PSB Policymaking in Comparative perspective: The BBC Charter Review process and the French Commission pour la nouvelle télévision publique ¹

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Introduction

It has become conventional wisdom to argue that communications policymaking is converging within Europe, as digitisation, technical convergence, policy transfer and the EU regulatory framework make themselves felt across the Union. (Harcourt, 2006) I have previously argued that national cultural policy differences mean there is more scope for persistence of national approaches in broadcasting than others have given credit for. (Levy, 2001) But in recent years policy towards PSB has been seen as one of the most exposed areas in this regard, as common technological and consumer trends are complemented by an increasingly intrusive State aid framework constraining the freedom of manoeuvre both of PSBs and member states. Writing of the Dutch case three authors from a previous RIPE conference stated that: "For the last fifteen years, national broadcasting policy has been eclipsed by European audiovisual policy." (Peters, d'Haenens, & Bardoel, 2005)

This paper examines these trends in the light of the dual policy review processes in which the author participated, of the BBC Charter Review and the French review of their PSB system conducted by a mixed Commission of parliamentarians and professionals in 2008 which led to new legislation on France télévisions in 2009 changing its funding, organisation, governance and editorial priorities.²

The paper aims to compare the degree of convergence or divergence in the policy styles, agendas, evidence bases, approaches and outcomes adopted in both countries. It will provide an overview of the context against which each of these review processes took place, the key issues in play and the outcomes before moving on to consider the degree of direct involvement of the broadcaster themselves the Executive and Parliament, and the roles of the public, experts, and different stakeholders on policy in the two countries.

Finally it will conclude by assessing the degree to which EU State aid policy can be seen as a determining force in both countries as their governments considered how to adapt public service broadcasters to an era of public service media.

¹ PLEASE DO NOT CITE WITHOUT CONTACTING THE AUTHOR
² The full title was the Commission pour la nouvelle télévision publique, commonly referred to in France as the Copé Commission, after its Chairman, Jean-Francois Copé, and hereafter referred to variously as the French Commission or simply the commission. For details of the author see http://reutersinstitute.politics.ox.ac.uk/about/institute-staff/dr-david-levy.html
The context for and origins of the two review processes

The British and French broadcasting markets may appear roughly but in reality they are very different. The BBC's monopoly ended in the UK with the creation of ITV in 1955, whereas the French state monopoly over broadcasting only ended in the 1980s. In France, public debate over intervention in the media space is focused primarily on film, whereas in Britain it is devoted to public service broadcasting, with film coming a very long way behind. Finally, according to Ofcom figures the UK overall broadcasting market measured by TV revenues per head is much larger than that in France at £172 per head per annum compared to a figure for France of £138. (Ofcom, 2009) Perhaps more significant for this discussion of the broader public service broadcasting according again to Ofcom figures the amount per head of public funding spent on television in Britain is £44 pa compared to the figure of £26 in France.

British broadcasting, in the shape of the BBC, has more and more reliable funding than France Télévisions (FTV), a significantly higher licence fee, is much larger in terms of staffing as well as revenues, and has the advantage of combining together Radio & TV and now online. The BBC has also been accustomed to arguing its case both for much longer than in France, and particularly in the past two to three decades in an environment where most public policy debates see the market as the default position and where public intervention in broadcasting regularly needs to be justified. Given that difference it may seem surprising that at least until the end of 2008, it was FTV that relied for one third of its revenues on advertising and only two thirds from the licence fee whereas in the case of the BBC the vast majority of its revenues come from the licence fee. The explanation lies in part on a mixed UK PSB system where industry acceptance of the BBC is predicated on it competing for audiences but not for revenues with other advertising funded broadcasters.

The contexts for the two reviews, the BBC Charter Review, and the French Commission, were very different. The BBC Charter Review process takes place regularly, normally on a 10 year cycle, and generally involves sustained engagement by both the BBC and the government for the three years or so preceding the expiry of the previous charter. The consequence of this for the BBC is that Charter Review processes are expected and hence can be planned for, although the far reaching nature of the process means that everything, from its funding system, to the level of funding, to the role and remit of the BBC, is up for discussion. However, as with all Charter Review processes, in 2006 there was not any predetermined approach established by government.

