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**THE DEBATE ABOUT PUBLIC BROADCASTING IN
THE MODERN DIGITAL WORLD:
A CASE STUDY OF NRK**

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The author of this paper is a foreign news reporter at the Norwegian Broadcasting Corporation NRK. Any assessments are his own and do not necessarily represent the views of NRK.

INTRODUCTION

Throughout the world we see dramatic changes in the modern digital media scene, with consumers and advertisers abandoning traditional newspapers, media companies searching for new business models and concepts, and new international players popping up. Journalists and other staff are losing their jobs, in a situation some call a "blood bath".

This paper is about one big elephant in the jungle so to speak, to try to use a somewhat disproportionate metaphor. It is an attempt to describe the debate about the role of Norway's public broadcaster NRK in this landscape.

The debate has political, commercial and ideological aspects. It is about NRK's mandate, its online activity, and its relative financial strength.

The debate about public broadcasting and market impact has been going on in European countries for many years. Both NRK's statutes and its current regulation are at least in part the result of EU legislation. Norway is not a member of the EU but must implement most of its laws.

1. THE ISSUE

Critics argue that NRK with its massive public funding and predictable revenues is insulated from normal market pressures, whereas private players must find ways to make money, and thus NRK represents unfair competition. They argue that it does things it should not do. They argue that the statutes in the mandate are too wide, allowing it to do virtually everything it wants. As a result some propose that NRK's statutes should be revised, to recreate a balance between private players and publicly financed services. The question is how.

At the same time, there is wide agreement across the political spectrum that NRK should be retained as an important national institution, in order to secure its mission for society, Norwegian culture, language and democracy in a country that only gained its independence as a modern state in 1905.

NRK's supporters see it among many other things as a provider of quality products. Consequently, there should not be any clipping of its wings. It should not be restricted, but rather strengthened.

The current debate intensified after a new conservative government was elected in 2013, and then invited all concerned parties to give their views. It has promised to present a policy paper in 2015, providing the politicians' answer to what to do with NRK. In the debate there are many different voices and opinions.

1.1 Key facts about NRK

The Norwegian Broadcasting Corporation, Norsk rikskringkasting, NRK, offers three TV channels, NRK 1, NRK2, and NRK3. Nrk.no is the main news website, with text, video, audio, different services and access to TV and radio programs. There are three main radio channels, and a variety of niche channels.

It is mainly funded by a licence fee, which generates about NOK five billion¹ (about 500 million GBP) annually. Every household with a TV set is obliged to pay for the licence, which is about 270 GBP (2014) every year.

¹ The exchange rate between NOK and GBP varies between 1 GBP = NOK 10 and 11.

There is no advertising on its channels. But the company does have commercial revenues through for example the sale of sponsorship for sports events. Three percent of NRK's revenues come from commercial activity. NRK's editors like to joke that only Vatican Radio has less commercial revenues among public broadcasters in Europe.

NRK has about 3,700 employees, of whom 2,013 work in the main office in Oslo. In addition, there are 13 district offices around the country. There is also an office serving the Sami population in their own language.

NRK is currently enjoying high rating figures. The concept of having a public broadcaster is widely supported, even among NRK's critics. According to recent surveys, almost 9 out of 10 Norwegians use one or more of its services on TV, radio and web daily.² More than 70 per cent of those asked say they get good value for their licence fee money.³ Its TV and radio ratings are relatively high, and the website is among Norway's largest measured by use. Use of the NRK site via mobile phones is growing.

At presentations, NRK editors like to compare these very high figures with what may be found in North Korea.

The major private media companies are the commercial channel TV2, along with several private radio stations and as far as the web is concerned, the websites of the biggest media houses like Schibsted which owns newspapers VG, and Aftenposten. Other major media houses are Aller, Amedia (owner of many local newspapers) and Polaris. Most private media companies are organized in the Mediebedriftenes Landsforening MBL (the Media Companies' Association).

One key point in the discussion is, and has been for a while, NRK's statutes. According to critics they need revision because they are too wide. NRK's mandate or mission for society is described in the present set of statutes which were approved by the then center-left government in 2007. As a public service broadcaster, NRK naturally has an important obligation to maintain and strengthen Norwegian culture, language and other values.

Other key provisions that are relevant for NRK's position, and its role on the internet, include:

² Medienorge, <http://www.medienorge.uib.no/?cat=fakta&page=fakta&id=41>

³ NRK Survey: <http://www.nrk.no/informasjon/godt-fornoyd-med-nrk-1.11616628>

&12: NRK shall support and strengthen democracy

&13: NRK shall be accessible for all.

&13 d: NRK shall be present on, and develop new services on all important media platforms to reach out as widely as possible with its overall program offer,

&14: NRK shall strengthen Norwegian language, identity and culture.

&15: NRK shall aim for high quality, variety and innovation.

&15 c: NRK shall be able to provide the same type of offer that is also provided by commercial players, but should have the ambition to add an element of increased value for society compared to the commercial offer.

&16: NRKs public service offer shall be non-commercial.

&17: NRK shall have an attractive content offer on the internet, mobile-tv etc.

It's worth noting that in addition, some private TV and radio channels also have some public service obligations.

