

Munkhmandakh Myagmar, Ph.D

Research paper

Transformation of the Mongolian electronic media: prospects of public broadcasting in a dual system

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TRANSFORMATION OF THE MONGOLIAN ELECTRONIC MEDIA: PROSPECTS OF PUBLIC BROADCASTING IN A DUAL SYSTEM

1. Preface

In 1989, the year that is symbolic of major transition for many countries from totalitarian regimes towards a process of democratization, the UNESCO defined and launched a new communication strategy that aimed to be relevant especially to the new transition countries. Its main objective was "to ensure a free flow of information at international as well as national level, and its wider and better balanced dissemination, without any obstacle to the freedom of expression, and to strengthen communication capacities in the developing countries, so that they can participate more actively in the communication process¹. An integral part of this strategy was public service broadcasting, particularly as state owned and controlled broadcasting in many countries, among others also in Mongolia, operated mainly as monopolies and served for the most part only as the mouthpiece of their political administration.

On August 28, 1998, the Mongolian Parliament, the State Great Khural, passed "The law on Freedom of Press". According to the law, "State organizations are forbidden to have their own media organizations" (Article 4, § 4. 1). In conjunction with enacting of this law the State Great Khural adopted the Resolution # 103 on "Some Measures to Enforce the Law on Freedom of Press". According to the resolution, "The Directorate for Radio and TV Affairs and the national news Agency Montsame are to be dismantled as government coordination agencies and to be organized as national public media organizations (§4). The Parliament' Standing Committee on the State Organization was entrusted among other things to elaborate a draft decision regarding the structure, composition and statutes of the broadcast institutions by 15 October, 1998.

Lack of experiences, difference of opinion but also deliberated putting off the issue because of political considerations resulted, that statutes regulating broadcasting in Mongolia in accordance with the Constitution of Mongolia and the "Law on freedom of Press" is still missing, and the National Mongolian Television and Radio as well as broadcast organizations under local Governor's Chancelleries remain in effect in the government's grip.

UNESCO declarations and media strategy documents of other international organizations has been favorite sources for politicians to show their dedication to democracy and media freedom. A legislated policy that enable media to fulfil its democratic mission as means of strengthening citizen's access to and participation in public affairs is, however, missing. This time of contradiction between promises and politics, legal acts and real life may apparently last long in want of sustained public policy action, to include providing the public and interest groups with information necessary to understand the current media policy. The current paper aims to analyze the development of the

¹ Paragraph 243, UNESCO Third Medium Term Plan, 25C/4

media policy in regard to transformation of the Mongolian broadcasting system, explore existing draft laws by comparing them with the practice of more experienced as well as transition countries. The information provided in this paper as well as proposals how to improve the broadcasting policy can contribute first of all to the enlightenment and strengthening of self-interest groups (journalists, professional organizations, media institutions etc.) as potential actors of policy making. At the same time, as the first ever systematic analysis and summary of the endeavors to transform broadcasting in Mongolia and evaluation of the (final) bill with regard to future prospects, this paper can render basic source for politicians to develop a legislated broadcasting policy in accordance with circumstances unique to Mongolia, but also regarding the international development trends in a context of technological revolution, globalization and rise of commercial environment.

2 Mongolian Media in transition

2.1 On the way to freedom of the press

Mongolia, in 1921 proclaimed as the second communist country after the Soviet Union, underwent a fundamental political revolution at the occurrence of the collapse of the Soviet Union. The process of the social transformation was embarked upon Gorbachev's reform concept since the mid-80s and implied first of all a (limited) relaxation of the communication structure: editorial staff were given more freedom to make decisions; journalists got a possibility to argue about controversial issues, although only within the given-from-above framework of "Perestroika". But exactly this period of restricted freedom led to a change in the functioning of the authoritarian communication system. Extension of the thematic scope and assessments going for the first time beyond the usual ritual of socialist self-criticism, comments and declarations have given evidence of the increasing self-confidence of journalists, particularly since such openness in print media still demanded much courage and personal commitment. In the course of this development, the relations between media outlets and the media consumers have changed for the first time: media consumers, who, for seven decades, had been docile recipients of government-fed information, and therefore, object of political manipulation, suddenly found it possible to have their voices heard: by the mass media. Representative opinion pools were conducted for the first time, results of which were used as basis for media programming. Also the perception of readers, listeners and viewers with regard to their roles changed: They began to comprehend that they could influence political decisions. Their interest in politics and their social activity increased. In other words, the social transformation

until 1990 was marked first of all by a changing communication culture. Structural alterations, however, have failed at that time: Essential democratic transformations remained out of the political agenda and, the talk of more independence for the media has not come to provide a legal framework for media freedom. As before, every journalistic activity required permission from the state in the classical sense of licensing journalism. As before, mass media were subordinated to the leading party, so they became identified with political and ideological trends. And as ever, the central style of management by the state has remained the principal source of authority in politics and economy. Changes of personnel and structure in editorial offices, raising of new issues connected with controversial or taboo subjects as well as their presentation in a new way or in new program lines were all made at the journalists' own risk. Nevertheless, the concept of social transformation inspired by Gorbachev has initiated a process of civil emancipation in the society, a process that led, in the end, to the peaceful democratic revolution. This revolution included legalization of multiple and opposing political parties, a dramatically rewritten constitution, a set of free and relatively fair legislative and presidential elections, opening of the market economy, and, last but not least, freedom of the press.

Birth of free press was celebrated already in February 1990 with the first issue of the newspaper "Shine Toly" (New Mirror). Until July 1991, 155 new publications were added to the existing 70 publications, a phenomenon unknown until then.

The newspaper spectrum has expanded considerably to include a wide variety of trends and styles. With the entrenchment of multiparty system, a unified political line for all newspapers has lost its appeal and the ideological tendencies, topical subjects and profiles of the newspapers have multiplied. Characteristic of the situation was the appearance of a considerable number of yellow papers, which were met by great curiosity on the part of the population. However, the unprecedented variety of newspapers caused for the first time also some confusion as well as helplessness and mistrust among readers accustomed to the "central guidance" of the previous era. Nevertheless, 48,8% of the interviewees of a survey conducted by the Mongolian National University in 1994 confirmed that their possibilities of access to information had risen since the quantitative growth of publications.

The government has hardly attempted to stop the enormous spreading of independent newspapers by direct sanctions. Since autumn of 1991, all new publications have been registered at the justice ministry; however, this procedure was of formal nature. The real restrictions came on the financial front: The new independent papers were unprotected in the conditions of economic crisis in the

country, while the government media enjoyed considerable material and financial support from the State. Unequal market conditions threatened the new publications practically in all fields: In the supply of newsprint, printing, marketing and distribution. Newsprint became a scarce commodity because of suspension of supplies from Russia in 1993, so it was rationed. An arrangement which, predictably, favored government newspapers, since the primary publisher in Mongolia at that time was the government's Suhbaatar Publishing House that published about 70% of Mongolia's printed matter. The economic collapse in Mongolia in 1992 – 1994 painfully affected private newspapers: Halted industrial production led to a considerable downsizing of advertising spending; low population density made the market-conditions unfavorable and impeded the newspaper distribution. Against the background of these financial disadvantages, private papers had to charge higher prices as compared to government-owned ones. Naturally, people suffering from a constant depreciation of their incomes were beginning to rely more and more on the information supplied by the relatively less expensive government newspapers and state-run television and radio. A new printing house established in 1996 within the frame of the Danish Development Agency founded "Free press" project improved the situation of the independent print media outlets considerably. Nevertheless, the state run daily newspapers "Ardyn erkh" and "Zasgiin Gazryn medee" dominated the print media market until 1999 by their number of circulation. Also after 1999, as aforementioned newspapers have been privatized, the outlets built up on the basis of these newspapers maintained the leading position on the media market. As of 2001, the two former government run papers "Udriin sonin" and "Zuuny medee" took a share of ... % of the total newspaper sales in Mongolia.

2.2 Development and current situation of electronic media

So far as electronic media are concerned, they have also undergone significant changes since the beginning of the social transformation, even though the broadcast media did not become as rich in colors and in numbers as the print media did.

As of 2001, 31 TV and 37 radio stations were operating in Mongolia. 66 stations were local broadcasts covering up to one or two towns. About 49% of them are owned by local government authorities, only 7% have been operating as public service broadcasts².

The leading position on the electronic media market belongs to the state-owned Mongolian National TV. With a nationwide network of 22 regional and 302 local Intelsat stations the Mongolian National TV covers 98% of the territory of Mongolia, and represents the only TV channel that can be received throughout Mongolia. Established in 1967, it used initially to broadcast about 15 - 20 hours on four - five days a week. Now it has been broadcasting 91 hours, seven days a week.

As the only nationwide broadcast the Mongolian National TV oftentimes faces critics on its monopoly and allegations of being partisan as well as demands to spotlight the entire economic and political life in Mongolia as detailed as possible.³

In 1992 an Ulaanbaatar TV was founded as a local channel for citizens of the capital.

This studio, technically relatively well equipped, is integrated organizationally into the administration of the capital municipality and is funded from the city budget. Initially the Mongolian National Television offered its channel one-day a week so that "UBS" could transmit its own program every Monday for 5 - 6 hours in the capital. Now UBS broadcast on its own channel 65 hours a week. The UBS program can be received in Ulaanbaatar only, however a private broadcaster RGB in Darkhan, the second big city of Mongolia, transmit some of UBS programs on its own channel on the base of an agreement with UBS.

Since the end of 1994, private electronic media have gone through a process of expansion: in addition to the established media, private TV and radio stations were able to gain a foothold after some initial difficulties. Their area of broadcast was, however, confined mainly to the capital first, but since 1995 first private broadcasts have been established in the countryside too. As of the year 2000, 8 out of 29 TV stations were private run. The biggest commercial TV stations with an average weekly transmission time of 30 – 60 hours are mainly operating in urbanized areas as Ulaanbaatar and Darkhan. These are:

² These are radio stations with public service functions, established with the financial support of donor organizations. See Monitoring Mongolian Media 2001. Press Institute. Ulaanbaatar 2001

³ More detailed on MNTV see part: "Excursus: the Mongolian National Television"

- *Eagle TV*, established in 1994 by a joint American Mongolian Christian foundation, weekly transmission time 63 hours
- *MN Channel 25*, established in 1995 by the Mongolian biggest Media Corporation, Mongol news Co, weekly transmission time 33 hours
- *RGB*, established in 1995 in Darkhan-Uul aimag, Darkhan city, weekly transmission time 60 hours.

As in 1995 the first cable operators were authorized, the choice for Mongolian TV viewers has been enriched substantially by further 20-30 foreign channels including world wide news leaders as BBC, CNN, CNBC, Deutsche Welle and entertainment providers MTV, Star TV etc. in addition to the habitually watched Russian channels ORT and RTR, that brought TV series and soap operas to Mongolian homes for the first time.

The situation of radio is similar to that of television. The only radio station that broadcast throughout Mongolia is the state run Mongolian radio. It transmits about 120 hours a week in addition to foreign language programs in English, Japanese, Chinese and Russian.

The first private music-station "Radio Ulaanbaatar 102,5" was founded in 1994 and enjoys a great popularity in the capital, especially among youth. Today in Mongolia out of 33 radio stations 17 are private FM stations established after 1990.

In comparison to print media, changes in radio and television content after 1990 have been less impressive. Although the ideological overtones dominating broadcast media were done away with, television and radio have remained dependant on and therefore under the influence of the state apparatus. Nevertheless, some qualitative changes can still be detected. During the socialist-era TV journalism consisted mainly of commentaries, interviews and features on political and economic topics. The establishment of commercial broadcasts and the increasing role of advertisement under market conditions stipulated, that the broadcast time devoted to "easier" programs like culture magazines and entertainment have notably risen. The trend of media commercializing, in western countries obscured with some caution, has been arising in Mongolia, appreciated and cherished yet.

3. Transformation of the Mongolian broadcasting during the transition period

3.1 Public debate: understanding freedom of media

The freedom of information and expression is an essential foundation of democracy. Only if citizens can freely obtain the information necessary for participation in political and public life and

if there are independent media which reflect a diversity of ideas and opinions, a democratic form of government can be realized.

The Universal Declaration of Human Rights laid down in its Article 19 that:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers".

Article 11 of the EU Charter of Fundamental Rights repeats the same principle, but adds: "The freedom and pluralism of the media shall be respected".

Article 10 of ECHR states, that:

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
2. *The exercise of these freedoms since it carries out with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

In Mongolia the freedom of expression and the right to seek and receive information has been guaranteed by the new constitution adopted in 1992. Initially nobody knew quite right, if and how these freedoms should be specified in a media law. Even though the censorship authority was abolished already in 1989, until summer 1998 there were no legal provisions about prohibition of censorship. Meantime, many people rejected the necessity for a special media law at all: It was not only because of the fear that every new legal regulation could affect the freedom of media, but also because of lack of knowledge and experience in working under the totally new circumstances.

Until August 1998 the Mongolian media landscape in the 90-s was characterized by postulating of the freedom of expression as the basic right, abolition of the censorship authorities and emergence of free publications on the one hand, the absence of a democratic media law and the lasting power

monopoly of the state owned media on the other hand. The existence of this contradictory situation was acknowledged by successive governments as well as by journalists and ordinary citizens.

Even the democratic leadership was initially of the opinion that the main task of the mass media is, above all, the proclamation and explanation of the government policy. Despite their expressed dedication to press freedom, most politicians have had only vague ideas about uncontrolled media. Many politicians were of the solid conviction that under the new social conditions, the government needed its own media, at least for the period of transition, in order to explain their new policies and the new (democratic) values.

From the journalists, only a few could acceptably define the concept of "freedom of the press." A survey conducted in 1994 at the Mongolian National University has emphasized, that 50,9% of the participants were of opinion, that "freedom of the press" refers to "writing about the truth of life".

The question of pluralism in media that rates very high in the public debates about media, with conflicting approaches and opinions creating more confusion than clarity. Although pluralism is claimed to be the most important achievement of the democratic revolution, criticism that the state monopoly in the media field severely hampers the development of pluralistic media and that the freedom of the press is limited to some slogans in tabloids is uttered as fiercely as ever.

