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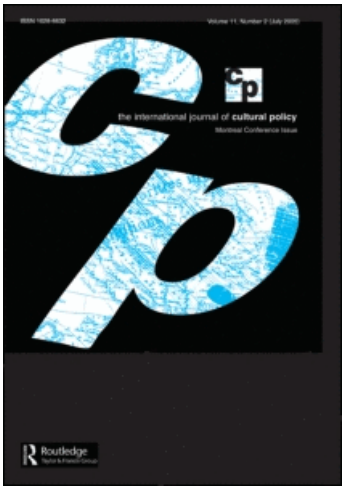

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Defining public service beyond broadcasting: the legitimacy of different approaches

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Defining public service beyond broadcasting: the legitimacy of different approaches

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The development of public broadcasters' Internet services has compelled practitioners and researchers alike to ponder public service beyond broadcasting. Yet, for public service as a key cultural policy tool, rethinking is also needed on the level of regulatory definitions. Are we witnessing a policy transformation into a media-neutral public service concept? If so, what are the implications for the legitimacy of public service beyond broadcasting? Relating the current situation to a wider policy context, this article scrutinizes different regulatory approaches, tentatively characterized by (1) extending broadcasting, (2) adding to broadcasting and (3) demoting broadcasting. The approaches are illustrated with three cases: Norway, Germany and the UK. Assessing the different approaches, I discuss advantages and pitfalls, and the implications for the legitimacy of public service freed from broadcasting rationales. As policy actors strive to create stable conditions in an unstable situation, I argue, they should keep in mind both the risks of succumbing to details or pursuing exhaustive lists in basic definitions, and the linguistic and cultural characteristics of each polity.

Keywords: public service broadcasting; Internet; media regulation

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Introduction

Over the last decade, European public service broadcasters have drastically expanded their scope of activities beyond traditional radio and television. Most pertinently, their Internet activities have grown – in an unclear regulatory context – from next to nothing to sprawling sites encompassing a multitude of services. The development has compelled practitioners and researchers alike to ponder public service beyond broadcasting. Yet, for public service as a key cultural policy tool, rethinking is also needed on the level of regulatory definitions. Are we witnessing a policy transformation into a media-neutral public service concept? If so, what are the implications for the legitimacy of public service beyond broadcasting?

Thus far, the regime emerging across Europe in the early 2000s – inspired by the EU's competition law approach – has protected public service as broadcasting but has treated services on new-media platforms as mere supplements (Moe 2009; also Harrison and Woods 2007, Michalis 2007). This may have aided public service actors' early moves onto the Internet and neighbouring media platforms. But, on the one hand, as different digital media mature, it gets problematic to legitimize public service arrangements with reference to a form – broadcasting – which constitutes just one part of the

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actual service. On the other hand, if regulations are detached from broadcasting, they simultaneously let go of the rationale grounding public service privileges as a tool of actual policy.

Radio and television were from the outset sent via radio waves through the air's electromagnetic spectrum. A certain portion of the frequency spectrum is suited for this kind of signals. As a consequence, there was a scarcity of a resource needed for broadcasting; frequencies for distribution. The scarcity argument has proved remarkably resilient for all broadcasting regulation, public service versions included. Its actual validity diminished with the advent of satellite and cable distribution. Even so, on the threshold of the digital age, the argument was still used to explain broadcasting policies in different polities (Röhl 1996, pp. 244ff., Gibbons 1998, pp. 77ff., Søndergaard 1999, p. 27, Moe 2003, p. 42). It might not always be spelled out in cultural policy debates, but remains a fundamental rationale for broadcasting policy, including for the peculiar publicly funded media institutions. 'Broadcasting' now fails to cover the actual scope of public service – it appears as necessary but inadequate. This is the dilemma policy-makers face when trying to carve out a principled concept for cultural policy.

This article first discusses public service broadcasting as a contested and changing concept. Next, I scrutinize different recent regulatory approaches, tentatively characterized by (1) extending broadcasting, (2) adding to broadcasting, and (3) demoting broadcasting. The article uses three cases as illustrations: Norway, Germany and the UK. All these states have strong public service broadcasting traditions, and mainly licence-fee-funded public broadcaster institutions that have taken up a proactive role in facing the digital era (e.g. Hallin and Mancini 2004, Moe 2008). I will look at regulations of public service as laid down in key policy documents pertaining to these institutions. Assessing the different approaches, I next discuss advantages and pitfalls, and the implications for the legitimacy of public service freed from broadcasting rationales. Evaluating possible new conceptualizations, I argue that the dilemma for cultural policy is not easily solved – broadcasting is not replaced without difficulty as the principal definitory term. As policy actors strive to create stable conditions in an unstable situation, I conclude, they should keep in mind the risks of both succumbing to details and pursuing exhaustive lists in basic definitions, and the linguistic and cultural characteristics of each polity.

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Public service broadcasting as a contested and changing concept

'I know it when I see it', stated Justice Potter Stewart in a famous attempt to evade the task of defining a controversial concept in a 1964 US Supreme Court decision (1964, n.p.). Stewart was talking about pornography. Thirty-five years later, Gavyn Davies chaired a review panel, appointed by the UK Department for Culture, Media and Sports (DCMS), on the BBC's future funding. In the forewords to the panel's report, he (presumably unintentionally) paraphrased Justice Stewart: 'We decided that we may not be able to offer a tight new definition of public service broadcasting, but we nevertheless each felt that we knew it when we saw it' (DCMS 1999, p. 10). Pornography and public service broadcasting have little in common, but they are both slippery concepts, constantly changing, and hard to pinpoint when we get down to specifics.

