TUNING
INTO DEVELOPMENT
International comparative survey
of community broadcasting regulation

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ACRONYMS

ACHPR African Charter on Human and Peoples' Rights

ACHR American Convention on Human Rights

ACMA Australian Communications and Media Authority

ACmHPR African Commission on Human and Peoples' Rights

AM Amplitude Modulation

AMARC World Association of Community Radio Broadcasters

ANATEL Agência Nacional de Telecomunicações (National Telecommunications Agency, Brazil)

BICMA Bhutan Information, Communications and Media Authority

BRTC Bangladesh Telecommunications Regulatory Commission

CBAA Community Broadcasting Association of Australia

CBF Community Broadcasting Foundation (Australia)

CCD Canadian Content Development

CHARC Consejo Honorario Asesor de Radiodifusión Comunitaria (Honorary Advisory Council on Community Broadcasting) (Uruguay)

COE Council of Europe

CRFC Community Radio Fund of Canada

CRTC Canadian Radio-television and Telecommunications Commission

CSA Conseil supérieur de l'audiovisuel (France)

DANIDA Danish International Development Agency

DBCDE Department of Broadband, Communications and the Digital Economy (Australia)

DTT digital terrestrial television

ECHR European Convention on Human Rights

FCT free commercial time

FM frequency modulation

FORCOM National Forum of Community Radios (Mozambique)

FSER (France) Fonds de soutien à lÐexpression radiophonique (Support Fund for Radio Expression)

GABINFO Gabinete de Informação (Government Information Bureau) (Mozambique)

ICASA Independent Communications Authority of South Africa

ICCPR International Covenant on Civil and Political Rights

INCM Instituto Nacional das Comunicações de Moçambique (National Institute of Communications) (Mozambique)

MDDA Media Development and Diversity Agency (South Africa)

MoI Ministry of Information

MoIB Ministry of Information and Broadcasting (India)

MRTV	Myanmar Radio and Television
NBC	National Broadcasting Commission (Nigeria)
NBTC	National Broadcasting and Telecommunications Commission (Thailand)
NTC-P	National Telecommunications Commission (Philippines)
NTC-T	National Telecommunications Commission (Thailand)
OAS	Organisation of American States
ORTM	Office de radiodiffusion et de télévision du Mali (Office of Radio and Television Broadcasting of Mali)
OSCE	Organisation for Security and Co-operation in Europe
TCSI	Telecommunications Commission of the Solomon Islands
UCC	Uganda Communications Commission
UDHR	Universal Declaration on Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICEF	United Nations Children's Fund
URTEL	L'Union des radios at télévisions libres du Mali

PREFACE

This report maps the complex legislative frameworks of community broadcasters in more than 30 countries. It examines how the sector can be strengthened in line with international standards and provides analysis and recommendations that may be of interest to donors and policy makers as they set priorities for media development.

Community radio is an important contributor to the advancement of internationally- agreed development goals and the formulation of international targets for the post-2015 agenda. It is an indicator of an enabling media environment driven by the principles of pluralism, diversity and participation. Media pluralism is essential for providing choice to the public and is fundamental for democratic development.

The distinction that sets community radio apart from commercial and public service radio is primarily the non-profit nature of its operations, which are driven by the voluntary participation of community members. It is managed by the community and accountable to the community it serves. Community radio ensures democratic participation in the management and governance of its structure, and helps to empower local communities with ownership of their own development.

Nevertheless, the sustainability of the community broadcasting sector depends on legal recognition and regulatory provisions within the broader context of any given media landscape. Community radio stations find it difficult to resolve resource mobilization and capacity building issues when they operate in conditions where democracy and rule of law is weak and legislative frameworks are absent or poorly defined. This has an impact on the sustained service that community broadcasters can otherwise deliver to rural, grassroots, marginalized and low income populations. It also constrains the use of information and communication technology (ICT) to enhance improved management practice, online broadcasting and interactive programmes.

As a growing sector, community radio facilitates access to educational, public health, and agricultural information and provides an open platform for democratic public debate. Women and youth are among the primary beneficiaries of community radio in developing countries.

There are many models possible for community radio but often international standards underpinning freedoms of expression and information tend to be overlooked and good practices on media development are hardly adopted in a manner that privileges grassroots community needs. This publication offers some insight to advance the legal recognition of community broadcasters and to invite partnerships and innovative measures that will ensure their future sustainability.

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INTRODUCTION

Community media make a hugely important contribution to the right to freedom of expression, which is defined in international treaties[1] essentially as the free flow of information and ideas in society. They give access to voice possibilities for communities which would otherwise have little or no means of expressing themselves, and they ensure the presence through the media of information of interest and importance to communities which would otherwise be neglected. And they are increasingly seen as invaluable for the promotion of development and democracy.

Examples of community media have been identified as far back as the 1940s, with radio stations run by miners' unions in Bolivia. The earlier examples of legal rules directly tailored for community media date from the 1960s, but these are relatively rare. In more recent years, however, there has been a significant blossoming of rules explicitly recognising the role and importance of community media, both internationally and at the national level. This recognition has often taken the form of specific licensing regimes for community broadcasters, most commonly for community radio.

The stimulus for these dedicated regulatory regimes is the growing recognition of the important role they can play in fostering the development and growth of community media. If community broadcasters are required to compete on an equal basis, including at the economic level, with commercial broadcasters for frequencies, they will in almost every country be left behind, in particular due to their reduced access to financial and human resources, and consequent inability to compete in open licensing competitions. If their presence in the broadcasting ecology is left to the discretion of regulators, they risk being subject to regulatory indifference or control, or, even worse, political interference. The clear answer to these challenges is specific recognition of community broadcasting in law, along with the establishment of bespoke licensing procedures to ensure that these broadcasters are able to operate and to have access to prevalent distribution platforms, including the airwaves.

Once they are established, community broadcasters in most countries struggle to survive, as a result of funding challenges to cover their operations and programme production. In many cases, the survival of these broadcasters depends on the existence of special sustainability and legislative regimes, which may lower their costs (for example through special licence fees), ensure they have access to different revenue streams (such as advertising and sponsorship) and, in many cases, provide support funding to them (for example from public sources, which should always be allocated transparently, or through a cross-subsidy from commercial players).

This Report shares experiences from around the world about legal recognition for the sustainable and proper management of the community media sector. It traces policy linkages back to international treaties, identifies regional commonalities, compares legal standards and analyses policy provisions.

It examines national regulatory regimes relating to three issues, namely recognition, definition and form, access and licensing, and funding and sustainability. The Report provides detailed descriptions of the regulatory approaches, or regulatory plans, to all three issues in 30 countries,[2] based on a consistent comparative approach. The information is broken down by issue, region and country, and each comparative thematic section is followed by a brief analysis.

The Report represents a preliminary attempt to map and document existing and potential regulatory regimes governing community radio in different regions of the world. Better practice regulation can significantly enable community broadcasting, while clumsy or obstructive regulation can place major hurdles in the way of its development and growth. The purpose of this Report is to promote greater understanding about the challenges and potential of community media, and to highlight better practices, with a view to helping UNESCO Member States identify and address priority areas for reform in their national contexts.

As the Report demonstrates, a multitude of approaches have been taken for the regulation of community media, both among and within the different regions of the world. This is to some extent a reflection of the varying paths which led to the recognition of community media, but it is also a result

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1   See, for example, International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women, .
2   The countries are Argentina, Australia, Bangladesh, Benin, Bhutan, Bolivia, Brazil, Canada, Colombia, Denmark, Ethiopia, France, Hungary, India, Indonesia, Maldives, Mali, Mongolia, Mozambique, Myanmar, Nepal, Nigeria, Philippines, Serbia, Solomon Islands, South Africa, Spain, Sweden, Thailand, Uganda and Uruguay.

of the paucity of clear international standards in this area. Another factor has been the resistance of some States to establishing supportive environments in which community media can develop and grow. This has resulted in a lack of specific recognition of community broadcasters in some countries. In some cases even countries which have specifically recognised community broadcasting have done so in a manner which appears to be aimed more at limiting than fostering this sector.

The comparative analysis provided in this Report takes into account the uneven development of regulatory regimes related to community media within and among regions. A regional approach covering Africa, Asia, Europe, Latin America and other has been used,[3] recognising that they each have very different experiences in terms of community media, as well as substantial variation within them. The experience observed in Asia covers only two sub-regions, given the vast size of the continent in terms of geography, population and different traditions. This approach was not taken for Africa, Europe and Latin America, due largely to the sample size, but also to remain focused on capturing an overall view of ongoing worldwide trends.

An important focus of this Report is on community radio, for a number of reasons. In most countries, community radio is far more developed than community television. The latter is a recognised and growing sector and reference is made to the dedicated regulatory regimes in a few countries. Regulatory requirements on the print media are not imposed in many democracies while in others, very light-touch registration and complaints regimes have not yet drawn attention to the need for specialised regimes for community newspapers.

The Report does not address the issue of Internet-based media, community or otherwise. While there are ongoing and increasing attempts to regulate the Internet, and many attempts to control it, there are few, if any, specific regulatory regimes aimed at fostering the development of community media on the Internet.

The advent of digital transmission capabilities is an important technological development which is having a transformative impact on all types of broadcasting. Digital terrestrial television (DTT), and the already passed or pending date for the switch-off of analogue terrestrial television in many countries, has very important implications for community television. For the time being, at least, digital radio transmission continues to exist alongside analogue radio. The potential impact of digital developments on community radio is the subject of ongoing debate and deserves to be the subject of a focused study. The current Report concentrates on regulatory systems for analogue radio, which are more established in many countries.

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3   The MENA region is not covered in this Report largely because community media remains at a very nascent stage of development in that region. See, for example, the Cairo Declaration Regarding Community Media, adopted by a group of practitioners and representatives of community media on 27 February 2013, which notes that frequencies in the region are largely restricted to commercial and governmental broadcasters, and that community broadcasters are still largely ignored in the legislation.

Structure of the Report

Part I of this Report describes relevant international standards which either provides the jurisprudential underpinnings for community media or which set standards directly for the sector. This provides a background legal framework for the presentation of country practice that follows.

Part II provides a series of regional overviews, which aim to give readers an overall sense of developments and directions regarding community radio in each region.

Part III provides detailed comparative country analysis, broken down into the three issues noted above, namely recognition, definition and form, access and licensing, and funding and sustainability.

Part IV looks at a number of countries where the development of regulatory frameworks for community radio either is still in the planning stage or is very underdeveloped. In some of these countries, there is a thriving or important community radio sector, despite the lack of supportive regulation. In other countries, there are plans to introduce dedicated community broadcasting regulation as a first step to developing the sector.

Part V puts forward a number of recommendations for the regulation of community media, based on both international standards and the way these standards have been given effect in the regulatory systems of different States. This is intended to inform States which are establishing or revising their community broadcasting regulatory regimes, as well as to those advocating for such changes.

PART I: INTERNATIONAL STANDARDS

International standards governing community media are derived from the direct guarantees of freedom of expression under international law. These guarantees include a number of general standards which are relevant. They include the exceptional and limited scope of restrictions on the content provided by community media, and the need for bodies which exercise regulatory powers over the media to be independent.

The general standard on freedom of expression which is most particularly relevant to community media is the obligation on States to promote media diversity. It is pursuant to this idea, and the way that it has been developed as an international standard, that most of the more specific standards regarding community media have developed. Partly as a result of this, and partly because formal recognition of community media is still relatively nascent, many of the standards for community media are derived from more general principles, rather than finding more explicit recognition in international law.

I.1. Freedom of Expression

The most important international norms which support and enable community media are the guarantees of the right to freedom of expression found in both international and regional human rights systems. The *Universal Declaration on Human Rights* (UDHR)[4] is the leading statement of international human rights but, as a UN General Assembly Resolution, it is not formally legally binding on States. However, since its adoption in 1948, parts of the UDHR, including Article 19, guaranteeing freedom of expression, are widely regarded as having acquired legal force as customary international law.[5] Article 19 states:

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

More formal legal protection for freedom of expression is found in the *International Covenant on Civil and Political Rights* (ICCPR),[6] a treaty ratified by 167 States as of June 2013.[7] The ICCPR guarantee of freedom of expression, also found in Article 19, states, in part:

> (1) Everyone shall have the right to freedom of opinion.
>
> (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

There are three regional systems for the protection of human rights, in Africa, the Americas and Europe. Freedom of expression is guaranteed in the main general human rights treaties in each of these systems, specifically at Article 9 of the *African Charter on Human and Peoples' Rights* (ACHPR),[8] at Article 13 of the *American Convention on Human Rights* (ACHR),[9] at Article 10 of the *European Convention on Human Rights* (ECHR).[10]

The decisions and statements adopted under these regional systems formally apply only within the relevant regions. However, they provide evidence of the opinions of leading experts from these regions as to the scope and implications of the right to freedom of expression. Given the similarity of the

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4   United Nations General Assembly Resolution 217A (III), 10 December 1948.
5   See, for example, Barcelona Traction, Light and Power Company Limited Case (Belgium v. Spain) (Second Phase), ICJ Rep. 1970 3 (International Court of Justice) and Namibia Opinion, ICJ Rep. 1971 16, Separate Opinion, Judge Ammoun (International Court of Justice).
6   UN General Assembly Resolution 2200A(XXI), adopted 16 December 1966, in force 23 March 1976.
7   It has been signed by a further seven States, several of which are small island States which may not feel that they have the resources to comply with the reporting and other procedural requirements imposed by the treaty.
8   Adopted at Nairobi, Kenya, 26 June 1981, in force 21 October 1986.
9   Adopted at San José, Costa Rica, 22 November 1969, in force 18 July 1978.
10 Adopted 4 November 1950, in force 3 September 1953.

guarantees of freedom of expression under both international treaties and in the different regional treaties, the regional standards are persuasive evidence of the meaning of freedom of expression globally.

It is clear that the right to freedom of expression is of foundational importance in a democracy. Where information and ideas are not permitted to flow freely, other human rights, indeed democracy itself, are under threat. Participatory mechanisms depend on the free and balanced flow of information and ideas, since citizen engagement can only be effective if people are informed and have the means to express themselves. Other social values – including good governance, public accountability, individual fulfilment and combating corruption – also depend on respect for freedom of expression.

International bodies and courts have made it very clear that the right to freedom of expression is a fundamental human right. Resolution 59(I), adopted by the United Nations General Assembly at its very first session, in 1946,[11] refers to freedom of information in its widest sense:

> Freedom of information is a fundamental human right and … the touchstone of all the freedoms to which the United Nations is consecrated.

This resolution makes it clear that freedom of expression is fundamentally important both as an individual right and to ensure respect for all other rights. This view has been endorsed by international bodies focusing specifically on human rights. The UN Human Rights Committee, a group of experts with responsibility for monitoring and promoting implementation of the ICCPR, has stated:

> The right to freedom of expression is of paramount importance in any democratic society.[12]

These sorts of statements are found in the jurisprudence of both international and national courts from around the world. The Inter-American Court of Human Rights has stated: "Freedom of expression is a cornerstone upon which the very existence of a democratic society rests."[13] And the European Court of Human Rights has noted: "The Court's supervisory functions oblige it to pay the utmost attention to the principles characterising a 'democratic society'. Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man."[14]

International guarantees of freedom of expression provide broad protection for expressive content, covering not only speech which is widely accepted as being in the public interest, but also statements that are viewed by many, or even most, people as offensive or useless. Indeed, the protection of unpopular speech is one of the most important aspects of the right to freedom of expression. The European Court has made this clear:

> [F]reedom of expression … is applicable not only to "information" or "ideas" that are favourably received … but also to those which offend, shock or disturb the State or any other sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democratic society".[15]

Freedom of expression has a dual nature under international law. It is perhaps most commonly understood as protecting the right to 'impart' information and ideas, or the rights of the speaker. It also protects the rights to 'seek' and 'receive' information and ideas, or the rights of the listener and viewer. The Inter-American Court of Human Rights has explored this dual nature of the right to freedom of expression in some detail in its case law:

> [W]hen an individual's freedom of expression is unlawfully restricted, it is not only the right of that individual that is being violated, but also the right of all others to "receive" information and ideas. The right protected by Article 13 consequently has a special scope and character, which are evidenced by the dual aspect of freedom of expression. It requires, on the one hand, that no one be arbitrarily limited or impeded in expressing

11 14 December 1946.
12 Tae-Hoon Park v. Republic of Korea, 20 October 1998, Communication No. 628/1995, para. 10.3.
13 Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5, para. 70.
14 Handyside v. the United Kingdom, 7 December 1976, Application No. 5493/72, para. 49.
15 Handyside v. United Kingdom, 7 December 1976, Application No. 5493/72, para. 49.

> his own thoughts. In that sense, it is a right that belongs to each individual. Its second aspect, on the other hand, implies a collective right to receive any information whatsoever and to have access to the thoughts expressed by others.... In its social dimension, freedom of expression is a means for the interchange of ideas and information among human beings and for mass communication.[16]

A second component of freedom of expression is the rights of listeners to have access to a wide range of sources of information and ideas. Media diversity, elaborated upon in more detail below, is one of the ways of realising this aspect of the right in practice, and the promotion of diversity provides a key part of the jurisprudential underpinning for community media.

The right to freedom of expression prevents States from interfering to limit expressive activity. This is sometimes referred to as being a negative obligation of the State, because in these cases the right limits what the State may do. However, the right to freedom of expression also imposes a positive obligation on States to protect the right in certain circumstances. Examples of this are the obligations to put in place a system to give effect to the right of everyone to access information held by public bodies and, where necessary, to protect against attacks on freedom of expression. The European Court of Human Rights has described the positive obligations of States in the context of the duty to prevent attacks as follows:

> Genuine, effective exercise of [freedom of expression] does not depend merely on the State's duty not to interfere, but may require positive measures of protection, even in the sphere of relations between individuals. In determining whether or not a positive obligation exists, regard must be had to the fair balance that has to be struck between the general interest of the community and the interests of the individual, the search for which is inherent throughout the Convention. The scope of this obligation will inevitably vary, having regard to the diversity of situations obtaining in Contracting States, the difficulties involved in policing modern societies and the choices which must be made in terms of priorities and resources. Nor must such an obligation be interpreted in such a way as to impose an impossible or disproportionate burden on the authorities.[17]

States' positive obligations to take measure to promote media diversity are elaborated on in some detail below.

I.2. The Importance of the Media

Freedom of the media is crucial because, in most countries, the mass media as a whole remains the primary forum for public discussion. Although the Internet is starting to provide alternative forums for debate, the media remain crucially important in every country, especially for the majority of the world's population which still do not have access to the Internet.[18]

The media is a prominent conduit for expression and plays a particularly important role in realising the right to freedom of expression which, in turn, has particular implications in terms of media freedom. The Inter-American Court of Human Rights has stated: "It is the mass media that make the exercise of freedom of expression a reality."[19] In its *Declaration of Principles on Freedom of Expression in Africa* (African Declaration), adopted in 2003, the African Commission on Human and People's Rights similarly stressed "the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy."[20]

The media facilitate political debate, and thereby support democracy, including during elections. The UN Human Rights Committee has stressed the importance of free media to the political process:

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16 Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, note 13, paras. 30-2.
17 Özgür Gündem v. Turkey, 16 March 2000, Application no. 23144/93, para. 43. See also Appleby v. the United Kingdom, 6 May 2003, Application no. 44306/98, para. 39 and Fuentes Bobo v. Spain, 29 February 2000, Application no. 39293/98, para. 38.
18 This is estimated to be nearly two-thirds of the world's population. See http://www.internetworldstats.com/stats.htm.
19 Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, note 13, para. 34.
20 Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and People's Rights at its 32nd Session, 17-23 October 2002.

> [T]he free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.[21]

In a similar vein, the European Court has emphasised:

> Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society.[22]

It should be noted that special protection for press or media freedom is not mentioned in Article 19 of either the UDHR or the ICCPR. The media enjoy the same protection under the right to freedom of expression as everyone else. However, international courts have recognised certain special privileges for the media, along with others because of their key role in disseminating information and ideas of public importance.

One example among the special privileges is the right of the media to refuse to disclose their confidential sources of information. Unlike ordinary citizens, media workers may refuse to provide testimony, including to courts, which identifies sources who have provided them with information on a confidential basis. However, this protection should be afforded to anyone engaged in the regular dissemination of information to the public. Thus, the Council of Europe's Recommendation on The Right of Journalists Not to Disclose Their Sources of Information defines those who benefit from the protection as "any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication".[23] This would include those working for community broadcasters, new media – such as bloggers – and also some NGOs.

The basis for extending this special protection is not the special status of the media *per se*, but the role the media and others play in satisfying the public's right to receive information and ideas. If the media and others cannot protect the identity of their confidential sources, those sources will not come forward in the first place, and the public will be denied access to the information they would otherwise have disclosed. The rationale for source protection is captured well in the following quotation by the European Court of Human Rights:

> Without such protection [for sources], sources may be deterred from assisting the press in informing the public on matters of public interest.[24]

I.3. Restrictions

The right to freedom of expression is not absolute and this is recognised not only under international law, but also in national constitutional guarantees of this right. Limited restrictions on freedom of expression are necessary to protect both private interests – such as privacy and reputation – and public interests – such as national security and public order. It is, however, necessary to strictly limit the scope of such restrictions, for otherwise the guarantee of the right would have no meaning (i.e. if it could be restricted at will). To put it differently, the right to freedom of expression establishes a presumption that expressive content is protected, which may be overcome only in certain limited circumstances.

Article 19(3) of the ICCPR sets out the conditions under which national restrictions on freedom of expression will be considered valid, as follows:

21 UN Human Rights Committee General Comment 25, 12 July 1996.
22 Castells v. Spain, 24 April 1992, Application No. 11798/85, para. 43.
23 Council of Europe, Recommendation No. R(2000)7, adopted on 8 March 2000.
24 Goodwin v. United Kingdom, 1 March 1994, Application No. 17488/91, para. 39.

> The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
>
> (a) For respect of the rights and reputations of others;
>
> (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 19(3) is widely understood as imposing a strict three-part test for assessing the legitimacy of restrictions; only restrictions which pass all three parts of the test are valid.[25] Furthermore, the test applies both to the restriction itself, as well as the manner of its application. Thus, even a theoretically legitimate restriction may breach the right to freedom of expression through its application, specifically if this fails to pass the three-part test taking into account all of the circumstances.

First, the restriction must be provided by law, which reflects the idea that only an elected body should have the power to limit the fundamental right to freedom of expression. To meet this part of the test, a restriction must not only find a basis in law, but the law must also meet certain standards of clarity and accessibility, sometimes referred to as the "void for vagueness" doctrine. The European Court of Human Rights has elaborated on the requirement of "prescribed by law" under the ECHR:

> [A] norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able – if need be with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.[26]

There are a number of reasons why unduly vague provisions are not legitimate as restrictions on freedom of expression. First, they are susceptible to wide interpretation, and hence effectively fail to respect the idea that only an elected body may limit the right. Second, they are almost an invitation to abuse and authorities may seek to apply them in situations which bear no relation to the original purpose of the law or to the legitimate aim sought to be protected. Third, vague provisions fail to give those subject to the law sufficient notice of exactly what expressive content is prohibited. This results in what is commonly referred to as a 'chilling effect' on freedom of expression; a situation where individuals steer well clear of the potential zone of application, so as to avoid any risk of falling foul of the rules. For example, a rule that required community media to pursue a 'social purpose' could be interpreted in many different ways, thereby allowing decision makers to abuse the rule for political ends.

The second part of the test is that restrictions must be designed to protect one of the legitimate interests listed in Article 19(3). It is quite clear from both the wording of Article 19 of the ICCPR and the views of the UN Human Rights Committee that this list is exclusive and that restrictions which do not serve one of the legitimate interests listed in paragraph 19(3) are not valid.[27] It may be noted that this list does not include economic interests, so restrictions on community media which were justified by reference to the economy would be difficult to justify.

Third, the restriction must be necessary to protect the interest. The necessity part of the test presents a high standard, apparent from the following quotation, cited repeatedly by the European Court:

> Freedom of expression, as enshrined in Article 10, is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restrictions must be convincingly established.[28]

There are a number of different aspects to this part of the test. First, a restriction must respond to a pressing need, in the sense of protecting a significant and important interest. This rules out restrictions which protect small or trifling interests. Second, a restriction must be carefully designed so that it represents the measure which, while providing effective protection to the interest, is the least

25 This test has been affirmed by the UN Human Rights Committee. See Mukong v. Cameroon, 21 July 1994, Communication No.458/1991, para.9.7. The same test is applied by the European Court of Human Rights. See The Sunday Times v. United Kingdom, 26 April 1979, Application No. 6538/74, para. 45.

26 The Sunday Times v. United Kingdom, note 25, para. 49.

27 See Mukong v. Cameroon, note 25, para. 9.7.

28 See, for example, Thorgeirson v. Iceland, 25 June 1992, Application No. 13778/88, para. 63.

intrusive to freedom of expression. Third, the restriction must affect only the narrow zone of harmful speech (breach of this condition is sometimes referred to as 'overbreadth'). Fourth, the restriction must be proportionate. This involves comparing the likely harm to freedom of expression from the restriction with the benefits it provides in terms of protecting the legitimate interest. For example, a rule which required community media to carry a majority of local programming could be justified as proportionate given the need to ensure that programming served the community, but a rule that all of its programming needed to be local would probably be excessive.

I.4. Independence of Regulatory Bodies[29]

Certain forms of regulatory activity which impact on freedom of expression are necessary, often as part of a package of positive measures, for example designed to foster diversity in broadcasting or to give effect to the right to information. In some cases, these regulatory activities necessitate the establishment of a regulatory authority, such as a broadcast regulator. International courts have made it clear that international guarantees of the right to freedom of expression require that bodies which exercise regulatory powers over the media must be protected – both legally and practically – against political, commercial and other forms of interference. The reasons for this are fairly obvious. If such bodies are subject to government control, they are likely to promote the interests of the government, rather than the interests of the wider public, to the detriment of freedom of expression. Similarly, if such bodies are subject to private or commercial control, in particular by the sector they cover, they will be unable to regulate that sector effectively.

This principle finds strong support in international decisions and statements. The African Declaration states clearly, at Principle VII (1):

> Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.

Globally, there are four special international officials with a mandate to protect freedom of expression, who are referred to in this report as the special international mandates on freedom of expression as one of the three is a Representative rather than a Special Rapporteur. The officials are: the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression,[30] the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression,[31] the African Commission on Human and Peoples' Rights (ACmHPR) Special Rapporteur on Freedom of Expression and Access to Information,[32] and the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media.[33] The special mandates adopt a Joint Declaration on a different freedom of expression issue every year.

The need for protection against political or commercial interference was addressed in their 2003 Joint Declaration, as follows:

> All public authorities which exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party.[34]

Within Europe, an entire recommendation of the Council of Europe focuses on the independence of broadcast regulators, namely Recommendation (2000)23 on the independence and functions of regulatory authorities for the broadcasting sector. The very first substantive clause of this

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29 This issue is not the focus of this study, but it is noted here due to the impact that a failure to respect this rule can have on the ability of community media to promote the free flow of information and ideas in society, in fulfilment of the right to freedom of expression.

30 This office was originally created by UN Commission on Human Rights Resolution 1993/45, 5 March 1993, and the mandate has been extended regularly since then, most recently by UN Human Rights Council Resolution 16/64.

31 See IACHR Press Release No. 2/98, 6 March 1998, paras. 14-15 for the original decision to establish this mandate.

32 Established by Resolution 71 at the 36th Ordinary Session held in Dakar, Senegal from 23rd November to 7th December 2004.

33 Created by PC DEC No. 193, OSCE, 5 November 1997.

34 Adopted 18 December 2003. Available at: http://www.osce.org/fom/66176. There were only three mandates at the time, as the African Special Rapporteurship had not yet been created.

Recommendation states:

> Member States should ensure the establishment and unimpeded functioning of regulatory authorities for the broadcasting sector by devising an appropriate legislative framework for this purpose. The rules and procedures governing or affecting the functioning of regulatory authorities should clearly affirm and protect their independence.[35]

In 2008, UNESCO's Intergovernmental Council of the International Programme for the Development of Communication adopted the *Media development indicators: a framework for assessing media development*.[36] These set out in some detail the issues that should be considered when assessing the framework for media development. Indicator 1.6 focuses on the independence of the regulatory system for broadcasting, setting out a number of considerations by which to assess the extent to which that independence is guaranteed.

I.5. Diversity: General Standards

Diversity has received extremely broad endorsement as a key aspect of the right to freedom of expression.[37] Jurisprudentially, as noted above, it derives from the multi-dimensional nature of the right, which protects not only the right of the speaker (to 'impart' information and ideas) but also the right of the listener (to 'seek and receive' information and ideas).[38]

For the most part, international standards on diversity are rooted in the more specific idea of media diversity. The *Declaration of Windhoek*, adopted under the auspices of UNESCO on 3 May 1991, declared:

> 1. Consistent with Article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
>
> 3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.[39]

The Inter-American Court of Human Rights has recognised that realisation of the right to seek and receive information and ideas are possible only in the context of a free and pluralistic media:

> It is the mass media that make the exercise of freedom of expression a reality. This means that the conditions of its use must conform to the requirements of this freedom, with the result that there must be, inter alia, a plurality of means of communication, the barring of all monopolies thereof, in whatever form, and guarantees for the protection of the freedom and independence of journalists.[40]

The 2007 Joint Declaration of the special international mandates on freedom of expression, which focused exclusively on diversity in broadcasting, highlighted the importance of media diversity as follows:

> *Stressing* the fundamental importance of diversity in the media to the free flow of information and ideas in society, in terms both of giving voice to and satisfying the information needs and other interests of all, as protected by international guarantees

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35 Adopted by the Committee of Ministers of the Council of Europe on 20 December 2000.
36 Available at: http://www.unesco.org/new/en/communication-and-information/intergovernmental-programmes/ipdc/special-initiatives/media-development-indicators-mdis/.
37 It may be noted that some commentators prefer the term 'pluralism', while others distinguish between 'pluralism' and 'diversity'. There are no widely accepted definitions or distinctions between these terms. Use of the term diversity is consistent with the dominant practice of many leading commentators, including the special international mandates (special rapporteurs) on freedom of expression.
38 See, for example, the Inter-American Court's judgment in Baruch Ivcher Bronstein v. Peru, 6 February 2001, Series C, No. 74, para. 146.
39 The Declaration was endorsed by the UNESCO General Conference at its twenty-sixth session in 1991.
40 Ibid., para. 34.

of the right to freedom of expression;[41]

The need for positive measures to promote media diversity has been recognised by several authorities. The African Declaration, for example, states:

> Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:
>
> ➔ availability and promotion of a range of information and ideas to the public;
>
> ➔ pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups, such as women, children and refugees, as well as linguistic and cultural groups;
>
> ➔ the promotion and protection of African voices, including through media in local languages; and
>
> ➔ the promotion of the use of local languages in public affairs, including in the courts.[42]

More generally, the African Declaration calls on states to "promote a general economic environment in which the media can flourish."[43]

The UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*,[44] also notes the importance of the media to diversity, with Article 6(2)(h) stating that States may consider,

> measures aimed at enhancing diversity of the media, including through public service broadcasting.

