



## **SERVICES OF GENERAL ECONOMIC INTEREST**

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### **QUESTIONNAIRE**

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### **AER COMMENTS**

The Association of European Radios (AER) is a Europe-wide trade body representing the interests of over 4,500 commercially-funded radio stations across the EU27 and in Switzerland.

AER is located at:  
Association Européenne des Radios  
76, av. d'Auderghem,  
1040 Brussels,  
Belgium

AER's Interest Representative Register ID Number is 6822083232-32.

AER's main objective is to develop and improve the most suitable framework for private commercial radio activity. AER constantly follows EU actions in the fields of media, telecommunications and private radio transmission, in order to contribute, to enrich and develop the radio sector.

AER took part in all European Commission's consultations on questions alluding to public broadcasting funding in the past years, especially regarding the review of the Communication from the Commission on the application of State aid rules to public service broadcasting – thereafter "Broadcasting Communication"<sup>i</sup>. The broadcasting sector indeed benefits from a specific set of EU texts on state aid to public broadcasting. However, since – at least part of – the 2005 "SGEI Package"<sup>ii</sup> and the "Altmark Decision"<sup>iii</sup> apply to the allocation of state aid to public broadcasting, AER welcomes the opportunity provided by the European Commission to submit its views on this crucial matter. Moreover, AER has not replied to all questions contained in this European Commission consultation on Services of General Economic Interest.

AER would like once again to underline that it supports the European dual system based on a mix of publicly- and commercially-funded radio broadcasting. However, unfair competition may hinder this model. So AER calls EU Member States to show a strong political will and implement the rules put forward by the European Commission in the Broadcasting Communication. This should lead to the effective establishment of the following principles:

1. Clear and meaningful definition of the public service remit by a legal act;
2. Market impact assessment prior to an extension of the remit
3. Transparency: separation of public and commercial activities as well as cost allocation to profit centres
4. Independent control mechanism for ex-ante evaluation of activities as well as for the supervision of entrustment and for the evaluation of the financial behaviour.
5. Sanctions for breach of competition rules

## **Section A: Questions concerning the notion of SGEI**

Is it clear to you which activities may be considered as an SGEI?

Yes  No  Partially

If not, please explain why, possibly by giving concrete examples:

In the broadcasting sector, public entities' activities should be listed in a public service remit. However, commercially-funded radios across Europe primarily face difficulties due to the definition of public broadcasters' remit: it often lacks clarity, and encompasses programmes very similar to commercially-funded radios'.

The problems engendered by the lack of clarity in the remit of public broadcaster can be illustrated by the following example: in the **Netherlands**, public radio has 5 national channels. The programming of the public channels is similar to that of commercial stations. This holds particularly true for Radio 2 and 3, the entertainment channels. There is no justification of why the formats of Radio 2 and 3 cannot be left to the commercial market. Indeed, Radio 2 and especially Radio 3 have, since the introduction of commercial radio in the Netherlands, adjusted their formats in such a way that they are no longer distinguishable from the commercial stations. This also can be deducted from the fact that the revenues from advertising of Radio 3 are by far the largest of all five public radio stations and almost sufficient to cover the complete exploitation of all public radio stations. It goes without saying that these revenues add up to the government financial grant.

Public radio stations in the Netherlands carry advertising. Public broadcasters are "double funded"; experts know that the amount of advertising revenues they get is enough to cover at least the costs of the five public radio channels. These costs are not transparent and an insight of these costs is refused.

The sales organisation of Dutch public radio (STER) is the most dominant agent in the market (on advertising). That market share and the fact that only public radio can offer national coverage to advertisers allow public radio to set the price for radio advertising in the market. Commercially-funded radio can only follow the STER and ask for lower prices.

Similar situations are observed in some other parts of Europe (although not all). In such circumstances, public broadcasters have been able to foster their, already, strong brands. In many instances, commercially-funded radio broadcasters find themselves unable to compete on sound grounds with public service broadcasters.

