

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(84) 300 final

Brussels, 14th June 1984

TELEVISION WITHOUT FRONTIERS

GREEN PAPER ON THE ESTABLISHMENT OF THE COMMON MARKET FOR BROADCASTING, ESPECIALLY BY SATELLITE AND CABLE

(Communication from the Commission to the Council)

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INTRODUCTION

THE BRIEF FOR THE COMMUNITY

Purpose of the Green Paper

On 25 May 1983, the Commission adopted its interim report on "Realities and tendencies in European television: perspectives and options".¹ The report is mainly concerned with examining the scope for creating a European television channel. The Commission decided that the question of how the common market for the national television channel could be established should be dealt with separately.² Examination of this question is presented here in the form of a Green Paper. This is intended by the Commission as a preparatory document providing a basis for legislative measures (harmonization of national law) and application measures (implementation of the freedoms enshrined in the Treaty of Rome). It describes as far as possible the situation at the beginning of May 1984.

The purpose of this paper is threefold: to demonstrate the importance of broadcasting (radio and television) for European integration and, in particular, for the free democratic structure of the European Communities; to illustrate the significance of the Treaty establishing the European Economic Community (EEC Treaty) for those responsible for producing, broadcasting and re-transmitting radio and television programmes and for those receiving such programmes; and to submit for public discussion the Commission's thinking on the approximation of certain aspects of Member States' broadcasting and copyright law before formal proposals are sent to the European Parliament and to the Council.³

The Commission's action is in response to Parliament's Resolution on radio and television broadcasting in the European Community of 12 March 1982, in which Parliament "considers that outline rules should be drawn up on European radio and television broadcasting, inter alia with a view to protecting young people and establishing a code of practice for advertising at Community level".⁴

¹ It was published as document COM(83)229 final and is referred to below as the interim report.

² Interim report, p. 8, point 3 and pp. 23-24, point 32.

³ Although this paper also deals with the copyright issues arising in connection with the establishment of a common market in broadcasting, it is not to be confused with the "Green Paper" on the reform of the law on copyright and related rights, announced by the Commission in its Communication to the European Parliament and to the Council entitled "Stronger Community action in the cultural sector" (Bulletin of the European Communities, Supplement 6/82, pp. 16-17).

⁴ OJ No C 87 of 5 April 1982, p. 110, point 7.

In the report on radio and television broadcasting in the European Community drawn up on behalf of the Committee on Youth, Culture, Education, Information and Sport by Mr Wilhelm Hahn (EPP) and adopted unanimously by Parliament, some of the reasons given are: "Information is a decisive, perhaps the most decisive factor in European unification. ... European unification will only be achieved if Europeans want it. Europeans will only want it if there is such a thing as a European identity. A European identity will only develop if Europeans are adequately informed. At present, information via the mass media is controlled at national level. ... Information and economics are closely inter-related - an obvious example being advertising - and consequently the involvement of the media in European unification clearly adds a new dimension within the context of the treaties of Rome. Economic exchanges, understanding of social processes, freedom of movement and trade, vocational training and many other activities are inconceivable without information. Indeed, for some time information itself has been an important branch of the economy. ... Further difficulties arise from the legal point of view: the Geneva broadcasting conference of 1977 tried to establish the responsibilities of the existing companies at that time in a form which would be legally binding for at least 10 years"; in other words, "it made efforts to fix national borders as the compulsory limits for satellite transmissions. This move is attributable to Eastern European fears about free movement of the media and to the concern among the Western countries about unlimited competition as a result of advertising."²

The Opinion of the Political Affairs Committee, drafted by Mr Johan van Minnen (S) and likewise unanimously adopted,³ includes the following: "In the eighties and nineties, therefore, broadcasting will be faced with ... far-reaching social developments. ... Those Member States ... will not escape the breaking-open of this /closed broadcasting system/. ... But if the state control is threatened this does not necessarily mean that television as such is also threatened! ... Although one may regret the advent of such an open structure, it would, in the view of the Political Affairs Committee, be incompatible with the freedom of information exchange to pursue a protectionist policy in this field. Freedom of information exchange is laid down in Article 10 of the 1950 European Convention on Human Rights and Fundamental Freedoms which states: 'everyone has a right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers'.

¹ European Communities, European Parliament, Working Documents 1981-1982, Doc. 1-1013/81 of 23 February 1982 (PE 73.271/fin.), pp. 8, 10 and 11.

² Hahn report, *loc. cit.*, p. 7.

³ *loc. cit.*, pp. 21-26.

