

The Challenges to Public Service Broadcasting

A Seminar

November 8 to 9, 2010



Bhutan Centre
for Media and Democracy



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EBERT
STIFTUNG**





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DAY 1

“The Challenges of Public Service Broadcasting”

Presentations

Welcome

Aum Sangay Zam – Chairperson, BBS Board of Directors

Public service broadcasting has been under scrutiny in recent years. The very concept and role of PSB has been the subject of much debate and academic interest in a media world that is becoming increasingly commercial and dominated by the market.

While public service media remain strong in many countries, they face increasingly weaker public support as technology today steer media towards niche audiences and programming, and “free media” is becoming increasingly available.

Bhutan, one of the world’s youngest democracies, is also experiencing a rapidly growing media market. In the new commercial environment and growing competitiveness, media (in particular broadcast media) are facing numerous challenges.

An emerging concern is that we maybe fast losing the spirit of public service at a time when we need it most – to serve the needs of the people in an evolving and young democracy.

We maybe fast losing the spirit of public service at a time when we need it most.

This seminar, “The Challenges of Public Service Broadcasting”, comes at a time when Bhutan is also seeking to clarify the role of public service broadcasting in a changing social, political, cultural environment.

How important is public service broadcasting in today’s changing media environment? How important is public service broadcasting in a democracy? How does it serve the people? What are the current challenges? What can Bhutan learn from the global experience?

The seminar will address these concerns and make recommendations on how Bhutan can evolve a public service broadcasting model for the immediate years.

On behalf of BBS, we warmly welcome the resource persons and thank them for agreeing to share their experience and expertise on PSB. We thank the Asia-Pacific Institute for Broadcasting Development and Friedrich Ebert Stiftung (FES) for supporting the seminar; thank all invitees for participating and contributing to developing a PSB model for Bhutan. We also thank Bhutan Centre for Media & Democracy for partnering BBS in this effort.

Why Public Service Broadcasting (PSB) matters – the future of PSB

Joe Carlos, Chief Executive Officer, Global Media Centre for Development

Some two or three months ago I had the occasion to watch a CNN news programme on prime time television and one of the events that they highlighted was the meeting of the prime ministers, heads of states and Presidents in New York on the MDGs (Millennium Development Goals) which you all know aim to reduce world poverty by 2015. I think they have extended it to 2020 and CNN considered two items in that conference to be worthy of public attention and TV coverage. One was part of the speech of the UN secretary General Mr. Ban Ki Moon, who called on the rich nations to follow through their financial commitment to assist MDGs and the other one was part of the speech of the Prime Minister of Bhutan who recommended the inclusion of happiness as one of the MDGs. I thought it was a good idea but I think it will take a bit longer beyond 2015 or even beyond 2020 to reach that state of happiness. Then the CNN showed some audience reactions and some were smiling, others were nodding their heads and still others were seemingly suffering from the ill effects of jet lag.

In mentioning happiness, I really hope that this workshop will inspire you or even trigger some action on your part to follow through this Public Service Broadcast (PSB) model and if properly implemented I believe that this can contribute to the attainment of happiness among the people of Bhutan and I, as the student of PSB, hopefully with my perspectives and thoughts will help in that process. Let me begin my presentation by answering this question; Does PSB model still matter today? Is it sustainable in the future amidst increasing scrutiny of the PSB model?

When I talk of PSB I really mean a separate service, dedicated service, that service all citizens, that provides a public service to all of the population. As Dr. Werner Rumphorst, former EBU (European Broadcast Union) legal consultant said: “it is not made for the government, parliament or president or a political party or a church or any other private interest groups or for shareholders. It must be independent of all of this, serving only the interest of the population, of people as citizens rather than as consumers”.

If one were to listen to broadcasters from Asia Pacific and read through the recommendations during the more than thirty seminars and workshops on PSB, AIBD and UNESCO organised since 2000 including the Asia Media Summit in Beijing which AIBD organised last May, it is evident that the answer is affirmative, yes, it is relevant. A similar sentiment was evident during the two discussions groups meeting among some thirty senior broadcasters in Kuala Lumpur in 2008. Those meetings generated a guideline and an Asia Pacific approach to PSB published in 2009.

Broadcasters believe that the PSB model can best serve the public as a platform

for

1. Peace building, reconciliation and tolerance in Asia Pacific characterised by a mix of race, religion and culture and a lack of social cohesion.
 2. Battling chronic diseases and pandemics.
 3. Developing an informed citizenry critical to building democratic foundations
 4. Promoting media pluralism and new platforms of distribution in the region where audiences are fragmenting and new technologies are developing.
- But at a broadcaster's conference in Seoul, South Korea in 2007, NHK President Genichi Hashimoto said: "public broadcasting will continue to be an indispensable part of society by ensuring diversity and co-existence of different values".

In 2006 the UNESCO commission reviewed its activities across the globe for the period 2002 and 2005. One of the review findings indicated strong support for PSB among the broadcasters, representatives of broadcast unions, associations and research organisations who were interviewed. The lack of political will remains a hindrance in more countries adapting the PSB model. The latest to join the PSB world is my country, the Philippines, which is a democratic form of government. Two weeks before this trip to Bhutan, I learned that a new bill on PSB supported by the new government was being filed at the newly convened Philippines congress.

The proposed bill mirrors similar principles, standard and mechanisms as they exist in other PSB organisations. The proponents justify the PSB creation by articulating, among others, the need to optimising broadcasting and sharing development ideas and innovations, environmental messages, national dialogue, distance learning and continuing education programmes for rural women, adults and out-of-school youth, and popularising and propagating artistic talents to enhance national consciousness and cultural development. The proposed bill is very clear that the PSB shall not be driven by profit.

PSB will primarily provide high quality programmes to serve public interest and mobilise all sectors for national unity and development. It will create and enhance public space where all citizens can exchange views and opinions and create dialogue for national peace. A feature of the proposed bill is the creation of the independent board of directors. The appointment will be by the president from those shortlisted by a committee composed of various stakeholders. Independent programming, sourcing funds not only from the congress but also from advertising, grants and donations and other multimedia services and a budgetary allocation for outside producers for quality PSB programmes. Another distinct provision is the mandatory allocation of all government agencies of an amount not exceeding two percent of the total budget for PSB programs.

Despite some acceptance in Asia Pacific, the spread of the PSB model remains wanting. Many reasons account for this. Among them the bias towards commercialisation, limited resources, powerful interests, varied interpretations and understanding of the PSB model, inadequate laws and the lack of political will and public support. If one were to scan the PSB environment in some countries with a long history of PSB, especially those from Europe, broadcasters

The most important public value a PSB creates is a crucial support it provides for civil society and for informed citizenship.

and advocates remain committed to the PSB model. May I quote Sir Michael Lyons, BBC trust chairman who said: “I believe the case for PSB is as strong as ever but for me the most important public value a PSB creates is a crucial support it provides for civil society and for informed citizenship. PSB is at its heart above the protection and enrichment of public space, the space where citizens exchange views and explore ideas free from commercial and partisan influence.” The second big area where PSB can create real value is in its economic contribution. I earlier mentioned Dr. Werner Rumphorst, he’s the author of a handbook on PSB law and he said: “The more diversification and individualisation of information there is, the more audiences become more fragmented, the more important it will be to maintain at least one strong service which performs the functions of national point of reference and of national identification and the role of market place for public opinion.”

Across the globe PSB’s relevance has been the subject of increasing scrutiny but the PSB remains silent. Several debates abound, centred among others of its existence and funding. A major issue is the structural challenge to shift the burden of funding of PSB away from the public purse. Some private media argue that state funded broadcasters should not replicate services that the market already provides. And thus, there is no need for tax payer’s money to be spent in this model. There are basis for these arguments. However since the emergence of modern broadcasting, private and public sectors have co-existed peacefully even offering similar services. Why then should we not allow such a situation to exist in an expanded media environment?

Restricting PSB’s programmes to programmes that are not provided by commercial media will marginalise PSB, thereby, reducing its audience and its legitimacy since PSB’s fundamental principles is to meet diverse needs of all audience members including those neglected by main stream media. It has to remain a full portfolio content provider of programmes and must have access to a wide range of funding support to ensure its growth and sustainability. If one were to prioritise PSB programming to some programme genres like news and current affairs over others like entertainment genres, it neglects the so called hybridisation of programs in the formation of public opinion, transfer of values and construction of identity. Other issues of criticisms also include PSBs underperformance in meeting some of the basic objectives and standards of innovation and quality programming, inability to reach out to the audience in the new media environment and poor reception environment. Some PSB organisations have responded to these criticisms by emphasising public accountability, for instance through the implementation of a clearer audit performance which measures at least eight performance dimensions namely program quality, reliability, innovation, diversity, interaction and impact on society, reach and share the general public and specific groups, cost efficiency and effectiveness. This serves as an aid for internal quality improvement and an instrument for external accountability which can be utilised as building blocks for policy evaluation.

Given its mission to serve the public, the PSB model comes at a price. The continuing pressure from commercial interest, critics and bureaucrats on PSBs right to exist, its funding requirements and the role it performs should be

welcomed. They should be seen as new responsibilities and opportunities to crack strategies to enable the PSBs not only to face competition from persuasive and appealing multi channel environment but also to build and nurture its audience in countries where PSBs rely on government funding. The PSB must be widely understood and its principles appreciated for expenditures to be justified. The PSB must continue to be anchored on these principles if it wants to remain relevant and valid.

I really speak here of the widely adapted principles across the globe. They include universality, diversity, independence and distinctiveness. They should be reflected in a PSB legislation that will serve as a legal foundation for its existence and operation. On universality, this requires reaching out to all audiences and ensuring that PSB is accessible to any possible transmission of knowledge. Its services should be diversified, offering various genres of programs from news to comedy to drama providing various subject matters and targeting various audiences. PSB must also be independent serving as a platform where audiences can express their opinions and ideas. This can be realised if the PSB model has editorial independence and institutional autonomy enabling it to perform its task free from any commercial or partisan interference. Of course this is easier said than done but stakeholders must undertake every effort to approximate the ideal of true independence not just in paper but also must include continuous initiative to defend and promote it. Independence will also require a legal environment where the right to freedom of expression and dissent and access to information are exercised. They are critical in the work of democratic governance for strengthening accountability, transparency, participation and the rule of law.

And lastly the principle of distinctiveness, which requires PSB to provide a different programming -- original, fresh, innovative, enlightening, uplifting offering programs that audiences both need and want. Programs should offer new ideas that add to the audiences' experiences of the world of entertainment, of culture and of the creative act. All of these principles are the foundations in which we build and strengthen our institutions. They are important in meeting the public service obligations of providing a reference point for all audiences and a factor for enhancing social cohesion, sustaining and defending national culture and cultural diversity, fostering democratic process and serving as a civic market place of modern society and contributing to diversity and quality in broadcasting and to wealth creation.