Besides, and although there is not, strictly speaking, a definition<sup>iv</sup> of Services of General Economic Interest in the EU related regulatory instruments, as the final say lies in the hands of the EU Member States, one can only highlight that commercially-funded radios are often submitted, as much as public entities, to legal obligations imposed in the general interest. Indeed, in **France**<sup>v</sup>, the allocation of a licence to use a frequency gives birth to a set of obligations; *inter alia*:

- broadcasting of a minimum of 40% of French speaking or of local regional language music, of which half should be new, and which should be broadcast at peak listening time
- other obligations related to the promotion of the French language
- obligations to broadcast cultural and educational programmes
- obligations to contribute to cultural, educational actions, and actions defending consumers
- obligations to produce and transmit locally-produced content
- obligations regarding coverage / reach
- obligations regarding non-discrimination and social cohesion

Finally, commercially-funded radios perform services in the general interest by the mere fact that they are radios. Commercially-funded radios indeed constitute a unique network of small and medium-sized enterprises (SMEs), contributing to cultural diversity, media pluralism, access to

creativity, social inclusion. They thereby offer free-to-air services of general interest:

- they evolve in highly competitive environments<sup>vi</sup>
- their programmes encompass, broadly speaking, all possible formats, from debates to music-only<sup>vii</sup>
- As for the music broadcast, within one market, as soon as there is demand expressed, it has to be fulfilled; so, most of the musical expressions are represented
- most of them are non-politically affiliated, and certainly keep the freedom to express their opinion or to participate to the public expression of the opinions of their listeners
- their audiences are local, regional, or national
- they strive to develop on all possible platforms
- during natural, major or minor disasters, radio is one of the first tool to inform the public<sup>viii</sup>

## **Section B: Questions concerning the notion of State aid**

The Treaty rules, as they have been interpreted by EU case law, define the notion of State aid, as well as the conditions under which State aid rules apply to SGEI.

Have you encountered difficulties in applying the conditions of Article 107(1) of the [Treaty on the Functioning of the European Union](#) (TFEU)?

Yes  No  Partially  N/A

If yes or partially, on which specific condition(s)?

Economic activity: Yes  No

Effect on trade: Yes  No

Economic advantage: Yes  No

Selectivity: Yes  No

Transfer of State resources: Yes  No

Could you give some concrete examples?

The Broadcasting Communication states that there are mainly two elements of the Treaty on the Functioning of the European Union containing rules on State aid to public broadcasting: Article 106 and the so-called “Amsterdam Protocol”.

Bearing this in mind, it is important to draw attention on the fact that these two elements of the Treaty on the Functioning of the European Union are clear:

- Article 106 (2): “Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union.”
- Amsterdam Protocol: “The provisions of the Treaty establishing the European Community shall be without prejudice to the competence of Member States to provide for the funding of public service broadcasting insofar as such funding is granted to broadcasting organisations for the fulfilment of the public service remit as conferred, defined and organised by each Member State, and insofar as such funding does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account.”

[Explanation on concrete application of these rules was set by the European Commission in the](#)

Broadcasting Communication adopted on July 2<sup>nd</sup>, 2009. These rules were adopted after a 2 year-long consultation process, in which the EU Member States actively took part. However, one of the main new safeguards for competition is simply ignored in some Member States: there is simply no ex-ante test before creating new public broadcasting services in **Italy** and **France**. In France, a blatant example of the absence of ex-ante evaluation of new public radio services took place recently: following the reorganisation of Radio France's work plan, some of this public broadcaster's programmes were completely modified. For instance, one of its radios, "Le Mouv", changed its headquarters' location (from Toulouse to Paris), changed its staff, and changed its aim and editorial line. This has led somehow to model a new service without consultation of stakeholders, or any other material ex-ante evaluation.

However, and even more problematic, one of the direct consequences of the French public broadcaster's reorganisation was the pre-emption of a frequency previously allocated to a private operator; i.e., the public broadcaster was awarded, without consultation (nor tender) of stakeholders, a frequency which belonged to a private operator in Toulouse<sup>x</sup>: the "France Bleu" network (French public broadcaster's strong brand with an ultra-local editorial line) could thereby open a new radio station in Toulouse. Furthermore, one should point out that this follows a broad 3-year plan to re-organise the allocation of frequencies to develop a more efficient use of Band II in France. It goes without saying, but access to spectrum is essential for radio's business-model. Therefore, pre-emption of frequencies presents aspects related to the points raised above (economic activity, effects on trade, economic advantage, selectivity) by the mere fact of crowding out an existing private radio operator from a facility still essential for the radio market. One should note that some of these points were underlined by the Conseil Supérieur de l'Audiovisuel (the French national regulator for broadcasting) when it published its non-binding opinion on Radio France's new work plan<sup>x</sup>.

