

INFORMATION NOTE

Public Service Broadcasting in Germany

1. Definition of public service broadcasting

1.1 In Germany, there is no official definition of public service broadcasting (PSB). In any event, Section 2 of the *Interstate Broadcasting Agreement* signed among the states of Germany stipulates the funding system for PSB and the guidelines on advertising on PSB channels.

2. Overview of the broadcasting services

2.1 In Germany, radio and television broadcasting is administered in a decentralized manner to prevent the exploitation of the media by the government as in the period of the Nazi dictatorship. The two national public service broadcasters, established at different periods after World War II, have been obligated to provide programming that is independent of the government and pluralistic.

Television

2.2 The first national public service broadcaster, the Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD)¹, primarily consists of nine independent regional public service broadcasters established under the respective state law or an interstate broadcasting agreement. The second national public service broadcaster, the Zweites Deutsches Fernsehen (ZDF), is a nation-wide non-profit-making public television broadcaster established by all 16 states. Both ARD and ZDF are financed mainly by television and radio licence fees. There are around 36.7 million television sets currently registered in Germany.²

¹ The English translation of ARD is the Association of Public Broadcasting Corporations in the Federal Republic of Germany.

² ARD. (2006) Available from: <http://www.ard.de/-/id=161952/property=download/kviltf/index.pdf> [Accessed May 2006]

2.3 There are two major commercial broadcasters, the RTL Group³ and the ProSiebenSat.1 Media AG⁴, operating multiple television channels across the country, followed by several smaller broadcasters serving some niche markets. Commercial broadcasters obtain their revenue mainly from advertising.

2.4 Table 1 shows the market share of major television channels in Germany in 2005, with the services of both ARD and ZDF accounting for 13.5% of the total television services.

Table 1 — Market share of major television channels in Germany in 2005

Television channel	% share
ARD	13.5
ZDF	13.5
RTL	13.2
SAT.1	10.9
PRO 7	6.7
Other channels	42.2

Source: *RTL*. (2005) Available from <http://www.rtl-television.de/3731.html#> [Accessed May 2006].

Radio

2.5 According to the Organisation for Economic Co-operation and Development, there were 19 national radio operators and 190 local radio operators in Germany in 2000.⁵ There are around 42.6 million radios registered in the country.

³ The RTL Group is the largest television/radio broadcast and production company in Europe. The Luxembourg-based media group operates television channels and radio stations in Germany as well as in 10 other European countries. In Germany, the RTL Group operates the following channels, namely RTL, RTL II, Super RTL, n-tv and VOX.

⁴ ProSiebenSat.1 Media AG is the largest television corporation in Germany operating four channels, namely SAT.1, ProSieben, kabel eins and N24.

⁵ Organisation for Economic Co-operation and Development. (2001) *OECD Communications Outlook 2001 – Broadcasting Section*.

3. Public service broadcasting

3.1 PSB in Germany is governed by the *Basic Law for the Federal Republic of Germany (Basic Law)* and the *Interstate Broadcasting Agreement*. Accordingly, the constitutional mandate, regulatory framework, editorial independence, sources of funding, corporate governance, distinctiveness from commercial broadcasters are similar between ARD and ZDF. The ensuing paragraphs provide a brief description of the background, mission, services, programme diversity, production and accountability as well as the above issues for both ARD and ZDF.

4. Background

ARD

4.1 ARD was founded in West Germany in 1950. While it primarily consists of nine independent public service broadcasters established under the state law, the tenth member is the international broadcaster, Deutsche Welle, established under the federal law. Their joint task is to provide both public radio and television services to the public in Germany.

ZDF

4.2 Established in 1963, ZDF is the second German television channel for PSB. It is a non-profit-making organization established by a joint agreement among all 16 states in Germany.

5. Mission

5.1 The mission of ARD is to "*serve the public as a whole with programmes providing information, education and entertainment*"⁶, and ZDF has a similar remit to provide information, education and entertainment in its programming, reaching viewers of all ages and in all parts of Germany.

⁶ ARD. (2006) Available from: <http://www.ard.de/-/id=161952/property=download/kvilfq/index.pdf> [Accessed May 2006].

