

International Mechanisms for Promoting Freedom of Expression

JOINT DECLARATION ON DIVERSITY IN BROADCASTING

The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information,

Having met with representatives of NGOs, academics and other experts in Amsterdam on 7-8 December 2007, under the auspices of *ARTICLE 19, Global Campaign for Free Expression*, assisted by the *Institute for Information Law (IViR), University of Amsterdam*;

Recalling and reaffirming our Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003, 6 December 2004, 21 December 2005 and 19 December 2006;

Stressing the fundamental importance of diversity in the media to the free flow of information and ideas in society, in terms both of giving voice to and satisfying the information needs and other interests of all, as protected by international guarantees of the right to freedom of expression;

Cognisant, in particular, of the importance of diversity to democracy, social cohesion and broad participation in decision-making;

Aware of the potential of new technologies both to serve as vehicles for promoting diversity but also to pose new threats to diversity, including as a result of the digital divide;

Emphasising the complex nature of diversity, which includes diversity of outlet (types of media) and source (ownership of the media), as well as diversity of content (media output);

Recognising the varied contributions that different types of broadcasters – commercial, public service and community – as well as broadcasters of different reach – local, national, regional and international – make to diversity;

Noting that undue concentration of media ownership, direct or indirect, as well as government control over the media, pose a threat to diversity of the media, as well as other risks, such as concentrating political power in the hands of owners or governing elites;

Stressing that independent public service broadcasters will continue to play an important role in promoting diversity in the new digital broadcasting environment, including through their unique role in providing reliable, high-quality and informative programming;

Mindful of the potential for abuse of regulatory systems for the media to the detriment, among other things, of diversity, particularly where oversight bodies are not sufficiently protected against political or other interference;

Concerned about the growth of a number of threats to the viability of public service broadcasting in different countries, which undermine its ability to fulfil its potential to contribute to media diversity, as well as the failure of many countries to recognise community broadcasting as a distinct type of broadcasting;

Adopt, on 12 December 2007, the following Declaration on Promoting Diversity in the Broadcast Media:

General Points

- Regulation of the media to promote diversity, including governance of public media, is legitimate only if it is undertaken by a body which is protected against political and other forms of unwarranted interference, in accordance with international human rights standards.

- Broad public education and other efforts should be undertaken to promote media literacy and to ensure that all members of society can understand and take advantage of new technologies with a view to bridging the digital divide.
- Transparency should be a hallmark of public policy efforts in the area of broadcasting. This should apply to regulation, ownership, public subsidy schemes and other policy initiatives.
- Low-cost technologies that are widely accessible should be promoted with a view to ensuring broad access to new communications platforms. Technological solutions to traditional problems of access – including in relation to hearing or visual disabilities – should be explored and promoted.
- Measures should be put in place to ensure that government advertising is not used as a vehicle for political interference in the media.

On Diversity of Outlet

- Sufficient ‘space’ should be allocated to broadcasting uses on different communications platforms to ensure that, as a whole, the public is able to receive a range of diverse broadcasting services. In terms of terrestrial dissemination, whether analogue or digital, this implies an appropriate allocation of frequencies for broadcasting uses.
- Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across national frontiers, and non-discriminatory access to support services, such as electronic programme guides.
- Consideration of the impact on access to the media, and on different types of broadcasters, should be taken into account in planning for a transition from analogue to digital broadcasting. This requires a clear plan for switchover that promotes, rather than limits, public interest broadcasting. Measures should be taken to ensure that digital transition costs do not limit the ability of community broadcasters to operate. Where appropriate, consideration should be given to reserving part of the spectrum for analogue radio broadcasting for the medium-term. At least part of the spectrum released through the ‘digital dividend’ should be reserved for broadcasting uses.
- The least intrusive effective system for the administration of broadcasting to promote diversity should become used, taking into account reductions in the problem of scarcity. Licensing, justified by reference to the airwaves as a limited public resource, is not legitimate for Internet broadcasting.
- Special measures are needed to protect and preserve public service broadcasting in the new broadcasting environment. The mandate of public service broadcasters should be clearly set out in law and include, among other things, contributing to diversity, which should go beyond offering different types of programming and include giving voice to, and serving the information needs and interests of, all sectors of society. Innovative funding mechanisms for public service broadcasting should be explored which are sufficient to enable it to deliver its public service mandate, which are guaranteed in advance on a multi-year basis, and which are indexed against inflation.
- Community broadcasting should be explicitly recognised in law as a distinct form of broadcasting, should benefit from fair and simple licensing procedures, should not have to meet stringent technological or other licence criteria, should benefit from concessionary licence fees and should have access to advertising.

On Diversity of Source

- In recognition of the particular importance of media diversity to democracy, special measures, including anti-monopoly rules, should be put in place to prevent undue concentration of media or

cross-media ownership, both horizontal and vertical. Such measures should involve stringent requirements of transparency of media ownership at all levels. They should also involve active monitoring, taking ownership concentration into account in the licensing process, where applicable, prior reporting of major proposed combinations, and powers to prevent such combinations from taking place.

- Consideration should be given to providing support, based on equitable, objective criteria applied in a non-discriminatory fashion, to those wishing to establish new media outlets.

On Diversity of Content

- Policy tools could be used, where this is consistent with international guarantees of freedom of expression, to promote content diversity among and within media outlets.
- Consideration should be given to providing support, based on equitable, objective criteria applied in a non-discriminatory fashion, for the production of content which makes an important contribution to diversity. This might include measures to promote independent content producers, including by requiring public service broadcasters to purchase a minimum quota of their programming from these producers.
- An appropriate balance should be struck between protection of copyright and neighbouring rights, and promoting the free flow of information and ideas in society, including through measures which result in a strengthening of the public domain.

Ambeyi Ligabo
UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti
OSCE Representative on Freedom of the Media

Ignacio Alvarez
OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula
ACHPR Special Rapporteur on Freedom of Expression