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CHAIRMAN

National Broadcasting Council

**Communication of the National Broadcasting Council
on creating and distributing city programmes
by public broadcasters**

The National Broadcasting Council has reviewed the activities of so-called city programmes distributed by public regional radio companies: Radio Lublin, Radio Zachód, Radio Koszalin, Radio Wrocław, Radio Merkury and PR Szczecin. In addition to regional programmes, the above broadcasters have been distributing programmes carrying contents addressed to local communities, using separate frequencies that cover some cities and towns, following reservation decisions issued by President of the Office of Electronic Communication. Those are: Radio Zielona Góra, Radio RMG 95,6 FM in Gorzów, Radio RAM in Wrocław, MC Radio in Poznań, Szczecin FM, Radio Freee in Lublin and Radio Słupsk.

City programmes fall into the category of other programmes that *fulfil democratic, social and cultural needs of local communities*, as provided in Art. 21 section 1a item 1 of the Act on radio and television broadcasting, as part of a variety of programmes and other services in the field of information, current affairs, culture, entertainment, education and sport, which are offered to the society at large as well as to its individual groups. Similar to all the services provided by public broadcasters, they should be pluralistic, impartial, balanced and autonomous in their nature as well as promote innovation, high quality and integrity of the transmitted message.

According to the *Amsterdam Protocol on the systems of public service broadcasting* and the *Communication from the Commission on the application of State aid rules to public service broadcasting*, supporting the public mission involves building of a diversified offer to promote pluralism of the media as well as ensuring access to that content for the general public with the aim to further cultural diversity. These activities should seek to effectively combat challenges of providing information to the public and also provide the opportunity of

social participation to various recipient groups, provoke a more versatile public debate and finally facilitate participation in the public life at all its levels for all citizens.

Granting State aid to public broadcasters who pursue the public mission is subject to a number of restrictions written down in the European Union law. The media service market is characterized by a dual structure that is reflected by coexistence of public and private broadcasters. For these reasons the market and competition related matters should be treated as key factors in evaluating the media governance. Commercial broadcasters also pursue certain programme tasks, which contribute to preservation of pluralism and provoke a more versatile cultural and political debate while providing the audience with a wider choice of available programmes. At the same time the market defined in this way operates in a way that makes the achievement of the programme tasks written down in the concession into so-to-speak evaluation indicator of the public broadcaster's offer. The public broadcaster activity should be characterised by a high quality of transmitted message that serves the public interest. This "added value" should help distinguish any content created by a public broadcaster from the commercial offer.

Preserving the media governance requires a clear and consistent allocation of tasks between public and commercial broadcasters as well as strict enforcement of both groups' responsibilities by the regulatory body, while the requirements for public broadcasters to receive State aid in connection with services provided by them must be fully transparent.

The current structure of the Act on radio and television broadcasting leaves freedom to public broadcasters in specifying the public mission. In this way, they have the opportunity to identify new social needs that must be met, and determine methods of their meeting in terms of form and substance. The National Broadcasting Council's task is to assess the desirability and execution progress of those concepts.

In its letter dated 20 May 2011 and addressed to the Polish authorities, the European Commission recommended some changes be introduced in the Polish legal regulations in order to ensure full implementation of the EU competition law. To this end, in the Commission's opinion it is necessary to precisely define and properly organise the detailed tasks of public broadcasters imposed on them as a result of the public mission that they pursue. Moreover, any new essential tasks – whenever planned to be entrusted to a broadcaster – should be first subject to *ex ante* analysis. This analysis should provide answers to the questions whether the essential new service is directly relevant for the democratic, social and cultural needs of the society, whether it serves the preservation of pluralism in media and how it helps maintain sound competition on the market.

The European Commission has also recommended a stricter and more effective supervision over public broadcasters pursuing the public mission – not only from the accounting point of view but also in terms of examination and evaluation of the service quality. The quality evaluation in this respect should be conducted on a regular basis by the regulatory authority, and it should include potential recommendations for the broadcaster.

