ORIGINAL ARTICLE

Governing Public Service Broadcasting: ''Public Value Tests'' in Different National Contexts

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This article presents a study of the implementation of new elements of media governance in the UK, Germany, and Norway. Seeking to amend the existing models, the three states have introduced different versions of so-called ''public value tests'' to assess the relevance, market impact, and cost/value of any new public service. The cases represent a meeting of national and supranational actors struggling to fit a staple of media policy into novel settings, developing new methods in the process. In discussing the development and organization of the tests, substantial differences are identified within a shared framework. Scrutinizing the specific implementations of the tests, it is argued that the actors involved, the measures, as well as the scopes vary across the cases.

The emergence of the term *media governance* is often seen to signal a shift in a period of rapid change. Traditional, nationally bound statutory tools of media policy are seemingly not only extended, but also replaced by flexible forms of supranational self- and coregulation. If so, governance should entail a fundamental restructuring of the societal control of the media. The transformative force of these developments must be critically assessed. In doing so, and to move media governance beyond an amorphous, general concept, we need to evaluate developments in specific contexts.

Public service broadcasters' new activities provide a prime case for such an analysis. These organizations constitute the longest-lasting element of European radio and television policy, and remain at the center of political debate even as the internet is becoming ubiquitous in public life. The societal control of public service broadcasting, however, is undergoing important changes. This is currently most apparent with the emergence of tests to approve proposals of new public services—tests that are often seen as resulting from European Union (EU)-led competition policy processes.

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With a comparative approach, this article presents a study of the implementation of new elements of media governance in three different European national settings—the UK, Germany, and Norway.[1] The three states' authorities have all faced new demands for regulating their respective public broadcasters. Seeking to amend existing models, they have introduced different tools of governance. The UK has set up a so-called "public value test" since 2007 to assess the relevance, market impact, and cost/value of any new public service. Germany constructed a comparable *Drei-Stufen-Test* (three-step test) in 2009, whereas a Norwegian version should come into force in 2010. In all cases, the measures transform the organization and institutionalization of media policy. As such, the cases represent a meeting of national and supranational policy actors struggling to fit a staple of media policy into novel settings, developing new methods in the process. How do different political and cultural contexts impinge on this implementation and on the construction of the new elements of governance?

In what follows, I first review definitions of media governance and contextualize the issue of governing European public service broadcasting. Next, I discuss the development and organization of the tests in the three cases, pointing to substantial differences within a shared European policy framework. Scrutinizing the specific implementations of the tests, I show how the actors involved, the measures, as well as the scopes vary across the cases. Seeking to understand these distinct features, I point to historical peculiarities in each polity, and to the importance of specific political cultures. Such factors, I can argue, help us see the extent of path dependency in the development of public service broadcasting governance. Practices do not swiftly change in the digital era. Rather than replacing established policy tools and regulatory actors, novel mechanisms modify and extend existing arrangements. In conclusion, I discuss the implications of the emerging regulatory regimes.

Media governance and public service broadcasting

The concept of media governance has recently become popular in mainstream media policy research. Though it is given varied definitions, and some call it a "fashion term" (Kleinsteuber, 2007, p. 43),[2] governance is introduced to stress the inclusion of different social forces and actors beyond national authorities in the analysis (e.g., Donges, 2007b; Michalis, 2007; Syvertsen, 2004). According to McQuail (2003, p. 91), media governance "covers all means by which the mass media are limited, directed, encouraged, managed, or called into account, ranging from the most binding laws to the most resistible of pressures and self-chosen disciplines." As opposed to policy and regulation, which often refer to formal control only, governance includes various informal influences, claims, and demands from different interests in society as well as the guiding principles and values they are based on. As such, the term encompasses both policy and regulation, to depict "the sum total of mechanisms, both formal and informal, national and supranational, centralized and dispersed, that

aim to organize media systems according to the resolution of media policy debates'' (Freedman, 2008, p. 14).

Media governance, then, is not a more specific term employed to describe new mechanisms. Rather, it is meant as a wider concept. The term clearly has its merits, and can yield interesting insight. Importantly, our understanding of the sum total of media governance depends on the continued scrutiny of its parts. We have little use for general overarching discussions of media governance as long as it does not rest on proper analyses, that is, the breaking up of something complex into its various simple elements. Only this way can we realize how and with what consequences different societies control the media. Governance appears increasingly as the result of nontransparent processes from ideas to implementation—involving formal and informal aspects, national and supranational levels, as well as centralized and dispersed interests. Mapping, decoding, and interpreting these processes should be a main task for research. This requires us to take account of the role of diverse kinds of locally based civil society actors, as well as large international organizations. Also, we need to analyze how and to what extent media governance adds to government beyond statutory regulation by including self- and coregulation (Puppis, 2007). Public service broadcasting provides a good example.

In many Western European countries, public service broadcasting was set up as the new medium of radio was finding its organizational form during the first decades of the 20th century. Public service broadcasting then expanded to television and later computer-mediated communications, and remains a key part of the European media. Its governance has changed along with the arrangements. Born as a national project rooted in cultural policy aims, tied to specific organizations often granted a monopoly, and exposed to merely a few specific regulatory checks and mechanisms—it was manageable to get an overview of the status and framework of public service broadcasting. Today, although it remains a national project, public service broadcasting is directly affected by supranational forces often linked to competition policy concerns, it counts numerous diverse organizations and actors with different statuses, and is affected by a long line of statutory and nonstatutory regulatory instruments on several levels. The societal control of public service broadcasting clearly is harder to comprehend today (e.g., Bardoel & d'Haenens, 2008; Coppens & Saeys, 2006; Jakubowicz, 2003, for recent discussions).