1.2 Intensified debate after change of government

The debate gained momentum after the parliamentary election in September 2013. A new coalition government was formed, of the Conservative party Høyre and the smaller Fremskrittspartiet (FrP, Progress Party), often described as a right wing party.

Almost all political parties, the conservative party included, want to keep NRK as an important national institution. The exception is the junior coalition partner FrP, which would prefer to sell NRK off to commercial companies.

After the elections, the new government wasted no time. It soon put issues concerning NRK on the agenda. They asked some questions: Is NRK distorting the market? Should NRK's activities be constrained to have a better balance in the market? Should some services be off limits? In its policy platform the new coalition government stated that it wants to limit NRK's ability to use its ample and secure funding to weaken the activities of what are called "free institutions"⁴, i.e. commercial media companies. The Ministry of Culture,

⁴ Government policy platform, October 7, 2013. p 51

announced a wide ranging review of NRK and its sphere of operations: statutes, funding, external independent production, certain web services and other aspects, reflecting a concern that it may have become too dominant in the market.

The Minister, Thorhild Widvey, made the following announcement as she launched this review:

"Seven years have passed since the previous policy paper about NRK...While NRK used to be primarily a TV and radio broadcaster with quite minimal web activity, it today is a multimedia media house with a lot of services on TV, radio and internet. ... Some think NRK's position has become too dominant. ... What tasks should NRK be specifically responsible for? We must also look at the division of work between NRK and the commercial channels."⁵

The Minister's statement was followed by a similar one by her Deputy, saying:

"We cannot have a development where a publicly funded NRK creates problems for commercial players' terms of existence. We will look at NRK's core activities and see what is at the margins."⁶

1.3. The debate about NRK's statutes, website and certain web services

The government's plans seem to reflect the EU Commission position that says that "Public service broadcasters can take advantage of digital technology and internet-based services to offer high quality services on all platforms, provided they do not distort competition unduly at the expense of other media operators".⁷

According to critics, that distortion is exactly what has been happening, largely because of NRK's unduly broad mandate and resources. As mentioned, one clause in its statutes says: "NRK shall be present on, and develop, new services on all important media platforms to reach out as wide as possible with all its program offering." (13d). It has been said in the debate that if there was a generous interpretation of this provision NRK could even publish a

⁵ Thorhild Widvey, Minister of Culture, statement, April 2014

⁶ Knut Olav Åmås, then Deputy Minister of Culture, in a debate at NRK, April 3, 2014

⁷ Cited by Svein Egil Omdal (ed), in report "Journalistikk og demokrati", 2013

newspaper.⁸ Other commercial companies have expressed similar criticism against the statutes for not being well suited to limiting NRK's mission.⁹

The present set of statutes was introduced by the then centre left government that ruled for eight years until the last election. It is fair to say that the former government, led by the Labour party, was in general ideologically sympathetic to NRK.

Some calls for changes to the statutes have been more specific than others: one commentator has suggested that the level of detail in the mandate should be reduced. One idea is that NRK should no longer have an explicit obligation to develop services on all important media platforms to reach as many people as possible, and to introduce specific prohibitions on NRK running websites that are too similar to those of private sites, as is the case in Germany.¹⁰ Others have said that either NRK should limit itself, or else the politicians will do it for them.

As stated at the outset, NRK has for quite a while been criticized for being too dominant, with public financial muscle few others can match in the online market and obstructing variety and innovation in the media scene. This is seen as particularly problematic at a time when commercial operators are seeing traditional revenues shrinking, are struggling to find new functioning business models, and have to compete in the market for customers willing to pay for their products. It is noted by critics that NRK has increased both its revenues and number of staff in recent years.

According to Torry Pedersen, editor in chief of media house VG (with Norway's biggest web site), NRK revenues increased by 31 per cent from 2007 to 2012, while VG's decreased by 2 per cent, and NRK increased its number of journalists, while the opposite has happened in the newspapers. He called this a "dramatic competition distortion to NRK's advantage" and asked: "Have these increased resources been used to create content that the commercial media market does not cover, or have they been used on programme concepts in direct competition with the commercial players?"¹¹

⁸ Board chairman Are Stokstad, MBL (Media Companies' Association). April 5, 2011: <http://www.kampanje.com/archive/2011/04/nrk-ma-fa-nye-vedtekter/>

⁹ Documents from media houses TV 2, VG, Bernergruppen and MBL on approval of new NRK services, March, 2011 to The Media Authority (Medietilsynet): <http://www.medietilsynet.no/Allmennkringkasting/NRK/Forhandsgodkjenningsprosedyre>

¹⁰ Bernt Olufsen, Editor, Schibsted Media House, in mail to author, June 2014

¹¹ Speech at seminar on NRK June 17, 2014

As Schibsted editor Bernt Olufsen wrote: "While Norwegian local and regional media houses are forced to (implement) substantial cost cuttingand staff reduction, NRK has risen like a yeast dough in the summer heat."¹²

NRK's licence fee revenues increased from NOK 4.3 billion (2008) to NOK 5.1 billion (2013). The number of employees grew from 3,442 (2008) to 3,740 (2013).¹³

It is fair to assume that those participating in the debate wanting to limit the public broadcaster's area of activities represent either their own commercial interests, and/or are politicians and commentators on the rightwing/liberal side, with a more general ideological/political perspective on the role a state-funded institution should have in a modern society.