Original, fresh, innovative, enlightening, uplifting offering programs that audiences both need and want.

PSB's relevance will also require sustainability amidst the competitive changing media landscape triggered by digital technology and the changing audience behaviour. Sustainability, no doubt, is a complex and difficult task that requires change and adjustments as emphasised by Dr. Karol Jakubowicz who is an international expert in broadcasting and a member of the Independent media commission in Kosovo. He says in his book, PSB, a new beginning or the beginning of the end: "If PSB is to have a future, it must both retain its basic characteristics and change very significantly. This is the only way to ensure the viability and relevance of PSB and the genuine support of the public for its continued existence." He said change must encompass practically every aspect of PSB activity that includes technology, programming and financing. It must

also be pointed out that for change to be meaningful, we need to recognise and respond appropriately to the emerging cultural practices of people who make use of different media for education, information and entertainment.

I specifically refer to the rise of a broadband culture where people are no longer passive users merely listening, reading or watching. The young especially have become active contributors, who want to write, produce and share. They want to watch programs anytime and anywhere they want, to talk back, influence and contribute. They want real value for their money and for their attention, establishing PSB in every platform to follow their audience, be they in providing access to internet, digital distribution interactive services and wireless services will prove to be costly. For many broadcasters especially in developing countries funding is of course limited. If not managed well, some services may become unsustainable, even if they do not deliver value for money.

PSBs must ensure that when they pass control of distribution and presentation to other platform owners, their reputation and overall public value of what they produce are not being compromised.

Another challenge has to do with control. PSBs must ensure that when they pass control of distribution and presentation to other platform owners, their reputation and overall public value of what they produce are not being compromised. No doubt these are big challenges for PSB management and hard decisions have to be made. Yoshinori Imai, ABU President and executive vice president of NHK, Japan had a similar call for change. Addressing the IBC (International Broadcasting Convention) 2010 conference in the Amsterdam last September, he said that broadcasters should reinvent themselves and adapt to the ever changing media landscape. This requires among others to actively work with the internet based services and applications which are eating up the audiences and threatening the business foundations of both public and commercial broadcasters. NHK certainly walked the talk.

I'd like to give you some ideas of how NHK and KBS are responding to the media environment as it finalises their migration to digital. NHK has introduced H Vision or high definition TV in one segment, a technology that enables reception from mobile phones and car navigation systems. NHK also offers digital video on demand services. They also have a very comprehensive disaster and reporting and alert system. The Korean Broadcasting Service (KBS), for instance, is taking advantage of the convergence between broadcasting and communications. They are committed to migrate to digital by 2012. They have introduced the DOT TV platform for interactive DV viewing experience and the HD system to upgrade audio and video quality. They have also improved two digital TV channels and expanded its services for mobile phones. In programming, veteran broadcaster Oh-Suk Kwon of Korea public service broadcaster told the ABU general assembly meeting in Tokyo last October that "to survive in the new media environment PSB must be ubiquitous creating new types of content and satisfying different viewers and platforms, at the same time help secure viewership."

Let me give you a glimpse of KBS programming that shows a diversity of programmes and genres to maximise the value of its license fees. On culture, it offers documentary on Korean values and tradition, world history, social unity environment and children. Part of KBS funding goes to its educational channel known as channel 13 in Korea, which broadcast after school learning, family

programming, documentaries and cultural programmes. This is just a profile of the revenues that KBS gets and, as you will note, their license fee represents about forty three percent of their total budget, advertisements forty two percent and the rest of the items. In entertainment, KBS also promotes cultural diversity with ceaseless experimentation and creativity providing comedy and public interest stories that delight and surprise and touch the hearts of its citizens. In drama, it introduces new genres and sophisticated production focusing on family values, epic drama and Korean history among others. In news content, KBS has strengthened its gate-keeping role for higher fairness and objectivity, providing in-depth and focused news, on the scene reporting, hard hitting and insightful documentaries and more sports coverage.

KBS is also opening itself to the world to provide its local audiences a global perspective. It reaches out to Korean migrants and to the world in general for a better understanding of the Korean people and its systems. KBS world TV and radio reach is estimated at 44.35 million households in sixty eight countries. To improve competitiveness, it has also provided sub-titling in English and multi lingual sub title systems. KBS or NHK for its part boasts of a variety of programmes offered to their terrestrial and satellite communication services. Its educational TV has programs for every age and offers sign language and other programs for people with special needs. It also produces programs for both PC and mobile services.

Export is another key activity for NHK. They have sold high quality documentaries, dramas and animation, more than three thousand or close to four thousand programmes to forty countries in 2009. Apart from technology and programming, improving services to audiences also demands serious attention. In KBS, for instance, they are guided by their slogan -- “the audience is the owner of KBS.” It has an audience advisory council handling three sub-offices namely the audience council office, the audience protection rights and the audience participation programs. All these receive inquiries and complaints which are shared with relevant KBS employees and reflected in programme production and management. NHK for its part consider its listeners and viewers its sponsors. Through its call centre, NHK receives millions of telephone calls, faxes, letters and email messages. It organises hundreds of meetings across the country and their outputs reported publicly. This is just a picture of the license fees; they call it receiving fees that NHK gets. Ninety six percent of their budget comes from licensing fees and this is the amount or the package of the license fee that they provide. So let me say that it is no longer business as usual for PSB. It has to redefine broadcasting and try to exploit some if not all technical platforms of distribution. They may provide services such as alert services on mobile phones, web and SM (Short Message) services, forums and communities and websites, educational online games and offer archive materials and educational values with interactive applications but these services must be worked out in the context that PSB will have limited resources and must ensure that they do not compromise overall public value.

While adapting to new technology is a big challenge, the more important challenge is making sure that PSB deliver outstanding programmes.

While adapting to new technology is a big challenge, the more important challenge is making sure that PSB deliver outstanding programmes that

PSB's can serve as a breeding ground for innovation and talent.

audiences believe deserve their money and attention for continued support. This calls for producing content with higher standards of creativity, innovation and distinctiveness. It should explore local content that accurately reflects and stimulates the public's mood and taste. It should offer healthy alternatives to programs that are sensational, trivial and senseless. It should also allow for interaction and engagement in the creation of content, be they in enhancing knowledge and creativity. All this will enable the PSB to contribute to the national audio visual market by serving as a breeding ground for innovation and talent and by promoting exports of programs and program formats thereby highlighting its economic contribution to the nation.

The guidebook on the Asia Pacific approach to PSB has a similar list of dos and don'ts in terms of programming and you can read them. Some ideas from that book include a range of topic and issues and varied opinions to reflect diversity and gender equality, programmes that surprise and delight audiences, innovative and offering new ideas that add to the audiences experiences, popular entertainment genres such as soaps, reality TV shows and comedies to promote educational messages on population, health, literacy, entrepreneurship and others. A clear editorial policy that adheres to the journalistic principles of impartiality, accuracy and balance and fairness to achieve credibility and integrity and lastly news and public affairs programmes should encourage in-depth reporting, research and investigative journalism. It is also important to develop corporate branding so that PSBs core values or strengths, and how they are embodied in the services and content vis-à-vis, are easily recognised amidst the prevalence of several media contents and service's.

In terms of funding, PSB must continue to seek changes:

- 1) In programming strategy in cooperation with third parties in the use of supplementary sources, revenues from video and the licensing of products and services and changes in working practices. At this point let me explain how the GMCD, the global media centre development which I represent, is undertaking in terms of assisting broadcasters take full advantage of the digital technology such as maximising distribution revenues of broadcasters audio visual assets. Through our IP base and broadcast base services that we are setting up, we will make available broadcasters content across the globe particularly on health, education and cross cultural communication and GMCD is a joint initiative between AIBD and the Swiss based world view global media incorporated. Allow me to stress three additional points, which the guidebook gives special attention. One is the idea of building a media literate audience. This will enable listeners and viewers to effectively comprehend and utilise mass media's content and empower them to meaningfully participate in society. A media literate audience will perform better monitoring, better assessment and scrutiny of the various performance dimensions of the PSB model.
- 2) Training. This requires that the PSB organisations develop a training policy and a training plan not only to strengthen immersion into the PSB values but also to build professional and ethical standards of PSB employees

- 3) The imperative of a transition period from a state to a public service model is very critical. Let me stress that no one PSB model fits all. The pace of its implementation must depend on the political and social economic realities in a country. The transition must include facilitating the approval of a solid legislation that defines the PSB's mission clearly in order to minimise variations and disruptions that may impact upon the true mandate of a PSB. In parliament it is important to identify PSB advocates to push legislation and persuade non supporters, a task force may be formed for this purpose. There should also be a communication plan to generate better understanding and support from various stakeholders. The transition should also involve an internal cultural change within the state broadcasting organisation that demands professionalism and inculcates a strong sense of accountability and service to the public.

There is a need to ensure a strong stakeholder involvement in PSB's.

This challenge to PSB, these challenges to PSBs relevance and sustainability are formidable. To position appropriately for the changes ahead, there is a need to ensure a strong stakeholder involvement, I mean gaining not only a strong political will but also a strong public support that allows people to feel that PSB is theirs, that they are not being talked at and that they have a new sense of shared ownership. I would like to thank all of you and I hope you learned something about PSB. And now I am open for interaction with you. Thank you very much for this opportunity.

References

Carlos, Jose Maria G. (ed), 2009, 'An Asia Pacific Approach to Public Service Broadcasting,' AIBD, Malaysia Jakubowicz, Karol Dr., 'Public service broadcasting: a new beginning, or the beginning of the end?' www.knowledgepolitics.org.uk

KBS website: http://english.kbs.co.kr/about/annual/KBS_Annual_Report_2009.pdf

NHK World website (www.nhk.or.jp/pr/koho-e.htm)

Padovani, Cinzia and Tracy, Michael Report on the Conditions of Public Service Broadcasting, Center for Mass Media Research, School of Journalism and Mass Communication, University of Colorado at Boulder, USA, 2002; presented at the RIPE@2002 Conference, 12-19.02, Finland

Rumphorst Wermer Dr, Model Public Service Broadcasting Law (revised edition) Handbook, 2003, <http://www.article19.org/pdfs/standards/modelpsblaw.pdf>

Thomass, Barbara (2003) Knowledge Society and Public Sphere; article in the book 'Broadcasting and Convergence: New Articulations of the Public Service Remit,' Gregory Ferrell and Taisto Hujanen (eds), pp29-39, NORDOCOM, Sweden

The role of Public Service Broadcasting (PSB) and its shape in Germany

Gerda Meuer, Managing Director, Deutsche Welle Academy

This year is an anniversary year for Germany. We have not only celebrated 20 years of reunification between East and West Germany. We have also celebrated 60 years of public broadcasting – it's a long time.