Within the European context, the issue of media diversity as an aspect of the right to freedom of expression has attracted considerable attention and, once again, the Council of Europe has adopted a specific document on the issue: Recommendation 2007(2) on Media Pluralism and Diversity of Media Content (2007 COE Recommendation).[45] The whole Recommendation is devoted to the question of the importance of pluralism in the media and measures to promote it. The first clause of the Recommendation states, in part:

> Member states should seek to ensure that a sufficient variety of media outlets provided by a range of different owners, both private and public, is available to the public.

The Recommendation also addresses directly the need for positive measures to promote diversity, stating:

> Pluralism of information and diversity of media content will not be automatically guaranteed by the multiplication of the means of communication offered to the public. Therefore, member states should define and implement an active policy in this field.[46]

This is supported by the jurisprudence of the European Court of Human Rights, which has frequently noted: "[Imparting] information and ideas of general interest ... cannot be successfully accomplished unless it is grounded in the principle of pluralism."[47]

Beyond these general standards on media diversity, there are a number of more specific standards focusing on diversity as a goal of broadcast regulation. For example, the African Declaration states:

> States shall encourage a diverse, independent private broadcasting sector. A State

41 Adopted 12 December 2007. Available at: http://www.osce.org/fom/66176.
42 Principle III.
43 Principle XVI(1).
44 Adopted 20 October 2005, in force 18 March 2007.
45 Recommendation No. R (2007)2, adopted by the Committee of Ministers on 31 January 2007. This updates Recommendation No. R(1999)1 in Measures to Promote Media Pluralism, adopted by the Committee of Ministers on 19 January 1999.
46 Clause II(1).
47 See, for example, Informationsverein Lentia and Others v. Austria, 24 November 1993, Application Nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 38.

monopoly over broadcasting is not compatible with the right to freedom of expression.[48]

In their 2001 Joint Declaration, the special international mandates for freedom of expression stated:

Promoting diversity should be a primary goal of broadcast regulation; diversity implies gender equity within broadcasting, as well as equal opportunity for all sections of society to access the airwaves.[49]

Within the European context, the issue of diversity in the broadcast sector as an aspect of the right to freedom of expression has attracted considerable attention. In a 2012 case, *Centro Europa 7 S.R.L. and Di Stefano v. Italy*, the European Court of Human Rights set out in some detail the key principles governing this idea:

129. The Court considers it appropriate at the outset to recapitulate the general principles established in its case-law concerning pluralism in the audiovisual media. As it has often noted, there can be no democracy without pluralism. Democracy thrives on freedom of expression. It is of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organised, provided that they do not harm democracy itself.

130. In this connection, the Court observes that to ensure true pluralism in the audiovisual sector in a democratic society, it is not sufficient to provide for the existence of several channels or the theoretical possibility for potential operators to access the audiovisual market. It is necessary in addition to allow effective access to the market so as to guarantee diversity of overall programme content, reflecting as far as possible the variety of opinions encountered in the society at which the programmes are aimed.

…

134. The Court observes that in such a sensitive sector as the audiovisual media, in addition to its negative duty of non-interference the State has a positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective pluralism (see paragraph 130 above). This is especially desirable when, as in the present case, the national audiovisual system is characterised by a duopoly.

With this in mind, it should be noted that in Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content (see paragraph 72 above) the Committee of Ministers reaffirmed that "in order to protect and actively promote the pluralistic expressions of ideas and opinions as well as cultural diversity, member states should adapt the existing regulatory frameworks, particularly with regard to media ownership, and adopt any regulatory and financial measures called for in order to guarantee media transparency and structural pluralism as well as diversity of the content distributed".[50]

The Court provided further input into the principle of broadcast diversity in the case of *Manole and others v. Moldova*:

The Court considers that, in the field of audiovisual broadcasting, the above principles place a duty on the State to ensure, first, that the public has access through television and radio to impartial and accurate information and a range of opinion and comment, reflecting inter alia the diversity of political outlook within the country and, secondly, that journalists and other professionals working in the audiovisual media are not prevented from imparting this information and comment. The choice of the means by which to achieve these aims must vary according to local conditions and, therefore, falls within the State's margin of appreciation.[51]

In 2002, the international human rights NGO, ARTICLE 19, adopted the document, *Access to the*

48   Principle V(1).
49   Adopted 30 November 2001. Available at: http://www.osce.org/fom/66176.
50   7 June 2012, Application no. 38433/09. See also Informationsverein Lentia and Others v. Austria, 24 November 1993, Application nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 38.
51   17 September 2009, Application no. 13936/02, para. 100.

Airwaves: Principles on Freedom of Expression and Broadcast Regulation,[52] which set out a number of standards governing broadcast regulation. It includes a good definition of diversity in broadcasting, in Principle 3.1, as follows:

> Diversity implies pluralism of broadcasting organisations, of ownership of those organisations, and of voices, viewpoints and languages within broadcast programming as a whole. In particular, diversity implies the existence of a wide range of independent broadcasters and programming that represents and reflects society as a whole.

I.6. Three Types of Diversity

The 2007 Joint Declaration of the special international mandates on freedom of expression identified three distinct aspects of media pluralism or diversity in broadcasting: content, ownership or source, and type of outlet or sectoral diversity.[53] Diversity of content, in the sense of the provision of a wide range of content that serves the needs and interests of different members of society, is the most obvious and ultimately the most important. It also implies that the media will serve the freedom of expression needs of all groups in society.

Diversity of content depends on the existence of a plurality of types of media, or outlet diversity. Specifically, democracy requires an environment in which different types of broadcasters, including public service, commercial and community broadcasters, can flourish. This type of diversity is the most directly relevant to community media which reflect different points of view, provide different types of programming and ensure access to broadcasting for different voices.

The absence of source diversity, reflected in the growing phenomenon of concentration of media ownership, can impact in important ways on media content, as well as independence and quality.

A number of authoritative statements support the idea that the right to freedom of expression places States under an obligation to promote all three types of pluralism – of source, of content and of outlet – including specifically through broadcast regulation. Some of these are more prescriptive in nature while others simply point to good practice as implemented by democratic States.

Content Diversity

The need for direct measures to promote content diversity, in the sense of the creation of diverse content, has received widespread recognition. The idea of equitable access to the media is to some extent based on the idea that this will help create diversity of content in the media, which in turn will ensure access of all through the media to information and ideas of relevance to their particular situations and/or interests.

Both the African Declaration and the 2007 COE Recommendation include specific calls for the promotion of content diversity. The former, for example, calls for the promotion of African voices, including through the media, and in local languages.[54] It also calls for the mandate of public service broadcasters to "be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods".[55]

The 2007 COE Recommendation calls on States to "define and implement an active policy in this area", and to adopt, where necessary, 'must carry' rules for distribution platforms, including both cable and other systems (i.e. targeting satellite and digital distributors). It also gives, as specific examples of possible policy options, requiring broadcasters to produce a certain volume of original programmes and rules to limit syndication of programmes where this threatens diversity.[56] If done appropriately, these apparent restrictions on broadcasters' right to freedom of expression actually serve the broader public's freedom of expression by enhancing the right to seek and receive information and ideas.

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52 Available at: http://www.article19.org/data/files/pdfs/standards/accessairwaves.pdf.
53 See also: Thomas Gibbons, "Concentrations of Ownership and Control in a Converging Media Industry", in Chris Marsden & Stefaan Verhulst, eds., Convergence in European Digital TV Regulation (London, Blackstone Press Ltd., 1999), pp. 155-173, at 157.
54 Principle III.
55 Principle VI.
56 Clause II.

The 2007 Joint Declaration similarly calls for policy tools to be used to promote content diversity both among and within media outlets. It also calls for consideration to be given to providing support, "based on equitable, objective criteria applied in a non-discriminatory fashion, for the production of content which makes an important contribution to diversity."

Diversity: Source of Ownership

The need to prevent undue concentration of media ownership, or diversity of source, is also well established under international standards. This standard applies to undue concentration of ownership held by both the State as well as by private actors. In its 2011 General Comment on Article 19 of the ICCPR, the UN Human Rights Committee stated:

> The Committee reiterates its observation in general comment No. 10 that "because of the development of modern mass media, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression". The State should not have monopoly control over the media and should promote plurality of the media. Consequently, State parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.[57]

The European Court has identified one of the key problems with undue concentration of media ownership:

> A situation whereby a powerful economic or political group in society is permitted to obtain a position of dominance over the audiovisual media and thereby exercise pressure on broadcasters and eventually curtail their editorial freedom undermines the fundamental role of freedom of expression in a democratic society as enshrined in Article 10 of the Convention, in particular where it serves to impart information and ideas of general interest, which the public is moreover entitled to receive. This is true also where the position of dominance is held by a State or public broadcaster. Thus, the Court has held that, because of its restrictive nature, a licensing regime which allows the public broadcaster a monopoly over the available frequencies cannot be justified unless it can be demonstrated that there is a pressing need for it.[58]

Principle 12 of the Inter-American Declaration of Principles on Freedom of Expression (Inter-American Declaration of Principles)[59] specifically calls for measures to limit "[m]onopolies or oligopolies in the ownership and control of the communication media", on the basis that they undermine "the plurality and diversity which ensure the full exercise of people's right to information". The Inter-American Court of Human Rights has similarly called for the "barring of all monopolies [of ownership of the means of communication], in whatever form", again in service of pluralism.[60] The African Declaration also calls for effective measures to prevent undue concentration of ownership.[61]

The 2007 COE Recommendation highlights the problem of media concentration and makes a number of recommendations on how to address it, including through rules on transparency of ownership and prohibiting media concentrations above certain threshold levels for both horizontal and vertical ownership patterns.[62]

In their 2007 Joint Declaration, the special international mandates on freedom of expression stressed the need for strong measures to prevent the emergence of undue concentration of media ownership, again referring to both horizontal and vertical threats:

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57   General Comment No. 34, 12 September 2011, CCPR/C/GC/34, para. 40.
58   Centro Europa 7 S.R.L. and Di Stefano v. Italy, note 50, para. 133.
59   Adopted by the Inter-American Commission on Human Rights at its 108th Regular Session, 19 October 2000.
60   Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, note 13, para. 34.
61   Principle XIV(3). The African Declaration also rules out public broadcasting monopolies. See Principle V(1).
62   Clause I(2).

> In recognition of the particular importance of media diversity to democracy, special measures, including anti-monopoly rules, should be put in place to prevent undue concentration of media or cross-media ownership, both horizontal and vertical. Such measures should involve stringent requirements of transparency of media ownership at all levels. They should also involve active monitoring, taking ownership concentration into account in the licensing process, where applicable, prior reporting of major proposed combinations, and powers to prevent such combinations from taking place.

Diversity of Type of Outlet

Many authoritative statements address the issue of diversity of type of outlet either implicitly or directly. The Inter-American Declaration of Principles states: "The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals."[63] The 2003 Joint Declaration adopted by the special mandates on freedom of expression refers instead to equitable access, stating: "The allocation of broadcast frequencies should be based on democratic criteria and should ensure equitable opportunity of access."[64] As noted above, the African Declaration refers to the need to ensure "pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups, such as women, children and refugees, as well as linguistic and cultural groups".[65]

In practice, ensuring that licences are awarded to different types of broadcasters – commercial, public service[66] and community – is a key means of promoting access to the media, since that is an effective way of broadening the range of voices and perspectives available through broadcasting.

All but the most repressive countries now provide for the licensing of commercial broadcasters, in recognition of the important contribution they make to diversity. The African Declaration states:

> States shall encourage a diverse, independent private broadcasting sector. A State monopoly over broadcasting is not compatible with the right to freedom of expression.[67]

The European Court of Human Rights has specifically ruled out the idea of a public broadcasting monopoly (PSB). In a 1993 case, Austria had argued that a PSB monopoly was the only way to promote important values in broadcasting, including "objectivity and impartiality of reporting, the diversity of opinions, balanced programming and the independence of persons and bodies responsible for programmes". The Court easily rejected these arguments, stressing the importance of diversity and stating:

> Of all the means of ensuring that these values [i.e. diversity] are respected, a public monopoly is the one which imposes the greatest restrictions on the freedom of expression, namely the total impossibility of broadcasting otherwise than through a national station and, in some cases, to a very limited extent through a local cable station.[68]

The role of public service broadcasters, if independent and adequately funded, in extending access to the media in a number of ways and through a number of programming formats, has been widely recognised. Within Europe, considerable attention has been devoted to the importance of public service broadcasting and its ability to contribute to a pluralistic media environment. A Recommendation on the independence of public service broadcasting in 1996[69] was followed by a Declaration on the same issue ten years later, in 2006.[70] The Council of Europe has also adopted a Recommendation specifically on the issue of the mandate of public service broadcasters. Among other things, this

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63 Principle 12.
64 Note 34.
65 Principle III.
66 In practice, many public broadcasters remain under government control and hence do not qualify as public service broadcasters. In some cases, these broadcasters also largely resemble commercial broadcasters.
67 Principle V(1).
68 Informationsverein Lentia and others v. Austria, 24 November 1993, Application nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 39.
69 Recommendation No. R(96)10 of the Committee of Ministers of the Council of Europe to member states on the guarantee of the independence of public service broadcasting, adopted 11 September 1996.
70 Declaration of the Committee of Ministers of the Council of Europe on the guarantee of the independence of public service broadcasting in the member states, 27 September 2006.

identifies providing "a reference point for all members of the public, offering universal access" and establishing "a forum for pluralistic public discussion and a means of promoting broader democratic participation of individuals" as key public service broadcasting roles.[71] The African Declaration also recognises the importance of public service broadcasting, as does the 2007 Joint Declaration of the special mandates on freedom of expression.[72]

Many of these same statements also recognise the important contribution of community broadcasters in providing access to the media to individuals and communities which commercial and even public service broadcasters cannot or do not reach.

I.7. Specific Standards on Community Media

A number of international standards bear more directly on the issue of regulation of community media. For ease of reference, these are grouped here into the same categories as the international practice on regulation of community media that follows, namely recognition, definition and form, access and licensing, and funding and sustainability.

Recognition, Definition and Form

This section presents international standards which recognise directly or call on States to recognise community media, or sometimes community broadcasters, as a distinct media sector. No single definition can adequately describe the notion of "community" worldwide, because of the very disparate and diverse nature of communities. Hence, in the context of community media, many countries focus on the geographic aspects of what forms a community while others also include "communities of interest", which span a very wide range (from women to farmers to faith based groups and so on). The standards rarely refer to the idea of a universal service obligation for community broadcasters to serve all of their communities (i.e. an obligation to cover the whole community), even where they serve geographic communities, something that is quite common in relation to public service broadcasters.

For example, Clause (i) of the 2009 Council of Europe's Declaration of the Committee of Ministers on the role of community media in promoting social cohesion and intercultural dialogue (2009 COE Declaration), "[r]ecognizes community media as a distinct media sector".[73]

UNESCO's 2008 World Press Freedom Day (3 May) Maputo Declaration calls on States,

> To create an environment which promotes the development of all three tiers of broadcasting and, in particular, to improve conditions for the development of community media and for the participation of women within the community media framework[74]

The 2012 UNESCO World Press Freedom Day Carthage Declaration similarly calls on States:

> To promote a diverse media landscape that recognises the distinctive contribution to democracy by all three tiers of broadcasters – public service, community and commercial.[75]

The African Charter on Broadcasting 2001, adopted at the UNESCO-sponsored Windhoek Conference to celebrate World Press Freedom Day ten years after the original Windhoek Conference, noted:

> There should be a clear recognition, including by the international community, of the difference between decentralised public broadcasting and community broadcasting.[76]

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71   Recommendation Rec(2007)3 of the Committee of Ministers of the Council of Europe to member states on the remit of public service media in the information society, adopted 31 January 2007, clause I(1).

72   Principle VI.

73   Adopted 11 February 2009, preamble.

74   Available at: http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/worldpressfreedomday2009001/maputo-declaration/.

75   Available at: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/WPFD/carthage_declaration_2012_en.pdf.

76   Adopted 5 May 2001, Principle III(2). Available at: http://portal.unesco.org/ci/en/files/5628/10343523830african_charter.pdf/african%2Bcharter.pdf

Many other statements implicitly call for the separate recognition of community broadcasters through reservation of frequencies for these broadcasters and for special licensing processes to accommodate them (see below).

Surprisingly few of these statements, however, actually define community media, even though this is somehow integral to the idea of calling for their special recognition. One early exception is the African Charter on Broadcasting 2001, which defines community broadcasting as follows:

> Community broadcasting is broadcasting which is for, by and about the community, whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.[77]

The 2007 Council of Europe Recommendation on media pluralism provides a rather roundabout definition, calling for the encouragement of media "capable of making a contribution to pluralism and diversity and providing a space for dialogue", such as "community, local, minority or social media."[78] A far more substantive definition is provided in the 2009 Council of Europe Declaration, the preamble of which states:

> Noting that community media, taking the form of broadcasting and/or other electronic media projects, as well as print format, may share to a greater or lesser extent some of the following characteristics: independence from government, commercial and religious institutions and political parties; a not-for-profit nature; voluntary participation of members of civil society in the devising and management of programmes; activities aiming at social gain and community benefit; ownership by and accountability to the communities of place and/or of interest which they serve; commitment to inclusive and intercultural practices.

Not surprisingly, the World Association of Community Radio Broadcasters (AMARC) – an international non-governmental organisation serving the community radio movement which is the leading community media organisation globally – has defined community broadcasters in some detail. Specifically, Principles 3 and 4 of AMARC's *Principles for a Democratic Legislation on Community Broadcasting* (AMARC Principles)[79] state:

> Principle 3: Definition and characteristics
>
> Community radio and television are private entities with public objectives. They are managed by various types of non-profit social organisations. Their fundamental characteristic is the participation of the community, in ownership as well as programming, management, operation, financing and evaluation. They are independent and non-governmental media that do not depend on or are part of political parties or private firms.
>
> Principle 4: Objectives and ends
>
> Community media exist to satisfy the communication needs of their communities' members and to enable them to exercise their rights of access to information and freedom of expression. Their aims are directly related to the communities they serve and represent including: the promotion of social development, human rights, cultural diversity, pluralism of information and opinion, peaceful coexistence, and the strengthening of social and cultural identities, among others. They are pluralist media and for that reason must ensure the access, dialogue and participation of a range of social movements, races, ethnic groups, genders, sexual orientations, religions, ages and others.

Both the Council of Europe and the AMARC definitions recognise both geographic communities and communities of interest. The latter are not closed in the sense that new types of interests may always arise. The Council of Europe definition rules out broadcasters controlled by specific religious institutions, while the AMARC definition calls more generally for an inclusive approach, including in

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77 Ibid., Principle III(1).
78 Clause I(4).
79 Adopted 3 May 2008. Available at: http://amarcwiki.amarc.org/upload/documents/Principles_Community_ Broadcasting_Legislation.pdf.

relation to religion.

Access and Licensing

For community broadcasters to be able to exist in practice, they need to have access to the airwaves, both in the sense of frequencies being reserved or protected for them, and in the sense of individual community broadcasters being given licences to use those frequencies. As a result, a significant focus of international statements on community broadcasting has been the right of this form of broadcasting to be able to use, in practice, all available systems to disseminate their messages. In some cases, this has taken the form of noting the right of these broadcasters to use available dissemination technologies.

AMARC Principle 5 notes that "organized communities and non-profit groups have the right to use all available broadcasting and telecommunications technologies". Similarly, Principle III (3) of the African Charter on Broadcasting calls for the right of community broadcasters to have access to the Internet to be promoted.

Many of these statements explicitly call for the equitable allocation of broadcasting frequency spectrum resources among different types of broadcasters, in some cases among all three types of broadcasters – namely public, commercial and community – and in some cases simply between the latter two, presumably based on the idea that public broadcasting should be treated differently. Such equitable allocation is called for in the African Declaration (Principle V(2)), the African Charter (Principle I(4)), the UN Human Rights Committee's 2011 General Comment (paragraph 39), ARTICLE 19's Access to the Airwaves (Principle 9.3), the 2009 Council of Europe Declaration (Clause (ii)) and AMARC Principle 7.

A good statement along these lines, albeit expanded to cover all distribution systems, is found in the 2007 Joint Declaration of the special international mandates, which states:

> Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across national frontiers, and non-discriminatory access to support services, such as electronic programme guides.

Several of these statements explicitly refer to the need to preserve space for community broadcasters in the new digital environment. Thus, the 2009 Council of Europe Declaration notes the importance of "ensuring that community broadcasting media are not disadvantaged after the transition to the digital environment" (Clause (ii)), and AMARC Principle 7 similarly notes that the call for equitable allocation of frequencies "extends to allocations in digital broadcasting frequencies". Once again, the 2007 Joint Declaration of the special international mandates contains a broad statement of this principle:

> Consideration of the impact on access to the media, and on different types of broadcasters, should be taken into account in planning for a transition from analogue to digital broadcasting. This requires a clear plan for switchover that promotes, rather than limits, public interest broadcasting. Measures should be taken to ensure that digital transition costs do not limit the ability of community broadcasters to operate. Where appropriate, consideration should be given to reserving part of the spectrum for analogue radio broadcasting for the medium-term. At least part of the spectrum released through the 'digital dividend' should be reserved for broadcasting uses.

Several statements go beyond simply calling for an equitable allocation of frequencies and recognise that, in practice, this requires a special licensing approach for community broadcasters, which cannot be expected to compete openly with commercial broadcasters, given that the latter are often far better resourced and established. Principle V(2) of the African Declaration states, rather generally, that, "licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting".

The UN Human Rights Committee has also recognised the importance of appropriate licensing processes for both community and commercial broadcasters, stating, in its 2011 General Comment:

> States parties must avoid imposing onerous licensing conditions and fees on the broadcast media, including on community and commercial stations. The criteria for the application of such conditions and licence fees should be reasonable and objective, clear, transparent, non-discriminatory and otherwise in compliance with the Covenant. (para. 39)

The 2007 Joint Declaration of the special international mandates goes beyond these statements to note that community broadcasters should specifically "benefit from fair and simple licensing procedures" and "should not have to meet stringent technological or other licence criteria".

The AMARC Principles provide perhaps the most detailed statement on this issue, stating:

> ### Principle 11: Evaluation criteria
>
> The evaluation criteria will differ for the diverse modes of broadcasting. In the case of community media the following attributes will be highly valued: the pertinence of the communicational, social and cultural project, the participation of the community in the station, the organisation's experience within the community and the contribution the station will make to media diversity in the coverage area. The economic capacity of the proponent should neither be a deterrent nor a selection criterion, although there must be reasonable requirement for the station to demonstrate that it is sustainable.

Funding and Sustainability

A few international statements also address the need for measures to promote the sustainability of community broadcasters. Financial sustainability is often a very significant challenge for community broadcasters. Even though their costs are often small, they still have to cover a number of costs, such as for equipment, electricity and so on. These call for three broad types of measures for community broadcasters. First, they call for community broadcasters to benefit from lower costs. This includes fixed costs, such as lowering or waiving licensing and spectrum usage fees, but it can also include other measures, such as the lifting of taxes on equipment and other materials, for example used for transmission purposes. Second, they call for community broadcasters to be able to have access to different revenue streams, in particular advertising. Finally, they call for community broadcasters to benefit from direct public subsidies.[80]

The African Declaration calls generally for community broadcasting to "be promoted given its potential to broaden access by poor and rural communities to the airwaves". The 2011 General Comment of the UN Human Rights Committee calls for licence fees to be "reasonable and objective, clear, transparent, non-discriminatory" (para. 39), and in practice many countries do provide for lower fees – both for applications for licences and for fees for use of the frequency spectrum – for community broadcasters. The 2007 Joint Declaration stipulates that community broadcasters should "benefit from concessionary licence fees and should have access to advertising". AMARC Principle 13 notes that relieving community broadcasters from paying spectrum usage fees "is a desirable way of adapting them to the non-profit nature of community media".

Once again, the most detailed statement on access to revenue streams comes from the AMARC Principles, which state:

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80 In a very small number of countries, such as South Africa, terrestrial broadcast distribution activities are run centrally by a public body and, in these countries, special measures may result in lower distribution costs for community broadcasters. However, in most countries, terrestrial broadcast distribution is operated in a more diffuse manner, with different broadcasters making their own separate arrangements. It is different with satellite and cable television distribution, where must-carry rules for community television are in place in some countries.

Organized communities and non-profit groups that provide community broadcasting services have the right to assure their economic sustainability, independence and development, through resources such as donations, sponsorships, commercial and public advertising and other legitimate means. All of these will be entirely reinvested for the functioning of the station and the achievement of its goals. Any limitations imposed on the amount of time or quantity of advertising must be reasonable and non-discriminatory. Community media should present accounts to the community, making their financial management transparent and public.

The term 'non-discriminatory' in this principle is used to mean that community broadcasters should not be arbitrarily subjected to lower advertising limits than other types of broadcasters although in practice lower limits, sometimes set at the same level as for public service broadcasters, are not infrequently imposed, in some cases as a trade-off for receiving public funding. The principle that funds must be reinvested for the benefit of the station is a core non-profit principle; any surplus funds can be used to improve the station, to pay staff and so on.

In terms of public funding, the 2009 Council of Europe Declaration calls on States to examine "the possibility of committing funds at national, regional and local level to support the sector, directly and indirectly, while duly taking into account competition aspects" (Clause iv(a)). ARTCLE 19's Access to the Airwaves has a more general statement, setting conditions for funding for community or commercial broadcasters, including that these "serve the goal of promoting diversity" and that allocation "be on the basis of clear criteria set out in advance" (Principle 28.3). For its part, AMARC Principle 13 states: "The existence of public funds with sufficient resources is a key element for establishing and developing community media."

PART II: REGIONAL OVERVIEW

Community broadcasting has developed in different ways in different regions of the world, as well as in each country within a region. This part of the Report provides a brief overview of the key developments in each region, followed by a paragraph or two presenting a sense of the specific developments in the countries whose legal frameworks are detailed in the following parts.

II.1 Africa

On a continent facing numerous political, socio-economic and environmental challenges, community radio has been harnessed to promote women's and children's rights, encourage girls to go to school, teach good hygiene and sanitation practices, raise awareness about HIV prevention services and the stigma faced by people affected by HIV, and as a tool for communication, reconciliation and peace building in conflict zones. Community radio has demonstrated resilience, enduring political temperament and technological change, even while many stations operate without a licence. Where the medium is embraced, it has grown exponentially, sometimes becoming the dominant information medium.

Community radio in Africa is generally very young, catalysed by the transition of many States to democracy in the early 1990s. Regulatory structures vary, ranging from liberal in South Africa to relatively restricted in Nigeria. A uniform standard does exist in The African Charter on Broadcasting, a document adopted under the auspices of UNESCO which defines community broadcasting as the third tier of broadcasting, and which serves as a blueprint for broadcasting policies and laws. However, many States have not yet even begun to implement the Charter.[81]

Among the most notable challenges faced by the community radio sector in Africa are inadequate funding and inexperienced staff. Many stations are dependent on external funding, following a top-down model that is not fully supported by the community and which routinely fails when donor funding dries up.[82] Even where stations are sustainable, the impact of overall human resource deficiencies are felt and reflected in the high levels of staff turnover which are unmatched by adequate replacements that would guarantee continuation of professional and quality programming. The sector is also hampered by lack of resources to maintain and upgrade modern equipment and technology, and government censorship and closure. However, since radio receiving devices (which often include cell phones) are inexpensive, portable, operate independently of power grids and are accessible even to those who cannot read,[83] radio is still the medium of choice for the majority of people living in the region, and community radio has much room for growth.

The following section provides a brief overview of community radio developments in seven very different African countries.

Community radio is doing relatively well in **Benin** and, as of 2011, there were 36 community radio stations across the country.[84] Most stations are supported by government funding and advertising, as well as paid for music requests and the rental of broadcasting time to community organisations and religious groups, along with donor assistance. Nevertheless, funding is still one of the primary challenges.[85] Staff fluctuation is high, and most have limited professional training or experience. Despite the difficulties, community radio plays an important role in society. For example, a 2011 study of 4,200 households in northern Benin found that villages with greater access to community radio had

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81 See Steve Buckley, "How the African Charter on Broadcasting helped end reliance on a single state provider" in *Media in Africa: Twenty Years After the Windhoek Declaration on Press Freedom*, 2011, p. 157, Media Institute of Southern Africa, available at http://tinyurl.com/muhfzld.

82 Peter da Costa, The Growing Pains of Community Radio in Africa: Emerging Lessons Towards Sustainability, Nordicom Review 33 (2012) Special Issue, p.135. Available at: http://ojs.ub.gu.se/ojs/index.php/gt/article/download/1296/1125.

83 In 2010, nine of the ten countries with the lowest adult literacy rates were in Africa. See UNESCO, *Education for All Global Monitoring Report 2010: Reaching the marginalized* (February 2010). Available at: http://unesdoc.unesco.org/images/0018/001866/186606E.pdf.

84 Tilo Grätz, Grassroots challenges, D+C Development and Cooperation (4 January 2011). Available at: http://www.dandc.eu/en/article/benins-community-radios-are-struggling-many-problems-they-are-important-nonetheless.

85 Tilo Grätz, Grassroots challenges, D+C Development and Cooperation (4 January 2011). Available at: http://www.dandc.eu/en/article/benins-community-radios-are-struggling-many-problems-they-are-important-nonetheless.

considerably higher literacy rates among second-grade children, and were significantly more likely to pay for mosquito bed nets.[86]

In **Ethiopia**, the community radio sector is relatively young. First introduced at a regional community radio symposium hosted by AMARC and Oxfam Canada in January 2002,[87] there were a reported 16 community radio stations on the air or "in process" in 2012.[88] The sector faces a number of challenges, however, including a lack of financial resources and professional training.[89] UNESCO has initiated a number of short-term training and capacity building workshops for community radio stations across Ethiopia. For example, as of 2012, UNESCO's International Programme for the Development of Communication had provided USD $16,500 to train 25 full-time and ten part time staff at Mekelle FM, which reaches about 1.8 million people in Tigray.[90] In the same year, UNESCO carried out a five-day training session for Sude FM broadcasters in Oromia, exposing participants to advanced writing skills and radio journalism techniques, and media ethics and laws.[91]

Mali has one of the strongest community radio broadcasting developments on the continent. First established in 1988 due to a popular movement, the transition to democracy in 1991 paved the way for growth. In the 1990s, community radio stations increased at a rate of two new stations per month[92] and there are now over 300 stations, broadcasting in more than a dozen local languages. Community radio has been credited with increasing religious and cultural tolerance, promoting the rights of women and children, and raising awareness about disease. Key challenges include a lack of professional expertise, and lack of modern technology and equipment.[93]

In **Mozambique**, community radio has mushroomed following the 1992 peace accord, with the transition to a multiparty democracy and new broadcasting laws opening the doors for the first time to community radio. The first two stations were established in 1994, and by 2007 there were some 57 stations.[94] Among the notable success stories is Mossurize, a station that won a provincial community radio award in 2011 for its work in advancing child rights, and which today has more than 50 contributing members.[95] Other key successes include programmes that encourage girls to go to school, teach good hygiene and sanitation practices, and raise awareness about the stigma faced by people affected by HIV.[96]

In **Nigeria**, the most populous country in Africa, community radio remains relatively underdeveloped. The licensing regime remains nascent, and fees are prohibitively high. Depending on the commercial activity of the area, five-year licenses cost between NGN 10 and 20 million (approximately USD63,000 to 125,000), and stations are required to pay 2.5 percent of their gross turnover to the regulator.[97] As a result, established academic institutions currently operate most stations. If the government is unable to implement a functional licensing regime soon, it has been suggested that community radio stations will be forced to go to other jurisdictions and perhaps reach Nigeria through online services. For example, following an unsuccessful bid to obtain a domestic FM broadcasting license, a well-known Nigerian journalist secured an AM broadcasting license in Spain.[98]

86 World Bank, Radio Access and Service Delivery in Benin (Summer 2011). Available at: http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPROGRAMS/EXTPUBSERV/0,,contentMDK:22981257~pagePK:64168182~piPK:64168060~theSitePK:477916,00.html.