Some of these critics have a fundamental objection. The Media Companies' Association (MBL) argues that in a democratic society we cannot have state financed media companies competing freely and directly with private, commercial operators. According to this perspective the PSB's role should be based on addressing a market failure, primarily fulfilling needs that are not met by private business, and that therefore there must be a good balance between a state-funded PSB and those who must find their revenues in the marketplace.¹⁴

In a survey by the MBL, 71 per cent of the member companies say they see NRK as a challenge or a competitor. They warn that NRK must not be allowed to establish new free services in direct competition with media houses, especially in the local and regional area.

One digital truth of recent times is the fact that many media companies and public broadcasters have moved out of their traditional field of operation and now compete directly in the same space, online and elsewhere. NRK no longer offers only TV and radio, and what used to be newspapers are in the TV business, steadily developing new concepts.

Again, according to VG's editor in chief this head to head competition is a real problem:

"We have become more and more equal over time. Each of us offers text, video, stills, animation, and interactive services. The big difference is the

¹² Blog, June 6, 2014

¹³ Figures from MediaNorge

¹⁴ MBL statement at seminar on NRK June 17, 2014

funding. Everybody must subscribe to NRK; we at VG have to get our customers ourselves." ¹⁵

He agrees that NRK must be present on all platforms. But it should concentrate on its core activity as it has been for many years: quality television and radio. He argues that neither the politicians nor the competitors should define the limits for NRK. The institution must do that itself, or else the politicians will do it for them:

"If NRK is not more specific about what it should do and not do, the politicians' temptation to direct NRK will increase substantially."

Despite being critical towards NRK, some of the main commercial competitors have - according to NRK's communications director - said they fundamentally support the view that it should be up to NRK's editors and not politicians to decide what content the company should offer. ¹⁶

The website and other services

Some criticize NRK for having developed a website, nrk.no, which is too similar compared to those of private companies, with its text, video and audio offer.

But what content should there be? There seems to be little disagreement about NRK having websites to publish its radio and TV generated material.

Editor-in-chief of leading newspaper Aftenposten Espen Egil Hansen has said that "The way nrk.no (NRK's website) is editing its front page, is so close to VG.no and Aftenposten (Norwegian commercial media houses) that NRK with its five billion licence kroner is in competition with us who run commercial businesses". ¹⁷

Board chairman of private radio channel P4, Kalle Lisberg, argues that "NRK also is one of Norway's biggest news website publishers, nationally and regionally. Here content is produced that is not related to or generated from radio or TV broadcasts. NRK takes substantial traffic from private players and weakens their ability to develop content and payment solutions that can finance varied content, maybe especially locally." ¹⁸

¹⁵ Statement at seminar about NRK June 17, 2014, cited by business paper Dagens Næringsliv.

¹⁶ Statement by NRK Communications Director Tommy Hansen, on NRK Torget, June 17, 2014

¹⁷ Dagens Næringsliv December 2, 2013

¹⁸ Speech at meeting Digitalforum, April 3, 2014

Commentator Joakim Lund of Aftenposten has noted that "right now this country's media houses are in the middle of the largest change in our time. All will introduce or have plans of introducing payment solutions. To survive. It goes without saying that when a state funded player that ... offers the same products totally free (and I mean totally free, because you do not need to pay the licence fee to use NRK's web sites), this will strangle media variety." ¹⁹

NRK's director general Tor Gjermund Eriksen acknowledges that NRK's strong presence online with pictures and text is affecting competition. "To reject that it has an effect or that we are in competition is meaningless. If we did not have a market impact, we would have no place there".

He has added that it is understandable that NRK is perceived as a threat, and has expressed the hope that new business models are found, since most papers and media houses are in a demanding period. But he has also stressed that media policy overall must have worked, since "there is more media variety here than in any other country". ²⁰

In addition, the debate has partly focused around several specific services, which critics say should not necessarily be part of NRK's tasks, and should be left to private players.

Among them is the website Yr.no, ("Drizzling rain"), a popular online weather report service established in 2007 as a joint project by NRK and the state-owned Institute for Meteorology. The minister of culture and others have questioned whether that service necessarily is a very important activity for a public broadcaster, even sparking a debate in parliament. ²¹ It is worth noting that commercial media also have their own weather report services.

NRK defended its position by stating that this service from very early on was recognized as an important part of its mandate and reporting the weather has been among NRK's task since the "beginning of time". ²²

The Norwegian Media Authority found in a review in 2010 that the service is in compliance with the statutes, although it noted that it did not seem to have a "clear thematic base" there. But it was nevertheless approved, because it is "relevant" to the public on a daily basis and because of its special security

¹⁹ In Aftenposten, date unknown.

