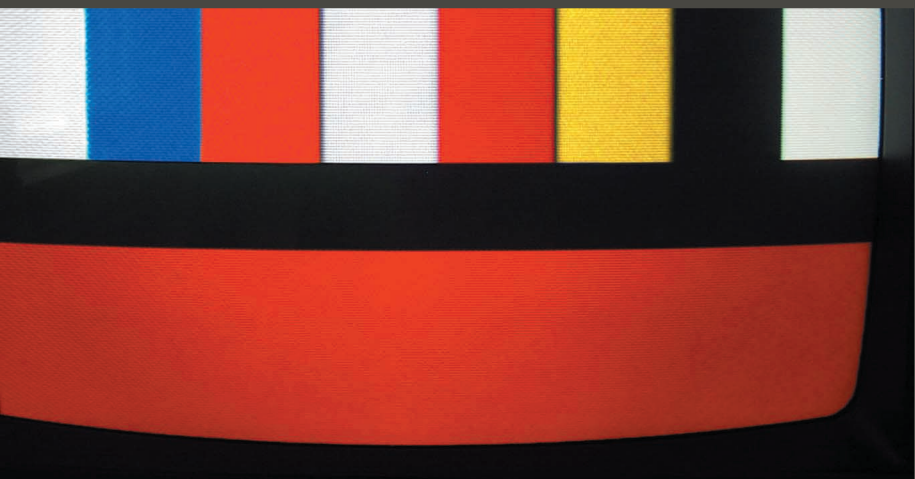


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SERVING THE STATE OR THE PUBLIC

*The Outlook for Public Service Broadcasting
in Slovenia*



SANDRA B. HRVATIN

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SERVING THE STATE OR THE PUBLIC

The Outlook for Public Service Broadcasting in Slovenia

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CONTENTS

SUMMARY	6
INTRODUCTION	9
WHAT IS PUBLIC SERVICE BROADCASTING?	11
STATE-OWNED OR PUBLIC MEDIA?	20
RTV COUNCIL: CIVIL SOCIETY VERSUS CIVIL SOCIETY	27
APPOINTMENT OF EDITORS: APPROVAL OR OPINION ONLY?	41
ACCOUNTABILITY TO THE PUBLIC	44
FUNDING OF THE PUBLIC SERVICE	47
PUBLIC SERVICE BROADCASTERS AND THEIR AUDIENCES	66
THE CRISIS OF PUBLIC SERVICE BROADCASTING?	74
THE FUTURE OF PSB	76
CONCLUSION	83
LITERATURE	85

SUMMARY

In this study Sandra Bašić Hrvatin analyzes the public institution rTV Slovenia and the main problems related to it – funding, public control and fulfillment of the public role – and draws comparisons with other public broadcasters across the world. She concludes that rTV Slovenia is in crisis and suggests that it cannot be successfully resolved unless certain questions relating to the role and significance of contemporary public service broadcasters are answered first. “To support PSB today means to support the option of an open communication space in which all citizens, no matter what their material wealth or communication competence, will have access to communication channels and a chance to influence programming and content.”

Among the conditions that are indispensable for successful operation of a public service broadcaster are its political and economic autonomy, a supply of funds which enable programming in the public interest, and public control. The study therefore focuses on three basic questions:

- How have public service broadcasters ensured the representation of the public in their supervising bodies?
- How are public service broadcasters funded?
- What kind of program do public service broadcasters offer?

The operation of rTV Slovenia is analyzed within the wider context of the transformation of state media into public service media in ex-socialist countries. In addition, she draws parallels with public service media in some western countries where public service broadcasting has a long tradition.

The author first gives a concise definition of a public service broadcaster. “It enables the public to access channels of mass communication, serves the public interest, and opens and sustains the space for public debate.” Since the public funds a public service broadcaster, serving the public interest is the key task of a modern public service broadcaster, which is accountable to the public rather than to the state or advertisers.

The author further concludes that the crisis experienced by public service broadcasters in ex-socialist countries has both systemic and structural reasons and that it would be wrong to think that this crisis has been produced by inadequate media legislation. “Not even an “ideal” law would guarantee an “ideal” PSB system, because a successful PSB system is not a product of legislation alone. A law can prescribe requirements

for the functioning of public service broadcasters, but not also details of their practical operation.”

The author then proceeds to identify the main problems that accompanied the transformation of the state-owned radio and television system in Slovenia into a public service system, and compares them to those experienced by other countries. The analysis of the structure and operation of the RTV Council reveals that the RTV Council often took decisions in its own interests neglecting the public interest which it should have represented.

The author also analyzes the funding of RTV Slovenia and concludes that poor management and financial loss that accumulated over time resulted in serious financial crisis, with another contributing factor being non-transparent operation. The principles of audio-visual policies adopted by the EU stipulate that it must be clear from which source a particular service provided by a public service broadcaster is financed and that the public funds must be the main source of funding, and advertising revenues a supplementary source. In addition, separate accounting should be applied for public funds and advertising revenues. Accordingly, one of the key tasks of the lawmakers when drafting a new law on RTV Slovenia is to secure its transparent funding.

During the transformation process RTV Slovenia failed to establish modern management principles necessary for efficient handling of such a large institution. The situation was further aggravated by identity crisis (audience erosion and commercialization of programming) that accompanied the financial crisis, and by the crisis in the perception of the fundamental role of public service broadcasting.

In the chapter dealing with the audience and viewing shares, the author argues that, in addition to the viewing/listening share, a significant factor to be taken into account when assessing the justifiability of public funding is a public broadcaster's influence on the audience or rather, public life.

As regards possible solutions to this multifold crisis, the author suggests that certain elements could be resolved by the state, others by RTV Slovenia, and still others by the public. The drafting of a new law on RTV Slovenia should be preceded by wide public debate. The government should publicly assert its support for the public service broadcasting and then provide all mechanisms needed for uninterrupted operation of the public service broadcaster. In ad-

dition, the new law should provide the transparency of operation and funding of the public service. Political interests should be eliminated from the supervisory body of the public broadcaster (the RTV Council). Sufficient funds should be available to finance the content that is in the public interest. The public should be enabled to influence programming. A body that would take care that public complaints are taken into account should be established. The public institution should provide the best possible work conditions for its journalists and encourage their continuing education. And last but not least, RTV Slovenia must have an efficient and responsible management which should ensure rational spending and transparent operation.

INTRODUCTION

Why would anybody want to discuss public service broadcasting today almost fifty years into its existence? What arguments can we offer in support of public service broadcasting in the light of the dominance of commercial systems? Which of these arguments could counterbalance the case for freedom of speech and freedom of individual choice used by advocates of the market media model? If public service broadcasting is truly in crisis, as has been argued by many media analysts, is it a crisis of the concept as a whole, or a crisis of specific national public broadcasters, wrongly interpreted as a crisis affecting public broadcasting in general? If the crisis exists, what are its elements and what produces and reproduces it? Is it possible to overcome the crisis by taking appropriate measures, or is a redefinition of the concept of public service broadcasting needed? What is the future of public service broadcasting in the light of new information and communication technologies? These are the questions we will attempt to answer in this study. The subject of our analysis is a specific public service system, that is, RTV Slovenia, but to understand its functioning it is necessary to understand the significance and the role of public service broadcasting (PSB) in general. This is particularly important when discussing PSB in the countries of South Eastern and Central Europe, in which formerly state-owned media have recently begun the transformation into public service media as part of sweeping political and economic changes. However, whereas in implementing political and economic changes these countries had a model on which to rely, there was no such universally accepted media model available.

We will begin by presenting the basic arguments put forward by the supporters of PSB as compared to those used by the advocates of its commercial competitors. We will show that meaningful defense of PSB is not possible without critical evaluation of its very concept. The following question was posed to a person who has been involved in the commercial media business for years: "Which are the three strongest arguments in support of PSB today?" The answer was simple and predictable: "Probably classic intellectual arguments such as pluralism, objective information and provision of content not offered by the commercial sector." Perhaps the best argument is still the one offered by the committee headed by Gavyn Davies (the present

president of the BBC's Board of Governors) who said: »Some form of market failure must lie at the heart of any concept of public service broadcasting. Beyond simply using the catchphrase that public service broadcasting must 'inform, educate and entertain', we must add 'inform, educate and entertain' in a way which the private sector, left unregulated, would not do«.

To support PSB today means to support the option of an open communication space in which all citizens, no matter what their material wealth or communication competence, will have access to communication channels and a chance to influence programming and content. On the other hand, PSB must not turn into a kind of communication ghetto, providing content unattractive for commercial media, even though, quite understandably, public service content cannot be identical to that on commercial channels. The market is not the sole or the best regulator of the media sector. The state must provide conditions for the survival and operation of both commercial and public service media. Among those conditions are political and economic independence of the media, a supply of funds which make possible broadcasting of programs in the public interest, and public control.

Our analysis will focus on three basic questions:

- How have public service broadcasters ensured the representation of the public in their supervising bodies?
- How are public service broadcasters funded?
- What kind of program do public service broadcasters offer, and what is their attitude towards their users?

We will analyze the operation of RTV Slovenia within the wider context of the transformation of state media into public service media in ex-socialist countries. In addition, we will draw parallels with public service media in some western countries where PSB has a long tradition.

WHAT IS PUBLIC SERVICE BROADCASTING?

From the literature dealing with public media or specific public radio and television systems it is obvious that the definition of public service broadcasting is no easy task. The simplest (but also the most problematic) are tautological definitions - those which describe public service broadcasting as functioning in the interest of the public, or serving the public interest, or as being intended for the public. No less problematic is mere inventorying of the elements of some public system (here the BBC is most frequently taken as a model). Nevertheless, we must first attempt to describe the characteristics of PSB (is it possible to arrive at any generally accepted definition that would cover all specific examples?). We will then proceed to delineate the characteristics of PSB in ex-socialist countries (where practices considerably differ), and finally, we must answer the question of what the future of PSB is.

The simplest way of defining PSB is to describe formal, technical and programming demands placed upon such a service. The following are the fundamental principles and conditions that a public service broadcaster should satisfy:¹

- I. GEOGRAPHICAL UNIVERSALITY OR UNIVERSAL ACCESSIBILITY. A national public service channel should be accessible to all citizens, primarily in the sense that it should be affordable for everybody located anywhere within the country (100% coverage). It is also important that users need not buy additional equipment, apart from a TV set or a radio, or pay for individual services provided by a public service broadcaster, save for the license fee.

¹ At the European ministerial conference about the mass media in Prague in 1994, the Council of Europe adopted a resolution which defines the mission of public broadcasters. According to this resolution, their mission is: "to provide, through their programming, a reference point for all members of the public and a factor for social cohesion and integration of all individuals, groups and communities; to provide a forum for public discussion (...); to broadcast impartial and independent news, information and comment; to develop pluralistic, innovative and varied programming (...); to develop and structure programme schedules and services of interest to a wide public while being attentive to the needs of minority groups; to reflect the different philosophical ideas and religious beliefs in society (...); to contribute actively through their programming to a greater appreciation and dissemination of the diversity of national and European cultural heritage; to ensure that the programmes offered contain a significant proportion of original productions, especially feature films, drama and other creative works (...); to extend the choice available to viewers and listeners by also offering programme services which are not normally provided by commercial broadcasters." The document is available at <<http://www.humanrights.coe.int/media>>.

2. **UNIVERSALITY OF APPEAL.** This principle implies that programs offered by a public broadcaster must cater for diverse tastes and interests, meaning that any viewer should be able to find a program (or content) to his/her liking; it is not important how many people view a specific content, or whether anybody at all intends to view it, what is important is that it is good and available (if it is available, it may appeal to a viewer who never intended, or even never wanted, to watch it). Hence the role of a public service broadcaster is not to appeal to audience in large numbers at any specific time, but to appeal to everybody on various occasions. Another leading principle should be “to make the good popular and the popular, good” (Tracey, 1998: 27).
 3. **UNIVERSALITY OF PAYMENT.** All users of television should pay for the service and everybody should pay the same sum². This includes the principle of public funding of public service television (it is actually funded by the citizens who pay the license fee).
 4. **IMPARTIALITY I.E. INDEPENDENCE** from any partial interests (political or economic). This principle is closely connected with the source of funding (the license fee is believed to be a means of ensuring complete independence for a public service broadcaster and its commitment to serve the public interest) and with the method of appointing the managing bodies of a public service broadcaster.
 5. **EDUCATION.** Perception of the public as citizens and rational mature beings who are capable of learning and developing in different ways. In accordance with this principle, PSB should provide diverse educational content which is not merely a supplement to the educational system.
 6. **CATERING FOR MINORITIES.** By minorities we primarily mean de-privileged groups. A public service broadcaster should provide content that caters for national minorities and all other groups representing a minority in relation to the total population.
 7. **ENCOURAGING COMPETITION FOR QUALITY PROGRAMMING RATHER THAN IN THE QUANTITY OF PROGRAMS.** It is important to have good programs regardless of how many viewers watch them. Since the production and purchase of good programs mean higher costs, Tracey (1998: 31) points out that dependence on commercial or
- 2 In the majority of countries two social groups are exempt from this rule: one comprises people who cannot fully enjoy the services of the public broadcaster (the blind and the deaf), and the other consists of those whose cannot pay the license fee owing to their poor economic condition (socially handicapped people, the unemployed, older and retired people).

state funds prevents broadcasters from implementing this principle. This is one reason why PSB should be financed predominantly from public funds (public contributions).

8. **TENDENCY TO LIBERATE PROGRAM MAKERS RATHER THAN RESTRICT THEM.** Program makers with various ideas and interests, who can produce content for diverse segments of the public, should be enabled to operate. The role of management here is to enable their employees to put their potential to good use, to provide creativity-stimulating environment and encourage innovativeness and experimentation.
9. **SERVING THE PUBLIC (INTEREST).** This implies concern for national identity and community (encouraging people to develop awareness of their identity and a sense of belonging). A public service broadcaster should therefore foster the public aspect of its service, which is in the service of public good, because only in public do individuals function as citizens (aware of both their duties and rights) rather than as consumers.

To summarize this “technical” definition, we could say that a public service broadcaster enables the public to access channels of mass communication, serves the public interest, and opens and sustains the space for public debate. Given this broadly defined fundamental function of a public service, i.e. serving the public interest, it is important to define what a common good is, i.e. which issues are in the public interest.

“A good is “public” if providing the good to anyone makes it possible, without additional cost, to provide it to everyone. A public good has two distinguishing features - non-rivalry and non-exclusivity. The essential problem with public goods is that it is difficult to get people to pay for goods where they do not have exclusive rights to consume the good in question (non-exclusivity) and when their consumption of the good does not affect the good itself (non-rivalry). Under these circumstances, it is difficult to direct a good exclusively to the person who is paying for it” (Annex to the Review of the Future Funding of the BBC, 1999: 202-203, hereinafter referred to as Annex)³. The latter is one among the reasons why public service broadcasters cannot look upon their audiences as consumers but must view them as citizens. One property of a consumer is his/her individuality, which presupposes exclusivity, in contrast to the sense of belonging to a com-

3 <http://news.bbc.co.uk/hi/english/static/bbc_funding_review/report.htm>.

munity which characterizes citizens – this including concern for the common good and awareness of the duties and rights of community members. The public good nature of a public service broadcaster is in that *“the social value (not the market value, s.B) of a TV programme is therefore the aggregated valuation of all those people who might watch the programme, not just those that do”* (Annex, 1999: 202-203). Citizens, even if only potential viewers of public programs, must have them accessible whenever they decide to use them.

“The customer for a broadcaster funded through advertising is the advertiser - not the viewer. The incentive on the broadcaster is therefore to deliver the largest possible audience at the lowest possible cost, as this will maximise advertising revenue and profits” (Annex, 1999: 202-203). For commercial media, the audience is the bait used to attract the greatest possible number of advertisers, while public service broadcasters fulfill their public remit by providing content that is in the public interest.

When talking of PSB we should try to draw a demarcation line, at least on the theoretical level, between the concept and a specific public service broadcaster. Most people see the BBC as an ideal public service broadcaster. As Marc Raboy says (1997: 80), public service radio and television are marked by duality of meaning: they are at once ideal and specific institutions - of which the BBC is supposed to be the symbol. When defining an “ideal” public service broadcaster, it is not possible to rely solely on technical or programming demands, because this usually means that the ideal is (to a greater or lesser degree) equated with a specific model broadcaster (or a combination of several). We should therefore analyze separately the notions such as the concept of being public, of **the** public (citizens), and of the public interest. The public aspect of a public broadcaster is characterized by at least three distinguishing attributes: space, accessibility and debate. A public broadcaster enables the public (various civil society groups, i.e. all citizens) to access communication channels on an equal basis. In this sense, it provides a space for public debate on issues of public interest. The most salient aspect of “public” is, therefore, an opportunity to create a space for public debate that is free from the imperatives imposed by the state (maximization of political power) or by the economy (maximization of profit). Seen from the perspective of universal accessibility, “public” implies not only access to the content offered by a public broadcaster,

but also an opportunity for different social groups to enter the arena of public debate. It would be wrong to assume that all content offered by public service broadcasters is in the public interest. Rather, the range of programs offered by a public broadcaster includes content that is in the public interest. But how can one determine which content is in the public interest and which is not? In order to be able to do this, we cannot simply list content that has been regarded as being in the public interest, because content changes over time and in accordance with the changing interests of the public, but must define requirements for the shaping of (and support for) a system functioning in the public interest. Rather than pinning the definition of the public interest on the nature of specific mass media, we should take into account the needs of the public. Or, to put it differently, public ownership of a broadcaster is not a prerequisite that endows it with public quality, just as private ownership is not a restriction. A broadcaster acquires public quality only through functioning in the public interest.

The public funds a public service broadcaster and controls it (the public is represented in its supervising bodies). Serving the public interest is the key element that gives legitimacy to the operation of a modern public service broadcaster. Without a commitment to serve the public interest, public service broadcasters become extremely vulnerable to political (or commercial) interests interfering with their programming (Curran, Seaton, 1985: 313).