87 Ayele Eshetu, Overview of Community Radio Development in Ethiopia (October 2007), p.3. Available at: http://www.podcast.amarc.org/amena/Ethiopia_Ayele.doc.

88 Ethiopian Broadcasting Authority, List of Community Radios (December 2012). Available at: http://www.eba.gov.et/web/data/brochoures/Community%20Englishe%20December%202004.pdf.

89 Ayele Eshetu Gurmu, Community Radio Initiatives in Ethiopia, p. 4. Available at: http://amarcwiki.amarc.org/upload/documents/CR_PAMDP_etiopia.pdf.

90 UNESCO, Capacity building of Mekelle FM 104.4 in Tigray (2012). Available at: http://www.unesco-ci.org/ipdcprojects/content/capacity-building-mekelle-fm-1044-tigray.

91 UNESCO, Strengthening community radio in Ethiopia (19 January 2012). Available at: http://www.unesco.org/new/en/media-services/single-view/news/strengthening_community_radio_in_ethiopia/.

92 Peter da Costa, note 81, p.139.

93 ICT Regulation Toolkit, Rural Community Radios in Mali Practice Note. Available at: http://www.ictregulationtoolkit.org/en/PracticeNote.3153.html.

94 Birgitte Jallov, Women and Community Radio in Mozambique, Lifeline Energy (2007). Available at: http://lifelineenergy.org/CommunityradioinMozambique.html.

95 Marie-Consolée Mukangendo, UNICEF Media Centre, Community Radio of Mossurize is helping children claim their rights (4 May 2012). Available at: http://www.unicef.org/mozambique/media_11666.html.

96 UNICEF Media Centre, Community Media mobilises girls to go to school (March 2008). Available at: http://www.unicef.org/mozambique/media_4474.html.

97 Akin Akingbulu, Case Study: Community Radio Development in Nigeria, APC, p.3. Available at: http://www.apc.org/en/system/files/APCProPoorKit_Advocacy_CaseStudy_CommunityRadioDevelopmentNigeria_EN.pdf.

98 Jumai Umar, Amplifying the People's Voices: Community Broadcasting in a Digital Era, cited in Radio 2.0 for development (31 October 2008). Available at: http://comunica.org/radio2.0/archives/133.

South Africa has some of the most progressive community broadcasting policies in Africa and indeed globally, and community radio plays a central role in the radio landscape in the country.[99] The Independent Broadcasting Authority Act formally recognised community radio in 1993,[100] and by 2012 there were an estimated 165 community radio stations across the country.[101] In March 2013, community radio stations boasted 7.7 million listeners, with nearly a quarter of all radio listeners tuning in at least once a week.[102] However, challenges persist, particularly for those stations serving impoverished or historically disadvantaged communities, where revenue generation is limited by the wider socio-economic challenges faced by the community,[103] so that many stations depend on donors and advertising support. While there is some government support, funding is dwindling. The official Media Development and Diversity Agency (MDDA) provides community media with both direct and indirect financial support, but its allocations have been declining.[104] There have also been delays in implementing some rules, such as the four-year licenses, with some stations still operating on annual licences, making financial planning and the realisation of community broadcasting goals challenging.[105]

The community media sector in **Uganda** is still relatively underdeveloped, and faces numerous roadblocks, most notably financial and human resource challenges and government censorship. Four stations were closed in 2009 allegedly for discouraging a new government-proposed land law,[106] while in January 2012 six community radio stations in Luwero were closed by the Ugandan Communication Commission for operating without a license.[107] At the same time, community radio has played a positive role. A remarkable success has been the use of community radio as a tool for reconciliation and peace building. For example, following the Lord's Resistance Army's (LRA) massacre of the Acholi in the mid-1990's, community leaders and officials turned to community radio to help reorganise communities, engage rebels in peace talks, and encourage kidnapped children to escape the LRA and return home.[108] More recently, a project called RootIO (roots radio) hopes to develop community radio on a neighbourhood level, enabling people to communicate with low-cost tools such as cell phones and portable transmitters.[109]

II.2 Asia

This section of the report concentrates on seven Asian countries divided into two sub-regions, East and Southeast Asia, and South Asia.

East and Southeast Asia

In a region undergoing rapid social, economic and political change, community radio has, in different countries in the sub-region, helped empower marginalised communities, provided emergency preparedness and disaster management, played a central role in the public discourse on freedom of expression, media reform and social change, and helped end sectarian violence. Community broadcasting in Southeast Asia is characterised by a degree of grass-roots community involvement rarely seen elsewhere. Local communities throughout the region often build their stations from

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99 ICT Regulation Toolkit, Rural Community Radio in South Africa, Practice Note. Available at: http://www.ictregulationtoolkit.org/en/PracticeNote.3151.html.

100 Independent Broadcasting Authority Act 153 of 1993. Available at: http://www.wipo.int/wipolex/en/text.jsp?file_id=218750.

101 Brand South Africa. Available at: http://www.southafrica.info/about/media/community-radio.htm#.UTpLNdEjpUs.

102 National Community Radio Forum (NCRF) Website, under "About Us". Available at: http://www.ncrf.org.za/about-us.

103 ICT Regulation Toolkit, Rural Community Radio in South Africa, note 83.

104 In 2013-14, MDDA allocated less than half as much as in the previous year for the development of community radio; R20 million down from R43 million. SABC, MDDA stresses importance of community radio stations (13 February 2013). Available at: http://www.sabc.co.za/news/a/bea33b804e89320e96b5fe7da4cd6ad7/MDDA-stresses-importance-of-community-radio-stations.

105 ICT Regulation Toolkit, Rural Community Radio in South Africa, note 83.

106 Joseph Were, Uganda's Community Radio Stations Walk Political Tightrope, AudienceScapes (24 February 2012). Available at: http://www.audiencescapes.org/uganda%E2%80%99s-community-radio-stations-walk-political-tightrope-292.

107 Ugandan Radio Network (URN), Closure of Community Radio Stations lives Luwero Quiet (24 January 2012). Available at: http://ugandaradionetwork.com/a/story.php?s=39811.

108 IPS, Uganda: Using Community Radio to Heal After Kony's War (31 January 2012). Available at: http://www.ipsnews.net/2012/01/uganda-using-community-radio-to-heal-after-konyrsquos-war/.

109 Niemanlab, RootIO wants to take radio back to the local level in Uganda (18 January 2013). Available at: http://www.niemanlab.org/2013/01/rootio-wants-to-take-radio-back-to-the-local-level-in-uganda/.

scratch, relying on local donations and voluntary labour that ensures strong links to the community.

While South Asia suffers from restrictive regulatory frameworks (see below), Southeast Asia can be said to suffer from an absence of sufficiently robust regulatory structures. This is a double-edged sword, allowing community radio stations to get on the air quickly, but without the stability and other benefits of official recognition and support. In Thailand, for example, where most stations operate without proper licenses,[110] community radios have in the past been shut down at whim by authorities invoking broad terms such as national security and public morals.[111] Lack of proper enabling legislation was identified at the recent Radio Asia Conference as the single largest barrier to the development and sustainability of community radio in the region.[112] The need for equitable distribution of spectrum, and greater recognition of community radio's role in disaster preparedness and environmental protection, was also voiced.

In **Indonesia**, community radio is a relatively recent phenomenon, which started to develop in the space opened up after the removal of the Soeharto regime in 1998 and the consequent process of democratisation. In 2006, there were an estimated 700 community radio stations in Indonesia. However, obtaining a licence takes a considerable amount of time and, without an official licence, community radio stations may be categorised as illegal and subject to closure by local authorities.[113] Community radios have, at the same time, proven their value in many ways, including in the aftermath of the 2004 earthquake-tsunami, when they were able to get crucial information to many isolated communities.[114] Other successes include action in social areas such as the environment, problems faced by street vendors, and the challenges of climate change for fishermen.[115]

Myanmar is undergoing a process of rapid democratic transformation. There is still no community media, but there are aims to change this with the introduction of a new broadcasting law. The new law will establish an independent broadcasting council, and provide for the establishment of community radio stations.

In the **Philippines**, community radio faces a crisis mainly due to the lack of a supportive legal framework which has resulted in fierce competition from commercial players and political interference. In this context, the Tambuli Community Radio Network represents an important success. Established in 1991 with support from UNICEF and the Danish International Development Agency (DANIDA), the Tambuli Network at one point included 24 stations serving rural areas throughout the Philippines. Member stations have been successful in encouraging citizen participation through *Baranggayan sa Himpapawid*, or "Village on the Air", a popular variety show in which villagers from a different village each week share local culture and entertainment as interviewers, singers, comedians, poets and musicians. Despite the successes of the Tambuli Network, there were only five stations still broadcasting in early 2012, the other stations having shut down after financial support from donors lapsed.[116]

Since the arrival of radio in **Thailand** in the 1930s, broadcasting has remained largely under government control, and been used to shape the modern national identity, significantly centred on mainstream lowlands culture and language. Community radio was first established in December 2001, when Wittayu Siang Chumchon, or "Radio Community Voice", started broadcasting from an orchard in Kanchanaburi province. Within one year, there were more than 100 stations. The introduction of perspectives from the margins of society has, whether intended or not, effectively challenged the status quo.[117] This, in turn, has led to a struggle with powerful government and military interests that

110 Mary Myers, CIMA, Voices from Villages: Community Radio in the Developing World, 5 April 2011, p.10. Available at: http://cima.ned.org/sites/default/files/CIMA-Community_Radio-Report_Final%20-%2006-30-11.pdf.

111 Chularat Saengpassa, "26 Community Radio Stations Shut Down", The Nation, 15 July 2010. Available at: http://www.nationmultimedia.com/home/2010/07/15/national/26-community-radio-stations-shut-down-30133822.html.

112 AMARC, AMARC Calls for Legislative Reform and Equitable Frequency Distribution in Indonesia, 10 May 2012. Available at: http://www2.amarc.org/?q=node/461.

113 Mario Antonius Birowo, Community radio movement in Indonesia: a case study of Jaringan Radio Komunitas Yogyakarta, pp.10 and 21. Available at: http://mediaasiaconference.humanities.curtin.edu.au/pdf/Mario%20Antonius%20Birowo.pdf. See also AMARC, Spectrum, licence and other fees for community radios across the globe. Available at: http://www.amarc.org/documents/AsiaPacific/spectrumandlicencefees.pdf.

114 Ibid.

115 Jot Prakash Kaur, Strategic Foresight Group, Community Radio in Indonesia: An Inspiration, February 2012. Available at: http://www.strategicforesight.com/community_radio.htm.

116 Infoasaid, Philippines: Media and telecoms landscape guide (August 2012), p.30. Available at: http://infoasaid.org/sites/infoasaid.org/files/philippines__guide_final_030812.pdf.

117 Patricia W. Elliott, Another radio is possible: Thai community radio from the grass roots to the global, 8(1) The Radio Journal – International Studies in Broadcast and Audio Media, p.10. Available at: http://www.ingentaconnect.com/

in some ways continues to this day. Powerful support for the community broadcasting sector is found in the recognition, originally traced to the 1997 People's Constitution, that the airwaves are a national public resource, and legislation giving effect to this, which reserved 20 percent of all frequencies for public interest and non-profit broadcasting.

South Asia

The first community radio station to be licensed in South Asia was Radio Sagarmatha, the local name for Mount Everest, in Nepal, in 1997. Ironically, although Nepal has a far less developed regulatory framework for community radios than either Bangladesh or India, the sector is far more vibrant and robust there than in its much larger neighbours. In general, community broadcasting has come late to South Asia, and while it is growing in size and importance, it continues to suffer from restrictive regulatory frameworks and limited access to funding. This is reflected in the recommendations of the recent South Asian Seminar on Community Broadcasting, which identified the key challenges for the sector as including restrictive policy frameworks, inadequate spectrum allocation and the lack of sustainable funding.[118]

In **Bangladesh**, community radio is still in its infancy, having first been authorised only in 2008. Despite pledges, government funding has yet to materialise, and most stations are funded by local NGOs and operated by volunteers.[119] The Bangladesh National Regulatory Commission on Broadcasting recommended that 116 community radio stations be granted provisional licenses in July 2008,[120] but the government only issued broadcasting licenses to fourteen of them, twelve of which were actively broadcasting in 2012.[121]

In a country prone to cyclones, tsunamis, flooding and earthquakes, community broadcasting serves an important function in rural areas as a crisis management tool and early warning system. It is no surprise, therefore, that eight of the twelve community radio stations are located in low-lying coastal areas.[122] The facts that community radios broadcast in local Bengali dialects, and that many people listen to radio on their now ubiquitous mobile phones, make it a highly accessible medium. At the same time, the sector faces several concerns, including political interference, inadequate funding and lack of a dependable power supply.[123]

In **India**, the world's most populous democracy, community radio came late and remains very limited, although it is gaining traction. The cornerstone of community broadcasting dates back to 1995, with a landmark ruling by the Supreme Court which stated that the "airwaves constitute public property and must be utilized for advancing public good".[124] Civil society groups immediately formulated the Bangalore Declaration on Radio 1996, which articulated the need for a third tier of broadcasting in the form of community radio, and this was followed by another civil society statement, the Pastapur Initiative on Community Radio Broadcasting, 2000. The government adopted guidelines in 2003 allowing for community stations to be founded by educational institutions, but it was not until November 2006 that the government formulated a wider community radio policy that paved the way for non-profit community based radio stations.[125] According to the Community Radio India website, there are 165 community FM radio stations across India, the majority of which are operated by educational institutions.[126] At the same time, community radio has been credited with some important successes

content/intellect/rj/2010/00000008/00000001/art00002.

118 AMARC Asia-Pacific, Community Broadcasters of South Asia Demand Policy Reform And Support For Sustainability, 20 January 2013. Available at: http://ap.amarc.org/node/75.

119 IRIN, Bangladesh: Community radio role in disaster preparedness, 4 January 2013. Available at: http://www.irinnews.org/report/97171/BANGLADESH-Community -radio-role-in-disaster-preparedness.

120 Bangladesh NGOs Network for Radio and Communication (BNNRC), National Regulatory Committee of Community Radio: Permission for 116 Community Radio Stations Advised. Available at: http://www.bnnrc.net/programs/communityradio/communtyradionrc.

121 Association for Progressive Communications (APC), Bangladesh Community Radio Forum 2012. Available at: http://www.apc.org/en/blog/bangladesh-community-radio-forum-2012.

122 Ibid.

123 Kamrul Hassan Monju, Review of Community Radio Policy in Bangladesh: Opportunities and Challenges, p. 3. Available at: http://www.caluniv.ac.in/Global%20mdia%20journal/Commentaries-june-2010/k%20h%20monju.pdf.

124 The Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal, 1995 AIR 1236, 1995 SCC (2) 161, para. 206. Available at: http://indiankanoon.org/doc/539407/.

125 Ministry of Information & Broadcasting, Policy Guidelines for setting up Community Radio Stations in India (2006). Available at: http://mib.nic.in/writereaddata/html_en_files/crs/CRBGUIDELINES041206.pdf.

126 Community Radio India Website, http://qsl.net/vu2jos/fm/cr.htm. The official website of the Ministry of Information and Broadcasting listed 144 operational community radio stations as of February 2013. See http://mib.nic.in/ShowDocs.aspx.

including providing assistance during natural disasters, and preserving traditional cultures, such as Radio Mewat, which is helping to promote Mirasi folk singing.127

Several obstacles threaten development of the sector, including excessively bureaucratic and controlling licensing procedures, lack of adequate funding, including because of stringent limitations on commercial sources of income, and a recent unilateral attempt by the Ministry of Communications to implement a five-fold hike in community radio spectrum usage fees, which ultimately failed.[128] The Planning Commission Working Group recommended the establishment of an autonomous community radio support fund, which was also supported by civil society. However, the idea of an independent fund was rejected and instead the Ministry of Information and Broadcasting set aside about Rs. 10 million (approximately USD 180,000) for the first year (2013-2014) of the new 5-year plan period. However, so far no funds have been disbursed and indeed guidelines for applying for a grant have not yet been developed.

Following the restoration of democracy in **Nepal** in 1990, the Nepalese parliament passed the 1993 National Broadcasting Act, which UNESCO lauded as "a model for broadcasting worldwide."129 Despite this, licensing of independent radio stations was delayed until 1997, when the first station, Radio Sagarmatha, a community radio, managed to obtain a license. By August 2011, 242 community radio stations had obtained licenses, although there is no special policy or rules recognising this form of radio.130 Community radio in Nepal is notable for the multiple ownership and management models, including NGO, cooperative, and local government.

Community radio plays a critical role in disseminating information, enabling democratic participation, and promoting and protecting cultural diversity in a country with low literacy, poor infrastructure and mountainous terrain.131 When King Gyanendra dismissed the government and declared a state of emergency in February 2005, radios were banned from broadcasting anything but music. In response, a network of community radio stations across Nepal decided to sing the news and relevant articles of the Constitution in Nepali and more than 20 local languages, as "government had not banned the content, only the form in which it could be delivered."132

There are, however, still many challenges. The absence of clear definitions and regulatory standards for community radio, as well as clear categories of radio service providers generally, has led to increasing commercialisation and politicisation.133 With the number of private stations expanding, and competition increasing without clear direction or sector guidelines, traditional community radio principles and practices are at risk. Most notable among these are the focus on local content, emphasis on non-commercial sources of revenue, volunteerism and community access.134 Community radio stations continue to petition the government to introduce distinct regulations for community media.

Bhutan and the Maldives still do not have any community broadcasting,[135] although both countries plan to introduce regulatory frameworks for it in the near future.

II.3 Europe

After nearly three decades of determined efforts by community media practitioners, human rights

127 V.P. Prabhakar, "Community Radio Stations – Success Stories", Media Magazine, October 2012. Available at: http://mediamagazine.in/content/community-radio-stations-%E2%80%93-success-stories.
128 Himanshi Dhawan, "Community radio protests against spectrum fee hike", 12 May 2012. Available at: http://timesofindia.indiatimes.com/business/india-business/Community-radio-protests-against-spectrum-fee-hike/articleshow/13101664.cms. See also Pavarala, "Ten Years of Community Radio in India: Towards New Solidarities," EduComm Asia, April 2013. Available at: http://blog.uccommedia.in/uploads/2013/05/EduCommAsia_April2013_Guest-Column-1.pdf.
129 See B. Bhattarai, "Radio: Sounds of openness" in Kharel, P. (Ed.) Media in Society (2000: Nepal Press Institute), p. 110.
130 CRSC/NEFEJ, Community MHz: Assessing Community Radio Performance in Nepal: A Pilot Assessment of 15 Stations, 2011, p. 23, Table 1.1. Available at: http://un.org.np/sites/default/files/215138e.pdf.
131 Ibid., p. 4.
132 UNESCO, Pioneering Community Radio: Impacts of IPDC Assistance in Nepal, 2008, p. 9. Available at: http://unesdoc.unesco.org/images/0015/001585/158500e.pdf.
133 UNESCO, Ten Years On: The State of Community Radio in Nepal, 2007, p. 4. Available at: http://portal.unesco.org/geography/en/files/7991/11966615215State_of_Community_Radio_in_Nepal_abridged.pdf/State%2Bof%2BCommunity%2BRadio%2Bin%2BNepal_abridged.pdf.
134 Ibid., p. 5.
135 There is a very small campus station being run by Sherubtse College in Trashigang, Bhutan.

activists and NGOs, European regulatory policy for community radio is maturing. However, developments are gradual and mixed. While community radio is thriving in some countries, it has been obstructed and even stifled in others. In Central and Eastern Europe, the lack of clear regulatory structures and financial support poses a barrier and in some cases community radio is seriously restricted by hostile regulatory rules. In North and Western Europe, community radio is typically integrated into regulatory structures with sustainable, state-sponsored funding schemes, but progressive regulatory structures are not universal, and there are notable exceptions. In general, progress depends on legal recognition and support, along with implementation of the rules by independent media authorities that are sensitive to community radio's distinctive nature and specific needs.[136]

In 2012, there were approximately 2,230 community radio stations in 30 countries across Europe, with an estimated audience reach of between 12 and 35 percent of the population.[137] These stations play a critical role in promoting freedom of expression and active citizenship, supporting cultural, linguistic and religious diversity, strengthening local identity, and correcting stereotypes and ideas propagated by the mass media regarding socially marginalised communities, such as refugees, migrant workers and ethnic minorities.[138] In this way, community radio supports media pluralism through the alternative perspectives that community-based, volunteer-produced programming provides.

Among the various obstacles that threaten community radio in Europe are legal pressure and antagonism from the media authorities in Spain and Hungary, commercialisation and privatisation of community radio in Sweden, the transition to digital and Internet radio in Germany, and lack of adequate funding support in Poland and Serbia. While funding is a challenge across the region, it is less onerous in countries that have identified community radio as an extension of public service broadcasting, and finance community undertakings with public funds levied from households, as in the Netherlands and Denmark, or direct public funding, as in France. Loosening restrictions on alternative methods of funding, such as advertising and sponsorship, has also been shown to be a successful and cost-effective means of supporting community radio.

Another emerging challenge for community radio in Europe is rapidly changing technologies and the transition to digital terrestrial dissemination in particular. The consequences of this shift for community radio remain unclear. There is a risk that the high cost of digital broadcasting could undermine the ability of community radio to flourish or even survive. It is also possible, however, that regulatory tools will be developed that counteract this. In its declaration on community radio in May 2012, AMARC-Europe called upon the European Union and its Member States to establish regulatory conditions that ensure the existence, and promote the growth, of community radio in both analogue and digital environments.[139]

In **Denmark**, community radio dates back to 1983 and has traditionally enjoyed strong government support. In 1997, a government support fund was established that recognised the sector as an extension of public service broadcasting. The largest *per capita* government subsidy scheme of its kind in Europe, the fund is drawn from a tax paid by all households to support public service broadcasting, and is used to support core operating costs and programme creation.[140] In 2013, the Radio and Television Board distributed 2.36m Euro to 214 non-profit associations involved in radio broadcasting.[141]

In **France**, community radio is flourishing. The sector dates back to the 1970s and 1980s, when a boom in popularity led to the establishment of some 2,000 unlicensed radio stations. In 1985, legal recognition of community broadcasting resulted in the closing of many "pirate" stations and the granting of licenses to others,[142] and by 2012 there were over 600 licensed community radio stations

136 AMARC, Public Policies and Media Pluralism, the Future of Community Radio in Central and Eastern Europe (12 November 2012). Available at: http://www2.amarc.org/?q=fr/node/577.

137 CMFE, World Count: 16.740 Community Radio Stations (16 March 2013). Available at: http://www.cmfe.eu/research/world-count-16-740-community-radio-stations.

138 European Parliament, European Parliament resolution of 25 September 2008 on Community Media in Europe (25 September 2008). Available at: http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0456&language=EN.

139 Community Media Association, AMARC-Europe declaration on community radio (14 May 2012). Available at: http://www.commedia.org.uk/what-we-do/policy-campaigns/amarc-europe-declaration-on-community-radio/.

140 UNESCO, Community Media: A Good Practice Handbook (2011), p.15. Available at: http://unesdoc.unesco.org/images/0021/002150/215097e.pdf.

141 CMFE, Significant Community Media Funding in Denmark (6 February 2013). Available at: http://www.cmfe.eu/policy/blog.

142 CRTC, International Approaches to Funding Community & Campus Radio (31 March 2009). Available at: http://www.crtc.gc.ca/eng/publications/reports/radio/connectus0903.htm#c3.

in the country.[143] Significant funding is provided through the Support Fund for Radio Expression (Fonds de soutien à l'expression radiophonique - FSER). At the same time, there have been suggestions that the reliance of community radio on government funding has in some cases undermined its distinctive local character and programme variety.[144]

In **Germany**, community radio is relatively undeveloped and, in 2012, there were just 123 community radios in the country.[145] Regulation is done separately by 15 state governments (Lander), so that community radio has developed in unique ways in each state. For instance, while some states prefer classical community radio, others favour commercial radio that offers non-commercial programming slots.[146] Funding through advertising is limited to 20 percent of total station revenues, while personal donations and state contributions based on the annual household media license fees make up most of the rest. Historical barriers include the high cost of leasing Deutsche Telekom transmission capacity, funding and the growing popularity of Internet radio. The switchover to digital radio broadcasting represents a new challenge and, in October 2012, three community radio stations in Saxony were required to surrender their FM frequencies.[147]

In **Hungary**, community radio faces an uncertain future, with the number of stations falling from 68 to just 40 between 2010 and 2012. A new law passed in 2011 made it difficult for community radio stations to continue operating, replacing the "small community radio" category with a new category that allows for commercial broadcasters to compete for concessions and financial resources once distributed only to community stations.[148] Few community radio stations have been granted funding in annual tenders for financial support in recent years and applications by some of the most popular stations have been rejected without explanation, forcing them to cease operations, or downgrade their operations. In March 2013, a court ruled in favour of a community radio station that had won a bid to operate, but had been denied a broadcasting contract by the media authority, but the authority has still not issued a licence to the station.[149]

The **Netherlands** boasts one of the most mature community radio sectors in Europe, one which is part and parcel of a broadcasting framework dedicated to the decentralisation of media. In 2012, there were 286 community radio stations in the Netherlands,[150] reflecting the social, cultural and religious diversity of Dutch society. Stations are subject to relatively strong editorial control by a board comprised of representatives from local community bodies.[151] While there are no restrictions on commercial sources of funding, community radio is treated as a form of public service broadcasting, which receives a share of the central budget allocated to this.

In **Poland**, community radio is struggling in the absence of an enabling regulatory environment. The community radio movement in Poland started in 1982 with Radio Solidarity, a network of 23 pirate stations across the country that demanded freedom of speech, broadcasting short programmes to minimise the risk of being caught. But it was not until 2001 that community radio was officially recognised. Restrictions on advertising and sponsorship, along with a lack of alternative financing schemes, have made community radio stations completely dependent on donations from civil society, which makes survival very challenging. The number of community radio stations remains small, with just 39 licensed stations in 2012, the majority of which were associated with religious organisations.[152]

During the 1990s, Radio B92 in **Serbia** played a critical role in challenging the Milosevic regime, creating a forum through which anti-war activists, feminists and minority groups could organise themselves, and in the winter of 1996/97, mobilise mass demonstrations on the streets of Belgrade.[153] In 2000,

143 CMFE, Community Radio/Television Stations in Europe – January 2012. Available at:
    https://docs.google.com/spreadsheet/pub?key=0AvZa5iTe_
    EmWdGNiRFhqRnJaa2c3NXRhNXpSZUhkQmc&single=true&gid=0&output=html.
144 ICT Regulation Toolkit, Different local radio models in France. Available at: http://www.ictregulationtoolkit.org/en/
    PracticeNote.3154.html.
145 CMFE, note 140.
146 CRTC, note 139.
147 CMFE, CMFE protest transition of community radio in DAB+ in Saxony, Germany (2 December 2012). Available at:
    http://www.cmfe.eu/policy/cmfe-protest-transition-of-community-radio-to-dab-in-saxony-germany.
148 AMARC, Public Policies and Media Pluralism, the Future of Community Radio in Central and Eastern Europe (12
    November 2012). Available at: http://www2.amarc.org/?q=fr/node/577.
149 IFEX, Hungarian court rules in favour of community radio station (7 March 2013). Available at: http://www.ifex.org/
    hungary/2013/03/07/community_radio/.
150 CMFE, note 140.
151 CRTC, note 139.
152 CMFE, note 140.
153 Kevin Howley, Understanding Community Media (Sage Publication, 2010), p.81.

following the end of conflict, community radio provided a space for different ethnic communities to deal with the past, offering an alternative to the commercial character and nationalism of the mainstream media. [154] However, in 2012, there were just nine active, licensed community radio stations in the country.[155]

In **Spain**, community radio started in the 1970s as a response to government control of the airwaves, and there were over 1,100 unlicensed radio stations by the 1990s.[156] The government responded with stricter enforcement of the rules requiring licences, resulting in a figure of just 150 licensed stations in 2012.[157] The regulatory structure remains weak and stations sometimes face legal intimidation at the regional level. For instance, in January 2012, the Asturian media authority sent letters to residents living near suspected illegal community radios, threatening fines of up to 500,000 Euro if they failed to report on the stations.[158]

In **Sweden**, the first Nordic country to embrace community radio, commercialisation and privatisation threaten the sector's future. Introduced in 1980, there was typically a reservation of at least one FM frequency for community radio in each community. However, loopholes have allowed private commercial interests to establish proxy "volunteer associations" and to obtain community radio licenses. Thus, a 2012 study found the number of traditional community radios to be just 117 out of a total of around 1000 stations with community licenses.[159]

II.4 Latin America

In Latin America, community radio is undergoing rapid policy innovation. While the region is considered the birthplace of community radio, legal recognition is a relatively new development in most countries. Traditionally, the region has been characterised by a high degree of concentration of media ownership, with owners having close ties to business and political elites, and rural areas being largely shut out from having access to the media. More recently, countries such as Argentina and Uruguay, one-time bastions of authoritarian media control, have passed radical new laws that are highly supportive of the community media sector, for example, with each reserving 33 percent of the frequencies for not-for-profit stations. In other countries, however, the regulatory environment is highly restrictive, limiting stations' content, range, advertising and funding.[160]

Community radio is popular, often representing the only media offering local news and programming in local languages, and it has a strong reputation for promoting social change. Among other successes, it has played an important role in addressing environmental, health and gender issues, reintegrating paramilitary forces into the community, giving voice to miner and peasant associations, mobilising civil society, and helping to empower indigenous groups and advance the rights of the poor.

The region also faces significant challenges. Community radio journalists and stations are suffering increased censorship and physical violence, and even criminal cases against those who have founded stations. Attacks in Bolivia in 2011 are thought to have originated from officials, while in Chile attacks appear to have come from commercial media outlets feeling threatened by the emerging community media sector.[161] Other obstacles include antiquated laws or, where new legislation has been introduced, absence of structural change and implementation, little to no public funding, protracted licensing procedures, and weak regulatory agencies which lack independence from government.