²⁰ Dagens Næringsliv Desember 2, 2013

²¹ Aftenposten January 6, 2014

²² Director general TG Eriksen, Aftenposten January 7, 2014.

relevance in connection with Norwegian infrastructure. The commercial channel TV 2 argued in 2011 that this relevance is not sufficient to include a service into NRK's public service mandate on new platforms. It argued that the 2010 review did not take into account whether services on new platforms meet the democratic, social and cultural needs of society.²³ TV 2 made its point quite clear about NRK "destroying the market". It argued that there are no private players that in a long term can compete with a state-supported service of this kind from NRK. As Rune Indrøy, TV 2 director of communication stated: "When NRK is moving in heavily, as they have done with Yr, they completely destroy the market. This weakens media variety and reduces freedom of choice for consumers".²⁴

Another point of controversy is an online debate forum called "Ytring" ("Statement"). Critics argue that this may distort the market and disadvantage commercial media firms' existing debate forums. Debates generate content and engagement from users, which in its turn generates advertising. NRK's statutes state that debate is part of the broadcaster's tasks for society (Paragraf 17). However, others have questioned whether the forum actually provides an element of "added value for society", as stated in point 15 of the statutes, as there already are several other debate fora in the market.

According to Hilde Sandvik, debate editor of leading regional newspaper, Bergens Tidende, (owned by Schibsted): "A publicly financed NRK should not compete with media in a completely different market. It is a problem that NRK establishes an extensive effort on a debate forum in direct digital competition with the media houses' debate pages".²⁵

A liberal think tank, Civita, with ties to the conservative party, has suggested, with the debate forum in mind, that NRK's statutes should be revised to make it clear that NRK does not develop concepts that overlap with offers from other, commercial media. It argues that the NRK forum should either be removed, or changed so that it is clearly different from other media's fora.²⁶

Another way to solve this could be to have NRK in this area acting more as an open platform, and include and create links to debate contributions on private

²³ TV 2 hearing document to Media Authority on approval of new services, March 21, 2011: http://www.medietilsynet.no/Documents/Aktuelt/Lovforarbeider/Horingsuttalelser_mottatt/2010-1503-11_NRK-forhandsgodkj_TV2.pdf

²⁴ Aftenposten January 7, 2014

²⁵ Cited by commentator S.E Omdal, Aftenbladet, January 11, 2014.

²⁶ Aftenposten April 2, 2014

fora. The editor of the website Vox publica, Olav Anders Øvrebø, suggests that "An nrk.no as an open platform will no longer imitate and destroy its competitors, but create a unique offering that supports public activity in the web, instead of weakening it. This could be a modern concept for a public broadcaster, it is suggested." ²⁷

NRK has not dismissed the idea of cooperation, but adds that when NRK for example is conducting good investigative journalism, it must also have its own space to debate the findings. According to Thor Gjermund Eriksen, director general at NRK, "Debate is part of our mandate and we think that debate generates more debate". ²⁸

There is already some cooperation in other fields. For example, NRK and TV 2 share the rights of the 2014 football World Cup, and we may see more cooperation projects in the future.

In addition some broader proposals have appeared in the recent debate. Again, the Civita think tank suggests NRK should reduce the areas on which it is using a licence fee. NRK should concentrate on what is most important for democracy and build further on values like knowledge and quality, meaning it should concentrate on informing and enlightening the consumers. NRK should not need to do what is most expensive and most popular, others will do that. This, they argue, would make NRK even more important in the future.

Sports programs are identified as one such area, arguing that NRK should spend less money on for example highly expensive rights for the Olympic Games or a ski event, which are also very attractive to private players.

According to the think tank, it should be up to NRK to decide on what areas it wants to concentrate its efforts; politicians should not interfere with its editorial day to day choices. But one could scale down the demand for i.e. major sports events and a wide offer to "absolutely all groups. Then NRK to a larger degree could specialize on areas where the market for the time being does not deliver". ²⁹

Over the years, NRK has been accused of favoring the left in its political reporting. Meanwhile spokesmen for the political left, who usually are in favor of a strong NRK, see proposals to limit the broadcaster as an attack from the

²⁷ Aftenposten December 9, 2013

²⁸ Dagsavisen, April 5, 2014, Interview with author, April 3, 2014

²⁹ Aftenposten April 2, 2014, Civita-notat: "Liberal mediepolitikk I et endret mediemarked", 2014

political right, designed to favor commercial interests, leaving NRK with less quality programming that appeals to a broad audience.³⁰

Some of the proposed restrictions mentioned above would mean NRK was simply "Broadcasting for nerds", states a spokesman for the Socialist party SV (a strong defender of the PSB concept), accusing the political right of wanting to reduce the broadcaster to a channel for people with very narrow interests.³¹

Finally NRK has also been criticized by some such as Kalle Lisberg, director of Norwegian branch of the MTG media group, of copying others, e.g. in the field of entertainment. Meanwhile Trygve Rønningen, head of leading private radio channel P4, accuses NRK's radio stations of sounding more and more like commercial stations.³²

A final core point in the government's review is the funding model. It is so far unclear whether the government will keep the system as it is, based on a licence fee per household, or consider other models.

Other goals for the government include increasing the number of external independent TV productions broadcast on NRK, maybe up to 40 %, from the level of 20-30 %, and to reduce NRK's modest commercial revenues (3% of total revenues).

³⁰ Arild Grande, media policy spokesman, Labour party, Dagsavisen April 11, 2014

³¹ Bård Vegard Solhjell, Aftenposten, April 3, 2014

³² Lisberg in speech at Digitalforum, Rønningen cited by Dagens Næringsliv June 19, 2014

2 CONTEXT OF CURRENT DEBATE

2.1 The situation for commercial media, mainly newspapers

The digital transformation continues, with its effect on the "traditional" newspaper market. Through 2013, overall newspaper circulation fell by 4.4 per cent compared to the year before, according to an MBL annual report.