By 2008 FTV had in many respects already had its own Charter Review. At the end of 2007 a new contract (Contract of Means and Ends or COM) had been drawn up for FTV. This had taken a great deal of time to negotiate between FTV and the government. There was therefore that much more surprise when in President Sarkozy's New Year message in 2008 he announced a radical reform of FTV with a proposal that all advertising – ie 30% of FTV income – would be ended, with the aim of modernising FTV and making its programming more distinctive. His announcement took his own Minister of Culture by surprise as well as those working in FTV, notably those employed in selling advertising space for the channel. The consequence of the Presidential surprise announcement was that the company was unprepared and swiftly began to lose advertising contracts. Whereas the primary focus
of the announcement was the ending of advertising, the commission that the President was to set up in the course of February 2008 was given specific instructions to cover everything, funding, programming, governance and modernisation of the company structures, and the move to digital and online.

The French preoccupation with online and new media reflected their sense that FTV was falling behind in these areas, and compared to its competitors and the BBC that was true. In the UK it was by contrast the BBC's strength online that was a source of concern to some since it brought it into conflict with other operators active in the online space, notably newspapers seeking to expand the range and depth of their websites.

The BBC's position in the market was a key issue in the Charter Review. There was concern about its relative success compared to ITV and what this might mean in terms of the future of a plurality of public service broadcast providers, about its market impact more generally and the adequacy of its regulatory structures to constrain what some portrayed as the limitless ambitions of BBC management to move into new markets. Alongside these issues were some other ones, the distinctiveness of its programmes (which was often linked to accusations of an unduly competitive approach to scheduling), its relations with independent producers – where the then Director General Greg Dyke's vigorous approach and relaxed attitude to its failure to meet the independent production quota provoked resentment - and the ambitions of the BBC's commercial arm BBC Worldwide, which often brought it into conflict with commercial publishers. However when it came to the BBC's role in ensuring the transition to a fully digital television transmission system by the government’s designated date of 2012, the BBC was seen as critical to the success of the project.

Many of the criticisms of the BBC could have been extremely challenging and some have returned in the last couple of years. However the bulk of the Charter Review played out against the political background of the report of the Hutton enquiry in January 2004 which had led to the sacking of the BBC director-general Greg Dyke and the subsequent resignation of its chairman Gavyn Davies. The government's 'victory' over the Hutton affair rebounded on it. There was a sense in the public and press that while the BBC's journalism and governance processes may have been imperfect, the bigger fear threat was from a government that had overreached itself and could threaten the BBC's independence. The government was therefore extremely keen to present itself as respecting that independence during the Charter Review. Issues that might in another context have been used to reduce the scale and scope of the BBC's activities were not pressed forward with as much vigour as might have been the case otherwise during the Charter Review, though some resurfaced at the time of discussions over the level of the BBC licence fee, where the BBC had imposed on it a far tougher settlement than it had expected.

The context in France was one where FTV has a smaller audience share than that its main commercial rival TF1 and where the politicians were so reticent about the degree of public acceptance of the French licence fee that – after government pressure on majority party MPs - they had failed to raise the licence fee in line with inflation –

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3 This was most obvious in the way that parts of the press traditionally highly critical of the BBC rallied to its defence in February 2004 and the poll evidence appearing after the Hutton report showing that more people trusted the BBC than the government.
as provided for in the FTVs previous COM–since 2004. The consequence was that FTV's licence fee income was diminishing in real terms each year and the company was becoming increasingly dependent on such revenues as it could raise from advertising. It had a relatively successful advertising sales house which, at a time of a falling advertising market overall, exacerbated conflict with commercial broadcasters, although those tensions were less acute in France than Britain. The President's proposal to end advertising on FTV was seen by many as at least in part designed to help the commercial broadcasters, notably TF1, with whom the Elysée has good relations. The benefits could be direct - in terms of transferred revenues - as well as indirect, in terms of reducing the incentives for FTV to pursue competitive scheduling. However the public rationale for the change was explained rather in terms of creating a more distinctive profile for FTV's programming.

The review processes compared.