Although the region is moving forward as a whole, regulatory modernisation is often the result of community media-friendly governments. If and when they leave office, policy and practice may change. For recent policy innovation to become sustainable, it is critical that the environmental context that frames policymaking – including government institutions, political traditions, regional

154 Kevin Howley, note 156, p.80.
155 CMFE, note 140.
156 CRTC, note 139.
157 CMFE, note 140.
158 CMFE, CMFE supports the campaign for community radio in Asturias (28 January 2012). Available at: http://www.cmfe.eu/support/cmfe-supports-the-campaign-for-community-radio-in-asturias.
159 CMFE, note 140.
160 Arne Hintz, Research in Brief From Media Niche to Policy Spotlight: Mapping Community-Media Policy Change in Latin America (McGill University, 2011), P.151. Available at: http://www.cjc-online.ca/index.php/journal/article/download/2458/2223.
161 Radio Netherlands Worldwide, Latin America: community radio stations under attack (20 November 2011). Available at: http://blogs.rnw.nl/medianetwork/latin-america-community-radio-stations-under-attack.

and international norms, social movements and ideologies – be strengthened.

In **Argentina**, legal recognition of community radio is a relatively new phenomenon. Prior to 2009, only individuals and commercial groups had the right to obtain a broadcasting license, and media control was largely in the hands of a few private media conglomerates. Parliament passed a new law on Audiovisual Communication Services in 2009 that recognised community radio as a public service, and reserved a third of the airwaves for non-profit groups.[162] Implementation of the law, however, has been challenged by major media conglomerates and it has also raised concerns among community radio advocates. In 2012, there were between 300[163] and 500[164] community radio stations in Argentina, the vast majority still operating without a license. As in some other countries in the region, attacks against community stations are a problem. For example, on 10 September 2011, two gunmen attacked FM Pajsachama in El Retiro, unlawfully imprisoned employees, cut the antenna and poured acid on the station's equipment.[165] Despite the challenges, some stations are doing interesting work. For example, FM La Mosca, in Buenos Aires, lets citizens broadcast their own programs for 40 pesos (USD $8) an hour. Each Saturday, from 6-9:30pm, three women broadcast a show called "Sin Careta" ("Without a Mask"), which airs stories concerning women that are rarely covered by the mainstream media.[166]

In **Bolivia**, community radio started in 1947 with a radio programme called the "Voice of the Miner". Soon, unions established 23 stations across the country, a network known collectively as the Miners' Radios, a response to appalling working conditions. Of particular interest, the Miners' Radios are widely acknowledged to have initiated the movement in 1981 that successfully led to the end of the dictatorship.[167] Indigenous communities also use community radio as a tool for asserting their social and political rights, as well as promoting indigenous culture and language.[168] New legislation enacted in 2007 provides a very supportive legal framework for community broadcasters. The sector has not, however, been spared from violent attack. In June 2012, for example, explosions at three community radio stations caused extensive damage. One of the stations focused on the rights of the poor, while the other two were affiliated with mining groups.[169]

In **Brazil**, there is a large and active community radio sector. When the sector was officially recognised in 1998, there were already over 2,000 community radio stations on air and today there are an estimated 4,500 licensed stations and another 10,000 operating without a licence. However, licensing procedures are lengthy and politicised and it can take three to ten years to obtain a license; unlicensed stations which operate illegally while waiting for a licence may be closed by the police. In 2011, 160 not-for-profit broadcasters were shut down in September and October alone. As a result of the difficulties involved in obtaining a license, some stations are turning to the Internet.[170] Another challenge is the fact that coverage radius is legally limited to one kilometre, which is inadequate for many stations, for example those serving communities in the Amazon region.[171]

In **Colombia**, community radio has been on air since 1947 and the country is considered to be a pioneer in this sector.[172] It was not until the 1990s, however, that community radio started growing, catalysed

162 Marie Trigona, Argentina's Community Media Fights for Access and Legal Reform, Americas Program of the Center for International Policy (31 May 2009). Available at: http://www.cipamericas.org/archives/1726.

163 Santiago Marino, El carácter social y cultural de las radios comunitarias las hace autónomas del poder político y de las presiones de los poderes económicos, Latin American Media & Entertainment Observatory (13 September 2013). Available at: http://mediaandentertainmentobservatory.wordpress.com/2012/09/13/santiago-marino-el-caracter-social-y-cultural-de-las-radios-comunitarias-las-hace-autonomas-del-poder-politico-y-de-las-presiones-de-los-poderes-economicos/.

164 Andres Figueroa Cornejo, Ley de Medios en Argentina: ¿Y qué fue de las radios comunitarias, alternativas y populares?, El Clarin (26 December 2012). Available at: http://www.elclarin.cl/web/index.php?option=com_content&view=article&id=6833.

165 IFEX, Attack forces community-based radio station off the air (14 September 2011). Available at: http://www.ifex.org/argentina/2011/09/16/fm_pajsachama_attack/.

166 Vanessa Rivera de La Fuente, Argentinian women use community radio to promote gender equality, United Press International (12 June 2012). Available at: http://www.upi.com/Top_News/World-News/2012/06/12/Argentinian-women-use-community-radio-to-promote-gender-equality/PC-4231339536779/.

167 UNESCO, Community Radio Handbook , note 161, p.12.

168 UNESCO, Community Media: A Good Practice Handbook (2011), p.63. Available at: http://unesdoc.unesco.org/images/0021/002150/215097E.pdf.

169 Committee to Protect Journalists (CPJ), Three community radio stations attacked in Bolivia (28 June 2012). Available at: https://www.cpj.org/2012/06/three-community-radio-stations-attacked-in-bolivia.php.

170 IPS, Brazil: Community Radio Flourishes Online (26 January 2012). Available at: http://www.ipsnews.net/2012/01/brazil-community-radio-flourishes-online/.

171 IPS, Brazil: Community Radio Flourishes Online (26 January 2012). Available at: http://www.ipsnews.net/2012/01/brazil-community-radio-flourishes-online/.

172 UNESCO, Community Radio Handbook (2001), p.13. Available at: http://developingradio.org/files/UNESCO%20

in part by the opening up of the airwaves, and by 2007 there were up to 850 stations on air.[173] The government has provided support in the form of nominal licensing fees, a simplified licensing scheme and a support office within the Ministry of Communications. However, technical requirements of the licensing process still present a barrier to many aspirant community broadcasters.[174] Of far greater concern, however, is the increasing violence against journalists and radio stations. For example, in March 2012, the director and manager of Metro Radio Estéreo in Risaralda was shot dead by a hired killer.[175] Although the situation is improving, Colombia remains one of the most dangerous countries for journalists in South America.[176]

In **Ecuador**, the growth of community radio has been severely inhibited by hostile legislation. A 2010 UNESCO report put the official number of community radio stations in the country at just two.[177] Rules enacted in 1996 impose a narrow definition of community, require aspirant stations to obtain the approval of the Armed Forces (although this rule was later found to be unconstitutional), ban advertising, fail to provide public funding or to reserve frequencies for community broadcasters, and limit community broadcasting to areas which are not served by commercial stations. Law 89-2002, enacted in November 2002, did broaden the concept of community but the new Organic Law on Communication, defines "social media" in a unique way as media providing public service communications.[178] In 2010, 14 radio frequencies were allocated to indigenous organisations, and the government initiated a project aimed at training, equipping and advising these stations.[179]

In **Uruguay**, community radio has strong legislative backing in the form of the 2007 Community Broadcasting Law,[180] allocating community radio stations one-third of all available frequencies to be assigned in an "open, transparent and public" manner.[181] Previously, in 2005, there were an estimated 60 to 80 stations operating in a legal grey area. The 2007 Law established the Honorary Commission on Community Broadcasting (CHARC), a unique licensing body composed of representatives from different constituencies, including government ministries, private and State universities and community radio associations.[182] Although it is regarded as model legislation, implementation has been poor, with lengthy licensing procedures and a failure to allocate a decent operating budget to CHARC. By 2009, for example, of 413 stations in operation, only 84 were licensed.[183]

CR%20Handbook.pdf.

173 Mary Myers, Voices from Villages: Community Radio in the Developing World (2011), p.9. Available at: http://www. marysophiamyers.org/pdfs%20of%20my%20publications/1%20Voices.pdf.

174 ICT Regulation Toolkit, Colombia's universal access to community radio. Available at: http://www.ictregulationtoolkit. org/en/PracticeNote.3152.html.

175 Reporters Without Borders, Youth Gets 21 Years For Radio Journalist's Murder But Motive Still Unknown (3 April 2012). Available at: http://en.rsf.org/colombia-head-of-community-radio-shot-dead-16-03-2012,42136.html

176 Reporters Without Borders, World Press Freedom Index (2013). Available at: http://fr.rsf.org/IMG/pdf/ classement_2013_gb-bd.pdf.

177 UNESCO, Assessment of Media Development in Ecuador (2011), p. 46. Available at: http://www.unesco.org/new/ fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/IPDC/ecuador_mdi_report_eng.pdf.

178 See Article 5. Published in the Official Gazette on 25 June 2013. Available (in Spanish) at: http://www.andes.info. ec/sites/default/files/pdf/ley-organica-comunicacion-publicada-registro-oficial.pdf. The law has been widely criticised by NGOs. See, for example, http://en.rsf.org/ecuador-new-media-law-mix-of-good-14-06-2013,44795. html and http://www.sipiapa.org/en/iapa-adds-support-for-appeal-against-ecuadors-communication-law/.

179 UNESCO, Assessment of Media Development in Ecuador, note 166, p.47.

180 Note that a process is currently underway with a view to adopting a new broadcasting law. See http://www.ifex.org/ uruguay/2013/07/17/model_for_lat_am/.

181 Reporters Without Borders, New Community Media Law Gets Final Approval From Parliament (14 December 2007). Available at: http://en.rsf.org/uruguay-new-community-media-law-gets-final-14-12-2007,24760.html.

182 Evan Light, From Pirates to Partners: The Legalization of Community Radio in Uruguay, Canadian Journal of Communication, Vol 36(1), p.64. Available at: http://www.globalmediapolicy.net/sites/default/files/2310-6449-1-PB. pdf.

183 Evan Light, note 174.

PART III: DETAILED COMPARATIVE ANALYSIS

Part III of this Report is the largest part, comprising nearly one-half of the full Report. It provides a detailed comparative analysis of the legal and regulatory frameworks for community broadcasting in 21 countries. In addition to geographic spread, these countries were chosen because their legal frameworks for community broadcasting are more developed and because it is believed that their experiences may have resonance for other countries.[184] The primary breakdown is along thematic lines, and specifically the three thematic axes noted in the Introduction, namely recognition, definition and form, access and licensing, and funding and sustainability. Under each thematic heading, the analysis is further broken down by region and then country.

The regional sections are followed by a comparative analysis of the approach taken in the different countries and regions to the thematic issue in question. There is a lot of variation in the way that different countries approach each of the thematic issues, which makes comparative analysis more challenging. At the same time, there are commonalities, as well as certain practices that clearly fail to meet international standards. The analysis at the end of each thematic section highlights the differences, as well as the commonalities, and also points to practices that appear to be more closely aligned with international standards in this area.

III.1. Recognition, Definition and Form

This thematic issue – addressing regulatory rules governing the recognition, definition and form of community broadcasting – is of foundational importance to fostering a viable and vibrant community broadcasting sector. In essence, this thematic issue is about whether the sector is specifically recognised in a country and, if so, what its scope and nature are. If defined too narrowly, it will be difficult for aspirant broadcasters to establish themselves. If defined too broadly, the sector will lack the essential characteristics which enable its contribution to diversity and, as a result, its very *raison d'être*.

III.1.1 Africa

The experience of four countries from different parts of Africa is reviewed in this section. This is just a sample of the wider African experience, which includes countries with very different levels of maturity and development in terms of community broadcasting. The experience of these countries, however, demonstrates the important role of progressive rules regarding recognition, definition and form in fostering a broadcasting sector which could play a huge role in facilitating freedom of expression in the continent.

In **Benin**, the regulatory framework for community radio, while clear, is relatively brief. The 1997 Law on Liberalization of the Audiovisual Landscape and Special Criminal Provisions for Offences Relating to the Press and Audiovisual Communication[185] defines both community radio and television in a similar fashion. Article 41 defines private non-commercial radio as including both local and community radios. Pursuant to Article 42, these stations must, among other things, meet the following conditions: be non-profit in nature; be communal ('associatif') or belong to a legal or natural person meeting the conditions of the law; with at least 50 percent of their programming on local, cultural development or educational content; and have their programmes prepared by communication professionals. The latter condition seems to run contrary to an important part of the idea behind community media, which is to broaden the range of individuals who can access the media. Otherwise, pursuant to Article 41, they may obtain programming from other parties, as long as these are also non-profit bodies, in particular in relation to their programme production. Pursuant to Article 47 of the law, higher educational institutions may also receive radio licences (they also fall under the chapter on community radio).

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184 The countries are: Argentina, Australia, Bangladesh, Benin, Bolivia, Brazil, Canada, Colombia, Denmark, Ethiopia, France, Hungary, India, Indonesia, Serbia, South Africa, Spain, Sweden, Thailand, Uganda and Uruguay.
185 Loi N°97-010 du 20 Aout 1997.

In **Ethiopia**, a community broadcasting service is defined in section 2(11) of the 2007 Proclamation on Broadcasting Service[186] as,

> a non-profit radio or television transmission service established by the will and interest of a community and administered and run by the community living in a specific area or who possess a common interest;

The Proclamation did not define a community, but the 2012 Community Radio Broadcasting Service Directive[187] defined a community as a "section of a society having a particular and known common interest and living in the same geographical location or those who are linked with common interest" (Clause 2(1)). It is interesting to note that in this definition, the common interest test also applies to geographic communities, but the definition of a geographical community radio later in the Directive omits the common interest requirement (Clause 3(2)). Clause 4 of the Directive recognises not only geographic and interest-based community radios, but also those founded by higher educational institutes and local administrations. Furthermore, all of these except higher educational institutes need to demonstrate service to a community of at least 5,000 persons. With the exception of higher educational institutes and common interest groups, applicants for a community radio licence need to have legal personality as a non-profit organisation.

There are prohibitions on certain types of entities holding any broadcasting licence, including a community licence. These apply to entities owned or controlled by foreigners, political or religious organisations, and entities owned by individuals convicted of serious crimes. There are also rules on concentration of ownership (section 23 of the Law).

The law also sets out a number of positive programming conditions for community broadcasters, in section 16(4), as follows:

> Any community broadcasting service shall:
> 1. carry out its activities based on the needs of the community regarding development, education and good governance;
> 2. promote and develop the language, culture and artistic value of the community;
> 3. allow the participation of the members of the community in the preparation of its programs;
> 4. transmit programs on issues involving the common interests of the community that could not get coverage by other broadcasting services;
> 5. utilize the income derived from different sources for the operation of the broadcasting station;
> 6. provide community centered informative and entertaining programs to promote the information culture and knowledge of the community.

These rules are further elaborated upon in the 2012 Directive, Clause 14 of which, among other things, requires programmes to be disseminated for at least 14 hours per week. According to Clause 29, at least 60 percent of the transmission time must be devoted to local issues. Community radios are also required to give a right of reply to anyone who "alleges that a transmitted program has encroached on his right or failed to be presented properly" (Clause 15).

Beyond this, all broadcasters must have a legal form (section 23(1)). According to Clauses 5 and 6 of the 2012 Directive, both geographic and interest-based community radio stations are required to have a general assembly comprised of members of the community, which elects a seven-member board, as well as a full-time general manager. These structures are approved and given legal form by the local government, although international standards call for regulation to be done by independent bodies. Similar rules apply to higher education and local administration community radios (Clauses 7-9). Clause 10 sets out further rules on the nature of the general assembly, Clause 11 stipulates its responsibilities, and Clause 13 sets out precise rules regarding the board.

In **South Africa**, section 1 of the 1999 Broadcasting Act[188] includes the following definition of a

186 Proclamation No. 533/2007.
187 Directive No. 04/2012, January 2012.
188 Act No. 4 of 1999.

community broadcasting service (which is identical to the definition found in section 1 of the 2005 Electronic Communications Act):[189]

> "**community broadcasting service**" means a broadcasting service which -
> 1. is fully controlled by a non-profit entity and carried on for non-profitable purposes;
> 2. serves a particular community;
> 3. encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
> 4. may be funded by donations, grants, sponsorships or advertising or membership fees, or by any combination of the aforementioned;

Section 51 of the 1993 South African Independent Broadcasting Authority Act[190] provides that no broadcasting licence shall be granted to "any party, movement, organisation, body or alliance which is of a party political nature." The regulator, the Independent Communications Authority of South Africa (ICASA), clarified the meaning of this by providing a long list of types of political entities which could not hold community licences in its 2006 *Community Sound Broadcasting Policy Position Paper*, which established policy guidelines for the sector.[191]

Section 50 of the 2005 Electronic Communications Act also provides a number of additional criteria to be taken into account by the regulator when assessing an application for a community broadcasting licence. These include a requirement to take into account whether:

> 1. the applicant is fully controlled by a nonprofit entity and carried on or is to be carried on for non-profit purposes;
> 2. the applicant intends to serve the interests of the relevant community;
> 3. as regards the provision of the proposed broadcasting service, the applicant has the support of the relevant community or of those associated with or promoting the interests of such community, which support must be measured according to such criteria as may be prescribed;
> 4. the applicant intends to encourage members of the relevant community or those associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
> 5. the applicant has never been convicted of an offence in terms of this Act or the related legislation.

Once again, this was clarified by ICASA in its 2006 *Community Sound Broadcasting Policy Position Paper*. ICASA's policy position on programming (at page 23) is:

> The majority of programmes broadcast by a community sound broadcasting service, news bulletins and current affairs shows in particular, are supposed to be produced and sourced locally. Programme syndication/networking and programme sharing between sound broadcasting licensees shall, therefore, not exceed 20% of the community sound licensee's programming

The Policy Paper also provides extensive guidance to community broadcasters on issues relating to definition and form, including as to the preferred structure of ownership, community participation, non-profit status, nature of programming and use of language, the codes that should be adopted by community broadcasters, and governance (see pages 25-8).

Regulation of community broadcasting in **Uganda** is still relatively underdeveloped. The 2004 Broadcasting Policy does contain a number of provisions on community broadcasting, although

189 Act No. 36 of 2005.
190 Act No. 153 of 1993.
191 Notice 757 of 2006, p. 23.

these are not enforced rigorously in practice. Community broadcasting is defined as "broadcasting which is for, by and about the community, whose ownership and management is representative of the community, which pursues a social development agenda, and which is not-for-profit." A community is defined as either a geographical community or a community of interest, which is a "group of persons or sector of the public having specific, ascertainable common characteristics."

Regulatory objectives include encouraging members of the community to participate in the planning, production and presentation of programmes, and promoting ownership of the media by low-income groups. The regulator is called upon to ensure community participation from the outset.

In terms of programming, the community broadcasting objectives of the 2004 Policy, set out in section 4.4, include providing citizens with a platform to articulate local issues, providing more opportunities for indigenous language programming which is relevant to grassroots development, and reducing the urban-rural gap in terms of communication for development. Community broadcasters are called upon to provide local content, promote political and socio-economic development and develop their staff through training and other programmes.

Despite these positive exhortations, commentators have observed that, in many cases, what pass for community broadcasters in Uganda are often more local radios than entities that are really owned and controlled by the community.[192] Plans to take this policy forward, for example in the Communications Regulatory Authority Bill, 2012,[193] have not yet gained momentum.

III.1.2 Asia

The experience of four countries from Southeast and South Asia are illustrated below. This is, of course, just a sampling of the wider Asian experience in this area. At the same time, it is also a reflection of the fact that many countries on the continent have still not established more developed regulatory regimes for community broadcasting. It is no coincidence that nearly twice as many of the Asia-Pacific countries covered in this Report are addressed in Part IV, which is about countries with limited or non-existent regulatory regimes for community broadcasting. The vast size and comparative differences across Asia explain the sub-regional breakdown for this section.

East and Southeast Asia

In **Indonesia**, community broadcasting was recognised in the 2002 Broadcasting Act.[194] Pursuant to Article 20 of the Act, community broadcasters are Indonesian legal entities founded by communities, which are independent and non-profit, which use low-power transmitters, which provide services to their communities, and the aims of which include to "increase welfare by promoting programs in the field of culture, education and information that reflect national identity".

These rules were substantially expanded in a 2005 Regulation on Implementation of Community Broadcasting.[195] The Regulation defined a community as a geographic community ("a group of people who live or live and interact in a particular area", Article 1(3)). It also defined the organisational structure of these broadcasters as being cooperative or associational, with the specific aim of providing community broadcasting. According to Article 4(2) of the Regulation, community broadcasters should be established with the written consent of at least 51 percent of the adult population or at least 250 adults, along with the written consent of the village head, local government official or local headman. These rules are probably impractical in most cases, and also breach the rule that bodies with regulatory powers over broadcasters should be independent.

Article 18 of the regulation sets a number of rules governing the programming content that may be disseminated by community broadcasters. The most important are that 80 percent of the content must be locally sourced and that the content must seek to empower local audiences, including children and adolescents. Pursuant to Article 25, up to 15 percent of the programming can come from exchanges with other community broadcasters. It is not clear whether or not this is part of the 80 percent noted above.

192 Uganda Afrimap Survey (Open Society Foundations, 2010), p. 49. Available at: http://www.afrimap.org/english/images/report/OSI-Uganda--Public-Broadcasting.pdf.
193 Available at: http://www.ucc.co.ug/files/downloads/UCRA%20BILL%202012.pdf.
194 No. 32 of 2002.
195 Regulation 51 of 2005.

In **Thailand**, section 10(1) of the 2008 Radio and Television Broadcasting Business Act[196] defines various objectives for public broadcasters, which by virtue of section 10(2) also apply to community broadcasters. These include "to support knowledge, education, religion, art and culture, science, technology and environment, agriculture and promotion of other professions, health, sanitary, sport, or life quality of people", to promote "state stabilization or public safety" and to distribute "news and information for promotion of good understanding between the government and its people and the Parliament and people". Community broadcasting has an additional obligation, namely to be beneficial to the community receiving the service, although what constitutes a benefit is not defined.

In terms of form, community broadcasters are required to be non-profit legal persons, not to be government agencies and to have as their objectives the promotion of the public benefit and service to the community, or be a non-legal entity, in accordance with rules prescribed by the regulator (section 12). To obtain a community broadcasting licence, "readiness and public benefits of the community shall be taken into consideration" (section 17(2)). Finally, the proportion of programmes providing news or other information of service to the community must be at least 70 percent (section 33(2)).

The 2010 Act on Organisation to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services[197] established the new converged regulator, the National Broadcasting and Telecommunications Commission (NBTC). Among other things, section 4 of this Act defined a community as including both geographic communities and communities of interest, "attributed with social and cultural cohesion, collaborating continuously in lawful and moral activities under proper management and with the intent expressed on behalf of the group".

South Asia

Both India and Bangladesh adopted policies recognising community radios in 2006 and 2008, respectively. In **Bangladesh**, the policy[198] restricts eligibility for a community radio licence to non-profit legal entities with at least a five-year track record of providing service to a community. A community is defined as "a group of people who share common characteristics and / or interests such as sharing a single geographical location i.e. a specific town, village, or neighborhood; sharing of economic and social life through trade, marketing, exchange of goods and services". The community to be served by the licence must be clear and well defined, and priority was given to rural communities in the pilot phase.

To be eligible, the entity must be "owned by a particular community, usually through a trust, foundation, or association", be "established by the efforts of a specific community", be "operated by the community for the purpose of the community's welfare", "have an ownership and management structure that is reflective of the community" and "rely mainly on the resources of the community". Political parties and their affiliates are not eligible for these licences. Once licensed, the station must have a Management Committee which ensures the active participation of the community in the operation and management of the station. The policy also calls for the establishment of advisory committees formed of local government representatives, including police officers, providing an unfortunate degree of government influence on these stations.

The policy specifically refers to the idea of community broadcasting as being analogous to public service broadcasting, but for one community, rather than for the nation as a whole. In terms of programming obligations, the idea is to give "a voice to the voiceless" and the marginalised. Specific priority should be given to adult and children's education, health, social welfare and gender issues, culture, local economic issues, childcare, income generation, local events and language, and the environment. The community should be involved in programming in terms of "planning, implementing, operating and evaluating". Unfortunately, stations are also under an obligation to carry official messages, as well as programmes of the national broadcaster. Political broadcasting is prohibited, apparently along with general news, although "local development news" is permitted (Clauses 1, 2, 3 and 7).

The **Indian** policy,[199] which provided important inspiration for the Bangladesh policy, recognises both non-profit organisations and educational institutions as being eligible to receive community radio licences. The former should be legally established non-profit organisations (civil society and voluntary

196 BE 2550 (2008).
197 B.E. 2553 (2010).
198 Community Radio Installation, Broadcast and Operational Policy – 2008, Ministry of Information, 12 March 2008.
199 Policy Guidelines for Setting up Community Radio Stations in India. Available at: http://mib.nic.in/writereaddata/html_en_files/crs/CRBGUIDELINES041206.pdf.

organisations) with a "record of at least three years of service to the local community", and with an "ownership and management structure that is reflective of the community that the CRS seeks to serve". Political parties, profit-making organisations and organisations that have been banned are not eligible to receive a licence (Clauses 1 and 2).

In terms of programming, the content "should be relevant to the educational, developmental, social and cultural needs of the community" and "reflect the special interests and needs of the local community". The emphasis should be on development, agriculture, health, education, the environment, social welfare, community development and culture. At least 50 percent of the content should be created with the participation of the local community, and the overall aim should be to serve the community, with content preferably being in the local language and dialect(s). Political programming and news and current affairs are not allowed (Clauses 1, 5 and 9(i)).

III.1.3 Europe

Six European countries with a comparatively strong focus on community broadcasting, and including some representation from Eastern and Central Europe, are reviewed below. Europe as a region benefits from the strongest tradition of legal recognition of all three tiers of broadcasting: public service, commercial and community. Thus, the four Western European countries described below all have a strong tradition of public service broadcasting, while this is also legally recognised in the two Eastern and Central European countries, which are undergoing a transition from State to public broadcasting.

In **Denmark**, a key focus is on local radio and non-commercial television[200] rather than on community radio. Thus, for radio, the key rules are found in the 2009 Order on Local Radio Broadcasting.[201] For television, the 2011 Notice of non-commercial television in MUX 1 provided access to a digital platform for these televisions, one of the early cases of this in Europe.[202] Local radios dominate in Denmark, with some 160 of 179 licensed radios falling into this category in 2012, according to the Community Media Forum Europe.[203] According to the 2009 Order, licensing considerations for local radios include the general one of ensuring that local residents can obtain diverse programming (clause 6). More specific rules are provided for local stations which wish to receive grants, a very important source of funding (see below), including that the entity operates on a non-commercial basis (i.e. does not carry commercial advertising).

In **France**, broadcasting is overseen by the Conseil Superieur Audiovisuel (CSA), established through amendments in 1989[204] to the main law regulating broadcasting, the 1986 Law relating to freedom of communication[205] (1986 Law). Community radio is defined in a somewhat roundabout way. In Communiqué N° 34 of 29 August 1989,[206] the CSA defined five different categories of radio services, including Category A, Ðnon-commercialÐ services (services non commerciaux). These, in turn, were described as being associations and foundations running non-profit services which were eligible for funding from the Ðfonds de soutien à lÐexpression radiophoniqueÐ (FSER), or fund to support radio expression.

To be eligible for these funds, a station must meet the conditions set out in Article 29(14) of the 1986 Law, which requires services to be provided by an association, to have a mission to foster exchanges between social and cultural groups, and to support local development, environmental protection and the fight against exclusion. Furthermore, pursuant to Article 80 of the 1986 Law, only services which obtain 20 percent or less of their total revenues from commercial advertising and sponsorship are eligible for FSER funding.

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200 In other words, television that does not carry commercial advertising.
201 Ministry of Culture, Order on Local Radio Broadcasting, 17 September 2009. Available at: https://www.retsinformation.dk/Forms/R0710.aspx?id=126145&exp=1.
202 Ministry of Culture, Notice of non-commercial television in MUX 1, 20 December 2011. Available at: https://www.retsinformation.dk/Forms/R0710.aspx?id=139691. See also The State of Community Media in the European Union, European Parliament, Directorate General Internal Policies of the Union, 29 September 2007, p. 12. Available at: http://www.europarl.europa.eu/committees/en/cult/studiesdownload.html?languageDocument=EN&file=22408.
203 See table at: https://docs.google.com/spreadsheet/pub?key=0AvZa5iTe_EmWdGNiRFhqRnJaa2c3NXRhNXpSZUhkQmc&single=true&gid=0&output=html. However, the Danish Agency for Culture states that there are some 300 local radios, including community radios. See: http://www.kulturstyrelsen.dk/english/media/media-structure-radio-and-tv/radio-in-general-in-denmark/#.UTG8NaVqOyG.
204 Law No. 89-25 of 17 January 1989. The changes introduced in 1989 were incorporated into the 1986 Law.
205 Law No. 86-1067 of 30 September 1986, as subsequently modified. Available online, in French, at: http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930.
206 Available at: http://www.sirti.info/spip.php?page=media&id_article=68.

The main provision in the 2010 **Hungarian** Media Services and Mass Media Act[207] on community media is Article 66. This requires terrestrial community broadcasters to do one of the following: a) serve a specific social, national, ethnic minority, cultural or religious community; b) serve a geographic community; or c) use a majority of their programming time to pursue the objectives of public service media (as defined in Article 83). For media that serve a specific community, their founding documents must define their objectives, describe the cultural areas and subjects they cover, indicate the social or geographic community or communities they serve, and stipulate the minimum proportion of their programming that is aimed at the community.

Article 66(4) imposes a number of direct programming obligations on community media. They must provide regular news reports covering social or local community events, carry cultural programmes, broadcast at least four hours each week of programmes which are being aired for the first time, dedicate at least two-thirds of their broadcasting time to programmes serving public service objectives (as defined in Article 83)[208] and, for radios, allocate at least 50 percent of the time devoted to music to Hungarian musical works. Pursuant to Article 36(6), community media are also required to allocate two minutes in every two hours to public service announcements, and to issue public service announcements in times of emergency (Article 32(6)).

In **Serbia**, Article 43 of the Broadcasting Act[209] defines broadcasters as including "civil sector" radio and television stations. Pursuant to Article 95 of the same Act, these stations must satisfy the "specific interests of particular social groups and civic associations", be "founded by a civic society non-profit organisation (a non-governmental organisation or a civic association)" and be non-profit in nature.

In terms of programming, their content must be related to the field of activity of the organisation which founded the station. This is not quite the same as the more traditional approach, whereby community broadcasters are required to represent a community. At the same time, in many countries in practice non-governmental radios are treated as if they were community broadcasters, and this could be seen as a formal recognition of this. These broadcasters are also subject to the same programme obligations as public service broadcasters, including to maintain political impartiality and to promote pluralism, and they are also prohibited from carrying hate speech (Article 79). Civil sector stations are also "prohibited from acting as mediators, representatives, or advertisers of or on behalf of third parties" (Article 107).