For example, Amedia media house, which owns many local newspapers, had an overall reduction in its advertising revenues by NOK 138 million, or 5.3 percent from 2012 to 2013. This year, it is expected that the reduction will be NOK 200 million.³³

Media houses are in the process of trying to find functioning business models. Some of the approaches adopted include daily newspapers not printing every day and experimenting with different models of paywalls. For most media houses, the growth of digital revenues is not enough to compensate for losses due to reduced print advertising.

But the situation is complex. For example, Norway's biggest private media group, Schibsted, presented its latest results as "satisfactory". It owns among others media house VG (Norway's second largest newspaper and largest website, vg.no.) VG's print circulation was down 13 per cent last year (from 188,354 in 2012 to 164,430). But it had a NOK 313 million profit. Almost half of that amount came from the digital sector.³⁴

Many media houses have already implemented or are planning cuts. To mention some cost cutting measures by media houses in the coming years:

Amedia media house plans cost cutting measures of up to NOK 500 million next year. In total, the biggest media houses plan to cut costs of up to a total of NOK 1 billion in the coming years. NRK also plans cuts of up to 100 million. This has led to and may lead to more layoffs.³⁵

Norwegian newspapers get government subsidies of NOK 344 million a year.

The number of members of the journalist trade union, Norsk Journalistlag (NJ) has been reduced from 9,739 in 2008 to 9,144 in 2013.

³³ Kampanje March 28, 2014

³⁴ Kampanje, February 24, 2014

³⁵ Dagens Næringsliv June 24, 2014

During 2013, 132 job positions for journalists disappeared. The Journalists' Union fears that up to 1,000 job positions may disappear as a result of cuts either already implemented or announced.

These tendencies give media leaders and commentators a grim perspective: Thomas Spence, head of the journalist trade union NJ talked about "the most serious crisis Norwegian media have ever seen". Yet in public statements, some media leaders are somewhat reluctant to call it a crisis. As Per Axel Koch, CEO Polaris media group put it: "The situation is demanding, but there are also a lot of possibilities". Communication advisor Lasse Gimnes' analysis was as follows: "The biggest challenge for the media houses is that they must both speed up and put on the brakes at the same time. Traditional advertising and circulation revenues disappear, while digital revenues are growing more slowly than expected".³⁶

Media leaders have for quite a while described Facebook and Google as serious competition. Facebook was in the first half of 2014, measured by numbers of users, the biggest media channel in Norway, larger than NRK 1 TV. Web content offered by commercial media firms varies from text, audio, apps, to web TV for news and clips and short videos, with an ad in front of the content, as well as web studio in connection with major events, live streaming and different services. Some, as VG, are in the lead in developing new web services, including plans for a web TV news channel.

There are different models for websites, both free and subscription based, ranging from free websites to various types of paywalls, e-papers, where the whole paper edition is available on the net, but not for free. Others offer supplementary material, to subscribers or free web access, to subscribers to the paper edition.

The situation for commercial TV and radio channels: In 2013, TV 2 revenues reached a record high, NOK 3.47 billion, up 1 per cent from 2012. Radio station P4 increased revenues from 2011 to 2012 by 9 per cent, according to press releases.

2.2 EU legislation and pressure on public broadcasters

³⁶ Spence in Kampanje April 9, 2014. Koch and Gimnes in Kampanje May 14, 2014

Norway is just one of several European countries to have had and still have a debate about the public broadcasters which have been followed closely by Norway's commercial media companies. In addition to changes in the statutes and funding reduction, one way to eventually limit the range of PSB activities is through a system of approval for new services, the so called 'ex ante tests'.

The role of public service broadcasters in the modern media world has been a matter of conflict for a long time on EU countries, with the private sector frequently filing complaints against PSBs for unfair competition and illegal state aid, arguing that PSBs should limit their internet activities to broadcast related content. The development of online services has intensified the conflict:

"These tensions were present in digital broadcasting but were at their most acute in online, where publishers as well as broadcasters felt threatened by the development of new PSB services as both sides moved out of their traditional distribution systems of print and broadcast and into the same online space."³⁷

The period from 2005-10 saw extensive changes in the regulatory and legal regimes applying to PSB in several of the largest EU member states.³⁸ In 2009 the EU Commission reviewed its 2001 Broadcasting Communication, which among other things deals with rules for state aid. The main innovation was its impact on the ways in which PSBs might undertake activities on new platforms. The Commission's new approach suggested that PSB new media activity usually requires a specific change of the PSB remit and the application of the so called ex ante test to such a proposed new service, including consultation with competitors, before its introduction. As Levy states, it was this idea of the ex ante test which was seen to draw inspiration from the BBC's ex ante test.

The ex ante evaluation test generally requires the following assessments: whether the proposed new service deliver adequate public value in terms of meeting the democratic, social and cultural needs of society, and what impact the proposed new service would have on the market, and whether the funding is proportionate.