"This open information market must not mean that satellite broadcasts should be allowed to flood the Community in unlimited quantities as though they were a commercial product. ... This could be prevented only by creating tight and harmonized Community legislation on broadcasting laying down arrangements for advertising for satellites used for broadcasting. The Political Affairs Committee gives its preference to a system ...: ... i.e. advertising spots at fixed times between programmes which do not interrupt broadcasts. ... To ban advertising on satellite-broadcasts would be as unrealistic and perverse as to forbid advertisements in newspapers; the British ITV authority is evidence of the fact that a broadcasting organization run on commercial lines can very well hold its own, in terms of quality, with a state-run broadcasting organization. Freedom of expression, however, cannot be the prerogative of the highest bidder and the Commission must therefore draw up a directive ensuring that commercial interests are channelled into a direction acceptable to the Community and made subject to certain conditions. ... A European outline regulation should embody the structural guarantees necessary for independence without which a European broadcasting war will inevitably break out which may destroy the cultural values of our Community."

In a unanimously adopted Opinion drafted by Mr Hellmut Sieglerschmidt (S),¹ Parliament's Legal Affairs Committee similarly came out in favour of an approximation of national legislation on broadcasting. It stresses that this exercise could not be confined to the freedom to provide services in the broadcasting field, the prevention of distortions of competition, notably in respect of advertising in broadcasting, and the protection of listeners, viewers and authors. "It /Community legislation on the media/ would also have to contain at the least provisions to ensure that a variety of opinions, information and cultures are expressed and provisions for the protection of youth."² "A corresponding Council of₃Europe convention would complete such legislation appropriately."³

To begin with, the Commission needed to conduct "a fundamental inquiry covering all aspects of international legislation on policy in relation to the media".⁴ This "report on the media should contain in particular information as to the following: (a) the legislation relating to the media in the Member States, (b) the legal basis for action by the Community in this field, (c) the matters in respect of which provisions should be laid down, (d) whether a convention on the media drawn up within the Council of Europe is advisable and, if appropriate, what form it should take and (e) the legal requirements and practical facilities for the creation of a European television channel".⁵

¹ loc. cit., pp. 27-36.

² loc. cit., p. 30.

³ loc. cit., p. 33.

⁴ loc. cit., p. 34.

⁵ loc. cit., p. 35.

This request was taken up by the Committee on Culture¹ and incorporated by Parliament in point 1 of its Resolution of 12 March 1982. The Commission welcomed this Resolution and announced appropriate initiatives.² Thus, on 25 May 1983, it first compiled an interim report entitled "Realities and tendencies in European television: Perspectives and options".³ This report contains, first and foremost, a whole range of facts on satellite and cable television and reviews broadcasting legislation in Member States⁴ (point 8(a) of Parliament's Motion) and the work of the Council of Europe⁵ (point 8(d)). This Report's main political thrust is to be found in the discussion of the facilities for creating a European television channel⁶ (point 8(e)).

The subject of this Green Paper is the opening up of intra-Community frontiers for national television programmes (freedom to provide services). This entails the step-by-step establishment of a common market for broadcasters and audiences and hence moves to secure the free flow of information, ideas, opinions the cultural activities within the Community.

In response to Parliament's request made at point 7 of its Resolution, the outline rules for European broadcasting are discussed from two angles: (i) their relationship to the EEC Treaty, and (ii) the scope for their further development under the powers it confers to approximate laws. In particular, the relevant provisions of Member States' legislation on the media are examined (abovementioned point 8(a) of Parliament's Motion) and then looked at in the light of the Treaty. The Green Paper also considers the legal basis for Community action (point 8(b)), discusses the matters requiring legislation (point 8(c)) and sets out approximation proposals (point 7 of the Resolution).

¹ loc. cit., p. 13, point 8.

² Statements by Mr Lorenzo Natali and Mr Karl-Heinz Narjes on 11 March 1982, OJ Annex No 1-282 of 11 February 1982, pp. 220 and 221-222.

³ Doc. COM(83)229 final.

⁴ loc. cit., pp. 161-190.

⁵ loc. cit., pp. 81-97.

⁶ loc. cit., pp. 23-32.

In a new Resolution, adopted on 30 March 1984, on a policy commensurate with new trends in European television, Parliament reaffirmed its previous position, calling on the Commission and the Council "to provide a reliable legal framework in which to implement the principles of the Treaty of Rome applicable to the subject /broadcasting/, particularly ... freedom to provide services".¹

It also called on the Commission and the Council "to cooperate with each other and the Parliament to review national legislation to ensure that it is possible to coordinate the different systems as required. This could include ... rules for advertising" and "rules for the protection of children and young people, copyright and authors' rights".² It was necessary "to formulate rules to ensure that public broadcasting monopolies do not seek to prevent private broadcasters and programme makers from fully contributing to the future developments ...".³