The first public broadcaster was established by the Allied Forces that is Britain, France and the United States after World War II. Before that, under Adolf Hitler under Nazi dictatorship - broadcasting was used for propaganda purposes. But the Allies had a different vision- they wanted broadcasting to be decentralised and independent and to represent all levels of the society. And broadcasting was to provide an open dialogue for the public.

This presentation will also talk about commercial broadcasting which was introduced about 25 years ago.

But before we go into details – this is a Video on how a PSB and a commercial broadcaster reported on a country not well known to the viewers:

VIDEO: 1: Video on His Majesty's Coronation - humour on the size of the country.

VIDEO: 2: A serious video on Bhutan's economy and lifestyle

Even in short clips like this we can see how different the approach of broadcasters can be, even if they do not cover the same topics. It is the attitude.

1st clip: In the first clip, the American commercial broadcaster, MSNBC, looks at the coronation of the king.

But instead of focussing on what he wants to do for his people, the reporter points to the king's shoes and compares him to the rock 'n' roll singer, Elvis Presley.

The king is 28 years old and is still a bachelor, says the reporter. The reporter makes it very clear that she finds the country a little unusual.

2nd Clip: Deutsche Welle presents Bhutan in a more serious way but in an informative manner looking at the worries of the people on a daily basis.

In Germany, the first commercial or private TV station was established in 1984 (ZET EIN). Before that there were a lot of debates especially over the fact that PBS held a monopoly on broadcasting.

In the end the decision to allow commercial broadcasters was a combination of various factors.

The Constitutional court made a ruling in 1981 allowing commercial broadcasters. Internationally, commercial broadcasters were being allowed. In 1982 the Germans elected a new government which was very much in favour of the idea of public broadcasting.

Today, there are many private radio and TV stations. Commercial broadcasters are financed by advertising. So one of their primary goals is to attract advertisers. The advertisers, in turn, want to show their products and services to a large audience which is why commercial stations tend to show mainly entertainment programs and by doing so they often attract many viewers.

Some people in Germany argue that with all the different ideas that can be expressed in this system of public and private broadcasting, the media situation in Germany is ideal. This may be true. But one could also argue that even in a highly developed country like Italy, where commercial TV stations dominate, one-sided political reports are common. A balance then is vital.

What then makes PSB special?

It provides a service to the public representing all sectors of the society through its programming.

It has to include elements of unbiased news, current affairs programs, talk shows, children's programs and documentaries and that it is independent.

After the Second World War, the Western Allies wanted to make absolutely sure that media would not be used as a propaganda machine again.

Video Clip: A clip from 1942 - a part of the dark side of German history where media was nothing but the mouthpiece of the dictatorship.

Each country has to reflect how to achieve PSB goals within their context.

Safeguarding political and economic independence is a challenge for every PSB System.

Each country has to reflect how to achieve this within their own context.

In Germany, economic independence is achieved only through license fees. Anyone with a radio or TV and more recently with a computer pays a regular fee for PSB Services. Due to Germany's Federal structures, its PSB system is unique compared to other countries.

DW is an international broadcaster. Its TV and online radio services are for other countries

There are 2 National TV Channels- 1. ARD :7 regional networks each with several radio channels and one TV Channel.

2nd National Channel: established in 1963 by a joint contract with the German Federal State is called ZDF.

How does the German society guarantee political independence integrating all segments of the population?

There are three decision-making bodies in the PSB system.

1. The Broadcasting Board: in theory, this occupies the central position and in practice, it can delegate power.
Board members are supposed to represent various religious organisations, political parties, employees, labour organisation and cultural and sports institutions.

The management is not elected but instead nominated by their own organisations.

Political arguments sometimes arise questioning the political bias on people nominated to the board.

2. The Administrative Board: monitors the administration or the management-similar to a Board of Directors in a commercial organisation.
3. The Director General: elected by the administrative board. He/She is responsible for planning the overall programs and for running the entire organisation.

He/she also has to ensure that the programs comply with the regulations.

An important question arises when we look at these three bodies. How does a country make sure that these PSB Boards really represent the population as a whole? There is no clear cut answer as each country has different circumstances and the structures in one country do not apply to that of the other country.

For example the German system will not be successful in Bhutan.

BBS as an autonomous organisation governed by a board - we all realize that we can learn by comparing the different approaches in different countries.

In the German system - in the early days of German Republic, the Federal government constantly tried to interfere in the interests of Public Radio and TV Channels but the broadcasting services did not give up.

The government from 1949 to 1963 tried to really extend the federal government's powers over broadcasting policies. The broadcasters in the federal states reacted by holding together and they were supported by the German federal Constitutional Court as it is their job to check if laws agree with the constitution.

Over the years, the court has strengthened the PSB on various occasions.

In Germany, the two major political parties - especially the Christian Democrats and the Social Democrats regard public broadcasting as their territory. Political

parties also nominate some of the Board members- the other members are usually affiliated with a specific party. This can also be the case with other German public institutions as well. As a result, it is necessary to constantly check to make sure a PSB is politically independent because only political independence can justify the existence of public service broadcasters and makes it essential for the democratic framework of any country.

It is necessary to constantly check to make sure a PSB is politically independent.



Representatives from four groups sharing their findings after group discussions on some of the key issues that Bhutan faces in Public Service Broadcasting.



Lively discussions on the creation of public service oriented content for a Bhutanese audience.

Public Service Broadcasting - a necessity for developing countries. Thailand's Public Service model.

Thepchai Yong, Managing Director, Thai Public Broadcaster

In most countries, public service broadcasting happens by design but in the case of Thailand, it was more of an accident. This may sound ironic but it could be as ironic as how the military coup that ousted the democratically-elected government of Prime Minister Thaksin Shinawatra in 2006 was welcomed by large sectors of the Thai public fed up with corruption and abuse of power by the toppled administration. The coup paved the way for Thailand's first public broadcaster

Through its 80 years of history, television has always been the most powerful medium. According to the latest official statistics, more than 20 million Thai families own television sets and out of a population of 63 million, 94 percent watch television everyday while 47 per cent read newspapers and 31 percent listen to radio.

The state of Thai media, especially broadcast media, can be taken as a barometer of the state of democracy in Thailand. Traditionally, the print media have been relatively free. Throughout the political ups-and-downs of the past few decades, the print media have more or less been able to maintain their independence despite constant political pressure. While the print media are largely privately-owned, the broadcast media have been virtually a state monopoly. Until the recent advent of public broadcasting, all the television stations and radio frequencies were owned by state agencies, notably the armed forces and government public relations agencies. Most, however, are leased to private operators and remain under tight state control. That explains their heavy commercialisation and lack of editorial independence when it comes to news reporting.

A small break came in 1996 when Thailand had its first independent broadcaster. The establishment of ITV (Independent Television) was a direct legacy of a pro-democracy uprising that brought down a military-installed government four years earlier. During the crisis, all state-owned broadcasters were ordered to give white-wash accounts of the bloody uprising which caused widespread public anger that subsequently triggered a massive street demonstration.

ITV was the first attempt at giving Thailand a TV station that was free from political control. While it was basically a commercial broadcaster, ITV was designed in such a way that it would to some extent play the role of public broadcasting service by giving emphasis to news and current affairs. It didn't take long for ITV to gain a reputation as an independent broadcaster noted for its aggressive and independent news reporting – which was until then something unheard of in Thai broadcast industry. But the 1997 financial crisis that swept the region dealt a heavy blow to ITV and subsequently opened the way for it to be taken over by then would-be prime minister Thaksin Shinawatra. Thaksin, probably the most popular elected leader in modern Thai history, quickly moved to turn it into his government's political mouthpiece.

Then came one of the biggest ironies of the Thai media. A year after the coup in 2006, the military-installed government of Gen.Surayudh Chulanont, in pronouncing its commitment to media freedom, decided to nationalise ITV and transformed it into Thailand's first public broadcaster, known as the Thai Public Broadcasting Service (Thai PBS). Thailand has active groups of media reform campaigners who strongly believe that public broadcasting is necessary to break the state monopoly of broadcast media. They were most instrumental in convincing the Surayudh government to come up with the law (Thai Public Broadcasting Service Act) that paved the way for Thai PBS to be set up.

In hindsight, without the coup there was probably little possibility that public service broadcasting in Thailand would ever see the light of the day. Under normal political circumstances, it would be difficult to imagine politicians making efforts to push for independent public broadcasting. History shows that the last thing politicians want to see are media they cannot control.

Why public broadcasting is necessary

Like in most other developing countries, the broadcasting industry in Thailand is heavily commercialised. All broadcasters devote their resources to producing and broadcasting entertainment and commercially popular programmes while ignoring issues concerning public interest. And when it comes to news reporting, they choose to tow the official lines on critical issues to avoid antagonising the powers-that-be. State monopoly of the airwaves means those in power can easily manipulate news to suit their political agenda. Under such circumstances, the need for public service broadcasting is greater than ever.

Public service broadcasting treats viewers and listeners as citizens rather than as consumers.

One basic principle of public broadcasting service is that it treats viewers and listeners as citizens rather than as consumers. It is committed to enlightening members of the society with educational and thought-provoking programmes while strictly abiding to the code of ethics that ensures fair, balanced and impartial news reporting.

In countries like Thailand where the systems of checks and balances are still ineffective, public broadcasters have a crucial role to play in protecting public interest. Public broadcasters can play the “watchdog” role with little or no political or commercial constraints faced by their commercial counterparts. In this respect, Thai PBS shares the mission of public broadcasting service in promoting good governance in both the public and private sectors. Two key components of good governance are transparency and accountability.

One of the crucial roles of public broadcasters is to ensure transparency.

One of the crucial roles of public broadcasters is to ensure transparency by making information available to the public so that they can use that information to hold those in power accountable. In countries where there is high level of corruption and abuse of government power, this role is especially crucial. Thai PBS considers creating an informed citizenry, a key ingredient of democracy, one of its major goals.

Birth of Thai PBS

Thai PBS began broadcasting in January 2008 in the midst of Thailand's worst political crisis with TV Thai, a free-to-air television station, as its flagship. Views on Thai PBS were as polarised as those on the prevailing political situation. There were those who believed public broadcasting was long overdue but there were also others who questioned the circumstances under which it was set up. However, Thai PBS defies its sceptics and in less than two years has already earned itself a distinctive place in the Thai broadcast industry with its bold and independent news reporting and a wide range of thought-provoking and knowledge-building programmes. Its strong adherence to its code of ethics ensures that Thai PBS news contents will be fair, balanced and impartial. And from the very beginning, Thai PBS sees itself as more than being just a broadcaster.