The two reviews were also very different in terms of their duration and the processes involved. The BBC Charter Review essentially lasted over three years, running from 2003 until late in 2006, with a licence fee settlement only finally announced in early 2007. The government's determination to show that it was not trying to bully the BBC meant that there was an extraordinary amount of emphasis placed on audience consultation and research. There were three rounds of consultation and the government's general approach, led by the Secretary of State for culture, Tessa Jowell, was to get as many ideas out on the table as possible before funnelling these down towards a decision point through a process of consultation and research. Throughout the process the Secretary of State had a mantra repeated whenever asked about what she wanted out of the BBC Charter Review process - "a strong and independent BBC".

The French process was a roller coaster ride by comparison since it was scheduled to last just over three months compared to more than three years for the BBC Charter. After the Presidential New Year announcement a committee was constituted by the end of February composed of an equal mix of cross-party members of Parliament, together with a range of experts, including a philosopher, and more surprisingly the author as the British expert - a total of 32 members - with a report scheduled initially for May but delivered by the end of June. The creation of a cross-party committee was part of Sarkozy's political strategy of opening up to the opposition, and designed both to disorientate them through adopting some of their ideas (the original idea of ending advertising on French public service television had come from the Left) and of binding them into the new path for FTV. The decision that the committee should be chaired by a high-level figure, Jean-François Copé, the majority party's leader in parliament, was indicative both of the significance the President Sarkozy gave to the issue and of his desire to remain engaged in what was supposedly an independent commission.

The Copé commission was constituted with four main challenges to address. The first and most pressing was to replace the funding deficit caused by the ending of advertising on FTV and to replace it as the President had guaranteed 'euro for Euro'.

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4 The Commission’s first task was to address the consequences of the President’s announcement itself in terms of leading to an exit of staff and above all advertising revenues from FTV. The cash loss of the
The second was to modernise the structures and governance of FTV, the third was to devise a digital and new media strategy for FTV, and the fourth was to look at the future programming of the company's channels. The overall goal was presented as the creation of a modernised FTV.

The Commission launched a website but was in essence far more focused on expert industry and political opinion than the views of the audience who paid for and consumed FTV's programmes. Plenary meetings were held roughly every month with the four working groups meeting in the intervening period, doing the major work of taking evidence from various experts and interested parties and drafting their interim proposals. The speed of the process meant that the processes were by their nature rather ad hoc and it was difficult to predict in advance which experts will be called to which group. In addition, there was very little expert support for any of the commission's work, no research was commissioned, and the rapporteurs assigned to each working group generally had day jobs—either in the civil service or elsewhere—they had to do at the same time as they were servicing the working groups. Given the ambition of the commission's task the low level of technical support was surprising. However, some key high-level civil servants were themselves members of the commission and in particular of the funding workshop. In addition, the Elysée followed the commission rather closely with a representative of the President's staff attending every plenary session.

Over time it became clear that while President Sarkozy had announced a cross-party 'no holds barred' commission to consider everything he had strong views about the Commission's recommendations. This was evident, not just from the Elysée’s direct interest but also from the regular meetings between the commission chairman and the President. In addition, when the commission produced some interim options on funding, which included an option of to increase the licence fee to fill the gap posed by the lack of advertising revenues, President Sarkozy announced on the radio a few days later that this would not, under any circumstances be pursued by the government. The consequence was that the Communist and Socialist members of the commission left in protest at the President prejudging which options from the cross party commission were and were not acceptable.

The role of public service broadcasters in the review processes.

The contrasting review processes greatly impacted on the ability of the two broadcasters, the BBC and FTV, to make a serious input into their deliberations. As noted above, the lengthy duration of the BBC Charter Review process, with its strong focus on research and audience consultation, gave plenty of opportunities for a range of interested parties to contribute their ideas. The BBC itself, with lengthy prior notice the date of expiry of its charter, had plenty of time to prepare its case, to anticipate where the strongest attacks might come from, and develop a strategy as to how it wanted to contribute to a debate about the future of the BBC's scale, scope, remit and organisation. The BBC prepared the process internally, developing its vision document entitled Building Public Value, a new outcome focused approach to its public purposes, it recognised concerns about its impact on the wider market and announcement without any action was reckoned to come close to 150m euros, which needed to be met by emergency measures.
came up with proposals to address this through a public value test, and it conducted
extensive research to demonstrate the “willingness to pay” of licence fee payers. In
addition, the BBC entered the spirit of the widespread public consultation desired by
the Secretary of State, through organising its own public consultations and
marshalling its own evidence and contributing its own views to the public
consultations. The process was not smooth, not least because of a four month
interregnum at the top of the BBC after the post Hutton enquiry departures, but from
the spring and Summer of 2004 onwards under new leadership the BBC was able to
use the post-Hutton period both to give new momentum to the organisation and to do
its best to set the agenda for the Charter Review debate.

