

PUBLIC SERVICE-
KOMMISSIONEN



The Future of Public Service Broadcasting

– From Analogue Institution to a Digital
Function

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Foreword

The media landscape is undergoing significant and constant change. A lot has changed since the first radio transmissions commenced in Sweden in 1925. Considerable time has passed since the three publically funded broadcasting corporations, Sweden's Television (SVT), Radio Sweden (SR) and the Swedish Educational Broadcasting Corporation (UR), were alone in broadcasting radio and television programmes to the Swedish people. Convergence has meant that the line separating different mediums and operators has become blurred. The fact that traditional newspapers distribute television over the Internet at the same time as SVT runs an opinion page on its website has turned old truths on their head. Convergence has also made traditional revenue models obsolete. This means that the competitive landscape has changed and become more complex.

At the same time as these developments, companies such as Facebook and Google are taking an increasing share of media consumption and advertising revenues. This influences both the commercial media companies and the publically financed broadcasting corporations and creates a new set of challenges.

It is clear that SVT, SR and UR have a crucial role to play as a complement to the commercial media companies in this dynamic media landscape. At the same time, however, a crucial debate has been lacking as to how the public service broadcasting corporations' influence the media landscape's development.

Against this background, the Bauer Media Group, Bonnier, Mittmedia, Schibsted and TU took the initiative in September 2015 to establish the Public Service Broadcasting Commission. MTG commenced its association in the third quarter of 2015.

The Public Service Broadcasting Commission's task has been to carry out a wide-ranging analysis as to how public service broadcasting operates in Sweden today and to present proposals for future public service broadcasting operating models.



The Public Service Broadcasting Commission's work has been led by its Chair, **Gunnar Strömblad**, previously Chair and Group Managing Director for Schibsted, Sweden. Other members of the Commission are **Hans-Gunnar Axberger**, Professor in Constitutional Law and Chairman of the most recent parliamentary presstödskommittén¹, **Agneta Dreber**, Chairperson of Swedish Radio 2010-2014 and a former member of the Pressens opinionsnämnd², **Mikaela Valtersson** Deputy CEO for Kunskapsskolan³, and Chairperson for the Swedish Association of Independent Schools, a former Member of the Swedish Parliament and economic spokesperson for the Swedish Green Party, and **Pelle Snickars**, Professor of Media and Communication Science at Umeå University, former Head of Research at the National Library of Sweden.

Since it commenced its work in the autumn of 2015, the Commission has carried out two public hearings and heard the views of academics, researchers and other interested parties.

The Commission has also met with representatives of the Government Offices, the Swedish Union of Journalists, a number of political parties, academics from Department of Journalism, Media and Communication at the University of Gothenburg, and others with an interest in the development of the media marketplace.

The Public Service Broadcasting Commission would like to extend a special thank you to Sarah Wass, Legal Counsel at Schibsted, and Erik Thyselius, independent researcher who has contributed material and made a valuable contribution to the work of the Commission.

¹ Presstödskommittén (Press Subsidies Committee) was a committee formed in 2011 to make recommendations to the government on subsidies for the press. It made its final report in September 2013.

² Pressens opinionsnämnd is a media industry self-regulatory body

³ Kunskapsskolan is a provider of education services



The Commission's secretariat has been staffed by Paues Åberg Communications, including, Magnus Wallerå, Secretary, Project Manager, Maria Rothzén, and Assistant Secretary Carl Göransson.

Enclosed is the Public Service Broadcasting Commission's Report. It is our hope that it can contribute to a lively debate about what public service broadcasting is, and should be, and the role of the publically financed broadcasting corporations in the future.

Stockholm, April 2016

Gunnar Strömblad

Chairperson

Hans-Gunnar Axberger *Agneta Dreber*

Mikaela Valtersson *Pelle Snickars*



Summary

In this report, the Public Service Broadcasting Commission (PSBC) presents a number of recommendations and proposals to the Swedish Parliament and Government. Assuming that these proposals receive further consideration as part of a new and broader inquiry into public service broadcasting prior to a new licensing period, most of the proposals can be implemented in conjunction with the expiration of the current licensing period in 2019. Some of the proposals can be implemented earlier, while other changes will take longer to implement.

PSBC seeks to protect journalism in a constantly changing media landscape. Today's constant flow of information requires a professional journalism that verifies, analyses, evaluates and investigates information, claims and events, a professional journalism that provides a wider perspective, deepens understanding and contributes to a complete picture of events. There is no basis for the claim that active, writing citizens can replace professional journalists.

PSBC seeks to promote a diverse media landscape where independent commercial media, private journalism initiatives and publically financed corporations produce independent journalism for the public benefit.

PSBC believes that the current view of public service broadcasting needs to change. Public service broadcasting should be seen as a function, not as an institution.

Public Service – from Analogue Institution to a Digital Function

PSBC believes that a greater breadth in public service providers will promote greater media diversity and stimulate innovation, entrepreneurship and creativity across a range of different genres. The basis for a pluralistic media environment is enhanced when local newspapers, independent media houses and independent journalists have increased opportunities to finance their journalistic activities.



PSBC proposes a new structure for the financing of public service production outside the traditional public service broadcast corporations. Such a structure should include a number of different components:

1. Support for local journalists to replace the current system of press subsidies that aim to support coverage of local communities by journalists;
2. A platform-independent public service fund for the production of public service content by journalists across different genres;
3. A Nordic media fund to support public service productions.

Support for local journalism should operate as a platform-neutral production subsidy for editorial activities and should be able to be applied for by existing or new publishers and broadcasters that form part of a system or process of media ethics.

A national operational subsidy for the production of public service content (the public service fund) should be open to media companies, production companies and independent production projects. These organisations can seek support for different public service content that is then broadcast, displayed or distributed via platforms independent of the three existing public service broadcasting corporations. Subsidies should be time limited, allow for co-financing and be able to be combined with other financing models. Publishers and broadcasters should form part of a process or system of media ethics.

A Nordic media fund should be established based on the Nordisk Film & TV Fond⁴ model. The aim of the fund should be to provide support to high-quality public service productions that would not be possible to finance on purely commercial grounds.

⁴ The nordisk Film & TV Fond promotes film and TV productions of high quality in the five Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), by providing support for top-up financing.



A Clearer Mission for SVT, SR and UR

SVT, SR and UR have unique qualities for which there will continue to be a need in the future media landscape. However, in a converging media market, there are good reasons to review the corporations' missions and governance with the aim of clarifying their roles and reducing their market distorting effects.

The public service broadcasting corporations' core role should be to distribute and make accessible, either across the airwaves or via the Internet, productions that others, or that they themselves, have produced. Any other role or activity should be seen as complementary.

In regards to the content of the programme offering, it should reflect the public service goals and ambitions of informing, educating and entertaining. Core elements of this mission are *knowledge, education, news, culture and entertainment*. The programme offering should be characterised by quality, impartiality, objectivity, and inclusiveness and should add value to the media market as a whole.

PSBC believes that there are grounds for the Swedish Parliament to clarify that the public service broadcasting corporations have a particular responsibility to provide a basic offering of productions and programmes that are public service in their character.

PSBC believes that the public service broadcasting corporations should abstain from producing programmes, services or formats that independent commercial media organisations already provide, unless the public service broadcasting corporations can add value through their productions.

PSBC believes that SVT, SR and UR should be required to demonstrate a duty of care through their operations to ensure that pluralism in the media market place is not reduced and that their dominant position is not misused.

PSBC proposes that the current governance model with its broadcast licenses and funding conditions for the public service broadcasting corporations is replaced by a structure where the role of the public service broadcaster corporations is changed to capture operations across all platforms.