A key part is novel regulatory procedures to assess and control publicly funded organizations' expansion into new services. These procedures are closely linked to the emergence of the EU as a supranational media policy actor. Over the last 15 years, the European Commission (EC) has challenged the hitherto national regimes of public service broadcasting regulation. For the Commission's Directorate for Competition, public service is an anomaly in the free market, requiring measurable definitions and formal assessments of its publicly funded tasks to protect commercial interests (e.g., Donders & Pauwels, 2008; Jakubowicz, 2004; Moe, 2009). By the end of the first decade of the 2000s, the outcome of processes requiring new methods for assessment of the publicly funded media organizations' activities is being put into

operation in several European states. An important part of the new requirements, as laid out in the EC's Broadcasting Communication of 2009, is what lawyers call an ex ante test of major additions to the public service remit: a public consultation which assesses—prior to their introduction—whether "significant new audiovisual services envisaged by public service broadcasters serve the democratic, social and cultural needs of the society, while duly taking into account its potential effects on trading conditions and competition" (EC, 2009, p. 84).

I now turn to analyze the emergence and layout of such new governing procedures. I concentrate on three instances[3]: the UK, Germany, and Norway. These states have strong public service broadcasting systems and developments of new ex ante tests in common. But the cases vary significantly with respect to dimensions important for the analysis: Their organizational forms are distinct, and although they all maintain a strong market position for public service broadcasting, the primary and secondary markets differ considerably. As will become clear, the UK, Germany, and Norway also represent divergent forms of public service broadcasting governance. Choosing cases from one small and two larger markets and different language areas adds an interesting aspect to the analysis, both with regard to the actual financial and regulatory frameworks of public service broadcasting, and the policy arguments and assessments behind them. In addition, Norway stands out in not being a member of the EU, and tends to be left out of relevant EU-wide overviews as well as comparative investigations. However, all relevant regulations are binding for the country pursuant to the European Economic Area (EEA) Agreement, and Norway has in general been quick to implement EU policy into its national frameworks. Therefore, the inclusion of Norway as a case should contribute to the value of the analysis. Finally, while comparable tests are being developed in several other European countries (including Denmark and Austria), the cases allow me to cover the chronology of the development of these tests, from the first, by now comparatively well established (UK) to a recent, still not finalized procedure (Norway).

I rely on written sources to provide relevant information about the social phenomena at hand. This means I base the discussion on interpretation of relevant policy documents, used as "sources intended to document a process" (Skogerbø, 1996, p. 50). When used in this way, it is assumed that the documents somehow reflect the interests or actions of their authors or in some other ways represent the facts of the policy process they refer to. For the present analysis, I concentrate on tracing the development and content of the new procedures in order to understand how different political contexts impinge on the construction and implementation of the new modes of governance.

The emergence and lay out of the tests

The British invented public service broadcasting in an institutionalized form over 80 years ago, and were pioneers in developing procedures to govern new public services in the early 2000s. The idea of measuring the "value" of public services like

those offered by the British Broadcasting Corporation (BBC) can be traced back to a framework for public sector reform, presented in a 2002 Cabinet Office strategy unit paper (Freedman, 2008, p. 156). The term was imported to the broadcasting sector, and by 2004, the BBC used the term in the title of a comprehensive strategy document for the digital era (BBC, 2004). The idea also permeated the process leading up to a renewed BBC Charter in 2006 (BBC, 2006; BBC Trust, 2007). Here, the so-called public value test is laid out.

According to the test, the BBC should be able to modify its activities, but any significant proposal for change of the organization's domestic public services must be subject to public scrutiny. Whether or not a new service has to go through the test depends on its impact, financial implications, novelty, and duration. If found significant enough, the service goes through two autonomous evaluations: the public value assessment and the market impact assessment. The latter judges the new service's impact on other offers in the market. The former looks at how the proposal compares to the BBC's overall remit, which would signal "public value" (BBC Trust, 2007, p. 13). Specifically, four "key drivers of public value" are usually considered: reach, quality, impact, and cost and value for money. The result of the public value and the market impact assessments are then considered together to decide whether the service deserves approval.

The UK test predates the EU's requirements published in 2009. This does not mean that the instrument came about in isolation: The country has been involved in several state aid processes exposing the national actors to EU competition law arguments over different BBC services. Yet, the pioneering role of UK public service broadcasting governance can be said to have inspired the layout of the recent EC ex ante test requirements (Donders & Pauwels, in press). Another example that predates the actual publication of the current EC approach is found in Germany.

German broadcasting's key regulatory document is the Staatsvertrag für Rundfunk und Telemedien (2008) [interstate treaty on broadcasting and telemedia] between the states and the public service broadcasting organizations the Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD) and the Zweites Deutsches Fernsehen (ZDF). By late 2008, a new framework for regulating their new services was added to the treaty, to be enforced from May 2009. More so than in the UK example, the German transformation is the result of a lengthy EU policy process, whereby the EC has demanded a more specific definition of the public service remit.

The German revision entailed substantial changes to public service broadcasters' offers on new media platforms. Such services are labeled "telemedia," a term which covers electronic information and communication services that are neither pure telecommunication (like telephone) nor broadcasting. Firstly, a new basic formulation was introduced, requiring every service to be "journalistic-editorially" motivated. Furthermore, along with advertising and sponsoring, "exhaustive local coverage" is prohibited. So are "press-like" services in general, as well as activities falling within any of the 17 listed categories ranging from advertising portals and

business registries; via dating services and travel planning applications; to games, photo downloads, and chat rooms without any reference to broadcast programs. In addition, each allowed service—including the existing ones—must be tested on three levels to prove that it (a) complies with the basic remit, (b) contributes to "publicistic competition," and (c) gives value in proportion to its costs (Staatsvertrag für Rundfunk und Telemedien, 2008).

This so-called *Drei-Stufen-Test* is at the outset quite similar to the UK version. Both take compliance with the public service task as a first point, and both include a "value for money" assessment. Yet, in step two, the German stands out by adding criteria like pluralism and quality to its market impact assessment (Donders & Pauwels, in press). Additionally, the regulatory context sets it apart: The *Drei-Stufen-Test* is a final measure to be applied to those services that pass the long line of requirements listed in the treaty. As such, the test is part of a regime with a wider scope than the British one—not least as it pertains to existing as well as future services. The question, then, is how it compares to the Norwegian case.