Is it possible to imagine PSB while ignoring the image of a specific broadcasting system? And, is it possible to discuss PSB in isolation from the public-commercial twin set? Is PSB simply the opposite of commercial broadcasting (offering what a commercial service does not offer), and the other way round? Instead of using rhetoric (and practices) employed by the advocates of commercial media, and thus risking the toning down of our argument for PSB, we shall make an attempt to clarify the very concept of PSB. Today's debate on the future (and not the past) of PSB is more than anything a reconsideration of its foundations. *"It is obvious that if communication media are defensible as a public service then their role and significance must be clearly and plausibly stated. Unfortunately, the contemporary case for public service media is trapped in a profound legitimation problem. Like trade unions, political parties and legislatures, public service media have become deeply uncertain about the scope and nature of their contemporary role in representing their constitu-*

ents in the state and civil society" (Keane, 1991: 115).

To discuss PSB today is to discuss its social role and significance. For this reason debate on the transformation of the state-owned broadcasters into the public service broadcasters in ex-socialist countries must focus primarily on critical evaluation of the very concept of PSB. It is not important to what extent the transformation should lean on an already functioning model, or what elements should be taken over, but how this can be done and why. How should one argue for PSB? What arguments can counter-balance apparently convincing ones in favor of the market model, such as elimination of monopolies, independence from state control, freedom of individual choice, diversity of programming, and fulfillment of the wishes of the public? As Keane says, "*the rich, if histrionic vocabulary of market liberalism (...) should be neither haughtily neglected nor accepted uncritically*" (Keane, 1991: 123).

Indeed, the rhetoric of supporters of PSB is mainly unconvincing because it rests on "self-paralyzing tautology". The public service media "*are viewed as a synonym for institutions like RAI, the BBC and the Länder broadcasters in Germany, whose reputation, size, diversity and privileged position enables them to attract talent, to innovate and to produce balanced, quality programming*" (Keane, 1991: 117). Even more problematic is the argument which describes public service media as "*a bulwark of freedom against the confusions and limitations of commercial media*" (Keane, 1991: 118). The majority of definitions of PSB place stress on quality as the "strongest" argument in its favor. Yet how can we define what a good (quality) program is, and how can we avoid the simplistic explanation that the nature of the medium determines the quality of its programming? "*The word 'quality' has no objective basis, only a plurality of ultimately clashing, contradictory meanings amenable to public manipulation*" (Keane, 1991: 120). The "quality argument" frequently conceals the elitist and protective attitude of a public service broadcaster towards its users. A frequently quoted statement by Lord Reith, the first BBC director-general running "*It is occasionally indicated to us that we are apparently setting out to give the public what we think they need and not what they want - but few know what they want and very few what they need*" (Reith in Curran and Seaton, 1988: 124), is taken to be an almost classic paternalistic argument in support of PSB. But the rest of his statement, which is seldom quoted, runs: "*In any case it is better to over-estimate the*

mentality of the public than to under-estimate it" (Seaton, 1994: 38). The basic argument for PSB says that its role and significance lie in enabling a democratic communication process in which all citizens have a right to obtain information in the public interest. Public service broadcasters are independent, meaning that they do not serve the interests of the state, advertisers, or individual power centers, but rather the interests of their users. By the same token, PSB is not an end in itself. It is a space open for communication, a communication link that brings together various members of society and makes possible confrontation of opinions.

Today's debates on the role and significance of PSB in ex-socialist countries are comparable to those in western countries in the 1970s and 1980s. The main argument put forward by market liberals in former socialist countries is that media systems should be left to market forces. As Marx once said, supporters of the market model of the media can perceive freedom of communication only through the image with which they are most familiar, and that is the image of the free market (market forces). They maintain that PSB should become more competitive and cost efficient. *"It must learn to love deregulation"* (Keane, 1991: 61). State interference with the media sphere is "the last dinosaur of the New Deal" which the market oriented media do not need. *"This has all the appearance of a cosmic free lunch,"* says Ben Bagdikian. *"Media owners regularly preach to working people the Spartan message that there is no such thing as a free lunch, but when it comes to media economics they suspend the doctrine. They insist that the public is granted the gift of newspapers and magazines at less than cost and that broadcasting is completely free"* (Bagdikian, 2000: 134). But the fact is that deregulation is still regulation, only that the state in the role of regulator has been succeeded by the market. Of course, which type of regulation is more "democratic" is a question in its own right (Hrvatín, 2000: 561). Market mechanisms do make possible the survival of a large number of media, but not *different* media. It would be unusual if voting rights were dependent on buying power or property. Yet it is precisely this power and proprietary rights that mainly control access to the media, that is to say, sources of information and spaces of public debate (Garnham, 1990: 111).

The said arguments provided the starting point for Rupert Murdoch's market-orientated definition of PSB that *"anybody who, within the law of the land, provides a service*

which the public wants at a price it can afford is providing a public service" (quoted in Keane, 1991: 121). Marcelino Oreja, the former European Commissioner for cultural and audiovisual policies, holds a similar opinion. According to him, the PSB system should be left to individual countries' policies and market forces, which would bring to light the significance of public and private sectors in these countries (Oreja, 1998a). The role of a country would be to define the public interest (Oreja 1998b) and the tasks of the public service broadcaster. Oreja sees the latter as one among the priority tasks of a country, and as a task that is completely under the authority of individual countries. Furthermore, in Oreja's opinion, PSB may be provided by a privately owned company, and public quality is not determined by the type of ownership (the case in point is Luxembourg). Oreja concludes (1998b) that PSB funding should by no means affect conditions on the market or the competitiveness of media markets in member states to the detriment of the public interest. Public funding must not destroy competition (in a way that would jeopardize the general interest), since the television market should enable the simultaneous existence of private and public television stations (private here meaning not publicly funded). Individual countries should make an assessment of whether public funding would benefit the general interest and accordingly give grounds for the public funding and existence of PSB.

If media are equally subject to economic and political forces "*why, then, should the media be governed by the laws of economy rather than of politics, as is typical of commercial communication systems, or by the laws of politics rather than economy, as is typical of paternalistic systems? The media have always been political institutions par excellence and not only commercial enterprises (...)* If the mass media, by definition, link two different and even opposing spheres, namely that of economy and that of politics, and thus fulfill both political and economic functions, attempting to subordinate them to the laws of one of these two spheres is not reasonable" (Splichal, 1997: 354). And what could we say about state regulation? In order to be able to argue for PSB, it is first necessary to draw a precise demarcation line between areas in which the state should continue to control the operation of public service broadcasters, and those in which regulation would be merely another word for "institutional disciplining" of the media which the state deems to be "unsuitable". A substantial step forward in considering the (in)dispensability

of regulation is the presupposition that legislation should protect citizens rather than the other way round, and that it must not become a privilege of certain social groups against others (Marx, Engels, 1985: 36).

Without media freedom, we would end up with media comparable to the “Chinese lady’s foot”, to use Mill’s words (1991: 77) - media without distinctive character, without opinions, without diversity of opinion, and media shaped after the image of the state. Democracy of opinions is understood to be a form of political government, in which *every* opinion has an equal opportunity to develop freely and to access the media market. To paraphrase John Stuart Mill, the worth of a state is the worth of the media composing it. If a state sacrifices media freedom in the interest of greater administrative deftness or its semblance, and if it turns the media into an obedient instrument in its hands, then it will soon realize that “with small men no great thing can really be accomplished” (Mill, 1991: 128).

STATE-OWNED OR PUBLIC MEDIA?

In those ex-socialist countries that have so far made attempts at transforming the state-owned broadcasting systems into public service systems, the key issue has been the question of which public service model to adopt. We have already said that the nature of the system, or a list of programs that are believed to satisfy the public interest, cannot serve as the basis for defining PSB. By the same token, it is then understandable that any specific public service “model” is a product of a particular development course within the specific national environment, and is thus non-transferable. Moreover, a model transferred to a different political and media environment turns into its opposite. For example, the development of the BBC (the most frequently used referential model) is the result of very firm ideological support from the political elite at the beginning of the 20th century (Wheeler, 1997: 65) or, to put it differently, the public service in general is based to a large extent on the enlightenment principles of the 19th century that were politically realized at the beginning of the 20th century (Tracey, 1996: 23). The fact is that this type of political support is not present in most of the ex-socialist countries. The new political elites, which took over in the 1990s, have made attempts time and again at gaining control over the media and have tried to turn them into a kind of pseudo state media or pseudo public media. So in reality these governments indeed ordained public funding but retained control over the appointment of editors or programming. Or, in other cases, under the pretense of market liberalization and freedom of expression, they surrendered public service broadcasters to the ruthless struggle with newly founded commercial competitors. This gradually changes public service broadcasters from institutions accountable to the public into commercial organizations, and forces them to work their way between the public and commercial sources of funding, that is, between the public and economic interests.

The main issues that should be addressed when reshaping a state-owned broadcasting system into a public service system are: a) a precise definition of its relations with power centers and with society (enabling the public to influence PSB and ensuring its autonomy); b) its position in relation to legislation and legislative power in the country (defining who the owner of a public service broadcaster is,

who appoints the management in a public service broadcaster's organization, and to whom it is accountable), and c) its position in relation to the state, citizens and the market (defining funding methods and financial conditions needed for the smooth operation of a public service broadcaster) (Jakubowitz, 1996: 55). Former socialist countries approached these issues differently. Formally and legally, the broadcaster's position in relation to power centers determines how the independence of the public service broadcaster will be realized. If a public service broadcaster continues to be subordinate to the power centers, or remains close to them, then its basic function is to represent the interests of the state rather than those of citizens. Such public service cannot fulfill the function of exerting critical control over the functioning of state institutions, but serves to legitimize the interests of the ruling power.

A public service broadcaster is accountable to the public. The state must provide the legal framework for the representation of the public on the supervising body of a public service broadcaster. In most of the former socialist countries it is precisely the composition of supervisory bodies that has proved to be an explicitly political issue. In some of these countries politics retained the possibility of influencing public service broadcasters through retaining the right to appoint its representatives in supervising bodies, or through broadly defined authority to appoint management. In the past, state-owned media were financed directly from the state budget, meaning that by determining the size of funds allotted to individual mass media the state secured their loyalty. It follows that the programming autonomy of a public service broadcaster issues directly from the funding regime.

The systemic conditions which were the starting point for the transformation of the state-owned media were roughly identical for the majority of ex-socialist countries, as were the problems with which they had to cope. The key problems were economic crisis, absence of adequate media legislation, difficulties in achieving political and financial independence for public service broadcasters, low professional standards, chaotic deregulation and liberalization of the media market, outdated technological infrastructure and delays in introducing new information and communication technologies, and finally, the lack of a clear perspective on the future of PSB. Most of these countries began to introduce media laws not so much because of a

clearly felt need to regulate the media sector, but because of pressure and demands from various European institutions. During the process of adopting new legislation, it became obvious that a broad social and political consensus on how to democratize the communication sphere was lacking. Newly adopted media laws still protected the interests of the state and not those of citizens. The transformation of the state-owned broadcasting systems was only superficial, lacking deeper intervention in the relations between the public service broadcasters and the state. The frequency allocation policies mainly favored commercial radio and television stations, while public service broadcasters were saddled with a number of programming requirements which were not backed up by adequate financial aid. “New” public service broadcasters thus faced countless problems. Speaking in terms of organizational structure, most of them “inherited” oversized crews. In contrast to commercial stations with 300 to 400 employees on average, public service broadcasters had to compete on the market while being forced to maintain a staff three or four times larger.⁴ A large number of employees means that a large portion of the earnings is used for salaries, and in consequence, less money is left available to cover the costs of programming and introduction of new technologies. One grave problem exasperating public service broadcasters is how to obtain the needed funds. The majority of ex-socialist countries have had to endure (and are still grappling with) economic crisis. The advertising market is small and overcrowded with numerous commercial newcomers, while the revenues derived from the licensee fee are insufficient (in Bosnia-Herzegovina, for example, public service television collects only 10% of the total scheduled license fee income). When looking to the west in search of a PSB model, most of the countries chose the model that western countries began to change in the 1970s and 1980s under pressure of deregulation. In the majority of ex-socialist countries, public service broadcasters are financed from a mixture of public, state and commercial sources. Since public funding could not entirely cover the expenses of their operation, the shares of commercial and state funding (which are explicitly unstable) started to increase. A

⁴ Poland's public television has approximately 6,700 employees; Czech Television has 2,800; RTV Slovenia has 2,500; Croatian Television has around 3,000, and Serbian television approximately 7,000. Public television companies in Hungary, Czech Republic, and Romania have reduced their staffs by nearly one third.

high level of dependence on commercial sources influenced the structure of programming, so it came increasingly to resemble that of commercial stations. On the other hand, state funding is dependent on the good will of the government of the day which, in return for funds, expects exclusive representation of its political interests. We should also point out that former state media continued the practice of non-transparent use of funds which was carried forward from the previous regime⁵. In addition, the management of the majority of newly formed public service broadcasters remained ineffective and susceptible to corruption, with clientelism both within the company itself and in customer relations continuing. The leading people in broadcasting companies, who were arbitrarily appointed to and discharged from these positions by political players, felt political but not also financial responsibility for poor business results. "Financial scandals" were usually leaked to the public only when the state wanted to discipline the media politically. Therefore it is understandable that one of the paramount concerns in the transformation process has been how to attain autonomy for public service broadcasters. Independence from politics is further related to the establishment of high professional standards. Instead of being accountable to the state (or advertisers), a public service broadcaster must be accountable to citizens. The crisis experienced by public service broadcasters in ex-socialist countries has both systemic and structural reasons. It would be wrong to think that this crisis has been produced by inadequate media legislation. Not even an "ideal" law would guarantee an "ideal" PSB system, because a successful PSB system is not a product of legislation alone. A law can prescribe requirements for the functioning of public service broadcasters, but not also details of their practical operation. A public service broadcaster should support and sustain the power of the public. The public, on the other hand, should obtain communication power through a public service system.

Which were the key issues that had to be addressed in the transformation of the state-owned RTV Slovenia? Until 1994, when the Mass Media Act and RTV Slovenia Act were adopted, the main issue in debates on the transfor-

⁵ State-owned media never had to struggle with financial problems because the state made up for losses, no matter how high, in return for loyalty. We could say that the state paid not for the production of programs of the state broadcasters, but for the "non-conflicting" image of the world mediated by the public broadcasters. And the price that had to be paid for that objective could never be too high.

mation of state-owned broadcasters was how to attain the independence of the public service. The law on RTV Slovenia introduced the institution of the RTV Council with a view to preventing the interference of politics. The RTV Council is an independent management body that supervises the operation of RTV Slovenia. RTV Slovenia thus became a public institution invested with public service tasks in the field of radio and television broadcasting and funded from mixed sources⁶. The major part of the Council is made up of representatives of civil society organizations who (at least indirectly) represent the citizens. However, in the past five years the Slovenian public service broadcaster has mainly been preoccupied with its internal problems and crises, and has accordingly, devoted insufficient attention to the needs of the public and the wider community for which it broadcasts. Problems were piling up — financial crises (losses grew every year), the crisis of supervisory bodies (the Council, which was supposed to take decisions in the interest of the public, often administered in its own interests only) and of management functions (chaotic relations between journalists and managers and, above all, difficulties with appointing editors), were coupled with identity crisis (audience share erosion, commercialization of programs) and a crisis in the basic concept of public service. This multifold crisis has been caused only in part by systemic reasons (e.g. frequent changes to the legislation, which only superficially resolved these acute problems) and was deepened mainly by structural problems. When in 1999 the trade unions within RTV Slovenia began to draw attention to irregularities in the business management of this public institution, they also raised the question of certain systemic issues pertaining to the functioning of public service broadcasters in general. Even though the law stipulates that RTV Slovenia's business operations are public (RTV Slovenia Act, Article 25), the public has had little insight into its financial situation. While the RTV Council had access to financial information, the wider public had not. The financial losses that only grew over time were a result of inadequate management. The following is how the new general manager, who took office after a failed attempt to re-appoint the previous general manager opposed by the trade unions and journal-

6 Article 1 was later amended to include an additional paragraph stipulating that the "founder of the public institution RTV Slovenia is the Republic of Slovenia" (RTV Slovenia Act, Article 1).

ists, described the managing style at RTV Slovenia in recent years: “There has not been enough self-criticism recently. But first of all we should stress that the management of this public institution has not been based on modern principles. It is my firm belief that we are only now starting some kind of transition process, which for most other companies in Slovenia began in the early 1990s. As we all know, it was when BOALs (Basic Organizations of Associated Labor, an organizational unit in the socialist self-management system, s.B.) were abolished within RTV Slovenia, but thanks to inertia and old organizational principles they continued to function informally right up to date. As a result, a number of functions and tasks have been duplicated, responsibilities have not been defined precisely, and authorities not delimited. Everybody was responsible for something, but ultimately no one was responsible for anything. The levels of business and programming decisions were not defined, and a number of functions, especially financial, were not centralized or performed by one authorized person. We are now eliminating gradually these flaws but are meeting with strong resistance from those who would like to maintain non-transparency of responsibilities and to retain privileges. A lot of money flew out of the company and many wrong business decisions were taken. We are still paying the price for it and we will probably continue to do so for some time” (“RTV Slovenija in nacionalni interes”/RTV Slovenia and the national interest” in *Ampak*, March 3, 2002: 34-42). Obviously, this public institution was not capable of developing modern managerial principles to handle efficiently an organization of its size.⁷ Another problem was that managers sustained a special form of clientelism in their relations with external project executioners (orders were placed and purchase contracts concluded without public tenders for projects). RTV Slovenia was similarly incapable of developing new marketing methods to sell its programs in addition to underpriced advertising time. Despite the fact that an audit showed that the majority of the trade unions’ allegations were true, nobody was held responsible for the harm caused. The former general manager of RTV Slovenia is currently the general manager of a Sarajevo based daily newspaper with a Slovenian owner. Contrary to the practice in some other former socialist countries, where political circles took

⁷ An erroneous understanding of the tasks and responsibilities of managerial personnel in media companies is reflected in the attempts of some newspaper companies to ascribe responsibility for the success of business to their journalists through work contracts. For example, the work contract includes an article prescribing that a certain portion of the salary is tied to the market success/sales figures of the newspaper.

advantage of financial crisis to exert pressure on public service broadcasters, in Slovenia this did not happen (at least not publicly). By contrast, the new RTV Slovenia Act secured for RTV Slovenia 100,000 additional license fee payers through a new method of license fee collection.

