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## Contribution from the European Publishers Council to the Draft Broadcasting Communication - Consultation 8<sup>th</sup> May 2009

### Introduction

The European Publishers Council (EPC) welcomes the opportunity to comment on the second draft Communication presented by DG Competition on 8<sup>th</sup> April 2009. The list of our Members is attached at Annex 2.

We have long supported the Commission in its decision to modernise the current regime on the application of state aid rules to public service broadcasting dating back to 2001. Therefore, we appreciate the direction the current Revision takes and we consider this as an improvement to the current regime.

In this paper we focus on the way in which the draft Communication treats the impact of PSB expansion online on the newspaper and other print media market. However we wish to make it clear that our views regarding unfair competition from PSBs in the broadcasting market across the board remain of utmost concern. Annexed to the present response are the links to EPC's responses to the January 2009 and March 2008 Consultations, which complement the comments below; the main principles and positions of EPC remain unchanged.

We would ask the Commission to take into account the impact of the current economic crisis on media companies. The adverse effects of reductions in advertising revenues, which form the basis of much of the funding of private media companies, are compounded when these companies must also face the unrivaled advantages of secure, generous state funding of Public Service Broadcasters. The expenditure, content and cross-promotional advantages enjoyed by incumbent PSBs are so great as to endanger investment in wide areas of potential activity by the private sector. This is further compounded by the lack of transparency of PSBs future intentions, and by approvals systems in the Member States which set neither practical limits on, nor effective scrutiny of, the PSBs current or intended expansion into almost every area of internet activity.

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This draft Communication has the potential of achieving a transparent operational framework for the Public Service Broadcasters by giving due prominence to their social, democratic and cultural role rather than allowing un-regulated expansion and duplication of commercial content and services. If governments and more importantly citizens believe that good public service broadcasting is essential to the maintenance of democracy and a decent society, now is the time to accept such a review and follow fast with action to reassert core public service objectives, provide clear practical tools to build up fair play conditions and appropriate limits to ensure fair competition.

Therefore we welcome the recognition in this draft of the important contribution to media pluralism made by private media companies. It is therefore essential that care is taken to preserve a wide range of high quality content, consistent with the fundamental rights of freedom of expression and freedom of information.

#### The role of public service broadcasting

The EPC welcomes the recognition of the concerns of newspaper publishers and other print media about the proliferation of the Public Service Broadcasters onto the internet and other new media services, with aid provided by the state (paragraph 16).

Despite this and because of the fact that "newspaper publishers and other print media are also important guarantors of an objectively informed public and of democracy" as stated in the Draft, we believe that there is room for the Commission to take a step further by clarifying what is really at stake.

European values related to press freedom are based on independence, not only in the analogue but also in the online environment. Therefore at paragraph 16 it is the immediate and not possible danger that the independent press is facing, as a result of the ineffectively controlled online expansion of PSBs; this should be explicitly stated.

There is no viable, sustainable business-model developed online as yet. If the print media are forced to withdraw services online because their online investments are being crowded out, this would be detrimental to a pluralistic media landscape, ultimately resulting in an impoverished media offer with an over dominant presence by one state funded player. As stated in the second paragraph of the Draft, it was the entry of the "other operators" in the market which "favoured...the investment of new technologies and a larger degree of pluralism in the sector".



Linked to the above we would like to take issue with the introduction of the term “public service media” which has been inserted in addition to “public service broadcasters” (see Draft in paragraphs 14 and the 81 respectively). The Communication under revision is about public service broadcasting which provides audiovisual services, i.e related to broadcasting public services. This Communication should not be a vehicle through which Public Service Broadcasters can transform the scope and definitions related to their remit into Public Service Media which would eventually exclude nothing in terms of services and types of media from state aid. This would exacerbate distortion of competition and may endanger media pluralism.

