

Recommendation CM/Rec(2012)1 of the Committee of Ministers to member States on public service media governance

*(Adopted by the Committee of Ministers on 15 February 2012
at the 1134th meeting of the Ministers' Deputies)*

Freedom of expression and the right to seek and receive information are fundamental for the functioning of a genuine democracy. As stated in the Committee of Ministers' Declaration on public service media governance, adopted on the same day, media are the most important tool for freedom of expression in the public sphere, enabling people to exercise the right to seek and receive information.

Public service media play a specific role with regard to the respect of this right and the provision of a varied and high-quality content, contributing to the reinforcement of democracy and social cohesion, and promoting intercultural dialogue and mutual understanding.

Public service media need to operate and evolve within a sustainable governance framework which secures both the necessary editorial independence and public accountability. In the above-mentioned declaration, the Committee of Ministers alerts to the risks to pluralism and diversity in the media and, in consequence, to democratic debate and commitment, if the current model, which includes public service, commercial and community media, is not preserved.

The transition from State to public service and from broadcasting to public service media has yet to be successfully completed in many Council of Europe member States. Rethinking and reconstructing their governance systems will be a decisive factor in public service media organisations' ability to address this and other challenges they are confronted with.

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe, recommends that member States further strengthen and, where necessary, enhance the appropriate legal and financial environment, including the external governance arrangements for public service media organisations, by drawing inspiration from the appended guiding principles, thereby guaranteeing the independence and sustainable development of public service media and empowering them to take up the challenges of technological progress and editorial competition, in particular by:

- including, where they have not already done so, provisions in their legislation/regulations for the remit of public service media, particularly with regard to the new communication services, thereby enabling these media to make full use of their potential and, especially, promote broader democratic, social and cultural participation, *inter alia*, with the help of new interactive technologies;
- encouraging public service media and providing them with the necessary resources and tools to review and develop their internal governance arrangements, regardless of where they stand in the transformation into fully-fledged public service media, by drawing inspiration from the appended guiding principles;
- encouraging public service media to co-operate actively on a pan-European scale and to exchange ideas on best practice and best content, in order to create a vibrant European public sphere and foster democratic citizenship within the wider Europe;

- ensuring wide distribution of the specifically designed guiding principles, appended hereto, to the public authorities in order to allow public service media to reinforce their essential position in the media system and improve their functioning in the digital environment to fulfil their democratic mission;
- encouraging the public authorities to support and promote the implementation of these guiding principles.

Appendix to Recommendation CM/Rec(2012)1

Guiding principles for public service media governance

I. The context: challenges facing public service media

1. Public service media^[1] across Europe face an unprecedented range of significant challenges.

The challenge of securing the right level of independence from the State

2. The first priority for public service media must be to ensure that their culture, policies, processes and programming reflect and ensure editorial and operational independence.
3. For some organisations, the shift is from being the State broadcaster – with strong links to the government, and weaker accountability to the wider audience or civil society – to becoming genuine public service media, with editorial and operational independence from the State. For many public service media organisations, this shift requires a significant raising of quality standards and editorial ambition.
4. However, even in countries with more strongly developed and deeply rooted systems of public service broadcasting, the relationship between the public service media and the government, which sets their overall remit and secures their funding, is one that needs constant vigilance. Recent changes in certain member States to the funding arrangements or decisions to use the licence fee to fund services delivered by commercial media have once more focused attention on the relationship between public service media and the State.

The challenge of transformation from public service broadcasting to public service media

5. The traditional model of public service broadcasting is increasingly impacted by the emergence of alternative ways of creating and distributing content and engaging with audiences. While broadcasting relies on linear transmission of programmes, emerging digital media give traditional broadcasters, and other content creators and providers, new and exciting possibilities of reaching audiences with a greater degree of interactivity and personalised choice. Public service media organisations must therefore look afresh at their public purpose and determine, within their remit, the correct balance of broadcast and other services that will best match audience need with available resources.
6. Public service media organisations across Europe are responding at a different pace, depending on the maturity of their market and the extent to which their resources and the freedom they enjoy within their remit permit them to diversify. But even where public service media organisations are less well placed to take advantage of new means of production and distribution, they are nevertheless aware that their audiences are increasingly accustomed to greater levels of choice and control over the services available to them from others in the market. It therefore follows that, no matter at what speed, or to what depth, public service media organisations need nevertheless to be actively encouraged to respond positively and effectively to these changing audience expectations.