The ambiguity surrounding the understanding of the "free press" is also expressed with regard to the concerns related to increasingly commercialized newspapers. Managers, employees and readers alike, people began to recognize and to accept that the market oriented thinking involves a question of "to be or not to be" for the free press. Predictably, as some entrepreneurs took the initiative to make money by publishing newspapers without regard to the professionalism involved in the production of the paper, worries increased about the possibility of a new degeneration of media, this time stemming from the urge for profit, and this at a time when journalists' education level remain far behind the new requirements. Understanding of the freedom of the press arisen the question of journalistic ethics and the problem, whether and how to regulate the free press. Editors-in-chief of boulevard papers such as S.Bayarmunkh from *SERUULEG* argue: "We are just serving the needs of our readers. This a free market we have the freedom to provide supply for market needs. Market forces should impose their own order". But there are also concerns, that a serious discussion about responsibility of journalists is overdue. Nevertheless, except codes of conduct of international journalistic associations translated into Mongolian, there are no guidelines for Mongolian journalists, not to tell about an independent organization which would monitor maintaining of professional standards in Mongolian media.

3.2 The Mongolian Law on Media Freedom

After discussions which took almost 8 years to finish, a special law about media freedom was passed in the summer of 1998. Its main idea was to free the state owned media from the government control and to prohibit censorship. According to the law the former state owned newspapers "Ardyn Erkh" and "Zasgiin Gazryn medee" have been privatized. The State Radio and Television are to be dismantled and organized as national public media institutions. The Parliament Standing Committee on the State Institution was entrusted to elaborate a draft decision regarding the property, the structure, composition and statutes of aforementioned institutions. The media freedom law has several weaknesses that needed to be amended (no consideration about local media, that can not operate without state subsidies, no mention about the right of access to information, no definition of "national public" new institutions etc.). The way, how the 2 former state newspapers have been privatized created much criticism among journalists, and amendment drafts on the restructure the state radio, television and news wire agency to public entities were not passed to the parliament by October 15, 1998, as expected. Nevertheless the media freedom law represented a serious step towards breaking the state's monopoly on news, since it legalized the idea of both private and public media and prohibited state ownership on media, and it brought the discussion on public media up to date.

The Freedom House, that issues annual ratings of freedom of expression around the world, rated Mongolia at 40 as partly free nation in 1994⁴. 7 years later, in 2001 Mongolia was characterized as a country that "is moving clearly but slowly in the direction of diverse private print and broadcast news services", the media freedom ranged 28 with "free media" rated between 0 – 30. (more detailed)

⁴ The current survey rates national print and broadcast freedom on four topics: laws and regulation that influence media content (the actual impact of law as and legal practices, not the ceremonial commitment to press freedom); political pressures and controls on media content (government pressure on the content of either privately owned or state owned media); economic influences over media content (economic pressures, favoritism or reprisals by either the private or government sectors); and repressive actions, including the killing of journalists, physical violence against journalists or facilities, censorship, self-censorship, harassment, or expulsion. The first three items are rated on a 0 to 10 scale while the fourth item is rated on a 0 to 20 scale. Broadcast and print press freedom are evaluated separately. The total rating ranges from 0 to 100, with a free nation rated between 0-30, a partly free nation rated between 31-60, and a not-free nation rated between 61-100.

3.3 Proposals on transformation of broadcasting in Mongolia

3.3.1 Concept of public service broadcasting

The concept of public service broadcasting is an illusive one: it has been changing as the media environment has been changing because of technological developments, proliferation of commercial broadcasts and the rise of competition. Discussions about values, objectives, principles and duties which must be fulfilled if the idea of public service is to be accomplished has been marked by great variety of opinions, thus, it is almost impossible to define what precisely is public service broadcasting.

However, starting out from the classical ideal which traditionally formed the basis for elaborating the public service model in television in most industrialized countries the concept of public service broadcasting can be defined by following, most common principles ⁵:

1. The principle of universality, which implies universality of availability as well as universality of appeal. That means, the public service broadcasting is accessible to all on the national territory, and no one should be disenfranchised by distance or by accident of geography. On the other hand, universality also presupposes that the public service should seek to reach as wide a public as possible. Universality means here the capacity to reach all citizens by means of appropriate programming for a wide range of tastes and interests, covering also special needs of minorities, people disadvantaged by physical or social circumstances.
2. Pluralism which is complementary to the principle of universality, means that public service must be diversified in at least three ways: diversity of programming (ranging from news to fiction, from information to education and entertainment), diversity of audiences addressed (young people, elderly, various minorities etc), and diversity of the subject dealt with (responding to the various interests of the public and reflecting topical social debates).
3. The key principle, that is in fact a precondition for realizing the public service is the independence with regard to private interests and political authorities. A universal and

⁵ Compare among others: Dave Atkinson, Marc Raboy, Public Service Broadcasting: the Challenges of the Twenty-first Century, UNESCO Publishing, 1997

House of Commons, Home Affairs Committee 3rd report, The future of broadcasting, (HCP 262, 1987 – 88), paras 12 and 13, Micael Tracey, The decline and fall of public service broadcasting, Oxford University Press, 1998 Bundesverfassungsgericht, 118/157, Niedersaechs. Landesmediengesetz

diversified service can only be realized when the broadcasting remains distanced from any particular commitment to any particular interest. It follows that the political and economic architecture of this principle is such as to support the making of programs which are good in their own terms, whatever their intended audience. In the making of programs for public broadcasting, there should be no ulterior purpose or motive.

Further, frequently quoted principles of public broadcasting are commitment to national identity and culture, assurance of high standards in technical, professional and other matters to encourage competition in good programming (rather than competition for numbers).

The above mentioned principles do not claim completeness but serve as working guideline to explore to what extent the concept of public service broadcasting has been developed or used to be understood in Mongolia.

In Mongolia the idea about public broadcasting did not emerge just in connection with considerations on how to enact the media freedom law. Public debate on media freedom, bills and proposals how to transform the Mongolian broadcasting illustrate, that the ideal of public broadcasting appeared not all at once but in the course of social changes, including changing of attitudes towards media. As early as in 1991 Z. Altai, the director of Mongolian Radio and Television at that time, put forward a proposal on the "Renewing of the structure, organization and programming of Mongolian TV". According to the proposal on the basis of the existing radio and television two sets of broadcasting have had to be established: the public service broadcasting and the state run radio and television. However, the proposal was not supported by the government and did not meet a bright response of the public as well. In summer 1994 a group of 9 employees of the Mongolian National Television presented a concept of the renewing the organization and structure of Mongolian Television. Among other things the concept included the justification of the necessity of an alteration, general principles of organization and programming and statutes of the governing body. In connection with the concept an opinion pool was conducted among the employees, whereby 90% of participants supported the proposal on the restructure of the Mongolian TV. Nevertheless they did not drum up support of the TV administration and government. The debate about restructuring of the Mongolian Television has been attended by seminars with foreign experts and proposals on the privatization of the electronic media and models of public service broadcasts. However, it should be underlined, that all these efforts in connection with broadcast reform come from national and international NGO-s and journalists themselves, whereas

the government used to proceed quite hesitantly with decision makings concerning liberalization of electronic media. In fact, legal and organizational regulations for a new broadcasting system are still missing as well as a clear formulated government strategy to develop independent and pluralistic media in Mongolia. Nevertheless every proposal to change Mongolian broadcasting system contributed on one hand to a better understanding of the necessity to transform the broadcasting system, and, on the other hand, to draw public attention to the issue respectively keep this issue on agenda.

Until 1998 the main concern of public debate has been the question, if and how the freedom of expression guaranteed in the new Constitution from 1992 has to be defined in a special media law. The primary aim was to ensure the freedom and independence of media, hence the question, what is public service broadcasting and how it should function has not been on the agenda until mid 90-s. Thus, all discussions about broadcasting circulated around the alteration of the state run National Television, the question about transformation of the whole broadcasting system has hardly been arisen.

The first bill that deals with broadcasting has been proposed under the supervision of an American media expert Robert Mulholland in 1994⁶. Two years before, the first democratic Constitution of Mongolia has been adopted, and after the first democratic elections the communist party had won the majority in the parliament. At that time now and then opinions have been expressed about the necessity to dismantle the state monopoly on broadcasting, but the above mentioned proposal did not attract the attention of broad public. The bill accepts, that in Mongolia there're can be a "National Radio" and "National TV", that are financed "to a great extent" by the government, but shall be independent from state authorities. The programming policy of the "National TV" and "National radio" shall be determined by an independent radio and TV committee, all members of which, however, shall be appointed by the President and Parliament. Persons, who can or can not be member of this committee are not defined. Furthermore the bill suggests, that functions of public service can and should be fulfilled by all broadcasts including commercials: all broadcasts are obliged to cover nationwide needs of information, culture, entertainment, education, esteem the principle of pluralism and provide political parties with equal possibilities to express their points of view, their programming shall be independent from state authorities. Almost all main principles of

⁶ Robert Mulholland, 1994, Mongolian Law on free and independent Radio and Television, unpublished draft

public service broadcasting have been covered in the Mulholland's bill even though the word "public service" has not been used. However it fails to see that independence from political interests is not sufficient for independent broadcasting. The whole history of public service broadcasting has been dominated by wisdom, that it can best serve the nation when it remains at arm's length from political but also economic interests.

In 1995 when still the communist party was governing the country, two draft laws has been presented to politicians and public: one has been elaborated by the then President of Mongolia, P.Ochirbat⁷, the other come from the parliament and communist party member, T.Gandi.

P.Ochirbat's bill also suggests that Mongolia should have a national Radio and TV (consisting of Mongolian National Television and Mongolian Radio), that should meet following programming requirements:

- inform about current national and international news and events
- cover educational and entertainment needs of viewers and listeners,
- hold on the principle of pluralism
- provide the citizens with the possibility to take part in the social life by expressing their opinion, as well as to realize their right to control and criticize.
- represent national interests, contribute to the stability and national security

This bill does not affect the main principle, the principle of independence as the distinguishing trait of public service broadcasting. There is a remark, that activities of the National broadcasting committee shall aim to safeguard the independence of broadcasting, which, however, refers not to the National Television and Radio as public broadcasts but to broadcasting in general including commercials.

In the bill by T.Gandi, main objective of which is to secure freedom of information, there are only few references to broadcasting. It accepts state run TV and radio in addition to public and commercial media, but does not define their status and programming principles, except the note, that "activities of the state authorities shall be the main object of information" and "the media are obliged to inform the public promptly about state policy and government resolutions".

Both draft laws, - Ochirbat's and Gandi's- have been intensively discussed in the public, may be because two prominent politicians proposed them. Nevertheless the discussions eased with the time, too.

⁷ P.Ochirbat, Mongolian Law on Public Media (Olon tumnii medeelliin heregslin tuhai Mongol Ulsyn huuli, Yu. Erdenetuya, Mongoliyn Hevlel Medeelliin unuugiin baidal, Ulaanbaatar 1996) (1995)

In 1996 Kh.Naranjargal, journalist and the former director of Mongolian Television, submitted to the respective working group of parliament a proposal on "Basic principles of the Mongolian National Radio and Television statutes". The paper represents recommendations for the statute of the national television and radio, leaving out other electronic media. Even though also in this paper the term "Public service broadcasting" is not used, it was the first ever proposal where main principles of public broadcast mentioned in the beginning of this chapter occur almost completely. At this time the political situation in the country had changed after the Parliament election in summer 1996 and the coalition of the democratic and social-democratic party was governing. Nevertheless, transformation of the Mongolian broadcasting, among others also Naranjargal's did play just a marginal role in the debate on the subject. According to the paper, "The Mongolian National Radio and Television shall be an independent, non-profit, non-governmental organization that serve the society (niigemд uilchildeг)." It shall be independent from any political, economic and other interests and interest groups.

The programming shall fulfil following requirements: high morality, professionalism, pluralism, objectivity, esteem viewers needs.

In all following bills and proposals the idea of public service come with some limitations fairly explicit, and in 1998 the term "Public Broadcast" in a sense of public service media appears for the first time in the "Statute of the NGO Mongolian Public Broadcast". Here public (service) broadcasting is defined as an independent from state organizations and any political, economic and other interest groups, non-profit, non-governmental organization that serve the society". The statute points out that the Mongolian Public Broadcast has a mission to play a leading role in the process of developing a civil democratic society. Diversity of programming in order to meet various needs and interests of viewers and listeners is, however, not substantial in this draft: the only programming requirement to the Public Broadcast is, it shall distribute up-to-date information " that are related to the development of a civil society" and "inform the public about the process of decision making and project implementing of legislative and executive organizations". Some other, ambiguous functions of the public broadcasting occur: for instance, it shall "provide the process of preparing and implementing of projects (by executive organizations) with business administration".

The next two bills have been developed as the result of the Parliament resolution⁸ concerning implementation of the law on media freedom passed in summer 1998, and aimed to provide the

⁸ Law on Freedom of Media August 1998

legal framework for transformation of the National Radio and Television into public service entities. In both drafts the public service broadcasting has been defined to the extent that the main principles named above find a clear expression:

According to the "Law on Mongolian National Radio and TV" draft, 1999 the national Radio and Television is a non-profit, national public institution that is financed by the state.

The mission of the Mongolian National Radio and Television is up-to-date and objective information about national and international news and events covering intellectual, aesthetic needs of viewers at high technical and professional level.

The National Radio and Television shall be independent from the state, respect the rights of public for access to objective information, esteem pluralism and transparency, honor national interests.

Programming policy of the National Radio and TV shall be directed to the strengthening the national security, propagate national traditions and culture and promote patriotism.

After the parliament elections in summer 2000 and a government restructuring a new media working group has been established at the Ministry of Justice and Interior with the assignment to prepare an improved bill on public broadcasting. This bill has been completed in spring 2001 and will be passed to the parliament in fall 2001.

In comparison to all previous proposals this last draft has been essentially improved, even though there are some weak points, too. According to the bill, public broadcasts are radio and television that serve public interests, bear responsibility to the public and operate under public control. The mission of the public broadcasting is to provide the public with up-to-date information about national and international news and events, to cover intellectual, educational needs of viewers and listeners. Activities of the public broadcasting are based on the principle of independence from any political interests, respect of citizens to receive objective information, pluralism, transparency, honoring national interests. The programming of the public broadcasting shall fulfill following requirements:

- true, objective information
- high professional standards
- honoring social stability, high morality

Article 4.1 State organizations are forbidden to have their own media organizations

Resolution implementing the Media Freedom law:

Paragraph 4. The department of the Radio and TV Affairs and the Montsame agency are to be dismantled as government coordination agencies and to be organized as national public media organizations

- plurality in controversial political and economic issues
- editorial independence, honoring ethical principles of journalism
- honoring national heritage, traditions, arts and culture, national unity

This bill as well as the previous one have in common, that political power is seen as the main danger that threaten the independence of broadcasts, while independence from economic interests is not required. Furthermore both bills stress information and education as major functions of public service, whereas entertainment is not considered as the assignment of public broadcast. Both drafts emphasize that pluralism shall be one important principle of public broadcasting, however this requirement comprises first of all pluralism of views (in controversial political and economic issues) but not diversity of program modes and diversity of people addressed.