This feature has attracted scholarly interest. Several contributors have argued that public service broadcasting is hard to define (e.g. Jakubowicz 2000), or even that the

uses of the concept 'in practice entails emptying the concept of meaning' (Syvertsen 1999, p. 10, my translation). It is not hard to see that a search for the one true meaning of public service broadcasting is bound to be futile. It is an inherently contested concept. The term was coined a long time ago in a specific political, technological and social context. As public service broadcasting has travelled in time and space, it has changed. Rather than rejecting the concept for this reason, we should realize that change is a given. Despite different operationalizations and alterations in different contexts, it is possible to identify some basic values imbedded in the concept – across borders, outlasting specific technologies and regimes.

In 2001, Born and Prosser undertook a comprehensive survey of recent studies. It revealed for them 'an overlapping consensus on certain core normative criteria for public service broadcasting' (2001, p. 671). They distilled these criteria into three central principles, of which the latter two are derived from the first: (a) enhancing, developing and serving social, political and cultural citizenship; (b) universality; and (c) quality of services and output (2001, p. 671).

All public cultural institutions, one could say, share such principles. And even if we settle on these core values, the next problem clearly is applying them (e.g. Raboy 1996, p. 7, Harrison and Woods 2007, pp. 31–40). Still, it is helpful to identify high-level principles imbedded in public service broadcasting. It enables discussions of how values are translated into existing institutionalizations and new practices. Public service exists as a concept of actual cultural policy. Retaining its centrality in European national and supranational regulations, it is given specific, and by default different, definitions depending on the status and function of the text in question, and the political, technological and societal context. Rather than striving for one overtly detailed final definition, researchers can study how the concept is changing. My interest here lies in scrutinizing how regulatory approaches taken in different national contexts translate the concept in facing new-media technologies in the first decade of the twenty-first century and in assessing possible ways to legitimize public service beyond broadcasting. This investigation does, however, require some context. The current technological shift is not the first for public service broadcasting, and public service broadcasting is not the only policy tool challenged by blurring media sector boundaries.

As a policy tool, public service was originally institutionalized for radio programme making and broadcasting. All subsequent developments have in a sense dealt with the questions we face today: what are the limits of public service broadcasting, and how can a new field of activity be legitimized? Two examples of such expansions – focused on the three case states, the UK, Germany and Norway – can help contextualize the current situation and allow us to better assess the weight of the challenges posed in the digital era.

One such example of an expansion is the introduction of teletext. By the early 1970s, broadcasters across Europe were experimenting with ways to transmit extra information, such as subtitles, to television audiences. From these trails grew teletext services, offering a range of text-based information, typically including national, international and sporting news, and weather and television schedules. The BBC presented its *Ceefax* service to the public in 1972.[1] In Norway, the licence-fee-funded *Norsk rikskringkasting* (NRK) introduced *Tekst-TV* in 1983 without much political debate (e.g. Vestbø 2002).[2] In West Germany, the ARD and the ZDF collaborated to get political approval for a teletext service in the early 1970s, arguing that it constituted a new, additional information channel for public service broadcasters.[3]

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Teletext was defined by the federal states as broadcasting in 1976. The national association of newspaper publishers protested. They saw the new service as an 'on-screen newspaper' (*Bildschirmzeitung*), and therefore as an activity for the press (Buchwald 1999, p. 356). In the years that followed, the German public broadcasters and the newspaper publishers fought a battle to control teletext. If the former should find understanding among politicians for their claim that teletext was 'an additional broadcasting service', the latter argued that such a service at least had to withstand from news provision (Buchwald 1999, pp. 357–358). When German teletext was finally launched in 1980 as a 75-page service, it was a joint effort from the two public broadcasters, including 15 pages from the newspaper publishers (Buchwald 1999, p. 357).

A second more recent expansion relates to the emergence of digital television. By the mid-1990s, every old European public broadcasting institution found itself in a competitive environment. By way of neo-liberal reforms, national governments had invariably introduced domestic competition in the form of commercial broadcasters. Simultaneously, transnational multi-channel television provided via satellite and cable was gaining momentum. The development was a symptom of a more general shift that put market before state and individual before community, and which paid much attention to the cultural diversity of social life. Trying to fight off new market entrants and find a way to keep serving their societies, public service broadcasters continued to change, also by moving closer to their competitors (see Syvertsen 1997, Born 2004, Lucht 2006 for comprehensive studies of this period).

Digitalization, however, brought even graver prospects of turmoil. The discourse on digital broadcasting has since its advent in the mid-1990s focused on freedom and viewer control: digitalization would render radio and television channels superfluous and offer unlimited content on demand. The very form of broadcasting was said to be changing – in terms of senders, production, distribution and receivers – paving the way for new forms of user participation and true interactivity. The task of offering a mixed menu to every member of society would consequently become a lot tougher.

Economic motives are the key force behind media digitalization. Both commercial and non-commercial actors see potential for saving money. In addition, commercial businesses also envision new income streams. For public service broadcasters, the coming of digitalization coincided with political pressure to cut expenses, and to make complex institutions financially transparent and well run. As a countermove, the public institutions looked for new sources of revenue. On this basis, they embarked upon the different challenges and opportunities linked to digitalization.