Regulation of broadcasting in **Spain** is part of the concurrent jurisdiction of the national government, on the one hand, and the Autonomous Communities and Local Entities, on the other. As a result, there are provisions in various different laws at different levels of government which govern the operation of this sector in many areas of the country. For purposes of this Report, we will focus on the Catalan legal regime as an example of the Autonomous Communities and Local Entities. It should be noted, however, that not all regions have put in place specific legal regimes for community broadcasting.

Article 32(1) of the 2010 Spanish broadcasting law[210] defines "Non-profit community audiovisual media services" as private, non-profit entities providing community services to address the social, cultural and communication needs of specific communities and social groups, including by promoting citizen participation. For its part, Article 70(3) of the 2005 Catalan broadcasting law[211] contains a similar definition of these services as non-profit community services that respond to the social, cultural and communication needs of specific communities and social groups, based on "open standards, clear and transparent access to both the programming and the production and management, and ensuring maximum participation and pluralism". In practice, these definitions are very wide and do not operate so as to exclude radios which operate under commercial influences.[212]

207 Act CLXXXV of 2010, which came into force on 1 January 2011. Available at: http://www.euractiv.fr/sites/default/files/dokumentum.pdf. It may be noted that this law has been strongly criticised by media freedom advocates for failing to respect international standards on freedom of expression. See, for example, an comprehensive analysis of the proposed legislation (which was not changed much before adoption) by Dr Karol Jakubowicz, Commissioned by the Office of the OSCE Representative on Freedom of the Media, available at: http://www.osce.org/fom/71218.

208 Note that this is a higher percentage than is required to be a community broadcaster, which is an apparent inconsistency in the law.

209 Act No. 42 of 2002, adopted 18 July 2002. Available at: http://www.wipo.int/wipolex/en/text.jsp?file_id=208847.

210 General Law on Audiovisual Communication 7/2010 of 31 March.

211 Ley 22/2005, de 29 de diciembre, de la comunicación audiovisual de Cataluña. Available in Spanish at: http://www.cac.cat/web/nsa/llistat.jsp?MzY%3D&MQ%3D%3D&L3dlYi9uc2EvbGxpc3RhdENvbnRlbnQ%3D#.

212 See Escudero, Manuel Chapparo (2008) The Radio Journal: International Studies in Broadcast and Audio Media Volume 1(3): 177-192. Available at: http://www.tranquileye.com/free/files/Community_Radio_Western%20_Europe_1994.html.

As in many European countries, the law in **Sweden** establishes only a relatively general definition of community broadcasters, and more specifically radios. Chapter 3, Section 1(8) of the Radio and Television Act (2010),[213] defines community broadcasters as "local radio broadcasts for associations and registered religious communities". Chapter 12 of the Act deals with community radio licences. Pursuant to Section 4 of that chapter, a community radio licence shall only be granted to a not-for-profit association or registered religious organisation with "ties to the transmission area" or a community radio association. According to a Ministry of Culture report of 2005, in February 2004 there were about 1200 licensed community radios in Sweden, spread over more than 160 locations, of which about a quarter, or 300, were religious radios.[214]

In order to assess whether an association or religious organisation has a tie with the community, consideration shall be given to where the association's studio and operating premises are located, where the person legally responsible for the broadcast and the association's board members reside, and where association and board meetings are held. Pursuant to Chapter 18, Section 3(1), the licence may be revoked if the broadcaster no longer meets the conditions of Chapter 12, Section 4.

Content rules for community radio associations are found in Chapter 14, Section 4, titled "Programme range of community radio association". This restricts community radios to broadcasting events that are of common interest to the licence holders, limited information about municipal matters and information about programmes and programme schedules, as well as information about local community radio activities. This is quite limited, although it is not clear whether these rules apply to all community radios or only those operated by community radio associations.

III.1.4 Latin America

As noted above, community broadcasting can be said to have started in Latin America. It is only more recently, however, that properly enabling legal frameworks for community broadcasting have started to emerge in the region. That said, it now boasts some of the most supportive legal regimes for community broadcasting, both radio and television, anywhere in the world.

In **Argentina**, Article 4 of the 2009 Audiovisual Media Services Law[215] defines a community broadcaster simply as follows:

> [A] private player committed to a social end and characterized by being managed by non-profit social organisations of different nature. It is mainly characterized by community participation in the media ownership, as well as in programming, management, operation, financing and assessment. These broadcasters are independent, non-governmental media.

Bolivia is credited with having the world's first community radio stations in the 1940s, through radio stations established by miners' unions in mining camps, and it has since gone on to put in place a developed framework for these broadcasters. There are a number of different elements to the definition of community broadcasting in the Bolivian legislation. The 2011 telecommunications law[216] refers, at Article 10(I), dealing with allocation of the frequency band, to both social community, and to native indigenous peoples and Afro-Bolivian and intercultural communities. For its part, the 2007 Supreme Decree No. 29174,[217] which bears the title 'Regulation of the Provision of Telecommunications Services in Rural Areas of the National Territory', focuses, as the name suggests, on rural services, defined as areas with less than 10,000 inhabitants (Article 3).

Article 3 of the 2007 Supreme Decree defines community broadcasting as "radio or television services which are managed and operated by communities, whether rural, or by indigenous or native peoples, whose emissions originate in rural locations and are intended for direct reception by the general population, as a means to achieve free and plural communication among individuals and community organisations in their respective fields" (unofficial translation). It also defines a community as a group of (rural) people who "are closely linked on account of their common problems and their history,

213 Available at: http://www.radioochtv.se/Documents/Styrdokument/Radio%20and%20Television%20Act. pdf?epslanguage=sv.
214 Ministry of Culture, Broadcasting Public Service - Financing and Taxes, January 2005, section 2.3.4. Available at: http://www.regeringen.se/content/1/c6/03/78/52/b6fb4b1f.pdf.
215 Ley 25.522, Servicios de Comunicación Audiovisual, 10 October 2009.
216 Ley General de Telecomunicaciones, Tecnologías de Información y Comunicación, Ley 164, 8-Agosto-2011.
217 Adopted 22 June 2007.

geography, culture and traditions."

Pursuant to Articles 30 and 36 of the 2007 Supreme Decree, community broadcasters must be non-profit in nature and aim to provide programming which meets the basic needs of the community, including in the areas of social service, education, health, democratic participation, promoting solutions to community problems, culture, well-being and production. They should also operate on a participatory basis, providing equitable access to members of the community, including through slots for direct participation, and encourage the use of indigenous languages. Proof of community representation is required as part of the licence application process (Article 32(c)). There are also various prohibitions on awarding licences to politicians, officials, military personnel, religious leaders and those already involved in broadcasting.

Brazil also has a dedicated community radio law, passed as far back as 1998,[218] along with implementing regulations of the same year,[219] which define community broadcasters as low power, restricted coverage stations, operated by non-profit, legally established foundations and community associations based in the area being served, of which the managers are native Brazilians or have been naturalised citizens for ten years or more (Articles 1 and 7 of the Law, but the rules on citizenship are also found in Article 222(1) of the Constitution).[220] The station must establish a Community Advisory Board, composed of at least five representatives of local community organisations, such as trade, charitable, religious or residents' associations, with a mandate to ensure that the programming serves the interests of the community (Article 8).

Pursuant to Articles 3 and 4 of the Law, these stations should serve the community, including by disseminating programming which promotes the local culture and traditions, raises awareness, gives preference to educational, artistic, cultural and informative content, contributes to professional development of journalists, supports community integration, and provides citizens with access to opportunities for voice. Anyone in the community may express his or her opinions on content carried by the station, in accordance with the established schedule of the station. Community radios may not network their stations and they must meet minimum daily quotes, to be established by regulation (Articles 16 and 17 of the law).

In **Colombia**, community broadcasting was recognised in Decree No. 1981 of 2003.[221] Article 2 of the Decree defined a community radio service as follows:

> "Community Service Sound Broadcasting" means a Radio Broadcasting Service which is a public telecommunications service, promoting social interest, non-profit, by and under the ownership of the state, which provides indirect management through duly constituted organized communities in Colombia.
>
> "Organized community" means a community association established by law, which is non-profit, comprised of natural and / or legal entities in which the members are united by ties of neighborliness and mutual cooperation for the benefit of local development and community involvement.

This defines the basic approach taken in Colombia, whereby these stations are part of an overall public broadcasting network, but locally managed by their target communities. The focus has been more on the local nature of the stations than on their links to the community, *per se*, and a key thrust of the policy, going back even before the Decree was adopted, was to ensure that every municipality in the country had at least one local radio service.[222]

In terms of programming, Article 3 of the Decree calls for community radio to be participatory and pluralistic, to aim to serve the communication needs of its target area and to facilitate access to information and participation through programmes that "promote social development, peaceful coexistence, democratic values, citizenship building and strengthening of cultural and social

218 Lei No 9.612, de 19 de Fevereiro de 1998, Institui o Serviço de Radiodifusão Comunitária e dá outras providências.
219 Decreto Nº 2.615, de 3 de Junho de 1998.
220 There is also provision for educative radio and television. See Octavio Penna Pleranti, Director, Secretariat of Electronic Communications, Ministry of Information, "Broadcasting in Brazil", August 2012. Available at: http://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_grtkf_bra_12/wipo_ip_grtkf_bra_12_topic_9_presentation_pieranti.pdf.
221 Available at: http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=8814.
222 See ICT Regulation Toolkit, Colombia's universal access to community radio, available at: http://www.ictregulationtoolkit.org/en/PracticeNote.3152.html.

identities". Article 4 further elaborates on this, calling for programming that creates spaces for the articulation of voice and provision of information, that promotes education, communication and culture, and that encourages social debate among different sectors of society, thereby promoting integration and solidarity, as well as democracy, participation and basic rights. Article 4 also requires community radios to identify themselves as such, and not to broadcast programmes which involve proselytising. Programme production should also involve different sectors of the target area.

Community radios are required to prepare style manuals within six months of commencing service, and to provide copies of them to the Ministry of Information. A further indication of the perhaps unduly close relationship with the government is the requirement, in Article 5, to "provide cooperation to the Ministry of Communications in the implementation of projects and communication strategies that stimulate community involvement in solving their problems, their integration in the process of social and economic development of the country and its cultural expression."

The Decree places strict conditions on the structure of community radios, presumably in an attempt to ensure a strong connection to, and control by, representatives of the target area served. Licensees are required to create a Programming Board, which is responsible for the "formulation and monitoring of policies, plans and programs in programming, and ensuring compliance with the purposes of the Community Service Radio Broadcasting" (Article 9). This Board must include representatives of social organisations and institutions from the municipality, so as to reflect the diversity of the local society. The Board's specific functions include ensuring that programming represents the diversity and needs of the target area and is of high quality, promoting participation in the station, contributing to the style manual and preparing an annual report, which shall be provided to local inhabitants, as well as the Ministry of Communications (Articles 10 and 11).

Uruguay passed a dedicated Community Broadcasting Law in 2007,[223] along with implementing regulations in 2010,[224] a package that is often considered to be one of the more progressive regimes for community broadcasting in the world. According to Article 4 of the Law, the State has an obligation to guarantee and promote community broadcasting. One of the unique features of the Uruguayan system is that it involves a specialised body, the Honorary Advisory Council on Community Broadcasting (Consejo Honorario Asesor de Radiodifusión Comunitaria, or CHARC), with representatives from various different sectors (ministries, legislators, educational bodies, NGOs and community radio associations), which advises on the regulation of community broadcasting, including in relation to licensing (Articles 15 and 16).

Article 4 of the Law provides the main definition of a community broadcaster, which may only be undertaken by non-State, non-profit, public interest organisations with a mandate to promote, among other things, freedom of expression, social development, human rights, cultural diversity, democratic values and peaceful coexistence. Programming will preferably be produced in-house and be national in nature, another unique feature in Uruguay, with many countries stressing local programming, and the schedule should include space for independent productions, preferably by individuals and groups living within the broadcast range of the station.

Pursuant to Article 6 of the Law, those eligible for community licences are non-profit legal entities which are already recognised by the Ministry of Education and Culture or which are in the process of incorporation. Article 13 also recognises the idea of shared use of the frequencies allocated to community broadcasting by local groups which have the characteristics of community broadcasters but do not have legal form.

Pursuant to Article 8, considerations to be taken into account when allocating frequencies include the plan of services which the applicant proposes to provide to the community, the mechanisms to ensure public participation in the management and programming of the station, the track record of the applicant in terms of being involved in community work in the area, and references from individuals and groups in the areas supporting the application.[225] Pursuant to Article 19 of the implementing regulations, community stations are required to provide a minimum of between six and twelve hours of programming daily.

III.1.5 Other

223 Ley 18.232 de Radiodifusión Comunitaria, officially published on 9 January 2008.
224 Decreto N°417/010, official published on 14 January 2011.
225 See also Articles 3, 7 and 10 of the Decree.

It is also useful to profile in this Report the legal frameworks for community broadcasting in some other countries which do not fall within the geographic regions indicated above. Australia and Canada have been chosen as examples, given the relatively strong frameworks in both countries, which illustrate some interesting approaches to this issue.

Community broadcasting is very popular in **Australia**. According to the Australian Communications and Media Authority (ACMA), some 354 community radio stations had been licensed as of 6 May 2013.[226] According to the Community Broadcasting Foundation, some 26 percent of Australians over the age of 15 listen to community radio weekly, and fully four percent listen exclusively to it.[227] According to section 15 of the Australian Broadcasting Services Act,[228] community broadcasting services are "provided for community purposes", are not for profit and provide programming that is available for free. This is further clarified by section 80(1)(b) of the Act, which stipulates that a community service must "represent a community interest" (see also section 92C(1)(b) for temporary services). Pursuant to section 84(2), a number of other considerations are taken into account when assessing applications for 'permanent' services (i.e. those with five-year licences), including the extent to which the service would meet the existing or future needs of the community, the nature of the community, the other broadcasting services which are available to the community, and the capacity of the applicant to provide the service.

Clause 9(2) of Schedule 2 of the Act further clarifies the criterion of representing the community, requiring licensees to "encourage members of the community that it serves to participate in: (i) the operations of the licensee in providing the service or services; and (ii) the selection and provision of programs under the licence" and to "provide the service or services for community purposes".

The ACMA's *Community Broadcasting Participation Guidelines* provide more detail about what constitutes community representation.[229] A community interest is defined as being either a geographic community (general community interest) or a community of interest (specific community interest). Examples of the latter include ethnic, indigenous, music or religious interests. The Guidelines provide a lot of detail on what constitutes community participation, which is looked at under two main headings: involvement in the operations of the licensee; and involvement in the selection and provision of programmes. Licensees are expected actively to encourage participation in their operations and programmes. There is no set way of doing this, but fostering participation through membership is strongly encouraged.

The rules on community participation are further elaborated upon in the Codes of Practice for both radio and television. These were adopted by the Community Broadcasting Association of Australia (CBAA), the sector association, and registered by the ACMA. Clause 2.1 of the Community Radio Broadcasting Code of Practice,[230] for example, states:

> Our station will make sure that people in our community who are not adequately served by other media are encouraged and assisted to participate in providing our service. We will have in place policies and procedures to support this commitment. We will document evidence of our efforts to encourage community participation.

Canada has very precise rules defining both community radio and television, along with fairly strict conditions as to the programming conditions they must meet. These rules are for the most part found in regulatory policies adopted by the Canadian Radio-television and Telecommunications Commission's (CRTC), the broadcasting and telecommunications regulator.

The most recent definition of community radio is found in Broadcasting Regulatory Policy CRTC 2010-499, and this covers both community and campus radio, albeit with some differences where appropriate. Paragraph 13 requires campus and community stations to be owned, operated, managed and controlled by a not-for-profit organisation that is run by members of the community and offers ongoing opportunities for training of volunteers. These stations must: reflect the community's needs and values; use volunteers in programming and station operation; offer programming that is rich in

226 List available at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_311075.
227 Community Broadcasting Foundation Ltd. Annual Report 2011/12. Available at: http://www.cbf.com.au/files/2113/5466/6033/CBF_Annual_Report_2012.pdf.
228 Act No. 110 of 1992, as amended.
229 24 June 2010. Available at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_311079.
230 Registered by the ACMA on 23 October 2008. Available at: http://www.acma.gov.au/webwr/_assets/main/lib410018/community_radio_broadcasting-code_of_practice_2008.pdf.

local information and reflection; and meet the needs and interests of the communities in ways that are not met by commercial or public sector broadcasters (paragraph 12).

Programming should be based on the needs and interests of the community, and include local and regional news and information, and content related to social, economic and community issues, while promoting local culture, artistic expression and emerging talent (paragraph 14). There are also a number of minimum content requirements, including the following:

- At least 15 percent spoken word content (i.e. not music) (paragraph 50), and in licence renewal applications, applicants must demonstrate how this content meets local needs and interests and how much is produced by volunteers (paragraph 51).

- At least 20 percent of the music must be outside sub-category 21 (pop, rock and dance), although this does not apply to campus radio (paragraph 68), and of the category 2 music (popular music, which includes sub-category 21), 40 percent must be Canadian (paragraph 61) and for French language stations, 65 percent must be in French (paragraph 79).

- At least 5 percent of the music must be from category 3 (special interest music, paragraph 72), of which 15 percent must be Canadian (paragraph 62).

- Up to 40 percent of programming may be in the language of a community not served by an ethnic station, and up to 15 percent that of a community which is served by a dedicated station.

For community television, at least 60 percent of the content should be local community television programming (Broadcasting Distribution Regulations SOR/97-555, section 31), defined as programmes that reflect the community, and are produced by the licensee in the licensed area or by members of the community or municipality (Broadcasting Public Notice CRTC 2002-61, paragraph 28). The percentage of programming devoted to community access (i.e. which is produced by community members but not under the direction of the station) is set to increase from 40 percent between September 2012 and August 2013 to 45 percent the following year and 50 percent thereafter (Broadcasting Distribution Regulations SOR/97-555, section 31).

III.1.6 Analysis

The types of legal definitions and requirements for community broadcasters can be divided broadly into three main areas: form (meaning the requirements as to the structure of the broadcaster); link to the community (meaning the extent to which the broadcaster is required to have a direct relationship with the community); and positive content standards (i.e. requirements that community radio station carry content which is deemed to be "relevant" to the community).

Form

A requirement of operating as a non-profit entity is almost ubiquitous in the countries surveyed. Most also require the entity operating the community station to have a legal form although some, including Thailand and Uruguay, also envisage the possibility of recognising a non-legally established entity.

In addition to more traditional community-based entities, a number of countries recognise broadcasters based at educational institutes (mostly universities). In Bolivia, the rules only apply to rural stations, while in Bangladesh this is not a fixed rule but a decision was made to prioritise rural stations first. Bolivia also recognises various indigenous types of stations (specifically native indigenous peoples and Afro-Bolivian and intercultural communities). Ethiopia recognises local administrations as potential operators of community stations, while in other countries there is a strong presumption against State bodies, and in Uruguay this is stated explicitly as a prohibition in the law.

Most countries establish certain prohibitions on what sort of entity may hold a community broadcasting licence. The most common prohibition applies to political parties or individuals, and other common prohibitions include foreigners (in Brazil, this even applies to naturalised citizens who have been Brazilian for ten years or less) and religious bodies (for example Ethiopia and Bolivia), although some countries, such as Hungary, Sweden and Australia, specifically recognise the possibility of community broadcasters serving religious communities. Other prohibitions include those convicted of serious crimes (Ethiopia), military personnel (Bolivia) and banned organisations (India).

Link to the Community

All of the countries surveyed recognise geographic communities and in some cases, for example in Bolivia, take into account common history and interests. Several countries also recognise communities of interest although, inasmuch as members of these communities might be spread throughout the whole territory of a country, which can be a challenge from a licensing and frequency perspective. In Bangladesh, the law requires the community to be "well defined", although it is not clear what this might mean in practice.

Many of the laws include very general statements about the stations being owned by or responsive to communities, serving them or operating in their interests. While this sentiment is clearly important, it is not clear how such general statements might be interpreted. Inasmuch as they are relied upon as licensing criteria, these statements would appear to hand a wide measure of discretion to the regulator, which could be problematical either because it might lead to arbitrary decision-making or because it might provide a window for political influence.

A number of more specific approaches towards the issue of community involvement and responsiveness are found in the countries surveyed. A few, such as Ethiopia, Brazil and Colombia, require the entity operating the station to have a very specific structure that provides for community involvement. While this is a strong way of ensuring community involvement, it might also introduce rigidity into the licensing process, and pose a barrier to outlets which are trying to get off the ground. In Australia, in contrast, features such as membership are promoted, but not required.

In a number of other countries, the extent of community involvement is generally taken into account in the licensing process, with the potential problems regarding excessive discretion noted above. In some cases, this is made more specific by reference to a consideration of the direct mechanisms used to engage the community (for example in Uruguay) or a requirement that the structure is reflective of the community (for example in India and Bangladesh). In India and Bangladesh, the entity must have a proven track record of working in the community, of three and five years, respectively. Some countries look at letters of support from the community when considering licensing and Indonesia actually requires the active support of a majority of the local population or at least 250 adults. In some countries, community broadcasters are expected to carry specific quantities of programming produced by the community (for example, 50 percent in India), while in Canada the extent of production undertaken by volunteers is a consideration that goes to licence renewal. Finally, in Brazil, community broadcasters are supposed to contribute to the professional development of their journalists, while in Canada they are expected to provide training to volunteers.

A number of countries promote a relationship with government which could lead to a problematical degree of control by government over the stations and could even, in some cases, be contrary to international standards relating to media independence. In Argentina, public involvement is specifically prohibited. In Colombia, on the other hand, many community radios are somehow an extension of the public broadcasting system. Inasmuch as these are independent of government, this can be seen as an alternative approach, but the system should also envisage community radios which are outside of the public sector.

In a number of European countries, including Denmark and Sweden, the focus is not so much on the community, *per se*, but more on the local nature of the service, and the extent of its ties to that locality. This is subtly, but importantly, different from being owned and controlled by a community.

In France, the focus is more on fostering exchanges and providing other social benefits, than on community ownership. In Hungary, as well, broadcasters which provide public service output are considered as community broadcasters, in parallel to more traditional community run media. Serbia takes yet another approach, focusing more on the civil sector and its information needs than more traditional communities, as such. In some ways this could be seen as replacing the requirement of a community link with one relating to the purpose of the station.

Positive Content Standards

General standards abound in relation to content rules, with a number of calls for content to serve the needs of the community, however that might be assessed. Almost all of the countries surveyed call on community broadcasters to prioritise a number of social interests, which range extensively although education, local news and development interests are common. In Spain, community broadcasters are specifically required to contribute to diversity. While requirements of public interest content along

these lines are important, the list of such interests is too long in some countries to serve any useful regulatory purpose, and it is not clear in any case how this could be measured.

While news is a specific positive requirement in many countries, in both India and Bangladesh community radios are actually prohibited from carrying news, apart from some limited local exceptions, while in Bangladesh they are instead required to carry official messages, which has in some cases been held by international courts to be a breach of international law. At a minimum, community broadcasters should be allowed, and perhaps even required, to carry local news. They often have access to news that is not carried in other media, for example about very local events, which are often of great interest to the local population.

More specific content rules apply in many countries. In Ethiopia and Canada, community broadcasters are expected to carry content which is not provided by commercial and public service broadcasters. Locally produced content quotas apply in many countries (80 percent in Indonesia, 60 percent in Ethiopia, and a majority of programming in South Africa, Hungary and Benin), while Uruguay encourages both in-house and independent programme production. In some countries, there are limits on sharing programmes among different community stations (for example of 15 percent in Indonesia). Generally sharing programmes would seem to be a useful practice, especially where issues are relevant across a range of local communities. At the same time, excessive reliance of shared programming could undermine the local programming remit of community radios. In India, community radios are expected to broadcast predominantly in the languages spoken in their communities, while in Uganda, indigenous languages are promoted. There are very specific rules on content quotas in Canada for community radios, such as a requirement to carry at least 15 percent spoken word content, 20 percent non-mainstream music, 40 percent Canadian sourced mainstream music and five percent special interest music.

What these country experiences show is that there is a wide range of different approaches in different countries, many of which can be said to serve the overriding international standard of promoting diversity in the media, while there are also a few areas of broad commonality (such as a requirement of non-profit status). In other words, this is not an area where one size fits all. In essence, what is needed to promote diversity depends to some extent on the local context.

III.2. Access and Licensing

If the previous thematic section – recognition, definition and form – was about how countries have enabled community broadcasting in theory, this section is about the very practical issues regarding how these broadcasters can actually come into being, and their ability to actually disseminate their programming. Given the focus on community radio, the issue of dissemination is largely about protecting part of the radio frequency spectrum for these broadcasters.

III.2.1 Africa

Few African countries have established clear and detailed rules governing access and licensing for community radios. However, better practice is to protect space for community radios through policy and administrative means, such as efforts by the regulator. For the most part, Africa has yet to embark on the process of the digital switchover for television, although digital alongside analogue television (i.e. dual illumination) is available in some countries. Community television is also very nascent in the continent.

The 2007 Law in **Benin** does not include many provisions on licensing of community radio or television. Pursuant to Article 43 of the Law, community radios may be licensed where frequencies are available for this (and the same applies to community television pursuant to Article 54-2). The licence is for six years for community radios (Article 44), and for ten years for community television (Article 54-3), in both cases renewable.

The master plan for frequencies in **Ethiopia** includes a number of frequencies which are reserved for community radios. The process for applying for a licence is far less involved than for commercial stations, and the time for processing applications is much shorter (potentially a matter of weeks).[231]

231 Interview with Leul Gebru, Ethiopian Broadcasting Authority, 30 January 2013.

The 2007 Proclamation contains only basic rules on licensing, including that while licences for commercial broadcasting services are normally issued through a call for tenders, community licences may be issued at any time (Article 19(4)) and that the community broadcaster must cover the whole of the service area for which the licence was granted (Article 16(3)). The process of licence renewal for all broadcasters (i.e. not just community broadcasters) requires community approval (Article 25). Clause 21(2)(d) of the 2012 Directive sets out a minimum number of signatures of support required, depending on the size of the overall community.

The licence term shall be five years, although the law also envisages a short-term licence for community broadcasters of just one year (Articles 24(6) and (7)). The maximum power for community radios is set at one kilowatt (2012 Directive, Clause 26).

The rules in **South Africa** are also brief as to the formal licensing requirements. Pursuant to section 5(5)(b) of the 2005 Electronic Communications Act, community broadcasting is a class licence, and this is also reflected in the Community Sound Broadcasting Service Regulations, 2006. The latter provides for a licence to be issued with fairly limited conditions where frequencies are available, including that no valid objections to the licence are received (section 4). The regulator, the Independent Communications Authority of South Africa (ICASA), issues them with both a broadcasting and a frequency licence. Licences are supposed to be issued for four years (section 3), although there have reportedly been some problems moving to that system from the earlier provisions which granted licences for only one year. Licensees are also required to keep quite a large range of records (section 11.1), which could be onerous for smaller, younger stations.

There are very limited provisions on licensing of community broadcasters in the 2004 Broadcasting Policy of **Uganda**, the main document setting out the rules for community broadcasting. The Policy calls on the government to put in place the necessary legal framework, but this has not yet been done, some nine years later. The broadcast regulator is called upon to make available broadcasting licences and to coordinate with the Uganda Communications Commission (UCC) to make sure frequencies are available.

III.2.2 Asia

Access to terrestrial spectrum resources has been controversial in many countries in Asia, perhaps in part because of large populations and high population density, but also in some countries because of overall restrictive policies on non-public broadcasting. There is strong competition for frequencies, and community broadcasters, including radios, have not so far managed to gain access to significant portions of the spectrum.

East and Southeast Asia

Pursuant to Article 8 of the 2005 **Indonesian** Regulation on community broadcasting, the application for a community broadcasting licence must contain information about the committee that has organised the broadcaster and quite a lot of detail about the programming and how it serves the community. The process is quite expedited, in accordance with Article 9 of the Regulation. The station will initially be issued with an interim licence, lasting for six months for radio and one year for television, after which, if it conforms to the required standards, a proper licence will be issued (which are for five years for radio and ten for television) (Articles 11-12). However, only 1.5 percent of the overall spectrum has been allocated to community broadcasters.[232]

Article 20 of the 2002 Indonesian Broadcasting Law states generally that for community broadcasters, the "transmitters are low in power". In practice, they are limited to a radius of 2.5 kilometres, which clearly does not correspond to any natural community size.[233] Article 6 of the 2005 Regulation requires community radios to broadcast at least five hours per day, or two hours per day for community television.

In **Thailand**, the frequency spectrum has, since 1997, been recognised as a national resource. Thus, Article 47 of the 2007 Constitution provides:

> Transmission frequencies for radio and television, and telecommunication are national communication resources for public interest.

232 R. Kristiawan, "Broadcast Law Review is an Assault on Media Freedom", Jakarta Globe, 1 April 2011.
233 Ibid.

To give effect to this, Article 49 of the 2010 Act on broadcasting reserves "not less than twenty percent of frequencies allocated in each licensing area" for "public interest and nonprofit for community service" broadcasters.[234]

However, the licensing of community broadcasters has been significantly complicated by the fact that the regulatory body for broadcasting envisaged in the 2000 law[235] was never established. The 2008 Radio and Television Broadcasting Business Act[236] provided for the interim regulation of broadcasting through the telecommunications regulator (the National Telecommunications Commission, NTC-T), established under the 2000 law. This was an interim measure until the converged regulatory body, envisaged in section 47 of the 2007 Constitution, could be established. However, the NTC was only authorised to licence community broadcasters, and commercial broadcasters not using frequencies, and then only for one year (section 78(2) of the 2008 Act).

Further complicating this situation was the fact that, following a 2004 rule, which allowed community broadcasters to carry up to six minutes of advertising per hour, the sector had in practice become dominated by what are best described as local commercial radio stations.

Under the provisional rules, community radios were supposed to register with the NTC and obtain temporary licences until the matter could be resolved properly by the new converged regulator. A committee was formed to undertake this process in March 2008, and the Notification on Criteria and Temporary Licensing of Community Radio was published in the *Royal Gazette* in July 2008. However, the many local commercial radios that were registered as community radios were concerned that they would lose their licences under these rules,[237] and a compromise allowed some 6,000 stations which had been operating as 'community' broadcasters to register for temporary licences, which have been extended up until today.[238]

This issue has now been considered by the new converged regulator, the National Broadcasting and Telecommunications Commission (NBTC). As of early February 2013, the NBTC had granted 848 temporary licences, which are renewable on an annual basis, to 111 community radio operators, 125 public service radio operators and 612 business operators. It has not yet granted longer-term licences, and it plans to address the issue of how to allocate the radio spectrum among the different types of radio operators first.[239]

Otherwise, there are few specific rules regarding the licensing of community broadcasters. An early decision by the Public Relations Department provided that community broadcasters should be limited to using 30W transmitters, using an antenna that did not exceed 30 meters and covering not more than 15 kilometres, which became known as the 30-30-15 rule.[240] It seems likely that new rules in this area will be adopted by the NBTC once the licensing issue has been sorted out.