PSBC believes that the public service broadcasting corporations' reports should be more transparent and more clearly account for resource allocation across different areas of operation and the revenues that derive from commercial collaborations.

PSBC proposes that the public service broadcasting corporations' constitutional standing be clarified and that the institutions' editorial independence is strengthened through a clarifying regulation in the Fundamental Law on Freedom of Expression (*yttrandefrihetsgrundlagen*).

PSBC believes that a Public Value Test should be developed covering a number of areas:

1. Interested parties should be given the opportunity to request a public value test where a service should be subject to a public value test.
2. If the Swedish Broadcasting Commission (*Granskningsnämnden för radio och tv*) or the Swedish Broadcasting Authority (*Myndigheten för press, radio och tv*) find that a service is notifiable, a public value test should always be carried out.
3. Those elements of the test dealing with market influence should be transferred from the Swedish Broadcasting Authority to the Swedish Competition Authority (*Konkurrensverket*).
4. Responsibility for decisions relating to the public value test should be transferred from the Government to the Swedish Broadcasting Authority.
5. The requirement for a public value test should apply to services that operate for more than six months.

PSBC believes that radio and TV productions should be seen as a public benefit to which everyone should have access, including over time, in which case the public service broadcasting corporations' on-line 'play' services should be given priority in resourcing.



PSBC proposes that the government initiate a review of how the public service broadcasting corporations should act in relation to platforms such as Google, Facebook and other similar commercial platforms.

New Financing Model for State Media Subsidies

With the requirement to pay a radio and television license fee linked to the ownership of a television receiver, the basis for the radio and television license fee will gradually be eroded. The current construction of the television-license fee also results in a mind-set that SVT and SR should seek to maximise the number of viewers and listeners with the aim of giving license fee payers value for money. The PSBC also notes that other important government services, such as the judicial system, higher education and research, are financed directly through budget appropriations. State financing for other cultural institutions and media also occurs through direct budget appropriation.

PSBC proposes that the radio and television license be abolished and that all media subsidies are financed through the taxation system and distributed by direct appropriation from the state budget.

PSBC believes that the Swedish Parliament should set the budget parameters for the public service broadcasting corporations for a longer period than is done so today, possibly for a period of six years. This corresponds to the current length of the broadcast license.

PSBC believes that the public service broadcasting corporations can and should be more efficient and set priorities within the framework of their current operations. Resources should be transferred from the public service broadcasting corporations to other media subsidies.

PSBC believes that the exemption that allows SVT to receive sponsorship revenue should be abolished.

PSBC proposes that the regulations governing product placement be tightened and that product placement should not occur in productions that SVT itself produces, or in productions that are outsourced to independent production companies.





The Role of the Public Service Broadcasting Commission

The Public Service Broadcasting Commission was given the task of carrying out a wide-ranging analysis of what public service broadcasting is, how it operates today, and to present proposals as to how public service broadcasting should operate in the future. An important task for the Commission has been to stimulate debate about public service broadcasting.

Based on its terms of reference, the Commission has sought to highlight how the operations of, and developments within, the public service broadcasting corporations are influencing the media landscape. In particular, the Commission has looked at any problems with the current definition, operation, regulation and oversight of public service broadcasting. With the rapid change within the media environment, how public service broadcasting should be structured in the future has been a central question for the Commission.

The Commission's work has been limited to highlighting how the public service broadcasting corporations' influence the media market and commercial market participants. The intention has not been to give a comprehensive account of media policy and all its components and, as such, issues including press subsidies and film policy do not form part of this report.

The three publically financed public service broadcasters, SVT, SR and UR, are named in the report either by name or as the public service broadcasters, public service broadcasting corporations or as the publically financed broadcasters. In principle, this report encompasses all the public service broadcasting corporations, but in certain circumstances the emphasis is on SVT where the Commission considers that that broadcaster's market influence is of greater significance in those particular circumstances. UR has, in principle, not been highlighted as its market influence is generally considered of little significance in the broader media landscape.



The work of the Commission has had two principal goals. Firstly, to gather knowledge and to create debate and discussion about public service broadcasting through public engagements and hearings and to draw attention to the work of the Commission. Secondly, the Commission has worked to produce this report. A detailed outline of the Commission's work since its establishment in September 2015 is contained in Appendix 2 of this report.



Public Service Broadcasting in Sweden

The Swedish definition of public service broadcasting can be described as being all activities that are undertaken by the three publically funded broadcasting corporations, SVT, SR and UR. Everything that these three corporations broadcast or publish is defined as 'public service', regardless of the content or by whom it has been produced. Radiotjänst's website states that 'what SVT, SR and UR do is called public service'. This reasoning is further developed: 'Public service broadcasting is based on the concept that everyone has the right to receive radio and television that is interesting and enriching, regardless of age, education level or place of residence'. However, according to the Swedish National Encyclopaedia, there is no generally accepted definition of what public service broadcasting actually means.

Public service broadcasting is a media-political concept taken from the United Kingdom. There are, however, differences in the concepts between the two countries. In the United Kingdom, even private companies can produce 'public service content', something that is not possible according to the Swedish public service broadcasting definition.

Today, the concept of public service broadcasting refers to both nation-wide broadcasting and objective news services together with a broad and varied quality programme offering. In the context of radio and television, the term public service is usually translated into Swedish as 'in the public's service'. In general, the concept usually encompasses some form of public benefit. In English, the term generally covers far more than publically financed broadcasting.

Both in theory and in practice, public service broadcasting is closely linked to the concept that is the state that will inform, entertain and educate its citizens. As its name suggests, the Swedish Educational Broadcasting Corporation, UR, (Utbildningsradion) has always had this role. The Radio Inquiry of 1960 stated, for example, 'Radio and television operate in the interests of society by, in various different ways, keeping its citizens well informed'. According to the Inquiry, modern society was, 'so complicated and its context is difficult to grasp' that democracy itself requires 'firstly, the



support of broadcasting'. As a result, the so-called public service ideal made significant demands: responsibility for educating the public and for 'the spiritual growth and development of the fine arts'⁵.

How Public Service Broadcasting Functions Today

The publically funded broadcasters currently comprise the three public broadcasting corporations, Sweden's Television (SVT), Radio Sweden (SR) and Swedish Educational Broadcasting Corporation (UR). Together, they operate the following channels: SVT1, SVT2, SVT24, Barnkanalen, Kunskapskanalen, SVT World, SVT Play, UR, P1, P2, P3 together with 25 different regional P4 radio channels and a number of other channels for music, minority languages and young people in large cities. Radio Sweden also offers a wide range of Internet radio channels, including Sveriges Radio Play.

The public service broadcasting corporations' operations are defined in their respective broadcast licenses and funding conditions. In these licenses and conditions it states that they will operate independently from the state and any economic, political, commercial and other interests in society. Public service broadcasters shall provide a varied program offering with an emphasis on both breadth and quality. The programmes will reflect the national education ambition and there should be a variety of views and opinions regarding religion, culture and science. The public service broadcasters should broadcast to the entire country, which means that 99.8% of the residents in Sweden with a fixed place of abode are able to receive the broadcasts.

The public service broadcasting corporations must also follow the provisions contained in the laws governing radio and television and the Fundamental Law on Freedom of Expression (*yttrandefrihetsgrundlagen*). The broadcasting license regulates those conditions which the state sets for the public service broadcasters and it also contains most of the provisions relating to the

⁵ SOU 1965:20, Radions och televisionens framtid i Sverige (Radio and Television's Future in Sweden).



content of programming. Based on the current arrangements, the public service broadcasting corporations' annual funding conditions also contain provisions relating to broadcasting activities. The funding conditions contain the proportion of the radio and television license fees that each broadcaster receives.