To sum up, forming of the idea of public service broadcasting has been in Mongolia a learning process caused by democratic changes in the society. Even though during discussions on the transformation the Mongolian Television in the beginning of 90-s first approaches to outline public service broadcasting has been made, establishing of public service broadcasting has been defined as the next aim of media policy not earlier than with the law on media freedom from 1998. Since this time principles and structure of public broadcasting has been definitely put on the agenda of public debate, and the concept of public service broadcasting has found more clear contours. More than 7 draft laws dealing to different extents with the transformation of the National Broadcasting has been presented to media managers and politicians. Most of them have been elaborated independently from each other and not all of them reached the broad interested public. Nevertheless they all have contributed to the understanding of what is and how should function public service broadcasting. The last bill that is going to be discussed during the next parliament session in fall 2002 comprises fairly well the idea of public service broadcasting as it has been originally defined in most European countries. Notwithstanding this draft as well as the most previous bills have some common weaknesses. Starting point of this chapter was the assumption that the most common principles that explicitly distinguish a public service from other broadcasts are the principles of universality, diversity and independence. The main weakness of most proposals on public broadcasting is, that the principle of independence has been defined halfway only, if not missed at all. It has been mentioned, that independence is the fundamental principle, the basic precondition for a functioning public service broadcasting. The importance "to ensure the editorial independence of public service broadcasters against political and economical interference" has been stressed in many international

resolutions and declarations, among others in the Resolution No 1."The Future of Public Service Broadcasting" adopted from the 4th European Ministerial Conference on Mass Media Policy in Prague, 1994. This resolution as well as the recommendation No 10 clearly define, that "the legal framework governing public service broadcasting organizations should clearly stipulate their editorial independence and institutional autonomy, especially in areas such as: the definition of program schedules; the conception and production of programs, the editing and presentation of news and current affairs programs, the organizations of the activities of the service; recruitment, employment and staff management within the service; the purchase, hire, sale and use of goods and services, the management of financial resources, the preparation and execution of the budget..."

It may be connected with the history of communist past and the long tradition of monopoly of state run media, that draft laws proposed in Mongolia, especially the last bills underline the principle of independence of public broadcasting has been determined explicitly with regard to the freedom from political power. In nearly all proposals broadcasting is not seen as economic activity, commercial interests are not considered as a danger for the independence of broadcasts. Meanwhile, rejection of commercial interests and the belief that a public service function and economic interests such as maximizing profits were totally incompatible were the main reason behind the establishment of public broadcasting in almost all advanced countries. Recent developments in global media environment show, that broadcasting is no different from the general economic trends marked by competitiveness and commercialism, and the public broadcast does not remain untouched from this trend unless its independence is ascertained by an appropriated media policy. The question of financing of public broadcasting will be discussed in this paper later, but it has to be noted here, that in addition to the ignorance of the role economic interests the present and previous bills suggest, that the public broadcasting can be founded by nearly all sources: state subsidy, license fee, advertising, program sales, sponsoring and others. The idea of public broadcasting, namely providing of public service by independent and diverse programming in return to recourse to public funds loses under the current bill its justification, all the more the diversity of programming has also been defined partially only.

Public service broadcasting, as it has been traditionally defined, has to be different from commercial broadcasts in a way that it does not resort to "profitable" programs focused on entertainment, but provide a wide range of broadcast types seeking to reflect the diversity of public tastes and to satisfy an aggregate of audiences with different interests. In the most of proposed laws and statutes, however, the principle of balanced and diversified programming in respect to

broadcast mode and audience addressed is omitted, underlining particularly the plurality of opinion to be expressed as the only attribute of diversity. Under these proposals the difference of public broadcast from commercials and hence the legitimacy of public service is endangered to become obscure, since the strength of public service broadcasting that justify its existence is the ability to provide diverse programs in all respects, being not only a forum for exchange of opinions but also providing a service which meets various interests and needs. Omitting to lay explicitly down the principle of diversity of programming while allowing all means of financing in addition to state subsidies and license fee can drag broadcasting in the direction of more profitable programs and hence drive them to the same pattern of programming as the most commercials pursue.

Apart from this, the concept of public service broadcasting can only be realistic if it is defined within the framework of the commercial environment, taking the competitive market context into account, where private actors can not be kept out. Public broadcasting, which traditionally has been set up as the exclusive means of education, protected from competition and commercial pressure, faces nowadays nearly all over the world a crisis of legitimacy. This crisis is being caused by proliferation of private entrepreneurs and development of a multi-channel broadcasting universe that increasingly urge public broadcasts to compete harder for an audience, for purchasing programs, for qualified staff, for financial resources, etc. The reason, why in Mongolia the necessity of a comprehensive broadcasting legislation is denied, or rather disregarded might be the persuasion that there is no competitive environment due to monopoly of the only nationwide radio and television. On the other hand accentuating of the issue on the dismantling of state ownership on media and liberalization of broadcasting from state control might have concealed the other challenge of time, namely, the development of an appropriated legal framework both for private and public broadcasting to ensure their complementary co-existence. This issue will be discussed later.

Financing of public television

The question of financing of public television is a crucial one: the amount of money public television has at its disposal and the sources of funding determine the capacity of public service broadcasting to fulfill its mandate and missions.

The idea that the funding source is an important factor in the elaboration of a program both for public and for private television is discussed at length in the literature.

In the declaration from the conference of the European Broadcasting Union held in Brussels in 1993 it is stated that in order to achieve their objectives public television channels must have a combination of adequate and evaluative funding at their disposal which can call on both public and commercial resources while taking account of national traditions.

The revenue type which is considered to be the most appropriate for public service broadcasting in many countries is license fee. It does not stem from private companies, which could try to abuse their influence for private interests, and it does not stem from direct public revenues of the governments, that could try to abuse its influence for political targets. All broadcasting bills discussed in this paper agree that license fee shall be one of revenue sources of public broadcasting. However, it is widely recognized, that due to the extremely sparse population density of Mongolia, the low number of inhabitants and the weak infrastructure license fee is problematic and would not ensure sufficient income. It is problematic not only in respect to efficiency or fairness of collection of the license fees due to the nomadic way of life of significant number of citizens. Generally it is considered that license fee creates a contractual relationship between broadcast institution and the public: the public feel a greater sense of involvement with public broadcasting, and vice versa, the broadcaster is challenged to fulfill its mandate of public service. In Mongolia, where politicians and media managers, never mind the general public are learning first to understand the mission of public service broadcasting, license fees create more confusion than emphasize the role of public service broadcasting. Not only viewers who does not receive television signals because of technical or other matters feel to be treated unfair, but also commercial broadcasters complain for being disadvantaged and claim to share the license fee with the National Radio and Television. But not only wanting understanding of public service can be blamed for this confusion. Public service broadcasting is emerging in Mongolia in an environment, where commercial broadcasters have been established relatively long ago. Whereas the programming of the state run National Television and Radio has been dependant from political interests, the private broadcasters took over certain public service functions in a sense of providing a forum for different opinions and highlighting social and political problems in the course of social development. Despite of all above mentioned backwards of license fee it should remain one of revenue sources of public service broadcasting. However, additional arrangements to promote the mission of public service broadcasting should be made as well as the mechanism of collecting license fee can be contemplated. Of interest is the experience of the Japanese public service broadcasting NHK: NHK collects the fees itself and at the

same time asks people to comment on the quality of the broadcast service. This way, a portion of bureaucracy can be saved as well as the relation between the broadcaster and its viewers can be strengthened.

Almost all discussed broadcasting bills agree that direct state subsidy will be the main source of revenue of public broadcast institution. The proposal from Kh. Naranjargal and the bill from 1998 suggest that the National Television can apply for state subsidy in order to realize concrete broadcast projects. Apart from the fact that it remains unclear, what kind of projects can be expected to be financed from the state, state subsidy can be seen indeed as the major way of financing. Using public funds has the advantage of keeping public television away from private interests and commercial pressures. However, this type of public funding can cause political dependence with regard to authorities, which determine the amounts. The point at the issue is thus, how to safeguard the sovereignty of the public broadcast institution despite their financial dependence on the state? How to avoid state controlling by arbitrarily withdrawing or reducing the annual subsidy?

In most industrialized countries which highly rate the advantages of independent public service broadcasting (U.K, GERMANY, Switzerland) non-governmental bodies determine the amount of public financing (not only subsidies but also license fee). In case for Mongolia however, this solution of non-governmental decision making has disadvantages that make it scarcely possible to realize. Firstly, it is more costly than the government decision making (e.g. via political elections), and secondly, the willingness, but also capability to participate in collective procedures of decision-making is comparatively low. Hard economic situation in Mongolia, but also lack of experiences and consequently lack of ability to assess the value of public service broadcasting stipulate that the readiness for additional expenses for public broadcasting as well as for other arrangements to reduce above mentioned disadvantages is hardly there.

Under these circumstances the most appropriated solution would be that the amount of the state subsidy would be fixed by the Parliament. However, public broadcasting should be involved in the process by which the funds are fixed. The broadcaster can determine their financial needs under supervision of an expert commission entrusted by law. The latter should exercise competence and objectivity with regard to the question whether the proposed amounts are in keeping with the missions of public service broadcasting and whether they comply with the principles of economy and good management. This solution has in comparison to the fixed percentage of subsidy allocated

by Parliament and included in the Broadcasting act the advantage, that the financial needs can be adjusted to the changing financial needs of public broadcast institution within the context of the development of a competitive environment. In order to avoid state controlling by reducing or withdrawing the amount of proposed subsidies, the Parliament can be obliged to justify grant cuts more specifically, or revenue cuts by Parliament can be limited to a certain percentage, or the amount of state subsidies as the major part of revenue can be indexed in relation to the yearly price changes.

License fee and state subsidy both belong to the same type of financing sources. However there is a remarkable discussion on which system - direct subsidy or license fees - give the political authorities more power over public television.⁹ Although license fees enable the taxpayer to be more aware of what public television is costing him and direct subsidy produces the illusion that these funds come from the government, which is free to distribute them as it sees fit, this is not the point. Inasmuch as no system has been set up to guarantee public television, the fixing of the subsidies or of the price of license fee by political authorities remains a problem as regards the relative autonomy which public television should enjoy. Unless that autonomy is guaranteed, public television will remain open to the criticisms of those who associate it with state television.

In addition to public funds almost all broadcasting bills allow public television to accumulate revenue from all kinds of commercial sources: advertising, sponsorship, merchandising, program sales and others. Market revenues are seen in most countries with a long tradition of public service broadcasting as alternative or rather supplementary sources of funding. In Mongolia, however, the majority of proposals consider market revenues adequate with public financing. In fact, in developing countries such as Mongolia, the missing capacity to provide public broadcasters with sufficient non-market revenues so that market revenues are necessarily accepted as second best revenue for public broadcasters. It is then justified that public service broadcasters in developing countries are financed by market revenues to a higher extent than in developed countries.

Nevertheless discussions on the negative backward effects market revenues have on the type and contents of the programs must be taken into consideration: advertisement can only be raised when

⁹ Sergeant suggests, e.g. that license fees are better than subsidies because they are less political, as if the fixing of the amount of the subsidy were more arbitrary than the fixing of the amount of the license fee. The arbitrary factor is in the fixing procedure for fixing either amount. (J.C.Sergeant, *The BBC in the Hot Seat*, in: D.Atkinson, *Public Service Broadcasting: the Challenges of the Twenty-first Century*, Paris 1997)

the programs reach a high audience of people with high purchasing power - leaving aside the program preferences of poor people, old people (whose purchasing behavior cannot be substantially influenced by advertising any more) and minorities. Consequently, some evidence of an adverse correlation has been realized between the extent to which the public service broadcasting is funded from advertising and the proportion of output dedicated to factual, children's and cultural programming. In Mongolia, defender of market revenues without any limitation argue, that the advertising market is not as big so that market revenue anyway can not bring significant income. However, they must have overseen, that because of its nationwide transmission the Mongolian National Television is also the only one who can attract the most high number of advertisers who want to reach people all over the country. In a long term this means, that the National Television would dominate the advertisement market generating more and more revenue from commercials. The consequence is that on one hand the share of market revenues overweighs at once public revenues, so that commercial interests could dictate the principles of programming. On the other hand, the exclusive monopoly on the advertising market can affect the external plurality and competitive environment in broadcasting, which is as very important for the development of a democratic society. Public broadcasting is being introduced to secure plurality and support competition for good programming, but not to set up a single monopoly and banish other broadcasters.

Apart from this electronic advertisement is thriving in Mongolia almost under absolute free conditions so that at least some limitations to protect youth and children or to prohibit surreptitious advertising, of regulations emphasizing the principle of separating of advertisements and program items should be laid down.

Pragmatic arguments again justify that these kinds of revenues to a limited extent are granted to public broadcasters: as these types of revenues stem from the market, they grant the desirable independence from the governments and thus seem to be suitable for public service broadcasters. Whereas researchers such as Souchon believe that withdrawing advertising from public television could eliminate its need to draw an audience, a former president of the French public television argued, that the " it is the only means of ... guaranteeing television a certain amount of independence: the flow of advertising makes more receptive to viewer demand...and... on the other

hand, it frees broadcasters from certain political-administrative desires and pressure from lobbies"¹⁰.

The arguments continue in support of a fair balance between the income from advertising and the public funds granted to public television. The proportion of commercial revenues compared to the license fee revenues again varies considerably between the different countries in the world: whereas in Japan, the U.K., Germany or Sweden, for instance, more than 90% of the public broadcasting revenues stem from license fees, in other countries, like Italy or Switzerland, advertising revenues have a higher proportion (of about 25% of the total revenues) or a proportion that exceeds that from license fees (like Austria). Some countries even have no license fees at all, but only some kinds of (less abundant) non-market revenues, like private or public donations, (such as Canada, or, to less extent, the USA, for instance) or they do not even have these types of non-market revenues. (In some of these countries (like in Spain) the broadcaster revenues from advertisements are passed on to the governments budgets, out of which the broadcasters are then financed according to the governments decisions. This solution is most negative, as it combines the defects of commercial financing for the program structure and contents and of governmental financing for the political independence of the broadcasters.)