The chaotic relations within RTV Slovenia became common knowledge when the controversies surrounding the appointment of editors-in-chief of programs seeped out to the public. The biggest disagreements between journalists and managers, i.e. directors of television programs, were related to the appointment of the chief editors of news programs. Another bone of contention was the replacement of the television program director, a move demanded by journalists who held him responsible for the lack of financial transparency. The RTV Council contributed significantly to deepening the crisis. Although formally an independent managing body, which was supposed to represent and watch over the interests of the public as a whole, it often protected its own interests only.

The problems were reflected in many ways, but had the most direct impact on television programs. A decline in the share of local production, audience share erosion and commercialization of programs resulted in identity crisis. What is the significance of PSB? What types of programs should it offer to the audience? What is its mission? Whose interests does it represent? To whom is it accountable? These are only some of the questions which prove that the resolution of crisis at RTV Slovenia presupposes critical assessment of the wider significance of PSB in modern society. The dilemma is not "PSB yes or no" but what kind of PSB it should be. The crisis of RTV Slovenia is not a crisis in the concept of PSB, but the crisis of an institution which has failed to serve the public interest.

Our analysis of the operation of the public institution RTV Slovenia will focus on several basic issues relating to the functioning of mass media in general. As we have already established, the key attributes of the public service media are public supervision, predominance of public funding and operation in the public interest. The main problems of RTV Slovenia are connected with all three stated elements of public importance: the functioning of the RTV Council (representing the public interest), funding and identity crisis.

RTV COUNCIL: CIVIL SOCIETY VERSUS CIVIL SOCIETY

The functioning of a public service broadcaster is supervised by the public or, to put it differently, a public service broadcaster is accountable to the public. Accordingly, one of the mechanisms of attaining independence for a public service broadcaster is public control over its operation, with a view to reducing the interference of politics to the minimum. One question that has been raised by debates on public service broadcasters is how to ensure adequate catering for the public interest or, in other words, whether various civil society groups represented in the supervising body of a public service broadcaster actually stand for and act in the public interest.

The composition of a supervisory body and the method of appointing its members are two among the most important levers used to secure independence from political influences for a public service broadcaster. The major part of such a body should consist of representatives from various civil society organizations and NGOs representing the public interest. Political representatives within such a body, if present, are usually nominated by political parties proportional to their representation in parliament. The “political” part of a supervisory body obviously represents particular interests of individual parties. But it is not equally easy to determine who represents adequately the interests of the public as a whole. *“Who is specially authorized to speak on behalf of society? Who really, as part of the whole, can represent the whole? (...) Many, and therefore no one”* (Luhmann, 1987: 103). The “public” part of a supervisory body, even though it should represent the universal interests (of all citizens), represents the particular interests of those civil society organizations that nominate it. So the question that remains open is whether such a group of civil society representatives within a supervisory body actually represents the entire public. Another possibility is to leave the representation of the public interest to individuals whose public activity has proved to be in the public interest, rather than to formal civil society groups. For example, the BBC’s Board of Governors, authorized to represent the public interest and responsible for the fulfilling of public tasks, is made up of 12 members recommended by the minister and appointed by the Crown. They are *“men and women with a wide range of experience and interests in public service and the arts, business and industry.”*

The supreme body of United States' PBS is the Board of Directors made up of 35 members, 11 of which are lay directors (representatives of the lay public); 17 are professional directors (representatives of professional institutions); 6 are general directors (the representatives of non-commercial licensees or of the general public), and 1 is a president. The Board of Directors appoints the president of the corporation and the director-general. Since July 2001 the Austrian public broadcaster ÖRF has been a foundation managed by a 35-member Council of the Foundation and a 35-member Council of Viewers and Listeners. The Council of the Foundation includes six representatives of political parties in accordance with the number of seats these parties have in parliament, nine representatives of federal units, nine representatives of the federal government, six representatives of the Council of Viewers and Listeners, and five representatives of the employees. The Council of Viewers and Listeners is a civil society body that has partial veto power over programming issues. It is composed of various representatives of civil society organizations, professional associations (chambers, trade unions), churches and all license fee payers. The Council of the German public service broadcaster ZDF has 77 members of which the majority (42) are representatives of the federal and Länder governments, and political parties' representatives in accordance with their representation in the federal parliament. The rest are civil society representatives. The fourteen regional ARD centers have variously sized councils (the largest is a 56-member Bavarian Council and the smallest a 15-member Hessen Council). In contrast to ZDF, all ARD councils are mainly composed of civil society representatives with political representatives (governmental and political party representatives) making up only one third⁸. We can thus conclude that councils of public service broadcasters vary in size (larger or smaller), structure (the share of civil society vs. political representatives), appointment methods and authorities. Each council reflects to a certain extent specific political, social and communication traits of the local media environment. This means that a country adopting a specific regulatory model for a public service broadcaster, without taking into account local issues and needs (particularly in ex-socialist countries), would run the risk of transforming an apparently "ideal" solution into its antithesis.

⁸ My thanks to Boris Bergant, the vice-president of the EBU, for information about the composition of the ÖRF, ZDF and ARD Councils.

In those former socialist countries that have already started to transform their state-owned broadcasting systems into public service systems, the appointment of council members has been an explicitly political and politicized issue. The ruling political parties never really dismissed the idea of exercising control over the mass media. The most telling example is the election of, or rather the failed attempt to elect members to the supervisory body of the Hungarian public service broadcaster.

The Hungarian 21-member Board of Trustees (one for public radio and one for public television) is made up of the representatives of local authorities and communities (two members), and various civil society representatives (churches, national organization for the protection of human rights, national organizations concerned with arts, science and education, trade unions, journalists' associations, sports organizations, women's organizations, organizations representing the interests of children and youths, the retired population, and the Hungarian expatriates' organization). Their mandate is one year (Jakubowicz, 1996: 61, 67). The Presidium of the Board of Trustees, which has a four-year mandate, is made up of political representatives, 4 governmental and 4 opposition representatives. At the 1998 elections two smaller conservative parties with representatives on the Presidium failed to reach the threshold for entry into parliament. However, under the law, these delegates remain members of the Presidium until the end of their mandate. So the disputes that ensued revolved around the question of which quota (opposition or governmental) these two representatives belonged in. In 1999 the Constitutional Court ruled that these two members belonged in the opposition quota, so coalition parties nominated two additional members meaning that they had a 2/3 majority in the Presidium. Disputes continued when appointing Presidium members for the next mandate. Even though the ruling coalition and the opposition parties should delegate equal number of members (4 each), the far-right Hungarian Truth and Life Party (MIÉP) having 13 seats in Parliament insisted on having 2 delegates, the same number as the Hungarian Socialist Party (MSZP) with 135 seats. Together with another member appointed by the third opposition party, the liberal Alliance of Free Democrats (SZDSZ), the number of opposition delegates amounted to 5 (one too many). Eventually, only four representatives of the ruling coalition were elected, so since the summer of

2000 the Presidium has been made up of the members of the governmental representatives only. In other words, public service television is under unrestricted control of the government. The public prosecutor declared the Presidium with only four members from coalition parties unlawful, but the Supreme Court and the Constitutional Court (5:6) ruled that it was lawful. In the opinion of the latter, it is better to have half a Presidium than no Presidium at all. Similar problems surrounded the appointment of the presidiums of the public radio and national press agency. The debates that followed exposed as crucial the question of how to ensure independence for public television. A prerequisite for this was held to be a complete Presidium (Bajomi-Lazar, 2001:40).

The council of Czech TV (CT) is made up of individuals who represent the interests of political parties in proportion to their seats in parliament. In December 2000 the Czech TV council dismissed the director-general of television and announced a vacancy for the post. Among 33 applicants the council selected the former director of the news division, who had been discharged from that function a few months earlier "because he was not able to establish normal relations with journalists and other employees" (Molaček and Kopecky, 2001: 34). Journalists set up a crisis staff, launched protests and declared that they did not accept his appointment. At the beginning of January, 100,000 people gathered for a protest in Prague to express their support for CT's journalists. What had not been realized by the council (supposedly representing the public interest), has been achieved by journalists with the help of the public.

The national Council of the Bulgarian Radio and Television was established after the adoption of the law on radio and television. It was given the authority to prevent the broadcasting of any program that could threaten national security or national pride. Some leading people in the national radio who opposed these clauses were dismissed. The Constitutional Court ruled that most clauses of the said law were unconstitutional. Despite pressure from the public to democratize the media, in 1997 a new law was adopted which once again subordinated the media to a 7-member council (three members are appointed by the president and four by parliament). The next amendments raised the number of council members to 9. The extended council was intended to represent the public interest as well, but in practice the appointment of its members is

under the control of politicians (Danov, 2001: 36).

In Croatia, the first Croatian Television (HRT) council was established in 1990 as an independent body for supervision of the broadcasting sector. Virtually until the end of HDZ (Croatian Democratic Union) rule its members were parliamentarians only. Their dominance ended in 1998 when the law was amended and their number reduced to 10 of 23 members altogether. Of the current 25 members of the HRT Council, 7 are appointed and discharged by various cultural and educational institutions, 1 by national minorities, 2 by religious communities, and 12 by professional associations and various societies. The president of the country, the president of Parliament and the prime minister appoint one member each. They choose these from among public figures who, through their public activities, protect the plurality of the media and freedom of expression (Matković, 2001: 39).

In Slovenia, the representatives of civil society and its institutions have been in the majority in the Slovenian RTV Council ever since the adoption of the RTV Slovenia Act in 1994. As a managing body representing the public interest, the Council is supposed to prevent the interference of politics with the operation of the public service broadcaster on the one hand, and to ensure that various minority interests are suitably represented on the other. Public broadcasters in Slovenia have not had to resist political pressure as did their counterparts in other ex-socialist countries (for example, dismissals of managerial staff and journalists and meddling with programming concepts). However, the conduct of the RTV Council in the past two years has brought to light another problem – that civil society representatives do not always act in the public interest.

From 1990 to the adoption of the RTV Slovenia Act in 1994, public control over RTV Slovenia was one of the main issues addressed in public debates. The predominant view was that domination of politics in a future supervising body (i.e. RTV Council) should be prevented by all means. As a result, the legal decision was that the representatives of parliamentary parties would be in the minority in the RTV Council, while the majority of members would be delegated by civil society groups, institutions and RTV Slovenia's employees. The RTV Council, which is a joint managing body of RTV Slovenia, thus has 25 members. In accordance with the above-mentioned principle of distribution of power within the Council, five members are appointed by

the National Assembly (which is the founder of the public institution RTV Slovenia), with proportional representation of political parties based on their share of seats in parliament being observed as much as possible. The council members cannot be state officials or deputies to the National Assembly. The political representatives in the Council represent distinctive political interests, meaning that their conduct is openly biased in favor of specific political options. The Italian and Hungarian minorities appoint one member each. Fifteen members, the majority in the Council, are delegated by civil society. The following institutions and associations are represented: the university, the Slovenian Academy of Science and Arts, associations of musicians, composers, writers, theater artists, and journalists, disabled people's associations, sports associations, retired people's association, the Association of Cultural Organizations of Slovenia, the association of employers, The Cooperative Union and Farmers' Association, representational trade unions acting as workers' association, the Youth Council and the Union of Youth Supporters, and religious communities in Slovenia. The representatives of civil society cannot be deputies to the National Assembly, members of the National Council, state officials or political party leaders, nor current employees of RTV Slovenia or employees during the past three years. Three members are nominated by the employees of RTV Slovenia from among their own ranks. They represent the News, Culture and Arts, and Technical Services divisions, but they cannot be persons appointed by the RTV Council, i.e. directors or editors in chief (RTV Slovenia Act, Article 16). Among the most important tasks of the RTV Council are the appointment and dismissal of the director-general of RTV Slovenia and other directors and editors in chief, proposals for increases in the license fee subject to approval by the government, adoption of the financial plan and end-of-year financial reports, definition of programming standards and concepts in accordance with the law and with international legal acts, development of annual programming plans along with financial plans, and appointment of programming councils for minority programs. Even though RTV Slovenia has its own, separate supervising body, the RTV Council has the strongest influence on its policies primarily because it has the authority to appoint managers and editors. Legally and formally, the legislator has thus provided an independent body responsible for supervision of the public

broadcaster in the name of the public. However, it has turned out that in practice the Council has not served the public interest, so politics, or rather the National Assembly, had to intervene in order to protect it.

Towards the end of 1999 the trade unions within RTV Slovenia sent to various public institutions a list of alleged irregularities for which they held responsible the director-general of RTV Slovenia and its program directors. The RTV Council, also acquainted with the content of the letter, refused to take a stance regarding these allegations. The Council members turned down the proposal of the trade union representative on the council to allow the Court of Auditors to examine business operations of the institution, maintaining that such a measure was premature (although certain Council members had already drawn attention to the critical situation within RTV). In February 2000 the trade union wrote a new letter and this time addressed it to the RTV Council only. They pointed out that, in accordance with RTV Slovenia's statute, the Council was obliged to take measures. As they stated in the letter, the analysis of production contracts for a number of broadcasts indicated that contracts were not secured through public invitations, even though the sums considerably exceeded the legally prescribed limit of 5 million tolar (allegations pertained to the violation of regulations on co-production and the Public Procurement Act). In their opinion, if the director-general, who was accountable to the RTV Council, failed to observe the regulations and general acts adopted by RTV Slovenia, or to implement resolutions of its bodies, the RTV Council had the power to discharge him (for this the initiative of one third of its members or of RTV Slovenia's supervising board is required). This time the RTV Council placed the letter on the agenda of its meeting, but concluded that it could not assume the role of an investigating body, or of the Court of Auditors or of the supervising board of the institution. Since the supervising board of RTV Slovenia had not adopted any standpoint by the time of the meeting, and reports by investigating bodies were not yet available, the council decided that it could not take any steps (Delo, February 29, 2000).

In January 2001, following the re-appointment of the director-general, the working group of journalists appealed to the National Assembly to examine irregularities claimed by the trade unions. They further pointed out that, despite the trade unions' alerts, the RTV Council had not required

any explanation from directors at RTV Slovenia. The journalists further stated that they expected that the National Assembly would “*intervene as an arbitrator who would correct the disputable decision of the RTV Council (to re-appoint the previous director-general, s.B.) and lend an ear to employees’ opinion.*” At that time the Court of Auditors presented their preliminary report on the business operation of RTV Slovenia during 1998 and 1999 (that is to say, the period of alleged irregularities), which indicated that most of the trade unions’ allegations were true.

A simultaneous public debate on the role and functioning of the RTV Council as supervising body of civil society pointed out that the Council did not act in the public interest, but rather in its own. Media critics gave examples of conflicting interests within the Council. For example, one member was a scriptwriter for RTV Slovenia; another one appeared in its broadcasts, while the president of the Council “as the head of the Olympic Committee, which is a business partner of RTV Slovenia, evidently has business links with RTV Slovenia”. The council members denied all “*insinuations about bribery,*” but at the same meeting they endorsed the purchase of offices from a company whose director was the representative of the employers’ association in the Council (Grega Repovž, “*Svet drobnih povezav*”/The World of Tiny Connections, in Delo’s Sobotna priloga (Saturday Supplement), January 27, 2001). Despite criticism and public objections, in February 2001 the RTV Council re-elected the former director-general by secret ballot (16 members voted for his re-election). At the same meeting the council members expressed indignation at hints in the media that they had business links with RTV Slovenia, that is to say, that bribery was involved. One of the members stated that the “*media pressure must be defied*” (Delo, February 20, 2001). They also accused the editor in chief of TV Slovenia of reporting events that surrounded appointment of the director-general in a manner that was “loathsome”, “distasteful”, “indigestible”, and “biased” and that it was an example of the media war against the RTV Council. So the Council that supposedly represented the public interest (we should not forget that the appointment of the director-general and the controversies surrounding it are also part of the public interest) denied the public right to access information in the public interest. Critical debates in the media continued. In the opinion of journalists, the Council members

thus proved that rather than representing civil society interests they acted in favor of their own financial and lobbying interests (Delo, February 20, 2001). The Managing Board of the Slovene Association of Journalists appealed to the National Assembly to take into account the opinion of journalists when deciding whether to approve the re-appointment of the director-general. *“The trade union of RTV workers can now only hope for a miracle in Parliament. If the deputies decide not to give their blessing (to the director-general’s re-appointment already decided by the Council), we shall have a paradox of politicians safeguarding the journalists’ guild from its civil society protectors”* (Boris Jež, Delo, Saturday Supplement, February 3, 2001).

It is at this point that politics interfered with the affairs of the public institution RTV Slovenia. At its session in February 2001, the National Assembly’s Commission for Elections, Nominations and Administrative Matters (KVIJAZ) decided not to give its approval to the re-appointment of the former director-general. Some deputies proposed that voting on the re-appointment should be postponed until the final report by the Court of Auditors was available, but the majority of deputies found it unacceptable. Nevertheless, several deputies pointed out that it was inappropriate for politicians to interfere with the decisions of the RTV Council, since it was an independent supervisory body of the public institution. A deputy from the SLS SKD (Slovenian People’s Party and Christian Democrats of Slovenia) stated that in his opinion *“opposition to the decision of the RTV Council was a threat to democracy”*. A deputy from the ZLSD (The Social Democrats of Slovenia) was of the opinion that the re-appointment of the director-general should be approved *“given the decision of the RTV Council, because this body has the power of decision while the National Assembly can only give its approval”* (Delo, February 16, 2001). The resolution of the crisis thus was in the hands of the National Assembly. Five political parties, or to be more precise, 52 deputies voted against re-appointment (meaning that they voted against the decision of the RTV Council). The debate that followed brought to light other related problems. It showed that political parties had many objections to the functioning of the public service broadcaster. A deputy from the SDS (Social Democratic Party), for example, said that *“the debate on the approval of the director-general is an occasion to raise many problems related to this institution. Taxpayers contribute 16 billion tolar annually*

to this institution whose own production accounts for only 18% of its programs. If the National Assembly declines to give its approval to the appointment, it will in effect give a no-confidence vote to the RTV Council. The consequence of a no-confidence vote should be the resignation of the entire RTV Council.” A deputy from the LDS (Liberal Democracy of Slovenia) stressed that journalists’ satisfaction with the decision taken by the National Assembly, which was wrong in his opinion, was a short-lived harmony. As a matter of fact, another item on the agenda of the same session was a proposal for the amendments to the RTV Slovenia Act and the Mass Media Act and parliamentary debates on these issues were likely to provoke many objections on the part of journalists (Delo, February 23, 2001).