South Asia

In **Bangladesh**, licensing is undertaken by the Ministry of Information (MoI), in cooperation with the Bangladesh Telecommunications Regulatory Commission (BTRC) for frequency allocation, and after consultation with the Home Ministry, giving the government significant control over the process. The specific rules on licensing require applications to outline the services to be provided, indicate the level of support from the local community and the degree of their participation in the management structure, and outline the sources of funding. Licensing priority in the short term is to be given to applicants managed by "disadvantaged and backward sections of the population (with special consideration to women)" (Clause 4 of the 2008 Policy). The formal prioritisation of women is a rare focus in the regulatory framework for community broadcasting. The initial licence shall be for two years, which may be extended for such period as the government may determine (Clause 7.3).

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234 The same rule is found at section 20 of the 2000 broadcasting law.
235 The Frequency Allocation Organization, and Regulation of Broadcasting, and Telecommunications Act B.E.2543 (2000).
236 BE 2550 (2008).
237 Section 21 of the 2008 Law prohibits community broadcasters from carrying advertisements.
238 For an article detailing the events outlined in the previous paragraphs, see Pirongrong Ramasoota, Media Regulatory Development in Thailand, available online. According to Ramasoota, of the approximately 6000 'community' radios that registered with the authorities in 2009, only 150-200 could really be considered community radios, while 3,000 were local commercial radios and the rest could best be described as local government radios, religious radios, radios under the control of media conglomerates, political radios and national security radios. See the table on p. 6 of her article.
239 Information provided by Sinfah Tunsarawuth, a Thai media law expert.

240 Ibid., p. 2.

As in India, strict power and technical limitations are imposed on community radios. Each station is expected to cover a range of 17 kilometres, using a transmitter of up to 100W, which may exceptionally be increased to 250W, while the antenna must not exceed 32 meters, although this can be increased in appropriate circumstances with prior approval (Clause 5).

The 2006 **Indian** policy on community radio sets out a very detailed and precise process for applying for licences, in which the key regulatory players are the Ministry of Information and Broadcasting (MoIB) (for permission) and the Ministry of Communication and Information Technology (for frequencies). According to the policy, public educational institutions benefit from a "single window clearance" but other applicants also need clearance from the Ministries of Home Affairs, Defence and Human Resource Development. As in Bangladesh, this results in significant government control over licensing the sector. The policy envisages an annual call for applications, as well as the ongoing consideration of *ad hoc* applications (Clause 3(a)). A Committee formed under the MoIB and consisting of representatives of various ministries, civil society members and so on, which operating from New Delhi, decides on the successful applicant, taking into account factors such as standing and longevity of service in the community, overall credentials, demonstrated commitment, stated objectives, and likely ability to mobilise resources.

A clear and reasonably short timeframe is stipulated for processing applications, which involves a one-month window for processing by the MoIB, a three-month window for clearance by the three other ministries and a six-month timeframe for frequency allocation. In practice, however, the process usually takes longer than this, in some cases up to two years. Once the MoIB signs a Grant of Permission Agreement, the applicant has three months to establish the station. Licences are valid for a period of five years (Clauses 3 and 4).

Strict power limitations are imposed on community radios, which are expected to cover a range of only five to ten kilometres. There is a presumptive transmitter effective power limitation of 100W, which may be increased to 250W upon approval of the MoIB Committee in appropriate cases (i.e. need to serve a larger area or due to the terrain), although this has not yet happened in practice. The antennae must be between 15 and 30 meters, and be located within the community service area (Clause 7).

III.2.3 Europe

Europe has a range of very different systems for ensuring that community broadcasters can access distribution platforms. Given that much of the region has now switched off analogue terrestrial television broadcasting, and the rest will follow soon, arrangements to ensure the presence of community television in the digital world are also a key legal and policy priority.[241]

In **Denmark**, in the radio sector, the focus is on local radios, which dominate the overall sector in terms of numbers, although the public broadcaster is dominant in terms of audience share, with a rate approaching 80 percent.[242] Pursuant to Article 45(2) of the 2010 Danish Radio and Television Broadcasting Act,[243] licensing shall be by tender, and the Order on Local Radio Broadcasting further stipulates that this shall be a "beauty contest" (clause 5), i.e. based on an assessment of the contribution of the proposed programming to diversity and other local values.

Pursuant to clause 10 of the Order, the licensing authority, the Radio and Television Board, shall set minimum weekly airtime quotas for licensed local radios. It may also require two broadcasters to share the same frequency(ies), allowing them first to try to come to an amicable sharing arrangement, failing which it may impose rules. This does not affect the minimum weekly quotas.

An historical rule in Denmark required commercial television stations to carry community media programmes from 0900 to 1200,[244] although this has now been overtaken by the advent of digital television and no longer applies.

In **France**, Article 29(14) of the 1986 Law requires the regulator, the CSA, to reserve a "sufficient" portion of the frequencies for non-profit media. Calls for applications must be done separately for each of the five categories of radio defined in Communiqué N° 34. Licences are issued for a period of

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241 This Report, however, focuses on community radio.

242 See Danish Agency for Culture, http://www.kulturstyrelsen.dk/english/media/media-structure-radio-and-tv/radio-in-general-in-denmark/#.UTG8NaVqOyG.

243 Act No 477 of 6 May 2010.

244 See The State of Community Media in the European Union, European Parliament, note 200, p. 12.

five years, renewable.[245] In practice, France has a larger number of community radios than any other country in Europe.[246]

The **Hungarian** media law does not contain much detail about special licensing procedures for community media. Pursuant to Article 66(5), community media may not be national in nature. This is clarified in Articles 203(24) and (25), which, respectively, define "small community" services as covering an area with a radius of not more than one kilometre, and "regional community" services as being larger than small services but covering not more than 50 percent of the population of the country. Pursuant to Article 48(8), the regulator may put in place special procedures for licensing small community media, and Article 66(5) stipulates that a decision in such cases shall be made within 60 days of submitting the application. Otherwise, community media must carry at least four hours of programming daily (Article 66(4)(e)), and may only network with other community media (Article 64(2)).

Very few specific rules are in place regarding the licensing of community broadcasters in **Serbia**. The main licensing criterion which applies to them is that they must be founded by a civil society non-profit organisation (a non-governmental organisation or a civic association) (Article 43 of the Broadcasting Act).

The national legal regime for broadcasting in **Spain**, as set out in the 2010 broadcasting law, requires community broadcasters to have a licence, which should include conditions ensuring its non-profit nature. In practice, community radios tend to operate under permissions granted by the local regional or municipal entities in which they are based. The law also requires the "General State Administration" to guarantee the necessary frequency spectrum for the provision of these services (Article 32(2) and (3)).

Article 70 of the 2005 Catalan broadcasting law recognises the contribution of non-profit broadcasting to the overall communications environment, and calls for the reservation of spectrum for the sector to ensure equality and freedom. Specifically, space should be reserved on the radio spectrum, where this is possible and in accordance with regulations, with special planning to ensure that spectrum is available for low-power stations. Distributors of broadcast services must reserve at least five percent of their space for non-profit broadcasters.

The **Swedish** 2010 broadcasting law provides that any association that is entitled to receive a community broadcasting licence shall, to the extent that this is technically feasible, "be given the opportunity to broadcast community radio programmes in a municipality"(Chapter 12, Section 2). This is achieved by reserving at least one FM frequency for community radio in each municipality, and more in larger communities.[247] Pursuant to Section 7, more than one licence holder may be expected to share the same frequency and, if they cannot agree on the allocation of time between them, the regulator will impose an agreement on them. Otherwise, where necessary, more than one frequency may be allocated in a single municipality. The transmission area for each broadcaster will normally be limited to one municipality (Sections 2 and 3). Pursuant to Section 9, licences are valid for a set period of time, which is usually three years for community radios.[248]

III.2.4 Latin America

Latin America has been the site of fierce contestation between commercial and community broadcasters, over access to spectrum resources and other broadcasting values, including audience share. This has led to some of the most protective legal regimes for community broadcasters, including in relation to the reservation of radio frequency for this sector, anywhere in the world. Alongside these more protective regimes are a number of far more *ad hoc* arrangements. As the more protective regimes have mostly been put in place quite recently, it remains to be seen how they will be implemented in practice.

In **Argentina**, Article 89(f) of the 2009 Audiovisual Media Services Law requires the Technical Frequency Plan to reserve 33 percent of the frequency spectrum for non-profit legal entities (i.e. community broadcasters), "in all terrestrial audio and television broadcast bands in all coverage areas". National

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245 See ICT Regulation Toolkit, "Different local radio models in France". Available at: http://www.ictregulationtoolkit.org/en/PracticeNote.3154.html.

246 See, for example, Steve Buckley, Third pillar of media pluralism: community broadcasting in the UK and Europe, p. 3. Available online.

247 See Canadian Radio-television and Telecommunications Commission, International Approaches to Funding Community & Campus Radio, 31 March 2009. Available at: http://www.crtc.gc.ca/eng/publications/reports/radio/connectus0903.htm.

248 See Ministry of Culture, Broadcasting Public Service - Financing and Taxes, note 212, section 2.3.4.

universities are also guaranteed one television and one radio frequency, while one AM, one FM and one television frequency is protected for "Native Peoples, in localities where such people are settled" (Articles 89(d) and (e)). According to Article 4 of the Law: "A community broadcaster shall in no event be deemed a service with restricted geographic coverage."

The Law does not set out very specific rules for licensing community broadcasters. Article 33 does stipulate: "The bidding terms and conditions shall bear in mind the distinctive characteristics of legal entities, whether they are for-profit or non-profit." Otherwise, community broadcasters have to comply with the general rules that apply to all broadcasters, which some local groups have complained make it difficult for them to establish community radios.[249]

The Law does provide for a special regime for "low power broadcasters". Article 49 states that the regulator will establish "direct award procedures" for these broadcasters, as defined in the policy documents, where there is available spectrum in "highly vulnerable and/or low population density locations" as long as their programming is oriented towards satisfying "social communication demands". This would also cover community broadcasters, as long as they operated within the definition of 'low power'.

It would appear that there have been problems with licensing community broadcasters, because the first stations were only allocated licences in late December 2012, three years after the law was first enacted.[250] There have been some strong critiques of the licensing system, in particular focusing on the fact that the oversight bodies are not independent of government.[251]

In **Bolivia**, Article 10(2) of the 2011 telecommunications law reserves 17 percent of the overall broadcasting frequencies for each of the peasant indigenous peoples and Afro-Bolivian communities, and the social community sector (i.e. 34 percent together), to be assigned on a competitive basis. Pursuant to Article 31(IV) of the 2007 Supreme Decree, licences shall be valid for ten years, renewable, and only one radio and television licence may be granted to each community, while Article 35(II) provides that a licence will be granted only if there are frequencies available. It is not clear how these rules align with the 17 percent frequency allocation, which suggests there should be several radios in each community. Article 35(I) provides that any community broadcaster should cover the whole of the area in which a specific community lives.

There are also rules as part of the licensing process which are designed to ensure that applicants for a community broadcasting licence do indeed represent the community. Article 32(a) of the Decree provides that the application must be signed by representatives of the community, although it is not clear what the implications of this are in practice. Article 32(c) requires proof of community representation, including in the legal acts establishing the applicant station.

In **Brazil**, pursuant to the Constitution (Article 223(3)), only the National Congress can finally approve the grant of a broadcasting licence, although the processing of applications is done by the Ministry of Communications, and frequencies are granted by the National Telecommunications Agency (ANATEL). This has created an enormous backlog in licensing of all broadcasters, but particularly community broadcasters, with some 4,500 legal community broadcasters but another estimated 10,000 operating illegally, often while waiting for licences to be approved.[252] Brazil thus provides an example of a strong and active community radio sector, despite serious licensing obstacles. Among these are a large number of both religious and politically oriented stations, although formally these are not allowed.[253] However, the Ministry of Communications does have the power to issue interim licences for community radios, which are valid for three years, or until Congress examines the licence application, in which case the licence is for ten years (Articles 2 and 6 of the 1998 community broadcasting law).

249 See, for example, Red Nacional de Medios Alternativos (RNMA), La nueva Ley de Servicios de Comunicacion Audiovisual y los Medios Comunitarios, Alternativos y Populares, p. 60. Available at: www.radiosemilla.com.ar/contenidos/images/pdf/ley.pdf.

250 See "El AFSCA entregó las primeras licencias para radios comunitarias", http://www.afsca.gob.ar/2012/12/el-afsca-entrego-las-primeras-licencias-para-radios-comunitarias/ (official website of AFSCA, the Federal Audiovisual Communication Services Authority, the regulator).

251 See Red Nacional de Medios Alternativos (RNMA), La nueva Ley de Servicios de Comunicacion Audiovisual y los Medios Comunitarios, Alternativos y Populares, note 246.

252 See Fabiola Ortiz, "Brazil: Community Radio Flourishes Online," Inter Press Service News Agency, 26 January 2012. Available at: http://www.ipsnews.net/2012/01/brazil-community-radio-flourishes-online/.

253 See Venício A. de Lima and Cristiano Aguiar Lopes, "O coronelismo eletrônico de novo tipo (1999-2004)", 26 June 2007. Available at: http://www.observatoriodaimprensa.com.br/news/view/o-coronelismo-eletronico-de-novo-tipo-19992004.

The rules relating specifically to licensing involve an examination of the technical feasibility of an application, as well as a demonstration of support from organisations and individuals based in the proposed community where the service will be delivered. Once it receives notification of an interest to broadcast for a particular applicant, the Ministry of Communications will publish a notice to see if there are others in the service area which would like to broadcast as well. In this case, the Ministry will try to promote a sharing agreement for the station between those interested, failing which it will choose the applicant which can demonstrate greater community support. (Article 9 of the law).

Power restrictions are imposed on community radios, with Article 1 of the law defining these as low-power services, limited to a maximum of 25W, delivered through transmitters on antennas which are not higher than 30 meters. Article 6 of the implementing regulations also imposes a distribution limit of 1000 meters on community radios, but this is not strictly enforced in practice. It is, however, a serious limitation in the more sparsely populated regions of Brazil, where it would mean that a community radio can only reach a very small number of people, and certainly not to entire communities.

In **Colombia**, Article 13 of Decree No. 1981 of 2003 classifies community radios as Class D stations, meaning that they cover urban areas with "restricted parameters" or rural areas or specific municipalities or districts. The licence must be in accordance with the national frequency plan, taking into account considerations such as the topography and the need to reach the target population. Technical parameters, including the operating power, frequency and location and height of the antennas, will be set by the Ministry of Communications. There is, however, a limit of one community licence per community, whereas there may be several commercial stations.[254]

The licensing process is a competitive one, following a call for applications by the Ministry of Communications. In addition to the technical considerations noted above, the formal licensing criteria for assessing applications for a community radio include factors such as being duly registered in the community, having worked with the local community in different areas of social development and being able to bring together local organisations to set up the programming board (Article 18). Finally, priority should be given to municipalities which lack a local radio service, communities living in rural and marginal urban areas, and communities comprising cultural, minority or ethnic groups, or weaker sections of society (Article 20). Otherwise, the licensing process is a simplified one, compared to the requirements for commercial licences, and requires less detailed technical studies.[255]

In **Uruguay**, Article 5 of the 2007 Community Broadcasting Law reserves at least one-third of all of the broadcasting frequencies for community broadcasting, again presumably based on a mathematical formula. Article 4 states:

> In no circumstances shall the Community Broadcasting Service necessarily imply a restricted geographical service coverage, being defined by its social and public purpose and not by the scope of the issue, which depends on the availability and use of spectrum plans and communication of the proposed station.

A new decree regulating the transition to digital television, adopted in May 2012[256] also guarantees access by community broadcasters to digital platforms. Article 2 protects space for seven community television channels in Montevideo (the same number as for commercial channels), while Article 4 provides for three channels in the rest of the country (again the same number as for commercial channels).

Pursuant to Article 9 of the 2007 Community Broadcasting Law, licences are granted for ten years, and renewal is for a period of five years. Article 19 of the implementing regulations provides that a precise minimum daily programming requirement, of between six and twelve hours, will be stipulated in the call for applications.

Article 7 of the Law provides that the allocation of licences to community broadcasters shall be via an open and public competition, which involves a public hearing in the community. Indirect obstacles to licensing community broadcasters are formally prohibited. The process is overseen by a special body constituted to advise on the regulation of the community broadcasting sector, the Honorary Advisory Council on Community Broadcasting, established in Chapter III of the Law. Calls for applications

254 See Jimena Zuluaga and María Paula Martínez, *Mapping Digital Media: Colombia* (2012: Open Society Foundations), p. 86.
255 See ICT Regulation Toolkit, note 163.
256 Televisión digital terrestre abierta, Decreto 153/012, 25 May 2012.

should take place regularly, normally at least twice a year, but an assessment may also be triggered by an *ad hoc* application. Article 8 sets out the criteria for allocation of these licences, which includes the services proposed to be provided to the community, the mechanisms in place to ensure community participation in the management and programming of the station, the history of social and community work by the applicant in the relevant community, and references from the community.

III.2.5 Other

Australia allocates both longer term (five-year) licences and shorter term (one-year) temporary licences. In addition to criteria based on the link to the community, for longer term licences the ACMA must assess the capacity of the applicant to deliver the service, concentration of control over community broadcasting (and in particular the undesirability of one person controlling more than one service in the same area) and any threat of political control over the broadcaster (see section 84 of the Australian Broadcasting Services Act). Only the latter two criteria, and not capacity, are considered for temporary licences (see section 92E(2)), given that the whole idea of these licences is to allow groups to see if they can develop the necessary capacity to undertake community broadcasting through a learning by doing approach.

If more than one application for a temporary licence is received, the ACMA may issue two licences, and require the applicants to share a frequency. Otherwise, the process of applying for a community radio licence – whether temporary or permanent – is far less involved than for commercial radios. Simple forms are available on the website of the ACMA.[257]

In **Canada**, the rules used to distinguish between so-called Type A community stations, which broadcast over an area where no other station was operational, and Type B stations, which operated in a competitive market. This distinction, which was based on the idea that special rules were needed to ensure the community character of the station in a competitive market, was abolished in 2010 on the grounds that it was the size of the market, rather than competition *per se*, that was most influential on programming (Broadcasting Regulatory Policy CRTC 2010-499, paragraph 25).

There is no separate licensing process or reservation of frequencies for community radios that operate in a competitive environment, and they must compete for licences. The regulator, the Canadian Radio-Television and Telecommunications Commission (CRTC), has indicated that it will take into account factors such as "quality of application, diversity of news voices, market impact and competitive state of the market", and that community radios will also be expected to compete on these bases (Broadcasting Regulatory Policy CRTC 2010-499, paragraphs 144-6).

Despite this, according to the CRTC, at the end of December 2008, 28.9 percent of all radio broadcasters were community broadcasters and just over 20 percent of all television stations were community-television services.[258] There are two policies that facilitate this. First, Industry Canada, which is responsible for overall management of the frequency spectrum, has special rules for low-power and very low-power radio frequency usage (defined, for the FM band, respectively as using a transmitter of 50W or less, an antenna of 60m or less and a coverage area of eight kilometres or less; and a transmitter of 10W or less and an antenna of 30m or less). In essence, broadcasters falling within these categories may use any frequency which is not being used, as long as they do not interfere with the signals of other broadcasters. The application requirements for use of these frequencies are far less technical, as well. The downside is that these "secondary status" stations will be forced off-air if a "protected" or "primary status" station obtains a licence to use their frequency.[259] This approach may have particular benefits in Canada, which is a huge country with very low population density in most of its territory.

Second, the CRTC recognises a category of developmental stations with far less rigorous licensing requirements to allow for new community and campus stations to get off the ground quickly. These stations must still adhere to basic community radio requirements (Broadcasting Regulatory Policy CRTC 2010-499 paragraph 36), and are restricted to a transmitter power of 5W for both AM and FM (i.e. they are very low-power stations) (Article 37). They are granted a non-renewable five-year licence, after which they must either apply for a full (i.e. proper) five-year community radio licence, or let

257 At: http://www.acma.gov.au/WEB/STANDARD/pc=PC_311079.
258 See: http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2009/2009MonitoringReportFinalEn.pdf.
259 See Department of Industry, Spectrum Management and Telecommunications Broadcasting Procedures and Rules, January 2009, BPR-3: Application Procedures and Rules for FM Broadcasting Undertakings, Sections D-F and BPR-2 - Application Procedures and Rules for AM Broadcasting Undertakings, Section B-8.

the licence lapse (Article 38). Furthermore, the CRTC has in place expedited processes for licensing 'regular' community radios (i.e. while they have to compete, they do not need to provide the same level and type of information as commercial broadcasters).[260]

In terms of community television, a distinctive feature of the environment in Canada is that over 95 percent of households receive their television via a cable system. A particular regime applies to community television, so that any cable company with over 6000 subscribers must provide a local channel which local subscribers to the cable service can access to provide programming. There are also requirements for both digital terrestrial (Canada has switched off analogue terrestrial television) and direct to home satellite television providers to carry community channels.[261]

III.3.6 Analysis

The countries surveyed have special licensing and access rules in three key areas, namely reservation of frequencies, licensing procedures and technical conditions. These are addressed in turn below. It may be noted that formal rules regarding licensing are not always followed, leading to a policy-practice gap. This risk should perhaps be taken into account when designing access and licensing regimes.

Reservation of Frequencies

A number of countries provide for a specific reservation of frequencies for community broadcasters, especially in Latin America, where Uruguay, Argentina and Bolivia all guarantee at least one-third of all frequencies for community or related broadcasters. These appear to be based on a strict mathematical division of spectrum resources among the three tiers of broadcasting rather than a more organic assessment of actual broadcasting needs and capacities. Furthermore, none of these countries has so far come close to licensing community broadcasters on that scale, and other rules in Bolivia actually appear to contradict these overall reservations, by stipulating that only one licence shall be allocated to each community. In Thailand, 20 percent of all frequencies are reserved for public interest and non-profit broadcasters, although this has also been fraught with problems, in particular attempts by local commercial stations to occupy these frequencies.

In other countries, such as Spain, France and to some extent Uganda, there is a general requirement to reserve frequencies for community broadcasters, but the specific way in which this is done is left to the regulator. Spain also requires all broadcast distributors to reserve five percent of their capacity for community broadcasters, something which should help facilitate the transition of community broadcasting into the digital era. In Sweden and Colombia, the approach is to ensure that at least one frequency is available in each municipality, although in Sweden this can be increased where needed. Sweden also operates on the basis that every entity that is entitled to receive a community broadcasting licence should have at least some access to the airwaves. In Argentina, there is a special reservation of frequencies for national universities and native communities.

A completely different model is used in Canada, where low-power and very low-power stations may take advantage of an essentially free-access system, as long as they do not interfere with frequencies used by other broadcasters. The downside of this system is that they may be taken off-air if the frequency they are using is allocated to another broadcaster.

Only some of the countries surveyed met the international standard of licensing being conducted by an independent body. In many of the countries, a government ministry was directly involved in the licensing process. Independent regulation means regulation which is at arms-length from government. Securing independence in practice depends upon many factors including the appointment process, protection of tenure and conditions for eligibility for membership of a regulatory body, legal status, and financial autonomy.

In terms of institutional structures, a unique system is in place in Uruguay, where a specialised body, the Honorary Advisory Council on Community Broadcasting, oversees the licensing process for community broadcasters. Frequencies, however, are still allocated by the regulator.

260 Public Notice CRTC 2000-13, paragraphs 63-67.
261 See sections 18(4) and 47 of Broadcasting Distribution Regulations SOR/97-555.

Licensing Procedures

Many countries have in place an expedited, light process for licensing community broadcasters, although in most cases this is a matter of practice or regulator-level policy rather than being written into the law, while in others it finds only very general expression in the law. Some sort of expedited licensing process is necessary if community broadcasters in many countries are to be able to get on-air. In several countries, the process may be triggered either by a call for tenders or by *ad hoc* applications. The flexibility this gives allows for appropriate tailoring of the licensing process to the local context. In both Uruguay and Brazil, *ad hoc* applications will trigger a more general call for expressions of interest. In Australia, Brazil, Denmark and Sweden, the authorities will attempt to promote a sharing agreement among those interested in community broadcasting in a particular area, failing which they will either award the licence to the entity which can demonstrate greater community support (Brazil) or impose a sharing arrangement on them (Denmark and Sweden). In Hungary, any station that qualifies as 'low power', including community radios, benefits from a lighter touch licensing process.

In addition to the general requirements relating to a link to the community, noted above under the section 'Recognition', many countries impose very specific licensing procedures relating to this issue. In both Ethiopia and Indonesia, for example, applicants must present signatures from community members as part of the licensing process.

Technical Conditions

Some conditions are placed on community broadcasters in most countries. The term of the licence ranges from five to ten years in most countries, although it was set at one year initially in South Africa (later expanded to four), two years initially in Bangladesh and is only three years in Sweden. Brazil and Indonesia both provide for interim licences, in Indonesia to allow broadcasters to demonstrate that they can effectively go on-air, and in Brazil to get around the bottleneck formed by the requirement that the National Congress approve all broadcast licences.

An interesting approach is in place in both Australia and Canada, where applicants may apply for a developmental licence. In Canada, applicants under this category benefit from a very light licensing process, and get a five-year non-renewal licence, subject to an overall power restriction of five watts (on both the AM and FM bands). The idea is to allow developmental stations to try their hand at running a station, after which they must decide to either apply for a proper licence or let the venture lapse.

Many countries impose minimum broadcasting requirements on community broadcasters. For example, in Indonesia, radios must broadcast for at least five hours per day, and televisions for two hours, while in Hungary community broadcasters must be on air for at least four hours daily. In Brazil, Denmark and Uruguay, these requirements are set through the licensing process, provided that in Uruguay the range is pre-set at between six and twelve hours daily.

There is directly opposing practice on the issue of power and range restrictions on community broadcasters. In several countries, low-power conditions are imposed. These range from very general conditions (for example, that community broadcasters be low-power in Indonesia, where this has been interpreted as an expected coverage radius of 2.5 kilometres) to very specific conditions (for example, the 30W, 30 meter antenna and 15 kilometre rule in Thailand, the 100-250W, 30 meter and 5-10 kilometre rule in India, and the 25W, 30 meter, one kilometre rule in Brazil). In other countries, such as Bolivia and Argentina, on the other hand, the law strictly rules out general restrictions along these lines, while in countries like Colombia, these issues are left to be decided on a case-by-case basis by the licensing authority.

This is a difficult issue, which involves a number of competing interests, such as access to frequencies, financial viability for commercial stations, and technical standards (and the attendant increased costs associated with higher technical standards). However, the imposition of rigid, across-the-board restrictions is very difficult to justify, especially at the very low maximums represented in many countries. In Brazil, for example, there is absolutely no need for a one kilometre transmission radius restriction in low-population areas such as the rural Amazon province, and even in more densely populated countries like India and Bangladesh, power issues should be addressed taking into account all of the circumstances, importantly including actual pressure on frequencies in the proposed service area and the size of the target community.

More generally, the question of the geographical reach of licenses for community broadcasters

depends on how a country defines a "community" as part of the wider broadcasting ecology. Preventing community broadcasters from obtaining national licences could be reasonable if a State defines a community as being geographically based and serving the interests of a geographically concentrated community. However, it would be different if a State recognises communities of interest, and hence issues licenses to community media outlets the constituencies of which can be spread across a whole country.

III.3. Funding and Sustainability

It is important to have clear definitions of community broadcasting which meet the standards outlined above and establish systems to ensure that such broadcasters can receive licenses and obtain access to the airwaves. It is also important to ensure that the rules governing their financial situations support their sustainability. It may be noted that in some countries some of the fees associated with broadcasting are one-off (i.e. one payment for making a licence application) but spectrum usage fees are normally periodic (usually annual). Broadcasters must also pay for the costs of transmitting their signals over the spectrum. The on-going existence and sustainability of community broadcasters therefore also depends on their ability to access a minimum level of funding, in addition to reduced licensing and spectrum usage fees. This thematic section looks at the various systems in place – in poorer, middle income and richer countries – to promote the sustainability of community broadcasting.

III.3.1 Africa

Funding for community broadcasting remains a challenge across Africa, with a substantial part of the external support for stations coming from international donors. At the same time, some national schemes do provide funding support as well as benefits, such as lower licensing and spectrum usage fees.

In **Benin**, the 2007 Law is silent as to the issue of fees charged for community broadcasters and as to the issue of what forms of commercial revenues they may take advantage of. It does, however, restrict the amount of funds raised from advertising to 20 percent of the total budget for radio (Article 41) and 30 percent for television (Article 53), which is quite limited. Article 45 of the Law refers to the possibility of the regulator providing financial support to community radios.

Community broadcasters in **Ethiopia** are not subject to special rules regarding fundraising, although they are subject to the general rules on advertising and sponsorship that apply to all broadcasters, set out in Articles 33-36 of the 2007 Proclamation. This includes that advertising shall not exceed 20 percent of daily transmission time or the same amount in any particular programme (Article 35). However, a new Advertisement Proclamation adopted in August 2012[262] limits advertising to 15 percent of daily or any programme's transmission time, and to nine minutes in any hour (Article 19); the rate for other broadcasters remains 20 percent (see Article 30 of the 2012 Directive).

In practice, most community broadcasters in Ethiopia have difficulty mobilizing sufficient funding through commercial revenue streams even to fill up the 15 percent limit. In line with the non-profit status of community broadcasters, all funds raised must be used by the station (Article 16(4)(e)). Community radios do benefit from lower licence fees, which are currently US$ 750 for the initial licence and then US$ 150 per year.[263]

In **South Africa**, community broadcasters are only required to pay a ZAR 3000 (approximately US$ 324) licence application fee and then are not required to pay annual licence fees (see the Community Sound Broadcasting Service Regulations, 2006, section 8).

South Africa also has an interesting system of providing support for community media and other forms of media diversity through the Media Development and Diversity Agency (MDDA), established by the Media Development and Diversity Agency Act.[264] Key objectives of the MDDA are to encourage media access, control and ownership by historically disadvantaged communities, and to support the community media and small commercial media sectors (sections 3 and 19). To this end, the MDDA may provide direct funding to community media (sections 17 and 18).

262 Proclamation No. 759/2012, 27 August 2012.
263 Interview with Leul Gebru, Ethiopian Broadcasting Authority, 30 January 2013.
264 Act No. 14 of 2002.

Funding for MDDA may, according to section 15 of the Act, come from parliament or grants, among other things. The 2005 Electronic Communications Act requires all broadcasters to pay a fee to the Universal Service and Access Fund. However, broadcasters contributing to the MDDA may offset this against their required contributions to the fund (section 89). In its 2011-12 Annual Report, the MDDA indicates that it had income of around ZAR53m (approximately US$ 5.7m) in 2011-12, of which ZAR19m (approximately US$ 1.9m) came from the government and ZAR30m (approximately US$ 3m) came from the private media, print and broadcast.[265]

Of about ZAR74m (approximately US$ 7.4m) in grant approvals in 2011-2012, 60 percent went to community media, 25 percent to small print media, 5 percent to research and 10 percent to other programmes.[266] This is exactly in line with clause 10 of the 2003 MDDA Regulations,[267] which stipulates that funding must be allocated in the following proportions: at least 60 percent to community media projects, at least 25 percent to small commercial media projects, and 5 percent to research projects.

