriate, with a view to promoting media pluralism;
- ii. evaluate on a regular basis the effectiveness of their existing measures to promote pluralism and/or anti-concentration mechanisms and examine the possible need to revise them in the light of economic and technological developments in the media field.

Appendix to Recommendation No. R (99) 1

*Measures to promote media pluralism*

## **I. Regulation of ownership: broadcasting and the press**

Member States should consider the introduction of legislation designed to prevent or counteract concentrations that might endanger media pluralism at the national, regional or local levels.

Member States should examine the possibility of defining thresholds — in their law or authorisation, licensing or similar procedures — to limit the influence which a single commercial company or group may have in one or more media sectors. Such thresholds may for example take the form of a maximum audience share or be based on the revenue/turnover of commercial media companies. Capital share limits in commercial media enterprises may also be considered. If thresholds are introduced, member States should take into consideration the size of the media market and the level of resources available in it. Companies which have reached the permissible thresholds in a relevant market should not be awarded additional broadcasting licences for that market.

Over and above these measures, national bodies responsible for awarding licences to private broadcasters should pay particular attention to the promotion of media pluralism in the discharge of their mission.

Member States may consider the possibility of creating specific media authorities invested with powers to act against mergers or other concentration operations that threaten media pluralism or investing existing regulatory bodies for the broadcasting sector with such powers. In the event member States would not consider this appropriate, the general competition authorities should pay particular attention to media pluralism when reviewing mergers or other concentration operations in the media sector.

Member States should consider the adoption of specific measures where vertical integration — that is, the control of key elements of production, broadcasting, distribution and related activities by a single company or group — may be detrimental to pluralism.

## **II. New communications technologies and services**

### **1. General principle**

Member States should monitor the development of the new media with a view to taking any measures which might be necessary in order to preserve media pluralism and ensure fair access by service and content providers to the networks and of the public to the new communications services.

### **2. Principles concerning digital broadcasting**

In view of the expansion of the telecommunications sector, member States should take sufficient account of the interests of the broadcasting sector, given its contribution to political and cultural pluralism, when redistributing the frequency spectrum or allocating other communication resources as a result of digitisation.

Member States should consider introducing rules on fair, transparent and non-discriminatory access to systems and services that are essential for digital broadcasting, providing for impartiality for basic navigation systems and empowering regulatory authorities to prevent abuses.

Over and above these measures, member States should also examine the feasibility and desirability of introducing common technical standards for digital broadcasting services. Furthermore, given that the interoperability of technical systems can help to extend viewers' choice and enhance ease of access at a reasonable price, member States should seek to achieve the largest possible compatibility between digital decoders.

## **III. Media content**

### **1. General principle**

Member States should consider possible measures to ensure that a variety of media content reflecting different political and cultural views is made available to the public, bearing in mind the importance of guaranteeing the editorial independence of the media and the value which measures adopted on a voluntary basis by the media themselves may also have.

### **2. Broadcasting sector**

Member States should consider, where appropriate and practicable, introducing measures to promote the production and broadcasting of diverse content by broadcasting

organisations. Such measures could for instance be to require in broadcasting licences that a certain volume of original programmes, in particular as regards news and current affairs, is produced or commissioned by broadcasters.

Furthermore, under certain circumstances, such as the exercise of a dominant position by a broadcaster in a particular area, member States could foresee “frequency sharing” arrangements so as to provide access to the airwaves for other broadcasters.

Member States should examine the introduction of rules aimed at preserving a pluralistic local radio and television landscape, ensuring in particular that networking, understood as the centralised provision of programmes and related services, does not endanger pluralism.

### **3. Press sector**

Member States should seek to ensure that a sufficient variety of sources of information are available for a pluralistic sourcing of the content of press entities.

## **IV. Ownership and editorial responsibility**

Member States should encourage media organisations to strengthen editorial and journalistic independence voluntarily through editorial statutes or other self-regulatory means.

## **V. Public service broadcasting**

Member States should maintain public service broadcasting and allow it to develop in order to make use of the possibilities offered by the new communication technologies and services.

Member States should examine ways of developing forms of consultation of the public by public service broadcasting organisations, which may include the creation of advisory programme committees, so as to reflect in their programming policy the needs and requirements of the different groups in society.

Member States should define ways of ensuring appropriate and secure funding of public service broadcasters, which may include public funding and commercial revenues.