³⁷ David Levy: Negotiating Europeanization: State Aid Guidelines, Public Broadcasting and New Services in three major member states, January 2013

http://oxpo.politics.ox.ac.uk/publications/working_papers/index.asp#wp12-13

³⁸ Ibid

In Germany, as in other European countries, there has been a particularly intense debate between PSBs and the private sector over the PSB's online offerings.

German law prohibits PSB from launching so-called "press-like" offerings, which are news websites that resemble too closely the websites of newspaper companies. However, the term "press-like" is not clearly defined and is contested.

Following EU legislation Germany introduced the so-called Dreistufentest ("Three-step-test") in 2009, to evaluate online services.

Three key questions will have to be examined: Does the service form part of the public service mission and thus meet the democratic, social and cultural needs of society? Does it contribute to the quality of media competition? What expenditure is planned for providing the service?

In addition to the three-step-test, other measures have been introduced, among them a requirement to abandon all "press-like" services, and not to provide comprehensive local news.

Existing online services were subject to the test, whereas in other European states only new services should undergo the treatment.

That meant that according to Renate Dorr the consequence for a company like ZDF was that large amounts of their online content had to be removed.³⁹ The test has been criticized by PSB's supporters for being too expensive, and for being too bureaucratic. On the other hand it has been alleged that the test rarely has led to restrictions of the online offerings of the PSBs. Private publishers who talk about the "limitless expansion of public broadcasters into the internet" have strongly criticized it and alleged that it falls short of legal requirements.⁴⁰

German private operators have gone to court to try to stop some of the PSB offerings. In May 2011, they even considered a complaint against the test itself.

More specifically, in 2011 a group of commercial newspaper publishers accused the PSB ARD's Tagesschau-App for smartphone and I-pad (Tagesschau is the main TV news broadcast) of being too "press-like", given their focus on

³⁹ Cited by Levy

⁴⁰ Press release from Publisher organization WAZ, Frankfurter Allgemeine Zeitung May 6, 2011

text and not the video content, and thereby amounting to illegal competition with the private offering. They took the matter to court, which ruled that the specific app of June 15th 2011 was indeed “press-like” and might substitute for the reading of newspapers and magazines. But in December 2013, that decision was reversed in a higher court on the grounds that the concept had passed the 3 step test, thereby making it legal, and the court would not question the test procedures further. Publishers have said they would appeal.

Similar disputes between PSBs and the commercial sector have been seen in Sweden. Newspapers have criticized Swedish Television SVT for distorting the market with its news app. And in 2013 Swedish Radio SR announced that its website sverigesradio.se will sharpen its profile as a news website, with around the clock direct reports and updates. This happened as papers were in the process of introducing payment for its services, and the move led to complaints from the publishers’ organization Tidningsutgiverna:

"What we have now is a state giant with clear ambitions to compete with the free market, but where we who compete are not allowed to play on the same field".

SR director Cilla Benkö replied:

"SR must like all other media be where the audience is... That is part of our mission and a justified demand from the audience...It is not good for anybody, and the least for the public, to argue for tougher regulation and limitation for SR and all of the public service offer, starting with a changed front page on the web."⁴¹

Denmark has a long history of debate about the PSB’s role. For many years the PSB policy has been formulated through the so-called media settlement (medieforliget) in parliament. The settlement of 1996 allowed the PSBs DR and TV2 to establish online media, but in the years after that there were increased protests from the commercial against the digital competition. In June 2014 a new settlement came into force. Among many other things, the licence revenues will be frozen at this year's level for the next four years, and DR must use 21 per cent of its budget on independent production companies.

In many European countries, public service media try to cope with the changing times. The European Broadcasting Union (EBU) is working on what it

⁴¹ Cited by Svein Egil Omdal (ed), *Journalistikk og Demokrati*

calls Vision 2020, to adjust to future challenges. In its "call for action", it says: "Once public service media were taken for granted, their services were regarded as guaranteed and essential components of European societies. Nowadays, nothing can be taken for granted. Many of us are under pressure in terms of editorial independence, budget constraints, remit, or all three... The media world is experiencing its own seismic shift: fragmented audiences, an explosion of content on new platforms, convergence, competition from "new kids on the block", new gatekeepers...". To mention some of the measures, the EBU vision recommends its members to increase engagement with the public, be the most relevant and trusted source of information, be more relevant to younger audiences, and accelerate innovation and development.⁴²

2.3 EU policy impact on Norway

EU broadcasting policy on state aid has already left its mark on Norway. A system of approval of new services has been introduced. It was EU demands that led to NRK's statutes being extended to be better adapted to the digital world, and a complete review of the statutes was implemented in 2010 after approval by parliament in 2009.

As a member of the European Economic Area (EEA), but not the EU itself, Norway is obliged to implement parts of EU legislation, concerning the public service mandate and public service requirements. In addition, PSB's exemption from some state aid provisions is conditional on it not unduly distorting commercial markets.

The EFTA Surveillance Authority (ESA) carried out an investigation to find out whether NRK met these criteria. This led to an extension of NRK's statutes and the introduction of the ex-ante test. Prior to that, the advertising on NRK's web pages led commercial channel TV 2 in 2003 to file a complaint, claiming NRK was using licence fee money on internet and text-tv with ads, causing unfair competition for TV 2. NRK did have ads on its website then, but not since.