The Regulations set out detailed rules for the allocation of funding. The general criteria provided in clause 2 largely correspond to the rules in the primary legislation, while clause 3 sets out additional criteria for allocating funding to community media taking into account whether the community is historically disadvantaged, whether the project is likely to build capacity in the community and the extent of involvement and participation of the community in decision-making processes. Additional criteria are applied when consideration is being given to supporting a financially unsustainable community project, including the community's support for the project, ability to administer it and contribute to the project's sustainability; the social and economic benefits offered by the project; and the contribution of the project to media diversity.

Another form of subsidy in South Africa is the unique system of signal distribution through a central distribution services provider, Sentech. Sentech provides cheaper distribution services to community broadcasters. Although initially a number of community radios opted for their own distribution systems, the costs of maintaining these over time and associated costs, such as reporting, have meant that more and more are taking advantage of Sentech's system.

According to the 2004 Broadcasting Policy of **Uganda**, the government is supposed to provide the necessary technical and other support to enable community broadcasting, while the regulator is supposed to provide capacity building support and financial resource development. In practice, very little of either takes place, although community broadcasters do benefit from lower licensing fees.[268]

III.3.2 Asia

Asia provides strong contrasts in terms of its regimes for the funding and sustainability of community broadcasters, ranging from the more restrictive and controlling regimes in place in South Asia, to the somewhat *laissez faire* approach of Indonesia, to the more supportive regime of Thailand.

East and Southeast Asia

A basic framework of rules on revenues for community broadcasters is provided for in the **Indonesian** 2002 Broadcasting Law. Article 21 provides for these broadcasters to be funded by the community, while Article 34 of the 2005 Regulation stipulates that revenues must come from at least three different sources. They may not carry advertisements, apart from public service announcements, or receive initial setup funding from foreign donors, although this rule is not observed in practice. Otherwise, however, they may receive funding from donations and grants, sponsors and other legal sources (Articles 21 and 22).

In **Thailand**, the rules on commercial revenues for community broadcasters are, like much of the rest of the system, in flux. In 2004, the Public Relations Department issued a rule allowing these broadcasters to carry up to six minutes of advertising per hour.[269] However, Article 21 of the 2008 broadcasting law prohibits these broadcasters from raising any income from advertising. Article 51 of the 2010 law supports and extends this to all forms of business income, providing that the income for community broadcasters "shall be derived from donations, contribution to the stations or other

265 MDDA Annual Report 2011-12, p. 103. Available at: http://www.mdda.org.za/MDDA%20Annual%20Report%20 Final%202011-2012.pdf.
266 Ibid., p. 58.
267 Notice No. 1460 of 10 October 2003.
268 See Uganda Afrimap Survey, note 190, p. 49.
269 See Pirongrong Ramasoota, Media Regulatory Development in Thailand, p. 2. Available online.

sources which are not dealing with advertisements or broadcasting business operation."

Article 19 of the 2008 law provides that the licence fee and frequency usage fee shall not place an "unreasonable burden" on broadcasters, taking into account "the public benefits, worthiness, shortage and manner of arrangement of resources." In addition, the fee may be reduced or waived in certain circumstances:

> The Commission may reduce or grant exemption from the license fee under paragraph one and paragraph two to the applicant or licensee under this Act if such person makes it clear to the Commission that its Broadcasting Business or Television Business operation contains programs of news or substances being beneficial to the public in proportion exceeding the program proportion being news or substances being beneficial to the public as set by the Commission.

Chapter IV of the 2010 law provides for the establishment of a Broadcasting, and Telecommunications Research and Development Fund for the Public Interest, the objectives of which include supporting community broadcasters. It shall be funded through, among other things, start-up funds provided by government, revenue obtained from broadcast spectrum usage auctions, licence fees, and administrative fines. A Fund Management Committee shall decide on allocations from the Fund.

The Fund was set up on 20 January 2011, and is chaired by the chairman of the new converged regulator, the National Broadcasting and Telecommunications Commission (NBTC). 950 million Baht (approximately USD 32 million) has been allocated to the Ministry of Information and Communication Technology to install free wifi access across the nation. 150 million Baht (approximately USD 5 million) of the Fund has been reserved for broadcasting activities, and the Fund is currently considering applications for these funds. The Fund will receive applications until 28 February 2013, but no date has yet been set for allocation decisions.

South Asia

The initial licence fee in **Bangladesh** is BDT20,000 (approximately USD256), and a forfeitable deposit of BDT200,000 (approximately USD2,560) must be paid. Only advertisements relating to development services in the service area are permitted. Sponsorship is allowed, as long as sponsors do not influence the content or style of the programming. The Policy envisages the possibility of the government creating a Community Radio Development Fund to supplement stations' own resources (Clauses 4.3, 7.9 and 7.17 of the 2008 Policy), but this has not yet happened. Financial sustainability is a serious problem for community radios in Bangladesh.[270]

Applicants for a community radio licence in **India** must pay an application processing fee of Rs 2,500/- (approximately US$ 47) and then, if successful, provide a Rs 25,000/- (approximately USD470) bank guarantee, which shall be forfeited if the broadcaster fails to commence service within the three months prescribed for this, although in practice this has not been applied. No broadcasting licence fee is charged, but licence holders are required to pay a spectrum usage fee (Clauses 3 and 4). The fee is currently set at Rs 19,700/- (approximately US$ 370) annually; proposals to increase this by over 450 percent in 2012 have been withdrawn, at least for now.[271]

There are strict controls on the ability of community radios to raise funds. Any contributions from foreign donors are subject to Foreign Contribution Regulation Act clearance. Programme sponsorship is allowed only by government bodies and for public interest information from other organisations. Commercial advertising is limited to a maximum of five minutes per hour. Revenues must be used for operating expenses, although surpluses may, with the permission of the Ministry of Information and Broadcasting (MoIB), be returned to the host organisation, but must then be used to pursue its primary objectives (Clause 8).

Special rules apply to community radio stations which wish to attract government sponsorship or advertising from the Directorate of Advertising and Visual Publicity (DAVP), through which most federal, but not state, advertising flows. They must be approved ('empanelled') for this purpose at

270 AHM Bazlur Rahman, The Gift of Voice to the Voiceless in Bangladesh Community Radio, Knowledge Management for Development Blog (KM4Dev), 5 May 2012, p. 4. Available at: www.km4dev.org/profiles/blogs/the-gift-of-voice-to-the-voiceless-in-bangladesh-community-radio.
271 The issue is still under debate in India, with the Ministry of Information and Broadcasting claiming that spectrum fees should be user agnostic.

the MoIB. Stations which have broadcast at least two hours of programming daily for at least three months continuously are eligible to apply for empanelment. The MoIB sets strict rates and rules for sponsorship and advertising for empanelled stations. In May 2012, these were set for one year at the rate of Rs 4/- per second of advertising and between Rs 4,000 and 6,000 per one-half hour of sponsored programming (depending on the total amount purchased), with 150 seconds of free commercial time (FCT) per 30 minutes of sponsored programming. Sponsored programmes must be produced by the station, and not the sponsoring public body, and may not exceed 50 percent of all programming, while rights to these programmes are shared by the sponsoring public body and the radio station.[272] Taken together, these rules give Indian public bodies significant influence over the financial situation of community radios.

The Ministry of Information and Broadcasting has also put in place a fund for supporting community broadcasters, although this has yet to come into practical operation.

III.3.3 Europe

Not surprisingly, given its relative wealth, Europe provides examples some of the more extensive direct funding support schemes for community broadcasting. These include dedicated funds, as well as support through the funding system for public broadcasting.

Denmark has taken an interesting approach to funding community media, essentially providing funding through the licence fee that all households pay to support public service broadcasting, thereby effectively treating community broadcasting as a component of public broadcasting.[273] The authority for this derives from Article 43 of the 2010 broadcasting law, which states: "The Radio and Television Board may provide grants to non-commercial local radio and television stations". Clause 16 of the Radio Order makes it clear that this applies only to stations that do not carry commercial advertising, and that have strong relations with the community.

Clauses 18-27 of the Order spell out in more detail the rules regarding allocation of the above funding, which is provided on an annual basis. It is capped at the level of the overall operating expenses of the station, and is otherwise calculated on the basis of available funds and eligible hours of programming. The level of the grant is also linked to the stringency of the audit required for the station's expenses, with a statement signed by the manager sufficing for grants under DKK 100,000 (approximately USD17,500), and larger grants requiring more in-depth auditing (clauses 34-47).

France has one of the most established and extensive systems for funding community radios of any country in the world. Funding is provided through the *fonds de soutien à l'expression radiophonique* (FSER). Funding for FSER was, until 2008, provided through a cross-subsidy levied on advertising revenues of commercial radio and television services.[274] Since 2009, however, FSER has been funded though a direct government grant. To be eligible for this funding, the radio must be run by a non-profit association and receive not more than 20 percent of its funding from commercial advertising and sponsorship sources.[275]

Further details about how this funding is allocated are set out in Décret n° 2006-1067 of 25 August 2006, which describes four different types of funding: grants for new stations; equipment grants; operational subsidies; and special project funding (Article 2). New stations must apply for the first type of funding within six months of being established, and grants are capped at Euro 16,000, which is assessed based on the financial plan of the station and its assessed needs (Article 3). Equipment grants, the second type of funding, cannot exceed 50 percent of the cost of the equipment, and may not exceed Euro 18,000 over a five year period (Article 4).

The third type of funding, for which applications are received on an annual basis, with a deadline of 15 April, and which is by far the largest stream, is based on the revenue and service of the station (Article 5). The maximum amount of this funding is based on a joint decision of the Ministers of Finance and

272 Guidelines for Empanelment of Community Radio Stations with DAVP, revised rates of advertising and comprehensive guidelines for sponsored programmes on community radio regulation, 21 May 2012. Available at: http://davp.nic.in/writereaddata/announce/cm_g_rate_card.pdf.

273 See Steve Buckley, Community Media: A Good Practice Handbook (UNESCO, Paris, 2011), p. 15. Avaialble at: http://www.unesco.org/new/en/communication-and-information/resources/publications-and-communication-materials/publications/full-list/community-media-a-good-practice-handbook/.

274 See Article 80(2) of the 1986 Law. The details of this system are found at Article 302 bis KD of the Code général des impôts.

275 See Articles 80(1) and (2) of the 1986 Law.

Communication. In 2001, this was on a sort of sliding scale, starting at nearly all of the costs of the station for smaller stations, reaching a maximum of Euro 42,000 for stations with turnover of between Euro 130,000 and 220,000, and then declining for larger stations.[276]

Finally, the special project fund, also allocated annually with an application deadline of 15 April, is based on a number of considerations – the diversity of funding sources, participation of the community in the station, the programming provided, support for local development and the environment, training provided to employees, and the percentage of programming produced by the station – and may not exceed 25 percent of the total revenues of the station (Article 6).

The system is overseen by the FSER Commission ("commission du fonds de soutien à l'expression radiophonique locale") which, pursuant to Article 15 of the 2006 Decree, has 11 members, including a judge, representatives of four different ministries (culture, communication, integration and finance), four representatives of community radio broadcasters, chosen through their representative organisations, and two representatives of the advertising agencies from which the financial support for the fund used to flow.

In 2011, FSER provided four grants to new stations, each of Euro 16,000 (i.e. for a total of Euro 64,000) and 142 equipment grants in two rounds for a total of about Euro 714,000. Fully 627 radios received operating grants, for a total of about Euro 22.5 million, and nearly as many received special grants totalling about Euro 5.5million. This strong source of funding has enabled a large and vibrant community radio sector in France. A September 2007 report, *The State of Community Media in the European Union*, produced by the European Parliament, estimated that some 2,500 persons were employed by community radio stations in France, with another 38,000 people being engaged as volunteers.[277]

Community media in **Hungary** do not have to make financial bids for "basic media service provision" (i.e. for the use of frequencies) or pay the broadcast licence fee (Articles 52(2)(e), 56(e) and 65(7) of the 2010 Media Services and Mass Media Act). For purposes of advertising, community media are addressed in the same section of the law as public service media, and subject to even more stringent rules. They are, for example, only allowed to carry six minutes of advertising per hour, compared to eight minutes for public service media (Article 36(1)). There are also rules about the placement of advertisements and a prohibition on regular presenters taking part in their production.

The Hungarian law envisages the establishment of a Media Service Promotion and Asset Management Fund, which will support both public service and community broadcasters. This shall be funded primarily through a State contribution based on the number of Hungarian households receiving television services, and overseen by the Media Council, a government-controlled body (Article 136). Contributions from the fund shall be "provided for by way of open tendering", with community media competing against public service media for support. It is not clear to what extent this has resulted in funding flowing to community media in Hungary, where there are an estimated total of 40 community radios and no community television stations.[278] Some local groups have suggested that the new rules, which imposed uniform standards for different types and sizes of community broadcasters (for example by requiring all to provide 20 percent own-source financing, compared to a more flexible approach previously), have been detrimental to smaller community broadcasters, and that this has resulted in a significant reduction in the number of community broadcasters in the country.[279]

Community broadcasters in **Serbia** are exempted from paying the broadcasting licence fee, but not the radio spectrum usage fee (Article 67 of the Broadcasting Act). However, they are more limited in their ability to carry advertisements than commercial broadcasters, being kept to the more stringent limits of public broadcasters. These are a limit of ten percent of overall broadcast time and not more than six minutes per hour of broadcasting (since these are the same, the limit is effectively six minutes in any hour). Commercial stations may carry twice this level of advertisements (see Articles 108 and 109 of the Broadcasting Act).

In **Spain**, Article 32(6) of the national broadcasting law requires non-profit broadcasters to document their sources of funding, as well as their expenditure. It also imposes an overall annual operating limit of Euro 100,000 for television and Euro 50,000 for radio. Article 70 of the 2005 Catalan law prohibits

276 FSER Annual Report 2011. Available at: http://www.dgmic.culture.gouv.fr/IMG/pdf/Rapport_d_activite_2011-2.pdf.
277 Note 200, p. 20.
278 See Community Media Forum Europe table, note 201.
279 See , Mérték, A map of community media. Available at: http://mertek.eu/en/article/a-map-of-community-media.

non-profit broadcasters from carrying advertisements, other than for the activities of the "social economy and the third sector", but it allows them to carry sponsored programmes. End users may not be charged for receiving these services. However, non-profit broadcasters may not be charged for spectrum usage, or by distribution service providers for disseminating their channels. Article 71 also calls generally for support measures, including through a fund to support these broadcasters financed by a tax on the spectrum usage fees charged to commercial broadcasters.

Community radio licensees do not pay any fee to pursue broadcasting in **Sweden** (i.e. they are not obliged to pay licensing or frequency usage fees). Since 1993, they have also been allowed to carry advertising. In practice, however, sustainability is usually dependent on volunteers, funding from other organisations and an *ad hoc* system of grants, primarily from local municipalities.[280]

III.3.4 Latin America

As with access and licensing, Latin America provides both examples of very supportive financial regimes for community broadcasters and more restrictive examples. In most cases, there are no special limits on commercial revenues, and reduced licence fee costs, but the tradition of funds to support community broadcasting is still nascent in the region.

There are no specific restrictions on commercial revenues for community broadcasters in **Argentina**, although Article 76 of the 2009 Audiovisual Media Services Law provides for the regulator to set maximum time limits for official (government) advertising for both profit and non-profit broadcasters. Article 82 sets limits for all broadcasters, for example of 14 minutes per hour for radio, not including material promoting a station's own programming.

Articles 94-96 provide for the taxation of the revenue streams of all broadcasters, depending on the population of the service area, which ranges from 0.5 percent to 2.5 percent for radio broadcasters, increasing along with the service population. Pursuant to Article 97, these taxes shall be allocated to regulatory activities and for various public interest uses. The latter goes mostly to various institutions, such as the National Institute of Cinema and Audiovisual Arts, the National Theatre Institute, and the National Music Institute, but ten percent is for "special audiovisual media projects and support to community, frontier and Native Peoples' audiovisual media services, with a particular focus on cooperation in digitisation projects".

There are no specific constraints on commercial revenues for community broadcasters in **Bolivia** although, pursuant to Article 33 of the 2007 Supreme Decree, all revenues must be used to "ensure the operation and maintenance of facilities and continuity of service provided". Article 34 of the Decree provides that community broadcasters are exempted from paying any fee for the assignment and usage of frequencies, or for other regulatory purposes. However, Article 63(I)(5) of the 2011 telecommunications law requires these broadcasters to pay one-half of one percent of gross revenues to the regulator, while Article 64(III) provides that community broadcasters have to pay for regulation but not spectrum usage fees (while native indigenous peoples and Afro-Bolivian and intercultural communities are exempt). It is not clear how this relates to the earlier rules exempting community broadcasters from paying any regulatory fees.

In **Brazil**, only a nominal fee may be charged for the authorisation process for community radios. They are expected to pay licence fees of around USD120 in their first year and USD60 for subsequent years.[281] These broadcasters may not carry advertising, and may only accept sponsorship "in the form of cultural support for the programs being transmitted" and only from entities based in the service area. They are also prohibited from selling broadcasting services or even their programmes (Articles 18 and 24 of the community broadcasting law). There is no national public system of funding support for community radios.

There are only limited restrictions on access to funding for community radios in **Colombia**. They are allowed to carry sponsored programmes and up to 15 minutes per hour of advertising, which is the same rate as for commercial broadcasters. They are also allowed to receive grants from international organisations, as well as national public bodies (Law 1983 of 2003, Articles 6 and 8). Lower licence fees also apply to community radios.

In **Uruguay**, according to Article 10 of the 2007 Community Broadcasting Law, community broadcasters

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280 Ministry of Culture, Broadcasting Public Service - Financing and Taxes, note 212, section 2.3.4
281 AMARC, "Brasil", s 3.4 d. Available at: http://legislaciones.amarc.org/mordazas/Eng_Brasil.pdf.

may raise revenues from a number of sources including grants, contributions, sponsorship and advertising. All of the funds raised must be reinvested in the operation of the station, and an annual audit should be conducted to ensure that this is the case. Article 10 of the implementing regulations sets strict limits on the amount of advertising, which shall not exceed ten minutes per hour in Montevideo, and 12 minutes per hour elsewhere. Programme promotion and public service announcements, for example about health or emergencies, shall not be counted in this total, provided that own programme promotion shall not exceed three minutes per hour.

III.3.5 Other

In **Australia**, there are both stringent restrictions on the types of funding available for community broadcasters, and also significant public funding for these broadcasters. As noted above, all community broadcasters must be non-profit in nature, in line with the practice in many other countries. Pursuant to clause 9(1) of Schedule 2 of the Broadcasting Services Act, community broadcasters may not carry advertisements. Pursuant to Clause 9(3), they may carry sponsorship messages, but limited to five minutes per hour in the case of radios (and seven minutes for television). Despite this, community radios obtain the largest share of their revenue from this source.[282] Community radio stations also receive significant donations and membership fees,[283] as well as enormous volunteer support, estimated as involving over 22,000 people in 2012.[284] Community broadcasters may also sell time for community announcements and promotional materials, although in many cases this sort of material is carried for free.

Over 15 percent of the funding for community broadcasting in 2011/12, however, came from the Community Broadcasting Foundation (CBF), which in turn is funded by the government through the Department of Broadband, Communications and the Digital Economy (DBCDE). The CBF describes itself as an "independent non-profit funding agency". Its president is nominated by the Board of the Community Broadcasting Association of Australia (CBAA), the sector body, and the vice-president is nominated by the Board of the CBF. In 2011/12, the CBF provided nearly AUS16 million in grants to various community broadcasting activities, of which the largest share (25 percent) went to digital radio, with 23 percent going to ethnic broadcasters, mostly for programming, and smaller amounts going to various other activities including transmission support, general content development and indigenous broadcasting.[285]

Unlike many Western countries, **Canada** has not, historically, provided structural funding to community broadcasters. They have been, and remain, heavily dependent on volunteer contributions, with community radio stations averaging between 73 and 118 volunteers, and producing an average of 52 hours of programming per week. This approach has been supported by the policies of the CRTC, although strict general requirements regarding volunteer contributions were lifted in 2011 in favour of a more case-by-case licensing approach (Broadcasting Regulatory Policy CRTC 2011-507, paragraphs 14-17). Despite the restrictions, data provided by 93 community radios that consistently filed their returns indicated not inconsiderable average revenues of about $240,000 per station in 2008 (Broadcasting Regulatory Policy CRTC 2010-499, paragraph 92).

The approach changed with the adoption of Broadcasting Regulatory Policy CRTC 2010-499. Prior to the new policy, the Community Radio Fund of Canada (CRFC), an independent non-profit body, provided additional funding on a largely *ad hoc*, project basis to community and campus radio. Running in parallel to this were the Canadian Content Development (CCD) rules, which required licensed stations to allocate funds to various initiatives to develop Canadian content. These included set contributions ranging from $500 to $1,000 for stations with revenues of less than $1.25 million,[286] and $1,000 plus .05 percent of revenues over $1.25 million for the larger stations. A levy of six percent of the total transaction value on the transfer of ownership of commercial stations also applied, again with set distribution rules.

Under the new rules, commercial radio stations with revenues in excess of $1.25 million, and all ethnic and spoken word stations, must allocate 15 percent of the CCD levy to the CRFC to support community

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282 See Canadian Radio-television and Telecommunications Commission, International Approaches to Funding Community & Campus Radio, note 244.
283 According to the Community Broadcasting Foundation, some 167,000 Australians support community broadcasting through donations, subscriptions or membership fees. See note 225.
284 See Community Broadcasting Foundation, note 225.
285 Ibid.
286 The Canadian dollar is approximately the same value as the USD at the time of writing.

radio.[287] These funds are to be directed "primarily to enhancing programming and volunteer training" (Broadcasting Regulatory Policy CRTC 2010-499, paragraph 115). Furthermore, 0.5 percent of the value of ownership transfer transactions is also allocated to CRFC (paragraph 109). The CRFC was at the same time required to make itself more accountable to the public and the CRCT (Broadcasting Regulatory Policy CRTC 2010-499, paragraphs 118-120).

The main source of support for community television is a cross-subsidy from cable companies. Community television stations are generally prohibited from carrying advertising (apart from sponsorship and 'contra advertising', i.e. barter of goods and services), and sponsorship messages are limited to 15 seconds (Broadcasting Public Notice CRTC 2002-61, paragraphs 79 and 81).

III.2.6 Analysis

The various systems and approaches reviewed above for promoting the sustainability of community broadcasters can be broken down into three categories: waiving or reducing the fees that must normally be paid to undertake broadcasting; special rules regarding the raising by community broadcasters of revenues through commercial means; and special subsidies or funds for community broadcasting.

Fee Waivers

Many of the countries reviewed – including Bangladesh, Bolivia, Brazil, Hungary, India, Serbia, South Africa, Sweden and Thailand – provide a total or partial fee waiver system for community broadcasters. These waivers apply to either or both of the fees that are normally charged for making an application for a broadcasting licence, and for ongoing licence fees (for the broadcasting licence but more importantly for spectrum usage, which tends to be much higher).[288] Bangladesh and India require community broadcasters to provide a bank guarantee as part of the application process. This approach is not applied elsewhere and it imposes a serious burden many aspirant community broadcasters so that, even in India, it would appear not to be implemented in practice.

Raising Revenues

Most of the countries reviewed above do not impose limitations on the ability of community broadcasters to raise revenues through commercial means. An interesting case is France, where there are no general limits, but community broadcasters which wish to access the (very large) public subsidy scheme cannot raise more than 20 percent of their funding from commercial sources. A large majority of countries globally do, however, impose overall limits on advertising on all broadcasters, which also apply to community broadcasters. Despite the lack of formal limits, in many countries, especially those with more developed broadcasting sectors, community broadcasters struggle to attract advertising, for which they must compete with other media players (commercial broadcasters and many public broadcasters, but also other systems for distributing advertising, such as newspapers and the Internet).

At the same time, a number of countries do impose special overall limits on advertising by community broadcasters. A few – such as Brazil, Indonesia and Spain – prohibit community broadcasters altogether from carrying commercial advertisements, which has resulted in severe constraints on the sustainability of these broadcasters to operate in these countries. Some, such as Bangladesh, limit advertising to certain types of promotions, namely development advertisements, which has also severely limited the growth of the sector. At the same time, Spain does at least allow broadcasters to carry sponsored programmes.

More common is the imposition of special limits on the overall quantity of advertising carried by community broadcasters. In Benin, this may not account for more than 20 percent of the overall budget. In Ethiopia, there is a limit of nine minutes per hour (15 percent of the time), compared to 12 minutes for commercial broadcasters, in Hungary this is six minutes (compared to eight minutes for public service broadcasters and 12 minutes for commercial broadcasters) and in India the limit is five minutes.

The case of Thailand deserves special mention here, because the introduction of a six minute per hour advertising allowance effectively led to the domination of the sector by local commercial radios. This

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287 Broadcasting Regulatory Policy CRTC 2010-499, paragraphs 99 and 103. See also Radio Regulations, 1986 (SOR/86-982), section 15(5).

288 It may be noted that in some countries some of these fees are one-off (i.e. you pay once for making a licence application) but that spectrum usage fees are normally periodic (usually annual). Broadcasters must also pay for the costs of transmitting their signals over the spectrum.

is due mainly to the failure of the law to define clearly what constituted a community radio. The new legislation in Thailand has reverted to a total prohibition on carrying advertisements.

Spain also deserves special mention for its rules imposing an overall limit on the annual turnover of community broadcasters. This unusual regulatory measure would be difficult to justify in terms of international standards regarding restrictions on freedom of expression.

In India, a special system has been put in place to direct government advertising to community radios. The system sets strict standards for eligibility, as well as in relation to the rates and rules regarding fees, which could be characterised as being paternalistic and controlling. On the other hand, if it proves to be successful in channelling public advertising to community radios, then it could be an idea to be considered in other countries. More generally, the issue of using advertising as a subsidy mechanism is fraught with problems, among other things because it can lead to government control, compromises the logic of advertising as primarily a way to reach an audience, and in many cases actual subsidy mechanisms would be preferable.

Where community broadcasters do make a profit, several countries – such as Bolivia, India and Uruguay – specifically require these funds to be returned to the operation of the community broadcasting service. In other countries, this is implicit in the auditing requirements and general requirement of non-profit status for community broadcasters. Interestingly, India allows these funds to be used by the host organisation to pursue its (non-broadcasting) objectives.

Subsidies and Funds

In many poorer countries, international donors are in practice a very important source of financial support for community broadcasters, in particular radio. A few countries have imposed conditions on the receipt of foreign funding by community broadcasters. Thus, in Indonesia, these broadcasters are not supposed to receive "initial" (i.e. setup) funding from abroad, while in India foreign funding is subject to a strict overall system of control (which also applies to foreign funding of other activities), although funding from multilateral bodies, such as the United Nations, is allowed. Inasmuch as broadcasting is supposed to be a national resource, there may be some justification for monitoring foreign involvement in community broadcasting, along the same lines as limits on foreign ownership of the media may also be justified (and are imposed in many countries). At the same time, this cannot automatically be justified in terms of international standards, especially if the purpose or effect is to obstruct community broadcasters from gaining access to an important and often perfectly legitimate source of support.

Many countries, both developed and developing, have established specific support funds for community broadcasters. These are funded in different ways, including through direct government support (Australia, France, South Africa and Thailand), through cross-subsidies from commercial broadcasters (Argentina, Canada and South Africa), through the fees and fines that are charged to/imposed on broadcasters (Thailand), and through the general licence fee that supports public service broadcasting (Denmark). In other countries, such as Sweden, community broadcasters tend to obtain funding on a more *ad hoc* basis from the municipalities in which they operate. Due to the challenges that community broadcasters face in raising funds from other sources, and in particular the challenges of competing with other players for scarce advertising revenues, support through a dedicated fund is an important form of support for sustainable community broadcasting. At the same time, it is very important than such funds operate in a transparent way and are overseen by independent bodies, or they can become a vehicle for political influence or control.

Mafeteng Community
Radio Station

Engagement, Editorial and
Management

Policy
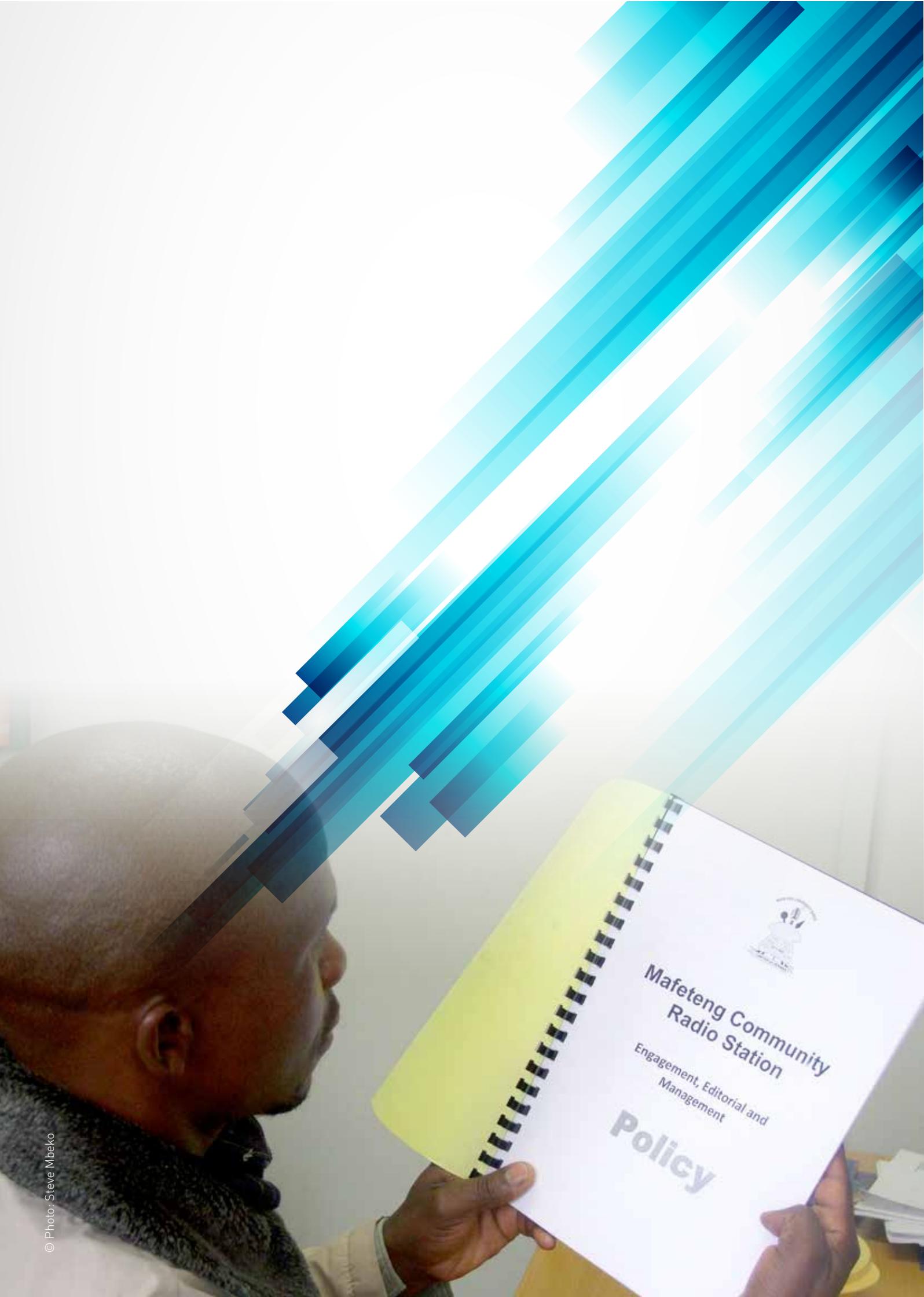
PART IV: DEVELOPING REGULATORY ENVIRONMENTS

In a number of countries, there are only limited or emerging legal and regulatory frameworks for community broadcasting. In some of these countries, there is little or no actual experience of community broadcasting, for the most part because it has not been authorised. In others, in contrast, community broadcasting has managed to emerge, and in some cases flourish, even though the regulatory system does not specifically recognise it. This part of the Report provides an overview of some key developments in ten countries with limited regulatory regimes for community broadcasting. The six countries falling into the first category have all made a commitment to develop legal frameworks aimed at nurturing community broadcasting, while the four falling into the second one represent the imperative of community broadcasting even in the absence of an enabling environment.