6. Services

ARD

6.1 ARD provides the following services:

- (a) Das Erste (First Channel) – a national television network broadcasting news, sports, entertainment, political and cultural programmes;
- (b) Third Channel – regional television channels operated by ARD members. These channels broadcast regional information, education, cultural and entertainment programmes;
- (c) Cable and satellite channels including:
 - (i) Phoenix – a current affairs and documentary channel jointly operated by ARD and ZDF;
 - (ii) Der Kinderkanal (KI.KA) – a children's channel broadcasting ARD and ZDF programmes without commercials for the young viewers;
 - (iii) 3sat – a satellite cultural channel broadcasting cultural and traditional programmes produced by ARD together with ZDF, and some Austrian and Swiss television broadcasters; and
 - (iv) ARTE – a European cultural channel broadcasting German and French cultural programmes produced by ARD, ZDF and a French company;
- (d) ARD Digital – a group of television channels broadcasting ARD digital television and radio programmes as well as interactive services;
- (e) Radio services broadcasting regional information, entertainment, cultural and musical programmes serving individual states;
- (f) Deutsche Welle, the international broadcaster, broadcasting both television and radio programmes in different languages for overseas viewers and listeners giving them information on the political, cultural and economic situation of Germany;
- (g) ARD joins ZDF to operate Deutschlandradio, a radio channel providing news and cultural programming via two stations in Berlin and Cologne;
- (h) Respective web sites presenting programmes of individual ARD member broadcasters; and
- (i) Other activities.⁷

⁷ Other activities include (a) Degeto Film GmbH, a company purchasing films and television programmes to be broadcast in ARD channels; (b) the German National Broadcasting Archives and the Institut für Rundfunktechnik GmbH, a company responsible for programme research and development; (c) Radio and Television Operations Technology Company, a company responsible for testing and measurements; (d) the School for Radio and TV Technology; (e) the Training Centre Programme; and (f) the Fee Collection Centre.

ZDF

6.2 ZDF operates the Second Channel which broadcasts primarily news and current affairs programmes. In addition to the broadcasting services offered on the Second Channel, ZDF also operates, both individually and with partners, specialized television channels and related media services, including those with ARD as described in paragraph 6.1.

6.3 ZDF maintains an office in each of the state capitals; and the major editorial and production office is in Berlin.

6.4 A subsidiary of ZDF manages programme sales and acquisitions as well as international co-productions and activities in the new media sector.

7. Programme diversity

ARD

7.1 ARD and its member broadcasters provide a wide range of programmes, such as news, education, culture and entertainment programmes, taking into account both the majority and minority interests. ARD members also operate channels offering regional issues, current affairs, documentaries and children and cultural programmes. Special programmes in various languages for respective non-German speaking population are available.

ZDF

7.2 The focus of programming of ZDF is on news and current affairs. It also produces documentaries, drama and sports programmes.

8. Production

ARD

8.1 Member broadcasters contribute television programmes to ARD in accordance with their respective financial capacity. Programming is co-ordinated by a standing committee whose chairman is the programme director of the First Channel. The standing committee is advised by the Fernsehbeirat, an independent television advisory board, whose members are representatives of the Broadcasting Council⁸ of individual member broadcasters.

⁸ The Broadcasting Council is an independent advisory committee ensuring plurality of opinions in programmes broadcast by a broadcaster.

ZDF

8.2 ZDF produces its own programmes as well as joins other national and international broadcasters to co-produce programmes for its channels.

9. Accountability

ARD

9.1 Under the state broadcasting law, ARD members are accountable to their respective state legislature. The state law also has provisions specifying their organization structure, the determination of licence fees and the content of programmes within the framework of the constitutional mandate.

9.2 As regards accountability to the public, ARD is monitored by the Broadcasting Council on its adherence to the public programming mandate.

ZDF

9.3 ZDF is accountable to all of the state legislatures under the *Interstate Broadcasting Agreement*. As regards accountability to the public, it is also monitored by its Broadcasting Council, similar to ARD.

10. Constitutional mandate

10.1 Article 5 of the *Basic Law* stipulates that "*Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources.*" In this connection, the broadcasting media in Germany is constitutionally tasked to provide people free information and opportunities to express their opinions.