In this particular example it is not important whether the deputies’ decision was right or wrong, but whether the conduct of the RTV Council was right. “Knowing that the RTV Council presents itself as a civil society body, is it right for Parliament to act against its decision in this case? Yes. First of all, the RTV Council is not what it pretends to be, but a poor product of the political ruling power, and in this example it acted like a bad ruling power and not like an elite selection by civil society. (...) What sort of civil society body is it if it, despite alerts, twice in a row votes by secret ballot and blocks every argument-based debate and communication?” (Dejan Pušenj, “K.o. za fevdno gospodo”/K.o. for Feudal Lords, in Delo, Saturday Supplement, February 24, 2001). The RTV Council was established precisely in order to take decisions, while approval by the National Assembly should be a mere formality, since the structure of the council (according to the RTV Slovenia Act) is such that it prevents political interference. “For the National Assembly not to give its approval to the re-appointment of the director-general, and thus force the RTV Council to repeat the voting procedure, it must have strong arguments, as this in effect means that it violates the principle of the Council’s operation” (Grega Repovž, Delo, Saturday Supplement, January 27, 2001). “Opposition to the RTV Council is an unpleasant and difficult task for politics because the RTV Council was established precisely in order to exclude direct political interests from the decisions pertaining to the main issues of the institution” (Grega Repovž, “Priložnost (zadnja)”/(The last) Chance, in Delo, Saturday Supplement, February 17, 2001).

With this move the deputies gave a “loud slap in the face of the council members” (Brane Maselj, Ujetniki

pridobitniške logike/The Prisoners of Profiteer Logic, in Delo, February 24, 2001). If the Council's decision is based on professional and solid arguments, then it should insist on Parliament respecting its decisions, and resign if it fails to do so, to stress the fact that the Council has been established to prevent politics from interfering with the work of the public institution. Frequent parliamentary overruling of the "wrong" decisions of the RTV Council ("wrong" according to parliamentarians' own judgment) would mean that not only is the public institution accountable to politics but the public is as well.

At the beginning of April 2001, after four unsuccessful rounds of voting for a new director-general, the Council decided once again to announce a vacancy for this post. The new director-general of the public institution (whose budget in excess of 20 billion tolar is among the biggest in the country) was eventually appointed towards the end of April. The one question that remained unresolved was the responsibility of the program director for past irregularities. In October 2001, 10 members of the Council requested his dismissal. In their letter they stated that he did not see to it that tenders for program production and co-production were publicly announced as prescribed by the law (independent producers' programs must account for at least one fifth of RTV Slovenia's production), that he was responsible for non-transparent cost accounting and an absence of control over expenditures, and for unauthorized signing of contracts which reportedly caused "*indisputable material damage to the public institution and its programs.*" (Delo, October 20, 2001) According to the program director, the legally prescribed public invitation for tenders was impossible to observe because of a deficient regulatory framework, while the prescribed quota of in-house production was unattainable. RTV Slovenia is legally obliged to publicly invite tenders for program production. The editor in chief proposes, in line with the programming principles, the genre, the form, the scope, the programming and technical standards, the target cost per minute of a program, and other conditions defined in RTV Slovenia's statute and the RTV Slovenia Act (RTV Slovenia Act, Article 6). Under the then valid law, the defining of the procedure and the method of submitting projects to RTV Slovenia was the responsibility of the Ministry of Culture. It should be pointed out though that from the adoption of the law in 1994 to October 2001, the Ministry had not defined the

procedure for projects submission. In October 2001, the Act Amending the RTV Slovenia Act (UL RS, No. 79 p. 8054) introduced changes to Article 6 according to which the procedure, conditions and criteria for the public invitation are adopted by the RTV Council in accordance with the act regulating the exercising of the public interest in culture. Since to date the RTV Council has not adopted the document that defines the procedure, conditions and criteria for the public invitation, and since RTV Slovenia has not yet issued an annual public invitation for the purchase of works by independent producers, it will not be able to meet the requirement that programs by independent producers must account for at least 10% of the annual air time of RTV Slovenia⁹ as stipulated by Article 92 (paragraph three) of the Mass Media Act.

In September 2001 the National Assembly discussed the report by the Court of Auditors on RTV Slovenia's business operations for the period 1998-1999. The audit revealed irregularities in business operations and spending in contravention of the Public Procurement Act. It also showed that the program director violated the regulations on co-production, according to which a contract for a co-production project whose value exceeds 20 million tolar must be signed by the director-general. In addition, the commission of the National Assembly responsible for monitoring the budget and other public finances also examined the said report and established violations of the RTV Slovenia Act and the Public Procurement Act. The commission asked *"the director-general of RTV Slovenia to submit a report to the commission within 14 days about the conclusions and measures taken to correct irregularities, unlawful undertakings and irrational spending of the public money and to explain what measures have been taken to ensure that such business operation will not continue"* (Delo, November 8, 2001). Furthermore, the commission requested that the director-general inform them what measures he had taken against the employees responsible for irregularities. In his interview given to a central daily newspaper, the new director-general stated that *"the management system was such that he could launch one to two hundred disciplinary actions at least, replace all editors in chief, all directors of radio programs, leaders of both regional centers and a number of other employ-*

⁹ A fine for the failure to observe this rule amounts to 2 million tolar for the public institution RTV Slovenia and at least 300,000 tolar for the responsible person within RTV Slovenia (The Mass Media Act, Article 135).

ees". In his opinion, it was not the task of the director-general to deal with past irregularities, but to prevent such things from being repeated" (Delo, November 17, 2001).

The Act Amending the RTV Slovenia Act (UL RS No. 79, 10.10.2001, p. 8055) concluded the case, at least in some respects. Article 16 was amended to include three additional paragraphs stipulating that members of the Council cannot be immediate family members of RTV Slovenia's employees occupying managerial positions, for example, the director-general and other employees whose posts are defined as managerial in RTV Slovenia's statute. RTV Slovenia is allowed to sign contracts with or to employ close family members of RTV Council members, but the Council must be made acquainted with any such move. Close family members are defined as parents, a spouse or a partner in a common-law marriage for more than one year, children and stepchildren, brothers and sisters. A member of the RTV Council must not have business dealings with RTV Slovenia. Article 19 was amended to include the stipulation that the Council votes publicly.

A comparison of Czech and Slovenian public service broadcasters shows that in contrast to Czech journalists, who sought support from the public to prevent politicians from interfering with the election of the director-general, Slovenian journalists had to turn for help to politicians in an effort to forestall unacceptable decisions (as journalists assessed them) brought by the "public" (represented through the RTV Council). While Czech journalists did not like the fact that their 9-member Council was made up exclusively of representatives proposed by parliamentary parties, Slovenian journalists objected to the fact that the RTV Council, in which civil society representatives were in the majority, was not in reality accountable to anyone for its decisions (least of all to civil society which it represented). Rajko Gerič from the Journalists' Trade Union at RTV Slovenia explained that the union strived to bring about a change in the voting system and to replace secret ballot with public voting (18 council members voted against this proposal), and to attain a ban on every kind of business dealings with RTV Slovenia for council members (16 members voted against this proposal). *"It is unacceptable that civil society should vote by secret ballot, because that same civil society then does not have any way of knowing whether its representatives really act in its interest. The statute even includes a provision that a civil society representative can*

be recalled from the RTV Council. Now will somebody explain to me how I can recall somebody if, thanks to secret ballot, I don't know whether or not that person represents my interests in the Council" (Gerič, 2001:36).

APPOINTMENT OF EDITORS: APPROVAL OR OPINION ONLY?

One of the main questions posed by the journalists in public debates was whether the appointment of editors in the media needs approval or merely opinion. The following statements illustrate two opposing views. The deputy editor in chief at Dnevnik daily newspaper thought that *“with the appointment being subject to approval, a compromise is the only possible option when selecting the editor in chief. No one’s interest can prevail, neither that of the owner nor that of the editorial board, meaning that it is necessary for them to agree. And if an agreement is necessary, it is good for both the editorial board and for the owner (...)* Approval turned out to be a very effective protection against the political take-overs of the media” (Delo, Saturday Supplement, February 17, 2001). However, Matevž Krivic, a legal expert and ex constitutional judge, had a different opinion. According to him, *“approval is a real oddity that may prosper in Slovenia for a limited period of time thanks to the vague ownership structure. But if a media owner, whoever they may be, decided to dispute this institute at the Constitutional Court on the grounds that it violated freedom of the press, the owner would easily win the case. Approval by the editorial board is an obvious violation of press freedom”* (Delo, Saturday Supplement, February 17, 2001). Freedom of the press is freedom of the publisher, that is, the owner of the media. Freedom of the press means freedom to print or not to print, or in other words, it is freedom for anybody to set up a medium and publish in it (print) whatever he/she wants. *“Approval does not imply merely influence but a dictate which prevents the owner from doing anything without the consent of the editorial board. (...)* This means that a journalistic team of the day could usurp power within the media, which is an absurdity above all absurdities” (Matevž Krivic in Delo, Saturday Supplement, February 17, 2001). In 1999 the National Assembly actually substituted, by a majority vote, the institute of approval with that of opinion. The polarization of views in public debates led Dr. Veljko Rus to attempt to find a compromise. According to his proposal, journalists would be entitled to propose to the owner three names from the list of candidates, and the owner would select an additional one from the list proposed by the editorial board (Delo, Saturday Supplement, February 17, 2001).

And how did the amendments to the RTV Slovenia Act

affect employee's right to approve the appointment of the editor in chief?¹⁰ Article 20 of the 1994 law regulating RTV Slovenia stipulated that the RTV Council appoints and dismisses the editors in chief of individual programs at the proposal of the program directors subject to the approval of the employees of the department in question. The term 'approval' was later replaced with "opinion". The amendments to the RTV Slovenia Act, which were adopted after the controversial appointment of the director-general, introduced a compromise, so paragraph 6 of the amended Article 20 now stated that *"if the director of radio or television programs proposes to the RTV Council a candidate for the position of the editor in chief who has not received a positive opinion from the representative body of the program staff in the editorial office, this body has the right to propose to the RTV Council another candidate who has received its positive opinion. In such a case, the RTV Council chooses the editor in chief from among the candidates proposed by the director of radio or television programs and those proposed by the representative body of the program staff in the editorial office."* During the two years of debates and pressure from journalists, the legal provision thus changed from mandatory approval to a non-binding opinion to the above-mentioned compromise. Frequent changes to the law regulating the functioning of a public service broadcaster are one source of the production and reproduction of its crisis. The transformation of the state-owned broadcasting system into a public service system was, at the beginning of the 1990s, linked to the regulation of formal ownership issues among other things. Who is the owner of the public service broadcaster? The Mass Media Act of 1994 stipulated that a national TV program is created by a public institution established by the Republic of Slovenia under a special law (Article 45, Mass Media Act). In line with this, in Article 1 of the RTV Slovenia Act one can read that the Republic of Slovenia (i.e. all citizens) is the founder of the institution. According to the Mass Media Act of 2001, the founder's rights are exercised by the government through the authorized ministry, except in areas where a separate law (i.e. the RTV

10 The appointment of editors in all other media companies is regulated by the Mass Media Act. According to this law, "the publisher must obtain the opinion of the editorial board before it appoints or discharges the editor in chief, except when the founding legal act defines the influence of the editorial board as predominant" (Mass Media Act, Article 18, paragraph 1). This means that the opinion is compulsory except in those media companies where approval is stipulated by the founding legal act.

Slovenia Act) assigns specific founder's rights and obligations to the RTV Council or the National Assembly (Article 76, paragraph 2, Mass Media Act).

ACCOUNTABILITY TO THE PUBLIC

In May 2000 the RTV Council adopted the document titled "Professional Standards and Ethical Principles of Journalism in the Programmes of RTV Slovenia" (later in the text we'll refer to it as the Code). Previous related debates had shown that the most disputable was the question of whether an elected or nominated government or state official may become an employee of the news division after finishing a term in office. The proposal was that a journalist who holds a political position may not perform journalistic or editorial tasks in the news division for four years (one mandate) following the term in office or, as the trade union proposed, for a period of eight years (two mandates). Rosvita Pesek, a journalist for TV Slovenia and a member of the RTV Council wrote that "*a decision to leave the news program of a national broadcaster and enter politics or political-party life is an irreversible step. Journalists who decide to enter politics or political party life publicly assert their political option. Through that act they actually close for themselves the door to the image of a journalist or news program employee which this Code attempts to shape through various more or less felicitous requirements*" (Pesek, 2000: 4).¹¹ However, the editor in chief of RTV Slovenia explained that "*program directors have been resolving this delicate issue by re-deploying journalists who return, in such a way that the integrity of the organization is not jeopardized. Indeed some journalists advocated a life-long ban on the return of these people to news programs, but this would be, at least in my opinion, unconstitutional and would mean a violation of basic human rights*" (Lipušček, 2000: 3).¹² Since the RTV Council did not back any of these proposals, this issue is not treated in the Code. Accordingly, the right to decide who may return to the news program and when remains with the program director. Since 1996 the management has resolved several such cases by assigning former officials to job positions outside of news programs.

Two further articles most disputed in the debates preceding the adoption of the Code were whether a journalist has a duty to divulge his/her source of information to the editor, and when it is allowable to tape private conversa-

¹¹ Pesek, Rosvita. 2000, "Strojza pravila za javno RTV"/Stricter Rules for Public Television, in *Medijska preža* (Media Watch), 8:3-4.

¹² Lipušček, Uroš. 2000. "Naj to postane notranja ustava"/This Should Become Internal Constitution, in *Medijska preža* (Media Watch). 8: 2-3.

tions. The article prescribing cases in which private conversations could be recorded was removed from the Code at the journalists' request. They argued that it would rule out investigative journalism. As regards the disclosure of information sources to the editor, the proposal stated that a journalist would be obliged to divulge the source if the issue at hand was delicate information. A resulting compromise is such that the information source need not be divulged, but if the editor estimates that certain elements needed to establish the credibility or veracity of information are missing, he/she may refuse to publish it. Article 5.3 of the Code, under the title "Protection of sources of information", further reads that "*disclosure of sources within the journalistic line of responsibility should not be confused with public disclosure of sources. The editor-in-chief has to treat such information with absolute confidentiality*". On the other hand, Article 21, paragraph 2 of the Mass Media Act prescribes that an editor, journalist or author of the article is not obliged to disclose his/her information source except in cases governed by the Criminal Code. Still another document treating this issue is the Code of the Slovene Association of Journalists, where Article 6 prescribes that a journalist is obliged to respect secrecy requested by an information source, or in other words, he/she may refuse to testify and has the right to refuse to disclose the information source. The Code thus simultaneously addresses the professional rules of journalism and the principles of journalistic ethics observed at RTV Slovenia, meaning that "voluntary" ethical rules (already defined in the Code of the Association of Journalists), and rules that are mandatory for RTV Slovenia employees are mixed. "*These are not simply ethical rules, but mandatory rules of conduct - insofar as they are not formulated as recommendations*" (Krivic, 2000: 5).¹³

"*A reporter may express a professional, journalistic judgment based on relevant facts, but not a personal opinion established as a consequence of one-sided views on certain issues*" (Professional Standards and Ethical Principles of Journalism in the Programmes of RTV Slovenia, Article 2, Impartiality). The code observed at the BBC¹⁴ (which was the main reference for the authors of RTV Slovenia's Code), does not include those parts of RTV Slovenia's code

13 Krivic, Matevž. 2000. "Kdo bo bdel nad uresničevanjem kodeksa?"/Who will Watch Over the Implementation of the Code, in *Medijska preža* (Media Watch). 8:5

14 »The BBC is explicitly forbidden from broadcasting its own opinions on current affairs or matters of public policy, except broadcasting issues« (Part One, Impartiality, <<http://www.bbc.co.uk/info/editorial/prodgl/chapter2.html>>)

that are here printed in bold. As Matevž Krivic has concluded, “*what is important is that in the original this sentence appears in a different context than here*” (Krivic, 2000: 5). The point at issue is where the border between permissible professional judgment (based on relevant facts) and forbidden personal opinion (that may be a result of biased perspective) lies. In practice this means that impartiality of reporting is supposedly achieved through lending an ear to both “rightist” and “leftist” opinions, mainly official sources and respondents who give their personal (one-sided) views, while listeners and viewers must form a balanced perspective on these issues on their own. Unfortunately the formula by which totaling pluses and minuses leads to neutral (objective/balanced) information fails to pass the trial run. What we get is “leftist” and “rightist” opinions and no journalist’s opinion at all.

Accountability to the public is a responsibility of the ombudsman, a guardian of professional standards and the principles of journalistic ethics. A temporary book of rules for the ombudsman was adopted at the December meeting of the RTV Council. Until the harmonization of the book of rules with the amendments to the law and RTV Slovenia’s statute, the role of ombudsman was entrusted to the RTV Council. The ombudsman “*supervises the implementation of the professional standards and principles of journalistic ethics, (...) protects the interests of the licensee fee payers, as well as those of journalists and other radio and television program makers against unfounded measures taken by individual editors*” (Professional Standards and Ethical Principles of Journalism in the Programmes of RTV Slovenija, Article 16).¹⁵ Control over the implementation and execution of these rules is of central importance. In the opinion of Matevž Krivic it is “*unacceptable that such a difficult and delicate task should be entrusted to one person*” (Krivic, 2000: 5). This task could be fulfilled much more efficiently by some joint body made up of acclaimed media and legal experts, renowned journalists and persons who inspire trust among the public through their public activity. Basically this body should operate in the interest of the public, while at the same time editors at RTV Slovenia should be obliged by the statute to implement the decisions of such a body.¹⁶

15 <http://www.rtv slo.si/html/kodeks/novinarski_kodeks.html>

FUNDING OF THE PUBLIC SERVICE

It is obvious that the majority of public service broadcasters in today's Europe are facing organizational and financial problems, which are both the result and a generator of the identity crisis. In contrast to commercial media funded exclusively by advertising (selling audience to advertisers), well-organized funding of public broadcasters is a prerequisite for their independence from partial interests. A public broadcaster should be funded primarily by public sources. Given the economic trends of the past decade, we could say that the financial crisis in the public service sector is generated, among other things, by incessant diminishment of public funds, which, in turn creates dependence of public broadcasters on commercial and state funds. We argue that public broadcasters should be mainly funded by public money (a license fee), since only public funding can justify their role as media functioning in the public interest. A public broadcaster that is forced to rely on advertising inevitably becomes subordinate to partial, private, commercial or political interests. We will proceed to give a brief overview of various methods of PSB funding across the world and point out relevant differences.