Thai PBS Vision

To be a public media institution that strives to promote a just and an informed society.

Mission

To provide innovative and comprehensive broadcasting services of high standard based on code of ethics, public interest and cost-effectiveness.

Objectives

- To encourage public awareness and participation in the building of a just and democratic society through bold and impartial reporting with public interest at its heart.
- To educate, inform and entertain every sector of the society with an aim of promoting quality citizenry.
- To inspire and encourage imagination and creativity.
- To contribute to a sense of identity, cultural diversity and social harmony.
- To reflect social diversity and provide space for minorities and specific groups with an aim of promoting public participation both at the local and national levels.
- To help forge understanding and good relationship both at the local and global levels.

Sources of income

How public broadcasting service is financed is crucial to its independence. Fortunately, the financing method for Thai PBS was designed in such a way that

it would not expose the public broadcaster to political pressure that is often faced by public broadcasters that rely on tax-payers' money.

The primary source of funding for Thai PBS is tax on alcohol and tobacco, with a maximum of 2 billion baht (around US\$60 million) annually. The income ceiling, however, is adjustable every three years to ensure sufficient funding.

- Other sources of income as permitted by law;
- Charges for services provided by Thai PBS;
- Sponsorships or contributions from supporters/donors;
- Income from merchandising and intellectual property rights;
- Interests from deposits or assets

However, it is essential that sponsorships or contributions must not in any way compromise the independence of Thai PBS or its objectives as public broadcaster

Board of Governors

Thai PBS is governed by the 9-member Board of Governors which is elected through an independent process and serves a 4-year term. The Prime Minister is required by law to endorse the appointments but not allowed to interfere with the selection process.

The board of governors approves strategy and policy, sets objectives, oversees complaints, and produces Annual Reports that document Thai PBS performance and compliance. The board also draws up the code of ethics and sets guidelines for programme research. The board appoints the Managing Director and the Executive Board and evaluates their performance.

Independence is a cornerstone of public broadcasting. Therefore, one of the most important responsibilities of the Board of Governors is to safeguard the independence of Thai PBS against all forms of interference.

Board members are appointed from senior positions in various walks of life from Thai society. Its composition is designed to encompass a wide range of expertise and backgrounds. They include:

- 2 mass media experts;
- 3 management experts;
- 4 advocates in the fields of democracy, community development, children and family welfare

The Board of Governors is appointed by a 15-member selection committee whose members represent independent civic and professional organisations that have proven public recognition. There is also a government representation in the selection committee. The selection board comprises:

- Thai Broadcast Journalists Association
- Thai Journalists Association
- Press Council of Thailand

- Law Society
- Mass Media Academics Council of Thailand
- Broadcast Professionals Federation
- Consumers Protection Federation
- Non-governmental Development Coordinating Committee
- Children and Youth Development Council
- Council of the Handicapped
- Thai Environment Institute
- Health Promotion Fund
- Prime Minister's Office
- Finance Ministry
- Cultural Affairs Ministry
- Education Ministry

While the Board of Governors sets the strategic direction of Thai PBS and oversees its operation, the operational responsibility rests with the Managing Director and the Executive Board. The Board of Governors appoints the Managing Director for a 4-year term which is renewable. The Managing Director is Chief Executive and also serves as Secretary of the Board of Governors to ensure smooth coordination and an effective line of communication between the policy-makers and the management.

Executive Board

The Board of Governors appoints the Executive Board which is responsible for operational management and for the delivery of Thai PBS services according to the plans that have been agreed with the Board of Governors. The Executive Board is made up of six executive directors from within Thai PBS and four non-executive directors from outside. The Managing Director serves as chairman of the Executive Board.

The Executive Board has the following responsibilities:

- Oversees programme production to ensure that it is in line with the strategic direction of the Board of Governors;
- Supervise the management of Thai PBS to ensure that it conforms with the law and regulations, especially in the event that there are complaints from members of the public;
- Submit management and programming plans to the Board of Governors for approval;
- Submit organisational/personnel development and financial plans to the Board of Governors;

- Designs network development plan;
- Conducts programme contents evaluation

Code of Ethics

As public broadcaster, Thai PBS has a distinctive place in the Thai media industry. Its code of ethics ensures that Thai PBS carry out its mission with full accountability and integrity as well as respects for the rights of others. All personnel of Thai PBS are obliged to strictly abide by its code of ethics.

In regulating Thai PBS programming, the Board of Governors has the obligation to draw up and enforce the code of ethics that governs programme production and programme contents. The law requires the process of designing the code of ethics to be inclusive, taking into account opinions and suggestions from representatives of Thai PBS employees, programme producers, the Audience Council and experts in the field of mass communications.

The code of ethics essentially incorporates the following elements:

- Accuracy, impartiality and fairness;
- Editorial independence and responsibility;
- Respect for human dignity, privacy and rights of the individuals;
- Safeguarding children against violence, obscenity, criminal behaviour, use of foul language;
- Reporting suffering and distress;
- Payments to news sources, receiving of gifts and other benefits and activities that may compromise editorial independence and fairness;
- Safeguarding and fair treatment of news sources

Programme contents

Thai PBS is committed to pursuing journalism of the highest quality and integrity. Thai PBS news programmes are distinctively up-to-date, accurate and informative. As a public and independent broadcaster, Thai PBS also provides in-depth and analytical news reports by its teams of professional journalists who operate within the best practice of investigative journalism.

Thai PBS is committed to pursuing journalism of the highest quality and integrity.

Thai PBS is also noted for its wide range of thought-provoking and knowledge-building programmes that include documentaries on education, nature and history. Its children programmes are distinctively educational and inspiring while highlights in music programming include an innovative weekly performance by talented musicians.

Thai PBS programmes are required to contain and reflect the following content areas and values:

- News and current affairs that is presented accurately, timely, and fairly;
- Programmes that promote public participation in issues that involve public interest;
- Programmes that promote learning and development of quality of life with strong emphasis on children/youth;
- Sports and programmes that promote health and quality of life;
- Programmes that promote Thai identity, cultural diversity and social harmony;
- Programmes that provide space for minorities and marginalised sectors of the society;
- Entertainment programmes that are creative and promote good social values;
- Programmes promoting the role of independent producers and which should be provided with appropriate time slots

Accountability

As a publicly-funded organisation, Thai PBS makes accountability a key element in its management and programming. Thai PBS makes itself accountable to the public through the following channels:

Annual reports

To be accountable, Thai PBS is required by law to submit annual reports to the Cabinet, House of Representatives and the Senate. The annual reports must contain information covering the following:

- Its performance in the year past against targets;
- Projects, operational plans and budget plan for the coming year;
- Programme schedules of the past year and plans for new schedules in the coming year;
- Financial performance and reports from the auditor and internal controller;
- Information on business entities in which Thai PBS holds stakes either directly or indirectly;
- Lists of independent producers and programmes supported by Thai PBS with details about their commissioning and scheduling;
- Feedbacks from the Audience Council and general public as well as how Thai PBS respond to them;
- Audience complaints and how they are addressed.

Auditing

The Board of Governors appoints internal auditors who are independent of the management and report directly to the board. The auditors have the

responsibility of submitting annual audit reports to the board. To ensure transparency and accountability, the State Auditor General is required to audit Thai PBS's expenditures and its use of assets with a view to establishing whether they comply with the principle of cost - effectiveness and its objectives.

Evaluation

To ensure efficiency and create public trust as well as to hold Thai PBS accountable to the public, the Board of Governors is required to commission external evaluators to conduct annual performance evaluation of the organisation. The evaluation must at least take into account the questions of efficiency, organisation development, public support, and audience satisfaction.

Complaint body

Thai PBS is subject to public scrutiny both in its programming and other interactions with the audiences. The Board of Governors is required to set up a complaint body to receive complaints from members of the public in cases of non-compliance with the code of ethics and programming standards. The complaint body is required to respond promptly and fairly to complaints it receives

Audience Council

As the national public broadcasting service, Thai PBS is dedicated to putting the audience first. So engaging with its audiences is one of its most important tasks. Thai PBS has set up an Audience Council that works on behalf of viewers and listeners to ensure that Thai PBS provides quality output that takes into account public interests and public needs. The 50 - member council, which represents people from all walks of life and serves a two - year term in a voluntary capacity, collects feedback and suggestions from audiences and uses them to formulate proposals to improve Thai PBS programming and services.

While the Audience Council is required to hold a general assembly at least once a year, in practice the Thai PBS Board of Governors and the Executive Board have periodical dialogues with the council members to listen to their comments and share with them programme ideas.

Public participation

A key element of public broadcasting is public participation. Thai PBS encourages public participation in both its programming and other activities through the following channels:

A key element of public broadcasting is public participation.

Public forum

In designing programmes and activities, Thai PBS organises forum and brainstorming sessions to which representatives from a wide range of professions are invited to offer ideas and suggestions to make sure that they correspond to public interests and public needs. Thai PBS also holds open sessions to listen to comments and feedbacks from representatives of viewers on its programming and performance.

Friends of TV Thai

“Friends of TV Thai” is another channel through which Thai PBS interacts directly with its audiences. It is named after the Thai PBS flagship broadcaster TV Thai and serves as a call centre to receive comments and assessments from audiences on its programming and performance by telephone and e-mail. Friends of TV Thai has a nation-wide network whose members monitor Thai PBS programmes and solicit feedbacks from viewers. Friends of TV Thai is also designed to be a mechanism that will help foster a sense of ownership from the audiences and in the long run a crucial strategic partner in safeguarding Thai PBS independence.

Citizen journalists

Thai PBS strongly believes in the role of citizens in public broadcasting and has made efforts to bring citizenship from the margins of news to its centre. In collaboration with both local and international organisations, Thai PBS has been organising workshops for citizens in various regions of Thailand to train them on the basics of news-gathering news reporting. These citizen journalists then produce their own stories that cover everything from their ways of life to environment and cultural issues and problems in their communities. They write their own scripts, shoot their own pictures and present the stories themselves in the styles and dialects they feel most comfortable with. Thai PBS provides a three-minute daily time slot at the end of the evening news cast of TV Thai known as “Citizen Reports”.

Citizen journalism is one effective way of empowering local communities. It provides them with space they cannot find in other mainstream media. Through “Citizen Reports” these ordinary citizens for the first time can hold local authorities accountable and air grievances on issues that were previously ignored. Several of their reports have been picked up by mainstream media and became national issues.

Backpack women journalists

Because of its success, training for citizen journalists has been expanded to cover students and youths. And most recently, Thai PBS in collaboration with Asia-Pacific Institute for Broadcasting Development and Canada Funds organised a workshop on documentary production for women in southern Thailand. It was aimed at training women to produce documentary reflecting the lives and views of voiceless people by using ordinary home cameras. It also seeks to promote media pluralism and diversity of sources of information and news. Their stories will be later shown on TV Thai.