Based on the documents outlined above, the core activity of the public service broadcasting corporations is to produce and broadcast radio and television to the public. According to the funding conditions, they are also able to use the radio and television license fee for complementary activities, which have the aim of developing and supporting their core activities and improving the opportunities for the general public to benefit. The complementary activities should, however, have a clear link to the broadcaster's core activities. Examples of this are the interactive functions that make additional material, such as text and pictures related to a programme, accessible on the Internet.

While the basic provisions for the broadcast and programme offering for each broadcaster is based on the license and funding conditions, it is the management for each respective broadcaster that actually determines what will be broadcast.

The publically funded broadcasting corporations receive their revenue through the so-called radio and television license fee that each household in Sweden with a television receiver must pay. As of 1 July 2015, the fee is SEK 2,216 per household per year. The fee is administered by Radiotjänst i Kiruna AB. The revenues are collected in a special account at the Swedish National Debt Office. The Swedish Parliament decides the distribution of funds amongst the three broadcasting corporations based on a proposal from the government. In 2016, approximately SEK 8 billion was distributed amongst the three public service broadcasting corporations with SVT receiving SEK 4,772,300,000, SR SEK 2,842,700,000 and UR SEK 411,200,000.

The funding conditions for each public service broadcasting corporation regulate the amount of funding they receive. The government has a wide-ranging discretion on which issues can be regulated through the funding conditions. However, the funding conditions must be in line with the



guidelines that were decided by the Swedish Parliament for that particular broadcast licensing period. The funding conditions should, in principle, apply for the entire licensing period, but, different to the broadcast license, the decisions regarding funding conditions are made in December each year.

The guiding principle is that the public service broadcasting corporations' operations should be financed through the radio and television license fee. SR, SVT and UR are not permitted to broadcast advertising or sponsored programming. However, SVT may receive sponsorship revenue in relation to sports and the Sweden Song Contest up to a total of twenty events each year. This exception does not apply for programmes that are targeted at children less than twelve years of age⁶.

Rather than being directly controlled by the Ministry of Culture, the public service broadcasting corporations are owned by a Management Trust. This trust acts as an intermediary between the state and the broadcasters, but has no influence over the corporations' organisations or operations, or the programmes or content. The Management Trust's main task is to appoint Directors to the public service broadcasting corporations' Boards, review their annual reports and decide on indemnity for the Board and Managing Director.

Members of the Management Trust are appointed by the government. As a matter of precedent, its members, with the exception of the Chairperson, are nominated the political parties represented in the parliament. The aim is to give the Trust broad political support. The Management Trust, in turn, nominates the public service broadcasting corporations' Boards. In this way, the public service broadcasters are guaranteed their independence.

The public service broadcasting corporations' activities are monitored through several different forms of annual reporting. This includes reports in the form of an incorporated company's annual report to the Management Trust. In these reports, the public service broadcasting corporations' account

⁶ Swedish Broadcasting Authority, Utveckling och påverkan i allmänhetens tjänst, 2015



for how the revenues that were allocated according to the funding conditions have been used and how complementary operations have been financed.

These annual reports do not form a formal part of the corporations' reporting to the government and parliament. Instead, each public service broadcasting corporation reports how it has fulfilled its obligations in a special public service report. The public service reports are received by the Ministry of Culture and the Swedish Broadcasting Authority. The public service broadcasting corporations are required to comment on how their obligations have been met based on factors including volume, costs and revenue as well as key metrics that demonstrate efficiency and productivity. Cooperative and efficiency initiatives are also reported and accounted for. The funding conditions for 2015 also state that the public service broadcasting corporations should account specifically for revenues other than license fees, which events have been sponsored, and the total amounts received in sponsorship and complementary operations that have been undertaken.

The Swedish Broadcasting Commission, an independent body under the Swedish Broadcasting Authority, has the task of reviewing the content of the public service broadcasting corporations' programmes. Anyone can report or make a complaint to the Commission and the Commission can also initiate its own investigations. The Swedish Broadcasting Commission is comprised of a Chairperson, six members and four substitute members. All members are appointed by the government. The Chairperson should be, or have been, a judge.

The Commission's judgements can be dismissal of the complaint, upholding the complaint or dismissal with comment. The consequences of a complaint being upheld depend on which provisions the broadcaster has breached. When a complaint against a broadcaster is upheld as a result of not following the rules regarding programme content, the broadcaster is required to publish the finding in an appropriate way, generally by reading an account of the decision during a broadcast, a so-called obligatory broadcast. In the case of a breach of the rules regarding undue favouritism, sponsorship or advertising, the Commission can, by application to the Administrative Court



in Stockholm, seek that the broadcaster pays a special fee. The Commission can also require that the broadcaster pay a penalty.

According to the Treaty on the Functioning of the European Union, all forms of state subsidies that favour a particular company or method of production are forbidden. However, state subsidies are permitted under certain circumstances. Subsidies for radio and television companies with a public service purpose are considered by the regulation to be services for the public benefit. Currently, all member states can decide themselves as to what is included in the public service definition and, according to the EU Commission, each broadcaster operating for the public benefit has the right to utilise the opportunities provided by technological developments to fulfil its role. The service may not, however, have 'disproportionate economic impact on the market'. The following requirements have therefore been set within the EU so that a broadcaster is not seen to be receiving a state subsidy⁷:

The recipient company should have public service obligations and those obligations shall be clearly defined.

The parameters used in calculating any compensation shall be established in advance in an objective and transparent manner.

The compensation must not exceed what is necessary to cover all or part of the costs incurred in connection with public service obligations, taking into account revenues and a reasonable profit.

Where the company responsible for providing public service broadcasting services is not chosen through a public procurement process, any compensation should be determined on the basis of the costs that an average production company would have had to meet in order to produce the services.

⁷ Swedish Broadcasting Authority, Utveckling och påverkan i allmänhetens tjänst, 2015.



If the financing does not meet these requirements, it is considered to be supporting a particular service and thereby distorting, or threatening to distort, competition. In order to be able to determine if a service is in breach of these requirements, the Commission requested member states to introduce a system of public value tests, where all 'significant new audiovisual services' must be reviewed before being approved. It is up to member states themselves to define a significant new service and how the review will be carried out. Based on the Commission's guidelines, a public service broadcaster should not be prevented from testing 'new innovative services on a limited scale' where any such test period is not comparable to the introduction of a 'fully developed significant audiovisual service'.

In the Swedish regulations, this is expressed as a requirement that new permanent broadcasting services or other services of significance within the existing framework of core services and complementary services should be reported to the government for approval. The government does not itself conduct the review, but has delegated the authority to carry out the reviews to the Swedish Broadcasting Authority.

The Swedish concept of 'pre-review' (*förhandsprövning*) can be misunderstood. The concept of a 'Public Value Test', which is used in the United Kingdom, better captures the meaning of the review. The review encompasses a weighing up of the service's utility as a public benefit - that is how and to what extent the service contributes to the broadcaster fulfilling its role in providing a public benefit – against its influence on the market place. It is the broadcasters themselves that decide what should be reported to the government for approval based on the provisions in the funding conditions. There are certain exceptions from this reporting requirement where a new service does not require review:

If the service will operate for no more than twelve months.

If the services is limited in its geographic scope or its audience.

If the purpose of the service its to gain experience of, and knowledge in, a new technology or in an innovative service.