ESA's main concern was the scope of NRK's public service mission, especially on new media platforms. It concluded among other things that NRK's funding did not fully comply with the rules related to state subsidies.

⁴² EBU "Vision 2020": <http://vision2020.ebu.ch/the-report>

It also requested a clearer definition of NRK public service mission, making it clear which services should be part of the public service, and thus entitled to public subsidies.⁴³

A subsequent review of NRK's statutes followed, with new rules presented by the center-left-government in 2007 and approved by Parliament in 2008 before implementation a year later.

The main change is that the new statutes amend specific content requirements for services on the Internet, and include a set of criteria applied to new media services within the mandate in addition to the traditional radio and TV services.

Some of the statutes are listed in chapter 1 above.

The ESA also asked the Media Authority to investigate whether existing services, including those on new platforms, were within the remit. In this case the purpose was not to find out whether the services had any effect on the market but simply whether they were covered by the mandate. The investigation was finalized in 2010 and the Media Authority found that almost practically all of the services (118 out of 120) were within the limits. Subsequently, the Ministry of Culture decided that NRK could use licence fee money on its digital expansion.

One planned service to be subjected to the test in 2011 was a digital travel and route planner called "Dit" ("There"). Commercial companies claimed that the service was outside the mandate. The Competition Authority said the planner would have a substantial negative impact on existing commercial players with similar plans, and that it would reduce private companies' incentive to invest and develop similar services. The Media Authority said no to launching the service, because "such a travel and route planner cannot clearly be justified in NRK's statutes, in terms of the democratic, social and cultural needs of society".

However, the Ministry of Culture gave NRK the go ahead to start the service. According to the Ministry, the planner would not require further funding. They were also sympathetic to NRK's argument that it has provided traffic information since the 60s, and that it was pleased to be able to continue to do

⁴³ M.T Lilleborge: "The Public Service Remit in Norway: What's in and what's out". Hilde Thoresen, Erik Bolstad: "Ex ante Limits Public Broadcasting and Gives the Public Less Attractive Services." Both in "Exploring the Public Value Test, eds Karen donders and Hallvard Moe 2011

this in a modern, digital way, with a "substantial value for society", as former director general Hans Tore Bjerkaas said.

But finally NRK itself dropped the project, partly because it was more expensive than planned, and therefore decided to concentrate on developing better news services on mobile and digital platforms.

Another project that was subject to the test was a new radio channel established last year. NRK's rock music channel, P13, was approved, despite protests from a commercial competitor.

The 2010 findings by the Media Authority that NRK's services were in line with the mandate was met with satisfaction by then NRK CEO Hans Tore Bjerkaas:

"The parliament has widely supported that NRK is to be present on and develop new services on all important media platforms", stating that NRK must be allowed to develop according to available technological capabilities, for the benefit of the public and society".

But the Authority's report drew criticism from the commercial side who argued that the statutes are too broad and wide. They are not suited to limit the public mission of NRK, it was said.⁴⁴ In a statement with the title "A limitless NRK?" the Media Companies' Association MBL wrote that the report concludes that there "hardly are any limits to the public service mission and NRK's freedom of action."⁴⁵

In 2011, commercial companies did not question NRK's right to use its radio and TV content on the internet. But one main concern for them was how to limit the interpretation of the statute that says that NRK "shall be present on, and develop new services on all important media platforms...". This, it was stated, cannot mean a green light to develop new services that are not "natural extensions of the core radio and TV activity", as VG wrote in its consultation round document.

The statutes were a core topic in consultations before the introduction of the ex ante test. The commercial side welcomed the introduction of the procedure, but was also critical, mostly because they felt that the test would be carried out based on statutes that did not provide the necessary limits. Therefore, they expressed concern whether the test would really have any

⁴⁴ Consultation documents from TV2, VG, Bernergruppen, MBL, on <http://www.medietilsynet.no/>

⁴⁵ Aftenposten June 9, 2010

effect, and criticized the fact that existing services would not undergo the scrutiny.

They argued that NRK can introduce new services without any financial risk and that the statutes give NRK such wide possibilities that it can compete to a point where it can remove all those players who must survive on revenues in the market. They wanted the Competition Authority to have a more important role in assessing possible negative impact on the market.⁴⁶

As we have seen since the election of the new government in 2013 many of these concerns, originally voiced in 2009-11, have re-emerged, with concern focusing again on the statutes and NRK's size and digital ambitions.

2.4 NRK and its supporters

NRK has supporters in the debate, among the public, politicians and commentators. Recently Arild Grande, media policy spokesman of the opposition Labour party, defended the status quo regarding NRK, saying:

"The main reason for the NRK expansion and use of resources on web-based activities is the demands and expectations of the public. But the mandate was delivered by the broad political consensus to widen and change NRK's public service mission".⁴⁷

Supporters of NRK argue that the private sector would have been in trouble, with or without competition from a public service company like NRK. The digital challenges and global competition would have affected them in any case.

NRK director general Tor Gjermund Eriksen argued as follows in an interview with the author:⁴⁸ "According to a BBC report countries with public service broadcasters also have the biggest commercial investment in national content, and also the best financial results in that area. Strong public broadcasters

⁴⁶ Documents from VG, TV2, Bernergruppen, MBL on <http://www.medietilsynet.no/>

⁴⁷ Dagsavisen 11.4.14

⁴⁸ Interview April 3, 2014

mean that others must compete on quality and national content, leading to more quality and innovation in the market, also online."