FTV found itself in a very different position faced with the commission, chaired by
Jean-François Copé. The Commission and its chairman were largely supportive of
FTV and keen to give it the means to modernise itself but the very speed of the
process meant that the company had little time to prepare. In addition, the large size
and diverse nature of the commission meant FTV was uncertain to whom they should
make representations and when. Four different working groups pursuing their work in
parallel and moving quite fast across a three or four month period would have created
challenges for the best organised public service broadcaster. However, FTV was very
far from being that. Scrupulous in responding to calls for evidence it appeared far less
interested in putting forward a compelling vision or clear policy agenda. As the
commission ranged across almost every aspect of FTVs funding, organisation,
structure, and future programming strategy, there was something of a void in terms of
FTVs own views on many of these matters – other than its desire to ensure the
promise to replace lost advertising revenues, euro by euro, was indeed honoured. In
part this was the result of surprise, in part about the complexity of trying to get views
across on so many issues within the midst of such a speedy and ad hoc process. But
there was in addition a certain reticence on the part of FTV, in the face of the
commission established by the President himself, at being seen to argue or lobby too
hard for a particular point of view. The result was that the strongest views presented
to the commission generally came from those stakeholders with an interest in FTV,
notably the trade unions and independent producers and competitors (but there was a
sense that they would anyway benefit from the transfer in advertising revenues) rather
than the company itself.

In spite of this initial reticence there were three areas where the company’s influence
could be seen at work. The first was the Commission’s early recognition that an
immediate end to all advertising from January 2009 as proposed by the President
would be unduly disruptive both for FTV and the market – the compromise was to
only stop advertising in peak hours initially. The second was the company’s support
for the Commission’s desire to simply FTV structures – creating a unified company
from the 49 different companies that made up FTV– with more than 50 different
collective union agreements. The third was when it appeared late in the day that the
proposals of some in the Commission for a more highly regionalised TV structure for
France 3 would increase the costs of the least efficient part of the company at a time
when the company was trying hard to control them. 5 However, in summary, one

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5 Ironically FTV seized on BBC management proposals for a more localised broadband TV news as an
alternative way that FTV could avoid the costly requirement to increase the granularity of its local
broadcast TV operations on France 3. In the UK context the BBC’s plan for Local TV were seen to
might see FTV as having adopted a relatively low-key approach to trying to influence the outcome of the commission. By contrast, and admittedly with much more time in a more favourable political environment on its side, the BBC was positively encouraged by the government to come up with ideas, to contribute them to debate, and to facilitate public engagement with the wider consultation going on.

**The outcomes of the two review processes**

The outcome of the BBC Charter Review process is relatively well-known. In summary, the BBC gained a 10 year charter, with six years of funding, and a remit expressed in terms of a set of six public purposes expressed in a platform neutral way accompanied by service licences for each service, in return for a more independent system of governance and tougher regulation – in the shape of the public value test - before the BBC could embark on new services. The BBC was also given greater responsibilities regarding digital switchover and a requirement to fund digital marketing and the targeted help scheme for certain groups in the process of digital switchover, from the licence fee. The BBC desire for an inflation linked settlement with an additional ring fenced sum for digital switchover was not granted. Instead it was granted annual cash increases for 5 of the 6 year funding agreement but with the possibility opened up that the licence fee might be shared in the future with other public service broadcasters. This was a surprisingly good settlement for the BBC after a period when it had been under attack by many parts of the commercial sector. The BBC had lost no services and was granted a much broader remit in return for a tougher system of regulation, but one which while tougher than the BBC governors which had existed before, fell short of what many in the commercial sector and other regulators would have liked.