It has been an important progress as the recent bill (Mai 2001) suggested some limitations for advertisement: advertisement should not exceed 10% of the daily program, children programs as well as news programs can not be interrupted with advertisement. It is a question to investigation, whether 10% of daily program will be adequate to counterbalance the total revenue or whether it would be preferable to restrict advertising in certain times instead of to certain percentage of programming.

Excursus: The Mongolian National Television

The Mongolian National Television is the only TV broadcast which can be received nationwide. It was established upon an agreement about "Founding of a Television Center in Ulaanbaatar" between the Soviet and Mongolian government in 1965. The first transmission on a trial basis has

¹⁰ M.Souchon, A Future for Public Television, in: Dave Atkinson and Mark Raboy, Public Service Broadcasting: the Challenges of the Twenty-first Century, Paris 1997

been made on occasion of the 46th anniversary of the Mongolian People's Revolution on July 11, 1967. In September 1967 the Mongolian Television began to operate on a regular basis broadcasting limited hours a week. Due to the vast territory and sparse population density, but also because of the limited financial and technical possibilities the coverage scope of the Mongolian Television was limited to 70 - 80 km until the beginning of 80-s. In order to broadcast in remote areas program records have been sent there on cassettes. It took a while before television played a significant role in Mongolia: only 6 out of 100 households had a TV set in 1970, 14 out of 100 in 1980, and 41 out of 100 in 1990¹¹. A new television center built with the support of the Soviet government in 1988 made it possible to extend the broadcasting hours, and in 1990 it broadcasted 34 hours per week compared to 21 hours per week in 1984. In the course of the 90-s the broadcasting time of the Mongolian Television has been further expanded, and in 2001 its weekly transmission time reached 72 hours. Broadcasting in color SECAM system began in Mongolia in 1981, since 1999 the Mongolian National Television has been broadcasting in the PAL system. The possibility to transmit via the satellite ASIASAT from 1991 and INTELSAT since 1999 as well as expanding of the radio relay net throughout Mongolia allowed the Mongolian National Television to expand its coverage scope, reaching 98% of the territory of Mongolia. However, it must be mentioned, that the nomadic way of life and the lack of electricity limit the factual possibility to receive television signals so that the number of viewers is less than the number of inhabitants residing in the above mentioned territory. Any audience research intending to identify the exact number of TV viewers or Radio listeners has not been conducted in Mongolia yet.

Organizationally the Mongolian Television has been integrated into the state apparatus: it has been placed under the State Committee for Information and Broadcasting, which beyond the Television supervised the Mongolian Radio, the News Agency MONTSAME, the State Photo Center and the Technical Center for Broadcasting. In 1990 the State Committee for Information and Broadcasting was restructured and received a new name: the Mongolian State Directorate for Broadcasting Affairs. Subordinated directly to the government the Directorate has been regulating the Mongolian Radio and Television, it also has been managing the main Transmission Station which previously was affiliated to the Ministry for Telecommunications.

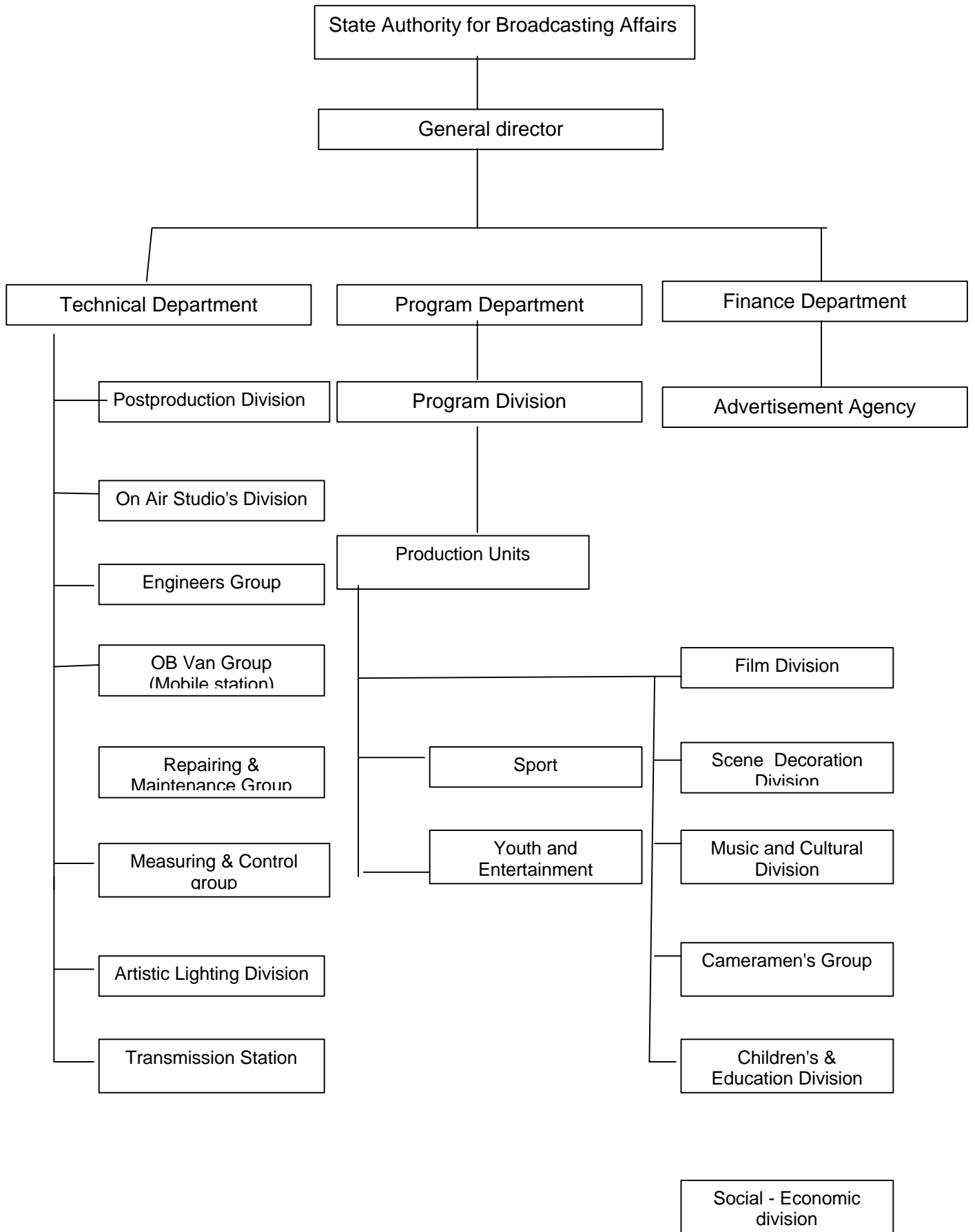
Even though the Law on Freedom of Media from 1998 prohibited state ownership on media and determined that the Mongolian National Television should be transformed into public service

¹¹ National Economy of the MPR for 70 years. Ulaanbaatar 1991. p. 91

broadcasting, it still remains government run. The president of the State Directorate for Broadcasting Affairs which directly control the National Radio and Television is appointed by the government. The Directorate officially represents the State Radio and Television, make reports and propose the annual budget plan to the Parliament, it allocates financial resources for the radio, television, the news agency, which is subordinated to the Directorate but not to the MNTV, running the TV transmission stations as well as for equipment upgrading. Having a total of 200 employees most of which are inspectors to collect the license fee, the Directorate spend an amount of money also for its own activities. The Directorate officially has the power determine the structure of the Radio and Television, but in reality this matter has been settled by respective directors of broadcast institutions.

The position of the director of the radio and television maintains its political status being appointed by the Prime Minister. Every change of the government results immediately in the change of the radio and television personals, first of all of their directors.

The director of the Mongolian National Television has the power to decide internal affairs such as the staff management, programming policy, allocating financial and human resources for production and coordinating daily activities. At present the Mongolian National Television has been organized as follows:



Until recently the technical department was affiliated with the State Committee for Broadcasting and was managed as an independent from the production sector. This clear separation of the equipment from the program production has been a long time subject to criticisms since it impeded the development of the Mongolian Television. In 2000 the technical center was reorganized: each the Radio and Television received respective equipment for their disposal and established their own technical departments. The technical department of the National Television become one of the main departments of the Mongolian Television in addition to program and finance department, subordinated to the general director of the television. Currently further efforts having been done in order to bring the technical resources closer to the program production: some of production units such a youth and entertainment program, sports etc. have got their "own" cameramen, some engineers and certain technical equipment to be able to work creatively as a team. Integrating the technical resources fully into the production units to provide better conditions for efficient and productive work is, however, still a financial matter. "To provide the staff with more and better equipment is our primary assignment, realization of which is, however, restrained by limited financial resources," so the general director of the Mongolian National Television, Ts. Enkhbat. The other problem is, that even though the technical department now have been administered by the National Television, the power to allocate funding for maintenance and upgrading of the equipment has been kept by the Authority for Broadcasting Affairs. The consequence is that the Television Administration or the Technical Department are anyway bound in their initiatives to improve their technical facilities.

The financing of the Mongolian National Television is an issue which especially attract attention. Until the beginning of the 90-s the only financial source of this institution was the state subsidy. With the development of the market system in Mongolia advertisement revenue has come in addition to the state subsidy, and since 1998 "television fee" is also part of the revenue sources. To mention is, that the television fee has been collected in Mongolia since 1972, but it would have been more correct to call it "transmission fee": the whole amount accumulated from households went directly to the Mongolian Telecom to cover transmission costs. Since 1998 collecting and distributing of the financial assets donated by households for "watching TV" has been assigned to

the State Authority for Broadcasting Affairs. The Authority aggregates the direct grants from the state to the amount collected from households and distributes between the Mongolian Radio, Television, transmission station and the technical department of the Mongolian National Television. As mentioned above, part of the funds has been allocated for financing the Broadcasting Authority. Furthermore, from the "television fee" collected in Ulaanbaatar each of the local broadcasters UBS, EAGLE TV and Channel 25 receive 10%. The Mongolian National Television get an amount of 10 Million Mongolian Tugrik (around 9000 USD) per month assigned from the Authority. This grant consists of the state subsidy and "television fee", but neither the director of the National Television, nor the head of the finance department have an idea of how much they receive from their viewers and how much from the state.

The fact, that also commercial broadcasts share this fee with the National Television is actually not wrong: The monopoly of the state owned National Television on the advertising market diminishes the possibility of self-sustainable development of other broadcast institutions. For this reason providing the commercial broadcast institutions with additional funding sources secure to a certain extent pluralism on the electronic media market. But unfortunately this distribution of the "television fee" between UB broadcasts has not been done because of policy driven considerations with the aim to support pluralism of media. The State Directorate for Broadcasting Affairs was forced to share the "television fee" with other broadcasts: they (the UBS, Channel 25 and Eagle TV) claimed strongly on their right to receive funding from viewers for providing them with television programs. Both the demand of commercial broadcasters and the acceptance of the State Directorate for Broadcasting to share the "television fee" reveal that the "television fee" is seen not as payment for providing a certain service to the public but rather as a charge for watching TV in general, independently from the quality and content of the broadcast programs. Also viewers mostly do not care, why and for what reason they pay "television fee" and who receives their money. The fee, included into the monthly apartment rent is hardly considered as something for which certain service can and should be claimed (those who live in a "ger" in UB suburbs and in the countryside pay they fee to television fee inspectors working for the State authority for broadcasting affairs). At this point it must mentioned, that the state Directorate for Broadcasting Affairs has the power to determine the amount of the television fee, and this decision does not have to be done on the base of program evaluation. Thus, the "television fee" in Mongolia can not be determined in a sense of "license fee" used in countries with public service broadcasting. The broadcasting system in Mongolia, the inadequate structure of the Mongolian National Television and Radio and the lack of

legal regulations for public and commercial broadcasts, as well as the lack of understanding of the term and mission of the "public service broadcasting" results in the indefinite term of the "television fee" having been considered by commercials, the Directorate for broadcasting affairs, the National Television and their viewers each in their own way. The "television fee" in Mongolia does not play the role which is assigned to it in public broadcasting systems. The reason why the license fee is preferred in many countries as the main founding source of public broadcasts is that it facilitates the broadcasts to fulfill public service functions by keeping away from commercial interests. In Mongolia, however, the total of television fee and state subsidy do play almost a marginal role in the revenue of the Mongolian Television: at present 14% of the total revenue are covered by public funds (state subsidy and television fee), the remaining 76% come from commercial sources, mainly from advertising. Enactment of the law on public broadcasting would lead to the dissolution of the State Directorate for Broadcasting affairs which again would free the amount of money spent for running the Directorate. But the law, according to the last draft, would also set limitations for advertisement: the share of advertisement should not exceed 10% of the daily programming time. Critics say it would be better to establish limitations for advertisement per hour but not for the whole programming time. Others suggest to prohibit advertisement at all in order to stress the public service functions of the Mongolian National Television¹². But the present director of the National Television Ts. Enkhbat considers, that these proposals are unrealistic and miss any objective foundations based upon calculations. Even confining the advertisement time to 10%, not to talk about prohibition of advertisement, would obstruct the MNTV operation, unless the public funding (state grant + license fee) will be drastically raised. At present about 15% of the weekly programming time is devoted to advertisement, in addition to which come paid programs on demand of companies, political parties etc. The fact that the MNTV is the only broadcast which covers the entire Mongolian territory stipulates that most advertisers are interested to place their ads here, even though the MNTV is also the most expensive one. Since the MNTV is monopolizing the television sector because there are no private national television channels, the high share of advertising revenues do not necessarily mean that the MNTV is dependent on advertisers to the point where its program is affected. The MNTV is in a strong position to negotiate with advertisers so that the influence of advertising on the program is minimal yet. The situation will be different,

¹² "Recommendations of foreign experts to improve the draft law on Public Broadcasting", Good Governance program paper, unpublished. The government of Mongolia, Ulaanbaatar 2002

when the advertising will be regulated so that through a limitation of the advertising time in the MNTV the private televisions have a possibility to compete for this type of income.