It is now five years since the system of public value tests was implemented. To date, no service has been submitted for review. The private research firm Copenhagen Economics stated in a report that examined these issues that several of the public service broadcasting corporations' new services should have been subjected to a public value test prior to their launch⁸.

Public Service Broadcasting and the Fundamental Law on Freedom of Expression (yttrandefrihetsgrundlagen)

Public service broadcasting as a *function* to a large extent fulfils a concept that lies at the heart of the Swedish Fundamental Law on Freedom of Expression in that it guarantees a free exchange of ideas and access to a comprehensive information source. This, in turn, should be seen in light of the Swedish Constitution which states that Swedish democracy is based on the free exchange opinions. The metaphor 'The Fourth Estate' is often used as an expression for the constitutional function of the press as a vehicle for information and control. The same thinking lies behind the system of press subsidies that was introduced to retain press diversity. The system of press subsidies is based on the widely held political view that the role of the press is to inform, investigate and to provide a forum for public debate, which also encompasses what we call 'public service broadcasting', that is mass media as a public benefit. The function of public service broadcasting has, based on this reasoning, support both in the Swedish Constitution, the system for press subsidies, and media policy in general.

The state-owned broadcasting corporations that produce public service programming – public service broadcasting as an *institution* – are grounded in media policy and a comprehensive regulatory framework. The publishing activities that these public service broadcasting corporations undertake have constitutional protections equivalent to those for the press, including publisher liability, censorship prohibition, protection of sources and right to

⁸ Lundvall, Karl, Gustafsson, Cecilia, *Förhandsprövning av fyra digitala SVT-tjänster*, Copenhagen Economics, 2015.



have issues of liability heard before a jury, etc. As institutions, however, the public service broadcasting corporations do not have the same constitutional protections as other media companies.

In regards to freedom of the press, there has been an unbroken and comprehensive freedom from state interference and regulation since 1809. The Constitution's most important element was a prohibition against censorship. This was linked to the right for anyone to become a printer, the contemporary equivalent of a media company. The Constitutional basis for this freedom for this industry was a bigger issue then than it is today when one considers the system of guilds that was in place at the time and that was not abolished until the second half of the nineteenth century when a general freedom of enterprise was introduced. Under the protection of these laws, a newspaper industry developed and gained the standing that it has maintained until the present day.

Printed publications, and in particular newspapers, were long the only mass media and came to fulfil an important function in society. During the twentieth century, other media emerged. Eventually, these also gained constitutional protection in the changes to the system of government that were implemented in the 1970s. At approximately the same time as the constitutional and government changes were introduced, the idea developed that a constitutional protection equivalent to that applying to printed publications should be introduced for broadcasting. The purpose was to ensure that freedom of expression in all its legal forms should be independent of the medium being used. In 1992, after decades of sometimes intensive study, this resulted in the Fundamental Law on Freedom of Expression (*yttrandefrihetsgrundlagen*). The intention was that the Fundamental Law on Freedom of Expression should also encompass radio and television.

However, this also presented challenges as the prevailing system consisted of a monopoly like model without the freedom to establish a new enterprise in the broadcasting industry – a situation that legislators did not intend to change. The first proposals solved this issue by not including the freedom to broadcast radio or television over the airwaves – terrestrial broadcasting –



amongst those media activities where anyone would have the right to operate or establish. Later on, it was decided that this exception to the freedom of enterprise (which was actually the issue) should be clarified in the constitution. The legislative history makes it clear that activities carried out by Radio Sweden would be exempted from the Fundamental Law on Freedom of Expression as the construction was inconsistent with the freedom of enterprise which is contained in the Freedom of the Press Act and which would now be extended with the introduction of the Fundamental Law on Freedom of Expression. At the same time, there was cause to transfer the then regulations governing liability in the Radio Liability Act (which were the same as those in the Freedom of the Press Act) to the Fundamental Law on Freedom of Expression. The result was a regulatory framework that, without explicitly touching on the state owned broadcasters, transferred most of the Freedom of the Press Act's regulation to the Fundamental Law on Freedom of Expression which would also apply to radio and television. The exception was freedom of enterprise. This was limited to exempting terrestrial and satellite radio and television. In the case of cable television, a constitutionally protected freedom of enterprise was established. With the purpose of providing some form of constitutional protection for how licenses to 'broadcast on the airwaves' were granted, a regulation was introduced as to what should be taken into account when decisions on the granting of licenses were taken.

In the legislative history to the Fundamental Law on Freedom of Expression, Radio Sweden and its operations are seldom explicitly named. In the draft legislation that preceded the final proposed legislation, there is a more explicit discussion as to Radio Sweden's operations. It is clear that the purpose in the Fundamental Law on Freedom of Expression was not to regulate in more detail the operations of the public service broadcasting corporations, but rather to maintain the regulatory framework that allowed for their existence and operation:

As should already be evident, the regulations I propose do not mean that the constitution should stipulate that a national radio and television operation shall be organized according to the principles currently applying. But the constitution should clearly allow a system of that type. And it should ensure



the editorial independence and autonomy that is the essence of the role of a radio and television company in the service of the public⁹.

The role of Fundamental Law on Freedom of Expression in regulating traditional (terrestrial) radio and television can therefore be summarised as: the editorial / publishing activities that are undertaken are regulated in the same way as they are for the press, but that the general operations of the corporations are regulated by law, license and contract. As Radio Sweden was not given greater attention, some other issues were not highlighted, for example, where the line is drawn between censorship of programme content and other similar unauthorised influence on the publishing operations on the one hand and, on the other, the authorised control and regulation of programming activities. While there is a grey zone, it is also possible to distinguish between an intervention with the purpose of controlling what is published in a program and, for example, a legal regulation as to how new programming services should be reviewed prior to their launch. In the earlier cited draft legislation, it is stated that each public service broadcasting corporation alone has the right to decide what programmes should fall 'within the framework for those conditions which apply according to law and agreement'. This means that the boundaries within which the public service broadcaster is independent can be regulated by law or agreement (or by license conditions), that is, that the framework can be regulated without the hindrance of the Fundamental Law on Freedom of Expression. This is reasonable as, to take an extreme example, the constitution can hardly prevent the parliament from closing down the public service broadcasting corporations by repealing the law that compels the payment the radio and television license fees. The Fundamental Law on Freedom of Expression does not aim to secure the existing public services broadcasting corporations' operations, but rather through a limitation on the freedom of enterprise, make them possible.

⁹ Lagrådsremiss, *Förstärkt grundlagsskydd för yttrandefriheten m.m.*, 1986, s. 113, see also prop. 1990/91:64 s. 82.





Conclusions and Recommendations

Against the background of the challenges and opportunities outlined in the preceding chapters and based on the international perspective that the Commission has provided, the PSBC's conclusions are presented below.

The Public Service Broadcasting Commission (PSBC) outlines below a number of recommendations and proposals to the Swedish Parliament and Government. Assuming that these proposals receive further consideration as part of a new and broader review into public service broadcasting prior to a new licensing period, most of the proposals can be implemented in conjunction with the expiration of the current licensing period in 2019. Some of the proposals can be implemented earlier, while other changes will take longer to implement. The transition to a new model to support the production of public service content can, and should, occur gradually.

The PSBC believes that the media landscape has changed in such a comprehensive way that the old media-political interfaces and media tools are no longer fit for purpose. The original motivation to create publically financed broadcasters - limited spectrum, the desire to be able to provide a programming output over the airwaves and the political ambition to control media consumption - are no longer relevant. In fact, they are obsolete. The shift to the Internet as a platform for media distribution has meant that the limitations on frequency are no longer a factor in the programme offerings of radio and television companies. The easily accessible supply of news, analysis, culture and entertainment on the Internet and over the airwaves has exploded and the state's options for controlling its citizens' media consumption have disappeared.