The "pure" British model of the public service broadcaster has its close counterparts in Sweden (svt), Norway (NRK) and Japan (NHK). The German public communication system has the tightest restrictions on the scope of advertisements and their scheduling. The French public broadcaster has so far managed to avoid, with more or less

16 In the beginning of April 2002, the editor in chief of the news program at RTV Slovenia placed a ban on the broadcasting of a report about the price of the plane intended for the needs of the government, even though the reporter relied on the official information of the Ministry of Finance. The editor in chief was of the opinion that the sum was extremely high, i.e. it considerably differed from information available until that time, so he requested an additional confirmation from the Ministry of Finance. The journalists at the news desk were of the opinion that his move was an »unacceptable editorial censorship« that violated the Code of RTV Slovenia. As they stated, through this move the editor »placed himself in the service of the ruling power, denied the value of the officially confirmed data, and thus gave a vote of no-confidence to his journalists and editors« (Delo, April 16, 2002). The editor of the prime time news Dnevnik promptly asked to be discharged from that job position. Owing to this incident and, as the journalists explained, some earlier interferences with their autonomy, they demanded the resignation of the editor in chief. The editor in chief, on the other hand, defended his decision by arguing that the checking of information and its credibility is more important than the speed of its publishing, and that he did not violate the Code. The RTV Council, which temporarily fulfils the role of the Code ombudsman, judged that the editor in chief did not violate the rule that prohibits every type of censorship. The journalists insisted on their demands and announced a strike if the editor in chief did not resign. Eventually, after a longer vacation that he took after the incident, the editor in chief resigned.

success, the predominance of advertising revenues over license fee income. The funding of the Austrian broadcasting system is on the whole balanced between advertising and licensee fee revenues (license fee income accounts for a few percentages more than advertising revenues, but the latter have been on the increase). The highlight of our comparison is therefore the differences between the sources of income, and the extent of advertising allowed.

TABLE I. SOURCES OF INCOME IN PUBLIC SERVICE BROADCASTING SYSTEMS (% 1996, 1998)

	LICENSE FEE	GRANTS	ADVERTISING	OTHER SOURCES
JAPAN (NHK)	100			
NORWAY (NRK) ¹⁷	99	1		
SWEDEN (SVT)	98	1		1
AUSTRALIA (ABC)		98		2
GREAT BRITAIN (BBC)	97			3
DENMARK (DR)	91	1	8	
GERMANY (ARD)	82	9	9	
BELGIUM (VRT)	77		22	1
GERMANY (ZDF)	73		17	10
BELGIUM (RTBF)	72		20	6
THE NETHERLANDS (NOS)	69		23	8
FRANCE (FR3)	66	2	32	
CZECH REPUBLIC (CT)	61		24	15
ITALY (RAI)	59		37	4
FRANCE (F2)	50		50	
PORTUGAL (RTP)		48	48	4
POLAND (TVP) ¹⁸	32		37	31
DENMARK (TV2)	25	72		3
SPAIN (RTVE) ¹⁹		25	64	11
NEW ZELAND (TVNZ)		100		

Source: Annual Reports, EBU Review, McKinsey Report 1999, European Audiovisual Observatory Statistical Yearbook

¹⁷ According to the Statistical Yearbook of European Audiovisual Observatory, in 1996 the public funds of NRK accounted for 91.6% (other funds were derived from commercial sources including advertising, sponsorship, and sale of programs). In 1998 Norway's public broadcaster was funded exclusively by public sources. (European Audiovisual Observatory, 2000: 158).

¹⁸ The share of public funds decreased from 41% in 1996 to 25% in 1998 (European Audiovisual Observatory, 2000: 158).

¹⁹ At Spain's RTVE the share of public funds fell from 23.9% in 1996 to 11.5% in 1998. The share of commercial funds increased proportionally (European Audiovisual Observatory, 2000, 158).

The table above clearly illustrates differences between PSB funding in various countries (license fee, government grants, advertising and other sources). The “pure” models of public service broadcasting are Japan’s NHK²⁰, funded by the license fee exclusively, Norway’s NRK and Sweden’s SVT, both funded almost completely through a combination of license fee and state grants, and BBC relying on the license fee and commercial sources. New Zealand’s TVNZ and Australia’s ABC are funded virtually exclusively through government grants²¹. Others are mixed funding systems meaning that the license fee and advertising revenues participate with larger or smaller shares. Certain public service broadcasters are financed exclusively from commercial sources i.e. advertising, for example in Portugal, Poland and Spain. The Canadian public service broadcaster CBC relies on the worst funding method available to a public broadcaster, at least according to the words of its president. In their case it is a combination of advertising and an annual government grant in the form of appropriation. Approximately 30% of the funding is commercial (World Screen News, 2001: 4: 48). We should also mention the American PBS which in the 1960s evolved from an entirely commercial media system. It is funded by “membership fees” paid by member stations, corporate sponsorship (app. 30%), voluntary/free contributions from viewers and state grants.²²

In GERMANY two broadcasters perform the role of public service broadcasters – ARD (*Arbeitsgemeinschaft der Rundfunkanstalten Deutschlands*) launched in 1950, and ZDF (*Zweiter Deutsche Fernsehen*), a second national program, launched in 1961. Both broadcasters feature regional radio and television programs mainly broadcasting educational and cultural content. Since the German media market includes commercial broadcasters as well, the main role of the public broadcasters is to provide free access to a wide and diverse range of programs. Ninety percent of funding comes from the license fee paid by television set owners, and in return they get two national channels offering di-

20 Japan’s NHK is funded exclusively by the license fee. According to the data for 2000, 83.6% of Japanese households regularly pay the license fee on the basis of a special contract with NHK. No sanctions are anticipated for fee-evaders. (World Screen News, 2001, 4: 42).

21 Australian ABC is funded by the government on the basis of a three-year agreement on funding. ABC does not broadcast advertisements or sponsored programs. (World Screen News, 2001, 4: 49).

22 PBS Annual Report 2000 (<<http://www.pbs.org/insidepbs/annualreport/summary.html>>)

verse program with largely restricted advertising. Other sources of income are advertising, sponsorships and contributions for broadcasting rights. ZDF earns approximately 18% (nearly 169 million euros) through advertisements (World Screen News, 2001, 4:36). Use of the license fee income is under control of an independent commission (securing independence of the public broadcaster from the state), but the members of the commission are appointed by *Länder* on the recommendation (which is not binding) of the presidents of the *Länder* governments. Advertising on the public service channels is restricted to 20 minutes a day at the most, and that before 8 p.m. (outside prime time). The prohibition on advertising during prime time enables these broadcasters to assign non-commercial programs to slots with high viewing shares (ZDF's news programs, in the widest sense of the word, account for approximately 45% of the total program). The German model of the PSB system represents a balanced model of mixed funding which does not disturb market balance, owing to the transparency and predictability of the resources and their use.

AUSTRIA stands out in the sense that its public broadcaster does not have competitors, since so far no broadcasting license has been granted to a commercial television station. The Broadcasting Act provides a monopoly for the public national radio and television organization ÖRF. In addition to two national channels, ÖRF 1 and ÖRF 2, ÖRF also has a 50% share in the first digital thematic channel (weather and tourism). It was launched in 1997 and is accessible by cable or satellite (Hans Bredow Institute for Radio and Television, 1998: 11-25). Like other public broadcasters, ÖRF is not a profit-driven organization, but uses its revenues to cover the costs of programming (production). The biggest sources of income for ÖRF are license fees and advertising, which in combination amount to 90% of total revenues. Other sources are grants and frequency fees. However, the recent increase in programming costs boosted the share of advertisements and raised the license fee (according to forecasts this trend will continue). Certain proposals for the resolution of the financial crisis suggest that in the future ÖRF may change from a public institution into a company.

The FRENCH system is not as transparent or efficient as that in Germany, with the result that program production depends on market success. The French national public radio and television service France Television operates

two television channels (France 2 and France 3). In addition, there are two other public service programs, the educational and news program *La Cinquieme* and the French-German cultural program *Arte* (launched in 1991), which share the same frequency. France 2 reaches 99% of French households and is intended for the most general public – television for all citizens (Radio and Television Systems in the member states and Switzerland, 1998: 15-25). France 3 is a regional channel with 13 regional studios, 24 regional “news bureaus” and it has an 18% audience share. France 3’s news program, broadcast between 7 p.m. and 8 p.m., has the highest share of audience (since the content differs regionally, a high audience share is understandable). France 3 programming rests on the following principles: information, development of culture, entertainment, respect for the individual, diversity, special care for children, striving for innovation and development, and the highest possible share of domestic production.

France 2 and France 3 together have an audience share of 40% and a 28% advertising share. The audience share of *La Cinquieme* is less than 4% and of *Arte* 3% (audience in Germany accounts for one percent). The license fee for public service channels is paid by the owners of television sets in the form of an annual tax (the rate of the fee is determined by the government, while any increase in the fee in line with inflation is adopted by Parliament). In addition to the license fee and advertising, public service channels are funded (to a much lesser degree) by government grants prescribed by law on an annual basis. French television programs are subject to quotas prescribing 40% domestic or 60% European production. At France 2, license fee income accounts for the biggest part of their funding (49%), followed by advertising (47.2%), grants (2.5%), and other income (1.3%). France 3 obtains 61.2% of their funds from the license fee and approximately one third from advertising, while other sources are grants, other revenues and co-production (3.4%)²³. Obviously both derive most of their revenues from the license fee, with France 3 getting nearly 20% more funds from this source.

The UNITED STATE’S Public Broadcasting Service (PBS) is a special example. While for many years PSB systems in Europe were mainly monopolies, meaning that broadcasters did not have to compete with commercial

23 <<http://www.francetv.fr/groupeft/sombugpa.htm>>

television or radio stations, the Public Broadcasting Service in the United States evolved from a purely commercial environment, so its present organizational structure and financial sources are a result of this specific course of development. PBS is a private, non-profit enterprise including 374 public television stations (FCC report)²⁴. Of this number, 177 are non-commercial licensees: community organizations, universities, colleges and state authorities (local educational and municipal authorities). PBS operates as a distribution network or a coordinator. The corporation itself cannot produce programs or be a holder of a broadcasting license. The purpose of its existence is to provide good quality programs and needed technology to all member stations. PBS's funding sources are extremely fragmented causing financial instability and deficits. Corporate sponsorship is a significant source enabling PBS's operation, but this funding method is quite problematic. Since advertising on PBS is prohibited, a sponsoring corporation may publish only short messages at the beginning and end of the program (the regulatory body FCC takes care that messages from sponsors do not evolve into advertising). The problem is that, like any advertiser on commercial channels, non-commercial sponsors also want to reach the largest possible audience. As a result, corporations are not interested in sponsoring controversial programs i.e. those that form the programming foundations of the public broadcaster.

The McKinsey Report for the BBC (1999: 25-32) gives three funding models for public service broadcasters in the future. License fee funding is described as the most stable, most predictable and the most reliable source of funding. The flaw of license fee funding is that it does not force the provider of the service to take into account the wishes of the audience – all users pay the same fee regardless of their material conditions; in other words, the license fee in this case is a tax paid by all owners of television sets whether they watch the BBC or not (Review of the Future Funding of the BBC, 1999: 140-142).

Government grants are, like advertising revenues, an unstable funding source, since the amount is inexorably dependent on national policies. For example, a public service broadcaster may be forced to cope with the limited budget allocated by the government which cannot cover expenses arising from the tasks it is supposed to fulfill. Also,

²⁴ FCC Report 2001 (<http://www.fcc.gov/Bureaus/Mass_Media/News_Releases/20001/nrmmo107.txt>)

with this type of funding a public service broadcaster is dependent on the general economic situation, while producers and editors are exposed to direct political pressures which jeopardize their independence. The McKinsey Report further describes advertising as an unreliable and unpredictable funding source “*due to its dependence on the business cycle and susceptibility to competitive pressures. This makes it difficult for a PSB to plan its investment strategy, whether for programming or for operational improvements*” (McKinsey Report, 1999: 31). Present public service broadcasters mainly rely on a kind of mixed funding model combining license fee and advertising revenue. But with the share from advertising revenues increasing and the quality of programs deteriorating, a mixed system may easily turn into a commercial model, as the examples of Canada’s CBC and Portugal’s RTP illustrate (Review of the Future Funding of the BBC, 1999: 143). In these specific cases, greater dependence on advertising revenues lowers funds available for cultural, drama and children’s programming. As a result, schedules on public television channels are increasingly similar to those on commercial channels, which “*can potentially compromise the rigour of a PSB schedule*” (McKinsey Report, 1999: 29).

RTV Slovenia’s funding belongs to the class of mixed models and includes four sources. According to the RTV Slovenia Act, the role of the public institution RTV Slovenia is to make and broadcast programs on two national television channels, three national radio stations, one radio and television station for the Hungarian minority and one for the Italian, radio and television programs for Slovenian national minorities in neighboring countries, radio and television programs for the foreign audience and radio and television programs for regional channels in Koper and Maribor (RTV Slovenia Act, Article 3). RTV Slovenia is funded through the license fee, state budget, advertising and other payable forms of broadcast messages, sponsorship and other sources²⁵ (RTV Slovenia Act, Article 14). The funds obtained from other sources may be used only for funding programs defined as public service programs in Article 3 of the said Act.

²⁵ Other sources include: other services (teletext and the like), publishing of musical and other audio and video products and book publishing within the framework of their activities, concerts, organization of public events within the framework of their own activities, and other activities defined in the statute in accordance with the law (RTV Slovenia Act, Article 13).

Based on the ruling of the Constitutional Court in the fall of 1999, the National Assembly adopted the Act Amending the RTV Slovenia Act, which introduced a change in the method of collecting the license fee (renamed contribution therein). An increase of almost 20% in the number of license fee payers, coupled with the increase in the fee itself, secured an additional 2.3 billion tolar in revenues compared to 1999.

Debates preceding the adoption of the new media law (the Mass Media Act of 2001) revealed as the most controversial a proposal that 3% of license fee revenues should be used to fund public programs produced by two regional, non-commercial TV stations. At the end of March 2001, the Board for Culture, Sports and Science decided, after three readings, to give the green light to the proposal to allocate the 3% of the total license fee revenues to regional programming. The management at RTV Slovenia promptly pointed out that alienation of a part of the license fee was unlawful. According to the RTV Slovenia Act (Article 14), license fee income is dedicated to programming at RTV Slovenia. The Secretariat for Legal Issues and Legislation with the National Assembly and the State Secretary at the Ministry of Culture responsible for the media also drew attention to the legal disputability of this proposal. The State Secretary even announced the filing of a complaint with the Constitutional Court. But this is just one side of the coin. Local non-commercial radio and television stations also create content of special significance for the local communities for which they broadcast. Through their programs, in particular news and educational programs, they cater for the public good and serve the interests of their local communities. Hence they justifiably expect financial support for these public functions they fulfill.

Another proposal was to introduce a 3% tax on every instance of the broadcasting of an advertising messages on a public or commercial television station. The tax was intended for the audio-visual fund. Eventually the deputies turned down this tax, even though, contrary to the government's proposal, the establishment of a fund for audio-visual media remained in the law. This fund is financed primarily from the state budget, annual contributions for the expansion of programming content and monthly contributions for technical improvements of programming content.²⁶

The Constitutional Court turned down RTV Slovenia's proposal to postpone the allocation of 3% of license fee

revenues to local radio and television stations. As a consequence, Article 82 of the Mass Media Act now prescribes that 3% of the license fee revenues be set aside for the programming needs of local, regional and student radio and television stations. The Mass Media Act further stipulates, in the section defining the public interest in the media sector, that the Republic of Slovenia supports the media in disseminating programs which are important for Slovenian citizens, Slovenians across the world, members of Slovenian national minorities in Italy, Austria and Hungary, Italian and Hungarian national minorities in Slovenia, and the Roma community in exercising the right to be informed and obtain public information; in preserving Slovenian national and cultural identity; in stimulating cultural creativity in the area of the media; in developing a culture of public dialogue; in reinforcing the welfare state ruled by law and in developing education and science (Article 4 of the Mass Media Act). In accordance with these commitments, the Republic of Slovenia supports the activities of radio and television stations of special significance for Slovenian culture (radio and television channels of RTV Slovenia, local and regional radio and television channels, student and non-profit radio and television channels) through government funding and the license fee. At the moment, thirty radio and television channels in Slovenia have non-commercial status (this status has been granted under the previous Mass Media Act of 1994).

The programming requirements for RTV Slovenia are defined in the Mass Media Act and RTV Slovenia Act. Before the latest amendments, Article 6 of the RTV Slovenia Act specified that RTV Slovenia's in-house news and information, cultural, educational and entertainment programs combined with co-produced and commissioned programs, must account for at least 50% of the total output of RTV Slovenia, or at least two hours a day of a national minority radio program or 30 minutes a day of a national minority television program. The Mass Media Act stipulates that domestic audio-visual production must participate with at least a 25% share in the annual output of the two national

26 Article 107. of the Mass Media Act stipulates that the broadcaster of radio and television programs pays an annual fee for the dissemination of programs. The Telecommunications Act (Article 50) prescribes that the broadcaster of radio and television programs pays the annual fee for a frequency license. The fee stipulated by the Mass Media Act is a kind of additional "levy" on the regular business. The Ministry of Culture has not amended the regulatory framework which regulates the rate of the fee even one year after the adoption of the law.

channels taken together. European audio-visual works (television programs) must account for at least 10% of the annual output, and at least half of these must have been produced in the last five years. Advertisements are restricted to 15% of the daily air time, that is, 12 minutes per hour at the most. During prime time, that is between 6.00 p.m. and 11.00 p.m., advertisements are restricted to 9 minutes per hour and teleshopping is not allowed during this period. Advertisements must be set apart, visually and audibly, from the program in which they appear, and must not affect the integrity of the surrounding content. Feature films, television films, cultural, artistic, scientific and educational programs must not be interrupted by advertisements. Serials and series may be interrupted by advertising blocks set at least 20 minutes apart.