The challenge of justifying the “dual system” in today’s market

7. All public service media organisations now operate within a wider, potentially global, market, characterised by increasing competition and the disruptive power of new business models which are now competing directly for revenue with previously established players. Against this background, apparently settled systems of funding for public service broadcasting are under increasing scrutiny, such that all public service media organisations, and not only those already offering a more diverse range of services, are challenged to justify both the level and the allocation of their spending.

8. The requirements imposed upon European Union member States to put in place some form of *ex-ante* test before public service media organisations can launch new services is an example of the increased scrutiny that these organisations are now subject to, driven not least by the determination of market players to ensure that public funds are not used to stifle legitimate private enterprises. Public service media organisations therefore have to be responsive in how they define their goals, how they justify them within their overall remit, and how they define the public benefit they will be able to deliver.

The wider context of public service provision

9. Public service media organisations are typically institutions with obligations to meet a wide range of content objectives, funded primarily by public financing (even if supplemented by commercially generated revenue).

10. Consideration is sometimes given to the possibility of a “distributed” approach to public funding where the public service media might share public resources with other media companies who enter into some form of contract with the State to deliver specific content outcomes. In certain circumstances, such approaches might be appropriate, but they are currently remote from the experience of most countries, and are therefore not specifically addressed in these guiding principles.

11. The guiding principles are designed to operate at the level of the public service media themselves, but they could also provide some guidance in cases where a public service media organisation may be charged with distributing public funding to a range of other organisations.

Conclusion

12. Taken together, these challenges – technological, societal, cultural and financial – explain why established policy concerning public service media should be re-assessed, and also why public service media organisations themselves can no longer take comfort in easy assumptions about their role and status.

II. The role of governance in meeting these challenges

13. It is vitally important that member States review, and where necessary strengthen, the external governance arrangements for public service media designed to guarantee editorial and operational independence as well as appropriate funding. This should be accompanied by a matching obligation for public service media themselves to assess the adequacy of their internal governance arrangements. The current guiding principles are significantly based on best practice in governance, and should help both governments and public service media organisations to identify and determine their own response to needs.

A new framework for governance

14. Traditional definitions of governance are insufficient to take full account of the new and more complex media environment. Narrow definitions typically focus on the precise legal and administrative steps taken to ensure the appropriate composition of boards and managing structures. They tend to concentrate on the detail of appointment procedures, the terms of tenure and permissible grounds for dismissal, conflicts of interest and methods by which the organisation will be held accountable. While these issues are all of fundamental importance in a proper and well-functioning governance system, they must be placed in a broader context.

15. A properly functioning governance system will be the way in which the organisation:

- defines, within the public service remit, the vision and overall purpose of the organisation and ensures that it is best equipped to fulfil its remit;
- sets and monitors delivery of its objectives;
- secures the endorsement of its key stakeholders;
- secures and protects the appropriate level of independence;
- structures its relations with stakeholders;
- ensures that the management priorities are properly aligned with the organisation's overall purpose;
- ensures that its decisions are consistent with its remit, are appropriately informed and fully followed through.

16. This framework recognises:

- that all public service media organisations face the same need for robust governance systems;
- that this need is universal and is not dependent on the degree of development within individual countries or markets;
- that good governance is a self-reinforcing system – and that action taken in any part of the governance system should therefore serve to influence and reinforce best practice across the whole system;
- that both governments and public service media organisations themselves should review their own governance system and determine where change and improvement are needed.