Another example of the lack of Member States' political will to follow indications set by the EU state funding of public broadcasting can be found in **Germany**: the public broadcasting sector still qualifies the funding received via the public broadcasting licence paid by citizens as "non-state funding", in contradiction with the rules set by decisions of the European Commission and of the European Court of Justice, and in the Broadcasting Communication.

AER calls EU Member States to show a strong political will to implement and effectively enforce the rules put forward by the European Commission in the Broadcasting Communication. This should lead to the effective establishment of the following principles:

1. Clear and meaningful definition of the public service remit by a legal act;
2. Market impact assessment prior to an extension of the remit
3. Transparency: separation of public and commercial activities as well as cost allocation to profit centres
4. Independent control mechanism for ex-ante evaluation of activities as well as for the supervision of entrustment and for the evaluation of the financial behaviour.
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### **Section C: Application of the Altmark Ruling**

In its judgment in the case of Altmark Trans GmbH, the European Court of Justice held that public service compensation does not constitute State aid within the meaning of Article 107(1) of the TFEU provided that four cumulative conditions are met.

Firstly, the recipient undertaking must actually have clearly defined public service obligations to discharge.

Secondly, the parameters for the calculation of the compensation at stake must be established in advance in an objective and transparent manner.

Thirdly, the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit.

Fourthly, where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure which would allow for the selection of the bidder capable of providing those services at the least cost to the community, the level of compensation needed must

be established on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped, would have incurred.

Have you encountered difficulties in the application of the Altmark conditions, especially in respect of the 4th one?

Yes  No  Partially  N/A

If yes, please explain these difficulties. If possible, please give concrete examples:

The Broadcasting Communication specifies that the "Altmark test" should be applied to state funding of public broadcasters. However, public procurement procedures are seldom applied in the field of broadcasting. Besides, public broadcasting accounts often lack transparency. So it is impossible to compare the costs incurred by the public broadcasting entity and the costs "which a typical undertaking, well run and adequately equipped" would incur. It is therefore rather difficult to assess if the amount of state funding received can be considered as compensation, or adequate compensation.

For example, in Germany, commercially-funded radios find it difficult to compete with public broadcasters due to public radio operators' advantageous market positions and their structural complexity, which lacks real financial control. The financial statements presented by public broadcasters ARD and ZDF to the KEF (the commission responsible for establishing the financial needs of public broadcasters) lack clarity, particularly in relation to the outsourcing of private subsidiary companies that carry out different activities (i.e. marketing, advertising, licensing, etc.) for public broadcasters. Due to the lack of transparency, cross-subsidisation cannot be proved and consequently not be obstructed. Each of these entities should have their costs affected to profit centres in order to enable proper assessment. There is indeed a need for further clarification of the market conformity. Furthermore, the competences of KEF and the Courts of Auditors should be strengthened in order to enable them to evaluate a proper use of the public service broadcasters' funding.

In the UK the issue of financial accountability and transparency of the BBC, as the main public broadcaster, has become a matter of concern amongst politicians and the public. One of the explicit commitments made by the UK Coalition Government when it came to power in May 2010 was to give power to an independent auditor (the National Audit Office) to have full access to the BBC's accounts to ensure transparency.

#### **Section D: Conditions of the Decision and the Framework**

In order to provide legal certainty in the financing of SGEI, while ensuring a level playing field between all undertakings in the single market, the Commission adopted in 2005 the "SGEI Package", to define under which conditions public service compensation that constitute State aid can still be granted for the fulfilment of public service missions. In particular, the Decision defines the conditions under which public service compensation is compatible and is exempted from notification to the Commission, while the Framework explains how the Commission will assess all remaining public service compensation that has to be notified to the Commission.