A major challenge for public service broadcasting was related to television distribution. The digitalization of terrestrial networks and the introduction of digital satellite and cable distribution have constituted a key issue for cultural policy across Europe for 15 years now. Satellite and cable had been the prerogative of private actors in the analogue area, and largely remained so as we passed the digital threshold. The terrestrial alternative, however, continued to be subject to close public control as a tool of cultural policy. The public service broadcasters have taken quite different roles in the rollout of this network in different states.

In Germany, the ARD and the ZDF tried to cooperate with large commercial interests to offer a common national digital satellite television platform but ended up with one each directly competing with the privately run platforms (see Brockmeyer and Eicholz 1999). When a public initiative made Berlin-Brandenburg the world's first region to switch to digital terrestrial television distribution in 2003, the public

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broadcasters constituted an important part of the offer – as they also did when more regions got digital terrestrial television in the following years. The NRK took a leading role in shaping Norwegian policy on digital television distribution, arguing in favour of different technologies throughout the 1990s before settling on the terrestrial alternative (Moe 2003). In 2006, the NRK got a licence to build and run a terrestrial commercial network together with commercial public service broadcaster TV2 and the privatized national telecom Telenor. The UK market was characterized by fierce commercial competition between Rupert Murdoch's satellite service BSkyB and the terrestrial provider ONdigital (briefly re-branded ITV Digital). When the latter went bankrupt in 2002, the BBC stepped in and gained a primary position in the rollout of nationwide terrestrial digital television (Collins 2002, Iosifidis 2005).

These two expansions illustrate how institutionalizations of the idea of public service broadcasting have developed across space and time. Moreover, the examples remind us that the pertinent dilemma facing the policy-makers of today is not unprecedented. In a sense, the regulation of public service as a cultural policy tool has always been about manoeuvring between competing interests in a race against new technologies – a race policy-makers are destined to lose. Importantly, this characteristic is not unique to public service broadcasting but rather shared by media policy in general. The examples also remind us that in Western European states with strong public service broadcasting traditions, the institutions have in general been allowed to utilize the potential of new-media platforms.

Yet the cases of teletext and digital television distribution also bring out the unique character of the current situation: the broadcasters, competitors and policy actors all act as if more is at stake with the move onto the Internet than with any previous expansion since television. In fact, broadcasters such as the ARD, the ZDF, the BBC and the NRK have all at different points in time considered the Internet not as auxiliary but rather as a new autonomous platform for public service – as a 'third pillar' besides radio and television (Moe 2008).

On this basis, I now turn to look at how actual national regulatory approaches deal with the challenge of defining public service broadcasting beyond broadcasting some 10 years after the rise of the World Wide Web. According to the extent to which broadcasting is left behind as the key defining term, I describe three different approaches. Since the policy processes are ongoing, these three should neither be seen as solid, nor be seen as mutually exclusive. Rather, they are meant as tentative characterizations useful for discussing the challenge of defining and legitimizing public service in a digital era.

First approach: extending broadcasting

The first policy approach more or less explicitly seeks to fit new services under the umbrella of 'broadcasting'. One such case is Norway, following a recent revision of the regulatory framework for the NRK.

The Norwegian term for public service broadcasting is *allmennkringkasting*. *Allmenn* translates as general, common or universal – an *allmenning* is a commons. *Kringkasting* is a direct rendition of broadcasting: like the English term, it is a metaphor taken from the agricultural domain, describing a spreading in wide (half-)circles (Gripsrud 2002, p. 262). In the Norwegian Broadcasting Act (1992), broadcasting is defined as 'transmission of speech, music, images and the like via radio waves or by wire, meant or suitable for direct and simultaneous reception by the public

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(*allmennheten*)' (1992, §1-1).[4] The same act defines the NRK's purpose as to undertake public service broadcasting (1992, §6-1).

The NRK does have a set of statutes but no comprehensive description of its remit. An updated outline of the remit has been wanting, especially in the light of the NRK's ventures into digital media. Somewhat paradoxically, the commercial public service broadcasters (TV2, and radio channels P4 and Radio Norge) all have more detailed tasks to adhere to, spelled out in their respective licence agreements. As the Ministry of Culture and Church Affairs admitted when it embarked on a white paper on the issue in 2007, NRK services on new-media platforms had never really been the subject of political handling by Parliament. Instead the developments, especially on the Internet, were the result of NRK's own priorities, without much policy involvement (Regjeringen 2007, p. 99).

The white paper included an outline of a so-called NRK manifesto (*plakat*), constructed to describe the overall aims of the institution's public service broadcasting on the level between the Broadcasting Act and the institution's own statutes. In the version passed by Parliament in March 2008, the manifesto is organized around five pillars. They command the NRK's public service activities to support and strengthen democracy; be universally available; reinforce Norwegian languages, identity and culture; aspire to high quality, pluralism and innovation; and be non-commercial (Familie- og kulturkomiteen 2008, pp. 7–8). Importantly, new-media platforms are at the outset put on equal terms with traditional radio and television broadcasting: the manifesto specifically mentions Internet activities and also directs the institution to 'be present on, and develop new services for, all important media platforms in order to reach as widely as possible with its complete program provision' (Familie- og kulturkomiteen 2008, pp. 7–8, §2d).