In May 2007, the Norwegian government published a white paper with a proposed revision of the statutes of the public service broadcaster Norsk rikskringkasting (NRK) (Government, 2007). The paper explicitly equalized Internet services' status with radio and television. Further, all "editorial activities" online should be incorporated in the remit. And potential new services should be assessed also with regards to their market impact. The white paper included an outline of a so-called NRK manifesto, describing the overall aims of the organization's public services. Parliament passed it in March 2008, and later revised it in February and May the following year. The manifesto directs the NRK to "be present on, and develop new services for, all important media platforms in order to reach as widely as possible with its complete program provision" (Government, 2007, p. 99). Yet, the document did not entail any new statutory regulations.

Such measures were presented in mid-2009. Following up on its intention stated in the 2007 white paper to assess potential new public services against their market impact, the Ministry of Cultural and Church Affairs (MCCA) now invited a public hearing on a "proposal for regulations of a procedure for advance approval of new NRK services" (MCCA, 2009). The scheme introduced a two-step assessment. The first step asks whether or not a new service needs advance approval. Only services that "constitute a significant change to the [NRK's] existing public service broadcasting output" warrant approval. In deciding, four further concerns are mentioned: whether or not the initiative stands out from existing services in the NRK's remit, whether or not the service is permanent, the effect on the market, and the costs (MCCA, 2009). If a new service needs formal approval, it moves on to step two. Here, the service must first be said to fulfill democratic, social, and cultural needs in society. If so, its approval depends on a weighing of, on the one hand, its contribution to the fulfillment of the NRK's basic remit and the value it adds to existing market offers, and on the other hand, the service's potential competition-limiting effects.

Although the Norwegian test includes some requirements found in the British and German mechanisms, it again introduces a distinctive layout. The Norwegian version consists of a qualifying step based on several criteria, and a second step weighing two contradictory concerns. As such, the test appears more complicated than the others. Further, the Norwegian case shares a plain market impact assessment with the British—an aspect which is bundled together with considerations of editorial quality and contributions to pluralism in the German regulation. More importantly, given its regulatory context, the Norwegian test's scope is less demanding than the German: like the British it only comes into force for services that contribute a significant change for the NRK output. Such a requirement is not explicitly formulated in the German test. In sum, the national regulatory responses to the supranational competition law processes are distinct in their background, their emergence, and in their content. The question is how they compare when it comes to their actual implementation.

The implementation of the tests

The BBC Trust manages the British public value test. Set up in 2007 following the charter review, the BBC Trust is the governing body of the BBC, and replaced its Board of Governors. The Trust operates independent of BBC management and external bodies, and carries out one of the two parts of the test—the public value assessment. This is done based on a formal application for a potentially significant new service, with supporting evidence, from the BBC management. In parallel, the independent communications regulator Ofcom undertakes the market impact assessment. Both assessments include public consultations, and have a total timeframe of 3 months. Then, the Trust approves or rejects a service based on an overall evaluation (BBC Trust, 2007).

At the time of writing (January 2010), four full tests had been carried out (BBC Trust, 2009a). The first one, initiated in September 2006, was actually commenced by the BBC Governors, and then handed over to the Trust. It concerned the BBC's online video-on-demand application iPlayer. The service was approved with some modifications in April the following year. A second procedure started in May 2007, this time focusing on a planned high-definition television service. Subject to some conditions, the Trust gave its approval in November the same year. Third, in July 2007, the public service broadcaster applied for a so-called tri-media Gaelic service, including a television and radio channel, and increased web presence. A slimmed-down version was approved in January 2008. Fourth, in November 2008, the BBC proposed a web-based local video service across the UK. It was rejected in February 2009, but was granted in a revised version in July the same year. By early 2010, a fifth service—a proposal called Project Canvas, a collaboration between the BBC, Independent Television (ITV), and British Telecom to distribute internet protocol television (IPTV) to living rooms in the UK—had been given a provisional, conditional approval.

This overview shows the new regime in practice: a formalized and transparent process, including public consultations. It also shows the BBC Trust as having a real impact on the development of BBC services. None of the tested services have so far been approved without more or less extensive conditions. These include downscaling and other alterations to the actual service, or they prolong and strengthen the audit process during and after implementation. In the case of Project Canvas, for instance, the Trust asks the BBC to cooperate closely with industry actors to secure consensus around technical standards, and provide access for content providers and Internet service providers on fair terms. Both points should be reported on. A report is also required to assess the project's effects on the partners' incentives to syndicate their content to other platforms. In addition, an independent audit must be carried out of relevant BBC spending to verify that "pre-launch Canvas-related BBC expenditure costs have been or will be shared equally between the partners" (BBC Trust, 2009c). Such detailed terms do arguably matter both for the development of new services, and their actual operation.

The UK processes are also lengthy, averaging on nearly 8 months. Moreover, the extensiveness of the tests means they are costly. The BBC spent €790,000 on developing the Canvas application alone in a 1-year period from July 2008 (BBC Trust, 2009b). Also, after that period, the application still had to pass through another stage of the consultation.

In Germany, the organization of the test is substantially different. The ARD's broadcasting councils and the ZDF's television council are key actors of media governance. Comprising representatives from the government, political parties, and "socially relevant" groups (like religious groups, trade unions, and civil society groups), the councils have the last word in all policy matters and control the interpretation of the remits. The idea is that they should safeguard against abuse of power and "ensure a balance and diversity of opinion" (Humphreys, 1994, p. 142). The test is now the responsibility of the public service broadcasters' internal councils, with the aid of hired external experts in assessing potential market impact.