These conditions consist in the existence of an act of entrustment containing a precise and correct definition of the service of general economic interest, the definition of the parameters to establish the appropriate amount of the compensation, the absence of overcompensation and the safeguards to avoid any overcompensation.

##### D.1: Entrustment

Questions regarding the act of entrustment:

Are you aware of the legal instruments (contracts, laws, concessions, etc.) that have been used to entrust SGEI to SGEI providers in your sector/region?

Yes  No

If yes, you are welcome to provide information on these forms of legal acts:

Amongst the AER Membership, two different examples:

- in the UK: In 2006, the BBC's Royal Charter and Agreement was renewed by the Government. This led to the establishment of a new regime for defining the BBC's remit and holding it to account. The Charter introduced the new BBC Trust, as well as a system of Service Licences and Public Purpose Remits, a new Competitive Impact and Fair Trading framework, and a new Complaints Framework.
- in Germany: Interstate Treaty on Broadcasting and Interstate Treaty on the Funding of public broadcasters renewed in 2010. These two texts are complemented by the relevant Interstate Treaties on ARD and ZDF and the local public broadcasters.

Do you know if the act of entrustment, or any other relevant legal basis relevant for your sector/region, gives a precise and correct definition of the service of general economic interest to be provided?

Yes  No  Partially  N/A

If no or partially, please explain and provide example(s):

This depends on the State: usually, the definition is not precise or incomplete as the public broadcasting entity does not respect the boundaries set by the public service remit.

For instance, in Switzerland, the public broadcaster SRG/SSR is left to define the "public service" to its very own, often commercial interests, and to re-define it constantly in order to construct arguments for a policy of systematic expansion, to the disadvantage of private broadcasters having to operate without public funds. One of the strategies seems to be copying any concept that works in private radio, such as the creation of format radio offers for very particular target groups, or the planned strengthening of SSR's local studios in order to expand their regional programme windows – systematically under the pretext of applying their obligation to provide public service.

Have you encountered difficulties concerning the notion of act of entrustment in the sense of State aid and internal market rules?

Yes  No  N/A

If yes, please explain why, possibly by giving concrete examples:

As mentioned earlier, the definition of the public service remit is often too vague. This leads to expansion of the remit beyond its limits. The Broadcasting Communication requires ex-ante evaluation of any new service provided by public broadcasting entities. This is a helpful tool. But, as the supervision of the activities of the public broadcaster's activities or of its expansion is not undertaken by independent bodies, this requirement's implementation degrades this tool's usefulness.

This can be observed especially in Germany, where the public broadcasters' new services' ex-ante evaluations are performed by internal control bodies (Rundfunkrat or Fernsehrat). These bodies hardly conclude that public broadcasters' new services have negative impact on the market. German private radios criticized the lack of transparency in the 3-step test procedures as well as the methodology and outcomes of the market tests recently performed in Germany.

Similarly, in the UK, part of the public broadcaster's new services' ex-ante evaluation is performed by the BBC Trust, not entirely separate and independent from the public broadcaster.

## D.2: Compensation

I) Questions regarding the calculation of costs and revenues related to an SGEI

Have you faced difficulties with the calculation of costs and revenues related to an SGEI?

Yes  No  Partially  N/A

If yes, could you describe these difficulties?

Although the Broadcasting Communication has clarified the requirements on this point, in practice it is hard to assess costs and revenues of a public broadcaster. Indeed, as described earlier for example in Germany, it is difficult to comprehend the separation of accounts between public and commercial activities.

This causes difficult situation especially with regard advertising prices. A very striking example is provided in the UK: there is insufficient distinction between the BBC's public service activities and its trading activities. For the sake of transparency, the BBC should not be able to enter into agreements with third parties to provide them with exposure, regardless of whether or not it obtains payment in exchange. This is because the third party offering these services could be offering other services in lieu of payment, such as privileged access to an artist, or a privileged opportunity to obtain live broadcast rights for a live event. By offering on-air exposure opportunities on different terms to those offered by commercially funded broadcasters, public service broadcasters risk distorting advertising and sponsorship markets. When it engages in activity of this kind, the BBC has the effect of distorting the market, since it alters the price which Commercial Radio stations are able to charge for sponsorship, or for promotion of artists or concerts, to take this example. Self-evidently, preventing the BBC from undertaking any commercial activities of this kind except through a clearly separate commercial arm would negate this anticompetitive impact.