As far as the programming is concerned, the Mongolian National Television underwent significant changes from its first trial programs which mostly represented simple programs requiring not much efforts such as poetry recitals and transmissions from concert halls to a wide range of information, entertainment and educational programs. Having neither experiences, nor sufficient qualified staff during its first years, the Mongolian Television solely oriented on the model and experiences of the soviet broadcasting. An important role for the development of the programming but also for the evolution of the television audience played the Russian Program "Orbita" of the Central Soviet Television which can be received in Mongolia since 1970. This program enjoyed great popularity especially among the youth and children. According to an opinion pool conducted in 1976 among young viewers which involved 400 people in the age from 10 to 20 years, 70% of the participants gave preference to the "Orbita", compared to 49% of viewers which favored the Mongolian Television.¹³ The high number of "Orbita" viewers was, however, also justified by its longer transmission time: Already in 1976 "Orbita" could be received daily, whereas the Mongolian Television broadcasted until 1986 four days per week, 4 hours a day only. Only since 1992 the Mongolian National Television began to broadcast daily. At present the Mongolian National Television with 72 hours per week has been broadcasting most extensively.¹⁴ Also its programming structure changed a considerably.

Until the mid 80-s the program of the Mongolian National Television has been characterized by the dominance of "serious" programs such as political information, documentaries and educational programs, whereas entertainment (shows, quiz, contest and music programs) has been reserved for official holidays and weekends. The period of "Glasnost" and "Perestroyka" slightly livened up the program of the MNTV: talk shows and contest programs for youth and children, sometimes also concerts have been now broadcast during "regular" days, too. The social and economic changes in the country since the beginning of 90-s lead to further changes in programming: more entertainment and sports, more youth program at the cost of documentaries can be noticed, even though the share of information programs on social, economic and political issues still dominate. To mention is, that through more broadcasting time (72 hours per week in 2000 instead of 13 in 1972 and 34 in 1990)

¹³ T.Galdan, *Televideniye MNR. Problemy yego stanovleniya I osnovnye tendentsii rasvitiya*. Moskva 1977

¹⁴ *Monitoring Mongolian Media 2000*. Ulaanbaatar, 2001. Press Institute of Mongolia

the choice of MNTV viewers raised: if in the 80-s the MNTV offered 5 - 6 program types per day, the viewers of the 90-s could choose daily between 10 -15 programs.¹⁵

Despite of the above mentioned changes, fundamental alterations in the MNTV have been missing: as ever the MNTV is under control of the government, the old staff of 300 people and the huge apparatus of the state institution remain inflexible for changes, unless the whole structure will be changed. The content of information programs, especially evening news, has been lingering on government biased news, and the restricted technical possibilities limit the quality and design of programs.

However, radical programming alterations have been limited by several factors:

- Financial limitations complicated by the severe economic crisis in Mongolia and the necessity to accumulate revenue from market sources result among other things in low competitiveness on the employment market and technological backwardness.
- Legal status: The Mongolian National Television and Radio are subordinated to the State Directorate for Radio and Television Affairs chief director of which is appointed by the Prime Minister of Mongolia. The government has the possibility directly influence the decision making process in the National TV and Radio.
- Current structure of the MNTV: even though some structural changes have been undertaken in order to improve its effectiveness of operation, its current structure (direct subordination to the State Directorate for Radio and Television Affairs, extensive organization with more than 300 employees and rigid structure of 3 departments and 19 divisions) make the MNTV inflexible for fundamental changes. The backbone of the MNTV, its news programs, have been produced by the "Mongolian News Agency" which is directly subordinated to the directorate, but not to the Television itself.
- Even though several cable operators and commercial broadcasts are competing for the favor of viewers, the central television as the only nationwide television which broadcast original programs has no any real rivals on the market yet: Until now no mechanism for objective audience measurement exist yet, and the Mongolian National Television as the only broadcast with nationwide transmission in Mongolian has been regarded by advertisers as the major player, through which the most number of population throughout the country can be reached.

¹⁵ M.Munkhmandakh. Unterhaltungsanspruch im Wandel. Entwicklung der Medienkultur in der Mongolei seit 1921. Dissertation zur Erlangung des akademischen Grades Dr.rer.pol. Universität Leipzig, 1998

Controlling mechanisms of public service broadcasting

The concept of public service broadcasting implies the right of viewers being served to request that the service meets their interests and expectations. Thus, accountability is central to any public service broadcasting system. On the other hand, public service broadcasting implies independence of broadcasters, particularly the freedom of broadcasters from undesirable political accountability. The public service broadcasting is expected "to be both politically independent and politically accountable, simultaneously controlled and uncontrolled by the government."¹⁶

To reconcile the relative autonomy of public television and its essential accountability, a regulation mechanism must be ensured which allow to distance broadcasting from direct government intervention, while maintaining ultimate government control over it. In many countries the balance between the independence of the regulatory authority and its political accountability has been tried to achieve in a way that the state delegated certain categories of powers to other institutions.

According to S. Robillard¹⁷ five categories of powers of regulatory bodies can be identified: administrative duties in respect of the broadcasting sector such as awarding licenses to broadcast, monitoring duties in respect of programs, duties of making rules and regulation (in a more marginal way), consultative duties and quasi-judicial duties. So for example, the state can maintain its ultimate control by granting licenses to broadcast, but once the broadcasting corporations are established, the governments' power to intervene directly can be restricted by the legal documents, authorizing other institutions to regulate broadcasting. The institutional relationship between regulatory bodies and the state definitely raises the question of the independence of that body in relation to the executive. The answer to this question can be found particularly in the system for appointing members of the regulatory bodies. But it must be also emphasized, that the this question is closely linked to the prevailing political climate and legal traditions of respective countries. In the following we will analyze proposals on control structure of broadcasting in Mongolia, particularly the discussions on the regulatory body of public service broadcasting.

It has been mentioned previously that the establishment of public service broadcasting was proclaimed as an objective on government level for the first time when the law on Media Freedom was adopted in 1998. Until this time bills which dealt with broadcasting in Mongolia suggested a general regulatory body which shall coordinate both commercial and public service broadcasts.

¹⁶ E. Etzioni-Halevy, *Inherent Contradictions of Democracy, "Illustrations from National Broadcasting Corporations"*, in *Comparative Politics*, Vol. 20, No.3, April 1988, p.332

¹⁷ *Television in Europe. Regulatory bodies. Status, Functions and Powers in 35 European Countries*, p.268

These proposals will be discussed later in this paper in relation to limitations for commercial broadcasts.

The parliamentary working group which has been established in relation to the enactment of the Law on Media Freedom in 1998 proposed a board consisting of 9 members one of which shall be nominated by the President, two by the government, three by the parliament and three by professional associations. The persons nominated shall be approved by the President. In the vast majority of European countries, the government, or the supervisory minister nominates members of the regulatory body, and in certain countries such as Bulgaria, Czech Republic, Estonia, Slovenia etc. national parliaments exercise the exclusive power to appoint members of the regulatory body. Independence is a concept only can be assessed by taking into consideration not only legal provisions about the system of nomination but also the political situation and legal traditions of respective countries. In countries like Sweden, where the government is seen as the best guarantor of pluralism, there is no reason to doubt the independence of the government appointed Broadcasting Commission. Even though experiences of other countries such as Belgium, Germany, Latvia etc. show that involvement of specific groups strengthens the independence of the regulatory body, it would be dangerous to come for this reason to a conclusion that all regulatory bodies which do not include representatives of the society were not independent. And in contrary, in countries like Mongolia even the presence of professional associations can not be seen as the guarantee for the independence of the regulatory body, if we take into account the legal "traditions" of 70 years political partisanship which is the prevailing attribute of the social life even today. Regarding the current political situation where the vast majority of the Parliament (72 of 76 seats) is represented by the communist party, the situation is even worse: the danger of decisive influences of the governing party would be under this bill unavoidable.

The "improved" version of this bill which has been elaborated by a newly appointed working group at the Ministry of Justice and Interior after Parliament elections in summer 1999 proposed, that all 9 members of the Council will be nominated by the Parliament, Prime Minister and President and approved by the Prime Minister. The fear for ultimate political controlling over the broadcasting council and suggestions to include media representatives have been expressed several times during discussions on this subject. Critics constantly stressed that a politically non-aligned board shall oversee the public service broadcast, and experts suggested various options feasible for the

democratic selection of the board members to ensure the independence of the regulatory body. Neither critics on the previous bills, nor foreign expert advises, nor recent political situation of one party monopoly in the Parliament has been taken into consideration. The last draft law on public broadcasting explicitly shows that not only lack of knowledge and experiences impede the transformation process of state run Television and Radio. Lack of political will and thus, lack of a consequent media policy are unquestionably in play. Meantime, for Mongolia with its only nationwide Radio and Television it is extremely important that the National Broadcasting is enabled to fulfill an independent public service mission. And if politicians are not willing to realize this, it is a question of wanting sustained public policy action, to include providing the public and interest groups with information necessary to understand the current media policy.

Beyond the system for appointing members of the regulatory body there is an other essential element which influences the proper fulfillment of the functions of the regulatory body. These are the qualities of the governing body members. The qualifications and qualities of board members as well as the definition who can not be a member must be clearly defined in the legal act in order to ensure, that the members of the regulating body of public service broadcasting are able to place public interest above private interests. It is difficult to imagine an ideal model which can be applied everywhere, owing to the different political cultures in the various democratic countries. Ideally people with experience and expertise in the television world plus the ability to act in the public interest beyond political allegiances are desirable.

The first version of the draft law elaborated after the adoption of the Media Freedom law in Mongolia did not determine the qualities the board members should possess. However in the next, improved bill from May, 2001 we can identify that members of the regulatory body should be "high qualified persons in economy, financing, management, legal practice, journalism and media technology, with working experiences not less then 5 years, not convicted for committing a crime, citizen of Mongolia".

Both drafts include lists of exclusions for membership of the Board. E.g. the last bill suggests, that the membership is not open to any holder of political office, to anyone who is professionally involved in broadcasting. In some countries such as Poland and Czech Republic the list is extended to close relatives of persons with conflict interest. Despite the evidence that family relationships are virtually the determining element of the social life due to cultural traditions of Mongolia, the above mentioned exclusion is not considered in draft laws.

According to FranÇois Jongen¹⁸ there is self-regulation when "within one sole and single radio and television institution, a body structurally built into that institution will be explicitly endowed with a special policing power in pursuance of a plainly defined end, and will be personally responsible for any action it may carry out within that framework." Independently from the type of power authorities with responsibility for broadcasting exercise it is quite common that the majority of regulatory bodies enjoy the power to supervise the program content. This responsibility can be exercised on a case by case basis: a breach of principles of objectivity of information, a breach of the rules on high moral standards (violence, protection of minors). The authority can also conduct quantitative monitoring: by making detailed checks, they can verify whether a broadcaster is respecting his obligations to screen certain quotas of programs: independent productions, information, cultural, educational programs etc. This type of monitoring can have indirect effect on financing in the broadcasting sector when it focuses on restrictions of advertising and sponsorship. As the French CSA has pointed out: "The function of monitoring is one of the nerve centers of regulation. The legislation and the rules, the commitments and obligations set down in agreements... are what make up the juridical framework for freedom of communication. These would scarcely be effective if it were not possible at all times to ensure they were being respected."¹⁹ How effective the monitoring is, depends of the range of sanctions and the efficiency of implementation, but also on the financial and staffing resources made available to the regulatory body.

Some regulatory authorities draw up codes of conducts from programming. The BBC has such codes, other examples can be found in the Czech Republic, Germany, Greece, Ireland, Netherlands, Poland etc.

When in Mongolia the bills on public broadcasting were under discussion, the question of independence of the governing body was the burning issue. To listen to people involved in working groups, the main purpose of the Board of Governors is not regulate but to be independent. Self-regulation is not considered as an appropriated method of accountability, as the regulatory body shall be independent from the broadcaster too. The bill from 1999 prohibits even, that the Board of Governors intervene into the programming policy, but it does not determine who and how shall assess the broadcasting performance. The main function of the Board of Governors according to both bills is of administrative nature: set the strategy, define the structure, internal rules and regulations of the broadcaster, appoint management, monitor financial activities and present the

¹⁸ Francoius Jongen, in S.Robillard, p.274

¹⁹ CSA, 3d Annual Report, 1991, p.195

financial report to the Parliament. The bill from 2001 proposes, that the Board shall set the programming policy, but it remains unclear, who shall monitor the compliance of programming with the policy, laws and regulations.

An essential element of the realization of public accountability is to establish a procedure to deal with complaints. However, those authorities that have to manage and monitor the broadcasting sector need to be distinguished from those that have an exclusive function to help resolve disputes. The second type can be approached by private individuals. This is true of the "Kommission zur Wahrung des Rundfunkgesetzes" in Austria, the Broadcasting complaints Commission in the United Kingdom, or the Independent Authority for the Examination of Complaints in Switzerland. As far as methods of referral are concerned, the complaint authority has mainly the option of accepting a claim or of taking no further action. But when it comes to the proceedings, some authorities have the power to impose sanctions on the broadcaster, while others only have the option of suggesting administrative sanctions to the competent authority.

In case for Mongolia, the broadcasting bill from 1999 suggested, that the Board of Governors shall proceed all complaints which deal with public broadcasting.

The newer bill does not contain any provisions concerning complaints.

Toward a dual broadcasting system: Limitations for commercial broadcasters

Because the electronic media offer tremendous advantages such as immediacy, mass coverage, authoritativeness, but also because of their immense potential to influence peoples' attitudes - all advanced countries seem to agree on the need for certain regulations concerning the development of entire broadcasting system, though it will limit the liberty of private entrepreneurs in the media sector.