The old divisions between media, such as newspapers on the one hand and radio and television on the other, are becoming more and more irrelevant as the Internet is now the most important distribution channel for all of them. Linear reading, viewing and listening are still strong, but all media businesses today work, in principle, on the basis of 'online first' – tomorrow's newspapers have already been published on the Internet the day before. New services, apps, traditional text articles and formats from SVT and SR are



similar to those that the newspapers publish with the difference that the commercial media is dependent on revenues from advertisers and paying visitors while SVT and SR are financed by license fee revenues and can offer the same content free of charge.

SVT and SR have a profound influence on the media market as a whole. This influence has been all the more obvious as a consequence of convergence on the Internet and its unintended market distorting effects. Together with other factors, this has contributed to a loss of profitability for newspapers and other media. Press subsidies no longer protect pluralism in the newspaper market or prevent newspapers from closing. Media diversity is falling, local journalism is threatened and there is an increasing risk that municipalities, suburbs and small communities, in particularly rural areas, will be completely without local investigative journalism.

In its analysis report, the Media Inquiry (*Mediautredningen*¹⁰), points out a number of different areas where the media landscape in Sweden is out of balance. The same process is described over and over again: the press, in particular in rural communities, losses ground with falling circulation and reduced advertising revenues from traditional newspapers. The commercial radio and television companies are also experiencing similar pressures from falling advertising revenues.

Digitalisation and the growth of the Internet have made it simpler, cheaper and faster to both produce and consume news, information and entertainment for people around the world. This development has been very positive. The Internet has reduced distances and broadened perspectives. News, information and entertainment are spread and opinions mobilised quickly across the world. Globalisation, digitalisation, migration and economic development have given a significant proportion of the world's population enhanced opportunities to be able to communicate, inform, debate and, consequentially, use their rights to freedom of expression. The

¹⁰ SOU 2015:94, *Medieborgarna & medierna*



opportunities to enjoy and participate in education, entertainment, sport and cultural experiences from the whole world have increased.

General Principles

PSBC seeks to protect journalism in a constantly changing media landscape. Today's constant flow of information requires a professional journalism that verifies, analyses, evaluates and investigates information, claims and events, a professional journalism that provides a wider perspective, deepens understanding and contributes to a complete picture of events. There is no basis for the claim that active, writing citizens can replace professional journalists.

PSBC seeks to promote a diverse media landscape where independent commercial media, private journalism initiatives and publically financed corporations produce independent journalism for the common good.

PSBC believes that the current view of public service broadcasting needs to change. Public service broadcasting should be seen as a function, not as an institution. Subsidies for public service productions should, therefore, be able to be used by media market participants other than the three public service broadcasting corporations. State media subsidies should be fundamentally reformed.

PSBC believes SVT, SR and UR have unique qualities for which there will continue to be a need in the future media landscape. In a converging media market, there are good reasons to review the corporations' missions and governance with the aim of clarifying their roles and reducing their market distorting effects. The PSBC believes that the Swedish Parliament should establish a basic content output that the public service broadcasting corporations must always offer.

PSBC proposes that the radio and television license fee should be abolished as the link between ownership of a television receiver and an obligation to fund public service media output has lost its legitimacy. The PSBC believes that all media subsidies should be financed through the taxation system and distributed by appropriation from the state budget. The public service



broadcasting corporations can, and should, be more efficient and set priorities. Resources should be transferred from the public service broadcasting corporations to other media subsidies.

Public Service – from Analogue Institution to a Digital Function

As highlighted in earlier chapters, the technical reasons for public service broadcasting to be carried out by a specific legal person has lost its significance as a result of technology and the development of the Internet. The argument that public service broadcasting should be accessible across the entire country, and as a result be administered by the state, looks outdated against how media is consumed on digital platforms today.

The existing Swedish definition of public service broadcasting can be described as everything that the three public service broadcasting corporations undertake. In line with such a definition, nothing that any other media company does can be defined as public service.

The PSBC believes that such a definition is both illogical and unreasonable if by 'public service' it is meant a public benefit through the pursuit of journalism with an objective news service and a varied offering of culture and entertainment that is both broad and deep.

The current Media Inquiry (*Mediautredningen*) chose in its interim report to define SVT, SR and UR as 'publically financed media' in order to "... avoid value laden terms which lead to the conclusion that only these media outlets operate for the public good." Media that works for the public benefit is defined by the Media Inquiry as "all media that works for strengthening democracy by, amongst other things, journalistic responsibility, protecting editorial independence and the role as an inquirer into power."¹¹

The PSBC shares the view that all media operates for the benefit of the public if it pursues responsible, democracy strengthening journalism and entertainment based on editorial independence and it is managed by a

¹¹ SOU 2015:94, *Medieborgarna & medierna*



legally accountable publisher or producer. All media operations that cater to social, democratic and cultural interests in society support common needs. As a description of a function, the concept of public service broadcasting continues to have value.

PSBC believes that the concept of public service broadcasting requires a new definition. Public service broadcasting is a function and not an institution. Subsidies for public service productions should be available to media companies other than the three public service broadcasting corporations. The state media subsidies should therefore be fundamentally reformed. Public service broadcasting should move from being an analogue institution to a digital function.

Media policy is based on the principle that there is a requirement for independent radio and television operations that service the public together with a viable commercial sector. Independent newspapers, as well as commercial radio and television companies, are financed by subscriptions and advertising revenues. These revenues finance the majority of journalism in Sweden. From a democratic standpoint, it is of great importance that the public has access to journalism that is characterised by diversity, comprehensiveness, quality and depth, regardless of where a person lives.

In terms of local news, viable local media companies are a necessity and, despite the cut backs that have been required at different newspaper outlets, it is still their journalists that carry out most local and regional news gathering. For example, the Mittmedia Group employs more journalists than SVT has in all its local offices combined. The PSBC sees it as problematic that the majority of journalists would be employed in state-owned corporations and if these journalists would at some time in the future effectively be alone in setting the agenda for public debate.

A serious media political problem can arise if journalistic oversight outside of the major cities should be hollowed out. The monitoring of local government and business that is so critical for democracy is becoming harder to finance. That is why initiatives such as the 'digging fund' (*grävfund*) which was established by the Association of Investigative Journalists (*Föreningen Grävande Journalister*) is so important.



A reduction in news outlets results in fewer resources for qualified journalists. The PSBC wants to increase the opportunities to produce quality journalism.

State media subsidies should be fundamentally reformed. Today's media subsidies are focussed on the so-called 'second newspapers', which does little to help if the leading newspaper in a community is also under threat. Subsidies for the production of public service content should not be channelled to SVT, SR and UR only, but rather be broadened and become platform independent.

The overriding goals should be to increase citizens' access to high quality public service content across several platforms and distribution channels. If there are more producers of public service content, pluralism, quality and the offering in the media market will increase. There is an intrinsic value in broadening, and in doing so opening up, the market for the production and distribution of public service content. In addition, a broader support for the production of such content contributes to creating new sources of revenue for hard-pressed private media companies.

PSBC believes that a greater breadth in public service providers will promote greater diversity and stimulate innovation, entrepreneurship and creativity across a range of different genres. The basis for a pluralistic media market is enhanced when local newspapers, independent media houses and independent journalists have increased opportunities to finance their journalistic activities.