Short films

In order to promote programme diversity, Thai PBS organises training for script writing for television series and production of short films. It is aimed at producing young and aspiring script writers and short film producers who will in the long turn contribute to more diverse programming for Thai PBS. TV Thai currently has a weekly programme called “Hot Short Films” in which films produced by amateur producers are shown.

Support for independent producers

Thai PBS is required to provide financial and material support to small and start-up TV programme producers known as independent producers to help develop their production skills and increase their potential. Thai PBS also provides time slots to programmes produced by independent producers. The requirement is intended to create a partnership between Thailand's first public broadcaster and independent producers that will lead to greater creativity and innovation in television programming.

Access for the handicapped

The Board of Governors is required to solicit public opinions as part of the process in designing programmes that conform with the above-mentioned content areas and values with a view to facilitate access to those programmes by audience with handicaps.

Legal and Regulatory Aspects of Public Service Broadcasting

Dr. Venkat Iyer, Barrister and Academic, Law School, University of Ulster

The core objective of Public Service Broadcasting (PSB) is serving the needs of the public. Now this is a point which to some extent has been referred earlier when speakers have said, “It is not the state, it is not the government whose needs PSB must address but the needs of the public.” There is a further discussion, which I don’t want to go into.

“What do you mean by the term ‘public?’” because in some societies, there is a significant debate over what constitutes the public but as I said, we have neither the time nor the need to go into that for present purposes. Quite clearly, the issue is intertwined with the public interest. This is very important. The public interest lies at the root of all the objectives of public service broadcasting and the only point I’d like to make at this stage – again this is a topic which requires extensive discussion – is that you should not confuse the public interest with what interests the public. In other words, simply because something is interesting to the public does not make it a matter of public interest; otherwise you might have sensationalism masquerading as public interest because if you have sensational stories, clearly that is very interesting to the public – no doubt about that but it is not in the public interest.

Entertainment is also very much a part of the purposes of public service broadcasting.

What are the aims of PSB? Something which I don’t really need to tell you about, but they are essentially to educate, inform, and entertain. Why did I bring this up? Just to point out that PSB doesn’t have to be serious stuff. Entertainment is also very much a part of the purposes of public service broadcasting. So you can have some heavy stuff in terms of education, information etc but entertainment cannot be lightly dismissed. I would submit that any public service broadcasting should be part of a diverse, plural, and integrated media system. This is a point, I think, I referred to earlier in answer to one or two questions. So, in other words, let’s have a diversity of broadcasting of which PSB should be part.

The last point I want to make by way of introduction is a very important one and that is that there are clear limits to what the law can do. Now this might be very odd coming from a lawyer but it has to be said. The law is important but the law has limitations. You cannot expect the law to perform miracles in relation to PSB. Let me put it this way, the law is a necessary but not a sufficient condition for PSB. You need the law and it is almost impossible to conceive of PSB without the law – and when I say law, it also includes regulations – but it is not enough, and I would stress (as previous speakers have done, particularly both Gerda and Thepchai) the point about the role of ethics in PSB.

This is what I would call ‘obedience to the unenforceable’. In other words, you as public service broadcasters should obey something that is not enforceable by the law. I am talking essentially about codes of conduct, which as you know, do not necessarily carry legal sanctions but they are very important. So if you want a good public service broadcasting system, then you cannot underestimate the importance of ethics.

Now what are the justifications that are usually offered for legal regulation in this area?

First of all, that market forces cannot meet all public informational needs. In other words, if you leave everything to the market, then you will end up with a system that is largely commercially driven and therefore not necessarily meeting all the aspirations, all the needs of the public in the public interest. A secondary justification that has been offered for PSB is that PSB can provide a leadership role, particularly in countries that require it, in deeply divided societies, societies that are at the infancy of democracy and of development, and therefore PSB does have a role in that area as well.

If you leave everything to the market, then you will end up with a system that is largely commercially driven and therefore not necessarily meeting all the aspirations, all the needs of the public in the public interest.

What are the prerequisites for PSB? Now again, this is something which to some extent has been addressed by previous speakers, so I will just simply run through the list. I would suggest that there were four, or five, or six prerequisites: independence and editorial freedom (to which references has been made extensively in the course of this morning); adequate funding (which also has been stressed); accountability (accountability can be multifaceted: there can be accountability to the broadcasters and there can be accountability by the broadcasters – to the viewing public; I may have occasion to come back to this a little later on.); I believe as well that there should be a degree of societal consensus about public service broadcasting. There is no guarantee that a PSB system will work in a country where you are effectively ramming it down the throats of people. The issue of societal consensus has, to some extent, have been referred briefly in the course of the morning, when people spoke about media literacy and things like that. In other words, a demand by the people for high quality content and matters of that sort.

Political will, is also extremely important. I think Joe made a mention earlier this morning to Doordarshan in India and said why it is not PSB in its true sense. I totally agree. Part of the reason is the lack of political will.

Physical infrastructure is important and that has a particular resonance in Bhutan. You do have some limitations on that score and you can't disregard this issue altogether. This is not to say, of course, that because you have this limitation, you cannot have a proper PSB. Of course, you can. You will have to overcome the limitations but do remember that the infrastructural issue is not something which can be wished away.

I would add as well that there is one other very important element, which is not in my slides and that is professionalism; professionalism on the part of the people who are required to administer and run the PSB system. I must confess this has not been given as much attention in many places as it deserves. A lot of the PSB systems, although they are very good in terms of how they look on paper, have not performed as well in practice. Why? Because they are not run by people who have got the mindset of a professional, who have regard to certain matters, which are usually unwritten, and I would say essentially that, if you talk about professionalism, it is quite a wide ranging concept. You are talking

Profit making is not
incompatible with
PSB's.

about adherence to a level of excellence that goes over and above commercial considerations, over and above legal requirements, and also a commitment to honesty, a commitment to responsibility, a commitment to courtesy. It includes things like attention to detail, consideration for others; equitable conduct in the way the broadcasting system is run, a proper exercise of discretion, and not giving undue importance to form over substance. Now that's all I can tell you at this stage because I am conscious of the fact that we are running against time but I will stress the importance of professionalism again. It is very, very important if you want to make your PSB system successful.

There are a few questions which I thought we should pose to ourselves. I am not sure if we will have the time to answer all these questions and some of these questions have already been, at least indirectly, adverted to. The purpose in my posing these questions is to make you think a little deeper about PSB but also probably to bring up the questions during the group discussions tomorrow.

First of all, does a PSB have to be publicly or state owned?

I think that is a question which recurred this morning and my answer to that, quite frankly, is "no". You could have a public service broadcasting system that is privately run. I hope I am not saying something earth shattering or something unduly provocative. Let me put a thought in your mind and just leave it there till maybe tomorrow. I am sure you are all familiar with channels like Discovery and National Geographic. Now, I presume most of you will agree that those channels are educative, probably informative. They are commercial in the sense that you need to pay for access, right? Would it be fair to suggest that they perform a public service broadcasting role? I just want you to think about it. I posed this question at a previous seminar on PSB only 2 months ago in Tonga and it was interesting because that group had a number of very established broadcasters, and a lot of them said, "Look, we never thought about those channels as evenly remotely representing PSB and now we think there is probably a case to be made for them to be included in the category of PSB even though they are commercial in nature." So, it's just a thought. We will probably come back to it later.

The second question is, "Can a public service broadcaster also engage in commercial activities?" and my own answer would be "yes". For example, a good public service broadcaster may be so popular that they may be able to sell their programmes, syndicate their programs, and make money. Why not? So there is a good reason why a PSB can also be commercial.

Is profit making antiethical or incompatible with PSB? My answer again would be "no". Sometimes, it can be complimentary.

Can monopolies be justified on PSB grounds? I would say "probably not" and I have in mind a number of countries – fortunately, fast declining in numbers – where the state, or the government more accurately, justifies monopoly (particularly in the area of television, but sometimes television and radio) on the grounds that PSB requires an element of monopoly. This happened for many

years in India. There was strong resistance on the part of the Indian government to allow any competition to Doordarshan and to all their radio channels. The matter went to court and all kinds of battles were fought. Fortunately, those battles have all now become academic after the advent of satellite television but the point is that there was this very high sounding talk on the part of the Indian government that unless “we continue to have a state monopoly or broadcasting, then PSB will die.” I think that is rubbish, that’s not the way to describe it.

Can compulsory license fees for the audiences be justified in PSB grounds? Now this is also an issue which is relevant in some societies, including my own. In the UK, there is a very big debate going on about whether the BBC can continue to levy a compulsory licensing fee. The way it works in Britain is that if you buy a TV, you have to pay a license fee regardless of whether you access BBC TV or not. Now, there are one or two people who tried to challenge the law in a rather facile way. What they did was, they bought a TV and they said, “We are going to remove the button 1 and 2” (remember that there are only 5 terrestrial channels and so there are these buttons). In the old days, TVs used to have buttons 1, 2, 3, 4, 5. So, this chap, bought a TV and he immediately asked the dealer to remove the first two buttons, for BBC 1 and BBC 2, which are the only ones for which, incidentally, license fees are paid. The other channels are free and he argued, when he was told that he was in breach of the licensing requirements, “But look, I don’t even have the buttons to operate BBC 1 and 2. I am not interested in watching BBC at all and therefore I am not required to pay the licence fee.” Of course, that argument never took him very far at all. He was fined. There are lots of people who are very passionately opposed to the idea of paying a licence fee because they say, “Look, if we want good quality broadcasting, then we will pay for it in terms of subscription services. Why are you compelling us to take out a licence? Simply because we have a TV set shouldn’t mean we must have to buy a licence.” It is a serious matter. Fortunately, I assume it’s not yet a relevant matter for Bhutan but do remember this if you ever go down the route of compulsory license fees.

Does the emergence of new technology aid or hinder PSB? There can be a divergence of opinion on this issue. It’s quite a big topic and I don’t think we have the time to go into it right now but maybe we might look at it very briefly in the group discussions.

What are the legal justifications for PSB? We are now getting closer to a discussion of the legal and regulatory regime. I can think of at least 3 ways in which you can look at it. First of all under domestic law; in most countries, there is a free speech guarantee. Most constitutions in most countries, including countries which are pretty totalitarian, have – at least on paper – a guarantee of free speech. It usually runs like this: ‘Everyone shall have freedom of speech’. That is used as a justification for PSB because what is implied in it is much wider than what appears on paper.