The outcome of the French Commission and the subsequent law which resulted from the President’s response to it was rather more mixed. The decision to cancel advertising on FTV was diluted by being adopted in stages, with advertising ending in peak hours – i.e. after 8 PM – from the beginning of 2009, and the plan that all advertising should only cease after digital switchover in 2011. A new structure for FTV created an integrated company as management desired and activities organised by activity rather than by channels. A very small (€3) licence fee increase, to make up for the loss through the lack of indexation from inflation, was eventually approved. The major question as to how to fill the gap left by the removal of advertising in peak time was to be met by a turnover tax on telecommunications companies and Internet service providers initially planned to be 0.9% of turnover, but later cut to half of that after political lobbying, together with a tax of €80 million per annum on those commercial television companies which it was expected would benefit by the ending of advertising in peak time on FTV. The reform package included a highly prescriptive approach to FTVs structures and its programming (eg a ban on reality programming). However, the biggest change and the one that was most commented on time was that introduced by President Sarkozy himself where he announced that he wanted to abandon the previous process for appointing the director-general of FTV undertaken by the broadcasting regulator, and bring it into line with that of other

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pose too much of a threat to fragile local newspapers and offered the first case of the BBC Trust using the Public Value Test to reject a management new service proposal.
state-owned enterprises, with the state itself, as the sole shareholder, appointing the director-general. This was presented as subject to safeguards involving the parliament and regulator, but most commentators saw these as little more than window dressing in a futile attempt to mask a dramatic increase in Presidential direct control of FTV.

In summary, the Charter Review process led to the BBC having secure funding for six years and greater flexibility of action subject to the revised internal BBC governance structure in the shape of the BBC Trust. In contrast, FTV ended up with a much more prescriptive approach to its programming, a prescribed organisational structure, and a combination of a system of the appointment of the director-general and a new mix of revenues made up of taxes and levies on other industry sectors, which while designed to replace the loss of advertising revenues, had the cumulative effect of increasing the dependence of FTV, such as it was, vis-a-vis the state. (Levy, 2008)

**Political and stakeholder involvement**

In terms of Parliamentary involvement the approaches taken in the two countries were rather different. The nature of the BBC charter process is that a charter, unlike an act of Parliament, cannot readily be amended by Parliament. Parliament instead has to vote simply whether to accept or reject it, and Parliamentary input is focused on the period leading up to the writing of the charter. Parliament did engage through about a dozen select committee hearings with the BBC over the course of the Charter Review period. This led to a great deal of scrutiny and debate but not really to full Parliamentary control over or considered scrutiny of the details of the BBC charter. So in the UK case the BBC charter was essentially drafted and approved by government, though as noted this was done after a period protracted research, discussion and negotiations with stakeholders elsewhere in the industry, with the BBC itself, and with a range of opportunities for audiences to make their own input.

What was interesting in the British case was the strong desire on the part of government itself to remain at arm’s length throughout much of the process and to create a framework more than to prescribe every detail. In part this was a result of the aftermath of the Hutton enquiry, but it also reflected a wider sense that government should not influence BBC programming or its editorial line through its control of the Charter Review and funding processes. The Prime Minister never spoke about the process and it was largely delegated to the Department for Culture (DCMS), with the Treasury under Gordon Brown taking a close interest in the licence fee. DCMS’ decision in turn to delegate much of the debate to audiences, to experts, and to interested stakeholders, including the BBC itself, however, did raise a problem of how to weight the views of the public as against the experts. When DCMS created a Charter Review panel, chaired by Lord Burns, following immediately after a public consultation, the comments made at its launch to the Secretary of State Tessa Jowell gave an indication of the nature of the problem.

**Second Audience member:** ...looking through the CVs of the members of the panel, they all seem to be media people or have backgrounds in the media and there doesn’t seem to be any if you like “common” persons.
Tessa Jowell: Well to spare the blushes of these uncommon people round the table here, I mean we have had something like 25,000 voices already through as unique visitors to the website and 5,000 people have responded to the consultation, of whom about 500 I think were industry responses. And, you know, there will be plenty more opportunity for ‘real’ people, as you may prefer to describe them, to take part in this process.