On one level, then, the recent Norwegian regulatory initiative facilitates a transfer of public service beyond broadcasting. But services for new platforms are defined as broadcasting. The manifesto as a whole deals only with what it calls the NRK public service broadcasting provision (*allmennkringkastingstilbud*). It even explicitly defines this to be 'both traditional program activities and in the shape of new media services' (Familie- og kulturkomiteen 2008, pp. 7–8, §5e) and to specifically include online 'downloadable services' (Familie- og kulturkomiteen 2008, pp. 7–8, §5c). Insisting on *allmennkringkasting* as the overarching concept has paradoxical consequences. A range of media services provided by the NRK – from text-based online news, to Internet discussion forums, to weather services for mobile phone users – are public service broadcasting according to the manifesto but not broadcasting pursuant to the Norwegian Broadcasting Act (1992, §1-1). Here, the two documents contradict each other. While the act operates with a strict, technological definition of broadcasting, the newer manifesto seeks to extend the concept. In this sense, the recent Norwegian approach – trying to fit new services to the broadcasting concept – is more a rehash than a thorough rethinking.

The incompatibilities between the new manifesto and the law also illustrate the fundamental level at which a thorough rethinking would have to start: the term 'broadcasting' (*kringkasting*) is embedded in all aspects of public service – all the way from the legal dimensions, to the name of the institution NRK, to public debate. Further, the concept of *allmennkringkasting* is unique in the sense that *allmenn* is neither used in combination with any other mediated communicative form or technology (such as radio), nor to describe general public services (such as health care or fresh water). Thus, it is less adaptable than the English original term. As a result, not only does letting go

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of broadcasting as the key regulatory term potentially put the privileges of public service arrangements at risk but it would also have quite wide-ranging implications for law and policy-making. From a pragmatic policy perspective, this might seem deterring and may help explain the appeal of an approach that broadens the definition of broadcasting. Tentatively, it might be reasoned that etymology plays an important role for policy approaches to defining public service for the digital era. By looking at cases representing other approaches, such an impression might be substantiated.

Second approach: adding to broadcasting

The second approach to defining public service beyond broadcasting uses adding. Instead of trying to fit new services to the broadcasting concept, new activities are appended to the traditional ones. Germany provides a relevant illustration.

Like in Norway, German public service broadcasters – the ARD, the ZDF and Deutschlandradio – hold a strong position in their home market under stable conditions. The German term for public service is *öffentlich-rechtlich*. It directly translates as 'publicly legal' and is used as a label for an activity or organization under public legal control. Etymologically, the term for broadcasting – *Rundfunk* – describes wide transmission via radio signals. The basic status of public service broadcasting is laid down by the Constitutional Court's interpretation of German Basic Law in the so-called television rulings (*Fernsehurteils*). A legal definition of broadcasting, however, is found in an inter-state treaty (*Rundfunkstaatsvertrag*) which describes the more concrete remit of the institutions. Broadcasting is here defined as the organization and distribution of all kinds of acts/performances in words, sound and pictures via electronic signals for the public (*Allgemeinheit*) (Bundesländer 2006, §2(1)).

The treaty has been revised repeatedly since German reunion, with the latest revision coming into force in May 2009. From 2007, the treaty formally changed its name to *Staatsvertrag für Rundfunk und Telemedien*. 'Telemedia' are all kinds of electronic information and communication services that are not pure telecommunication (such as telephone) or broadcasting. Thus, telemedia are neither one-to-one nor traditional one-to-many communication, but include all kinds of web services, and even teletext (Bundesländer 2006, §2(1)). Just like the term is added to broadcasting in the treaty title, telemedia are appended to the public service broadcasting remits. The broadcasters are allowed to provide telemedia services as long as these services accompany and refer back to a broadcasting programme (Bundesländer 2006, §11(1)).

Though the term 'telemedia' was introduced in 2006, the regulatory approach builds on the one taken for publishing services: the organizations may support their broadcasting activities by making programme guides and other programme-related print material. In 2000, Internet services were simply added to the same provision. Since then, although the regulations have undergone some specifications, the rule has required services on new platforms, the Internet included, to just function as an appendix to public service broadcasting.

Like the Norwegian example, the German regulatory approach does provide room for services beyond broadcasting in the remit. The regulations do also specify what kinds of services we are dealing with. They do so both by referring to adjacent acts, such as the one for telecommunication, and by listing specific activities as illustrations. The explanatory statement for the latest revision of the treaty operates with several specific restrictions of the public institutions' online services: first of all, a new basic formulation got introduced, requiring every offer to be 'journalistically and

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editorially organized and formed'. Furthermore, along with advertising and sponsoring, 'exhaustive local coverage' is now prohibited (Bundesländer 2008, §11d(2)). So are 'press-like' services in general, as well as activities falling within any of the 17 listed categories of a so-called 'negative list'. These categories range from advertising portals and business registries; to dating services and travel planning applications; to games, photo downloads and chat rooms, without any reference to broadcast programmes (Bundesländer 2008, statement to §11d(5)).

While clearly entailing a more restrictive regulatory approach, such lists may help identify possibilities and define limits, and should be useful for the public institutions, regulators, competitors and users. However, the listing of concrete features based on existing technologies might have limited durability – not least in relation to undeveloped media platforms. The practice does not signal a principled stance. Yet what makes the German approach interesting is the firm and formal definition that grounds this listing. The concept of telemedia, with clear demarcations to other regulatory domains and forms of activities, should provide a basis also for adding services as new and currently undeveloped possibilities emerge in the future. In this sense, the German regulatory approach does provide a sustainable way forward in grasping the scope of public service beyond broadcasting.