Do you think that the variable and fixed costs referred to by the Decision and the Framework, are the appropriate categories to allocate costs between the different services?

Yes  No  Partially  N/A

If no, could you explain why?

This is a valuable set of categories, but it is not sufficient: cost allocation to profit centres is essential, as it allows comparison of costs for each services / activities.

II) Questions regarding reasonable profit

If you are aware of an example where an SGEI provider has received public service compensation,

Could you:

please indicate whether this compensation included a reasonable profit?

Yes  No

Indicate whether the reasonable profit was calculated on the basis of the rate of return on own capital as provided for by the Decision and the Framework?

Yes  No

If the reasonable profit was not calculated on the basis of the rate of return on own capital, please explain why a different type of rate was applied and give information about the chosen rate:

The Broadcasting Communication now includes a measure allowing public broadcasters "to keep an amount in excess of 10% of the annual budgeted expenses of their public service mission". While this can be assimilated to a "reasonable profit", one should bear in mind that AER represents commercially-funded radio broadcasters: they depend 100% on advertising revenues. Therefore, they have no access to such "surplus at the end of a financial year". While it is understandable that public broadcasters enjoy the latter in accomplishing their public service remit, as soon as commercial activities are mixed to provide additional incomes, this is hardly sustainable. Commercially-funded radio broadcasters indeed have to compete with "protected operators", able to develop services in a much less risked manner. It is therefore a high priority to ensure separation of "commercial" and "public" activities within public broadcasters' entities.

Moreover, overcompensation should be deducted from the licence fees: surplus at the end of year N must be deducted from the licence fees at year N+1.

### **Section E: Specific categories of SGEI**

Are you aware of other instruments than public service compensations (for instance direct aid to users, direct provision of SGEI by the State, etc.), used by public authorities to foster public service activities?

Yes  No  N/A

If yes, please feel free to provide any information on these instruments and the areas in which they are used:

Public broadcasting is often partly funded by commercial means (although in some territories, such as the UK, this is specifically prohibited). One direct effect of purely commercial activities run by public broadcasters might indeed be unfair commercial advantage concerning programming production. Even more concerning is the effect on advertising prices: as public service broadcasters enjoy "dual fundings", they can set artificially low prices for advertising spaces on air. As a consequence, commercially funded radio broadcasters are forced to follow these pricing. This has a direct effect on the latter's incomes, since almost all of AER Members are 100% funded by advertising. Hence the situation presented at the beginning of this document regarding the Netherlands.

### **Section F: Competition and intra-Community trade**

According to your experience, the principles on which the Decision and Framework are based (in particular the act of entrustment and the absence of overcompensation) have been appropriate to preserve an equal footing between SGEI providers and commercial providers and to avoid distortions of competition and intra-Community trade?

Yes  No  Partially  N/A

If no, please explain why:

The principles referred to are also present in the Broadcasting Communication. They constitute essential requirements to avoid distortions of competition in the various EU Member States. However, the rules set by the Broadcasting Communication are, in the best cases, partially applied by EU Member States, or, in the worst cases, merely ignored: the situation of the French market described earlier provides a very good illustration of the lack of political will in implementing these principles.

In your sector/region, are public services provided by various public service providers?

Yes  No  N/A

If no, could you explain why?

This is not necessarily the case: it depends on the EU Member State. However, there are usually not more than 2 national public broadcasting distinct entities in the radio sector, although these might work as “umbrellas” for different stations. Furthermore, any new service resembling public broadcasting, or accompanying public broadcasting is developed by these existing entities, almost without public procurements. Besides, as there is a lack of transparency in their accounting, it is impossible to assess the level of compensation perceived. Hence, there is no equal footing between publicly- and commercially-funded radio broadcasters in Europe.