With the prospect of digitisation, member States should consider maintaining “must carry” rules for cable networks. Similar rules could be envisaged, where necessary, for other distribution means and delivery platforms.

## **VI. Support measures for the media**

Member States could consider the possibility of introducing, with a view to enhancing media pluralism and diversity, direct or indirect financial support schemes for both the print and broadcast media, in particular at the regional and local levels. Subsidies for media entities printing or broadcasting in a minority language could also be considered.

Over and above support measures for the creation, production and distribution of audio-visual and other content which make a valuable contribution to media pluralism, support measures could also be considered by member States to promote the creation of new media undertakings or to assist media entities which are faced with difficulties or are obliged to adapt to structural or technological changes.

Without neglecting competition considerations, any of the above support measures should be granted on the basis of objective and non-partisan criteria, within the framework of

transparent procedures and subject to independent control. The conditions for granting support should be reconsidered periodically to avoid accidental encouragement for any media concentration process or the undue enrichment of enterprises benefiting from support.

## **VII. Scientific research**

Member States should support scientific research and study in the field of media concentrations and pluralism, in particular on the impact of new communication technologies and services in that respect.

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

### EXPLANATORY MEMORANDUM

#### **to Recommendation No. R (99) 1 of the Committee of Ministers to member states on measures to promote media pluralism**

*(Adopted by the Committee of Ministers on 19 January 1999,  
at the 656th meeting of the Ministers' Deputies)*

#### **Introduction**

1. The Council of Europe's interest in the question of media concentrations and pluralism is closely related to its commitment to freedom of expression and to the maintenance of cultural diversity in Europe. In order to assist member States in defining an appropriate framework in this area, it is considered justified to draw up a set of guidelines aiming at the promotion of pluralism and at ensuring a minimum level of diversity of media supply throughout Europe.
2. This being said, given the different media landscapes and legal systems among member States, the overall objective of this Recommendation is to outline in a non-prescriptive manner a number of principles or policy measures which could be useful to member States when designing their national rules to protect pluralism and limit concentrations.
3. For the purpose of this Recommendation, the notion of "media pluralism" should be understood as diversity of media supply, reflected, for example, in the existence of a *plurality of independent and autonomous media* (generally called structural pluralism) as well as a *diversity of media types and contents (views and opinions) made available to the public*. Therefore both the structural/quantitative and qualitative aspects are central to the notion of media pluralism. It should be stressed that pluralism is about diversity in the media that is made available to the public, which does not always coincide with what is actually consumed.
4. The concept of pluralism is comprised of two features. *Political* pluralism, which is about the need, in the interests of democracy, for a wide range of political opinions and viewpoints to be represented in the media. Democracy would be threatened if any single voice within the media, with the power to propagate a single political viewpoint, were to become too dominant. *Cultural* pluralism, which is about the need for a variety of cultures, as reflects the diversity within society, to find expression in the media.

## Comments on the provisions in the Recommendation

### I. *Regulation of ownership: broadcasting and press*

5. It is considered that the notion of permissible thresholds which a single media company or group should be allowed to control in one or more media sectors is a valid one to curb media concentrations and protect pluralism. Such thresholds can be based on one or a combination of elements, such as the audience share of a company, its turnover or restrictions on capital share.

Audience share thresholds for press, radio and television undertakings, calculated as a percentage of total television viewing, radio listenership or newspaper readership in the transmission/dissemination area of the media undertaking in question, have been largely discussed at both the national and European levels in recent years, and are becoming one of the most favoured regulatory approaches for the protection of pluralism. On the contrary, measures based on capital share restrictions in media entities are progressively becoming less used by member States given the fact that they are easy for companies to get around and therefore less effective.

It has been argued that the introduction of a 30% audience share limit for press and broadcasting organisations in their own transmission/dissemination areas, plus an upper limit for total media ownership of 10% of the market in which a supplier is operating, could be acceptable thresholds to safeguard a reasonable level of pluralism as it should ensure a minimum of four suppliers each in the radio, television and newspaper sectors and ten different suppliers in the market as a whole.

Nevertheless, the Recommendation only requests members States to *examine the opportunity of defining thresholds* but does not mention where the upper limits should be set. The decision about precisely where upper audience share, capital share or revenue limits should be fixed is to be taken at the national level, after taking into consideration what level of diversity of ownership is economically viable for the market in question.