In a further Resolution, also adopted on 30 March 1984, on broadcast communication in the European Community (the threat to diversity of opinion posed by the commercialization of new media),⁴ Parliament stated that it "E. is aware that the new technologies require a reasonable degree of commercial support through advertising; F. believes that a decision must be taken at Community level regarding the limits applicable to the use of advertising by public and private television companies, so that all television companies operate on an equal footing; G. considers that, if current codes of conduct and commonly accepted standards of practice are pursued, neither an uncontrolled proliferation of new services nor a threat to quality or diversity will arise; ... 2. urges the Commission to prepare framework suggestions for transnational broadcasting which take account of the proposals currently being prepared by the Council of Europe".^{5,6}

¹ Point 2 in the Resolution, OJ No C 117, 30.4.1984, p. 201 (202). See also the report drawn up on behalf of the Committee on Youth, Culture, Education, Information and Sport by Mr Gaetano Arfé (S), European Parliament Working Documents 1983-1984, doc. 1-1541/84, 16.3.1984 (PE 85.902/fin.), p. 20.

² Point 4 in the Resolution, loc. cit.

³ Point 7 in the Resolution, loc. cit.

⁴ OJ No C 117, 30.4.1984, p. 198. See also the report drawn up on behalf of the Committee on Youth, Culture, Education, Information and Sport by Mr A. H. Hutton (ED), European Parliament Working Documents 1983-1984, doc. 1-1523/83, 15.3.1984 (PE 78.983/fin.).

⁵ The reference is to what was later adopted on 20 February 1984 as Recommendation R (84) 3 of the Committee of Ministers of the Council of Europe to its 21 member states on the principles relating to television advertising (see Conseil de l'Europe, Communiqué de presse I (84) 7 of 23.2.1984 for the text of the Recommendation). There are at present no plans for a legally binding agreement (Convention) between the member states of the Council of Europe.

⁶ The full debate is published in European Parliament, Verbatim Report of proceedings, provisional edition, Strasbourg, 29.3.1984 - 30.3.1984, pp. 296-299, 305-315, 339-340.

EEC Treaty and cultural activities

Contrary to what is widely imagined, the EEC Treaty applies not only to economic activities but, as a rule, also to all activities carried out for remuneration, regardless of whether they take place in the economic, social, cultural (including in particular information, creative or artistic activities and entertainment), sporting or any other sphere. Thus, just as it guarantees Member States' nationals who are workers freedom of movement and those who are self-employed freedom of establishment no matter what their occupation, the Treaty guarantees free movement within the Community for whatever goods and services they supply.

Newspapers, magazines, collectors' items, records and films of all kinds as well as the showing of films benefit just as much from free movement within the Community as do food, capital goods, consumer durables and services provided by banks, insurance companies and advertising agencies. Likewise, intellectual property rights are as much subject to the EEC Treaty as industrial property rights (patents, trademarks, designs and models).

This comprehensive view of free movement for goods and services embodied in the Treaty is mirrored by the fact that the rights it confers are not the prerogative of workers in industry, the craft industries and the distributive trades but also extend to those working in the media and to bodies active in the worlds of art, entertainment and sport.

Nor is the right of establishment provided for in the EEC Treaty confined to industry, the craft industries, the distributive trades, banks and insurance companies. It is, in fact, a right to be enjoyed also by book and newspaper publishers, by film producers and distributors, by orchestra and entertainment organizers, and by press, film, theatre, opera and concert agencies, in short by all cultural undertakings and by all self-employed artists, authors, journalists, photographers and sportsmen equally. The Treaty does not exclude any sphere of activity. As a matter of principle, therefore, it grants the right of establishment to broadcasting organizations.

The freedom of movement that exists within the Community for workers and the self-employed, including all cultural and journalistic occupations, extends to the supply to the public of political information on other Member States and to their cultural interpenetration in the same way as it does to the free movement of newspapers, magazines, books, films, recorded cassettes, pictures, sculptures, etc., in short the free movement of movable physical cultural assets. Under the system of the four freedoms, immovable cultural assets and, hence, radio and television broadcasting are treated no differently.

Lastly, copyright holders (writers, composers, sculptors, film-makers, etc.) and performing artists (actors, musicians, singers, dancers, etc.) can rely on Article 117 of the EEC Treaty, which promises all workers "improved working conditions and an improved standard of living ... , so as to make possible their harmonization while the improvement is being maintained". Harmonization of national laws on copyright and performers' rights is one way of securing those desired improvements.