The different components in a new structure for media subsidies serves different purposes and the details should be looked at further. The ongoing Media Inquiry's terms of reference includes the presentation of a proposal for a new media subsidy framework.

PSBC proposes a new structure for the financing of public service production outside the traditional public service broadcasting corporations. Such a structure should include a number of different components:



4. Support for local journalists to replace the current system of press subsidies that aim to support coverage of local communities by journalists;
5. A platform-independent public service fund for the production of public service content by journalists across different genres;
6. A Nordic media fund to support public service productions.

The support for local journalism should operate as a platform-neutral production subsidy for editorial activities and should be able to be applied for by existing or new publishers or broadcasters that form part of a system or process of media ethics. A new media subsidy for local journalism should be based on as clear and objective criteria as possible to avoid the authority that has responsibility for handling the subsidies evaluating the quality of the journalism. The subsidies should be general in nature.

A national operational subsidy for the production of public service content (the public service fund) should be open to media companies, production companies and independent production projects. These organisations can seek support for different public service content that is then broadcast, displayed or distributed via platforms independent of the three existing public service broadcasting corporations. Subsidies should be time limited, allow for co-financing and be able to be combined with other financing models such as crowd funding where private individuals contribute toward financing journalism.

Subsidies should be available for media content targeting different age groups and interests and that informs, educates and entertains. Funds should be distributed on a competitive basis based on clear quality criteria.

Important criteria to be able to receive support from the public service fund should be quality, added value and public benefit. The content produced should be characterised by the public service ambitions of objectivity, comprehensiveness and impartiality. The material should be accessible without additional cost. There should be transparency around how funds are



used. Publishers and broadcasters should be part of a system of media ethics.

The design of such operational subsidies is not simple and requires further investigation. One obvious objection to such a system would be that it is inappropriate for an organ of the state to judge the quality of journalism. However, similar evaluations are made in other areas, for example, research, film, literature and other cultural subsidies and it should therefore be straightforward to create a similar system for public service productions that are made for the public benefit.

A Nordic media fund should be established based on the model used for the Nordic Film & TV Fond. The purpose of the fund would be to provide support to high-quality public service productions.

Within the framework of the organised collaboration between Nordic countries, there are a number of funds and areas of cooperation within culture and the fine arts. Amongst these is the Nordic Film & TV Fond, named earlier, which aims to support high quality film and television productions in the five Nordic countries by providing subsidies as additional financing for feature films, television films and series, and creative documentaries. There is also the Nordic Culture Fund¹² whose role is to support a wide range of collaborations between the Nordic countries in the area of culture and the fine arts.

The Nordic Ministerial Council also finances the Nordic Centre for Journalism, which aims to create and maintain a sense of Nordic affinity and a Nordic cultural community through the media. It does so through courses, seminars and other professional development initiatives.

From the new proposed Nordic media fund, media companies, production companies and independent journalistic projects should be able to seek

¹² The Nordic Culture Fund works to support an innovative and dynamic artistic and cultural scene in the Nordic Region, one that is diverse, accessible and of high quality.



support in the form of subsidies for public service productions which would otherwise not be viable on commercial grounds. Funding for projects could include development projects in news journalism including reporting on foreign affairs, factual and cultural programmes, education and entertainment, children's programmes and programmes in minority languages.

Given the potential for overlap with the Nordic Film & TV Fond, the operation of any new fund will need to be examined in detail. At the same time, how such a Nordic media fund should be financed can be examined. The two funds together can make a powerful contribution to the Nordic production of public service content outside the existing public service broadcasting corporations.

A Clearer Role for SVT, SR and UR

Media policy should create the conditions for the free and open development and exchange of ideas and opinions and a genuine opportunity to investigate developments and events within our society. This requires a diverse and high quality media environment.

PSBC believes that SVT, SR and UR have unique qualities that will still be required in the future. In the area of terrestrial broadcasting, they have been ground breaking and quality driven and been exemplars for high quality media productions for the public benefit both domestically and internationally.

In a converging media market there are good reasons, however, to review the role and governance of the public service broadcasting corporations and to clarify their role and reduce their market distorting effects. Through their special standing in terrestrial broadcasting, and within the media market as a whole, the public service broadcasting corporations have impacted the competitive standing of the independent commercial media operators. Both SVT and SR have had dominant positions in the terrestrial broadcasting market and in some market segments on the Internet. In radio, the dominant role of SR is even clearer when it comes to both its share of listeners and its access to the highest quality frequencies. It is therefore of critical importance



how the Swedish Parliament and the government choose to design the governance of the corporations but also how self-regulation within the public service broadcasters operates.

The public service broadcasting corporations should have as their core activity to make programming produced either by themselves or others accessible by terrestrial broadcasting or via the Internet. Other activities should continue to be seen as complementary and aim to develop and support the core activities and to improve the opportunities for the public to benefit from the programming output.

PSBC believes that the Swedish Parliament should clarify the requirement to have a basic content output that the public service broadcasting corporations should always offer.

The content offering should be characterised by the public service ambitions and have the goals of informing, educating and entertaining. Core parts of this role include knowledge, education, news, culture and entertainment. The offering should be notable for its quality, impartiality, objectivity and comprehensiveness and should add value to the media market as a whole.

There are good reasons also for the Swedish Parliament to make clear that the public service broadcasting corporations have a particular responsibility to make available a basic programming output that is public service in its character. Such a basic programming offering should encompass in-depth domestic and foreign news reporting, certain types of factual, community, education, drama and cultural programmes, programmes for children and young people and programmes in minority languages. Viewers and listeners should be able to enjoy this programming regardless of where they are resident in Sweden. The programming should also be made accessible for people with different types of disabilities.

The societal obligation to provide a public service programming output to citizens through SVT, SR and UR, and in the future via other media operators, should be seen as a part of culture and education policy which also contributes to supporting museums, libraries, galleries, theatres, opera, orchestras artists, film production, literature, education and other areas. This



area of operation should have an important role in realising the cultural policy goals of ensuring that everyone has access to cultural experiences and education, of supporting quality and artistic development, of supporting a living cultural heritage that is preserved, used and developed, all with a particular focus on children's and young people's access to culture.

The public service broadcasting corporations should broadcast content that appeals to a wide cross-section of the public. To offer the public a broad output is not the same as the public service broadcasting corporations seeking to reach all potential viewers and listeners. The public service broadcasting corporations should, therefore, change their perspective on scope, impact and viewer numbers. The public service broadcasting corporations should offer content that is of interest to the public and which attracts people to view, listen and participate but should not, as is the case today, seek to maximise viewers and listeners, as well as 'clicks' and readership of material on the Internet. Value add, not competition, should be the goal for the publically financed media corporations. This approach brings with it some consequences in terms of programme content and the number of channels. The Swedish Parliament should take the necessary policy decisions but it should then be up to each individual public service broadcasting corporation to make the necessary content decisions.

PSBC believes that the public service broadcasting corporations should abstain from producing programmes, services or formats which independent commercial media already offers, unless the public service broadcasting corporations can add value through their production.

Given the public service broadcasting corporations' broad range of activities they have a particular responsibility not to misuse their position of dominance in the media market. The responsibility to show a duty of care and restraint should be clarified. The regulations in the Competition Act (*konkurrenslagstiftningen*) regarding misuse of a dominant market position should be a guide for any new regulation.

PSBC believes that SVT, SR and UR should be required to display a duty of care in their activities to ensure that diversity in the media market is maintained and that they not misuse their dominant market position.