It is considered that audience share thresholds can be valuable in securing pluralism, although it is also acknowledged that in practice they are difficult to implement. Therefore, if member States introduce such thresholds for commercial broadcasters, a number of complementary measures should also be foreseen and come into effect once a company has reached the permissible thresholds. One possibility could be not to grant new broadcasting licences to such companies. If complementary measures of this type are not foreseen by member States, the audience share thresholds *per se* might not be effective in safeguarding pluralism.

It is generally accepted that broadcasting regulatory bodies (or similar national bodies responsible for awarding licences to private broadcasters) can play an important role in the protection and promotion of pluralism, for instance by granting licences to minority groups or interests. In effect, the licensing procedure offers a unique opportunity for obtaining information on the company applying for a licence and on the nature of the programmes and services it intends to offer. Therefore, authorities awarding licences should ensure that diverse and pluralistic programmes will be made available to the public.

Another measure foreseen under this heading refers to the possibility of establishing specific media authorities and investing them with powers to act against harmful concentration operations. So far, this type of body exists in only a few countries. In one of these, the newly created media authority has been given powers to fine companies involved in acquisitions, mergers or similar agreements which are potentially detrimental to freedom of speech and media diversity. Failure to comply with the decisions of this body can lead to custodial sanctions. The reason for entrusting the authority with such broad powers is to make it truly effective. Given the novelty of this institution, it is still not possible to evaluate its results and effectiveness in the protection of pluralism.

The last provision of this heading makes reference to cases of vertical integration in the broadcasting sector, that is, when a single media undertaking or group of undertakings control the different phases in the broadcasting value chain, in particular, the production and distribution of audio-visual products. Vertical integration is a commonplace strategy among traditional broadcasters and is actually encouraged by the economic characteristics of the broadcasting industry. Arguments exist in favour of tolerating a certain degree of vertical integration in the broadcasting sector, and as a result, in several member States there are no strict rules against such integration. Therefore, the Recommendation only recalls this phenomenon and asks member States to *consider the adoption of specific measures* where a single company controls key elements of broadcasting and related activities and this poses a threat to pluralism. Again, it is up to member States to decide at which level vertical integration operations can be potentially damaging to pluralism. The Recommendation limits itself to highlighting the problem and requesting member States to pay attention to it.

It should be noted that although the conditions for political and cultural pluralism will be encouraged by the existence of a diversity of separate and autonomous owners of broadcasting and newspaper publishing, diversity of media ownership will not always guarantee diversity of media output. For example, when individual media owners rely on the same content or sources of media content as their rivals, then standardisation of output will occur, irrespective of diverse ownership. Therefore, in order to secure political and cultural pluralism, measures over and above those that solely focus on restrictions to ownership, may be needed.

## **II. New communication technologies and services**

### *General principle*

In many European countries, the rapid development of new avenues for the dissemination of information, particularly the Internet, is adding to the array of media or multimedia output available to the public. Nevertheless, at the same time, the convergence between media, computing and telecommunications has encouraged various new kinds of cross-sectoral alliances. Thus, the new media are by no means immune to monopolistic and oligopolistic tendencies, and even in an expanded and more developed media landscape, the prospect that pluralism may be damaged by excessive concentrations of ownership cannot be ruled out.

Dominant market positions in the new communications services have already been observed and it is considered that there is scope for more of such positions to arise, in particular in the form of

gatekeeper positions exercised by certain operators. There is also a concern that companies which first enter some of the new media markets will gain a “first-mover advantage” and be in a position to exert considerable power in that market.

In view of the above, the Recommendation indicates, as a general principle, that member States should monitor developments in the area of the new communications services and adopt legislative or other measures if they prove necessary to maintain media pluralism. Furthermore, it recalls one of the basic principles from the telecommunications sector, the “open network provision”, and stresses that operators should provide third party access on fair and reasonable terms to ensure a wide distribution of the new media.

### *Principles concerning digital broadcasting*

So far, few European countries have introduced digital television on a large-scale commercial basis, but it is in this area where anti-competitive practices and gatekeeper problems are most likely to emerge. The forecast is that there will be a “temptation” for operators to abuse control over proprietary technology or for vertically integrated digital broadcasters to discriminate in favour of their own services and that a certain degree of anti-competitive behaviour will therefore take place.