11. Regulatory framework

Governing legislation

11.1 All public service broadcasters are established by either state law or an interstate agreement determining their functions and structure. The *Interstate Broadcasting Agreement* concluded by all state governments and ratified by all state parliaments is the general framework for uniform state broadcasting regulations.

Regulatory authorities

11.2 There is no specific regulatory authority for PSB in Germany. The Federal Constitutional Court ruled in 1961 that broadcasting legislation should fall within the jurisdiction of the states, which has led to the enactment of related state legislation. The state legislation covers the organizational structure and funding of the public service broadcasters, the licensing of commercial broadcasters and the fundamental directives on the content of programmes to be broadcast within the framework of the constitutional mandate.

11.3 As the *Basic Law* guarantees freedom of reporting by means of broadcasting, the state governments are not allowed to give directions or interfere in the programming of the public service broadcasters, except to point out when the broadcasters are in breach of the common law.

11.4 While broadcasting issues rest with individual states, the federal government is responsible for administering all matters pertaining to the telecommunications law, which covers the technical transmission of television programmes as well as the copyright issues.

12. Editorial independence

12.1 Article 5 of the *Basic Law* stipulates that "*Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.*" In this connection, the law specifically provides that the media can broadcast and report freely. Government agencies are not allowed to exercise any direct or indirect influence on the content of radio or television programming.

13. Sources of funding

Principle of funding

13.1 Article 11 of the *Interstate Broadcasting Agreement* stipulates that "*public service broadcasting shall be funded in such a way that it is able to meet its constitutional and statutory responsibilities; in particular the funding shall be sufficient to safeguard the existence and development of public service broadcasting.*"

13.2 Except for Deutsche Welle which is funded by tax revenues, according to the *Interstate Broadcasting Agreement*, the main source of funding for PSB is television and radio licence fees, complemented by income from television and radio advertising and other income.

Amount of funding

13.3 While ARD receives about two-thirds of the licence fee revenues and shares among its member broadcasters, ZDF receives almost all the remaining one-third of the total fee revenues. Some 2% of the total fee revenues is distributed to the State Media Authorities, the state government agencies responsible for issuing licences and monitoring the content of television and radio programming.

13.4 In 2004, 82.4% of ARD's funding came from television and radio licence fees, 2.1% from advertising and 15.5% from revenues generated from co-productions, co-financing and marketing of programmes.⁹

13.5 As regards ZDF, 85% of its 2004 funding came from licence fees, 7% from advertising and sponsorship and 8% from revenues from other sources.¹⁰

Distribution of licence fee revenues

13.6 As the total amount of licence fees obtained from a smaller broadcasting area is inevitably less than that from a larger one, the resources available for the former in programme production would correspondingly be smaller. As such, ARD members adopt the revenue equalization system to safeguard the standard and variety of programmes produced and broadcast in all states. The revenue equalization system enables the financially stronger ARD members to support those less well-off. The size of the equalization revenue and its adjustment are determined pursuant to the *Agreement on Funding* signed and agreed by all ARD members.

Determination of licence fee

13.7 The amount of licence fee is determined jointly by the state legislatures. In 2006, the monthly licence fee per household is €17¹¹ (HK\$159)¹² which is higher than the commercial cable service¹³. The commercial satellite service is even free of monthly charges once a household has installed a satellite receiving dish and receivers.

⁹ ARD. (2006) Available from: <http://www.ard.de/-/id=161952/property=download/kvilfq/index.pdf> [Accessed May 2006].

¹⁰ ZDF. (2006) Available from: <http://www.zdf.de/ZDFde/inhalt/0/0,1872,1000000,00.html> [Accessed May 2006].

¹¹ ARD. (2006) Available from: <http://www.ard.de/-/id=161952/property=download/kvilfq/index.pdf> [Accessed May 2006].

¹² The average exchange rate of Euro to Hong Kong Dollar for March 2006 was €1 =HK\$9.33.

¹³ The monthly fee for the commercial cable service is €15 or HK\$140.

Regulation of advertising

13.8 The *Interstate Broadcasting Agreement* stipulates that the total advertising time shall not exceed 20 minutes per day for either ARD or ZDF. Advertisements shall not be broadcast after 8:00 pm nor on Sundays or public holidays.