Second Audience member: ...there seems to me to be some contradiction in the fact that, as it says behind you, it’s your BBC, in other words the public’s BBC, and yet what the public has said through this consultation exercise isn’t necessarily the final word of what should happen. .... surely the fact that the public wants certain things and you’ve said it strongly indicated certain things, that should close down the [debate ] because that’s what the public, the people who own the BBC, say that they want. 6

In France Parliamentary control over the role remit and funding of FTV is normally much greater than that in the UK. Parliament has some direct representation on the board of management of FTV, as does the state, Parliament votes annually on the licence fee increase proposed to FTV, and it also has the right to vote on any contract established between the government or at least its civil servants and FTV. What was exceptional about the 2008 Commission was not just that it took place immediately after a contract had already been signed between FTV and the government but that it was both a Parliamentary commission and more than a Parliamentary commission since it included a range of industry experts who made up half the membership of the commission. Once the parliamentarians of the left had departed from the commission the relative influence of the expert members was proportionally increased. However once the government had a draft law to put through Parliament from the autumn of 2008 onwards, then Parliament could vote on that law as they would on any other.

In theory, then the French approach to reviewing the future of FTV gave far more influence to Parliament than was the case in Britain. However, in practice, the French President himself took an extremely close interest in the future of FTVs and the law that would be proposed and he then used his parliamentary majority to achieve the desired outcome. The commission's proposals were presented within a week of their conclusion to the President himself at the Presidential palace where he responded immediately as to how he wanted to proceed and issued instructions to his Minister of culture to prepare a draft law for the autumn of 2009. This degree of Presidential involvement stands in very marked contrast to the arm's-length procedure adopted in the UK towards relations with the BBC. In France there was a President who not only had strong views about the state of public service television but had no hesitation whatsoever in expressing them, taking a personal hand in the drafting of the new law, and going on television to argue for his preferred approach. In Britain, all of these things were delegated to the Secretary of State for culture, and whilst there was not much more interest than there was in France in securing real Parliamentary engagement and ownership of the future plans for the BBC, there was a clear interest in separating the highest levels of politics from discussions over the future arrangements for the BBC. This tendency may have been accentuated by the

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6 July 2004 – DCMS website no longer live
aftermath of the Hutton affair, but the contrast with France would remain very marked Hutton or no Hutton.

As far as stakeholder involvement, is concerned, both processes sought to include this but in rather different ways. The British did so through the length of the process itself, which gave many parties an opportunity to express their views, but Britain also has a long established broadcasting policy community which is accustomed to making its case powerfully and with the use of considerable amount of evidence. A key player in the UK debate was the regulator Ofcom, as well as on one occasion the competition regulator, the Office of Fair trading. British regulatory culture meant that these organisations felt free to intervene in the debate both through published submissions and, on occasions, overt criticisms of the government's publicly declared policy.

In the French case there was in one sense an attempt to include stakeholder views through the range of representatives who were received by the commission as expert witnesses and to some extent by the choice of members of the commission itself. The broadcasting regulator, the CSA, did give evidence to the Commission but it was clear that its status and role in the review were in decline and certainly far lower than that of Ofcom in the UK. Just as the telescoped nature of the French process took FTV by surprise and constrained its ability to make its case so too it meant that there was more limited time for other stakeholders in the French broadcasting policy community to coordinate their positions and make them as powerfully as they might. The result was that whilst there were no shortage of opinions presented to the commission, it was rare for there to be a coherent and coordinated position brought by any one side or the industry as a whole. Further the politicians of the Left were placed on the defensive by their positive response to Sarkozy’s initial decision to include them in the Commission. Even after their departure, other than on the very unpopular issue of the proposed method of appointment of the Director General, they found it hard to make headway in debates over the points of detail about FTV's future funding and organisation.

Policy-making and the European context

As noted at the beginning of this paper. Some observers see debates over broadcasting policy and that of public service broadcasting in particular as taking place in an environment which is strongly conditioned by European considerations. What emerges from the two reform processes in Britain and France is that while particular considerations of European state aid law were present, they cannot be regarded as determining factors in the policy choices that were adopted in either country.