At present, the Ministry of Culture and National Heritage is working via its appointed working group on proposals of adjusting regulations on the public media mission and on financing that mission to the internal market conditions. The requirement of *ex ante* analysis and a regular detailed control of the mission execution in all the essential services provided by a public broadcaster will most likely become a subject of amendment to the Act on radio and television broadcasting in the nearest future.

In October 2011, the National Broadcasting Council analysed city programmes broadcast by public regional radio stations. The study results enabled a comparison between the offer of public broadcasters and offers of commercial broadcasters operating on the same area who carry programmes with local content. The result summary showed that the basic parameter, i.e. the share of local topics in the majority of public city programmes (5 out of 7) was smaller than in concession-based programmes. Only on two radio city markets the public radio stations managed to create a programme offer that was more versatile in terms of local contents and various types and forms of radio shows (culture and sport in particular), and also displayed a much stronger involvement in lives and affairs of local communities than the commercial broadcasters.

As proved by the analysis of the monitoring of local programmes broadcast by concession-holding stations, conducted in the years 2009-2011, the current programming requirements in terms of including local topics are generally observed and even a higher share than the concession minimum can be observed.

The objective of city programmes should be the creation of an offer that is focused on meeting democratic, social and cultural needs of local communities. As part of the local topics inclusion task, the public programme broadcasters are to fulfil informative and opinion forming functions with respect to matters pertaining to the development of a given city. Moreover, such programmes, due to their mission-oriented character, apart from operating as the main source of daily useful news, should meet the needs of the city community in terms of providing its members with the opportunity to participate in the public life and thus provoke a more versatile public debate. Shows featuring news, current affairs, education and culture including music, should first and foremost aim to build a programme that is different from the

commercial one. The mission-driven offer should be able to clearly provide “added value” to the viewer or listener and vary from the commercial offer.

As stated above, the mission of a public broadcaster as stated in the Act on radio and television broadcasting in its current wording, comprises general postulates on the quality of the offer that is created by him. In this context, defining the method of fulfilling the mission and understanding that mission in the view of specific programme plans rests with the broadcaster.

In the Council’s opinion, public broadcasters offering city programmes should more precisely define the mission-oriented tasks pursued as part of such programmes and present detailed methods of their achievement. The Council is also planning another audit of the city programme content. The mission-oriented tasks pursued by the public regional programme broadcasters are subject to evaluation of respective financial & programme plans, which are to include the disclosure requirement with respect to services other than just the regional programmes. By way of reconciling the plans the Council will present its comments and recommendations with respect to this element of the broadcaster activity – irrespective of the fact whether the broadcaster has or has not applied for financing for its city programme from special public aid funds.

In the event that it is public broadcasters who will attempt to launch new city programmes, the National Broadcasting Council will initially assess the value and importance of this service. Before the potential service launch, the broadcaster may be asked to describe how the city programme is going to meet the social needs and whether launching of the programme can excessively disrupt the trade and competition conditions in the market, taking into consideration existence of a similar or an alternative programme offer, market structure and competition, market position of the public broadcaster and potential impact of the new service on private initiatives. The key evaluation factor adopted should be able to identify how that impact is going to be compensated by the value carried by the new service for the society to whom the programme is addressed. This analysis should be subject to open public consultation. In its final assessment of the possible launch of the new service, the Council, having accomplished the procedures and considering the assessment result, will provide its consent or refuse to provide consent to launching the new programme.

Public broadcasters may distribute specialised programmes for which concession has been issued. A specialized programme is a programme where the speciality topics constitute not less than 70% of the time between 6:00 and 23:00, pursuant to Art. 4 section item 13 of the Act. The analysis of the city programme contents has not suggested any specialized

character being demonstrated. No element of the programmes was meeting the conditions referred to in the Act.

Even if public broadcasters decided that their concept of a city programme might be modified to pursue speciality (with the minimum share at 70%), they will be out for competing, during the concession procedure, with commercial firms, on equal terms, where such commercial firms have been already very successful in broadcasting specialized programmes. The result of any such procedure will depend on the evaluation of the programme offers presented in the application.

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