14. Corporate governance

14.1 Public service broadcasters in Germany have similar organization structure. They are usually headed by a Director-General, who has the sole responsibility for the programming. He or she is obliged to uphold a neutral political stance in the programming and ensure that the content presents a balanced view of the facts. The Director-General is overseen by both the Broadcasting Council and the Administrative Council of the respective public service broadcasters.

Broadcasting Council

14.2 The Broadcasting Council is an independent programme monitoring committee ensuring plurality of opinions. It is composed of elected representatives from the federal legislature, political parties, trade unions, religious communities and business and cultural organizations. The Broadcasting Council advises the public service broadcasters on programming and monitors their adherence to their programming principles.

Administrative Council

14.3 The Administrative Council is the management committee of a public service broadcaster overseeing the administration and finance of the broadcaster. It determines the budget and monitors the management and operation of the organization. Members of the Administrative Council are mostly appointed by the Broadcasting Council.

15. Distinctiveness from commercial broadcasters

15.1 Public service broadcasters in Germany are established by state law or an interstate agreement determining their functions and structure. Funding of the public service broadcasters mainly comes from television and radio licence fees.

15.2 Unlike the public service broadcasters, commercial broadcasters are required to obtain a licence from the respective State Media Authority before they can broadcast. The State Media Authorities are responsible for licensing and monitoring the commercial radio and television channels to ensure content diversity, pluralism of opinions and compliance with the regulation concerning the protection of minors and advertising.

16. Review of public service broadcasting

16.1 There is no information available on whether the government has conducted any review of PSB. Review of individual public service broadcasters has not been conducted.

17. Digitization

17.1 In November 2002, digital terrestrial transmissions were first implemented in the Berlin-Brandenburg region and all analog signals were shut off in August 2003. The Berlin-Brandenburg Media Broadcasting Authority¹⁴ took some measures to facilitate the transition, including a short simulcast period, provision of financial and non-financial support to commercial broadcasters, subsidizing low-income households and developing an extensive consumer education programme. It is planned by the federal government that in 2010 and 2015, the whole country will switch to digital television and radio broadcasting respectively.

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¹⁴ The Berlin-Brandenburg Media Broadcasting Authority organizes and supervises the programming of commercial broadcasters in both Berlin and the surrounding Brandenburg region. It issues licences and allocates frequencies to commercial broadcasters as well as ensuring that all the broadcasting regulations are duly upheld.

References

1. ARD. (2006) Available from: <http://www.ard.de> [Accessed May 2006].
2. Census and Statistics Department. (2006) Available from: <http://www.censtatd.gov.hk/> [Accessed May 2006]
3. Das Deutschland-Portal. (2006) Available from: <http://www.deutschland.de/home.php?lang=2> [Accessed May 2006]
4. Deutsche Welle. (2006) Available from: <http://www.dw-world.com/dw/0,2142,266,00.html> [Accessed May 2006]
5. European Association of Regional Television. (2006) Available from: <http://www.circom-regional.org/states/germany/intro.asp> [Accessed May 2006].
6. Federal Ministry of Economics and Labour and Federal Ministry of Education and Research. (2004) *Information Society Germany 2006 – Action Programme by the Federal Government*.
7. Germany. (1993) *Basic Law for the Federal Republic of Germany (Grundgesetz, GG)*.
8. Germany. (1996) *Interstate broadcasting Agreement (Rundfunkstaatsvertrag)*.
9. IUSCOMP - The Comparative Law Society. (2006) Available from: <http://www.iuscomp.org> [Accessed May 2006]
10. Organisation for Economic Co-operation and Development. (2001) *OECD Communications Outlook 2001 – Broadcasting Section*.
11. ProSiebenSat.1 Media AG. (2006) Available from: http://en.prosiebensat1.com/unternehmen/index_en.php [Accessed May 2006].
12. RTL Group. (2006) Available from: <http://www.rtlgroup.com/AboutUs.htm> [Accessed May 2006].
13. RTL Television. (2006) Available from: <http://www.rtl-television.de> [Accessed May 2006].
14. Wikipedia. (2006) Available from: http://en.wikipedia.org/wiki/Main_Page [Accessed May 2006].
15. ZDF. (2006) Available from: <http://www.zdf.de/ZDFde/inhalt/0/0,1872,1000000,00.html> [Accessed May 2006]