More fundamentally, however, the German approach still just adds to broadcasting. No matter how well defined, telemedia remain conceived as something extra. As previously discussed, such has also been the case for Internet services since 2000. This is problematic since it hinders the exploitation of the potential public service value of autonomous services on new platforms. It is also interesting in terms of legitimating public service activities. The German method could be seen as a 'have one's cake and eat it too' approach: it aims to keep broadcasting as the fundamental component of public service, without 'muddying' it by mixing in seemingly very different services, as risked in the Norwegian example. The German and the Norwegian languages, with the ingrained position of the native terms for broadcasting, do pose an analogous challenge. Still, the German solution is distinctive. It maintains the basic link to radio and television's traditional privileged regulatory position while simultaneously opening up for new initiatives. It is a pragmatic approach which does not embark on a fundamental rethinking by leaving broadcasting as the overall definitory concept. This illustrates how cultural policy-makers struggle to grasp ongoing developments by adding as they go, to leave room for future possibilities. In the long run – as currently new-media platforms and forms mature – this is hardly a sustainable approach.

Third approach: demoting broadcasting

A third policy approach to defining public service beyond broadcasting could be to leave broadcasting behind as the principal definitory concept. Here, the current British framework for regulating the BBC provides a case in point.

In English, 'public service' is used to describe a kind of provision deemed vital for every member of society, regardless of spending power, educational level, social standing, geographical location or gender. At different times in different polities, varied services have belonged to this category, from infrastructure such as roads or telephone lines, to health care, to education. The first to use it in connection with broadcast radio, thereby coining the term 'public service broadcasting', was probably American broadcaster and entrepreneur David Sarnoff. In 1922, he suggested to turn broadcasting into a public service in the US. His call was not heard. Consequently, it

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was Lord Reith who, on the other side of the Atlantic, developed the idea into a functioning institution through the BBC (Briggs 1985, p. 18).

The BBC finds its basis for existence in a royal charter – an agreement or licence from the state. This charter is renewed every 10 years, with the latest coming into effect in January 2007. It ascertains 'the widespread interest which is taken by Our People in services which provide audio and visual material by means of broadcasting or the use of newer technologies' (BBC Royal Charter 2006, p. 1) and sets out the remit for the BBC. It does so by stating that the institution exists to 'serve the public interest' (2006, §3(1)), and that its 'main object is the promotion of its Public Purposes' (2006, §3(2)). These purposes, six in all, are listed next. The BBC should sustain citizenship and civil society; promote education and learning; stimulate creativity and cultural excellence; represent the UK (including nations, regions and communities); bring the UK to the world and vice versa; and, in promoting these five purposes, help deliver to the public the benefit of emerging communications technologies and services (2006, §4). The following paragraph describes how – by which means – the BBC may promote its purposes. The provision of output should be supplied by '(a) television, radio and online services; (b) similar or related services which make output generally available and which may be in forms or by means of technologies which either have not previously been used by the BBC or which have yet to be developed' (2006, §5(1)).

Compared with the other cases, the British regulatory approach stands out in at least two ways. Firstly, by the construction of five overarching purposes the BBC exists to promote. They provide a specified reasoning for why the BBC is needed. Importantly, the purposes are laid out without any reference to specific media or distribution channels. Such requirements are provided in a separate paragraph. In contrast, the majority of the NRK manifesto's five pillars are media-specific and refer directly to the institution's programme and broadcast services.

When defining available ways to promote the public purposes, the BBC Charter not only clearly puts online service on equal footing with radio and television but even includes a formulation that explicitly opens up for utilization of currently unknown possibilities. This is the second unique trait of the British approach compared with the cases discussed above. The Charter steers clear of more or less detailed listings of illustrative services or applications, as found in the two former cases. It is in this sense that it represents a third approach to defining public service beyond broadcasting: it neither widens the broadcasting concept to fit a new context, nor adds specific services on the side, but approximates a media-neutral approach.

Clearly, the policy documents used here to illustrate the three different approaches to defining public service beyond broadcasting operate on different levels and have different status. As noted, the German inter-state treaty is constructed to be renewed relatively frequently. As such, we should require less future proof formulations from it, compared with the Norwegian NRK manifesto or the BBC Royal Charter. Nevertheless, the British approach does equalize new-media platforms in a much clearer way than the others and also opens up for future employment of unconceptualized possibilities. This entails an advantage when defining public service beyond broadcasting, regardless of nation-specific contexts.

Of the three cases reviewed here, the British approach goes furthest in demoting broadcasting from its position as the key component in the definition of public service as a media policy tool. In this sense, the UK remains a pioneer within public service broadcasting. Granted that the institution in question is still called a broadcasting

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corporation, and as noted above, the Charter mentions the means of broadcasting alongside 'newer technologies' when explaining its background, yet the direction introduced in the Charter is innovative in taking concrete steps to free public service from broadcasting.

This does not mean that a demoting approach is universally applicable, and it is far from unproblematic. In the process of leaving broadcasting behind, regulations let go of the link to the original rationale for establishing and maintaining institutions like the BBC – the scarcity argument. Thus, it gets harder to legitimize these institutions' privileges, especially in relation to commercial competitors. This spells out the dilemma of cultural policy: 'broadcasting' is needed but is insufficient. Trying to find a way out of this dilemma, we need to scrutinize the basis for broadcasting's exceptional regulatory status.

Public service as a merit good?