This refers first of all to restrictions concerning licensing: decisions must be made as to who among a number of competing applicants should be licensed and whether a licensee should continue to hold a license. Therefore, licensees must propose and maintain certain technical (and programming standards). A specialized regulatory agencies were introduced in many countries to make those decisions on the basis of a body of accumulated and expert knowledge and practice. In 1948 the Australian Broadcasting Control Board was established, and in the course of the 1950-s similar regulatory agencies were introduced in Japan and Great Britain in order to license newly created

commercial broadcasts. Also newly independent countries such as Czech Republic and Poland created regulatory agencies responsible both for public and commercial sector. The Council for Radio and Television Broadcasting of the Czech Republic has the power to supervise the content of programs in both the commercial and the public sector in order to see whether broadcasters have complied with their obligations. Also the National Broadcasting Council of Poland has got a number of important powers over the private sector. In particular, the Council has supervisory power over the content of private channels. Should e.g. a broadcaster fail to respect his cultural duties or others relating to advertisements and sponsorship, the Council can impose financial sanctions. The Council can also carry out studies and research into the field of audiovisual activities and send the report to the Diet, Senate and the Prime Minister.

Program content is actually the subject of wide-ranging regulations in many national legal systems. Based on the principle that the broadcasting both in public and commercial sectors should take into account public interest, regulations are laid down to provide the framework for guaranteeing a certain quality of program in the system by taking into account cultural diversity and the need to facilitate access for all citizens to educational programs, information and entertainment. Beyond the external control mechanisms mentioned above (such as regulatory agencies developed by legislatures) several levels and forms of internal control of programming are prevalent. Countries where there are large numbers of individually owned and operated stations such as USA, Canada, Japan, Great Britain etc. networks and associations of broadcasters have codes of conduct that influence their programming. Standards usually deal with treatment of sexually explicit material, violence, ethnic minorities, religious and political groups, children and possibly handicapped. A mitigating factor can be here time of broadcast and a number of countries (e.g. Great Britain and Germany) are "looser" with standards governing sex and violence e.g. after 9 p.m. than they are before that hour. Germany also has a federal law regulating program content where the protection of children is concerned, and it applies to radio, TV, cable, satellite and videocassette material. The Broadcasting bill of Russia is similar.

In most countries where there are national associations of broadcasters there is some sort of voluntary code of practices speaking to the need of broadcasters to remember their responsibilities to their audiences. Associations in the United States, Japan, Australia and Canada have more elaborate codes of practice, although the wording often may be just as vague and the penalties just

as unspecified. The U.S National Association of Broadcasters Television Code contained various prohibitions against sexual display but added the statement "unless its portrayal is essential to the plot". The Japanese National Association of Commercial broadcasters Television Code contains similar statements. Both countries feature a great deal of violent fare during prime time hours, and there is little evidence that the codes have had influence over the nature or amount of such programming. Part of the reason may be lack of penalties, although codes can bring peer group pressure to bear on an individual operation which appears to be stepping out of line. Self-regulation, after all, is based at least in part on the idea that if the industry regulates itself, the government will not have to regulate it, or at least not as much. Some national associations have appointed advisory panels for certain activities (children's advertising, medical products), but that is not general practice. Still, national associations and their codes can have an impact on programming.

In many countries guidelines concerning program content include advertising, though nations differ in their approaches to regulating the amount and nature of advertising. Laissez-fair governments tend to leave regulation to "market-place forces": if a station can contract and carry 30 or 40 minutes of ads per hour, as some Latin American stations do on occasion, that's perfectly all right. Nor does it seem to make much difference what the ads promote, whether smoking, astrology, patent medicines or dating services, so long as the product is not illegal. Other governments may encourage broadcasters to regulate themselves in these respects, as the United States, Canada, Japan and Australia do with regard to their private broadcasting sectors; however, those governments also may establish guidelines and even a few prohibitions (e.g. no tobacco product ads, no political advertising) and may charge government commissions or agencies with the responsibility of administering them.

In countries well known for their distinct dual broadcasting system such as Germany, Great Britain, France, the government, usually through the legislative body or the minister responsible for broadcasting, established overall limits on amount and content of advertising: in Germany advertising should not take more than 20% of the entire program of commercials, ads for alcohol and tobacco products are prohibited. In Great Britain private channels can not carry more than 7 Minutes ads per hour. Political and religious advertising as well as advertisement for tobacco and gambling are prohibited. Children program, documentaries and information programs with a duration of less than 30 Minutes can not be interrupted by ads. Similar regulations bind commercials in France, too.

Further subject to restrictions in respect to commercial broadcasters as part of the system relates to the question of media concentrations. Multiple ownership of broadcast properties, according to Heinrich²⁰ can result among others in the growing possibility of media owners to influence the media content, restraint of trade and unfair competition between media, impeding of the access to market etc. To ensure fair competition and counterbalance diversity of program offers as well as to maintain pluralism of opinions, most countries pursue certain policies to remedy against media concentration. The 1996 Telecommunications Act of the USA, for example, stipulates that the television stations owned by a single party cannot reach more than 35 percent of all TV households in the United States. In Germany the share of television broadcaster in the viewer market should not exceed 30%. In France a restriction is prevailing which allow entrepreneurs a share of maximum 49% in one single broadcaster, maximum 20% for foreign investors and there are additional provisions for cross-ownership.

To sum up, in industrialized countries experienced in dual broadcasting system also commercial broadcasts are committed to fulfill certain obligations. Their accountability is outlined by program duties such as an obligation to devote a minimum amount of time for children or educational programs, to observe restrictions concerning depiction of sex, violence and profanity. Furthermore their programming can be restricted by the limitation of the amount of the time allocated to advertising as well as by confining the content of advertising (e.g. prohibition of political or religious advertisement). Almost in all industrialized nations ownership relations are sharply trimmed with the aim to secure fair competition and pluralism on the media market. In view of the immense role broadcasting can play in the society regulation of the whole system including commercial sector has proved necessary: there is no example of a country with a dual broadcasting system, which solely rely on public service broadcasting and do not touch the freedom of private broadcasters.

Unfortunately, in Mongolia the idea of an absolute freedom of media as well the lack of related knowledge and the fear to restrict the constitutional freedom of expression result in the current situation of disregarding the commercial broadcast media as subject to regulation.

²⁰ Heinrich, Juergen: Keine Entwarnung bei Medienkonzentration. Oekonomische und publizistische Konzentration im deutschen Fernsehsektor. In: Media Perspektiven 6/1994 S. 297 - 310

Private electronic media exist in Mongolia since the beginning of 90-s. According to the "Monitoring Mongolian Media"²¹ project, 23 private broadcasters (radio and television, excluding cable operators) have been operating in Mongolia, which make 44 % of all broadcasts. This reality of a dual system has been ignored in the existing legislation as well as in most broadcasting bills proposed during the last 10 years. Even though the broadcasting bills, particularly those proposed before the Law on Media Freedom comprised both commercial and public service media, they hardly include any specific provisions concerning private broadcasters. The only bill which impose both commercials and public service media to fulfill certain obligations has been presented by Robert Mulholland in 1994. According to him all broadcasters independently of their status and affiliation have to stick on the principle of pluralism, maintain a balance between information, education and entertainment, respect national and international legal acts on human right, pornography, violation and privacy.

In the draft law proposed by P.Ochirbat in 1995 there is a provision which prohibits every monopoly in the media sector. The National broadcasting council shall prevent emerging of news monopoly on the media market when granting licenses and take care that a new broadcast does not endanger pluralism of program types. However, the bill neither defines the term "monopoly" nor describes how the council shall prevent its development. The rest of bills concentrate exclusively on the National Radio and Television as public service broadcasts. It must be granted, that private television plays an important role especially in the capital contributing to the diversity of information sources and providing not only entertainment but also an amount of public interest programs. On the other hand it should be considered that the monopoly of the only one nationwide television limits the space for commercial activities of private channels and the program of private electronic media considerably differs from those in industrialized nations. Nevertheless, or exactly that is why the current disregarding of the private actors in Mongolia can lead to an increasing imbalance on the broadcasting market or even dismissing of private broadcast institutions leaving the sole monopoly the National Broadcaster and may be those missionary stations mainly financed from abroad like Eagle TV. Meantime, a dual broadcasting system needs a lively competition to prove its advantages, and competition can only be there where functionally equivalent broadcasts can compete with each other. To mention is that in Mongolia there are no means and traditions for audience measurement, nor any broadcast associations and organizations which would evaluate and influence programming policy. Thus, to create an environment which provide conditions for media

²¹ "Monitoring Mongolian Media - 2001 first half-year. Press Institute, Ulaanbaatar 2001

pluralism and a competition for good, qualitative programming, rather than the competition for audience ratings is the primary challenge in Mongolia. At the very least it should be defined what is permissible in regard to protection of young persons like prohibition of glorifying and trivializing of violence or war and establishment of a time to which violation or programs or depiction of sex cannot be broadcast. Furthermore it is essential to determine principles by which advertisement should be regulated in both public service and private media institutions. E.g. the principle of separating of advertisements and program items respectively prohibition of surreptitious advertising should be laid down. Experiences of other countries show, that mechanisms which guide programming policies such as networks and national organizations could be helpful at least to keep program quality issues on the agenda. At present in Mongolia there's a single association of broadcasters: the Association of Rural Radio Broadcasts, which require its members to follow certain programming guidelines such as plurality of program types and consideration of the listener needs of all social groups. Establishment of an Association of TV broadcasts is under discussion, but there is also much criticism about "too many media associations and organizations for such a little nation". In the current situation of ignorance of the necessity of a comprehensive broadcasting law in Mongolia, broadcaster's networks and associations might not only have some influence on the quality of programming, but also make the public and policy makers aware that only if public and private broadcasters are seen as an entire system, a sustainable development of both institutions can be ensured.

Commercial broadcasts

The broadcast media did not become as rich in colours and in numbers as the newspapers compared with the developments in print media since 1990. The Mongolian National Television is still the only one which cover the entire territory of Mongolia enjoying the exclusive monopoly. Despite some significant changes in the structure of programming of the MNTV²², its general profile as an illiberal government run television remains unchanged. But in relation to the whole broadcasting system in Mongolia an important change took place: for the first time in Mongolia private broadcast media emerged. The start was laid down with the government resolution dated 12. 04. 1993, according to which private broadcast media were allowed to rent the state-owned channels, frequencies and facilities for a minimum of 4 hours a week. Until the end of 1993 the transmission

²² See part "Excursus: the Mongolian National Television"

costs of private broadcasts have been paid from the state budget. This way the vanguard private radio stations "Tenkhleg" (circle) and "Sum" (arrow) could broadcast a while, until the rental contract term exceeded.

Slower developments in the electronic media system in comparison to print media were imposed by financial and technical problems rather than by legal restrictions or scarcity of frequencies. The procedure of granting broadcast licenses is governed by the Law on Telecommunications. According to this law a special state regulatory agency may issue broadcasting licenses for up to 20 years if the applicant fulfill financial, technical, personnel and programming requirements. There is no any specialized agencies or other organizations which control whether the broadcasters comply with the standards which have entitled them to broadcast. The state agency has the right to fine or revoke licenses if certain technical standards are violated. The Ministry of Justice and Interior is responsible for registration of licensed electronic media and licensing of print media, but there are no concrete provisions who shall control whether certain programming restrictions (concerning pornography, violation and promotion of tobacco and alcohol) are followed.

Financial problems to run a TV station arise not only in connection with the purchase of equipment which are expensive, but also due to the limited advertising market as source of revenue. In addition to the low purchasing power of people, little private industry and no tradition for advertising, the only nationwide television monopolizes the advertising market so that revenue capacities for private television are limited.

The first private radio station "Radio Ulaanbaatar 102,5" was founded in 1994. A year later, in 1995 the first private television "RGB" launched broadcasting in the second biggest city of Mongolia, Darkhan. The RGB covered a territory of 30 km from the television tower, transmitting from 8 a.m. to 24 p.m. Working in the beginning with 4 employees and entirely on non-professional equipment (one VHS camera, two VCRs), two satellite dishes (1.9 and 2.6 m), and own 100-w transmitter the RGB produced local news only, which amounted less than 10% of the program. (the rest represented pirate programs from international channels caught by satellite aerial). The major part of its revenue the RGB earns from the selling of classified "announcements", but initially this revenue covered only about twenty percent of operating expenses. In the course of time the RGB could slowly expand the staff and diversify the program with own production. In 2000 RGB had 17 employees, and with 60% own production it become a major competitor for the local broadcast Darkhan TV run by the local government authority.

Almost at the same time as the RGB began broadcasting in Darkhan, the American-Mongolian joint venture MBC and the missionary AMONG Foundation established the EAGLE TV in Ulaanbaatar. As the RGB in Darkhan, the major part of the EAGLE TV program was foreign production, too: it transmitted dubbed CNN news and information program, between which News program in Mongolian and fragments promoting Christian values were placed. In the course of time the Eagle TV broadcasting time expanded from 42 to 63 hours per week, and the share of own production increased from 8%²³ in 1996 to 30% in 2000. (As of 2000 53% is CNN program in English, the rest mixed and/or dubbed program in Mongolian²⁴).

In 1996 the biggest Mongolian Media Corporation "Mongol News", owner of 3 newspapers (one daily two weeklies) and of the FM radio station 102.5 established the TV Channel 25. It broadcast the least hours per week compared to other broadcasts in Ulaanbaatar - 24 hours, but until the end of 1999 Channel 25 was almost the only private broadcast (excluding the Ulaanbaatar TB which is affiliated with the Ulaanbaatar's municipality office) which offered various original program including news, information programs, sport, movies, music etc.

Since 1999 the Eagle TV changed its programming policy, increasing the share of own and dubbed production and reducing transmission of CNN programs English. In 2000 the two commercial broadcasts - Eagle TV and the Channel 25 - could offer a full alternative service in Ulaanbaatar, competing with the Mongolian National Television and the city municipality's Ulaanbaatar TV on the territory of the capital.

The programming structure of these broadcasts as of 2001:

	MNTV	UBS	EAGLE TV	CHANNEL 25
Weekly transmission hours	68	60	56	28
News	18%	10%	52%	16%
Information: Politics & Social	10%	6%	3%	11%
Arts & Culture	4%	1%	2%	3%
Sports	5%	5%	2.5%	3%

²³ Munkhmandakh.M Unterhaltungsanspruch in Wandel. Entwicklung der Medienkultur in der Mongolei since 1921.