Most Council of Europe member States have expressed their interest in closely following developments as regards digital broadcasting and support the idea of a co-ordinated European approach in this area. However, there is still a “wait and see” attitude in respect of whether regulation should be adopted or not. Some argue that strict rules to safeguard competition and pluralism or rules on the technical aspects of digital television might negatively affect investment and impair the development of this growing market.

The fundamental question is whether common/open standards for the technological components of digital television that is, in particular, interfaces for conditional access systems (CAS) and application programming interfaces (API's) should be made mandatory in view of the benefits this would represent for European media consumers. So far the industry itself, gathered in the Digital Video Broadcasting (DVB) Project, has reached an agreement on a common CAS interface (which, however, is not mandatory or generally used), while work on a common API is still in progress.

Notwithstanding, an intermediate solution mentioned in the Recommendation which could contribute to the opening up of digital gateways around CAS, subscriber management services (SMS), electronic programme guides (EPGs) and APIs would be to have rules on open, transparent and non-discriminatory access to systems/services for digital television as well as impartiality requirements for navigation systems. It is also considered important that regulatory authorities (broadcasting, telecommunication or other) are given sufficient powers to prevent abuses and implement rules in this area.

The openness of conditional access systems (decoder technology) has already led to “battles” and legal disputes among different digital broadcasting platforms in several European countries. The main “bottleneck” problem which arises with the use of (built-in or inaccessible) proprietary CAS

is that the operator of the system will only deliver services to its own decoder population and may deny other broadcasters access to its system. Besides refusing access to rival services, a proprietary CAS operator can also put pressure on new entrants to use its own system.

There are thus a number of arguments in favour of regulating towards the openness of CAS, both from a competition point of view as well as from the interests of audio-visual consumers. The public is better served with an open and compatible decoding system that permits switching from one digital broadcasting offer to another without having to change the decoder, or at least a standard plug-in interface that allows CAS cards to be switched easily.

However, the current regulatory framework for the 15 EU member States is Directive 95/47/EC on Television Standards, which permits the use of proprietary conditional access systems under the safeguard that they are operated and offered to broadcasters in a fair, reasonable and non-discriminatory manner.

In view of the above and because of the flexibility which is necessary to avoid adverse effects on the development of this market, it is currently not possible to impose open CAS's in Europe. Several broadcasters are already operating with proprietary systems and the migration to an open system would be a rather long process.

In view of the above, the Recommendation merely requests members States to examine the question of common standards for digital television and *encourages them to work towards their introduction* if they consider this feasible and desirable. Whilst acknowledging that this might be difficult at present and would generate resistance from some industry players, rules imposing common standards could be envisaged for future generation television equipment. Furthermore, in an effort to overcome the problems that have arisen due to the lack of interoperability between digital decoding systems used by different European broadcasters, the Recommendation stresses that member States should *strive at reaching the largest possible compatibility between decoders*.

Another principle under this heading refers to frequency allocation in the digital environment. It is acknowledged that although digitisation is making many more services available, the proliferation of wireless technology, digital television and other new communication services will continue making frequency spectrum a sought-after commodity. In this respect, the Recommendation underlines that governments should take into consideration the needs of the broadcasting sector when allocating spectrum. It is in particular stressed that, because of the rapidly expanding mobile-communications industry, adequate space should be saved for the television industry given its contribution to political and cultural pluralism.

### **III. Media Content**

#### *General principle*

27. Diversity within the content of media represents an important aspect of political and cultural pluralism. Diverse ownership will contribute to diversity in output as long as the consolidation or sharing of editorial content between owners of rival products is discouraged. However, since the relationship between diverse ownership and heterogeneity of output is, to

some extent, an ambiguous one, it can not be assumed that ownership restrictions will be sufficient to guarantee diversity of output. Other policy instruments should be used in conjunction with ownership restrictions to encourage plurality within the supply of media. Therefore, as a general principle the Recommendation encourages member States to *consider a range of other possible measures* to promote a variety of media content. It is recalled that any measures taken should respect the basic principle of the editorial independence of the media. Similarly, the value that self-regulatory measures taken by the media themselves may have is highlighted in this general principle.