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Market liberalists have attacked the scarcity argument. All markets, they argue, face lack of resources. The key scarcity in broadcasting is not 'megahertz', but advertising money (Fowler and Brenner 1982, p. 223). Commercial broadcasters should have to compete for frequencies just like they compete for every other component they need – equipment, building facilities and skilled labour (Fowler and Brenner 1982, p. 211). The scarcity argument has indeed been dismissed as vicarious also from other perspectives: in 1983, critical media scholar Nicholas Garnham (1983, p. 13) called it 'simply untrue' and pointed to social and economic reasons for broadcasting regulations – not technical. 'Spectrum scarcity can be seen in retrospect as an excuse for, rather than the real reason behind, content regulation' (McGougan 1999, p. 184; also Hoffmann-Riem 1996, p. 331, Gibbons 1998, p. 75). If so, what is the 'real reason'?

Mainstream economic science, the theoretical basis for a market liberalist perspective, provides a cue. The basic assumption of mainstream economic science is consumer sovereignty. It holds the free market as the way to organize the production, transaction and consumption of goods in society. Some kinds of goods, however, are difficult to leave to the market. One such kind – the most relevant for the present discussion – is merit goods. Merit goods are deemed socially valuable for people to consume; it serves the public interest. The originator of the term, Richard A. Musgrave, defined it as goods 'considered so meritorious that their satisfaction is provided for through the public budget, over and above what is provided for through the market and paid for by private buyers' ([1959]1961, p. 13).

The starting point is market failure: there is a perceived under-consumption of the good if left to the market. A prime example is the city park. For commercial real-estate development, land is worth more for other purposes. Authorities expropriate grounds and build city parks because they find it valuable for the inhabitants, that is, in the interest of the public. Different uses of parks may, for instance, be seen to improve physical or mental health. Such effects are hard to measure and rest on an assessment where authorities find it worth to infringe in the market. The provision of merit goods is not based on presumed consumer desire. Rather, some authority interferes with consumer preferences. The reverse is demerit goods, which would be over-consumed if left to the free market. Alcohol and tobacco are typical examples. A main feature of (de)merit goods, then, is their moral justification. The label is not based on technical characteristics but on value judgements.[5]

Broadcast radio and television can be seen as merit goods (e.g. Graham 1999, p. 27). Even the most eager supporters of a market liberalist approach would agree: Fowler and Brenner (1982, pp. 252–255) admit that the market will fail to fulfil some kinds of broadcasting services. They liken such services with city parks. In their view, channels outside the market could provide local news and cultural content. These are programme genres Fowler and Brenner consider important for a society, but are not commercially viable.

Merit good arguments are a way to understand broadcast media's special regulatory status in modern democratic societies. The arguments show how a value-based assessment of radio and television's functions related to the serving of social, political and cultural citizenship underlie their regulation, as opposed to a purely technical rationale grounded in spectrum scarcity. Yet, merit good arguments do not give a satisfactory understanding of the role ascribed to public service as a comprehensive media policy tool as identified in the cases reviewed above. With a conceived market failure as a starting point, merit good arguments invariantly lead one to consider single programme genres or services instead of broad remits. This is, as discussed previously, the case for market liberalists like Fowler and Brenner. It is also the case when applying merit good arguments to the Internet.

Stewart *et al*. use the merit good of a city park as a reference to propose an approach to global policy-making on the Internet: 'public spaces in cities have been created and maintained out of necessity, as resources for communication, collective interaction, civic engagement, recreation and ornate and/or public health' (2004, p. 346). State-supported Internet services could provide open access to a plenitude of resources and facilitate 'spontaneous processes of "re-appropriation"' of online communication as a cohesive entity (2004, pp. 350, 354). Stewart *et al.* further discuss the possibilities of 'buffer spaces' online to mediate between 'commercial and non-commercial, individual and collective, and private and public spheres of activity' (2004, p. 356). Concretely, they envision a collectively or publicly supported search engine that steers clear of the commercial motivations of existing alternatives.

Stewart *et al.* restrict navigation between online content as the merit good a state should make sure is provided for its citizens. If applied to the domain of public service media, this logic would clearly result in an impoverished cultural policy tool, consisting of isolated activities in between commercially viable services. Merit goods arguments expose the vicariousness of the scarcity argument and show how a broadcast institution's privileged regulatory position rests on a value judgement of its socio-cultural merits. But we still lack a concept capable of grasping the scope of public service beyond broadcasting.

Possible re-conceptualizations

Scholars have taken up the challenge and made several attempts to move the public service concept away from broadcasting by introducing different replacements. Some exchange broadcasting with communication or communications. Harrison and Wessels point to novel instances of interactive digital television content to indicate 'a progressive new public service communication environment' (2005, p. 848). This environment is 'characterized by new forms of pluralism and diversity of participation and representation that facilitate audience engagement' (Harrison and Wessels 2005, p. 850). Communication policy, they recommend, should address such processes to 'reimagine an active public service communication sector' (Harrison and Wessels

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2005, p. 850). Born finds it a 'common move to substitute for public service broadcasting the phrase "public service communications"' (2005, p. 102). Reaching for democratic theory, she sets out to fill the latter concept with content in a British context.

Others prefer to introduce media as the concept's third part. In their introduction to an edited volume titled *From Public Service Broadcasting to Public Service Media*, Bardoel and Lowe (2008, pp. 9ff.) describe the transition laid out in the title as the core challenge facing policy-making. They label a move from a mode of transmission to a mode of communication as key. This move, along with the improvement of cross-media content, is deemed necessary to develop public service media.

Jakubowicz (2008, pp. 35ff.) suggests another alternative – content. He argues that the choice between media and content signals fundamentally different arrangements. Despite the introduction of non-linear, on-demand services, choosing media amounts to 'a relatively safe scenario' for existing public service organizations. Picking content, on the other hand, opens up for a more thoroughgoing change of communicative modes, incorporating individually controlled pull-based modes representing interactive communication (Jakubowicz 2008, p. 37).