Do you consider that in your sector/region, the provision of public services does not affect at all, or in any significant way, intra-Community trade?

Yes  No  Partially  N/A

If yes, please explain why. You are welcome to provide concrete examples to substantiate your views:

It is not appropriate for public broadcasters to offer any service or product, if it is to be expected that a commercially-funded broadcaster would be able to derive a significant sum by offering such a service or product to either a consumer or a client on a commercial basis. An example of activity which would not therefore be appropriate would be if a public broadcaster offered, either for free or at a price, a popular music track for download, a lucrative sponsorship package, or promotion of how to buy tickets for a popular music concert from a commercial ticket outlet.

Another commercial practice developed by public broadcasting can for instance be observed in **France**: public radio channels are allowed to develop sponsorship for local events. French commercially-funded radios therefore find it sometimes difficult to compete with public broadcasters on the sponsorship of big and popular events. Just to mention an example: the “France Bleu” network sponsors important local events, e.g. “24h du Mans”, music festivals such as “Les Vieilles Charrues”. These two examples took place in 2010: local commercially-funded radios expressed their will to sponsor these events and this was rejected on the grounds that “France Bleu” had already set a sponsorship<sup>xi</sup>. The sponsorship contract indeed required total exclusivity for the event; moreover, the contract contained a promise to buy advertising space, enabling wide coverage of the event. In these cases, local commercially-funded radios cannot sponsor events, and lose access to a purely commercial opportunity.

In the **UK** the BBC has been found to be in breach of its own editorial guidelines and fair trading policy, due to the undue exposure it has given to artists and businesses seeking to promote products and services (for example, promotions for the bands U2 and Coldplay, as well as the last Harry Potter movie). This behaviour has been shown to have ‘crowded out’ commercial competitors.

Do you consider that the State aid rules on public service compensations may in certain cases have the effect of foreclosing the market or led to other distortions of competition?

Yes  No  Partially

If yes, please explain why and in which cases:

As long as rules on State aid to public broadcasting are enforced by European States, they should lead to fair competition environments.

#### **Section H: Miscellaneous**

According to your experience, have the Decision and the Framework succeeded in striking the appropriate balance between the accomplishment of the public service mission and a level playing field between businesses and across Member States in the single market?

Yes  No  Partially  N/A

If no, please explain why, by providing concrete examples:

As explained previously, the main rules for the broadcasting sector are contained in the Broadcasting Communication. These rules could be more extensive, but they already constitute one more step forward towards better competition in the broadcasting markets. However, if the rules set in the Broadcasting Communication are ignored, fair competition will be a goal moving away rather than approaching. All EU Member States without exception need to comply by these rules they have taken an active part in drafting: all EU Member States should ensure effective enforcement of these rules, enabling fair competition between public and private operators in the broadcasting sector. One should indeed bear in mind that these rules were drafted partly to reduce (or put an end to) commercial operators' filing complaints to the European Commission. These rules should be therefore seen as a protection for EU Member States against further European Commission action in this field.

AER remains available to explain this position in further details, should this be helpful to the European Commission.

ENDS  
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Contact details: Vincent Sneed  
AER EU Policy Adviser  
76, av. d'Auderghem,  
B-1040 Brussels,  
Tel: +32 2 736 9131  
Fax: +32 2 732 8990  
[vincent.sneed@aereurope.org](mailto:vincent.sneed@aereurope.org)  
[www.aereurope.org](http://www.aereurope.org)

<sup>i</sup> [http://ec.europa.eu/competition/state\\_aid/legislation/broadcasting\\_communication\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/broadcasting_communication_en.pdf)

<sup>ii</sup> Decision: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62000J0280:EN:HTML> and Framework: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XC1129\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XC1129(01):EN:NOT)

<sup>iii</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62000J0280:EN:HTML>

<sup>iv</sup> Although there is a definition developed by EU practice: in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – White Paper on services of general interest COM (2004) 374 final, 12.05.2004 - ANNEX 1 Definition of Terms, the European Commission noted that "in Community practice there is broad agreement that the term refers to services of an economic nature which the Member States or the Community subject to specific public service obligations by virtue of a general interest criterion. The concept of services of general economic interest thus covers in particular certain services provided by the big network industries such as transport, postal services, energy and communications. However, the term also extends to any other economic activity subject to public service obligations"