#### *Principles concerning the broadcasting sector*

28. As regards the broadcasting sector, it is acknowledged that rules on the production and broadcasting of diverse content can be useful in promoting pluralism. The Recommendation mentions “quotas” of original programmes, in particular with a view to ensuring that radio and television services reserve a minimum proportion of their transmission time for content – especially news or current affairs content – which originates exclusively from that service, that is, which is made by that broadcaster or commissioned by it from independent producers. Measures of this type can serve to counterbalance the tendency of different broadcasters relying on the same journalistic sources and “raw material”, which leads to a standardisation of output and thus represents a threat to media pluralism.

29. It is, however, also true that direct prescriptions on how content should be sourced could breach freedom of expression and the freedom of media undertakings to manage their resources as they wish. It is up to member States to decide, if they consider that an excessive homogeneity of media content is harmful, whether some type of regulatory intervention fixing a quota of original productions is justified to preserve a pluralistic approach to the sourcing of content. In any case, compliance with original production quotas would not be likely to pose any difficulties to Europe’s traditional terrestrial broadcasters, many of whom already originate a significant proportion of their own output. Such quotas seem less logical for thematic channels (news, sports, films, documentaries, etc.), which should be dealt with separately.

30. Another measure mentioned under this heading refers to “*frequency sharing*” arrangements in order to facilitate the access of independent broadcasters (holding a licence) to the programme services of a major broadcaster. It is acknowledged that a measure of this type may be difficult to implement (nevertheless some European countries already foresee programming windows in their legislation). In view of the foregoing, the Recommendation only mentions this possibility under exceptional circumstances, for instance, when a broadcaster is in a dominant position. In this situation, it could be argued that such a broadcaster should reserve some broadcasting space for the programming of independent broadcasters, who otherwise would not have the possibility of reaching the airwaves. In the event measures of this type are put into practice, it should be ensured that they do not lead to State interference in the programming schedules of broadcasters.

#### *Principles concerning the press sector*

31. It is considered crucial for diversity in the press sector to have a variety and large number of sources of information for print media undertakings to rely on. It has been observed that there is a tendency for newspapers to use the same news agencies and sources of content, which ultimately leads to a standardisation of output. Given the threat to pluralism which such a trend entails, the Recommendation encourages member States to consider ways of ensuring that a sufficient number of sources of information (in particular news agencies) exist at the national level. It is deemed that competition law may be an effective tool for such a purpose.

#### **IV. Ownership and editorial responsibility**

32. The question of media owners and how they can influence the editorial content of their outlets has a bearing on media pluralism. It is generally considered that pluralism is better safeguarded when ownership and editorial content are kept separate. This being said, in many countries media owners are entitled to determine the political/editorial line of their media and any restrictions preventing them from being involved in the day-to-day operation of their company would be very difficult to accept. The relationship between the editor and the owner is, to some extent, constitutionally regulated in some countries.

33. Therefore, the Recommendation is not at all prescriptive on this question and simply provides that member States *may consider ways of encouraging media organisations* to secure the rights of editors to decide on editorial matters. It is acknowledged that this is an issue which has primarily to be dealt with via self-regulation.

34. It is nevertheless important to mention in this explanatory report, as examples for member States who consider regulatory intervention in this area necessary, some of the possible measures which can be used to prevent proprietors from influencing the editorial content of the media products which they own. One possibility, which is already found in a number of European countries, is the signing of “editorial agreements” between owners and editors to secure the independence of the latter to take the lead on all editorial decisions free of interference from the proprietors. The terms of such agreements vary and most are constituted on an informal or voluntary basis. There are, however, examples of editorial agreements defined by law or statute.

35. The issue of who has a say in the dismissal and replacement of editors or other key personnel is also of importance. If an owner has the power to dismiss or select new appointees, he can use this to reshape the editorial policy without ever needing to interfere directly with the content. Such power can be used to establish a culture of obedience and self-restraint by journalists. One option to counterbalance this can be to foresee the right of the editorial staff to participate in and veto dismissals and appointments of key new personnel. Similarly, another measure which can be combined with editorial agreements is foreseeing the right to a comprehensive redundancy package for editorial staff who wishes to resign following a change of ownership in a media undertaking. This is the so-called “conscience clause”, which is backed by law in several European countries.