The last changes to the RTV Slovenia Act (UL RS No. 79, 10.10.2001, p. 8054) introduced changes to Article 6. With this amendment, prescribing public tenders for program production, the state (or rather the Ministry of Culture) sought to ensure transparency in selecting independent producers for RTV Slovenia (prior to the amendment, this was regulated by the third paragraph of Article 6 of the RTV Slovenia Act). However, when inserting this new provision, the old text of Article 6 was entirely replaced including the first paragraph that prescribed a 50% share of domestic production in total broadcast time. In consequence, this area is now regulated by Article 85 of the Mass Media Act, which stipulates that the share of programs produced directly by any broadcaster must account for 20% of the daily transmission time of that broadcaster, of this at least 60 minutes between 6.00 p.m. and 8.00 p.m. unless specified otherwise in the same law (but no exceptions are specified in this law). Accordingly, the leaving out of the first paragraph of Article 6 in the RTV Slovenia Act may result in RTV Slovenia having a share of in-house production identical to that of any other broadcaster, whether commercial or non-commercial. In other words, under the current legislation, the Slovenian public broadcaster with a monopoly over public funding (dedicated to content in the public interest that is not commercially attractive) has identical programming requirements to those of commercial broadcasters.²⁷ This makes RTV Slovenia the only pub-

27 Zatler, Simona and Sandra B. Hrvatin. 2001. »Programski deleži po novi medijski zakonodaji« (Program Shares According to New Media Legislation) in *Medijska preža* (Media Watch) 12:32-33.

lic service broadcaster in Europe whose operation is subject to even less regulation than that of commercial television stations.

TABLE 2: RTV SLOVENIA'S REVENUES (1995, 1998)²⁸

RTV SLOVENIJA REVENUES	1995	1998
TOTAL IN MILLIONS SIT	15,187	16,857
1. LICENSE FEE	8,049	11,513
2. ADVERTISING	2,787	2,134
3. OTHER	2,738	1,455
4. SPONSORSHIP	1,497	1,594
5. GRANTS	116	61
RTV SLOVENIA EXPENDITURES		
TOTAL IN MILLIONS SIT	15,569	17,102
1. NATIONAL TV PROGRAMS	5,350	5,662
2. AMORTIZATION AND FINANCIAL EXPENSES	2,210	2,063
3. TECHNICAL SERVICES AND ADMINISTRATION	2,000	2,063
4. NATIONAL RADIO PROGRAMS	1,999	1,884
5. REGIONAL TV PROGRAM	1,152	1,064
6. REGIONAL RADIO PROGRAM	1,147	1,037
7. TRANSMISSION	660	816

Source: www.rtv slo.si/html/ostalo/statistika.html

RTV Slovenia derives most of its income from the license fee. From 1995 to 1998 the license fee revenue increased nominally with its share within the total revenue also increasing (it rose approx. 40% over the period of three years). Advertising revenues, the second biggest source of income, decreased over the same period. The biggest rise in expenditures was recorded in Technical Services and Administration, while programming expenditures had not increased as much or not at all. There was a slight increase in spending on the national TV program, but spending on both national and regional radio programs, the regional television program and amortization decreased. To put it differently, even though locally produced programs are one

²⁸ Data in Table 2 are available at <http://www.rtv slo.si/html/ostalo/statistika.html>. Table 3 contains data taken from the proposal for the business and programming plan for 2002 (December 11, 2001). Under the RTV Slovenia Act (Article 25) RTV Slovenia's operations are public. The business report and end-of-year statement of account are published in accordance with the statute. So does the founder of RTV Slovenia, i.e. the National Assembly, have an overview of the business operation of RTV Slovenia? Neither the commission monitoring budget and other public funding (and RTV Slovenia belongs to this class of institutions), nor the National Assembly have RTV Slovenia's final statement of account. (Gospodarski vestnik, May 5, 2001, p. 17).

of the main vehicles for fulfilling the public service mission, the Slovenian public service broadcaster invests increasingly less money in programming. On the other hand, its license fee revenues rose from 8 billion tolas in 1995 to 15 billion tolas in 2000, with the scheduled income from this source in 2002 amounting to 18 billion tolas.

TABLE 3: REVENUES IN 2000 AND PROPOSAL FOR 2002

IN THOUSANDS	REVENUES 2000	PROPOSED IN 2002
1. LICENSE FEE REVENUES	15,303.235	18,126.500
2. ADVERTISING REVENUES (TOTAL)	4,454.525	4,793.185
3. TAPES AND CDS	0,141.846	169.000
4. OTHER COMMERCIAL REVENUES	1,631.142	1,633.349
5. GOVERNMENT CO-FINANCING (UNDER THE RTV SLOVENIA ACT)	0,149.262	0180.116
6. CO-FINANCING (OTHER THAN PRESCRIBED BY THE RTV SLOVENIA ACT)	0,182.010	128.972
7. OPERATING INCOME	016.849	013.500
8. CHANGES TO THE STOCK VALUES	0,5.630	0,2.200
TOTAL INCOME	21,884.499	25,046.822

Source: RTV Slovenija, Programming and business plan for 2002 (proposal) December 11, 2001

In 1999, RTV Slovenia's end-of-year figures showed positive results for the first time in a long period. With revenues amounting to 1.6 billion tolas, it should have been able to make up for the loss accumulated over previous years. Such business results were in part due to changes in the method of presenting the statement of account, and in part to a new method of collecting the license fee. It is obvious from the business report that nearly one third of revenues in 1999 were generated by the Transmitters unit, mainly thanks to new services provided for mobile phone operators. The revenues of this unit are intended for the development of technical infrastructure accessible to all broadcasters (not solely RTV Slovenia), and cannot be used to fund programs (Delo, January 31, 2000).

The business and programming plan for 2000 included an announcement that the year 2000 would be "the first step in overcoming the crisis". According to forecasts, approximately 300 million tolas should have been available at the end of the year to start making up for the loss from

previous years. Debts were planned to be reduced by 40% and the public image of the institution improved. It was further stated that program directors guaranteed programming that would enable the marketing division to fulfill ambitious plans. These were mainly related to the broadcasting of sports events, as almost half of the sum, 450 million tolar in excess of that available in the previous year, was reserved for the Sports division. The plan also clearly showed that the proportion of programs produced by RTV Slovenia was to be reduced from 51% in the previous year to 49% (in contravention of Article 6 of the RTV Slovenia Act valid at that time). As regards the structure of expenditures, 44% of the total expenditures were reserved for staff costs (salaries)²⁹, nearly 10% for the repayment of loans, and slightly over 30% for programming needs (Delo, December 1, 2000).

However, in the first half of 2001 RTV Slovenia's loss already amounted to 955 million tolar. In the opinion of the director-general the reasons were the failure of the government to adjust the license fee to the inflation rate, a lower-than-expected rise in the number of license fee payers, and repayment of old loans which devoured large sums of money. Since variable costs accounted for as much as 35% of monthly expenditures, the director-general proposed to cut variable costs as an urgent measure. The costs were planned to be reduced through a more streamlined operation, a decrease in outsourced staff (at that time numbering 600 according to estimations), and less air time. Television program departments were expected to reduce the budget between 16% and 21% on average (nearly half of the planned sum pertained to the Culture and Arts division). The budget of Radio Slovenia was planned to be reduced by 19%. The proposal by the director-general stated that the curtailing of programs should be selective leaving the schedule of locally produced programs intact *"but certain changes in foreign program scheduling must be introduced in order to preserve the main part of domestic production, so certain serials and films broadcast outside prime time have been temporarily suspended"* (Delo, June 22, 2001). Yet, with the audience share eroding, the making of cuts in spending on programs is the worst possible method for resolving the crisis.

²⁹ The Croatian public broadcaster has similar difficulties – oversized staff and non-streamlined production. "At the moment, the main line of activity of the television company is payroll calculation. As much as 55% of the total income is used for salaries and fees, while only 30% is used for the production of programs" (Matković, 2001: 39).

TABLE 4: THE PROPOSAL FOR THE ALLOCATION OF FUNDS BY DIVISIONS (TELEVISION) FOR 2002 (IN THOUSANDS SIT)

NEWS AND EDUCATION DIVISION	
DAILY NEWS	242,360.000
CURRENT AFFAIRS AND INFORMATION	124,596.000
EDUCATIONAL	134,114.000
REGIONAL STUDIO LJUBLJANA	20,516.000
ARTS DIVISION	
COSTUME DRAMA	221,094.000
CULTURE	58,080.000
DOCUMENTARIES ABOUT CULTURE	63,626.000
CLASSICAL MUSIC AND BALLET DIVISION	41,864.000
CHILDREN AND YOUTH PROGRAMS	180,026.000
RELIGIOUS	48,556.000
ENTERTAINMENT AND SPORTS DIVISION	
ENTERTAINMENT	389,623.000
SPORT	232,332.000
TOTAL	1.756.777.000

Source: RTV Slovenia, Programming and business plan for 2002 (proposal) December 11, 2001

TABLE 5: BBC – SPEND BY GENRE (IN MILLIONS GBP)

	1999/2000	2000/2001
NEWS ³⁰	310	342
FACTUAL AND LEARNING ³¹	350	308
ENTERTAINMENT	253	294
DRAMA	268	264
SPORT	178	256
MUSIC AND ARTS	107	133
SPEECH – LOCAL RADIO	106	101
CHILDREN	55	60

Source: BBC Annual Report and Accounts 1999/2000 in 2000/2001

The figures for the BBC and RTV Slovenia are not directly comparable, among other reasons because to date RTV Slovenia has not established the economic cost of one minute of its programming.³² Yet certain parallels can be drawn. The programming and business plan proposal for 2002 shows that RTV Slovenia plans to spend 1.75 billion

³⁰ Includes economic news, current affairs and daily news programs.

³¹ Includes educational, religious, scientific, and artistic programs, programs on historical subjects and documentaries.

tolars on television programs or 7% of the total budget (25 billion tolar). The proposed spending on entertainment programs (389,623,000) is higher than proposals for daily news programs and current affairs program (366.956.000) or arts programs (384,664,000, this including costume drama, cultural programs, documentaries on culture and classical music and ballet). By contrast, in 1999/2000 the BBC spent the most on “factual and learning” programs (350 millions) and news program (310 millions), while in 2000/2001 news took the lead (342 millions i.e. 32 millions more than in the previous year). Furthermore, an increase in spending can be observed in the area of entertainment (41 millions), sport (78 million), music and arts (26 millions), and children’s (5 million) programs. The Sport division, which recorded the biggest rise in spending, caused by a steep rise in the cost of broadcasting rights for sporting events³², is followed by the entertainment and music and arts programs. A comparison of BBC’s and RTV Slovenia’s spending on similar genres shows that in 2000/2001 the BBC’s spending on news, entertainment, factual and music and arts programs accounted for 66.7% of the total, while RTV Slovenia’s proposal for 2002 allocates 43% of the total to the same genres.

Critics maintain that public service broadcasters are oversized and too expensive. Demands for liberalization and deregulation of the media market in west European countries in the 1980s were accompanied by demands to streamline the public broadcasters’ operations. The establishing of order within these organizations was linked to job shedding and cutting of production costs. RTV Slovenia has approximately 2400 employees and an outsourced staff numbering around 600. The proposed budget for 2002 is approx. 25 billion tolar. But RTV Slovenia is still in crisis owing to the loss accumulated over the past years and poor business management in the past. Among the proposed measures in the program plan for 2002, aimed at reducing the accumulated loss and overcoming the crisis, the most

32 In an interview for Delo featured soon after his appointment, the new director-general, when asked about the reasons for poor business results, replied that the economic cost of one minute of a program has never been calculated (Delo, May 12, 2001). He stressed that as a priority task during his mandate. In another interview for the same newspaper half a year later he was asked how far they had proceeded with the calculation of the economic cost. His answer was that it was quite easy to calculate this cost, but control over its practical implementation was quite another matter (Delo, 17.11.2001).

33 For RTV Slovenia, the broadcasting right for the FIFA World Cup rose from 80,000 us dollars in 1998 to 2.2 million us dollars in 2002.

controversial is a cut in spending on programming. It is a measure with a short-term effect which only deepens the crisis in the long run. The public service broadcaster must maintain production of programs in all segments and ensure air time for independent producers' programs. The most distinguishing feature of a public broadcaster is not its organizational structure but the program it offers to viewers and listeners.

Since public broadcasters are mainly funded by public sources, it is necessary that the public have control over the use of these funds. The European Broadcasting Union (EBU) thus explains the necessity of transparent operation, especially financial transparency in public service broadcasting organizations: *"Transparency is an essential and distinctive element of the public broadcasting system. It is part of public broadcasters' accountability to the public. Without transparency in their organization, supervision, funding and programming, public broadcasters cannot properly fulfil their role on behalf of society and democracy. (...) Member States have put various measures in place to ensure the transparency of public service broadcasting. With differences due to the various national systems and traditions, the supervision of broadcasting activities by pluralistic internal boards or other independent bodies, the appointment of members of supervisory bodies in an open and pluralistic manner, public meetings of supervisory boards, monitoring by Parliament, financial supervision by a Court of Auditors, the publication of annual accounts, the assessment of financial needs by an independent commission (...), the structural or financial separation of certain activities etc. Any increase in public funding (such as a higher licence fee) is normally subject to close public scrutiny and parliamentary debate."*

Obviously, the EBU document, just like the Protocol on the System of Public Broadcasting in the Member States, annexed to the Amsterdam Treaty, leaves the decision on the organizational structure and funding regime to individual member states, meaning that PBS systems across the EU will remain different, with legislators in these countries having rather broad authorities to shape them.

The High Level Group on Audiovisual Policy sets similar principles of proportionality and transparency.

"The funding of public service broadcasting must:

- *Be in proportion to, and not more than, what is needed to discharge the public service remit (the criteria of proportionality).*
- *Be granted on open terms such that compliance with this principle can be checked on at any time (the criteria of openness);*

- (...) *financial openness should be applied, in particular where a public sector operator receives funding from sources other than public sources in the realisation of its public service remit. Furthermore, when that operator engages in purely commercial activities (i.e. that go beyond those activities defined as part of its public service remit), separate accounting should apply. This is necessary to avoid public sector funds being diverted to commercial activities;*
- (...) *the funding of public service activities should come mainly from public funds; recourse to the advertising market should remain secondary.*³⁴

The transparency of business operations and funding of RTV Slovenia's programs is still one of the fundamental issues that remains to be resolved in the future law on RTV Slovenia. Commercial broadcasters in particular have been drawing attention to the issue of transparency of use of public funding. In 1999 for example, ProPlus company requested a procedure to establish whether RTV Slovenia abused its predominant market position and whether it violated Article 10 of the Protection of Competition Act (UL RS No. 18/93) pertaining to the provisions stipulated by Article 11 of the same law. Among other things, ProPlus proposed that the Office for the Protection of Competition should establish whether RTV Slovenia's advertising methods and advertising market share secured it a predominant position within Slovenia and whether RTV Slovenia abused this position. In February 2001 the Office for the Protection of Competition issued a statement in which it assessed as true ProPlus's claim that the funding regime secures for RTV Slovenia a predominant position on the advertising market in the segment of television programs

34 Owing to numerous objections by commercial broadcasters, the EU issued guidelines pertaining to the application and allocation of government grants to the public service broadcasters (Communication from the Commission on the Application of State Aid Ruled to Public Service Broadcasting, 20001). »The definition of the public service mandate should be as precise as possible. It should leave no doubt as to whether a certain activity performed by the entrusted operator is intended by the Member State to be included in the public service remit or not. Without a clear and precise definition of the obligations imposed upon the public service broadcaster, the Commission would not be able to carry out its tasks under Article 82(2)/EC Treaty/ and, therefore, could not grant any exemption under that provision. Clear identification of the activities covered by the public service remit is also important for non public service operators, so that they can plan their activities. Finally, the terms of the public service remit should be precise, so that Member States' authorities can effectively monitor compliance.« This means that the Commission explicitly requires the definition of the public interest or, in other words, public funding is reserved exclusively for programs in the public interest.

and of broadcasting in general. However, the part about the alleged abuse of this position was rejected. The Office concluded that RTV Slovenia has a considerably better position on the advertising market than its competitors, since no more than approximately 30% of its income is derived from advertising, while 70% of its funds are secured from the state budget and the legally prescribed levy (i.e. license fee). Furthermore, the Office was of the opinion that use of the budgetary sources and license fee revenues is not defined precisely enough in the RTV Slovenia Act or the Mass Media Act, so RTV Slovenia uses these funds for various purposes. It held that it was not possible to draw a sufficiently precise demarcation line between the public service part and the commercial part of a public broadcaster's operation, i.e. the part that should be publicly funded and the one that should be commercially funded. Since resources could not be divided with sufficient precision, the role and the operation of public television on the advertising market must be defined precisely in legislation governing individual sectors. Given the position of national television and the funding regime, and given its public service remit, relevant legislation should necessarily prevent excessive dependence of national television on advertising. In its statement the Office also pointed out that it was necessary to define precisely the ratio of public funding to commercial revenues and, tentatively with restrictions on advertising on national television, secure public funding that would enable the fulfillment of the legally prescribed obligations. In doing this it would be necessary to determine precisely the content that should be provided by the public service television and evaluate funding needs in order to ensure that market conditions and competition on the Slovenian audiovisual market are not threatened.