All these suggestions are suited to describe the actual development of public service as beyond broadcasting. They may also facilitate thorough thinking about the regulatory status of public service as a cultural policy tool. However, simply changing broadcasting with the generic terms 'communications', 'media' or 'content' does little for the fundamental legitimacy of the policy tool.

In a recent thorough analysis of the German Media Law, Held (2008) puts forward a conservative proposal. He argues that the broadcasting (*Rundfunk*) concept derived from the German Basic Law is not ripe for replacement. On the contrary, it is capable of housing all relevant kinds of services on new-media platforms. Fundamentally, he argues, all services provided by electronic means for the public are broadcasting (Held 2008). This includes webcasting, mobile phone services, online news, online encyclopaedias, web portals, search engines and chats. The key issue is not whether the service has an 'on-demand' or a 'flow' character but whether it is enclosed or open to any user.

As Held (2008) stresses, in this reading, the German Basic Law-derived concept of broadcasting is wider than the one applied in the current inter-state treaty. Held's argument reverberates more abstract insights into the character of broadcasting as a public service. Building on John Durham Peters' (1999) eloquent project to rehabilitate disseminative modes of communication, Scannell (2005) describes broadcasting as 'fundamentally democratic forms of communication'. 'It is one-way and unconditional and for anyone anywhere anytime. It *cannot* be reciprocated. This is the blessing of broadcast communication and its indiscriminate scatter' (2005, p. 131, emphasis in original). For Scannell, public service radio and television need to be protected against commercial forces which always try to turn it into narrowcasting. More generally, Scannell describes an attitude, and approach, which can be applied to any technology or media platform. This attitude is characterized by a set of values rather than specific distribution channels. In line with this, the core values of public service broadcasting – supporting citizenship universally with quality services – can be transferred to new means or forms of communication.

This approach emphasizes continuity instead of rupture. As such, it serves to tone down predictions of the revolutionary force of new technical developments. It also tries to secure the connection between all forms of public service media, and its

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historical roots and established core values. By incorporating rather than just adding, the approach is also capable of acknowledging new platforms on equal terms with traditional radio and television in contributing to the overall remit. Yet, as Held (2008) makes clear with the German example, if broadcasting shall remain the definitory concept for public service as a media policy tool, difficult and fundamental reframing of actual regulations is called for in each polity. To further complicate the matter, an expansion of the concept of broadcasting could threaten the power balance between the national and the state level. While broadcasting regulations are delegated to each state as part of the field of cultural policy, telecommunications sort under the national policy level. The introduction of 'telemedia' should in this context be understood as a compromise.

The pragmatic difficulties with revising the regulatory meaning of 'broadcasting' are further illustrated by its deep-rootedness, as seen in the discussion of the Norwegian case. More importantly, the approach could lead one to neglect the innovative potential of current developments and to overlook important differences between new and old. In conceptualizing public service as a media policy tool, there is a need to balance the weight given to stability with an acknowledgement of constant changes. For instance, it is crucial to see how different means of electronic communication with and between the public can be utilized – also in combinations – to both disseminate and create dialogue.

In this regard, 'the commons' might seem like a helpful concept. Commons are resources everyone in a community may use, but no one can own. The typical historical illustration is pre-capitalist communities' organization of collective land. It is important to remember that the commons in this example was something marginal, supplementing the dominant feudal order (see Coleman and Dyer-Witheford 2007, pp. 934ff.). As such, the commons is an exception, a 'free zone' within the dominant way of organization.

'The commons' is often used in policy discussions related to the Internet. Actors in such discussions can, for instance, be sorted in four contrasting idealized 'techno-political cultures' useful to systematize different visions: entrepreneurs, bureaucrats, innovators and hackers (Rasmussen 2007, pp. 11ff.). Entrepreneurs consider the Internet as an arena for the free market – and commercial interests as a motor for progress. Bureaucrats, chiefly within institutions like the UN and the EU, and national governments, work to make the Internet subject to institutionalized democratic rule. Innovators, like the inventors behind the basic Internet technologies, advocate free and open research. Hackers share the innovators' basic attitude, but often operate outside formal institutions. They work against big commercial actors.

All the four idealized techno-political cultures can be linked to different concepts of public interest or socio-cultural value of Internet communication. For entrepreneurs, a thriving commercial life online is the main objective. As a result, trade and business concerns are given precedence over cultural policy aims. Bureaucrats may ideally strive for some balance between polar views – with defence and state security considerations added to the mix – inside established political institutions. Innovators have focused on how information technologies and the Internet facilitate public research. Lastly, hackers understand the Internet as a commons. For them, information should be freely available. In both the last two cases, the Internet is first and foremost, if not only, sought constructed according to perceived cultural, social, and democratic functions. In these discussions, then, 'the commons' is used as a metaphor to contrast commercial interests and bureaucratic arrangements.

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Researchers have tried to place existing public service institutions within the commons. Coleman (2004) sets out to conceptualize new arenas for public debate. He finds the main part of the solution in a 'publicly-funded, independently-managed online civic commons', in which he envisions a 'key role' for public service broadcasters such as the BBC (2004, pp. 96, 98). Murdock resituates public service broadcasters within what he calls a 'digital commons': 'a linked space defined by its shared refusal of commercial enclosure and its commitment to free and universal access, reciprocity, and collaborative activity' (2005, p. 227). This space is imagined as potentially global in scope, with public service broadcasting making up 'the central node' in the network (2005, p. 227).