This is not to ignore the role of the broadcasters themselves. To a considerable degree, they lay the basis for the evaluations. The broadcasters define the scope of the key concept of telemedia, which describes what they are allowed to offer in addition to radio and television. The ZDF, for instance, presents its understanding of telemedia in a 60-page document (ZDF, 2009). This understanding forms the basis for the councils' conduction of the test. In addition, the broadcasters can also comment on the provisional conclusions reached by the councils before a final decision is made. In contrast, the process has no opening for direct audience involvement in the form of a public consultation as the councils are said to represent the audience.

The first *Drei-Stufen-Test* had already been undertaken by the end of 2008, several months before the new regulations were formally introduced. Regional ARD member Norddeutscher Rundfunk's (NDR's) council carried out a test of a planned online video-on-demand service, and approved it (Nünning, 2009, p. 5). By mid-2009, as many as 39 individual tests were being conducted. All these concerned existing online

or videotext services, and came about because the new treaty requires the public service broadcasters to test all their existing activities on platforms beyond radio and television broadcasting before August 2010. Typically, these tests deal with a section of the service. For instance, the economy section of the ARD website (boerse.ard.de), the regional member Westdeutscher Rundfunk's (WDR's) videotext service, and the website of the joint ARD/ZDF children's TV channel (kika.de) are the subjects of three different tests. For each one, the responsible council has hired external consultants (e.g., Deloitte) to assess the cost and value.

Compared to the British situation, the German way to organize the tests appears less cumbersome: One entity undertakes the test with one specific task delegated to external experts. The flip side is a less open process, involving fewer external actors (Meyer, 2009; Sokoll & Bensiger, 2009 for further discussions). Moreover, the amount of work demanded from testing the existing services entails a considerable strain on the councils, illustrated by the fact that the ZDF's television council, for instance, only meets four times a year (Klickerman, 2008, p. 796). Seen in connection with the lack of public consultation, the procedure clearly stands out from the British. Before the provisional approval of Project Canvas, for example, the BBC Trust claimed to have received over 800 responses from individuals and industry stakeholders, and also to have spoken to more than 60 stakeholders (BBC Trust, 2009c). And after that, still another round of consultations was awaiting. Such public outreach is not facilitated by the German mechanism.

Similar to the British case, however, the German regime generates new expenses. Regional ARD member Südwestrundfunk (SWR) spent at least €1.1 million on external advice alone in 2009 (Nünning, 2009). All in all, the tests will cost the ZDF an estimated €1.25 million, whereas the ARD is expected to spend a two-digit million euro sum per year (Digital Fernsehen, 2009; Peters, 2009). Like in the UK, then, considerable public funds are being spent for these tests. In Germany, those sums include direct payment to private consulting firms.

Again, the Norwegian model stands out. According to the proposed procedures, the NRK will send an application for approval of a new service to the Norwegian Media Authority. The authority is the country's media regulator. It is a public administrative body under the MCCA. As such, the Norwegian regulator is less autonomous than, for instance, the British Ofcom. In the domain of Norwegian broadcasting regulations, the ministry instructs the authority, acts as appeal body, and can reverse the authority's decisions. The authority will be responsible, first, for judging whether the proposed service needs to be tested, and, if so, for undertaking the whole test. No later than 8 weeks after submission of a proposal, an advisory statement will be communicated to the ministry, which then makes a final decision.

Awaiting formal decisions, no tests have so far been initiated. Still, the plan does reveal both peculiarities and potential challenges. First, the status of the Norwegian Media Authority as a subordinate of the ministry compels questions of how the necessary arms-length distance from state to broadcaster will be maintained. Second, even more so than in Germany, the Norwegian plan seems incapable of

securing transparency throughout the procedure. It remains unclear, for instance, if and how external experts will contribute to the testing, and whether or not the process facilitates any substantial audience involvement. The 8-week timeframe should include a 3-week period for public consultation—indeed a bold aim. Third, and related, the required swiftness in the overall assessment process is ambitious compared to the experiences in the other cases. With this in mind, it seems obvious that the costs of the proposed implementation will be considerable. Here, size matters. Although it might be possible to secure funds for these expenses in Germany and the UK, transferring them to a significantly smaller state and broadcast market like Norway could entail a disproportionate burden.

To sum up, the implementation of regulatory procedures to assess new public services in these three European states show considerable differences. The responsible entities, the assessment processes, the kind of services being tested, as well as the thrust and timeframes all vary across the cases. The question, then, is how to explain these tendencies, and what it means for our understanding of media governance.

Understanding national differences

The emergence of these tests illustrates a common trend in the governance of public service broadcasting. To meet the demands for more rigorous assessments of public spending correcting market failures, regulatory mechanisms are sought to secure transparency and accountability. Yet, we can neither understand the reasons for the development of these tests, nor grasp their implications, without scrutiny of their societal contexts. The German and Norwegian tests are direct results of European Commission-led policy processes, whereas the British is not. It emerged in a situation where the national political climate was steeped in an audit culture and was ripe for wide-ranging public reforms. In addition, the BBC had been subject to several journalistic controversies (e.g., Hargrave & Shaw 2009, p. 44ff; Meyer, 2009). Moreover, national political cultures might help account for the differences between the cases.[4]

UK media policy in general advances self-regulation, and so all state intervention must be thoroughly legitimized. This can be described as a policy based on a leitmotif of freedom (Vowe, 1999). It could also be labeled neoliberalist to underline the general hostility to state involvement, with the BBC being treated as an exception.

Liberal political systems as in the UK have traditionally championed formal political neutrality in broadcasting. The British model of governance sets out to protect the BBC from direct political control by having the professionals run the operation instead of politicians having management control (Hallin & Mancini, 2004, p. 31). This does not mean an absence of political control. Such control can be indirect and can make use of more or less concealed channels. The characteristics of the model are, however, identifiable in the set up of the public value test: The Trust and Ofcom do formally put the assessment of the new BBC services at an arms-length distance from political interests.

