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Television without frontiers: the economic dimension

by Mario Hirsch

With the establishment of a single market in broadcasting for audiences throughout the EC, which is the main aim of the EC Television Directive of 1989, conditions are supposed to be created for the full development of broadcasting activities. Supporters of this initiative, which is in line with the general internal market philosophy, believe that an enlarged market in broadcasting will bring economies of scale and improve the international trading position of member states in both the software and the hardware aspects of broadcasting.

It should be recalled that the new emphasis on the economic dimensions of broadcasting took some time to come about and that until recently broadcasting activities were perceived as being a matter of culture, national identity, education and information. The EC Directive took stock of these changes in perspective and it is likely to enhance a business-oriented approach.

The advent of new delivery technologies such as cable and satellite, which gained speed in the second half of the eighties, put under strain the comfortable position of broadcasting monopolies in most if not all member states. The reliance on these technologies gave also a new international dimension to broadcasting, enabling the setting-up of new cross-border services.

The growing commercialization and internationalization of broadcasting induced governments to loosen the monopolistic outlook of their broadcasting policies. Deregulation became the name of the game and it led to the emergence of a dual sector characterized by the application of market criteria to broadcasting, which became an 'industry' dealing with 'customers' and offering 'products'. The new vista inevitably brought corporate actors and entrepreneurial figures to the fore and led to an increased involvement of banks and financiers in broadcasting.

These new actors were encouraged by prospects of frequencies being put out to tender and of a relaxation of controls on advertising and programming. These incentives proved to be decisive for those eager to exploit the huge and largely untapped European market. According to 1989 estimates by Saatchi and Saatchi \$420 billion in advertising revenue could be available from broadcasting activities in Europe - up from \$3 billion in 1980 and \$9 billion in 1990.

Long before policy activities took shape at Community level, the European Court of Justice had already paved the way in the early eighties by developing case law on transborder broadcasting according to which broadcasts were to be considered as 'services' falling under the free-movement provisions of the EEC Treaty.

These developments induced the need for a common framework for transborder broadcasting of which the 1989 EC Directive is the most prominent example.

Most European governments responded to the changing broadcasting environment by loosening their grip on the sector and by accepting the idea of two sectors in broadcasting. Public service broadcasting had to live with new challenges inevitable in a deregulated climate.

In most countries public broadcasters came to realize that their future would depend on the public's readiness to pay for this service in an environment marked by the abundance of new advertising-driven channels. Entrepreneurial thinking is now permeating most public service broadcasters, sometimes conflicting with their high programming ideals. There is an ongoing debate on the proper financing of broadcasting, the alternatives being a licence fee, advertiser supported services or more recently pay-TV.

This debate is heightened by the pressure caused by the competition for audiences between channels. This competition causes public broadcasters to move away from their programming principles and ideals towards entertainment-led mass audience building, relying on imported material, economizing on production costs or increasing the proportion of repeated material. The 'crisis of public service broadcasting' is especially dramatic in France.

Another issue which is still not sorted out has to do with the proper strategy for operating broadcasting systems. Established public service broadcasters used to be integrated organizations. They produced most of their programmes, compiled these into channels and distributed them. New broadcasters tend to rely on a different approach by assembling schedules from material bought outside of the organization. Because of

the growing programming needs, the dividing line between these two approaches tends to get blurred and the reliance on programming from outside sources is rapidly increasing. Increasingly broadcasters, both public and commercial, come to realize that they cannot hope to produce enough material at the price at which they can obtain material of US origin. Thus, it makes economic sense to import material and given its popularity to show it at peak times.

Trade in programmes has become one of the dominant issues in Europe, be it only for the fact that the channel multiplication has led to a huge increase in the capacity to deliver without adding to the capacity to produce programmes. This is the point where the United States comes into the picture. This situation has produced nightmares in some European countries, despite the fact that the United States has always been around as a programme supplier.

The US is the largest market for television programmes and the country responsible for very large volumes of output of material over long periods of time. The US market is so large and mature that first copy costs can be mostly recovered on domestic distribution, which is of course a decisive advantage and a competitive edge hard to beat when it comes to exports.

There are marked differences between the US and the European television industries, which account for many of the problems Europe encounters while trying to strengthen its broadcasting industry. The US television industry, catering to some 88 million households, earned over \$38 billion in 1988. Export revenues from the rest of the world, primarily Europe (\$844 million) amounted in 1988 to \$1.4 billion. The EC television industry on the other hand, although serving some 112 million households, was worth only \$17.4 billion approximately in 1988. Television exports accounted for only one per cent of total revenues of \$235 million. These figures only partially take into consideration the situation in the cinema industry which looks even less favourable for Europe. Companies of American origin control, on average, 50 per cent of film distribution in Europe.