One of the weaknesses of the current model of regulation through broadcast licenses and funding conditions is that this framework only addresses terrestrial broadcasting and not activities on the Internet. The public service broadcasting corporations have, at their own initiative, redefined their core activities as outlined in the finding conditions. The PSBC believes that such interpretations mean that there are no limits as to what activities can be funded through the television licence fee. In addition to the fact that this interpretation does not match the Swedish Parliament's decision on funding conditions, there is much that suggests that today's operations do not meet the requirements of EU regulations regarding state subsidies.

Government agencies are governed through instructions and appropriations and government directives, while state-owned corporations are governed by ownership directives. The PSBC sees it as an issue that the roles of the public service broadcasting corporations have developed in such a way that they now encompass activities on all platforms. This means that the current model for governance through broadcast licensing and funding conditions must be replaced with other instruments.

PSBC proposes that the current governance model with its broadcast licenses and funding conditions for the public service broadcasting corporations is replaced by a structure where the role of the public service broadcasting corporations is changed to capture activities across all platforms.

The public service broadcasting corporations prepare annual public service reports which are then sent to the Swedish Broadcasting Commission (*Granskningsnämnden för radio och tv*) that is under the Swedish Broadcasting Authority (*Myndigheten för press, radio och tv*) and to the Management Trust. The Swedish Broadcasting Commission has criticised SVT in particular for flaws in its reporting of commercial partnerships.

PSBC believes that the public service broadcasting corporations' reports should be made more transparent and more clearly account for how funds are utilised for different activities and for those revenues that come from commercial partnerships.



The current system where the Management Trust owns the public service broadcasting corporations but only exercises its powers through the appointment of the Boards and approval of annual reports can lead to the impression that the public service broadcasting corporations have a significant independence from politics. This is an illusion. The actual power rests partly with the parliament, which nominates directors for the Management Trust, makes decisions on the budget and basic conditions for the broadcast licenses, and partly with the government which appoints the directors for the Management Trust and sets the license and funding conditions and which decides on new services based on a public value test.

Clear protection against interference in editorial decisions (such as that recently seen in Poland) does not actually exist. A majority in the Swedish Parliament can, for example, with a simple majority, change the conditions for the appointment of the management in the public service broadcasting corporations.

Experience from authoritarian countries suggests that privately owned independent media companies find it easier to maintain their independence against political interference than do state-owned media organisations. To support and maintain a pluralistic media market with independent publishers under strong private ownership is, therefore, important. Just as important is that there is protection for public sector broadcasters. The PSBC believes that there are strong reasons to strengthen editorial independence in law.

As outlined earlier, Sweden's system of government is based on the principle of the free exchange of ideas and Sweden's Fundamental Law on Freedom of Expression (*yttrandefrihetsgrundlagen*) aims to protect the public service function that an open and free mass media fulfils in a democratic society. At the same time, there are no regulations that provide guidance on the state-financed broadcasting corporations' governance and structures. The PSBC sees this as a current weakness.

PSBC proposes that the public service broadcasting corporations' constitutional standing be clarified and that the corporations' editorial independence is strengthened through a clarifying regulation in the Fundamental Law on Freedom of Expression (*yttrandefrihetsgrundlagen*).



New and permanent programme services or other services of significance within the framework of their core activities and complementary activities that SR, SVT and UR wish to launch should be reported to the government for approval, a so-called public value test. The Swedish Broadcasting Authority has the task of carrying out this test. The test should encompass the services public benefit - that is how and in what circumstances the service will contribute to the public service broadcasting corporation fulfilling its role as a public service broadcaster, as well as its impact on the media market.

The PSBC notes that the public service broadcasting corporations have not yet submitted a single service for a public value test. One reason for this can be that the conditions governing exceptions are too generous. As the Swedish Broadcasting Authority has proposed, interested parties should also be able to request that a public value test be undertaken. In several other EU countries that have introduced public value tests, the decision-making structure is more clearly defined.

PSBC believes that a Public Value Test should be developed covering a number of areas:

6. Interested parties should be given the opportunity to request a public value test where a service should be subject to a public value test.
7. If the Swedish Broadcasting Commission (*Granskningsnämnden för radio och tv*) or the Swedish Broadcasting Authority (*Myndigheten för press, radio och tv*) find that a service is notifiable, a public value test should always be carried out.
8. Those elements of the test dealing with market influence should be transferred from the Swedish Broadcasting Authority to the Swedish Competition Authority (*Konkurrensverket*).
9. Responsibility for decisions relating to the public value test should be transferred from the Government to the Swedish Broadcasting Authority.
10. The requirement for a public value test should apply to services that operate for more than six months.



SVT and SR, and in certain circumstances, UR, have since the time of the state broadcasting monopoly dominated the Swedish terrestrial broadcasting market. Their significance for news, public debate, education and cultural activities has been uniquely strong, as has their role in national identity, language and Sweden's national self-image. Many historical events in many different areas of public life have been preserved in people's consciousness through different radio or television broadcasts. To maintain, archive, digitalise and provide free access to this cultural heritage which radio and television programmes provide should form part of the public service broadcasting corporations' core activities. SVT has developed its website and the on-line 'play' services that are available. However, access is still limited for apparent copyright reasons, and while several other countries have prioritised making available more programmes, SVT has gone on the opposite direction and reduced the resources it makes available for its archive services. The same perspective that applies to libraries should also apply to all radio and television productions either initiated by the public service broadcasting corporations or that they publish or broadcast.

PSBC believes that radio and television productions should be seen as a public utility to which all citizens should have access, including over time. As a result, online services should receive priority resourcing.

The digitally dominant Google and Facebook impact the media market in a fundamental way and in all possible respects. Their actions have a direct influence on content production. The PSBC believes that Google's Innovation Fund, the Digital News Initiative, could provide support for the development of journalism in Europe outside the public service media institutions. Attitudes to Facebook's digital publishing service, Instant Articles, and other similar publishing platforms differ; while some see an opportunity to reach out to more readers and receive a share of Facebook's advertising revenues, others believe it will undermine their own platforms and strengthen Facebook's market position.

Commercial market participants are faced with major considerations relating to what will support or undermine their own operations, brands, advertising



revenues and readership. For the non-commercial production corporations, SVT, SR and UR, there are other considerations.

If the public service broadcasting corporations publish material on Google's or Facebook's or another company's distribution platforms they support those companies' commercial interests, whether directly or indirectly, and influence other platforms and the Internet's long-term development.

The PSBC believes that it cannot be the public service broadcasting corporations alone that determine how they engage with commercial platforms. It should be the owners, that is to say the Swedish Parliament, which analyses and reviews such complex issues. The public service broadcasting corporations' presence on, and the accessibility of, their productions via these global platforms should be primarily restrictive. If the public service broadcasting corporations publish material through these channels it is appropriate that the public service broadcasting corporations also make this material available to Swedish media companies at the same time at no cost.

PSBC proposes that the government initiate a review of how the public service broadcasting corporations should engage with platforms such as Google, Facebook and other similar commercial platforms.

In several European countries there is currently a debate as to how it is possible to make these digitally Internet dominant operators pay tax in different countries. The PSBC believes that there is a broader challenge for countries to collect tax from global and digital operators, but that it is clear that it would be of significance if the income from the Swedish operations of, for example, Google and Facebook, could be taxed in Sweden. At the same time, hypothecated taxes are only used in exceptional circumstances, which is why taxation of these digital market participants must be seen purely as a tax issue.