Compared to other liberal systems—such as the United States—the UK stands out with a legacy of conservative statism combined with a historically very strong labor movement. Both these factors modify the liberal tradition's imprint on the political culture. Within this framework, the BBC is engaged in a complicated balance act. Both Conservative and Labour governments have encouraged the organization to pursue global commercial interests while remaining a strong public service provider at home. One of the BBC's public purposes is to drive universal uptake of new information technologies and infrastructures (BBC, 2006). As signalled by the public value tests carried out so far, this aim is constantly balanced against the idea of a market free from public intervention.

Norwegian media governance also sets up a two-sided framework for the NRK: on the one hand, hailing the NRK as a mainly noncommercial broadcaster, and on the other hand, approving an expansive strategy, thus far without much emphasis on any rigid division between the two aims. This somewhat contradictory situation can be understood with reference to a social democratic political culture. Geared toward equality as a social priority, its media policy is expected to involve as many actors as possible in the decision processes to secure consensus and equal opportunities for all (Vowe, 1999). The system has a markedly more elaborate legislative process compared with Britain. Yet, in the actual governance of public service broadcasting, the Norwegian regulatory agency is less clearly put on an arms-length's distance than the case is in the British model. Further, there is by tradition high degree of tolerance for state subsidies of a strong national actor because the small language area corresponds to a market deemed too limited for robust commercial initiatives.

Facing the digital era, these characteristics have produced quite a curious situation for public service broadcasting governance. For instance, as late as in 2007, the Government confessed that the issue of Internet services' place within the NRK remit had never been debated by the parliament, and that the development thus far had been directed by the NRK's own priorities (Government, 2007, p. 99). This generous leeway for the NRK may partly explain the peculiarities of the planned test for new public services in Norway: It seems as a reluctant compliance with competition law requirements, with unclear elements still remaining.

German media policy generally provides greater liberties for private ownership and is geared toward securing a blooming private sector (Hallin & Mancini, 2004, p. 71). The leitmotif of security is deeply rooted in Germany's political culture. Media policy is expected to provide clear rules with specific possibilities for sanctions. It is in effect a conservative policy (Vowe, 1999). To a certain extent, this might also be said about the mechanisms of governance: Whereas the control of British public broadcasting has introduced novel forms of governance (e.g., through Ofcom), the German regime has not. Despite its broadcasting councils, Kleinsteuber describes Germany as a ''developing country'' in relation to governance (Kleinsteuber, 2007, p. 62).

In the governance of public service broadcasting, the formal aim of policymakers is to assign authority beyond the political party system by dividing it among diverse

social and political groups (Hallin & Mancini, 2004, p. 31). The broadcasting system's federal structure means, moreover, that every regional ARD member organization must deal with differing conditions colored by local politics. The German *Länder* (states) have a long history of competing among themselves to attract industry, including private broadcasters. Since the 1980s, this has taken the form of "a pattern of competitive deregulations" by the states (Humphreys, 1994, p. 242). As a result, public service broadcasters had to do without the unified support from a national government enjoyed by the other broadcasters. With the constitutional design of cultural policy in Germany, the competence and authority are under the *Land* (state) jurisdiction, not the national.

Importantly, the German Constitutional Court decisions have been fundamental for the development of the nation's broadcasting sector. The Court has repeatedly stressed the importance of publicly funded broadcasting for public opinion formation (Humphreys, 1994; Lucht, 2006). Such was also the case when the foundation was laid for strategies to handle digitalization. This implies a defense of the public service broadcasters as traditional public organizations, but with little expansion into new areas. Here, legitimacy is tied to counterbalancing marketization. German public service providers are restricted from pursuing an expansive strategy since this is so far reserved for private companies. Although their actual activities in digital media are extensive, the width and scope remain less restrained than in Norway and the UK (Moe, 2008, 2009). In a sense, then, industrial policy arguments work against public service broadcasters' expansive efforts in Germany, in stark contrast to the BBC.

The implementation of these tests in the UK and Germany includes forms of self-regulation in that the newly established BBC Trust and the traditional German broadcasting councils are given key tasks. The upside with ascribing tasks to such actors is a strengthened separation from direct state involvement. For the British broadcaster, the establishment of the BBC Trust meant the end to any direct intervention from the Department of Culture, Media, and Sport when evaluating new services. Such a separation is also much in line with a liberal model of governance. Although they have self-regulation in common, the German procedure differs from the British on the level of actual organization: The undertakings of the broadcasting councils appear less transparent. More pragmatically, whereas the BBC Trust was constructed to govern a modern cross-media organization in a digital era, the German councils were set up decades ago in a very different media system. This clearly impacts on the practices of the two countries' self-regulatory entities. Again, the Norwegian case serves as a contrast to the two others as no comparative self-regulatory agency exists in this model.

Aspects of self-regulation notwithstanding, the tests in all three countries are the result of specific, traditional legislative processes, and firmly grounded in statutory documents—be it Constitutional Court decisions, a Royal Charter, or an Act. When describing the development of new modes of governance, it is important to keep in mind this continued anchoring of mechanisms of self- and coregulation.

Theoretical models that seek to sort different political and media systems are helpful when trying to understand the national differences in the development of public service broadcasting governance (e.g., Hallin & Mancini, 2004; Vowe, 1999). Such general models are nevertheless not sufficient, and we should be careful not to apply them uncritically. As the discussion of specific peculiarities in these cases have illustrated, there is a clear value in explorative, case-based comparative approaches (Humphreys, 2009).

Practices of media policy and regulation do not suddenly change in the digital era. Rather, conditions facing new platforms are to a large extent defined within well-established historical frameworks, and remain dependent on the conditioned legacies of each state's political culture. This is much in line with arguments grounded in new institutionalism. From such a perspective one underlines the path dependency of media organizations and regulatory agencies based on their settings and histories—and how actual media regulation is rooted in these institutional arrangements (Donges, 2007a, p. 327). ''National institutional profiles are persistent and resistant to change'' (Humphreys, 2009, p. 9). Consequently, the transformative potential of new forms of media governance depends on the legacies, conditions, continuities, and dynamics of domestic political cultures—they to a large extent establish and define the latitude of possibility. This is also the case for the testing of new public services.