Because there is already a conspicuous mismatch between supply and demand in Europe, which is likely to widen with the multiplication of channels, policy makers came up with several answers. One of these is the introduction of programme quotas in order to limit the import of film and television programmes from outside the EC. Although the compromise wording reached in the 1989 Directive is rather vague and not legally binding (a 'majority proportion' of transmission time should be reserved to European works 'where practicable and by appropriate means'), it led to severe US criticism as well as criticism from European TV executives who argued that they must have a free flow of programming from the US in order to make their channels attractive and profitable.

The US share of European TV programme markets is currently estimated at below 30 per cent, which means that despite the guideline of a 'majority proportion' of European works, there obviously is abundant room for a considerable increase in US sales to Europe. This alone should indicate that most of the American criticism has no real substance and that from an American point of view there is no real reason to be concerned about a worsening of the terms of trade because of alleged European protectionism.

The whole quota or local content issue should rather be seen as a method of protecting domestic industries in a manner that is akin to the 'infant industry' concept. The 'infant industry' concept is indeed relevant because of the fragmented nature of television broadcasting in Europe, which means, unless it is overcome, that European broadcasters are unable to engage in a continuous flow of high budget productions as long as they cannot recoup costs at home or in an extended European market.

The problem of the shortage of European programmes to fill the abundance of channels is quite fundamental and many people from the industry have a marked preference for joint efforts within Europe and with US companies in the production and programming field instead of trying to set up barriers that are likely to make the situation worse.

It is still very much open to question whether European countries, in spite of the Directive and EC supportive measures such as MEDIA '92, will ever be able to meet the 'majority' requirement of Article 4 of the Directive.

The EC Commission is aware of the problem and determined to take action in order to strengthen the programme industry, the more so now that it has come to realize that by itself the Directive is unlikely to spur an increase in European productions. There are several obvious reasons for this: non English-language programmes do not compete well in foreign markets which denies them the economies of scale needed to produce big budget quality programmes; national regulations and

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particularly quotas have a marked tendency to serve only to increase artificially the volume of programme hours produced and the number of repeats shown.

In a communication to the Council on proposals for an Action Programme (19 April 1990) the EC Commission has outlined the main shortcomings of the European situation:

- The circuits for the distribution of audio-visual works on a European scale are inadequate. Evidence for this is the fact that nearly 90 per cent of European products never go beyond the frontiers of their country of origin. Consequently, better circulation of such products throughout the Community would help to meet the shortfalls in the supply of audio-visual products;
- This implies, of course, that European products can compete with US imports as far as their attractiveness and their price is concerned: this is far from evident since European production capacities are fragile, limited as they tend to be by the excessively narrow structure of the national industries;
- One of the reasons for the inadequate profitability level of European products has to do with the absence of a significant 'secondary market' for television products in Europe. One of the strengths of the US industry has to do precisely with the existence of several secondary markets through which programmes can cascade.

The programme proposed by the Commission sets out to improve the environment of audio-visual businesses without directly intervening in production. The measures envisaged are located up and downstream of audio-visual production along the whole length of the industrial chain. They deal with such diverse matters as training, pre-production, multilingualism, the use of new technologies, distribution mechanisms, commercial promotion, the creation of a 'second market', the strengthening of the financial framework etc.

The aim is to departition the national industries by promoting cross-frontier cooperation networks. Despite these meritorious efforts at Community level, doubt is still being voiced by industry analysts about the reality of the extended European market. They argue that for all the controversy and debate over the minimum guidelines, nearly all but those concerning advertising are 'woolly' and open to interpretation by individual regulatory authorities. Others, such as the Association of Commercial Television in Europe (ACT), are concerned with the whole wisdom of regulating a field which is currently undergoing fundamental transformations. This may, they fear, set restrictions for the future.

It nevertheless remains true that the Directive for one has contributed to a greater predictability and reliability of the regulatory environment new entrants in the field have to face. Hence the Directive will prove to be of great use to channels which are constrained by restrictive national broadcasting rules (e.g. the Netherlands), since it establishes once and for all the basic principles that channels which are authorized by the country of origin and which comply with its minimum standards cannot be blocked for either ownership, content, or commercial reasons.

There are however some tricky questions which are not dealt with by Community measures at this stage. The problems of cross-media ownership or multiple ownership rules remain unsolved at Community level. In view of the fact that large and frequently multimedia concerns with extensive market shares have gained ascendancy in Europe, regulation of these issues would have to pursue three conflicting objectives: viability of the broadcasting system, localism and diversity. Experience from outside Europe indicates however that the achievement of these goals is problematic where commercial television has come to dominate the broadcasting environment to the detriment of the public service concept.

The question of copyright is the other main unresolved issue likely to impede the freedom of broadcasters. Diverging national copyright laws could be used as a means of discriminating against broadcasters. The Commission has indicated recently (Fall 1990) that it is going to propose shortly consistent and relevant solutions to the problems which arise in relation to copyright protection because of differences between national regulations, the effects of international conventions and the complexity of recent technological developments.