### Definition of public service remit

Therefore the definition of the public service broadcasting remit is of great importance in order that absolute clarity is provided for the terms and conditions of proposed PSB expansion online. The Commission clearly approves of the use by PSBs of all digital platforms, but only provided that they add “clear value” for citizens; otherwise there is a manifest error. We would encourage the Commission to suggest that Member States also provide clear boundaries as to what the PSB can or cannot do. This clarity is essential not only to ensure fair competition but also to allow the private sector to innovate, invest and adapt their own business models online without the fear of dominance for state aided competitors.

### Diversification of public broadcasting services

The principle of a proper open consultation (paragraph 88) which will assess the economic impact of a new service - irrespectively of its significance- is fundamental for the smooth operation of the market where both public and private players are operating, free of distortions; by no means should it be compromised either in the future discussions among the European institutions, or in the implementation phase by the Member States.

The Communication should also explicitly require in paragraph 89, the option according to which the independent body carrying out the assessment may not be part of the Public Service Broadcaster itself, which is a further degree of independence beyond merely suggesting that it should be independent from the management of the PSB.

## Annex I

### EPC Responses to the past two Commission consultations

- Ø January 2009 - Consultation on the Draft Communication from the Commission on the application of State aid rules to public service broadcasting

[http://ec.europa.eu/competition/consultations/2008\\_broadcasting/index.html](http://ec.europa.eu/competition/consultations/2008_broadcasting/index.html)

- Ø March 2008 - Results of the consultation: revision of the Communication on the application of State aid rules to public service broadcasting

[http://ec.europa.eu/competition/state\\_aid/reform/comments\\_broadcasting/epc.pdf](http://ec.europa.eu/competition/state_aid/reform/comments_broadcasting/epc.pdf)

## Annex 2

### MEMBERS OF THE EUROPEAN PUBLISHERS COUNCIL

Chairman:

Mr Francisco Pinto Balsemão, Chairman and CEO, Impresa, Portugal

Members:

Mr Kjell Aamot, CEO, Schibsted, Norway

Ms Sly Bailey, Chief Executive, Trinity Mirror plc, UK

Dr Carlo de Benedetti, Chairman and CEO, Editoriale L'Espresso, Italy

Mr Carl-Johan Bonnier, Chairman, The Bonnier Group, Sweden

Mr Oscar Bronner, Publisher & Editor in Chief, Der Standard, Austria

Dr Hubert Burda, Chairman and CEO, Burda Media, Germany

Mr Juan Luis Cebrian, CEO, Grupo Prisa, Spain

Dr Matthias Döpfner, Chief Executive, Axel Springer AG, Germany

Ms Rona Fairhead, Financial Times Group, UK

Mr Tom Glocer, Chief Executive, Reuters plc

Dr Stefan von Holtzbrinck, Verlagsgruppe Georg von Holtzbrinck GmbH

Mr Steffen Kragh, President and CEO, The Egmont Group, Denmark

Dr Bernd Kundrun, Chief Executive, Gruner + Jahr, Germany

Mr Christos Lambrakis, Chairman & Editor in Chief, Lambrakis Publishing Group, Greece

Mr Murdoch MacLennan, Chief Executive, Telegraph Group Ltd, UK

Mr James Murdoch, Chairman and CEO, News Corporation, Europe and Asia

Sir Anthony O'Reilly, Chief Executive, Independent Newspapers PLC, Ireland

Mr Didier Quillot, Chairman and CEO, Lagardère Active, France

Mr Michael Ringier, President, Ringier, Switzerland

The Rt. Hon. The Viscount Rothermere, Chairman, Daily Mail and General Trust, UK

Mr, Piotr Niemczycki CEO, Agora, Poland

Mr Ian Smith, Chief Executive, Reed Elsevier,

Mr Hannu Syrjanen, CEO, Sanoma Corporation, Finland

Mr Christian van Thillo, Chief Executive, De Persgroep, Belgium

Mr Giorgio Valerio, CEO, RCS Quotidiani S.p.A Italy

Mr. Jose Manuel Vargas, CEO, Vocento, Spain

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