In the case of the British Charter Review process the European dimension can be seen, most obviously in the adoption of the BBC’s public value test for the approval of new services and in the move to a new system of governance with the creation of the BBC Trust that is far more independent of management. One could plausibly attempt to present both moves as being the result of European level pressures. The European Union has expressed a strong preference for independent systems of governance of public service broadcasters, and for clear processes that ensure a degree of transparency in the approval of new services. It is also true that in the course of previous complaints registered by commercial competitors in Brussels about BBC
public services, such as BBC News 24, the EU competition directorate had expressed concern about the vagueness of the BBC's remit and a desire that these things be made clearer for the future. But it would be wrong to move from these observations of some degree of parallel between tendencies developing in Brussels and some of the policy options adopted in London to say that the first determined the second. For many years commercial competitors in the UK had been complaining about the BBC's new services and these complaints had generally had more and more rapid impact in London than in Brussels. Similarly, the desire for a more independent system of BBC governance can be traced as much to what the Hutton enquiry uncovered about the close proximity between management and the BBC governors over an editorial matter, as to any pressure from Brussels. And while it is now possible with hindsight to see elements of the public value test adopted in the case of the BBC as being very close to some aspects of the new state aid guidance regarding public service broadcasting adopted in Brussels, the UK's PVT predated those guidelines which is why it is cited by them. It seems far more likely that the policy transfer operating here was a process that moved from London to Brussels rather than the other way round. It's fair to say that UK policymakers were aware of the desire in Brussels for proportionality by weighing up how a new service's impact on the market might balance against its' fit with the public service remit. But it's hard to imagine that this change would have come about, if there had not been pretty extensive consideration within the UK of the need to find a better way of balancing BBC activity in new media with that of other market players. In short, the argument here is that the degree of convergence between the policy-making over the BBC Charter Review process and Brussels was reflects more a process, as noted above, of policy transfer from the UK to Brussels rather the reverse.

In the case of the French reform process there was a surprising absence of interest in how Brussels would view the proposals being put forward, in spite of the fact that many of the proposed ways of filling the funding gap left by ending advertising had a clear European state aid dimension. Imposing taxes on commercial broadcasters, imposing a new tax on telecoms operators, and making up the shortfall left after the contributions of these two taxes had been taken into account compared to the previous level of advertising revenues, through direct grant from the state, all clearly would have a resonance in Brussels. However, none of these issues were seriously worked through in terms of their compatibility with state aid before they were proposed. There is no evidence that European considerations influenced the options proposed by the President and examined by the Commission. The French approach was rather to move fast, to find a way of filling the gap in advertising revenues, to come up with imaginative ideas, to win political support for them, and then to try and square any problems in Brussels later. Some might have regarded this approach as short-sighted. However, arguably it succeeded. When the European commission considered whether the direct grant of €150 m of bridging aid to FTV was acceptable it swiftly concluded with a positive answer, on the grounds that the costs of FTV clearly exceeded by far, any additional funding granted by the government. A subsequent referral by French commercial broadcasters of the case to the European Court made no more headway with as favourable decision for the French government announced in July 2010. Similarly, while rumbles from French telecoms operators opposing the tax on them met with a sympathetic hearing from Viviane Reding, who was Commissioner responsible for telecommunications at the time, the tax has not had to be abandoned. Rather the reverse with the Spanish government considering a similar measure for
their telcos. The French argument that convergence means a wider range of operators benefit from, and hence should contribute to, the costs of public service content, seems to be winning some support.

It is possible that future French policy-making in this area may be somewhat more constrained by European considerations than in the past. But the lesson from this case is that the government seemed to determine its policy first and think about the European dimensions afterwards rather than framing policy options in the context of how the European Union would view any French decision.

**Conclusion**

These two cases of PSB policymaking suggest that national approaches to PSB continue to differ greatly. The British case is well known but the French one much less so, so it is hoped that the comparison offered here provides a flavour of the diverse ways in which policy is made in the two countries. The conclusion from these two cases is that policy processes, styles, issues and outcomes can all remain distinctive in large European countries with established policy traditions, even where the chosen policy options have a strong EU resonance. EU considerations are not unimportant but approaches to these continue to vary greatly between countries. Policy transfer, when it occurs, is not necessarily a one way process.

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**Selected Bibliography**