Conclusion and implications

This article started from the impression that ''governance'' carries with it connotations of new, supranational, and flexible practices for societal control of the media. I have argued that a sound understanding of media governance requires careful study of its parts in specific contexts. Scrutinizing the case of public service broadcasting, I have shown that within a shared European policy framework, there are lasting and substantial national differences in the development, set up, and implementation of new tests made to assess on beforehand proposed additions to public service remits. Rather than replacing traditional policy tools and regulatory actors, the emerging mechanisms alter and add to existing arrangements. If we want to understand the impact of new modes of governance, we are well served by an approach that pays due attention to path dependencies stemming from specific historical, political, and cultural contexts.

Since these tests have only functioned for a limited amount of time, and are still to come into force in many countries, we cannot pass definitive judgments. As I have argued, the specific layout and organization of the test will have to differ in different contexts. Still, all cases seem to be facing a general dilemma: weighing the required transparency and public involvement against the need for swift handling.

The introduction of the tests discussed here should be understood as a symptom of a more general trend that calls for all public spending to be legitimized as meritorious enough to distort the free market. As such, the tests are controversial,

not only among media and policy actors, but also among scholars. In the case of the BBC, some perceive the test as a dynamic addition to traditional static regulations, helping to strengthen issues of accountability and transparency. Accordingly, the instrument is seen to enable modification of public service offers, providing solid ground for expansion for the broadcasters (e.g., Donders & Pauwels, in press). Others argue that the quantification of the value of media services is highly problematic, that it fails to see broadcasting as a complex social and cultural practice, will lead to increased external influence on public service actors, and push them to further adopt a market rationality (e.g., Freedman, 2008, p. 157). From such a perspective, one could also problematize the spending of large sums of public money on cumbersome evaluations undertaken—in the German case—partly by private consultant firms. To a certain extent, these seemingly opposing descriptions refer to different levels. If we take quantifications and their basis in competition law as a given, well-constructed tests could clearly help secure accountability and predictability. Still, on a general level, the tests do indeed set out to operationalize and measure the worth of cultural practices in a way that could fundamentally change European public service media.

We can point to three related key tendencies implicated by the tests, and following from an emerging competition law-based regime. First, the ex ante tests mean having an external actor deciding on beforehand if a specific media service will be worthwhile, as opposed to discussing and evaluating it ex post, after the service has actually been launched. Second, rather than seeing public service broadcasting as a holistic project, where the many parts are assessed as a whole, the new logic is to take out individual parts and assess them in isolation. Third, when testing the value of one such part, the tendency is to restrict public service organizations from engaging with anything commercial actors will take care of. If these tendencies get strengthened and broadened in scope, it will entail a clear break with the practices of governance that has built public service broadcasting across Europe. The challenge remains, then, to define a legitimate remit for comprehensive public service media beyond broadcasting.

Acknowledgment

Notes

1   Public service broadcasting may describe varied forms of policy interventions. In different polities, it encompasses different, also purely commercial, arrangements. This article relates to publicly owned and mainly publicly funded broadcasting organizations (the BBC in the UK, the ARD and the ZDF in Germany, and the NRK in Norway). I use the term "broadcasting" to describe the public service arrangements. This is not to ignore ongoing debates about transferring such arrangements to other media platforms. As I

have argued elsewhere (Moe, in press), these are key issues for media policy. Yet, I use ''broadcasting'' here since it is the point of departure for the analyzed policy discussions.

2   All translations from German and Norwegian are my own.

3   I have taken a cue from Lijphart (1971) on how to avoid a basic difficulty with qualitative comparative research: the ''many variables, small N'' problem. One way around it is to select ''comparable'' cases—meaning cases that are ''similar in a large number of important characteristics (variables) which one wants to treat as constants, but dissimilar as far as those variables are concerned which the researcher wants to relate to each other'' (Lijphart, 1971, p. 687). The anticipated result should allow the researcher to establish relationships among relatively few variables, although many others are being controlled. See also Frendreis (1983) on mixed-system approaches.

4   The following paragraphs build on Moe (2008).

References

Bardoel, J., & d'Haenens, L. (2008). Reinventing public service broadcasting in Europe: Prospects, promises and problems. *Media, Culture & Society*, **30**(3), 337–355.

BBC (2004). *Building public value. Renewing the BBC for a digital world.* Retrieved September 12, 2009, from http://downloads.bbc.co.uk/info/policies/pdf/bpv.pdf

BBC (2006). *Royal charter*. Retrieved August 9, 2008, from http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/charter_agreement/royalchartersealed_sept06.pdf

BBC Trust (2007). *Public Value Test (PVT): Guidance on the conduct of the PVT*. Retrieved January 8, 2010 from http://www.bbc.co.uk/bbctrusts/assets/files/pdf/regulatory_framework/pvt/

BBC Trust (2009a). *Public value tests*. Retrieved September 12, 2009, from http://www.bbc.co.uk/bbctrust/our_work/pvt/index.shtml

BBC Trust (2009b). *Updated costs: Project Canvas*. Retrieved January 8, 2010, from http://www.bbc.co.uk/bbctrust/assets/files/pdf/our_work/canvas/costs.pdf

BBC Trust (2009c). *BBC Trust gives provisional approval to Project Canvas*. Retrieved January 8, 2010, from http://www.bbc.co.uk/bbctrust/news/press_releases/december/canvas.shtml

Coppens, T., & Saeys, F. (2006). Enforcing performance: New approaches to govern public service broadcasting. *Media, Culture & Society*, **28**(2), 261–284.

Digital Fernsehen (2009). *Drei-Stufen-Test kostet ARD und ZDF an die zehn Millionen Euro.* Retrieved September 12, 2009, from http://www.digitalfernsehen.de/news/news_756606.html

Donders, K., & Pauwels, C. (2008). Does EU policy challenge the digital future of public service broadcasting? An analysis of the Commission's state aid approach to digitization and the public service remit of public broadcasting organizations. *Convergence*, **14**(3), 295–311.