The idea of a commons is valuable for conceiving public service beyond broadcasting. It makes us capable of judging its value as comprehensive, not broken down to individual, isolated parts. The commons can also house diverse forms of communication – from dialogic to disseminating modes. A downside, however, is that the term, as both Coleman and Murdock are well aware, comprise more than the remit of public service as a policy tool. Related to digital media and communication, a commons would include the domain of varied actors, from the unorganized actions of individual activists, to civil society groups, to state cultural institutions such as museums, archives and libraries. This lessens the concept's applicability in specific policy-making related to public service. '"The commons" is not suited to describe the institutions' (in question) tasks of promoting cultural citizenship universally with quality services that employ all relevant media and communication channels. It does not solve the dilemma for public service policy. However, 'the commons' does make clear what is at stake: to what extent and how should a 'free zone' outside the market be transferred from broadcasting to new-media platforms? And with what grounding? As such, the concept exposes the core of discussions about the future legitimacy of public service arrangements.

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Conclusion

As digital media are maturing, and amidst lively discussions of how public service broadcasting yet again should be reinvented, this article has discussed regulatory definitions beyond broadcasting. Placing the current debates in a wider policy context and emphasizing that public service is an inherently contested and ever-changing concept, I have identified three different approaches, illustrated by three cases. They all relate differently to broadcasting as a regulatory term. The first, represented by Norway, extends broadcasting; the second, illustrated by Germany, adds to broadcasting; while the third, found in the UK, demotes broadcasting from its principal status. The extending approach risks to somewhat confusingly label everything the public institutions do as broadcasting, without much concern for the characteristics of different platforms and communicative forms. In effect, the approach is more rehash than rethinking. The second approach is more consistent. Still, it is pragmatic, placing activities on new platforms into an established regulatory position as secondary supplements to broadcast programmes. In contrast, the British case shows some novel arrangements: more clearly than the others, it places new-media platforms on equal terms with broadcasting and opens up for the future employment of undeveloped technologies.

This does not mean that the demoting approach is the better. For one thing, such approaches are not automatically applicable across linguistic, cultural and political contexts. Furthermore, the three identified approaches could possibly be seen as stages, where the British system – in keeping with its traditional position as pioneer – has come

the farthest. While all the scrutinized regulatory approaches strive to maintain public service as a media policy tool in a digital era, the British case goes furthest in downgrading 'broadcasting' from its position as the principal definitory concept. Thus, this case illustrates the lurking, fundamental implications for public service legitimacy. Earlier examples of how the institutions have expanded beyond broadcasting illustrate that the challenge is not brand new. Nevertheless, as the Internet becomes ubiquitous, I have argued, the dilemma for cultural policy becomes more pressing.

I have underlined inherent value judgements behind broadcasting policy, including public service arrangements, and reviewed several possible conceptualizations of public service freed from broadcasting, including merit goods arguments, a re-reading of 'broadcasting' and 'the commons'. While they may help explicate what is at stake, I have argued, none of the alternative terms or redefinitions solve the dilemma of cultural policy: as a regulatory term, broadcasting is inadequate, yet has no obvious universal successor.

As cultural policy actors try to build a solid fundament for the future employment of public service as a policy tool, they should keep two basic considerations in mind: it is risky to make detailed lists of specific services in a constantly changing environment, and it is important to keep a keen eye on linguistic and cultural differences, rather than copying arrangements across borders.

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Notes

1. Britain pioneered public service broadcasting in an institutionalized form. The British Broadcasting Company got turned into the public British Broadcasting Corporation (BBC) in 1927 to function as a national monopoly in radio broadcasting. The BBC met competition in television when the privately owned and advertising funded ITV was set up in 1955. Twenty-seven years later, Channel 4 got established as a public corporation funded by advertising sales. In 1997, Channel 5 (rebranded five) got a licence as the fifth (also counting BBC Two) national terrestrial channel. All actors have different formal status and requirements. Main non-public service actors include British Sky Broadcasting (BSkyB). The BBC retains a strong position both in the radio and in the television market. Even more so than in the other cases, the BBC has taken a leading role in the new digital media environment, not least by developing a comprehensive web presence.
2. The NRK was established in 1933, and still enjoys stable conditions, and is comparatively well funded. The Ministry of Culture and Church Affairs represents the state as owner. The Media Authority – an administrative body under the Ministry – is in charge of regulatory assessments and enforcements. Over two decades after the monopoly fell, the NRK remains by far the most popular radio provider in Norway. The NRK struggles with TV2, which since 1992 has provided advertising-funded public service, for the leading market position on television. Since the mid-1990s, the NRK has expanded its activities onto new platforms, including the Internet and mobile phone services, with the ambition of being present wherever the public prefers to be reached.
3. The ARD is a post-war construct, now constituting nine regional institutions. Together, they act as an organization on a national level. The ARD is complemented by the ZDF on television (established in 1963) and Deutschlandradio (established in 1994). Domestic commercial television actors (such as RTL Television and ProSiebenSat.1 Media) represent the principal competitors. On new-media platforms, competitors also include a wider range of providers, as especially the ZDF and the ARD have build their Internet services over the last decade.
4. All translations from Norwegian and German are my own.
5. The concept of merit goods is controversial in some strands of mainstream economic science. It creates a paradox since on the one hand it is an epistemologically necessary concept, while on the other hand it contradicts the basic assumption of consumer sovereignty (see Ver Eecke 2003 for further discussion).

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