²⁴ Monitoring Mongolian Media 2000. Press Institute, Ulaanbaatar 2001

Non-fictional program for Family & Youth (education, household consulting, health programs,)	4%	2%	5%	3%
Children	4%	6%	13%	3%
Music	4%	10%	3%	3%
Non-fictional Entertainment (Shows, games, quiz)	17%	7%	0.5%	4%
Fiction TV Drama, Movies	29%	47%	18%	55%
Other	1%	2%	0	0
Advertisement / Promotional programs	15%	5%	1%	NA

The share of "public interest programs" (news, information, culture, children program) in the entire programming of the National television is relatively low (36%) compared to public service broadcasts in advanced countries (53 % in Germany, 55% in Great Britain, 56% in Australia). But in general the Mongolian National Television offers a wide range of programs in a most balanced way compared to other broadcasts in Ulaanbaatar. The programming of private broadcasts is less balanced: 55% of the Eagle TV programming are news, other categories with the exception of movies and children programs play a marginal role. The Channel 25 is distinctive through emphasizing on the role of information programs on political issues whereas other programs with the exception of news and movies do play a minimal role. The share of public interest programs offered by private broadcasts in Ulaanbaatar amounts to 50%, which is high compared to some countries with a dual broadcasting system: in Germany private broadcasts devote 21% of their broadcasting time to public interest programs, in France and Australia respectively 32%²⁵. Private broadcasts in Mongolia do perform public service functions not only through transmission of public interest programs. In a situation where the Mongolian National Television remains government run the private broadcasts do play a significant role ensuring pluralism of opinions and external plurality on the electronic media market. It must be granted that the Mongolian National

²⁵ I.Hamm, Die Zukunft des dualen Systems. Aufgaben des dualen Rundfunkmarktes im internationalen Vergleich. Gütersloh 1998

Television is seeking to reflect the diversity of public's tastes through different types of broadcasts. It also tries to meet different interests through addressing certain audiences (children, young or elderly people). In this sense the Mongolian National Television fulfill to a certain extent some principles attached to the idea of public service, namely the principles of universality and diversity. But it is lacking in the main requisite of public service, the independence from private interests and political authorities. To fulfill public service, the broadcaster should be able to express current ideas in the society absolutely freely, make possible that through its programming information, opinions and criticism circulate. The current status and structure of the Mongolian National Television stipulate an explicit dependence on political authorities (see part on the Mongolian National Television) and constrain the objectivity of information: critics on the government or the ruling political party are in the MNTV hardly present, the information programs, especially news are clearly aligned with the government and parliament' majority. At this point it must be noticed that also private broadcasts have been bound by partial interests of the owners: the Eagle TV, despite of its high professionalism of news programs clearly pursue a missionary function promoting Christian values. The Channel 25 is a sympathizer of the current president, but it does not directly support the government. But on the other hand it must be mentioned, that the extent of commercialization of private broadcasts in Mongolia cannot be compared with that in industrialized countries. (Commercialization is understood here as a tendency to drop activities which are considered to be unprofitable, for instance programs for minorities or "heavy serious" programs on political issues, so as to promote others which are more popular and likely to generate profits.) The National television which cover the entire territory and for this reason considered as the most popular broadcast in Mongolia monopolizes the advertising market, so that advertising and therefore chasing after "profitable" viewers is not specific for private televisions yet. On the other hand, there is also no mechanism which promote the process of commercializing: there are no objective audience measurements which identify broadcast and program ratings, and the advertising prices do not correlate with the number or type of viewers, or the actual popularity of programs. Nevertheless a certain extent of competition for the viewer's ratings can still be identified, and for the private broadcasts the only mean to attract the viewers is to make use of the weakness of the National Television - its one-sided information and news programs. The Eagle TV, as well as the Channel 25 are distinctive through their more balanced news programs and government opposed position in information programs. The existence of competition between the National Television and other broadcasts in Ulaanbaatar could most clearly be identified, when in 2001 the Mongolian

National Television changed the transmission time of its news program during the prime time. Instead of 20.30 PM it started 20.00 PM to outrun the Eagle TV, news of which began at the same time. This change resulted in shifting of news programs in all broadcasts and a "media war" between programming directors to justify themselves.

As far as the rural areas are concerned, except the situation in Darkhan the private television do play a marginal role regarding the number of private broadcasts as well as the transmission hours. As of the first half of 2001, 5 out of 21 televisions were private, (the rest were owned by local government authorities, few broadcasts were run by local NGO-s within the frame of international projects).

Nevertheless the role of private broadcasts on the media market in Mongolia cannot be disregarded at least because of the already existent private television, but also because of a number of private radio stations which already dominate the radio market. Add to this, the role of cable operators can not be underestimated: as of the first half of 2001, 9 cable operators broadcaster in Mongolia - 7 in Ulaanbaatar, 2 in Darkhan and Tuv aimag center respectively.²⁶ Most of them broadcast around the clock 20 - 30 programs from the satellite plus taped movies. Beyond news, cultural or children programs the cable operators transmit an amount of broadcasts praising or playing down violence, pornography etc.

Despite of this situation, as mentioned before, except few bills proposed in 1994 - 1995, private broadcasts are not subject to discussions, and the draft laws elaborated during the last 5 years deal solely with the transformation of the National Television into the public service broadcast.

Maintaining of a certain quality of programs and taking public interests into account is left at the discretion of broadcasters. Except some external control mechanisms such as restrictions concerning licensing, no any other forms and levels of regulations have been laid down for private broadcasters. There are general laws prohibiting depiction of pornography, glorification of violence and promotion of tobacco and alcohol, but there are neither self-regulation mechanisms no any systems developed by legislators to oversee compliance and penalize, if necessary.

There is no special law on advertising yet, and the share of advertising in the programming of private broadcasts in Ulaanbaatar is relatively low due to the monopoly of the Mongolian National Television.

²⁶ Monitoring Mongolian Media: first half of 2001. Press Institute, Ulaanbaatar 2001

If the law on public service broadcasting will be approved, the advertisement of the MNTV will be limited leaving some space for private channels. More competitive environment will be created inspiring private broadcasts to developments towards stronger commercialization. But it must be taken into consideration, that fair competition and pluralism on the media market can only be secured if development of monopolies can be prevented. In the current media situation in Mongolia it is not easy to dismantle the monopoly of the only nationwide Mongolian National Television. But supporting small private channels through preserving a space for commercial activities and at the same time restricting the possibility for growing of new monopolies through multiple and cross ownership further strengthening of the existing monopoly can be bound favoring the development of pluralistic media.

While in Ulaanbaatar a more or less competitive environment for electronic media has been established, the situation in the countryside is characterized by the sole monopoly of the Mongolian National Television. Low population density and limited advertising market in rural areas impose that private television has hardly have any chance to survive. This situation gives rise to concentrations and in print media a process of merging has already been commenced with the fusion of some local newspapers of Zavkhan, Khentii, Khovd, Orkhon and Bulgan aimag under one owner, Egel Co.Ltd.

The biggest Media corporation of Mongolia is the Mongol news Co. Ltd : it runs one of the 5 dailies of Mongolia, an English-language weekly newspaper "The UB Post", a weekly children paper "Bi Bi Bi", a weekly magazine "Nyam garig Weekend", the FM Radio 102,5 and the TV Channel 25.

SUMMARY

1. "The law on Freedom of the press" passed in August 1998 and the resolution adopted in connection with the enactment of the law impose to dismantle the Directorate for the Radio and TV Affairs and the National News Agency and organize the national radio and television as national public media organizations. The law has several weaknesses that needed to be amended such as missing definitions for major terms such as "national public media", no consideration about local media that can not operate without state subsidies, no mention about the right to access to information etc. But this law represented a serious step towards breaking the state monopoly on news, since it legalized the idea of both private and public media, prohibited state ownership on

media and brought the discussion on public service media as a clearly formulated objective on the agenda.

2. In connection with the enactment of the above mentioned law the Parliament' Standing Committee on the State Organization was entrusted to elaborate a draft document regarding the structure, composition and statues of the broadcast institutions by October 15, 1998. However, the Mongolian National Television and Radio as well as broadcast organizations under local Governor's Chancelleries remain government run until today. Since 1998 3 bills on public service broadcasting have been elaborated, no one passed to the Parliament. The reason for this situation can be seen in the lack of experiences and knowledge or difference of opinion. Beyond this, lack of political will and thus lack of clearly formulated government strategy to ensure a sustainable development of independent and pluralistic electronic media in Mongolia resulted, that statues regulating broadcasting in Mongolia in accordance with the Constitution of Mongolia, the "Law on Freedom of Press" and other related laws are still missing today.

3. Lack of a long term policy to transform the broadcasting system could be documented by following.

3.1 In the time between 1990 – 2002 around ten statues and bills have been elaborated and submitted to politicians and the interested public. Almost all those documents have been proposed independently from each other and pursued different aims: to reform the National Television within the existing structure, or to regulate the print and electronic media including private, state owned and public service media as a whole system, or just to provide legal conditions exclusively for public service media. Just few of the those documents reached the broad interested public. The need to transform the existing state owned radio and television has been for the first time legally formulated in 1998, when the law on "Freedom on of Press" was passed. In 2002, 4 years since the state ownership on media has been prohibited, a total of 29 broadcast institutions, which make 49% of all broadcasts, were government run.

3.2 The debate on proposed draft laws and the possibilities to transform the broadcasting in Mongolia has been attended by seminars with foreign experts and other arrangements. But it should be underlined, that all these efforts in connection with broadcast reform come from national NGO-s, international donor organizations and journalists themselves, whereas the

government used to proceed quite hesitantly with efforts concerning liberalization of electronic media.

3.3 Common weaknesses in nearly all draft laws refer, that no consistent and systematical analysis and review of existing documents, bills and reports have been done. Neither the criticism of journalists and foreign media experts has been consequently taken into account in draft laws and statutes.

4. In the result of exploration of existing draft laws and statutes by comparing them with the practice of more experienced as well as transition countries following has been detected:

4.1. The main weakness of most draft laws which deal with public service broadcasting is, that the fundamental principle, the basic precondition for a functioning public service broadcasting, namely the principle of independence has been defined halfway only if not missed at all. To note is, this principle has been determined explicitly with regard to the freedom from political power. In nearly all proposals broadcasting is not seen as economic activity, commercial interests are not considered as a danger for the independence of broadcasts.

4.2. In addition to the ignorance of the role economic interests almost all bills proposed during last 5 years suggest, that the public broadcasting can be founded by nearly all sources: state subsidy, license fee, advertising, program sales, sponsoring and others. The idea of public broadcasting, namely providing of public service by independent and diverse programming in return to recourse to public funds loses under the current bill its justification.

4.3 Almost all discussed bills agree, that direct state subsidy will be the main source of revenue of public broadcast institution. Using public funds has the advantage of keeping public television away from private interests and commercial pressures. However, this type of public funding can cause political dependence with regard to authorities, which determine the amounts. The point at the issue is thus, how to safeguard the sovereignty of the public broadcast institution despite their financial dependence on the state? How to avoid state

controlling by arbitrarily withdrawing or reducing the annual subsidy? These very important questions remain untouched in the last bills: neither concrete mechanisms of determining the amount of subsidy have been suggested, nor defined, who shall determine the amount of funding.

4.4 It has been an important progress as the recent bill (Mai 2001) suggested some limitations for advertisement: advertisement should not exceed 10% of the daily program, children programs as well as news programs can not be interrupted with advertisement. It is a question to investigation, whether 10% of daily program will be adequate to counterbalance the total revenue or whether it would be preferable to restrict advertising in certain times instead of to certain percentage of programming.

4.4 Public service broadcasting, as it has been traditionally defined, has to be different from commercial broadcasts in a way that it does not resort to "profitable" programs focused on entertainment, but provide a wide range of broadcast types seeking to reflect the diversity of public tastes and to satisfy an aggregate of audiences with different interests. In the most of proposed laws and statutes, however, the principle of balanced and diversified programming in respect to broadcast mode and audience addressed is omitted, underlining particularly the plurality of opinion to be expressed as the only attribute of diversity. Under these proposals the difference of public broadcast from commercials and hence the legitimacy of public service is endangered to become obscure, since the strength of public service broadcasting that justify its existence is the ability to provide diverse programs in all respects, being not only a forum for exchange of opinions but also providing a service which meets various interests and needs. Omitting to lay explicitly down the principle of diversity of programming while allowing all means of financing in addition to state subsidies and license fee can drag broadcasting in the direction of more profitable programs and hence drive them to the same pattern of programming as the most commercials pursue.

4.5 The fear for ultimate political controlling over the broadcasting council and suggestions to include media representatives have been expressed several times during discussions on this subject. Critics constantly stressed that a politically non-aligned board shall oversee the public service broadcast, and experts suggested various options feasible for the democratic selection of the board members to ensure the independence of the regulatory

body. Neither critics on the previous bills, nor foreign expert advises, nor recent political situation of one party monopoly in the Parliament has been taken into consideration: after some variations of the number of members to be nominated by the Parliament or Prime Minister, the last bill suggest, that that all 9 members of the Council will be nominated by the Parliament, Prime Minister and President respectively and approved by the Prime Minister. Regarding the current political situation where the vast majority of the Parliament (72 of 76 seats) is represented by the communist party, the danger of decisive influences of the governing party would be under this bill unavoidable.

4.6 Self-regulation is not considered as an appropriated method of accountability, as the regulatory body shall be, according to proposed bills, independent from the broadcaster. In the most bills no determination about who and how shall assess the broadcasting performance can be found. The main function of the Board of Governors according to both bills is of administrative nature: set the strategy, define the structure, internal rules and regulations of the broadcaster, appoint management, monitor financial activities and present the financial report to the Parliament. The current bill proposes, that the Board shall set the programming policy, but it remains unclear, who shall monitor the compliance of programming with the policy, laws and regulations.

4.7 An essential element of the realization of public accountability of public service broadcasts is to establish a procedure to deal with complaints. A provision of this nature has been suggested once 1999, but in no bills later.

4.8 Even though the broadcasting bills, particularly those proposed before the Law on Media Freedom comprised both commercial and public service media, they hardly include any specific provisions concerning private broadcasters. Experiences of industrialized countries show, that in view of the immense role broadcasting can play in the society regulation of the whole system including commercial sector has proved necessary: there is no example of a country with a dual broadcasting system, which solely rely on public service broadcasting and do not touch the freedom of private broadcasters. The current disregarding of the private actors in Mongolia can lead to an increasing imbalance on the broadcasting market or even dismissing of private broadcast institutions leaving the sole monopoly the National

Broadcaster and may be those missionary stations mainly financed from abroad like Eagle TV. Meantime, a dual broadcasting system needs a lively competition to prove its advantages, and competition can only be there where functionally equivalent broadcasts can compete with each other.