Donders, K., & Pauwels, C. (in press). European state aid policy and the introduction of an ex ante evaluation for new media services: Solving public broadcasters' crisis of identity in the digital age?

Donges, P. (2007a). The new institutionalism as a theoretical foundation of media governance. *Communications*, **32**(3), 325–329.

Donges, P. (Ed.) (2007b). *Von der Medienpolitik zur Media Governance?* Köln, Germany: Herbert von Halem Verlag.

European Commission (2009). *Communication from the commission on the application of state aid rules to public service broadcasting,* OJ C 257.

Freedman, D. (2008). *The politics of media policy.* Cambridge, MA: Polity Press.

Frendreis, J. P. (1983). Explanation of validation and detection of covariation. The purpose and logic of comparative analysis. *Comparative Political Studies*, **16**(2), 255–272.

Government (2007). *St.meld. nr. 30 (2006–2007) Kringkasting i en digital fremtid.*

Hargrave, A. M., & Shaw, C. (2009). *Accountability and the public interest in broadcasting.* Basingstoke, UK: Palgrave.

Hallin, D. C., & Mancini, P. (2004). *Comparing media systems—Three models of media and politics.* Cambridge, MA: Cambridge University Press.

Humphreys, P. (1994). *Media and media policy in Germany—The press and broadcasting since 1945.* Oxford, UK: Berg.

Humphreys, P. (2009). *A political scientists's contribution to the comparative study of media systems in Europe: A response to Hallin and Mancini.* Paper presented at the ECREA-CLP workshop New Directions for Communication Policy Research, Zurich.

Jakubowicz, K. (2003). Endgame? Contracts, audits, and the future of public service broadcasting. *Javnost/The Public*, **10**(3), 45–62.

Jakubowicz, K. (2004). A square peg in a round hole: The EU's policy on public service broadcasting. In I. Bondebjerg & P. Golding (Eds.), *European culture and the media* (pp. 277–301). Bristol, UK: Intellect Books.

Kleinsteuber, H. J. (2007). Rundfunkaufsicht zwischen Regulierung und Governance. Zur Rolle von Staat, Wirtschaft und Gesellschaft. In P. Donges (Ed.), *Von der Medienpolitik zur Media Governance?* (pp. 67–83). Köln, Germany: Herbert von Halem Verlag.

Klickermann, P. H. (2008). Reichweite der Onlinepräsenz von öffentlich-rechtlichen Rundfunkanstalten nach dem 12. RÄndStV. *Multimedia und Recht*, **11**, 793–797.

Lijphart, A. (1971). Comparative politics and the comparative method. *The American Political Science Review*, **65**, 682–693.

Lucht, J. (2006). *Der öffentlich-rechtliche Rundfunk: ein Auflaufsmodell? Grundlagen—Analysen—Perspektiven.* Wiesbaden, Germany: VS Verlag.

McQuail, D. (2003). *Media accountability and freedom of publication.* Oxford, UK: Oxford University Press.

Meyer, R. (2009). Falschmünzerei. Drei-Stufen-Test oder "public value"—was passt für Deutschland? In V. Lilienthal (Ed.) *Professionalisierung der Medienaufsicht. Neue Aufgaben für Rundfunkräte—Die Gremiendebatte in epd medien* (pp. 153–161). Wiesbaden, Germany: VS Verlag für Sozialwissenschaften.

Michalis, M. (2007). *Governing European communications.* Lanham, MD: Lexington.

Ministry of Culture and Church Affairs (2009). *Høring—forslag til regler om en prosedyre for forhåndsgodkjenning av nye NRK-tjenester.* Retrieved September 18, 2009, from http://www.regjeringen.no/nb/dep/kkd/dok/hoeringer/hoeringsdok/2009/horing–forslag-til-regler-om-en-prosedy/horingsnotat.html?id=570897

Moe, H. (2008). Commercial services, enclosure and legitimacy: Comparing contexts and strategies for public service media funding and development. In G. F. Lowe & J. Bardoel (Eds.), *From public service broadcasting to public service media. RIPE@2007* (pp. 51–69). Göteborg, Sweden: Nordicom.

Moe, H. (2009). Between supranational competition and national culture? Emerging EU policy and public broadcasters' online services. In I. Bondebjerg & P. Madsen (Eds.), *Media, democracy and European culture* (pp. 307–325) Bristol, UK: Intellect.

Moe, H. (in press). Defining public service beyond broadcasting: The legitimacy of different approaches. *International Journal of Cultural Policy*.

Nünning, V. (2009). Achtung, fertig, Drei-Stufen-Test. *Funkkorrespondenz*, **32**, 5–9.

Peters, T. M. (2009). Was ist eigentlich der Drei-Stufen-Test? *Telemedicus*. Retrieved 12 September, 2009, from http://www.telemedicus.info/article/1160-Was-ist-eigentlich-der-Drei-Stufen-Test.html

Puppis, M. (2007). Media governance as a horizontal extension of media regulation: The importance of self- and co-regulation. *Communications*, **32**(3), 330–336.

Skogerbø, E. (1996). *Privatising the public interest: Conflicts and compromises in Norwegian media politics 1980–1993*. Oslo, Norway: University of Oslo.

Sokoll, K., & Bensinger, V. (2009). Rahmenbedingungen für die Durchführung des Drei-Stufen-Tests. *Arbeitspapiere des Instituts für Rundfunkökonomie an der Universität zu Köln,* no. 252.

Staatsvertrag für Rundfunk und Telemedien (2008). *Zwölfter Rundfunkänderungsstaatsvertrag*.

Syvertsen, T. (2004). *Mediemangfold — Styring av mediene i et globalisert marked*. Kristiansand, Norway: IJ-forlaget.