17. An interlocking set of criteria that public service media organisations can use to assess their system of governance is proposed in the current guiding principles. The criteria are designed to operate at every level within the organisation: they relate to the highest decision-making level of the media organisation, but they are also directly related to structures, processes and behaviours operating throughout the organisation. They relate respectively to the principles of independence, accountability, effective management, transparency and openness as well as responsiveness and responsibility.

This approach is set out in Figure 1 below.

Figure 1

Tier 1 – Structures

Tier 2 – Management

Tier 3 – Culture

Overview of the model

18. The model operates at three levels:

A. The first tier is concerned with the formal structures and processes that, between them, make the essential features of the governance framework:

a. the steps taken to secure **independence** – the primary goal of any public service media governance framework, since without independence the public service media cannot be guaranteed to operate effectively or deliver against its wide set of public purposes and maintain its focus as purely to serve the public interest;

b. the **accountability** framework – the way in which a public service media organisation identifies its stakeholders and the mechanisms through which it is held to account, and which ensures that the independence of the organisation is focused on meeting the needs of its stakeholders.

These two aspects of the organisation effectively balance each other: the independence granted to the public service media to protect them from undue influence from the State or any other party is balanced by the public service media organisations' obligation to be fully accountable to the State and to its many stakeholders.

B. The second tier deals with the effective **management** of the organisation: the processes by which the goals and purposes of the organisation are turned into practical and outcome-oriented activities. In this context, a key goal is to ensure that the resources and capacity of the organisation are effectively brought to bear upon the changing demands of the audience and able to respond effectively to innovation in content and delivery. This bears on the choice of staff and calls for minority and gender representativeness at all levels of the workforce.

C. The third tier comprises interdependent systems and behaviours which, taken together, define the operational **culture** of the organisation. The following systems and behaviours are likely to enhance the capacity of the organisation to connect with audiences and stakeholders, to win political support and to ensure that it is best placed to identify audience need, understand the scope for change and be best placed to implement it:

a. **transparency**: the ways in which the public service media make their processes and decisions open to audiences and stakeholders, thus supporting the formal approaches to accountability;

b. **openness**: the extent to which the public service media are open to new ways to engage and interact with audiences and explore new partnerships with other organisations;

c. **responsiveness**: the ways in which the public service media respond to audience and stakeholder feedback, and integrate the results of an active and meaningful dialogue with audiences into their future approach;

d. **responsibility:** the ways in which public service media guarantee high journalistic and other production standards and set the criteria by which their output should be judged.

19. The guiding principles contain characteristics, rather than precise mechanisms, which will inevitably vary from organisation to organisation. These variations will be driven by different legal systems and by different political cultures, and will reflect different social systems and levels of engagement by groups in society. But the outcome of such a framework would be a system of governance that is outward focused, robust, capable of taking well-informed and future facing decisions, and one that is best placed to command the support of all relevant stakeholders.

20. The following sections deal with these characteristics, describing their importance and their contribution to the wider system of governance.

Tier 1 – Structures

Independence

21. Independence is the core requirement for every public service media organisation. Without demonstrable independence of action and initiative, from government as well as from any other vested interest or institution, public service media organisations cannot sustain their credibility and will lose (or never gain) popular support as a forum for carrying forward the national debate and holding power to account.

22. Securing and safeguarding independence is therefore a primary role of any framework of public service media governance, and this is why independence has been at the heart of all of the relevant Council of Europe standards.

23. The fundamental requirement is that the editorial autonomy of the public service media should be guaranteed, and the structures necessary to ensure independence of editorial action clearly and unambiguously set out.

The guiding principles can be summarised under three key headings:

Regulatory and policy framework

24. Public service media organisations operate within a statutory and policy framework which sets out the responsibilities of the different parties involved: government, parliament, regulatory authorities (including auditing and other inspectorates) and the public service media themselves, as well as any specified engagement from designated third parties (civil society, market representatives, etc.).