#### **V. Public service broadcasting**

36. The concepts of democracy, human rights and the free circulation of information and ideas are inextricably linked to the notion of public service broadcasting. It should also be

recognised that pluralism is well served by the existence of publicly funded non-commercial broadcasting organisations which are wholly dedicated to the provision of a range and diversity of high quality programming and to accurate and impartial news coverage. In this respect, it is important to recall Council of Europe Recommendation No. R (96) 10, which stresses the need to guarantee the independence of public service broadcasting. Furthermore, ways of strengthening the internal pluralism of such broadcasters should be examined.

37. Due to the economic and technological developments in the media field, several questions have recently arisen in respect of the future of public service broadcasting. The Recommendation participates in the ongoing debate on this question and stresses the importance of maintaining and supporting public service broadcasting systems in their transition and adaptation to the digital environment.

38. An institutional measure to promote diversity of public service broadcasters' programming is also considered under this section. It refers to the setting up of *advisory programming committees* comprised of representatives of the public as well as specialists in audio-visual matters and entrusting them with a consultative role in the area of programming policy. It is considered that such public consultation bodies could be useful in promoting impartiality and diversity in the programming policy of public service broadcasters (although they should not be regarded as superior bodies in regard to independent editorial staff).

39. It is also mentioned that appropriate and secure funding modalities should be foreseen for public service broadcasters, in line with previous Council of Europe policy texts, such as the Resolution on the future of public service broadcasting adopted at the Prague Ministerial Conference on Mass Media Policy (December 1994). In this respect, the Recommendation indicates that both public or mixed funding (public and commercial) should be possible, and leaves it to member States to select the most appropriate financing system. The advantages of purely public funding is that it ensures a certain degree of independence from commercial constraints and thus protects public and minority interests. On the other hand, commercial funding strengthens the financial basis of public service broadcasters and may enable them to remain competitive, in particular in countries where public funding is precarious and alone cannot guarantee stable funding.

40. The obligation for cable operators and networks to carry the channels of public service broadcasters is quite extended throughout European countries. In order to ensure the continued availability of these channels, the Recommendation requests member States to maintain "must carry rules" in respect of cable networks and to *consider their introduction as regards the new distribution and delivery platforms* which are emerging as a result of digitisation. It is considered that "must carry rules" should primarily be applied when an operator of a new delivery platform has a de jure or de facto monopoly, to ensure that the programme services of public service broadcasters are accessible to everyone, as their mission so requires.

## **VI. Support measures for the media**

41. Support measures for the media are generally divided into two distinct categories: direct subsidies and indirect incentives, such as fiscal reductions. It is generally considered that

measures of this type can be useful to enhance media pluralism and diversity and serve to counteract market distortions and failures. Nevertheless, in some countries such schemes are not used because they are considered to run counter to the fundamental principle of the independence of the media from the State.

42. It is also true that financial support measures can interfere with the market and may change market structures. It is therefore essential, when subsidisation is employed to promote pluralism, that objective criteria are established for the granting of the aid. In order to avoid any interference, the amount, duration and structure of the support measure must be clearly defined in advance. The Recommendation stresses this point and makes no distinction between support given to the press or to private broadcasters. Both types of media might, in principle, be entitled to support. Furthermore, the Recommendation underlines that particular attention should be given to media entities at the local and regional level, since the latter generally have less resources than media outlets at the national level and operate in conditions of more scarcity.

43. It is acknowledged in the Recommendation that financial schemes to support audiovisual production in general (cinema, broadcasting and other types of multimedia content) are essential to enhance cultural pluralism. In this respect, it is considered that existing European support systems (for cinematographic and other audiovisual production) such as the MEDIA Programme of the European Union and the Council of Europe co-production fund EURIMAGES, should continue to be supported. The importance of having effective distribution schemes is also recognised in the Recommendation.

44. Over and above support schemes that aim at stimulating audiovisual production, other more specific objectives may also be pursued with subsidisation. In some countries it is mainly used to encourage new market entrants or is directed to those media which otherwise would not be able to survive in a competitive market. In others it is only oriented towards the maintenance of existing media structures. All approaches are valid and member States should design their subsidisation policy taking into consideration the specifics of their media landscape.

## **VII. Scientific Research**

45. Given the complex and sometimes ambiguous relationship between media concentrations and pluralism, it is considered important that further research in this area is conducted. Member States are therefore invited to commission or support research on this subject. The specific impact which the new communication technologies and services may have on pluralism should be the main focus of future studies.