<sup>v</sup> See Article 28 of Law n° 86-1067 of September 30<sup>th</sup>, 1986:

<http://www.legifrance.com/affichTexte.do?cidTexte=JORFTEXT000000512205&fastPos=1&fastReqId=2023539792&categorieLi=en&cid&oldAction=rechTexte#LEGIARTI000020358285>

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<sup>vi</sup> For example, and bearing in mind that the amount of radios in a given country depends of course on its size: Spain now has more than 2000 frequencies used across the country; similar FM overcrowded situations can be observed in France or Germany.

<sup>vii</sup> To give just examples, please see:

- the French AER Member, SIRTI : <http://www.sirti.info/spip.php?page=adherents>
- the UK AER Member, RadioCentre:

<http://www.radiocentre.org/rc2008/stationSearchResults.aspx?searchType=fullmembers>

<sup>viii</sup> For example: in the UK in December 2009, during the Cumbria floods, to keep their communities and other media outlets informed, Commercial Radio in the area began rolling news and updates during events that occurred a fortnight ago and the on-going clean up operations. As soon as the situation started unfolding, both CFM Radio and Lakeland Radio dropped their usual formats and presenters and switched to a service of news, travel, weather updates, advice and other information to help the local community. For more details, please see here: <http://www.radiocentre.org/rc2008/showContent.aspx?pubID=341>

The most recent example was this morning when you had to avoid constructions on your way to work

<sup>ix</sup> It seems that this was also envisaged in other regions such as Alsace

<sup>x</sup> Please see the « Avis du CSA du 13 juillet 2010 sur le projet de contrat d'objectifs et de moyens de Radio France pour la période 2010 – 2014 » here : [http://www.csa.fr/infos/textes/textes\\_detail.php?id=131710](http://www.csa.fr/infos/textes/textes_detail.php?id=131710)

Please note

- on France Bleu : « Cette volonté d'extension du réseau France Bleu soulève deux remarques. D'une part, le Conseil a adopté une stratégie d'exploitation maximale de la ressource disponible en termes de fréquences en mode analogique ; en conséquence, les fréquences encore vacantes sur les zones à forte densité de population deviennent de plus en plus rares. D'autre part, **une démarche de réservation prioritaire de nouvelles fréquences pourrait être susceptible d'entraîner des réactions fortes de protestation de la part des opérateurs privés.** »
- on Le Mouv' : « **Le contrat prévoit une relocalisation à Paris et une refonte en profondeur de la ligne éditoriale du Mouv'**. Ce nouveau positionnement peut être interprété comme lié aux faibles audiences des programmes de la station. Celle-ci est confrontée à des difficultés importantes pour rencontrer son public. Si la première mesure relative à l'implantation uniquement parisienne de la tête du réseau pourrait être de nature à améliorer le fonctionnement de ses différentes structures et à renforcer la cohésion de l'antenne, on peut espérer que l'évolution du programme à dominante musicale vers un programme plus généraliste mêlant émissions d'information, de débats et de musique, comme il était prévu lors de la création du Mouv', aura également une incidence positive en termes d'audience. »
- and on FIP : « **Le contrat affiche la volonté des dirigeants de Radio France de repositionner, en termes de genres musicaux, la station FIP uniquement sur le jazz et la musique classique.** Afin de pallier les difficultés rencontrées, en termes d'audience, par ce programme, la stratégie adoptée a consisté à axer celui-ci uniquement sur deux styles musicaux. Cependant, le Conseil s'interroge sur la pertinence du recentrage souhaité par Radio France qui est en opposition avec l'éclectisme et la diversité des genres musicaux exposés jusqu'à présent sur l'antenne. »

<sup>xi</sup> Similarly, one of the World Rally Championship's races will take place in Alsace this year (2010). Although this kind of event is usually sponsored by the local broadcaster "Top Music", this event's sponsorship, following strong local administration's involvement, is exclusively undertaken by France Bleu.