New Financing Models for State Media Subsidies

The funding for SVT, SR and UR has been stable for a long period of time and there is still widespread support for paying the radio and television



license fee. The basis for the requirement to pay the license fee - ownership of a television receiver - will be eroded over time. This will happen quickly or slowly, but the trend is unavoidable. The financing model will increasingly be questioned and the willingness to pay the license fee will fall as media consumption through other services increases. Fewer and fewer people will have a television which will remove the basis for the radio and television license fee and make the current model for financing unfair and arbitrary. This trend is already clear amongst younger media consumers.

There is no reasonable argument as to why radio listeners without a television should be able to avoid paying for SR's programming and that those people who enjoy SVT's programming only via the Internet can do so without having to pay the license fee. At the same time, it is not reasonable to require the payment of a license fee for tablets, telephones, watches or other technical equipment that can now, or may in the future be able to, receive television broadcasts via the Internet.

The basis of a radio and television license fee is misleading. It is not the case that SVT, SR and UR get their mandate from those that pay the license fee. Liability to pay the license fee is not linked to actual consumption of the public service broadcasting corporations' programme offering. It is the Swedish Parliament that decides the framework for the public service broadcasters' operations and the size of the license fee and the government that has carriage of the broadcast licenses and funding conditions.

The basis of a television license fee also leads to a misleading mind-set that SVT and SR should try to maximise their viewers and listeners with the aim of giving license fee payers value for money. The abolition of the radio and television license fee is therefore necessary to change the view as to what SVT's, SR's and UR's role should be in a future media landscape.

The Swedish Parliament has passed a motion directing the government to inquire into the radio and television license fee prior to the next broadcasting license being issued in 2020 and the government has advised that it intends to establish such an inquiry, a move that is welcomed by the PSBC.



As the PSBC does not see a future for the radio and television license fee either with today's structure or some form of technology neutral variant, there are three alternatives for the future financing of the public service broadcasting corporations:

- Fee financing paid by those that watch based on some form of fee for service or subscription model similar to that which currently applies for pay-channels such as Netflix or Spotify;
- A special tax payable by all adults based on a model that was being looked at by the Public Service Committee and which applies, for example, to funeral fees (*begravningsavgiften*); or,
- Funding through the state budget appropriations process in the same way that other publically financed activities are funded.

The most common objections to budget appropriation financing are reduced independence and reduced planning certainty. The PSBC notes that all other important public services are financed through the budget appropriations process, including the judicial system, higher education and research as well as other state financing of cultural institutions and media. As with the public service broadcasting corporations, the legitimacy of and confidence in the institutions named above is based on their ability to operate independently and without political considerations in their professional activities. They are also able to undertake long-term planning. Press subsidies are financed through the budget without the independence of the press being questioned and the level of the radio and television license fee is currently set by the parliament and the financing provided on an annual basis.

The PSBC also notes that there are difficulties in financing investigative and in-depth journalism through subscription. A significant proportion of the content of SVT's, SR's and UR's channels have a high public value but the willingness to pay is not strong enough to allow them to be financed only by people willing to actively subscribe. In addition, it would increase the risk that programming becomes commercialised. The PSBC does not see any particular reason to choose a model with an earmarked media tax that is paid in the same way as the funeral fee. This funeral fee was adopted after the



disestablishment of the Church of Sweden where the church retained responsibility for funerals and burials. The design of a special media tax risks, whether individual or household based, being unnecessarily complicated and could have a number of unintended consequences which were outlined as part of the debate around the proposal from the latest public service broadcasting inquiry.

PSBC proposes that the radio and television license fee be abolished and that all media subsidies are financed through the taxation system and distributed by direct appropriation from the state budget.

It is critical that the public service broadcasting corporations have the opportunity to plan with certainty. Similar with other policy areas such as research and infrastructure policy, the Swedish Parliament should make a decision on budget finding that covers a longer period than the coming three years.

PSBC believes that the Swedish Parliament should set the budget parameters for the public service broadcasting corporations for a longer period than is done so today, possibly for a period of six years, which corresponds to the current length of the broadcast license.

It is important that budget funds in the area of media policy are used where they will have the greatest benefit. In the event that no new funding is made available to support local journalism and a broadening of programme production, the budget funding of the public service broadcasting corporations will need to be reduced and the corporations forced to make efficiencies and set priorities in their programming. In the PSBC's judgement, there are significant opportunities for efficiencies and prioritisation. Only one efficiency audit of the public service broadcasters has been undertaken since the Swedish National Audit Office was established in 2003¹³. Efficiency audits of the public service broadcasting corporations would in all likelihood help

¹³ Riksrevisionen, Regler och rutiner för indirekt sponsring – tillräckligt för att säkerställa SVT:s oberoende?, 2008



identify possible savings. With the abolition of the television license fee, resources from Radiotjänst i Kiruna AB will also become available.

PSBC believes that the public service broadcasting corporations can and should be more efficient and set priorities within the framework of their current operations. Resources should be transferred from the public service broadcasting corporations to other media subsidies.

SR, SVT and UR are not permitted to broadcast advertising and, in principle, are not permitted to broadcast sponsored programmes. However, SVT can receive revenue from sponsorship messages broadcast in conjunction with sporting events or the Swedish Song Contest up to a total of twenty events each year. This exception does not apply to programs targeted at children less than twelve years of age.

Sponsorship messages are without question advertising and it is inappropriate that SVT's broadcasts contain advertising. By breaking up the broadcasting of sporting events and switching them between channels, the number of sponsorship messages has increased over time, despite the parliament's intention to reduce the amount of advertising exposure by introducing a limit on the number of events that could be sponsored. The PSBC notes that children under twelve years of age constitute a significant part of the audience for the Swedish Song Contest. Sweden has a general prohibition on advertising directed at children. SVT's response has generally been that the opportunity to be able to show sponsoring messages is a condition for being able to win and retain certain broadcasting rights. As the German public service broadcaster ZDF has shown, it is possible to negotiate not to broadcast sponsorship.

PSBC believes that the exemption that allows SVT to receive sponsorship revenue should be abolished.

Another way of financing television productions are so-called product placements. Those that produce a program finance part of the project with revenue from advertisers whose products are seen in the final production – for example a car brand. The laws governing radio and television permit product placement for certain types of programmes that can be shown on



SVT. Currently, the law is constructed in such a way that the test is whether a public service broadcaster has derived revenues in this way in one of its own productions, but not whether an external production company has done so. Because the public service broadcasting corporations are meant to be free from advertising, the regulatory framework regarding product placement should be tightened to include productions over which SVT has control.

PSBC proposes that the regulation governing product placement be tightened and that product placement should neither occur in productions that SVT itself produces, nor in productions that are outsourced to independent production companies.

Continued Development and Inquiries

Many of the proposals that the Public Service Broadcasting Commission has made require further development. The consequences of these proposals in particular need to be highlighted further. During the Commission's work, a number of other issues have also been raised in discussions. In some cases it has been judged that these lie outside the Commission's terms of reference and in others they have been seen as being of lesser significance. In a number of other cases, the PSBC has judged the issue to be of interest, but that the time available did not allow these to be looked at in depth. Other issues need to be considered as consequences of the proposals that the PSBC has made.

Amongst those proposals where there is cause for further consideration include, for example, different tax issues that impact on the media industry, issues of supervision of, and inquiring into, a converging media market and how a changing view of who can produce public service content influences the regulations on retransmission and other regulations. Other interesting areas that are not highlighted in this report include how copyright issues should be dealt with under different licensing models and how the public service broadcasting corporations can make user data and technical standards accessible based on the principles of open source. In other words, there are a large number of areas that need to be highlighted further with the aim of creating a functioning, pluralistic media market for the benefit of the public.