That brings me neatly to a question that Pek was asking a couple of times today – about the compatibility of PSB with state ownership. What happens if in a

country, it is decided by the state that they will start their own TV station, which will not be a PSB? In other words the government says, “Look, somebody else can start a PSB station if they want to. As far as we are concerned, we want to give out the government view point and therefore, we are starting a state channel.” I would say that in this day and age they will not be able to do it for the very simple reason that somebody can go and challenge such a decision in a court of law on the grounds of free speech, on the grounds of freedom of expression guarantees in their national constitution and increasingly, there is a growing body of jurisprudence around the world which says that the free speech guarantee has certain implied rights – and I will talk about that in a minute in some detail. Essentially what it means is that, you cannot in the name of state interest or government interest completely abandon the concept of public information, public education etc. There might also be reasons of regional/international law, which requires you to encourage, or which justifies, PSB. It is extremely strong in Europe. Why? Because we have something called the European Convention on Human Rights. This is a very solid basis for a number of cases that have come up in relation to broadcasting. I know that there is no equivalent document in Asia but don’t be surprised if a few years down the line, you do have something, however weak, emerging for example, out of, either ASEAN (for the South East Asian countries) or SAARC (in relation to South Asia). That might be used as an additional legal justification for PSB.

In Europe, of course, we have the advantage of using the European Convention on Human Rights in many domestic courts. Now, that is quite a significant achievement but it may not apply everywhere. The point I am making is that you could use that as an additional justification. Then there are a few instruments of what we call ‘global’ international law, which also seem to support the idea of public service broadcasting. For example, if you look at the Universal Declaration of Human Rights, there is a clause there, which says ‘Everyone has a right to freedom of opinion and expression and this right includes the right to hold opinions without interference to seek secrecy and impart information and idea to any media regardless of frontiers.’ In a number of countries, this article has been used as a justification for PSB. In other words, people who wanted to be activist, who want to challenge state monopoly, will often go to court and say, “Look, what the government is doing is not compatible with the Universal Declaration of Human Rights.” The result of such a challenge would of course depend on what view your judiciary takes but increasingly, it is becoming difficult for judges to resist at least listening to such arguments.

One of the other points that I wanted to make earlier and which I will probably do now before I move on is this: you can talk as much as you want about law, and you do need to talk about law; as I said earlier, the law is important, but law is only as effective as the enforcement mechanisms for law are in a country.

I want this matter to be considered by you and I don’t mean this in any derogatory way but considering that Bhutan is only now developing its legal infrastructure, please remember it is very important because what happens is this: if you were to draft laws, which says we guarantee PSB, it is wonderful. But if you did that and

you discovered that there was a dispute, in other words, somebody says that the government is not fully complying with that law or BBS is not complying with the law, who is to decide that issue? It is at the end of the day only the judiciary.

You may have authorities, you may have tribunals, you may have BICMA (Bhutan Information Communication and Media Authority), you may have all kinds of bodies, but at the end of the day, you have to go before a judge if the dispute is not resolved at lower levels; it is inevitable. If that is the case, do consider this, if you did not have a proper enforcement mechanism and proper judicial infrastructure, then your guarantees are not going to be particularly effective. So I think that is a matter which needs to be borne in mind.

I have given a quotation there [on the slide], which I am not going to read, from the European Convention on Human Rights about the foundational nature of free speech. Now these are the kind of quotations that are used increasingly in many Commonwealth countries to achieve purposes that activists believe need to be achieved in relation to PSB. The European court has made some very strong pronouncements in relation to freedom of expression. You will be surprised how much headway these arguments have had. For example, these kinds of quotations have been used very effectively in countries like India. The Indian Supreme Court has been very willing to listen to arguments like these. So much so that something like this was used in a case which resulted in a decision by the Supreme Court under which it is now not possible for any government agency in India to bring a defamation suit. If, for example, you criticise a public sector body of corruption or whatever, that body cannot sue the person making the allegation for defamation in a court of law in India. You can see the effects of such a rule, and that is a direct result of using precedents that have their origins in the English legal system. So don't underestimate the importance of precedents from abroad that have the centrality of free speech as their basis. The centrality of the mass media in making free speech a reality has been recognised in a number of judgments.

You can also find quite a few court decisions which say that there is a special responsibility on state-owned broadcasters to respect and promote freedom of expression. I don't know how this is going to play with the Bhutanese judiciary but if somebody went ahead with a case and tried, say, to challenge some action of BBS. They might say, "Look, as a state owned broadcaster, BBS has a particular responsibility to protect and promote freedom of expression and therefore, it should not engage in any form of censorship or in any form of restriction that looks like censorship." So you can see again how international law can sometimes be used in the domestic context to significant effect.

There are a number of countries where the Supreme Court or high court has ruled that the airwaves are 'public property'.

What about the issue of whether state monopoly is legal or illegal? There is no definitive pronouncement in that issue. There have been a few cases where people have tried to argue this point but there has been no definitive authority on that particular point. There are a number of countries where the Supreme Court or high court has ruled that the airwaves are 'public property' in other words, that a state or a government cannot unreasonably deny anybody a licence

to broadcast because by doing so, they would be denying them access to the airwaves. Now this dictum emerged before the digital age. So you need to treat it with a little bit of caution, but I would say it is still relevant. After the advent of digital TV and digital radio, the principle is probably less important because the old constraints of the radio spectrum have more or less gone.

The BBC works within a royal charter and the royal charter is renewed every ten years.

What are the various possibilities in terms of regulatory frameworks? You could have a statute based framework for PSB. In other words, the government could pass a law through parliament that defines and describes PSB and lays the parameters for it. So you could have, for example, the Bhutanese parliament passing a law, which says, among other things, what is PSB, what are the incidents of PSB, who can engage in PSB, what are its requirements, etc. That would be a statute-based way of regulating PSB.

Alternatively, you could have a charter-based system. Now, to some extent, what's happening with BBS at the moment, as I understand it, is charter-based. It is not exactly a charter, but it is more a royal decree but charters are roughly like royal decrees. The charter is granted by a higher authority, normally in monarchies by the king or the queen. The BBC, for example, works within a royal charter and the royal charter is renewed every ten years. So, you could do it that way.

You could also do the regulation through licensing. Interestingly in Britain, there is a dual system. The BBC is operated on the basis of a charter but the private broadcasters in Britain are licensed. So we have a licensing body, which gives a licence to operate broadcasting systems and the licence is normally for a fixed period after which it needs to be renewed. You might occasionally have a contract system whereby all that is required is for the government to enter into a contract with a broadcaster. It is not statute-based or charter-based. It is just a contract and then you have to worry about how it is going to play within the confines of contract law. If something goes wrong, it becomes a contractual dispute and it goes to the courts like a normal dispute in contract law. If you are talking about licences or contractual arrangements, they can either be exclusive or non-exclusive. It is very difficult to imagine nowadays of there being an exclusive contract for a broadcaster. It will normally be non - exclusive. In other words, many players would be allowed to do the same thing.

What are the legal obligations of broadcasters or PSB? In very simple terms, the legal obligations are not very different from those of other media outfits. Whether you are private or PSB, your normal obligations – I am talking of pure law – are roughly the same and a PSB is not exempt from the normal law of the land. For example, in relation to contracts, they have to comply with exactly the kind of regulations and rules that anyone else has to. Similarly, for defamation, criminal law, employment law, environmental law, taxation law, etc.

An interesting question that often arises is, “Can PSB be exempt from tax? Can a public service broadcaster be given special tax concessions because it is doing PSB?” and the answer, generally speaking, is “no”. Again, it is possible for a country to decide these matters differently on grounds of sovereignty. So if it

turns out that there is a provision in your constitution, which allows for special status to be conferred on broadcasters in relation to taxation, that may be fine. But, generally speaking, courts will frown upon arrangements which say that a particular media outfit shall not be liable to taxation. There are some interesting cases on this subject from India, where the Indian courts have said that if the government tries to impose unreasonable taxes on the media, then that would be unacceptable. In other words, a tax of that sort would be struck down. Why? Because it will have a disproportionate effect on freedom of expression but only in an extreme case. It would not be normally unacceptable for tax to be levied on any media.

What about judicial review? This is very, very important. Normally what happens is, in relation to public service broadcasters, particularly if the broadcasting outfit is a public body that is owned by the state or has a public element to it, and then the concept of judicial review comes into play. I suspect that in the next few years, judicial review is going to become very important in Bhutan. It has not yet taken roots in the way that it has in a number of other countries but I think it is going to happen, particularly because now you are going to get your new supreme court. So it is going to happen. When that happens, you need to be very aware of the implications. I don't have the time to go into the details of this, but judicial review is going to be very important because anybody can challenge any action of a public body through this route. It is a constitutional remedy. More generally, a PSB can sue and can be sued in its own right. So, remember that a PSB outfit is not immune from being sued. Again, this might seem technical but it is quite important because when you begin to operate a system, you need to be very careful that you know your rights as well as legal responsibilities as a PSB outfit.

If you are a PSB, one of the distinguishing features is that you need to have a commitment to provide a universal service by which what I mean is: you cannot say, "I will only operate my system in the cities because it is profitable to do so and I cannot take the cost of extending my service to remote areas because it is quite expensive."

One of the distinguishing features (of a PSB) is that you need to have a commitment to provide a universal service.

Licensing of broadcasters is quite an important, sensitive, ticklish subject. To what extent can the state compel broadcasters to obtain a licence? The general answer to that question is there is no automatic provision against licensing. In other words, every government would be normally justified in asking anybody who wants to start a PSB system to obtain a licence. They cannot say, "Oh, it's a restriction of freedom of speech that you are asking me to take out a licence." That would not be permitted as long as, of course, the conditions for licensing are reasonable. If there is a licensing system, then there are certain norms to be followed. The system has to be fair and it has to be duly notified. In other words, people should know in advance what they need to do to obtain a licence. The government cannot keep changing the rules or imposing new rules when it feels like doing so. So, there has to be advance notice. There has to be reasonable burdens and not unreasonable ones. So if you ask a potential applicant to submit two hundred different requirements for a licence; then quite clearly, that would

be seen to be unduly burdensome and, therefore, probably illegal.

There should be transparency in the allocation of licences. In other words, you can't have a system which is shrouded in secrecy and which therefore is likely to attract criticism on the grounds of unfairness. There has to be compatibility with competition rules. I don't know to what extent Bhutan has gone ahead in terms of its competition regime but this is a very difficult area in Europe because we have very strong competition rules both at the EU (European Union) level and at national level. This may happen eventually in Bhutan. Encouragement of plurality and diversity is seen now to be very important aspect of the grant of licences and there should also be an effective appeal system against refusal of licences.