25. The framework should, regardless of its configuration, be such that:

- there is explicit recognition of the scope and reach of the public service media remit, and absolute clarity about whose role it is to set it and review it;
- the policy goals for public intervention are clearly and consistently laid out, including unambiguous support for the principles of freedom of expression and journalistic enquiry;
- there is clarity about the responsibility of the regulator in relation to the public service media;

- the regulator is required to operate openly and transparently in respect of regulatory action, and is itself guaranteed independence from the State in its decision-making powers.

Funding

26. While it inevitably remains the State's responsibility to set both the method and the level of funding, it is nevertheless imperative that the system should be so designed that:

- it cannot be used to exert editorial influence or threaten institutional autonomy – either of which would undermine the operational independence of the public service media;
- the public service media is consulted over the level of funding required to meet their mission and purposes, and their views are taken into account when setting the level of funding;
- the funding provided is adequate to meet the agreed role and remit of the public service media, including offering sufficient security for the future as to allow reasonable future planning;
- the process for deciding the level of funding should not be able to interfere with the public service media's editorial autonomy.

Appointments

27. As public institutions, it is legitimate for the State to be involved in the appointment of the highest supervisory or decision-making authority within the public service media. To avoid doubt, this involvement should not normally extend to appointments at executive or editorial management level. Furthermore, any such appointment processes should be designed so that:

- there are clear criteria for the appointments that are limited, and directly related, to the role and remit of the public service media;
- the appointments cannot be used to exert political or other influence over the operation of the public service media;
- the appointments are made for a specified term that can only be shortened in limited and legally defined circumstances – which should not include differences over editorial positions or decisions;
- in line with Council of Europe standards, representation of men and women in decision-making bodies should be balanced.^[2]

Accountability

28. Public service media are ultimately, and fundamentally, accountable to the public. However, the public is composed of an increasingly complex range of institutional and other stakeholders:

- the public as represented by the **State** – through government and parliament, as well as other independent regulatory and supervisory bodies;
- the **public** directly as audience and as citizens and participants;

- the public as represented by **civil society** groups as well as wider communities of interest.

29. The precise nature of this accountability will necessarily differ between countries, determined by the political systems, cultural and civil society traditions and the wider development of the market. It is not the purpose, however, of the guiding principles to define exactly to whom public service media organisations should be held accountable or the precise mechanisms for doing so. Instead, the guiding principles set out the characteristics that any system of accountability should display if it is to give both the public service media and its stakeholders confidence that it is fit for the purpose.

30. Any accountability framework should offer clear answers to four questions:

- **Accountable to whom?** Public service media organisations should operate within a framework that clearly establishes the bodies to whom they are to be held accountable. They should also identify those organisations and representatives to whom, even if they are not covered by a formal relationship, public service media organisations should nevertheless be prepared to give account of themselves: this should include, *inter alia*, youth and women’s organisations, minority and ethnic groups, unions and other specific interest groups. Public service media organisations should include their own staff among the groups to whom they should consider themselves accountable.

- **Accountable for what?** The accountability framework should make clear the public purposes and wider responsibilities for which the public service media are to be held accountable. These will include the purposes set out in the remit, but may also go wider to embrace issues of value for money and efficiency. Where the public service media are charged with collaboration with other market players – for instance, through requirements to commission work from independent third parties, or through their wider responsibility to share its research and development or training – these responsibilities should be clearly set out. The outcomes for which the public service media will be held accountable should also be clearly set out.

- **Held accountable how?** The framework should set out clearly the information that the public service media are required to supply, and the access that they should offer to their stakeholders.

- **Held accountable when?** In addition to establishing a clear timetable for annual reports and other audit processes, the framework should set out the terms on which the public service media are required to consult with stakeholders ahead of their key decisions.

Tier 2 – Management

Effective management

31. The purpose of the guiding principles is not to attempt to explain how public service media organisations should manage themselves. Nevertheless, if the focus is on ensuring that public service media organisations have a governance framework that can meet the challenges outlined in the first section of the guiding principles, then it is essential that the way they manage themselves and their resources should be focused on how to achieve change and should allow them to adapt to rapidly transforming conditions.