IV.1. Limited Existing Community Broadcasting

This section of the Report describes a number of countries where community broadcasting is limited or non-existent, but there are concrete plans to put in place regulatory structures for this category of broadcasting. This demonstrates the strength of the global trend towards recognition of community broadcasting, as well as the standards which are being considered in newer regulatory environments.

In **Mongolia**, the legal system does not yet formally recognise community broadcasting. However, change would appear to be imminent, with the President's National Programme on Civic Participation and Direct Democracy having recognised community radio. Furthermore, discussions about a broadcasting law – which the country currently does not yet have – are ongoing. A number of radios are registered with NGOs, and could be considered to be community radios, and there are also community radios established by different donors in some of the provincial (aimag) centres, which also often get some funding support from the provincial government. UNESCO also supports some of the local radios under the public Radio and Television Network.

In **Bhutan**, community media is a new idea which does not yet exist in practice and for which there is no specific regulatory framework. The one possible exception to this is a radio that has been licensed to Sherubtse College, as a sort of campus radio.[289] However, the airwaves were partly liberalised in 2006 with the Bhutan Information, Communications and Media Act (BICMA) of that year, and there are now a number of private radio stations, although television remains a State monopoly. Significantly, for a country which just embraced private broadcasting relatively recently, a new broadcasting law currently being considered authorises the regulator to "reserve certain radio frequency bands for social and community radio-communication services".[290]

The **Maldives** is another country which does not yet have any community broadcasting. In the past, there were no formal obstacles to this, but at the same time there were no efforts to facilitate it.[291] However, as recently as December 2012, the Government of the Maldives held meetings to plan research into how this sector could usefully and sustainably be developed in the country.[292]

Myanmar is currently undergoing a process of democratisation, which involves a strong media law reform component, including proposals to introduce a new press law, public media law and broadcasting law. At the moment, there is very limited private broadcasting, which mainly consists of a few players operating in partnerships (joint ventures) with the State broadcaster, Myanmar Radio and Television (MRTV), a satellite television station and a few radios which were originally licensed

289 Department of Information and Media (DoIM), Ministry of Information and Communications (MoIC), Royal Government of Bhutan, in collaboration with IMS, UNESCO and UNDP, Media Development Assessment 2010, p. 31. Available at: http://www.unesco.org/new/en/newdelhi/about-this-office/single-view/news/media_development_assessment_2010_in_bhutan/.
290 Section 219 of the draft Bhutan Information, Communications and Media Act 2012.
291 See Toby Mendel, Assessment of Media Development in the Maldives Based on UNESCO's Media Development Indicators (2009: UNESCO, Paris), p. 7. Available at: http://portal.unesco.org/ci/fr/files/28892/12459422999media_assessment_maldives.pdf/media_assessment_maldives.pdf.
292 See Maldives Broadcasting Commission commences a preliminary research on community broadcasting, 3 December 2012. Available at: http://www.broadcom.org.mv/home/f/page.php?menu=3&id=137.

to serve rural communities but which, due to sustainability challenges, have now had their licences extended to cover urban areas.

The new proposals for the broadcasting law would significantly open up the airwaves, and envisage the licensing of private terrestrial broadcasters in both the television and radio sectors. Significantly, these proposals also envisage the licensing of community broadcasters, including the reservation of an equitable portion of the spectrum frequency for these broadcasters.[293] While the proposals remain developmental at the moment, they demonstrate the degree to which recognition of community broadcasting is becoming mainstream in broadcast regulation.

In **Nigeria**, there are a number of campus radios, but no community broadcasters as such.[294] However, section 2(1) of the National Broadcasting Commission Act[295] empowers the National Broadcasting Commission (NBC) to develop regulatory instruments. The 5th Edition of the NBC's Nigeria Broadcasting Code, which remains a draft document, recognises three tiers of broadcasting, public, commercial and community (clause 2.1). The 4th Edition, adopted in 2006, also includes some limited provisions on community broadcasting.

Chapter 9 of the draft Code defines community broadcasting as "a non-profit, grassroots public broadcast service medium through which community members are able to contribute and foster civic responsibilities and integration", and a community as being either a geographic community or a community of interest. In terms of form, the draft Code refers to local, non-profit organisations, educational institutions, cultural associations, co-operative societies, and partnerships of associations. In each case, the entity is supposed to be "owned and controlled by the community through a trusteeship or a foundation with a Board of Trustees", members of the community should participate in the operation of the station and prominence should be given to languages spoken in the community (clauses 9.0.1, 9.0.2, 9.0.3, 9.2.1 and 9.3). More specific rules are set out for campus broadcasters, as a category of community broadcaster (section 9.7).

In terms of licensing, the conditions of operation would be set by the NBC (clause 9.0.6). Political parties, religious bodies, individuals and profit-making corporations would not be given community broadcasting licences (clause 9.5). The draft Code lists community resources, donations and 'spot advertisements' as sources of funding for community broadcasters (clause 9.1.1). Spot advertisements are not defined.

In the **Solomon Islands**, pursuant to the Telecommunications Act 2009,[296] the Telecommunications Commission of the Solomon Islands (TCSI) has the authority to regulate broadcasting. Although the Act does not explicitly mention community broadcasting, the online forms for applying for broadcasting licences that have been prepared by TCSI include the option of clicking on 'community' as a client type.

An important experiment with community radio in the Solomon Islands is the Isabel Learning Network, a network of eight stations based in the province of the same name, seven of which operate only on solar power. The stations are governed through an MOU between the provincial government and village-based committees, that are increasingly taking responsibility for managing and running the stations. Most of the funding so far has come from international donors and the Isabel Provincial Government, although efforts are currently underway to increase their sustainability.[297]

IV.2. Community Broadcasting without Regulation

This section of the Report describes a number of countries where there has been reasonably strong development of community broadcasting even in the absence of, or very limited, dedicated regulation of this sector. These countries illustrate the vitality of community broadcasting, and the imperatives of recognising it so as to give voice to communities. At the same time, they also illustrate importance of having a proper regulatory environment for these broadcasters, inasmuch as they demonstrate some of the potential challenges when the regulatory environment is underdeveloped.

293 Interviews by the author with a range of local stakeholders, including staff at the Ministry of Information, during missions to Myanmar from 19-24 November 2012 and 20-27 February 2013.
294 See Innocent Paschal Ihechu and Onwuka Okereke "The Limits of Community Broadcasting in Nigeria: Connotations for South-North Conversations" 2012(6) New Media and Mass Communication. Available at: http://www.iiste.org/Journals/index.php/NMMC/article/view/3117/3158.
295 Act No. 55 of 1999.
296 Act No. 20 of 2009.
297 See About the Isabel Learning Network. Available at: http://communitymediasolomons.wordpress.com/isabel-learning-network/.

A good example of this category is **Mali**, where the community radio sector is strong, with over 120 community radios belonging to the main representative organisation, URTEL (LĐUnion des Radios at Télévisions Libres du Mali).[298] Mali has been described as being at the "forefront" of moves to recognise community broadcasting in Africa,[299] and as having a "thriving rural community radio sector serving a large majority of the rural population in local languages".[300]

There is a basic legal regime to govern the sector, in the form of a 2002 Decree.[301] This includes a basic definition of and rules for associative or non-profit radios, which may be private, community-based or religious, which must carry at least 70 percent local programming, and which may raise funds from various sources, including local advertising. Interestingly, the Decree is fairly prescriptive in relation to the organisational structure of these radios, which shall include a general assembly, normally representing the whole community.

However, the success of the sector can be largely attributed to supportive practices in relation to licensing of this sector, along with strong community support, rather than anything formal in the law. Two factors appear to be particularly important here. The first is a simple, open, non-bureaucratic licensing system, even though this is done directly by the Ministry of Communications, through its Office de radiodiffusion et de television du Mali (ORTM) (Office of Radio and Television Broadcasting). This is combined with a simple and very low-cost system for allocating frequencies to new radio stations.

Second, community radios in Mali appear to have very strong support from the communities in which they operate, in part due to the fact that they broadcast largely in local languages, which members of the community understand, in addition to the official language of French. This has tended to support active community involvement in these stations, including in terms of providing financial and human resource support. While most stations have benefited from occasional external support, usually from donors or NGOs, most are self-sufficient on an ongoing basis. Media in Mali are exempt from taxes, another important form of official support.[302]

In **Mozambique**, there is a strong community radio sector, despite an absence of enabling legislation. In 2012, there were approximately 80 stations falling under a broad definition of community radios,[303] broadcasting in 18 national languages in addition to Portuguese (the official language). These were essentially divided into three categories: government local radios, church radios and more classical community radios owned by local organisations. The former fall under the rubric of the Institute for Social Communication (ICS), a body which is under the Prime Minister's office and which was created in 1977 to promote rural development. The other two groups mostly belong to the National Forum of Community Radios (FORCOM or Fórum Nacional das Rádios Comunitárias), a Mozambican NGO which was created in 2004 as part of the UNESCO community radio project.

There is no formal recognition of community radios in law and, indeed, no dedicated broadcasting law in Mozambique. This leaves community radios largely unregulated in law. The 1997 Information Policy and Strategy does recognise the community radio sector, and also proposes the adoption of a law on broadcasting which would do the same, although this has not yet happened. In practice, licensing is largely under the control of the government, falling under the joint responsibility of the Government Information Bureau (GABINFO or Gabinete de Informação), which is in the Prime Minister's office and which handles licensing, and the National Institute of Communications (INCM or Instituto Nacional das Comunicações de Moçambique), which falls under the Ministry of Transportation and Communications and handles spectrum issues. INCM offers *ad hoc* tax exemptions to community radios, and the NGOs which run many of them also benefit from tax exemptions.

While these government bodies have been open to licensing community radios, the sector still suffers from the lack of proper legal recognition. Another problem is that journalists working for community radios do not fall within the scope of the definition of journalists in the 1991 Press Law.[304]

298 See ICT Regulation Toolkit, Rural community radios in Mali. Available at: http://www.ictregulationtoolkit.org/en/PracticeNote.3153.html.
299 Steve Buckley, Community Media: A Good Practice Handbook (2011: UNESCO, Paris), p. 2.
300 ICT Regulation Toolkit, Rural community radios in Mali.
301 Décret n°02- 22 7 /P-RM DU 10 mai 2002 portant statut des services privés de radiodiffusion sonore par voie hertzienne terrestre et modulation de fréquence.
302 Heather Gilberds, Mali: Case Study on Donor Support to Independent Media, 1990-2010, p. 12. Available at: http://www.mediamapresource.org/wp-content/uploads/2011/04/Mali_web-1.pdf.
303 Infoasaid, *Mozambique: Media and Telecoms Landscape Guide.* Available at: http://www.infoasaid.org/sites/infoasaid.org/files/mozambique_media_guide_-_final__050712_3.pdf.
304 UNESCO, *Assessment of Media Development in Mozambique Based on UNESCO's Media Development Indicators*

The situation in the **Philippines** is a bit different and there community radio has managed to play a significant social role despite an essentially hostile legal environment and strong competition from well-funded commercial broadcasters. The law fails to recognise community broadcasting, or to establish less onerous conditions for licensing this sector. Indeed, the sector is almost entirely ignored in law, apart from one reference in Memorandum Circular No. 10-8-91, Subject: Criteria for the Grant of Commercial Radio Station Licenses, adopted by the regulator, the National Telecommunications Commission (NTC-P). Clause 1.0(k) of this Memorandum prioritises the licensing of "Religious organisations, charitable institutions as well as civic action organisations particularly those involved in missions in remote areas and in the provinces provided that such radio network shall only be limited to provide service within their respective remote areas of operation and to and from the remote areas of operation and the main and/or regional offices."

Despite these challenges, the Tambuli Community Radio Network, established by donors in 1991, has played an important role in providing community media services. However, it has fallen from a strong point of some 24 stations serving rural areas throughout the Philippines to just five stations in early 2012, due to financial challenges and financial support from donors being withdrawn.[305] Perhaps the best lesson to be learned from this is that while donor support can be crucial to getting a community radio going in an otherwise difficult environment, sustainability is always a challenge.

Nepal is another country which has seen relatively successful growth of community radio in the absence of a dedicated regulatory structure. Nepal was home to the first licensed community radio in South Asia, Radio Sagarmatha, which started broadcasting in 1997. It was also one of a small number of countries where community radio was the first type of broadcasting to be allowed alongside a former public broadcasting monopoly. Radio Sagarmatha's first licence imposed a number of stringent conditions on its operations, including that it could not broadcast news or current affairs, that it could not carry advertisements and it had to have a government representative on its governing board.[306]

Much has changed in the 16 years since Radio Sagarmatha first came on air. By mid-2011, for example, the country boasted nearly 400 independent radio stations, including 150 private stations and nearly 250 community stations.[307] But the regulatory framework – formally consisting largely of the National Broadcasting Act, 1993 and the National Broadcasting Regulations, 1995 – remains essentially the same as it was back then. Neither of these sets of rules provides for explicit recognition of community radio, with the result that the licensing process and rules for this sector are the same as for the commercial radio sector.

The absence of a clear definition of community radio has led to a situation where the distinction between community and commercial stations is largely based on self-selection, versus a regulatory choice based on established criteria. As a UNESCO-sponsored report prepared in 2007, on the 10th anniversary of the first community radio in Nepal noted:

> Despite large numbers of stations that use the label 'community radio', many of these stations would score low or fail if a well thought out set of criteria – including those principles espoused by Nepal's own community radio groups – were applied to their operations. This inconsistency is exacerbated by the absence of definitions, standards and criteria as well as the means to enforce them.

And:

> [F]ew of Nepal's radios are truly *community owned*. What they are is non-profit (which is at present the basic criteria for a station to be considered a 'community radio' in Nepal).[308]

The lack of a dedicated regulatory framework also means that community radios bear the same financial burdens as profit-making stations, including in terms of taxes and royalties.

(2011: UNESCO, Paris), pp. 32 and 47.

305 Infoasaid, Philippines: Media and telecoms landscape guide (August 2012), p.30. Available at: http://infoasaid.org/sites/infoasaid.org/files/philippines__guide_final_030812.pdf.

306 See Sudhamshu Dahal and I. Arul Aram, "Crafting a community radio 'friendly' broadcast policy in Nepal". Available at: obs.obercom.pt/index.php/obs/article/download/506/459.

307 See Community Radio Support Center (CRSC)/ Nepal Forum of Environmental Journalists (NEFEJ), Community MHz: Assessing Community Radio Performance in Nepal (2011), p. 23. Available at: http://un.org.np/reports/community-radio-performance.

308 Ian Pringle and Bikram Subba, Ten Years On: The State of Community Radio in Nepal (2007: UNESCO, Paris), pp. 15 and 27. Available at: http://portal.unesco.org/geography/en/files/7991/11966615215State_of_Community_Radio_in_Nepal_abridged.pdf/State+of+Community+Radio+in+Nepal_abridged.pdf.

PART V: RECOMMENDATIONS

This section contains concrete recommendations regarding the regulation of community broadcasting, with a specific focus on community radios, which are more developed than other forms of community media in most countries. The recommendations are based on international standards, as well as better comparative practice among the States reviewed in this Report. They start from the proposition, which is well established both in international standards and State practice, that community media make an important contribution to media diversity, development and democracy and that, as a result, States are under a positive obligation to create an enabling environment in which these media can exist and flourish.

The recommendations are broken down along the same lines as the main comparative part of the Report, namely into Recognition, Definition and Form; Access and Licensing; and Funding and Sustainability. They are intended to guide States, and the range of engaged stakeholders – community media, journalists, civil society, decision-makers, academics, legal professionals – as they work to put in place or to revise the legal and regulatory frameworks governing community broadcasting.

Recognition, Definition and Form

- Community broadcasting should be recognised as an entirely distinct form of broadcasting (i.e. which is separate and different from either commercial or public service broadcasting).

- Any regulatory conditions on or requirements for community broadcasters should not be vague or aspirational in nature, or so general that they serve no specific regulatory purpose.

- Neither government actors nor political parties should be eligible to receive licences for community broadcasting.

- Licences for community broadcasting should only be allocated to non-profit entities, and the extraction of profits in any form from these entities should not be allowed (although internal reinvestment of 'profits' should be allowed).

- No specific requirements regarding form should be imposed on community broadcasters, including a requirement that the founder be an established legal entity, unless they serve to promote the development of the sector and do not pose a significant barrier to aspirant broadcasters.

- Community broadcasters should be required to serve and have links to an identifiable community, which might be a community of interest, a geographic community or both.

- Specific requirements regarding links to the community may relate to issues such as ownership, funding, programming, and management and operations. Such requirements should be concrete and realistic and may govern such issues as structure (for example a requirement of community membership on the governing board), programming (for example, a requirement that a minimum quota of programming be produced by the community) or others (for example, a requirement that members of the community serve as volunteers at the station).

- Specific requirements as to the nature of the programming of community broadcasters may be imposed as long as these are relevant, for example because they promote the objective of serving the informational and voice needs of the community, and are not unduly vague, general or onerous.

Access and Licensing

- Community broadcasters should be allowed to make use of all available systems to disseminate their content, subject only to legitimate regulatory regimes to license the radio frequency spectrum.

- There should be an equitable allocation of that part of the radio frequency spectrum used for broadcasting – in both the analogue and digital environments – to community broadcasting uses, whether this is explicit (i.e. written into the law or policy) or implicit (i.e. delivered in practice through the licensing process). Must-carry rules should, where this is needed to

ensure equitable access, be imposed on distribution operators.

- To facilitate access by community broadcasters to licences, special licensing processes should be put in places which are fair, simple, and appropriately tailored to the community broadcasting sector. Applicant initiated (i.e. ad hoc), as opposed to tender-based, licensing processes should be considered where relevant, in particular in areas where pressure on spectrum is relatively low.

- Additional licensing approaches to further facilitate the ability of community broadcasters to operate should be considered, including open access systems (for example, automatic licensing once certain basic criteria are met in areas of low demand for spectrum or for very low power transmitters), developmental or interim licensing, arrangements for sharing spectrum and minimum requirements regarding programming (to prevent spectrum being occupied by excessively low-output stations or to ease entry into the sector).

- No general limitations on power, range or antenna height should be imposed on community broadcasters. Instead, any technical conditions along these lines should be developed and applied through the licensing process, taking into account the size of the community and the way community is defined in the context of the overall broadcasting environment, pressure on frequencies and other relevant considerations.

Funding and Sustainability

- The fees that community broadcasters have to pay to gain access to licences and distribution systems should not be so large as to exert a chilling effect on them. To avoid this, consideration should be given to waiving, or at least substantially reducing, fees for applying for licences, as well as annual broadcasting and/or spectrum usage fees.

- No special fees should be imposed on community broadcasters.

- Community broadcasters should be allowed to access commercial sources of revenue, such as advertising and sponsorship, on a non-discriminatory basis, although it is legitimate to require these broadcasters to use all the funds they raise for the benefit of the station (i.e. that they respect non-profit rules).

- Consideration should be given to putting in place systems that might facilitate access by community media to advertising, particularly advertising by public bodies, without turning such advertising into a subsidies mechanism.

- Any restrictions on the provision of support to community broadcasters by donors, including foreign donors, should be imposed only where strictly necessary to protect the independence of these broadcasters.

- A system for providing public funding support to community broadcasters should be considered, provided that it should be protected against political and other forms of interference.

CONCLUSION

Community media, and in particular community radio, has roots as far back as the 1940s, and has been operating in many countries for quite some time. It is, however, only in more recent times, mostly over the last 15 to 20 years, that more sophisticated regulatory systems for community broadcasting have started to emerge. The earlier regulatory efforts were developed mostly in Europe, including in France, Denmark and the Netherlands. At the same time, in these countries, in part precisely because they were to some extent trailblazers, the regulatory regime was put together over time, with the result that it remains somewhat piecemeal in nature. The more comprehensive regulatory regimes tend to be found in countries which have introduced their regulations more recently, such as in Bangladesh, Bolivia, India, South Africa and Uruguay.

Regardless of when they were developed, the approaches reviewed in this Report demonstrate more variety than convergence. On some issues, such as funding and transmission power, different countries have taken directly opposing approaches, while on others, such as definition, a wide range of different approaches is found. In some cases, this diversity simply reflects the variety of ways in which community broadcasting has evolved, as well as different local priorities and needs. In other cases, the approaches reflect very different underlying conceptions of the role of community broadcasting in society.

Not all of the countries reviewed here necessarily represent better regulatory practice and in some the environment even for commercial broadcasting is constrained. But they do illustrate the overriding importance of community broadcasting, which has been or is about to be recognised in all of them. They also demonstrate the clear trend globally towards a significant increase in recognition of community broadcasting, based on local demand, as well as the important contribution this sector can make to freedom of expression and diversity in the airwaves.

A few key regulatory mechanisms are particularly important if community broadcasting is to flourish in any country. While definitions will vary, based on local circumstances – for there is a vast difference in the needs of a poor, low population density country and a rich, highly urbanised one – it is essential that the definition clearly distinguish between public (or State) broadcasting and commercial broadcasting, on the one hand, and community broadcasting, on the other. If this is not done, there is a risk that these other two sectors will effectively poach on any space reserved for community broadcasters. A particular feature of community broadcasters should be some form of requirement of link to the community.

The radio spectrum is a scarce public resource and while all broadcasters compete in certain respects (for example for audiences and sometimes advertising and staff, a protected area of spectrum is needed where aspirant community broadcasters can compete with each other for licences. There is thus a need to protect spectrum, and other dissemination resources, for community broadcasters, and to put in place special, simple licensing procedures for them. The licensing process should also take into account the need of these broadcasters to reach their communities effectively.

In most countries, community broadcasters face serious sustainability challenges. They can be supported by controlling their costs through waiving or significantly reducing licence and spectrum usage fees. They should also have access to commercial revenue streams, which are an important supplementary source of funding for them. Sustainability in many contexts is ultimately dependent on the provision of public funding to these broadcasters, whether this comes from domestic or foreign sources.

International standards call on States to recognise all three types of broadcasters: public service, commercial and community. In many countries, legal recognition of the third type has lagged behind the other two. There is now a clear global trend towards changing this, with many countries having put or currently considering putting in place more comprehensive regulatory frameworks for community broadcasting. If these frameworks are to foster, rather than inhibit, this key broadcasting sector, they must both respect certain minimum standards, and otherwise be carefully designed to reflect local circumstances and needs. By outlining those standards and presenting a range of local approaches regarding the regulation of community broadcasting, it is hoped that this Report will assist those seeking to engage in reform efforts.

APPENDIX:
NOTE ON METHODOLOGY

The primary methodology used to research this Report was desk-based and library research. This took advantage of the growing online availability of legal materials, and a number of framework studies which provide references to those legal materials, including the Open Society Foundations' *Mapping Digital Media* series.

In a number of cases, desk-based research was supplemented by interviews with and/or targeted questionnaires for local experts. Wherever possible, country sections were extracted from the draft Report and sent to local experts for review for accuracy and completeness.

Although the Report contains extensive references and draws on a very considerable body of documentation, it is also important to note that the researchers faced challenges in obtaining background material in relation to some countries. One challenge was language, since for many countries most of the research is only available in local languages. Another was the fact that despite the growing recognition of the importance of community media, and especially community radio, and its impressive growth as an on-the-ground reality, the state of research and publication regarding community media, and especially regarding the legal frameworks governing this important broadcasting sector, remains relatively underdeveloped.

AFRICA

Benin
Haute Autorité de l'Audiovisuel et de la Communication (HAAC)
http://www.haacbenin.org

Botswana
Botswana Communications Regulatory Authority
http://www.bta.org.bw/

Burkina Faso
Conseil supérieur de la communication
http://www.csc.bf

Cameroon
Conseil National de la Communication
http://cnc.gov.cm

Ethiopia
Ethiopian Broadcasting Agency
http://www.eba.gov.et/web/webenglish.htm

Central African Republic
Haut Conseil de la Communication
http://hcccentrafrique.wordpress.com

Republic of Congo
Conseil Supérieur de la Liberté de la Communication
http://tinyurl.com/mg52ug9

Ivory Coast
Haute Autorité de la Communication Audiovisuelle
http://www.haca.ci/

Ghana
National Media Commission
http://www.nca.org.gh/

Guinea
Conseil National de la Communication
http://cncguinee.org

Kenya
Communications Commission of Kenya
http://www.cck.go.ke/

Mali
Conseil Supérieur de la Communication
http://www.refram.org/membres/Mali_CSC

Mozambique
Conselho Superior da Comunicação Social
http://www.cscs.gov.mz/

Nigeria
Nigerian Communications Commission
http://www.ncc.gov.ng/

Rwanda
Rwanda Utilities Regulatory Authority
http://www.rura.rw/index.php?id=2

South Africa
The Independent Communications Authority of South Africa
http://www.icasa.org.za

Senegal
Conseil National de Régulation de l'Audiovisuel
http://www.cnra.sn/do/

Sierra Leone
Independent Media Commission
http://www.imc-sl.org

Uganda
Uganda Communications Commission
http://www.ucc.co.ug/

ASIA PACIFIC

Afghanistan
Afghan Telecommunications Regulatory Authority
http://atra.gov.af/en

Bangladesh
Bangladesh Telecommunication Regulatory Commission
http://www.btrc.gov.bd/

Bhutan
Bhutan InfoComm and Media Authority
http://www.bicma.gov.bt/

India
Telecom Regulatory Authority of India (TRAI)
http://www.trai.gov.in/

Indonesia
Indonesian Broadcasting Commission
http://www.kpi.go.id/

Kazakhstan
Ministry of Transport and Communications
http://en.government.kz/structure/government/mintrans

Malaysia
Malaysian Communications & Multimedia Commission
http://www.skmm.gov.my

Mongolia
Communications Regulatory Commission
http://crc.gov.mn

Nepal
Nepal Telecommunications Authority
http://www.nta.gov.np/en/

Pakistan
The Pakistan Electronic Media Regulatory Authority
http://www.pemra.gov.pk/pemra/

Philippines
National Telecommunications Commission
http://www.ntc.gov.ph/

Singapore
The Media Development Authority (MDA)
http://www.mda.gov.sg

Solomon Islands
Telecommunications Commission of the Solomon Islands
http://www.tcsi.org.sb/

South Korea
Korea Communications Commission
http://eng.kcc.go.kr/user/ehpMain.do

Thailand
National Broadcasting & Telecommunications Commission
http://www.nbtc.go.th/wps/portal/NTC/en

Vietnam
Vietnam Telecommunications Authority
http://www.vnta.gov.vn

ARAB STATES

Morocco
Haute Autorité de la Communication Audiovisuelle
http://www.haca.ma

Tunisia
Haute Autorité de la Communication Audiovisuelle
N/A

EUROPE AND NORTH AMERICA

Belgium
Conseil Supérieur de l'Audiovisuel de la Communauté Française
http://www.csa.be

Croatia
Croatian Post and Electronic Communications Agency
http://www.hakom.hr

Iceland
Post- and Telecom Administration
http://www.pfs.is

Finland
The Finnish Communications Regulatory Authority
https://www.viestintavirasto.

France
Conseil Supérieur de l'Audiovisuel
http://www.csa.fr

Germany
Direktorenkonferenz der Landesmedienanstalten
http://www.die-medienanstalten.de

Greece
National Council for Radio and Television

Hungary
National Media and Infocommunications Authority
http://english.nmhh.hu

Italy
Autorità per le Garanzie nelle Comunicazioni

Luxembourg
Conseil National des Programmes
http://www.cnpl.lu

Netherlands
Commissariaat voor de Media
http://www.cvdm.nl/english/

Norway
Norwegian Media Authority – Medietilsynet
http://www.medietilsynet.no/

Poland
National Broadcasting Council – KRRiT
http://www.krrit.gov.p

Spain
Telecommunications Market Commission
http://www.cmt.es

Switzerland
Office Fédéral de la Communication
http://www.ofcom.admin.ch

Turkey
Information and Communication Technologies Authority
http://www.btk.gov.tr

Ukraine
National Communications Regulation Commission
http://www.nkrz.gov.ua/uk

United Kingdom
Office for Communications
http://www.ofcom.org.uk/

Canada
Canadian Radio-television and Telecommunications Commission
http://www.crtc.gc.ca/

United States of America
Federal Communications Commission
http://www.fcc.gov/

LATIN AMERICA AND THE CARIBBEAN

Argentina
Comisión Nacional de Comunicaciones
http://www.cnc.gov.ar

Bolivia
Autoridad de Regulación y Fiscalización de Telecomunicaciones y Transportes
http://att.gob.bo

Brazil
Agência Nacional de Telecomunicações
Colombia
Comisión de Regulación de Comunicaciones
http://www.crcom.gov.co

Costa Rica
Superintendencia de Telecomunicaciones
http://sutel.go.cr/

Ecuador
Secretaría Nacional de Telecomunicaciones
http://www.regulaciontelecomunicaciones.gob.ec/contacto/

El Salvador
Superintendencia General de Electricidad y Telecomunicaciones
http://www.siget.gob.sv/

Guatemala
Superintendencia de Telecomunicaciones
http://www.conatel.gob.hn/

Honduras
Comision Nacional de Telecomunicaciones
http://www.conatel.gob.hn/

Mexico

Instituto Federal de Telecomunicaciones

Nicaragua

Instituto Nicaragüense de las
Telecomunicaciones y Correos

http://www.telcor.gob.ni/Default.asp

Panama

Autoridad Nacional de los Servicios Públicos

http://www.asep.gob.pa/default.asp

Peru

Ministerio de Transportes y Comunicaciones

http://www.mtc.gob.pe/portal/inicio.html

Uruguay

Unidad Reguladora de los Servicios en
Comunicaciones

http://www.ursec.gub.uy

Antigua and Barbuda

The Home of Telecommunications

http://www.telecom.gov.ag/

Barbados

Barbados Broadcasting Authority

Jamaica

The Broadcasting Commission of Jamaica
http://www.broadcastingcommission.org/

Trinidad and Tobago

Telecommunications Authority
https://tatt.org.tt/