5. Analyzing of the situation of electronic media with regard to problems and prospects of a dual system in Mongolia brought following results:

5.1. State owned, private and local public media which do play a marginal role, determine the structure of the Mongolian broadcasting system today.

5.2. The leading position belongs to the state run Mongolian National Television (MNTV), which cover 98% of the territory of Mongolia and is the only nationwide broadcast. The MNTV fulfill to a certain extent public service functions, trying to reflect the diversity of public's tastes through different types of broadcasts and meet different interests through addressing various audience groups such as children, young and elderly people. But it is lacking the main requisite of public service broadcasts, the independence from private and political authorities: the current status and structure of the MNTV stipulate an explicit dependence on political authorities and constrain objectivity of information. Chances for a radical programming alteration are confined due to its current legal status and structure, limited financial resources and the monopoly position on the market.

Even though the MNTV is state run, and a conviction is wide spread that state subsidy is its main revenue source, market revenues overweight in the income structure and public funding do play a marginal role: thanks to its wide scope of coverage the MNTV it monopolizes the advertising market. This monopoly on the one hand diminishes the possibility of self-sustainable development of other broadcast institutions and on the other hand strengthen the position of the MNTV to negotiate with advertisers so that the influence of advertising on the program is minimal. "Television fee", which is part of public funding used by the MNTV, can not be determined in a sense "license fee" used by in countries with public service broadcasting tradition: for the National TV it plays as revenue source just a marginal role, private broadcasts do claim on their right to receive "television fee", and the viewers do not expect a certain service from the MNTV for the fee they have paid.

5.3. Private broadcasts do exist in Mongolia since 1994. In a situation where the Mongolian National Television remains government run the private broadcasts do play a significant role ensuring pluralism of opinions and external plurality on the electronic market. The extent of commercialization of private broadcasts in Mongolia can not be compared with that of industrialized countries due to the monopolizing of the advertising market by the MNTV and consequently less competitive environment.

Private broadcasts do play certain public service functions: the share of public interest programs offered by private broadcasts in Ulaanbaatar is high compared to those of commercials in industrialized countries. In addition, their news and information programs are more balanced, since they are free to criticize the government and parliament.

5.4. Through the significant role of private broadcasts in Ulaanbaatar and some other urbanized areas, a more or less pluralistic broadcasting programs have been offered there. The situation in the countryside is characterized by the sole monopoly of the Mongolian National Television. Low population density and limited advertising market in rural areas impose that private television has hardly have any chance to survive. This situation makes a concentration of media organizations necessary, and in print media a process of merging has already been commenced with the fusion of several local newspapers.

5.5 In general, understanding of "public service broadcasting" and the role of private broadcasts has been in Mongolia a learning process for politicians, media managers, journalists and viewers as well. This might be the reason, that the necessity of a comprehensive broadcasting legislation which regulate both public service and private broadcasts has not been recognized or even denied.

CONCLUSION / RECCOMENDATIONS

Addressing Mongolian Legislators & Politicians, following can be recommended with regard to establishing an appropriated legislation for broadcasting in Mongolia:

1. Because the electronic media offer tremendous advantages such as immediacy, mass coverage, authoritativeness, but also because of their immense potential to influence peoples attitudes there is a real need to regulate not only the public service but also private broadcasts. Almost in all industrialized countries experienced with dual broadcasting system also commercial broadcasts are committed to fulfill certain obligations. E.g. it should be defined what is permissible in regard to protection of young persons like prohibition of glorifying and trivializing of violence or war and establishment of a time to which violation or programs or depiction of sex cannot be broadcast. It is also essential to determine principles by which advertisement should be regulated in both public service and private media institutions. E.g. the principle of separating of advertisements and program items respectively prohibition of surreptitious advertising should be laid down. Experiences of other countries show, that mechanisms which guide programming policies such as networks and national organizations could be helpful at least to keep program quality issues on the agenda. Thus, encouraging by legal provisions or other way the broadcast institutions to create those associations can be one way to establish regulating mechanisms for private institutions. A comprehensive broadcasting legislation is needed not only to oblige private broadcasts with certain duties. A balanced and competitive environment to support the development of pluralistic media and ensure the sustainable development of public and private media can only be created if public and private broadcasters are seen as an entire system.

2. Concerning the previous and current bills on "public service broadcasting", which in fact can be part of a comprehensive broadcasting act, following has to be taken into account:

2.1 In general it must be noted, that in almost all bills including the current one the major terms such as "Public media", "program", "advertising" etc. are not defined despite the fact that these terms are differently used in Mongolian and thus can create confusion.

2.3 Especially the term "public service broadcast" must be clearly defined taking into account the major attributes such as a) universality in a sense of accessibility for all citizens independently from the tastes and interests but also from the distance between transmitter and viewer; b) pluralism in a sense of diversity of programming, diversity of audiences addressed and diversity of the subject dealt with; c) independence from private interests and political authorities. To note is, that in the current bill all above mentioned attributes have been laid down partially only: instead of a general remark "the broadcast serves public and national interests" the principle of universality

shall be defined more clearly (e.g. The public broadcast shall seek to reach as wide public as possible by means of appropriate programming for a wide range of tastes and interests. No one shall be disenfranchised by distance or by accident of geography). The principle of "pluralism" has been narrowed down to "pluralism of opinions in political and economic issues". Instead, the diversity of program types, a balanced treatment of different subjects and views as well as reflection of various interests and needs shall be clearly defined as fundamental principles which the public broadcast strive to fulfill. The key attribute, the principle of independence has to be defined more explicit, requiring not only independence from political authorities, but also private, economic and one-sided interests. The analysis of draft laws proposed during the last 10 years show, that commercial interests are not considered as a danger for the independence of broadcasts. Meanwhile, rejection of commercial interests and the belief that a public service function and economic interests such as maximizing profits were totally incompatible were the main reason behind the establishment of public broadcasting in almost all advanced countries. Recent developments in global media environment show, that broadcasting is no different from the general economic trends marked by competitiveness and commercialism, and the public broadcast does not remain untouched from this trend unless its independence is ascertained by an appropriated media policy.

2.3 The question of financing of the public service broadcast shall be reviewed in the current bill. First of all, the amount needed for the Mongolian National Television as public service broadcast shall be identified upon objective assessment of its current revenue and expenditure structure. The belief that the state subsidy provide the major part of the revenue of the MNTV and thus make the broadcast financially too dependant from the state is unjustified. Investigations show, that public funding, which in case for the MNTV consists of the direct state grant and the "television fee", do play a marginal role in the revenue structure. In contrary, market revenues overweight making more then 70% of the income of the MNTV. In some developing countries missing capacities to provide public broadcasters with non-market revenues make necessary to accept market revenues as the second best revenue for public service broadcasters. The higher extent of the role of this revenue type in Mongolia has the advantage, that on the one hand it makes the MNTV less dependant from the state. On the other hand, thanks to its monopoly position, the possibilities of advertisers to influence the programming of the MNTV is minimal, too. The negative consequence is, that this unlimited monopolizing of the advertising market strengthens the position of the single nationwide broadcaster, confining financial activities of other (private) broadcasters and blocking market access for new television stations. That is why the way of financing of the public service

broadcaster in Mongolia should be thoroughly considered, taking into account the circumstances unique to Mongolia, and regarding experiences of advanced countries and current trends of global development. Unfortunately neither an objective financial assessment of the MNTV operation, nor other circumstances concerning the situation of electronic media has been done to propose a realistic broadcasting act. The current as well as almost all previous bills suggest all kinds of possible revenues for financing of the public service broadcaster in Mongolia (state subsidy, television fee, advertising, sponsorship, merchandising, program sales and others). According to the recent bill, advertising shall not exceed 10% of the daily programming time, but it does not define what shall be understood under "advertisement". Paid programs, hidden advertisement and other types of promotion are not taken into account. Some foreign experts suggest to prohibit advertising in the National Television at all, which is missing any objective foundation with regard to the current situation of the MNTV and capacities available to provide sufficient public funding for the public broadcaster in Mongolia. An ideal suggestion for the financing of the public service broadcaster can not be made in this paper, since it was impossible to more thoroughly analyze the financial situation and capacity of the National Television, assess market potentials and review the public funding possibilities within the frame of this project. Such an analysis would be desirable not only with regard to establishment of functioning public service broadcasting in Mongolia, but also regarding the future of the Mongolian broadcasting system in general.

Furthermore, in the current bill a provision is missing about who and how shall determine the amount of public founding for the public service broadcaster. It might have been considered that it is clear that the Parliament shall fix the annual state budget. But in order to safeguard the sovereignty of the broadcaster and avoid state controlling by arbitrarily withdrawing or reducing the annual subsidy, this issue must be treated very carefully.

In most industrialized countries which highly rate the advantages of independent public service broadcasting (U.K, GERMANY, Switzerland) non-governmental bodies determine the amount of public financing. In case for Mongolia however, this solution of non-governmental decision making has some disadvantages the main of which is, that it is more costly than the government decision making. Hard economic situation in Mongolia, lack of experiences but also lack of political will stipulate that the readiness of politicians to make additional expenses for public broadcasting is hardly there. Thus, the most appropriated solution would be that the amount of the state subsidy would be fixed by the Parliament. However, public broadcasting should be involved in the process

by which the funds are fixed. The broadcaster can determine their financial needs under supervision of an expert commission entrusted by law. The latter should exercise competence and objectivity with regard to the question whether the proposed amounts are in keeping with the missions of public service broadcasting and whether they comply with the principles of economy and good management. This solution has in comparison to the fixed percentage of subsidy allocated by Parliament and included in the Broadcasting act the advantage, that the financial needs can be adjusted to the changing financial needs of public broadcast institution within the context of the development of a competitive environment. In order to avoid state controlling by reducing or withdrawing the amount of proposed subsidies, the Parliament can be obliged to justify grant cuts more specifically, or revenue cuts by Parliament can be limited to a certain percentage, or the amount of state subsidies as the major part of revenue can be indexed in relation to the yearly price changes.

2.4 The composition of the governing body or the method of appointing shall be reviewed in the current bill: under the current political situation of the dominance of the Mongolian People's Revolutionary Party the danger of decisive influence of the government is unavoidable. Including professional or other social groups into the Board of Governors, or changing of the system of nominating by giving e.g. professional organizations and associations the right to nominate candidates, introducing a provision which oblige the Parliament to include an appropriate number of representatives from the opposition could contribute to raising of the independence of the governing body.

According to the current bill the board of governors shall determine the programming policy but it remains unclear who and how shall assess the programming performance, e.g. the compliance with the programming policy, laws and other regulations. In public broadcasting experienced countries it is common that self-regulatory bodies have the power to supervise the program content. This responsibility can be exercised on a case by case basis: a breach of principles of objectivity of information, a breach of the rules on high moral standards (violence, protection of minors). The authority can also conduct quantitative monitoring: by making detailed checks, they can verify whether a broadcaster is respecting his obligations to screen certain quotas of programs: independent productions, information, cultural, educational programs etc. This type of monitoring can have indirect effect on financing in the broadcasting sector when it focuses on restrictions of advertising and sponsorship. How effective the monitoring is, depends of the range of sanctions and

the efficiency of implementation, but also on the financial and staffing resources made available to the regulatory body. Some regulatory authorities draw up codes of conducts from programming. The BBC has such codes, other examples can be found in the Czech Republic, Germany, Greece, Ireland, Netherlands, Poland etc. These experiences could be desirable to introduce in Mongolia, too.

The current bill is missing an essential element of the realization of public accountability, namely provisions determining a procedure to deal with complaints. To mention is, that those authorities that have to manage and monitor the broadcasting sector need to be distinguished from those that have an exclusive function to help resolve disputes. The second type can be approached by private individuals. This is true of the "Kommission zur Wahrung des Rundfunkgesetzes" in Austria, the Broadcasting complaints Commission in the United Kingdom, or the Independent Authority for the Examination of Complaints in Switzerland. As far as methods of referral are concerned, the complaint authority has mainly the option of accepting a claim or of taking no further action. But when it comes to the proceedings, some authorities have the power to impose sanctions on the broadcaster, while others only have the option of suggesting administrative sanctions to the competent authority.

Addressing NGO-s, media managers, journalists, professional and educational organizations as potential actors of policy making, following can be recommended:

Under the situation of wanting of a clearly formulated government strategy to liberalize the electronic media and support the development of pluralistic broadcasting media system in Mongolia a sustained public policy action is essential, to include providing the public and interest groups with information necessary to understand the current political and media situation and their own role and capacities.

1. Dissemination of following ideas & knowledge is essential to enable potential actors of policy making to understand and influence shaping of the broadcasting policy in Mongolia:

- The concept of media freedom versus responsibilities of journalists and media organizations
- The structure, role and functions of media systems in the society, particularly in Mongolia
- The basic idea of public service broadcasting, the role of private broadcasts, understanding of media institutions in the social context, as an entire system
- Media commercialization and its consequences
- The role of networks, professional associations. Understanding of self-regulation mechanisms

- The idea of public policy, the role of NGO-s, non-profit organizations and associations

These ideas can and should be spread first of all by educational organizations in journalism, management, but also NGO-s and professional associations by organizing seminars and training courses in cooperation and assistance of foreign and Mongolian experts, publications in print media and handouts. Even though a number of seminars and meetings have been organized in the course of past time, the main failing was, that these arrangements were organized mainly among and for politicians. The journalists and the public in general are, meantime, lacking in the understanding of idea of public service, the ability to assess the complex media situation as well as the role they can perform.

2. In addition, a consequent and systematical policy action shall be undertaken to move the government and politicians towards the legislated government policy with the aim to create an appropriated legal environment for the development of a dual broadcasting system in Mongolia. These include joint agreements on the media development strategy and assessment of the own capacities, systematical interaction with politicians (joint meetings, exchange of views, joint working groups with concrete objectives etc.). Even though certain meetings and other arrangements of this kind have been done in the past time, they were sporadic and isolated and did not pursue concrete and long term objectives.

3. For more efficiency it would be desirable to join not only own capacities among domestic journalists, NGO-s and media organizations, but also international and bilateral organizations which support the development of a democratic media system in Mongolia. Until now the main role in the organizing of meetings, seminars and other arrangements promoting establishment of the public service broadcasting in Mongolia has been performed by international donor organizations who financed those arrangements. But again, these activities have been organized occasionally, without coherence with arrangements organized/ financed by other donors.