32. Above all, it is essential that the public service media organisation can feel confident that the decisions it takes have been properly considered and weighed, with the appropriate mix of skills and perspectives brought to bear and the right level of engagement across the organisation.

Internal management and resource allocation

33. Public service media organisations, coming from a tradition of stable schedules and linear services, comprising more or less fixed volumes of a known asset (namely their programmes), have a tendency to become fixed in their internal management systems. Audiences' demands for different kinds of content, delivered in different ways and with far greater levels of interactivity and engagement will require public service media organisations to re-examine their organisation and processes. If they are to thrive and prosper in the future, they need to be able not only to sustain their existing services, but also to develop new ways of meeting and serving their audiences, which are increasingly used to accessing and participating in media in more direct and interactive ways:

- they must use the new opportunities afforded by the Internet and other new and more interactive distribution platforms to find new ways of expressing enduring public service goals reinterpreting them as technology enables wider user choice;
- they must strive to use their brand to enable all parts of society to participate in the richness of content and experience that new media make available, thus giving real energy and drive to a media literacy and digital empowerment agenda which, in the long run, will contribute to a better functioning of democratic societies.

34. Public service media organisations should therefore be prepared:

- to **innovate in the way they allocate resources** to allow for new media or different ways of serving audiences to receive the necessary levels of funding and management time and focus;
- to ensure that all staff resources are managed in such a way that the changing needs of audiences are being met, including through: making progress towards a more balanced participation of women and men in decision-making processes; providing training opportunities that enhance the participation of staff in the delivery of services (including **gender-awareness and cultural diversity training** at all levels of the organisation and for all media professionals); and establishing appropriately transparent recruitment policies that leads to the creation of a diverse workforce **with the necessary skills** to produce and deliver services that meet the changing patterns of consumer behaviour;
- to focus on how best to meet **senior management challenges**, recognising that the best editorial leaders may not have learnt the most appropriate general and strategic management skills during their editorial career, and devising ways to fill these gaps either through training or specific external recruitment; and also to recognise the value of getting fresh thinking into the senior management team by more diverse recruitment at the top;
- to ensure that workplace practices and policies are in place to secure that all employees in the organisation can work in an environment free from discrimination and harassment.

Tier 3 – Culture – Transparency and openness, responsiveness and responsibility

35. The formal structures described above are those that comprise any governance system: the legal framework, the protection for independence and the way that operational decisions are aligned with the overall remit. These need to be given life within the organisation by the way that it chooses to operate: the systems it has for engaging with audiences, the behaviours it inculcates across its staff; in short, its **culture**.

36. In future, public service media organisations will need to adopt a new set of relationships with the public, relationships that are based on the linked values of **transparency** (how the public service media let

the audience see what they are doing) and **openness** (how the public service media opens up to new ideas and influences, while seeking new partners and creative opportunities to work collaboratively).

37. Public service media organisations will also need to demonstrate high levels of both **responsiveness** (actively engaging in debate and dialogue with their audience); and **responsibility** (creating and reinforcing a culture of journalistic and production standards against which stakeholders are invited to judge them).

38. These characteristics should also underpin the way in which the public service media deal internally with their own staff and suppliers.

Transparency

39. The section on “accountability” describes the range of structured relationships that public service media organisations need if they are to ensure that their decisions are appropriately informed and their actions properly supported. This will be importantly underpinning if public service media organisations also operate to a high degree of transparency. Among other things, this implies that:

- groups who may not have been formally consulted on the policy and content can nevertheless feel engaged with the way in which the public service media operate;
- operational decisions that have not been subject to formal consultation are nevertheless more likely to be open to public scrutiny; and
- the information that the public service media rely on to take their decisions will be widely available and understood.