What happens if a person applies for a licence and is refused it? Is that the end of the matter? Certainly not. He or she should have the possibility of going in appeal before a fair and independent tribunal. There should also be even handed and effective compliance monitoring if the license is granted. What happens afterwards? Can the system be left to run by itself? No. There has to be a monitoring of compliance with the licence terms and with the licensing regime in general and that system also has to be even-handed. You cannot have a partial system that supervises how licencees operate their systems and, of course, the sanctions that might result from non-compliance have to be proportional. You cannot have unduly harsh burdens on broadcasters for breach of regulations. I am reminded at this stage about the talk you had a few minutes ago about the BBS being fined recently for breach of ethics. I don't want to go into this issue now but this is relevant because if for example, under BICMA, you had the fine of a million ngultrum for something like that, then I am sure questions would be asked about the proportionality of the fine.

Governance and management issues

The governance of a PSB body should be independent.

This is something which also has been referred to by previous speakers. I will just very briefly go through this. Quite clearly, the governance of a PSB body should be independent; a point which has been repeatedly made today; but equally, the editorial staff has to be free from both internal and external interference and this is important. It is not enough simply to say that the broadcaster should be independent from government.

What about the editorial staff's own independence within the organisation? This can be a huge problem in some outfits. You can have a wonderful system under which the broadcaster is independent from government, but the broadcaster internally does not give the editors the freedom they deserve or the freedom they need. So, that is important as well.

The appointments to governing boards should be isolated from government interference. One or two of you asked questions earlier about how appointments take place. How the appointments are carried out is very important because otherwise you will have placemen doing jobs on government boards. The

independence of the entire system should be guaranteed by law. It is not enough for government ministers to simply make statements in parliament that we respect your independence but that independence has to be guaranteed by law because that is the only way, should there be difficulties, that difficulties can be resolved. There should be some protection against inclusion of non-qualified, political appointees on governance bodies. I don't think I will be revealing a great secret when I tell you that if you look around this part of the world, there are a number of countries where people would sit on the boards of broadcasting regulatory bodies not because of their expertise or their qualifications but simply because they know the minister or they are related to somebody who knows the minister. Now that sort of thing should be clearly eschewed. The Australian Broadcasting Corporation act has a specific provision which makes it illegal for any such appointments to be made. So, you can see how important that is.

There should also be safeguards against arbitrary removal of duly appointed governors. It is not important simply to ensure that the appointments are made properly but also to ensure that people are not dismissed because they become too independent or they become too troublesome in terms of asking inconvenient questions. Also, there should be no conflicts of interest. I mean if you have a situation where somebody is appointed to the board of a broadcasting outfit and his wife happens to run a rival broadcasting outfit, obviously there are considerations of conflicts of interest, which need to be borne in mind.

It is desirable also that the governing body seek independent outside advice where necessary through, for example, audience counsels – to which reference has been made previously by Thepchai. And clearly in a democracy there is a desirability of parliamentary oversight of the broadcasters and this is done normally through a committee of parliament that deals with broadcasting-related issues, and that committee should have the powers to question very closely the chief executive or the management board of a public service broadcaster as long as, of course, due process is followed, and as long as there is a degree of fairness in the way in which the whole system is operated.

In a democracy there is a desirability of parliamentary oversight of the broadcasters.

There should also be an effective and fair mechanism for considering complaints from audiences. Again, the point has been referred to before, so I am not going to spend time on that. One of the ways in which this is done in many countries is through the operation of a media council (what previously used to be called 'press council'). That's one way of doing it. I recognise that in Bhutan at the moment, it is done by BICMA through a tribunal but a media council is an alternative.

Editorial independence: the governing body should have control only over policy. Again that is subject to certain safeguards on day-to-day editorial decisions. This is quite important and it is only editorial staff who should have control on the editorial decision-making. Also, except in certain circumstances, programming matters should not be susceptible to directions from the government.



Participants from a cross-section of society attended this two day seminar.



Group work enables participants to explore and share ideas on Public Service Broadcasting (PSB) and to arrive at a clearer understanding of the role of PSB.

DAY 2

Panel Discussion

Joe Carlos, Chief Executive Officer, Global Media Centre for Development - *Management, Sustainability, and Independence.*

Independence is key to formation of PSB, not only management but also editorial group. That we have the voice of the people and not the voice of an authority. There is no formula to guarantee complete editorial independence. Media is a human institution, but this is not an excuse to not take up every effort to ensure editorial independence.

PSB is public space where the public can speak freely, free from the interests of the government, commercial interests and religious, interests.

PSB is public space where the public can speak freely, free from the interests of the government, commercial interests, religious, etc.

In the news room, external pressure will continue, also internal pressure from management. How to free the editorial group from internal pressure?

Self-censorship: journalist's self-censor depending on the tastes of their bosses, fear of their stories having adverse results.

So how to counter self-censorship in the news room?

How to ensure top leadership does not interfere in day-to-day running of the news room?

There should be standards to guide journalists: how to effectively implement the Code of Ethics in the news room? Do journalists look at these ethics critically, the critical eye is key to editorial independence.

How to ensure the news room is accountable, fair, and objective?

It is ultimately the credibility of the news room and the editors must be responsible for the stories.

Human Capital: how to enhance it to ensure editorial independence? Resources have to be made available, pay structure; don't want journalists accepting bribes, which will influence the journalists' judgment.

The aim is to achieve integrity, most importantly to win the trust of the people PSB serves.

Gerda Meuer, Managing Director, Deutsche Welle Academy - *Ensuring*

balance and objectivity in News in PSB organisations

Germany is said to be very good in organising and developing structures and management and if this is true, then it is only natural that we Germans are going to support this working group. I picked up some of your remarks and comments on yesterday's working panel which deals with the subject and issue of this first working group.

For example legal and regulatory aspects of PSB is, of course, overlapping with other working groups but we cannot talk about management and organisational structures without also going little bit into this issue. There were lot of questions yesterday about independence of the board, how can you assure as an organisation that the board really is independent and as we, in Germany, have about 12 or more media laws because we are federal states. We have lots of examples of how you can guarantee the independence of the board of the public service broadcaster.

You are also very much interested in types of media models; we also have a lot of experience and can surely help you to find ways for Bhutan, because every country has to find its own way. As a resource person from another country we can just support you in finding your own way.

Guidelines, code of conduct is also very important, not only is the board independent but the journalists and the management who are doing the everyday work, they have to be independent as well. So we can talk about this and discuss how well this code of conduct and ethic and journalistic codes will fit to Bhutan. We can look at the establishment of Public Service Broadcasting in other countries and compare which models will work for Bhutan as well. I think I can only give you some hints, what is going to happen in our working group because it all depends on you and the way you will engage and are involved and take part in our discussions in this working group. It is very important that you find the right structure, of course, all the other topics in other working groups are also important but management and organisation always begin at the top. How an organisation works and functions and, if it is well done and well organised, it is much easier to run.

Thepchai Yong, Managing Director, Thai Public Broadcaster -
Creating public service oriented content for a Bhutanese audience.

Having read the BBS annual report and having talked to the BBS journalists, I have a feeling that BBS has been doing a lot of things that PSBs are supposed to do and the progress has already been made.

My topic this morning is creating public service oriented content for a Bhutanese audience but I have to confess that I'm not an authority to decide what is good or not good for Bhutan. But I can share with you the basic principles of governing content for PSB and what the Thai PBS is doing in terms of content and programming. The law governing Thai PBS is very comprehensive and it even covers guidelines for contents to be produced by the PBS either for television or radio or websites. Here are some important points that can serve as guidelines in programme content.

The first one is about news and current affairs. The Thai law very clearly says that Thai PBS's news and current affairs has to be presented accurately, timely and fairly. I will not go into details but this is written very clearly in the law because news is one of the key elements of public broadcasting, that is why it is written in the legal framework to provide direction to the news and current affairs that Thai PBS has to present.

The second one is about programming. The legal framework requires that Thai PBS has to promote public participation in issues of public interest. That means that before we produce any programme we have to take into consideration whether or not these programmes have input from the public. As I mentioned yesterday, before we start any programme, we organise brainstorming sessions and invite those who are stakeholders from different areas to add their views and their suggestions of what they want to see. For example, if they want to do a programme on environment in certain areas of the country, we invite the stakeholders - both government and non-governmental organisations -to share the views on what kind of input they would like to have and this is a very important form of public participation. It cannot be a one way street like the case of the commercial broadcaster, they don't care what the audience think, they don't even care whether the audience likes them or not. Commercial broadcasters produce programmes and put them out as long as the rating is good and as long as they can bring in advertisement revenue. But there is a big difference with PSB which focus on programmes that need to promote learning, develop quality of life and which place strong emphasis on children and youth. Producing programmes for children and youth is probably the least appealing for the commercial broadcaster especially for children because these are the programmes which do not have ratings and do not attract commercials. That's why it's important that PSB places strong emphasis on programming for children and youth.

PSB focus on programmes that need to promote learning, develop quality of life and which place strong emphasis on children and youth.

Coming to sports programming, sports should also be about local competition, school competition and indigenous sports. Not only about professional or at national competitions but activity that people will have everywhere in the society

because commercial broadcasters will only be interested in competitions in the level that would attract large audiences. But they wouldn't be interested in sports activities at different levels or in reporting about indigenous sports which are people's ways of life.

In the context of Thai society, programmes required are those that promote Thai entity, cultural diversity and social harmony. I stress the word social harmony because the society has been politically and socially polarised because of the recent political conflict and the public broadcaster has a very crucial role in bridging that gap.

We also have programmes that provide space for minorities and marginalised sectors of the society. I think the drafters of the law were quite afraid that Thai PBS may ignore these particular groups of people that's why it is written very clearly in the law that content has to take into consideration the needs of the interest of marginalised sectors of the society.

On entertainment, such programmes need to be creative and provide good social values. I think the problem with Thai television and Thai broadcasters in general is that all entertainment programmes are geared towards entertainment purpose. When you watch soaps, which are popular everywhere, you don't know or get any values from these programmes that is why PBS has to do a better job in making entertainment programmes entertaining as well as having good social values. But this is quite a challenge because Thai PBS came into the picture at a time when the broadcast market was very mature; people think that well we have everything we need from the existing broadcaster.

We can make boring subjects interesting so that people would watch it and this is probably the biggest challenge for any broadcaster because the general impression is that the public broadcasting is only for the educated and for the older people. I believe that the BBS or any public broadcaster here in Bhutan will be in a much better position than Thai PBS because this is a young market. BBS is a dominant player in this field and even if there is another broadcaster coming to the picture, especially being a public broadcaster, I think you have an advantage of setting the standards. That is very important because back in Thailand we are a late-comer, the commercial broadcasters have already set a standard that people in general think that this is the right standard and that is the way things should be, so it would be difficult to challenge the existing perception of the people. I think you have the advantage of being in the young market and doing the right things from the very beginning.