Vowe, G. (1999). Medienpolitik zwischen Freiheit, Gleichheit und Sicherheit. *Publizistik*, **44**, 395–415.

ZDF (2009). *Konzept der Telemedienangebote des ZDF*. Retrieved 8 August, 2010, from http://www.unternehmen.zdf.de/fileadmin/files/Download_Dokumente/DD_Grundlagen/Telemedienkonzepte/Telemedienkonzept_ZDF.pdf

Governing Public Service Broadcasting:"Public Value Tests" in Different National Contexts

공영방송거버넌스: 여러나라의 국가적 문맥에서의 공적가치 데스트

Hallvard Moe

비교연구로서, 본 논문은 미디어 거버넌스의 새로운 요소들의 함의를 연구한 것이다. 주요 초점은 영국, 독일, 그리고 노르웨이 등 유럽 3개국의 공영방송의 거버넌스에 관한 것이다. 현존하는 모델들을 수정하기위해, 이들 3개국은 새로운 공영방송의 적절성, 시장 영향, 그리고 비용/가치를 판단하기 위해 공적가치테스트라고 불리우는 여러 모델들을 도입하였다. 모든 경우에서, 이러한 척도들은 미디어 정책의 조직과 기관의 형태를 변형시켰다. 이러한 방식으로, 이들 사례들은 미디어 정책들을 새로운 형태로 변형하기 위해 다투는 국가적, 그리고 초국가적 행위자들의 만남을 대표하였다. 테스트들의 발전과 조직을 토론하는과정에서 실제적인 차이들은 공유된 프레임내에서 확인되었다. 이러한 테스트들의 특정한 함의들을 조사하는 것으로, 본 논문은 관련된 행위자들과 척도들은 물론, 범위들이 사안별로 차이가 난다는 것을 주장하고 있다. 이러한 특정한 차이들을 이해하기 위해, 본 논문은 각 정체내에서의 역사적 특이성들을 강조하였다. 이러한 요소들은 공영서비스방송 거버넌스의 발전에서 경로의존성의 존재를 보는데 도움을 주고있다. 결론적으로, 본 논문은 점차 중요성이 더해가는 규제적 체제들의 함의를 논의하였다.

Die Lenkung öffentlich-rechtlichen Rundfunks: "Öffentliche Wertetests" in verschiedenen nationalen Kontexten

Hallvard Moe

Dieser Artikel präsentiert eine Studie zur Einführung neuer Elemente der Media Governance in Großbritannien, Deutschland und Norwegen. Bei dem Versuch, existierende Modelle zu ergänzen, haben die drei Staaten drei verschiedene Versionen von sogenannten „Öffentlichen Wertetests" eingeführt, um Relevanz, Markteinfluss und Kosten/Nutzen von neuen öffentlichen Angeboten zu erfassen. Die Fälle repräsentieren ein Treffen von nationalen und supranationalen Akteuren und den Versuch, verschiedene Medienpolitiken in ein neuartiges Setting einzupassen und bei diesem Prozess, neue Methoden zu entwickeln. Im Rahmen der Entwicklung und Organisation dieser Tests werden substantielle Unterschiede innerhalb eines geteilten Rahmens identifiziert. Mit der Betrachtung der spezifischen Implikationen der Tests wird argumentiert, dass die beteiligten Akteure, die Messinstrumente und die Blickwinkel der Fälle stark variieren.

Gouverner la diffusion de service public : les « tests de valeur publique » dans différents contextes nationaux

Hallvard Moe

Cet article présente une étude de la mise en œuvre de nouveaux éléments de la gouvernance des médias au Royaume-Uni, en Allemagne et en Norvège. Cherchant à modifier les modèles existants, ces trois États ont instauré différentes versions de ce qui est appelé des « tests de valeur publique » afin d'évaluer la pertinence, l'impact sur le marché, le coût et la valeur de tout nouveau service public. Les cas présentent une rencontre d'acteurs nationaux et supranationaux luttant pour qu'un élément de base des politiques médiatiques s'adapte à de nouveaux contextes, tout en développant de nouvelles méthodes au cours du processus. À travers l'analyse du développement et de l'organisation des tests, des différences substantielles sont identifiées dans un même cadre. Grâce à un examen de la mise en œuvre spécifique de chacun des tests, il est argué que les acteurs impliqués, les mesures et l'ampleur du projet varient selon les cas.

管理公共广播电视：不同国家背景下的"公共价值测试"

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【摘要：】

　　本文探讨媒体管理的新元素在英国、德国和挪威的实行。这三个国家为试图修正现有的模型，已经推出了不同版本的所谓的"公共价值测试"来评估新的公共服务的相关性、市场影响以及成本/价值。这些案例表现了国家内外因素的汇合点，它们竭力将媒体政策的主要内容与新形势相适应，并在发展过程中提出新的方法。本文在讨论测试的发展和组织时，发现在一个共同框架下的大量相异之处。通过审视公共价值测试的具体实现，本文认为参与者、测试的量表以及执行范围随案例不同而有所区别。

Gobernando la Emisión de Servicios Públicos:
''Las Pruebas de Valor Público'' en Diferentes Contextos Nacionales
Hallvard Moe

Resumen

Este artículo presenta un estudio de la implementación de los nuevos elementos de gobierno de los medios en el Reino Unido, Alemania, y Noruega. En la búsqueda para enmendar los modelos existentes, estos tres estados han introducido versiones diferentes de las llamadas ''pruebas de valor público'' para evaluar la relevancia, el impacto del mercado, y el costo/valor de cada nuevo servicio público. Los casos representan una reunión de actores nacionales y supra-nacionales luchando para encuadrar un conjunto de políticas de los medios dentro de escenarios nuevos, desarrollando nuevos métodos en el proceso. Al discutir el desarrollo y la organización de las pruebas, diferencias substanciales son identificadas dentro de un encuadre compartido. Al escudriñar las implementaciones específicas de las pruebas, sostenemos que los actores envueltos, las medidas, así como también los alcances varían a través de los casos.