It is interesting to note that the Office rejected the allegation that RTV Slovenia abused its predominant position by reducing advertising time prices and giving untenably high discounts. Indeed the Office asked ProPlus to furnish proofs of these allegedly high discounts, but ProPlus failed to fulfill this request. However, at a press conference half a year after assuming his position, the director-general of RTV Slovenia stated that “*a number of irregularities, ranging from discounts on advertising time prices harmful for the public institution, negligence and disrespect for agreements, to fake invoices for non-provided services*” were found in the operation of the marketing department (Delo,

October 23, 2001). In other words, the management of RTV Slovenia publicly confirmed allegations that ProPlus could not substantiate. Public control of the public service broadcaster mainly funded from public sources is of essential importance. At the same time, it is important that public funding is spent on content that is in the public interest. On the other hand, the definition of the public interest is an issue that must be addressed by lawmakers when preparing a new law on RTV Slovenia. If the state has an interest in the operation of the public broadcaster, then it must secure its smooth operation. A public broadcaster which continually has to struggle on the market to win the audience and secure finances, will sooner or later be forced to reach for commercial sources to survive. In a commercial media system the advertisers are “honored guests” while in a public system they are merely “tolerated visitors.” (Kung-Shankelman, 2000: 83). PSB is not, and must not become, a ghetto for the broadcasting of specialized programs unattractive to the commercial media. It must be a place where every citizen will be able to find content he/she needs. A public service broadcaster cannot fulfill its role – act in the public interest – if it does not have its audience. It needs an audience as large as possible, not in order to sell it to the advertisers, but to create the widest possible space for public debate.

PUBLIC SERVICE BROADCASTERS AND THEIR AUDIENCES

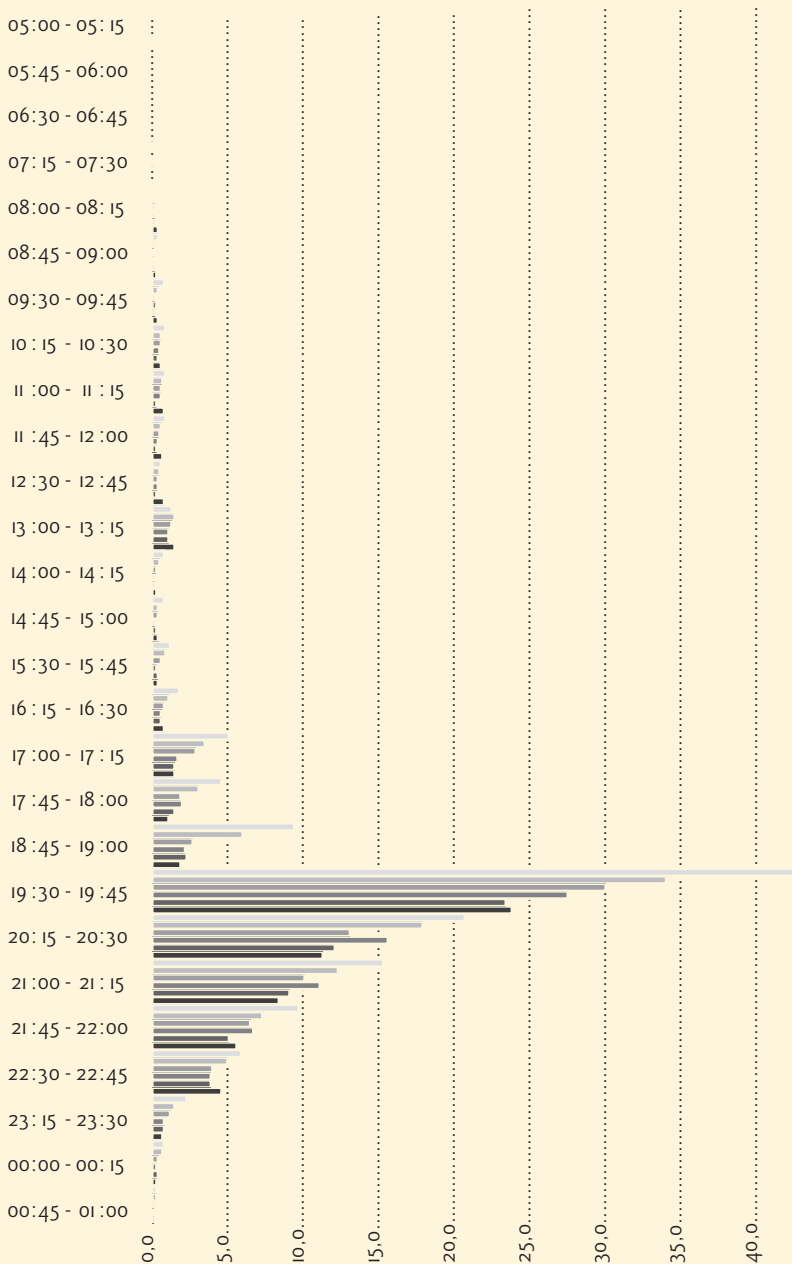
The (low) viewing share of public service programs is the main argument often used by commercial broadcasters when disputing the grounds for public funding. On the face of it, the argument is very simple. If increasingly fewer people watch public service programs, then the grounds for collecting license fee are questionable. But how high should be the share of viewing/listening to uphold the license fee payment? Is it 40%, 30%, 20% or some other figure? Is, for example, a 30% viewing share of a public service program comparable to the same viewing share for a commercial program? A public service broadcaster with a 20% share may still have an exceptionally high reach. Collins and Purnell hold that “*the legitimacy barrier [below which public funding will no longer be defensible] will only be breached if sizeable numbers of people stop using the BBC altogether*” (Collins, Purnell, 1996: 72). The data presented later in this text indicate that nothing like this has happened so far. It is necessary to stress that the license fee is not the same as a subscription to pay-channels. The license fee enables production of programs for all citizens including those who perhaps do not use public programs during a certain period of time, but who still have these available when they decide to do so. Supposing that percentages are not of much help here, should we rely on the structure of programs to determine whether the license fee is justified? Just as audience size is not the sole criterion for measuring the influence of public service programs, arguments that the fundamental mission of PSB is to provide programs of national importance regardless of whether they are watched or not, are not sustainable either.

In the 1990s, the majority of public service broadcasters in the countries in transition, formerly monopolists on the media market, had to confront the advent of commercial competition. The arrival of commercial competitors brought about a fall in their audience share. And how did they respond to competition? Initially, most public service broadcasters assumed the lofty posture of monopolists. They were confident that secure funding and their previous monopoly on advertising (in countries where public broadcasters were allowed to engage in commercial activities) and audience markets sufficed to guarantee them victory. Their first reaction was to countervail the aggressive ad-

vertising strategies of commercial media by vague quality arguments. The next stage, characterized by heavy audience erosion, can best be described as “shock”. Unprepared to tackle competition, they adopted marketing approaches which were largely inappropriate. Frequent changes to program concepts, ill-planned positioning of programs, and incompetent program advertising took their toll. In addition, they wrongly assumed that commercialization of their programming was the only way to ride out the crisis. Accordingly, this stage was characterized by a downward trend in the range and scope of news, documentary, children’s, and culture and arts programs, and by an increase in the number of programs expected to gain wide audiences. But their audiences eroded even further. RTV Slovenia’s response followed the same pattern. Its first serious competitor, the commercial television channel POP TV³⁵, appeared in December 1995.

³⁵ The Mass Media Law of 1994 valid at the time stipulated that a single owner, whether domestic or foreign a private or a legal person, could not have more than a 33% owner’s share in a broadcasting company. The foreign owner (CME) with an 80% share in ProPlus (which is a production company to which this stipulation did not apply) became a 33% owner of three television stations. Consequently, Tele 59, MMTV and TV Robin broadcast almost exclusively ProPlus’s programs, save for the legally prescribed 10% of in-house production. These programs were produced under POP TV’s trademark. Until 2001, when this issue was settled formally, POP TV was not a television station but the trademark of the production company ProPlus.

EXHIBIT I: RTV SLOVENIA CHANNEL ONE'S (SLO 1) SHARE OF VIEWING FROM 1996 TO 2001



Source: Mediana IRM (Viewing/listening shares and readership) 1996 – 2001.³⁶

The figures for RTV Slovenia Channel One's (SLO1) average annual shares of viewing from 1996 to 2001 reveal that prime-time viewing in the past five years fell by nearly 15% (from slightly over 40% in 1996 to slightly over 25% in 2001). The only increase in the same period was recorded in the 10.00 p.m. slot when SLO1 broadcasts the late news. On the other hand, it is estimated that within one year of operation the commercial television program achieved on average a 29% viewing share. These figures indicate that the Slovenian broadcaster went through all of the adaptation stages mentioned earlier. Drawing on the experience of foreign public service broadcasters, we can say that the period immediately following the arrival of commercial competitors, characterized by a fall in viewing share, is followed by a period of unsuccessful attempts to rival competition (especially through program commercialization), leading to a stage in which the programming begins to be redesigned to reflect the basic mission of PSB.

According to European Audiovisual Observatory data (2000: 195-389), the daily share of Austrian ÖRF1 between 1995 and 1998 averaged around 25%, and that of ÖRF2 around 35%. Belgian RTBF1 increased its daily share in the same period from 13% in 1996 to 17% in 1999 (the strongest commercial competitor has approximately the same share). In Germany, the daily viewing share of ARD fell from 30% in 1990 to 15% in 1997 (the daily share of ZDF was also halved in the same period). In 1999 the daily viewing shares of public and commercial broadcasters in Germany were approximately the same (ARD had a 14.6% share, ZDF had 13.4%, RTL had 14.9% and SAT1 11.2%). The daily share of the French commercial channel TF1 in 1999 was 35.4%, compared to a 22% share for France2 and 16% for France3. In the same year, BBC One's share was nearly 30% (BBC Two had 11%), approximately the same as the share of the commercial ITV channel. The most recent trends show an increase in the audience for the public programs and a decrease in those of commercial programs i.e. increasing fragmentation of the audience. In 1999 the Italian RAI1 had a 23% daily viewing share (RAI2 had 16% and RAI3 8.9%), while commercial Canale 5 had a

36 Owing to different methodologies used, data by Mediana differ from the data which AGB Media Services have been obtaining by telemetry since 1996. However, since Mediana's data cover the period from 1996 onwards, in this table we used their results. Later in the text when referring to daily viewing shares, we use data by AGB Media Services which are comparable to data used elsewhere in Europe.

20% share and Italia1 11%. In Spain, the public Channel One of RTVE had approximately the same daily viewing share as commercial Antena 3 (24%). Norway's public broadcaster NRK's share of 43% in 1995 fell by approximately 8% over the next four years. In the same period, the share of commercial television channels stayed around 31%. In west European countries in which public broadcasters have a longer tradition, the daily viewing shares of commercial and public channels are approximately the same. In countries with large numbers of commercial channels, the daily share of public programs is below 30%, but neither do commercial programs fare better. In former socialist countries, where the state-regulated broadcasters had to be transformed into public service systems while simultaneously fighting off commercial competition and political pressures, and struggling with a chaotic legislative framework, audience shares plummeted with the appearance of commercial channels. In the Czech Republic, for example, commercial TV Nova increased its share from 5.2% in 1997 to 53.8% in 1999. In 2000, CT1 and CT2 had a 32% average viewing share (CT1 had 26% and CT2 6%). In Poland, TVP1 and TVP2 had 48%, while in Romania both national channels had an average 40% share (TVR1 had 37.7% and TVR2 only 2.5%). Hungarian MTV1 had just 12% (while the share of the other two national programs was negligible).

According to AGB Media Services data, from May to December 1999, the daily viewing share of SLO1 was 22.9% (9.2% for SLO2). In the same period, the daily shares of the strongest commercial television channels in Slovenia, POP TV and Kanal A, were 30.6% and 11.3% respectively (since 2001 these two channels have been in the hands of the same owner). In 2000 the daily viewing share of SLO1 was 22.2% (SLO2 had 10.7%), while POP TV's share was 30% and Kanal A's 11.8%. In 2001 SLO1 had an average daily share of 23.3% (SLO2 had 11.1%), POP TV had 28.6% and Kanal A 10%. Obviously, the viewing of RTV Slovenia's channel one (SLO1) increased (from 22.2% in 2000 to 23.3% in 2001), while the share of the commercial channel POP TV fell from 30% in 2000 to 28.6% in 2001. As regards the share of Kanal A, the fall in its share was a result of its merger with POP TV and related programming changes. This roughly balanced division of audience between the two national channels (SLO1 and SLO2) on the one hand, and commercial channels (POP TV and Kanal A) on the other indicates a near duopoly on the television

market.³⁷ We should add here that programs of the Croatian public broadcaster HRT available on cable also have relatively high viewing shares in Slovenia. In 2001, 19% of viewers watched other (mainly foreign) programs, chiefly the Austrian public channel ÖRF and commercial music television MTV. RTV Slovenia's broadcasts, predominantly sports and entertainment, were among the ten programs with the highest viewing share in 2001³⁸. An exceptionally high viewing share was recorded on September 11. Public and commercial broadcasters also struggle frantically for viewers of prime time news. POP TV broadcasts news from 7.15 p.m. to 8.00 p.m. and SLO1 from 7.00 p.m. to 8.00 p.m. POP TV's schedule from around 4.30 p.m. until the beginning of the news at 7.15 p.m. mainly consists of Latin American tele-novellas. As stated in POP TV's advertising materials "*a successful news program is therefore similar to a good series (...). It is not just dull information on events, but a dynamic, interesting and thrilling story.*"³⁹ POP TV's news program has a higher viewing from 7.15 p.m. to the beginning of the news on the public channel at 7.30 p.m. when viewers begin to switch from the commercial to the public channel and vice versa. In addition, its viewing is higher at the time of the weather forecast and sports news, which are separate from other news. The first part of its 7.15 news program (i.e. between 7.15 and 7.30 p.m.) consists of an overview of the main events of the day, with internal and foreign politics prevailing. This is followed by the crime

37 The struggle for audience extends to the radio field as well. The public radio Val 202 has the highest listening share despite many newly formed commercial stations. Its competitive advantage, in addition to its almost 100% reach, lies primarily in its news program. Their main news program is also broadcast by a number of local radio stations. The cost of in-house production of a good news program is quite high. The production company ProPlus, which produces programs for the two biggest commercial broadcasters in Slovenia (POP TV and Kanal A), began to produce radio news as well in an effort to cut costs. Their news program is available on around 20 local stations. Yet this news program broadcast under the trademark of POP TV's prime time news (24 ur/24 hours) is also used for marketing purposes, i.e. to sell not only radio news but the entire television program. The public radio station responded to the intrusion of commercial television into radio programs by changing the format of its news program. The news is shorter, it must include "live" statements (these are several-seconds long sound bites without informative value), which create an impression of credibility and topicality, and music is used as background. The adoption of a commercial format for a news program influences the structure of news and the method of its presentation. The public radio thus loses its advantage over commercial broadcasters that consists in an in-depth presentation of news.

38 Among the programs with the highest share of viewing (around 30% share) were qualifying games of the Slovenian national soccer team for World Cup 2002 (the highest share going to the Romania-Slovenia match). A special program on terrorist attacks in the US broadcast by RTV Slovenia occupied the eighth position (23.7 share) on this scale.

39 <<http://www.pop-tv.si>>

and accident reports⁴⁰. The share of the public channel SLO1 significantly rises at 10 p.m., the late news slot. The late news format is adjusted to more demanding users (more in-depth reporting and selected topics discussed by invited guests). Yet the question that remains open is whether these viewing data can serve as the sole criterion for determining the significance of public channels. The public and commercial channels in Slovenia (in contrast to the BBC and RTV) contend for advertisers in addition to viewers. The viewing shares data are hence intended primarily for potential advertisers. But public television is committed to a goal that is wider than the one pursued by advertisers. So, when assessing the viewing of a public television channel, we should take into consideration not only the viewing share of particular programs, but also the influence they have on viewers, or rather, the influence they have on public life or the public sphere. Leading people at RTV Slovenia continually waver between quantity and quality arguments. For example, the new director-general of RTV Slovenia announced that the public service broadcaster would no longer feature low-quality entertainment programs, cheap films without artistic value and certain types of sport, as it was necessary to distill the image and the role of public service radio and television. Among the important tasks he stressed was the rehabilitation of the RTV Slovenia brand, which implies changes in relations with the founder (i.e. the National Assembly) and in attitude towards viewers and listeners. As he said, they wanted to achieve a feeling among license payers that RTV Slovenia cared about them (Delo, May 12, 2001). In another interview half a year later, he stated that unless the prime time programs attained the desired viewing share, he was going to ask either for changes in these programs or for their replacement. Therefore, in the opinion of the director-general, the viewing share criterion is important for public service programs. *“As regards the entertainment program slots on our television that coincide with entertainment programs on another commercial channel, I certainly expect the same level of viewing for both. But if we have a news program which is comparable to a commercial channel’s news program, I certainly expect the same, if not a higher, viewing share, given our better starting points*

⁴⁰ In 2001 the average viewing share of the prime time news on commercial channel POP TV was 25.6%. During the same period, the viewing share of TV Dnevnik, the main news program on public broadcaster’s SLO 1, was 20.3%. The news program on SLO 1 is followed by Weather (average share 17.3%) and Sport (18.5%) (AGB Media Services).

such as technical services, foreign correspondents and so on. Therefore, we must attain the same, if not a higher, viewing share” (Delo, November 17, 2001).

The stressing of the supposedly low viewing share of public programs, used as the main argument against PSB by some critics from ex-socialist countries, is therefore beside the mark. In west European countries, the viewing share of public programs is the same as that for commercial programs. The difference between west European and ex-socialist countries is that in the former public television is most heavily criticized by corporations that own commercial television stations, while in the latter their biggest critic is the state. The only “natural” ally of the public service against the interference of the state or of commercial players is the public. In order to sustain public support, a public service broadcaster must persistently work on its independence, credibility, program diversity, respect for difference and for the right of all social minorities to express publicly their interests. Conversely, public funding obliges a public broadcaster to fend off the interference of politicians and advertisers with its content, and to combat discrimination against certain social minorities.

THE CRISIS OF PUBLIC SERVICE BROADCASTING?