40. Among the approaches to transparency that public service media could consider are the following:

- making financial and audience performance information available on a more regular and open basis;
- opening up the work of the board and key decision-making bodies by publishing agendas and minutes where possible;
- disseminating the results of thorough scrutiny of content (including news, education, entertainment and, if applicable, advertising) reflecting its diversity objective.

Openness

41. While “transparency” ensures that the operation of the public service media themselves is more widely understood, public service media also need to be receptive to new ideas and influences. This is particularly important at times when, as now, the nature of audience engagement and the ways in which media services are reaching them is changing so rapidly.

42. Public service media must therefore operate with a culture in which, not only their content, but also their whole operation reflects an openness based upon participation and engagement, whilst maintaining the requisite quality and standards within the scope of the public service remit, actively seeking out new ideas and approaches to identifying and serving public need.

43. This could typically include:

- exploiting the widest range of opportunities to meet and engage with audiences, especially using interactivity and participation, and not confined to broadcast or distributed content, but also making use of engagement beyond the content itself;
- exploring the widest diversity of sources, representing a broad spectrum of views consulted in the stories covered;
- exploring ways to involve the audience more in shaping the editorial offer (including youth, women, minorities and other groups), not least by using new technologies to seek richer opportunities for access;
- exploring the widest possible range of partnerships with other providers – public and commercial – to deliver the greatest benefit to the audience;
- exploring ways in which content created using public funds can be made available and put to enduring use by future audiences;
- exploring, in particular, ways in which younger audiences can be attracted to public service content by using a wider range of techniques and ways of interacting with them, while undertaking steps to ensure that senior members of the audience are not excluded from the opportunities offered by new media.

Responsiveness

44. As well as making themselves as transparent as possible and open to new ideas and influences, public service media need to be responsive to the concerns and issues raised by audiences and other stakeholders.

45. At the highest levels, these may well be picked up through the formal processes and structures of accountability, but on a day-to-day basis, public service media organisations need to demonstrate that they are actively seeking the views and opinions of their stakeholders, and are committed to responding and engaging with them.

46. To this end, public service media organisations will need to consider how they can:

- develop channels of communication with audiences and stakeholders that are immediate, unmediated and consistently and universally available;
- encourage active debate with a broad range of audiences, reflecting the diversity in society, about editorial standards and journalistic ethics through structured as well as informal processes;
- develop ways in which audience feedback can be demonstrably integrated into editorial decision making.

Responsibility

47. Public service media organisations occupy a uniquely privileged place in public debate and democratic processes. Their independence is prized precisely because of the expectation that public service media organisations will reflect and promote open and public debate, to underpin wider democratic goals.

Public service media organisations need to be confident that they can hold power to account on behalf of the public whose interests they serve without political interference.

48. However, this role carries with it great responsibility, and public service media should ensure that they operate to the highest editorial and journalistic standards.

49. These will be fostered by the interplay of culture and codes:

- public service media should actively promote a culture of responsible, tough journalism that seeks the truth. There should be a culture of rigorous enquiry and debate, characterised by even-handed treatment of conflicting views and an appetite for internal challenge and review;

- this will be reinforced and protected by the existence of clear and publicly available codes of journalistic and production conduct, which will set out the rules that the public service media intend to operate, and against which their output should be judged;

- the codes of conduct should include the highest diversity and equality standards;

- public service media should ensure that there are clear and widely publicised processes of internal editorial control and the handling of complaints, with the duties and responsibilities of the editor-in-chief clearly set out;

- these codes should not be limited to journalistic behaviour, but should also embrace wider issues of editorial standards and ethical behaviour.

[1] The use of the term “public service media” throughout these guiding principles reflects the fact that, for all public service broadcasters, the transition to a more diverse range of content and services is both inevitable and welcome, even if it happens at different speeds, and responds to different opportunities in different countries. By adopting “public service media” as its generic term, the Committee of Ministers of the Council of Europe has recognised the need for public service broadcasters to embrace these changes: the focus of the guiding principles is to help such institutions embrace the need for change and to deliver on these new goals.

[2] See Committee of Ministers’ Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making.