He and others acknowledge that others are in trouble, but he does not necessarily agree that NRK is the main cause of their troubles. The problem is finding good business solutions in the digital transformation and with increased competition. He argues that: "In the USA newspapers are dying, but there are no public service broadcasters. In Norway there is a strong public service broadcaster, and a nationwide profitable commercial radio and TV competition. NRK is also exposed to tougher commercial competition. We have a big market share in the traditional TV market, but that market is steadily reduced."

He counters the allegation that NRK is all-dominant, arguing that NRK's TV market share, although substantial, is decreasing and other competitors, such as HBO and Netflix, are gaining ground. But he states that NRK is willing to cooperate more with private players.

Looking towards the likely result of the current debates the Director General expressed a clear preference between the various negative outcomes that might emerge, saying that politicians have two ways of limiting NRK: one is to put restrictions on the mandate, the other is to look at the funding. It is paramount that the broadcasters' independence is secured. According to him, the result must not be that NRK goes from a detailed, positively formulated mandate to a negative restricted one, describing what NRK should not do, not offer certain services on the web, or entertainment, or less sport. The result would be an unfree, and very restricted, broadcaster that cannot keep up with the technological developments and what the public wants. He refers to those who suggest that NRK should not have a news website like it is today, and asks how it should be regulated, indicating that it is difficult to draw the line.

The Director General would therefore prefer a review of the funding, if there are to be restrictions limiting the scope of the activities.

He also points out that there are already limits to those areas where NRK shall engage itself. For example, NRK cannot offer pay-tv, in an area where there is a market for commercial companies, and he states that there is a system of approval for new services, as described above.

In addition to some of the arguments already mentioned, commentator Svein Egil Omdal in the newspaper Aftenbladet suggests that it is dangerous to weaken NRK, especially in times of difficulty in the wider media sector.

His main points are that it is not good if the balance [between commercial and public service media] is interrupted, but it is a bigger problem if the quality level is reduced across all parties, arguing that NRK is not the main problem. The view is further that the notion of NRK damaging the market is something that is based on fear and is not documented, and that NRK's task should be to be strong in areas where other media (with some exceptions) are not as strong, like foreign news, regional coverage, and quality climate and environment journalism. He suggests that politicians should give NRK more predictability about the revenues several years, 5-10 years, ahead to make it easier to plan journalistic projects. NRK should be allowed to develop its digital service as free as possible, but not copy others.⁴⁹

When it comes to discussion about quality, the same commentator has referred to the Economist's annual democracy index, which shows that the most democratic countries in the world are those with the strongest public media. The best and least censored media systems are found in countries with the biggest public media.

⁴⁹ Interviewed by Kampanje June 19, 2014

3. SCENARIOS

What will happen?

It remains to be seen what the result of the political process and the review will be. As stated, a new report to parliament, or white paper, will be presented in 2015.

The process is ongoing and external parties are invited to come up with their views. The ministry has stated that NRK must be kept as an important institution, but it has also said it wants to restrict NRK's possibility to use its robust finances to weaken private players' activities.

Press reports saying that the ministry wanted to prevent NRK from using licence fee money on sports rights such as for the Olympic Games were denied by the minister, emphasizing that nothing has been concluded.

It is fair to assume that there will be a change of some kind. The main reason is that the government has adopted quite a high profile on this issue, possibly feeling obliged to deliver some kind of restriction. It has already said that there cannot be a development where NRK is disrupting the commercial side's possibilities, and in some cases their very existence. It has also clearly stated that, as requested by the private sector, a review is necessary. And it has already sent a signal on funding by giving NRK a smaller licence fee increase in the last budget.

One option is that one could end up with a smaller NRK with tougher regulation:

That may happen through a reduction of funding, reducing the licence fee, and limiting commercial activities, so that the broadcaster will have to make its own tough choices. This has happened in the UK, where BBC has not increased revenues in the last seven years.

The government has already announced that it wants to increase the share of external productions broadcast by NRK, and it is reasonable to assume that its commercial revenues will be limited. It may also suggest a new and different funding model.

The ministry may restrict NRK's digital ambitions. It can say explicitly that it should develop services that are a supplement to other media, rather than putting in negative phrases. It may put more emphasis on quality than an offer that is broad and popular. When it comes to new services, we may see a

different attitude compared to that of the former government. The Minister of Culture has stated that she would not have approved the online traffic planner, as the former government had done.

Alternatively there could be marginal change, meaning just a slight change of language in some of the statutes, maybe restricting digital ambitions. In any case, measures to restrict NRK may possibly be weighed up against the expectations of the audience who pay their licence fee and widely use NRK's offer on all platforms.

Another possibility is that there could be no significant change, or even a strengthening and expansion of NRK's services, but that seems unlikely.

One thing seems to be beyond any reasonable doubt. Until, and after the presentation of the policy paper in 2015, the lively debate about the media scene and the balance between public and private players will continue - in Norway, and elsewhere. Some aspects at least of NRK's position seem likely to change.

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