Then the last part is programmes that promote the role of independent producers. This is very important in Thailand and I think it is everywhere in most countries. The people have the biggest role in the broadcast industry and in the mainstream production company, there is room for up-and-coming producers at the radio and television.

In Thailand it is inverse, because you need to have connection, you need to have

lot of money to be able to get airtime so it is valuable. In Thailand one minute on the prime-time slot is close to one million Baht, which is quite close to your currency here. So it is very difficult. That is why Thai PBS law makes it very clear that Thai PBS has to give time slots to programmes produced by independent producers. I think in Bhutan this could be a good advantage because you are young market and I'm sure out here many people have creativity, imagination to produce good creative radio television programmes but they don't have the connections, they don't have the resource to produce programmes.

Under the Thai PBS law we are required to provide funding equivalent to about 10 percent of the whole budget annually to promote production by independent producers. Independent producers mean anyone who is interested, and who have the skills, and who want to be part of the public service broadcasting in producing programmes that fit the guidelines that I mentioned. So these are some of the basic guidelines for PSB in the Thai context and I hope that it will give us some idea on how to proceed from this as far as content is concerned.

Dr.Venkat Iyer, Barrister and Academic, Law School, University Ulster - *Reviewing and setting in place appropriate legislation and regulatory frameworks for a stronger Public Service Broadcast Sector.*

A very good morning to all of you. The theme of my working group is 'Reviewing and Setting in place Proper Regulatory Framework for a Stronger Public Service Sector. I'm very grateful for the feedback we received yesterday in terms of the topics you would like to explore further. I have the list in front of me and I can see a number of law related issues being included in it.

BBS is the pioneer at the moment in terms of public service broadcasting in Bhutan.

One of the most important is the structure of PSB. When I say 'structure' I mean legal structure and that obviously will be a basic point to be considered in the context of this working group. Quite clearly the BBS is the pioneer at the moment in terms of public service broadcasting in Bhutan. How do we strengthen the public service broadcasting mandate of BBS, first of all, and, secondly, how do we ensure that the space for public service broadcasting is enlarged? In other words it is not just about BBS but also about others who may come to the field in due course. So that would be an important aspect to be dealt with and that has implications in terms of legislation and in terms of whatever regulatory framework that may be put together. Specifically on the legal framework there is this question of legislation: to what extent do new laws have to be made in this area, to what extent do the existing laws either cover the field or lend themselves to application for the purpose of strengthening public service broadcasting? We need to be aware as well of the practicalities in this area: there is no point in saying that we would like a great new law which addresses every aspect of PSB. It is just not possible, it is "pie in the sky", so we just need to be very realistic and see what is doable. On a technical aspect of that matter we need to see what consensus there is in terms of how we go about it, is it through the statutory route, is it through a charter, is it through licensing etc. - the sort of thing I referred to yesterday in my talk. Again we can, hopefully, come to some provisional conclusions on that aspect of the matter and therefore be able to make tangible recommendations.

The other aspect to be dealt with would be the funding model for public service broadcasting. Again, I indicated to you a number of possible options in this area, the most obvious and the most widely used being the imposition of a licence fee. Whether that is feasible is a very big question to be examined. I don't think we should pre-judge it at all. We need to look at that, also about commercial avenues for funding PSBs.

Enforcement is yet another important issue. How do we ensure that the broadcasters adhere to their legal obligations? Now, part of the enforcement issue would require us to look into legal methods of enforcement, whether through hard law (i.e. statute) or soft law (e.g. codes of conduct), and if you are talking about the codes of conduct then we need to think about a mechanism which will allow for a code of conduct to be applied and given effect to. And we are talking essentially here about the possibilities of a body like a Media Council, about which also we spoke yesterday. Then the question is: what shape will the

Media Council (if it is put in place) take, what is the existing capacity in this area, and how do we ensure that what is put in place is equitable, functional, workable etc.? To some extent this topic will also tie in with one or two things mentioned earlier: for example, Joe mentioned editorial independence. In many countries Media Councils would be significantly involved in issues of editorial independence so it may be good idea, actually, to explore that aspect of the matter as well because it is quite difficult to take many cases of possible interference with editorial independence to the courts - there is only so much so the court can do in such situations but there is a role for organisations like Media Councils to play a part. Also, issues like self censorship, or interference by the management, and so on. Alongside this, you would have the crucial issue of what are the respective roles of the governing body of a public service broadcaster and the management body of the broadcaster and those kind of issues too, I think, need to be explored.

All of these, I believe, constitute a pretty reasonable agenda for this working group. There are, frankly, a number of other issues which can also be dealt with under the title of legal and regulatory framework; actually, almost anything can come under this topic but we need to be realistic, so I would propose that we deal with some of these issues - three or four big ones - and try to get some consensus on the way forward. The idea is for us to make a list of recommendations and the recommendations have to be very practical, very pointed, very focused and very doable. Not 'motherhood and apple pie' kind of recommendations which may look good on paper but which are simply impractical. I will stop here and I would urge all of you who are going to be part of this working group to participate fully, to be as interactive as possible, and to start thinking about the kind of issues that we will need to explore. Thank you very much.

RECOMMENDATIONS FROM THE SEMINAR

‘THE CHALLENGES TO PUBLIC SERVICE BROADCASTING’

These recommendations include suggestions for the national broadcaster, the Bhutan Broadcasting Service, as well as for all broadcasters and media at large. They recognise that Public Service Broadcasting is a vital component of a GNH society for Bhutan, and the need for public service obligations to be integrated into existing policy and planning, and in media development.

A. LEGAL STRUCTURE/Framework:

- The BICMA Act needs to be amended to incorporate a chapter on PSB. This will enable PSB obligations to be applied to all broadcasters present and future. Details of those obligations will be spelled out in individual broadcasting licenses. The amendment may also consider public service responsibility for all media.
- Consider enacting a new Act to provide legal basis for BBS. This will take into account the existing Royal Decree, the Company’s Act and any necessary revisions thereof. Revisions need to take into consideration the inherent conflicts of BBS being governed by the Company’s Act and the social mandate of PSB.
- Set up an independent Media Council to promote professionalism and to resolve media disputes.

B. MANAGEMENT:

Governance Board:

- Should have wide representation from all sections of society
- Nominations can be made by an appointing committee equivalent to that for constitutional appointees or by institutions representing cross-sections of the society
- Appointment as per Charter/broadcast legislation
- Members will serve a term of three years, renewable once

Role of the Board:

- Ensuring policy directions
- Ensuring editorial independence
- Ensuring transparency and accountability

Managing Director:

- Open competitive selection

General Manager:

- Open competitive selection and/or Nomination by the Management Committee

Role of Management:

- Day to day management and decisions
- Medium and long-term planning

Sustainability:

- Assured funding from the state
- Diversification of products and services
- Review budget and funding procedure
- Advertising compatible with PSB mandates
- Adequate funding for HRD

C. BALANCE, OBJECTIVITY AND INDEPENDENCE IN NEWS

- Recognising Constitutional guarantees for freedom of media, put in place policy guidelines for editorial independence from internal and external pressures, including commercial pressures.
- Strengthen, review, and publicise code of ethics so that audiences can help monitor compliance.
- Ensure nationwide coverage in News.
- Appoint an ombudsman to address complaints from the public.
- Adequate remuneration to attract and retain staff.
- Encourage public interest and participation by introducing more mechanisms for people to participate.

D. CREATING PUBLIC SERVICE-ORIENTED CONTENT FOR A BHUTANESE AUDIENCE

- Provide programming that inspires learning.
- Encourage public interest and participation in programming.
- Ensure diversity in programming.
- Provide programming that promotes local culture and traditions.

- Ensure increased programming for children and youth.
- Provide airtime for public notices that promote enlightened citizenry and civic sense.
- Commission independent programmes covering a wide range of topics, to develop and encourage local producers.
- Conduct content analysis/ research on pertinent issues on a regular basis in order to judge if programmes conform to the code of ethics.
- Promote education and awareness on PSB values and principles.

* * * * *

LIST OF PARTICIPANTS

National Council

1. Pema Lhamo
2. Kuenlay Tshering
3. Naichu
4. Sangay Khandu
5. Tashi Wangmo
6. Tashi Wangyal
7. Sonam Dorji
8. Sonam Kinga

National Assembly

9. Damchoe Dorji
10. Tshering Tobgay

Board BBS

11. Phuntsho Namgyal – MoAF
12. Sangay Zam – MoE

BBS

13. Airaj Tamang
14. Ashok Moktan
15. Ashok Tirwa
16. Damber
17. Dawa
18. Dorji Phuntsho
19. Deki Choden Dorji
20. Dukpo Wangdi
21. Eshoree – BBS
22. Karma Dorji Tamang
23. Karma Wangchuk
24. Kelzang Thinley
25. Kesang

26. Namgay Zam
27. Ngawang Dorji
28. Nirpa Raj
29. Nyema Zam
30. Nima Yangchen
31. Pema Choden
32. Pema Dorji
33. Pema Tenzin
34. Phub Dorji
35. Rajesh Kafley
36. Sherpem Sherpa
37. Sonam (News)
38. Sonam
39. Sonam Darjay
40. Tashi Choden
41. Tashi Dorji
42. Thinley Dorji
43. Tshering Choden
44. Tshering Chhoeden
45. Wangchuk
46. Wangdi
47. Yeshi Nedup

Prime Minister's Office

48. Dekey C Gyeltshen
49. Phuntsho Choden

Sherubtse College

50. Anju Chhetri
51. Sangay Tshechu

Government Offices

52. Dawa Penjor – DoIM

53. Kinley T Wangchuk – DoIM
54. Monira A Y Tshewang – DoIM
55. Tshering Wangmo – DoIM
56. Choiten Wangchuk – DNB
57. Dorji Tshering – Department of Culture
58. Kaysang W Samdup – Department of Revenue and Customs
59. Phuntsho – MoIC
60. Sonam Dhenup – PPD, MoIC
61. Tshering Wangdi – MoA

Media

62. Chenchho Tshering – Kuensel
63. Gopal Singh – Bhutan Observer
64. Karma Choden – Kuzoo Fm
65. Natasha Akin – Bhutan Observer
66. Phurba – Kuensel
67. Rinzin Dorji – APCO – ITAB

Autonomous agencies and CSOs

68. A Karma Rinzin – ACC
69. Chewang Tobgay – BCMD
70. Chimi Seldon – BICMA
71. Jigme Choden – BCMD
72. Karma Lam Dorji – YDF
73. Lakshuman Chhetri – BICMA
74. Nim Dorji – ECB
75. Phuntsho Wangdi – OAG
76. Siok Sian Pek Dorji – BCMD
77. WangayDorji – BICMA