The topic of PSB crisis has been around since the 1980s. But if we want to shed some light on the elements of this crisis, we must first answer some basic questions. Is it a crisis of PSB in general, or of particular public services? If it is the “perception” of public broadcasters that is in crisis, then we should focus discussion on its basic functions in the future. Can a PSB concept dating from the beginning of the 20th century be successfully defended at the beginning of the 21st century? Can we use the same arguments? Resolution of this crisis presupposes active policies of re-defining the role of public broadcasters in the new media environment. Here, we should take into account (Tracey, 1998: 34) that:

- the media will proliferate in the future meaning that the competition for both the audience and financial resources will increase;
- the media will increasingly focus on the fulfillment of the “*most basic desires and wishes, but not needs, of the audiences*” (i.e. wishes of advertisers) meaning that the public broadcaster whose mission is based on the fulfillment of the needs of the viewers will have to re-define its identity;
- commercial funding and direct payment of programs will become the main source of media funding i.e. public funding will be relied on less frequently, will be selective and subject to oscillations, meaning that dependence of the public media on one source of funding will heighten insecurity in developing new services and fulfilling the public remit;
- “*the ability of governments to regulate the content of audiovisual culture will be diminished*” because it is becoming transnational and multimedial i.e. content is dispersed across a number of different media;
- the audience of the factual and learning programs will be shrinking (how will the public media adapt to the all-pervasive entertainment trend?);
- the market creates new forms of cultural practices that essentially differ from the traditional national-elitist definition of culture.

The crisis of PSB creates an impression that there is no other solution apart from the market model or, to put it differently, that it is not possible to find substantial arguments for, or even to imagine, any other model apart from

the commercial. If the media market is left to market forces exclusively, what we are in for in the future is a profusion of programs with identical content. In addition, there will be many individualized programs for which individuals will define (daily, weekly, monthly or annual) concepts. An individualized program is intended for the consumer who is ready to pay for exclusive choice. In today's predominantly commercial environment, a public broadcaster can survive only by fulfilling its public service role. Yet it must not become a "ghetto" for the content that is commercially unattractive. It must endeavor to attract as many viewers and listeners as possible, but must not use its audience (primarily) as bait to attract as many advertisers as possible. The audience must be a public broadcaster's warrant that public funds have been spent in the public interest. Competitive advantages of a public broadcaster include the quality of programs and care for the communication needs of the public as a whole. The principles of PSB on which public broadcasters must invariably insist are universality of access, equal offer for all citizens regardless of their material position, diversity of content, the opening of spaces for public debate, and accountability to the public rather than to the state or advertisers.

THE FUTURE OF PSB

How do different countries see the future of PSB? The BBC thus described its operation in 2000: “*For the BBC, 2000/2001 was a year both of achievement and of transition.*”⁴¹ The United States’ PBS used similar phrasing: “*The year 2000 has been a period of transition, accomplishment, and opportunity for PBS.*”⁴²

It is interesting to note that these two broadcasters, products of entirely different media environments, used almost identical introductory remarks in their annual reports. The BBC lost its monopoly in the 1960s with the founding of ITV. It never featured advertisements which justifies its monopoly over public funding. PBS in the United States evolved in the 1960s from a conspicuously commercial media environment. As a result, its funding is dispersed and unstable. Both broadcasters saw the year 2000 as a year of transition and both pledged commitment to the public service remit and good quality programs.

In the past decade, the term “transition” has primarily been used to denote the replacement of one political or economic system with another. Accordingly, ex-socialist countries are referred to as “countries in transition”. While it is perhaps possible to determine approximately when this transition started, it is impossible to forecast (not even roughly) when it will conclude. Transition processes have been characterized by the replacement of one-party systems with multi-party systems, by free elections, newly gained freedom of expression and freedom of the media, and market liberalization. But what is implied by “transition” when used in relation to the media? It denotes a commitment to create a communication system that is democratic and focuses on respect for freedom of expression and protection of communication rights of minorities. “Transition” as used by either the BBC or PBS, does not stand for any replacement, but denotes the adjusting of PSB to the requirements of development trends in the areas of information and communication technologies, and to reduced funding. But the same cannot be said of the transition to which the director-general of RTV Slovenia referred when

41 BBC, as a public corporation, has an obligation to publish its annual report. The report for 2000 covers the period from April 1, 2000 to March 31, 2001. (BBC Annual Report and Accounts 2000/2002. <<http://www.bbc.co.uk/info/report2001/index.html>>).

42 PBS’s annual report covers the previous calendar year. (<<http://www.pbs.org/insidepbs/annualreport/summary.html>>)

he stated “It is my firm belief that we are only now starting some kind of transition process, which for most other companies in Slovenia began in the early 1990s.” (RTV Slovenija in nacionalni interes/RTV Slovenia and the national interest, in Ampak, March 3, 2002: 34-42). In this context, transition does denote changes in business practices still employed by the Slovenian public broadcaster. The future of RTV Slovenia, on the other hand, is delineated in the business and programming plan for 2002 drawn by the new management of the institution. The following is how the replaced program director of RTV Slovenia described the future of PSB in Slovenia. “The purpose of the existence of a public broadcaster is to produce as many as possible multi-faceted, high quality, original and diverse programs. This must be backed up by a resourceful selection of programs from all parts of Europe and the world (...). In the areas of programming, execution and technical aspects of production, and financial matters, we will focus our efforts on the improvement of the quality of our work and the quality of programs. The high operating standards and primarily the quality of the program as a whole, as well as the quality of its constituent parts and their informative aspect, is what distinguishes the public broadcaster from commercial channels. In order to capture the viewers’ attention and stir in them more devoted interest in less attractive content of national significance, we have to search for more appealing formats and more penetrating program makers (...). Only with a quality choice of programs and content shall we be able to successfully retain the existing audience and attract new viewers. Our guiding principle is the refinement of the image of the national program in the sense of its basic mission. In connection with this, greater responsibility when making editorial judgments and taking decisions will have to be established. When re-designing the program concept and making programs more distinctive, we start from a hypothesis of the multifold perceptive possibilities and abilities of Slovenian viewers. These are determined by both subjective and objective factors, or to put it differently, the scheduling of programs and the interest of the viewer in particular programs (...) In short, it is necessary to devote attention primarily to the needs, requirements, and wishes of the viewers, rather than to marketing demands” (RTV Slovenia, Business and programming plan for 2002, A Proposal, December 11, 2001, 9-19).

The factors that most importantly shape public broadcasters’ definitions of their basic mission are predominant funding source, position of a public broadcaster within the

national (and global) media system, legal restrictions and commercial pressures. The thematic issue of *World Screen News* from 2001 featured the article “In the public’s interest” in which leading people from various public broadcasting companies answered questions about the position of the public service inside their national media systems, about the problems they faced and the future role of the public service.

For public broadcasters funded predominantly by government grants the key problem is the securing of stable financial sources. So, for example, for the Canadian CBC it is survival itself that represents the greatest challenge in the future. And the role of CBC? “*Our mandate is really quite clear, and it is to be predominantly Canadian and make distinctive programming (...) Most important, it is to create a Canadian public space independent and separate from the overwhelming global space. It’s not a denial of the global space, it is not a denial of the American cultural influence, but it is to make sure that Canadian stories, Canadian history and Canadian events are given a Canadian interpretation*” (Robert Rabinovitch, *World Screen News*, 2001, 4:48). In the opinion of Path Mitchell, the president and CEO of PBS, “*it’s really imperative in a democratic society that we have at least one public media enterprise that is not driven and determined by market-place factors alone. We need to have a place where there is an exchange of ideas, where there’s an opportunity to present information and programming without having to decide [if] something goes on the air based on whether or not it will deliver a certain number of eye-balls to an advertiser*” (PBS, Pat Mitchell, *World Screen News*, 2001. 4:46). The Japanese NHK, funded exclusively by the license fee, will adhere to its fundamental mission, that is, providing trusted and impartial news and high-quality programs. “*It is also our duty to contribute to the welfare and the development of a healthy democracy (...) NHK emphasizes the social and cultural role of broadcasting, and will make an effort to provide a variety of programming [and] basic and equal information to all viewers, regardless of age or wealth (...) Because it is a public broadcaster, NHK has the responsibility and obligation (...) to listen to the voices of its audience; and to serve the needs of each individual, including minority audiences*” (Katsuji Ebisawa, *World Screen News*, 2001. 4:42). Thanks to public funding, the Swedish public broadcaster SVT is independent from both political and commercial influences. Absence of advertising means that advertisers cannot exert

influence on the program. The Swedish public service should be a “*common living room accommodating all persons living in Sweden*”. Its goal is to offer programs which are “*relevant for all people – mass appeal programs and programs for small audiences*.” Their main tenets are “*credibility, diversity, quality and professionalism*” which have gained them “*top ratings for many years*” (SVT, Maria Curman, World Screen News, 2001: 4: 52).

Public services with high proportions of advertising revenues see their future in the provision of programs that are not entertained by commercial stations, that is to say, quality programs. For Spanish RTVE, their basic role is to offer high quality programs to all citizens (Javier Gonzalez Ferrari, World Screen News, 2001: 4: 54). Commitment to provide good programs of every genre is also a basic mission of the Italian RAI. In their view, future challenges arise from cuts in public funding and restrictions on advertising (RAI, Roberto Zaccaria, World Screen News, 2001, 4:44). For French public television, new legitimacy of the public service lies in “*doing something different from private channels*” (France Television, Marc Tessier, World Screen News, 2001, 4:40).

For the German public broadcaster ZDF, which relies on a mixture of public and commercial sources and is heavily restricted in advertising, the basic principle in the future remains the provision of reliable, serious and credible programs of all genres, but especially news, current affairs and science programs, and documentaries. “*We are not looking to launch new channels. We want to do what we are doing and do it well (...)* We are the public broadcaster, but we have to adopt a system of management and of controlling cost that are similar to those being used by private industry” (ZDF, Dieter Stolte, World Screen News, 2001, 4:36).

Public broadcasters in formerly socialist countries are in a state of crisis. Its elements range from haphazard media legislation, political pressures, financial and organizational difficulties, and management crisis, to identity crisis and loss of public support. How can this crisis be resolved? Just as we had to conclude that no national PSB model can be regarded as “ideal”, we must now conclude that there is no universal recipe for resolving crisis. The crises in which various broadcasters found themselves are in many respects the result of various characteristics of the national media sector. Yet some recommendations applicable to all public broadcasters can be made.

Public broadcasters must provide diverse content to meet the needs of various social groups. They must offer good programs of a type not offered by the commercial media. They must care for their audiences and rather than applying the criterion of numbers, they must adhere to the criterion of influence. They must take care that their in-house production constitutes the major part of their output. They must set higher standards in program production and journalistic reporting. They must insist on their independence from both political and economic interests. They must enable citizens to influence programming, must respond to their needs and respect their rights. They must apply public funds in accordance with their public service remit, meaning that use of these funds must be under public control. Public broadcasters must enable all citizens to access new technologies on an equal footing and must reduce the gap between well-informed and under-informed citizens. In principle, public broadcasters must be the biggest defenders and protectors of the media freedom of every citizen and of society as a whole.

These general principles of operation should be observed by RTV Slovenia as well. Which approach to crisis resolution would be appropriate for RTV Slovenia? Certain elements of the crisis could be resolved by the state, others by the public institution, and still others by the public itself. Slovenian lawmakers will soon begin to work on a new law on RTV Slovenia. Before that, the state must answer some basic questions based on extensive public debate. It must say whether or not it supports the operation of the public broadcasters. A consensus on such support ensures provision of legal mechanisms necessary for an undisturbed operation of the public broadcaster.⁴³ The new law must clearly stipulate that business operation of the public broadcaster is public (the public must have access to financial reports, and to the programming and business plans of RTV Slovenia). The operation of the RTV Council must be public. Political interests must be excluded from the RTV Council. Members of the Council must be individuals who have earned a reputation through their public activities. As representatives of the public and the public interest, they must take care that the public institution respects all programming and professional requirements. Council members must not have business links with RTV Slovenia. RTV Slovenia should be funded predominantly from public sources. The level of the license fee should be linked directly to the inflation rate. Financial transactions

of rsv Slovenia must be public i.e. under public control. The state must define which programs are in the public interest and secure sufficient funding for these programs. rsv Slovenia must formulate its vision of development with clearly defined short and long term goals. The programming concept must be clear. Too frequent changes to the programming concept and the commercialization of programming as dictated by market trends are the consequence of a lack of vision. rsv Slovenia must become an institution that will make and produce good domestic programs. It must encourage local production and take care that its output includes independent producers' programs. The public must have the opportunity to influence programming. In order to be able to realize this objective, an independent commission should be set up with the task of ensuring that users' complaints are taken into account. Professional operating standards must be clearly defined and binding for all journalists. rsv Slovenia must encourage continuing education for journalists and provide the best possible conditions for their work. Politics or advertisers must not have any influence on its operation. And last but not least, a public broadcaster must be led by a team of capable and responsible managers who will ensure that public funds are rationally applied.

43 Towards the end of April 2002 the National Assembly passed the law on salaries in the public sector regulating the salaries of the employees in state bodies, self-management local communities, public agencies, public foundations, public institutions (in the area of health, education, culture, social protection etc.) and other public legal persons. At the last moment they also added rsv Slovenia to the list of these institutions, a move that went by almost unnoticed. Under the new law, journalists working for rsv Slovenia (i.e. their job positions) would be classified as public employees in the field of culture and information. Their job positions within the public institutions, i.e. their salaries would thus fall within the bracket determined by special work contracts that would be concluded between the director and the trade unions within the public institution. The public institution rsv Slovenia, with over 70% revenues derived from the license fees paid by all citizens and less than 1% from the state budget, was thus equated in status with all other public institutions that are exclusively funded by the state budget. The major part of the trade union of journalists backed up this proposal stating that in this way they could improve their material status and working conditions. However, the Association of Slovene Journalists pointed out at a press conference that this meant a serious violation of the media independence, through which the public institution rsv Slovenia would be turned into a state institution. At the beginning of May 2002, the National Council placed a suspending veto on this law and returned it to the parliamentary procedure. If this law remains applicable to rsv Slovenia, it will no longer be a public service. To whom will the journalists, as public employees, be accountable? To the citizens or the state? During the socialist regime, journalists had the status of socio-political workers, meaning that they were directly responsible to politics and politicians. Their socio-political task consisted in informing the citizens about political decisions. After ten years of endeavors to achieve the autonomy of the public service broadcasting sector, its nationalization seems to be underway once again.

The basic principles of public operation and the mechanisms for efficient management, financing and public control can be secured through legislation. It can also provide that the public broadcaster fulfils its public remit. Yet public service broadcasting is not solely an organizational matter. On the contrary, its defining component is a program that reaches a sizeable audience day by day. However, in the past five years RTV Slovenia has mainly been preoccupied with organizational problems and its position with regard to commercial competitors, while devoting insufficient attention to the programs. The arguments of the devotees of the market media model, that the only criterion for determining the justifiability of public funding is the number of users of a public program, can be contradicted by the argument that the responsibility of a public service broadcaster is to take care that diverse content is always accessible to citizens. The defining characteristics of the public service broadcaster do not involve the chief source of its funding (the license fee) and its formal legal structure, but its program and concern for the interests and needs of all users. These are the main features that distinguish a public service broadcaster from a commercial one. Without them, it would be merely a broadcaster which is publicly funded, which would make opposition to the market media model a difficult task.

CONCLUSION

In this paper we have challenged the thesis that PSB is in crisis. We sought to answer whether this crisis is a crisis in the concept of PSB or a crisis in concrete media practices used by public service broadcasters in various countries. New technologies, individualization of programs and their consumption, fragmentation of the audience, concentration of the media, a large number of new media and fierce competition have affected the position of the public service broadcasters. During the period of deregulation and liberalization of the media market, it was precisely the public broadcasters who drew most criticism. They were reprimanded for failing to streamline their operations, for outdated organizational structure and their elitist attitude towards users, so the very concept of PSB came to be questioned. Most European public broadcasters found themselves in crisis in the 1980s. Each responded in its own way. Those public broadcasters that were compelled to compete on the media market under the same terms as commercial media, commercialized their programs over time. Others, who were mainly funded publicly, evolved into specialized providers of programs that are not commercially attractive, but this resulted in audience erosion. However, the period of deregulation clearly showed that the market was not the sole, and above all, not the best media regulator. A large number of media does not automatically mean a large number of different media. The experience of complete deregulation of the media sector paradoxically offered the best argument in support of the public broadcasters – provision of content for all citizens regardless of whether or not information they need is commercially attractive.

The crisis period for west European broadcasters coincided with the transformation of formerly state-owned media into public service media in Eastern and Central Europe. While in the economic and political sector the goals were easy to set, in the media sector a broadly accepted model or consensus did not exist. Public broadcasters in western Europe developed in specific circumstances that could not be reproduced half a century later in countries with completely different political, economic and media backgrounds. Formerly state-owned media were thus transformed into public service media practically overnight, but the change was merely formal, with no due attention

devoted to the problems awaiting the public service media in the transformed media market. Media legislation changed at a slow pace or new laws were such that the state could maintain political pressure on the media. Without clearly defined development objectives or political consensus, which could have furnished basic conditions for their operation, and amidst economic crisis and open favoring of commercial media on the part of political players, public service media were pushed into a state of serious crisis. These bureaucratic giants with thousands of employees and unreliable funding sources, which were encumbered by outdated management principles and managements without power or knowledge to effect essential changes, constantly produced and reproduced their own crisis. We have already said that there is no model of a universal west European public broadcaster. Similarly, we can say that such a model does not exist in eastern Europe either. While the problems faced by public broadcasters in Eastern Europe were very much alike, the courses of development they took in the past decade have been different. In certain East European countries politicians still exert pressure on the public media (politicians appoint managers, have control over managing bodies and exert financial pressures). In others, public broadcasters have adapted to the changed media market (have begun to rely on advertising revenues and commercialized their programs). At any rate, the transformation of the state regulated media into the public service media reopened debate on the future significance and role of the public broadcasters, in both the West and the East.

Our analysis focused on the public institution RTV Slovenia. We pointed out the key problems faced by this institution (funding, public control, and attitude towards the public) and drew comparisons with various practices across the world. Our conclusion is that the crisis in RTV Slovenia is not a crisis in PSB in general. To resolve this crisis it would be necessary to find an answer to a question not yet posed by any manager at RTV Slovenia: What is the significance and the role of PSB?

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