It thus transpires that the activity of the Community has, since the outset, encompassed essential aspects of cultural life in Member States. Even those who are culturally creative and their creations "belong" to the Community. They too were meant to share in the protracted process of creating a common market. They have a claim to the freedoms and forms of equality available at Community level, and primarily to the protection afforded by the basic rights of freedom of movement, freedom of establishment, freedom to supply goods and services, and treatment abroad as a national. To quote the Court of Justice of the European Communities: "Although educational and training policy is not as such included in the spheres which the Treaty has entrusted to the Community institutions, it does not follow that the exercise of powers transferred to the Community is in some way limited if it is of such a nature as to affect the measures taken in the execution of a policy such as that of education and training. Chapters 1 / Workers / and 2 / Right of establishment / of Title III of Part Two of the Treaty in particular contain several provisions the application of which could affect this policy."¹

¹ Case 9/74 Casagrande /1974/ ECR 773, at 779, ground 6. Similarly Case 152/82 Forcheri /1983/ ECR ..., ground 17 / cyclostyled version pp. 24-25 /.

EEC Treaty and broadcasting

The EEC Treaty encompasses broadcasting in a multitude of ways, the most important of which are discussed below:

(i) It applies to signals transmitted or relayed by radio, considering them to be services (Article 60). It provides for the abolition of restrictions on the freedom to broadcast within the Community (Article 59). It prohibits any new restrictions on the freedom to provide such services (Article 62). It thus guarantees broadcasters the right to transmit or relay their signals to other Member States (freedom of Community-wide broadcasting). It affords recipients in the other Member States the opportunity to capture such signals (freedom of Community-wide broadcasting reception) and to include them in their own selection of broadcasting (freedom of Community-wide choice of transmissions).

(ii) The EEC Treaty applies to broadcasters in their capacity as persons carrying on a self-employed activity for remuneration (second paragraph of Article 52). It is irrelevant here whether they are natural or legal persons, companies with or without legal personality, associations, cooperatives or foundations, or public-law or private-law organizations (Article 58). The Treaty provides for the abolition of restrictions on their freedom of establishment in the territory of another Member State (first paragraph of Article 52). It prohibits the introduction of any new restrictions on the right of establishment (Article 53). Consequently, it guarantees Member States' nationals the freedom to take up and pursue broadcasting activities in other Member States (freedom of establishment throughout the Community).

The Commission is responsible for ensuring, both on its own initiative and in response to complaints, that this European fundamental right and that of freedom to provide services are respected (Article 155, first indent, and Article 169, first paragraph). If a Member State fails to comply with the Commission's reasoned opinion, the Commission may bring the matter before the Court of Justice (Article 169, second paragraph). The other Member States have the same right (Article 170).

(iii) The EEC Treaty applies to national broadcasting and telecommunications legislation as the sum of the provisions laid down in individual Member States concerning the taking up and pursuit of a self-employed activity, viz. broadcasting (Article 57(2)). "In order to make it easier for persons to take up and pursue activities as self-employed persons", the Treaty

provides for coordination of the relevant provisions of broadcasting and telecommunications legislation (Article 57(1), taken in conjunction with Article 57(2), and Article 66). This approximation of legislation is to be achieved through directives adopted by the Council, acting on a proposal from the Commission and after consulting Parliament (Articles 57(2) and 66).

(iv) The EEC Treaty applies to those working for broadcasting organizations. To those who are employees it guarantees freedom of movement within the Community (Article 48). To those working for them in a self-employed capacity it affords freedom of establishment (Article 52) and freedom to provide cross-frontier services (Article 59). In so doing, it extends the freedom of reporting, expressing opinions and presenting cultural performances to the entire territory of the Community. All occupations, including journalistic and artistic activities, are covered (Articles 48, 52 and 60). In order to establish freedom of movement for workers, including those active in the spheres of culture, sport and reporting (Article 49) and to make it easier for persons to take up and pursue activities in a self-employed capacity (Article 57(1) and (2)), the EEC Treaty prescribes a series of Community measures (Articles 49, 50, 51, 57(2) and 66), including the mutual recognition of diplomas, certificates and other evidence of formal qualifications (Article 57(1)). Such recognition is to be secured through directives issued by the Council, acting on a proposal from the Commission and after consulting Parliament.

(v) The EEC Treaty applies to such of the Member States' technical provisions governing broadcasting (relay procedures and equipment, transmitters, receivers, standardization, etc.) as directly affect the establishment or functioning of the common market (first paragraph of Article 100), in particular therefore the transmission, dissemination or reception of signals from other Member States and the manufacture and Community-wide marketing of such procedures and equipment by industry and commerce in the Community. The EEC Treaty provides for the approximation of such provisions, to be achieved through directives issued by the Council, acting on a proposal from the Commission and after consulting Parliament and the Economic and Social Committee (Article 100).

(vi) The EEC Treaty applies to broadcasting organizations as undertakings that deal in materials, sound recordings, films and other products which they need to carry on their activity. It prohibits all State restrictions on free movement in such goods between Member States (Articles 9, 12, 30 and 31). It thus guarantees broadcasting organizations, as well as their suppliers and customers both at home and abroad, the freedom to take part in Community-wide trade.

(vii) The EEC Treaty applies to broadcasting organizations in their capacity as undertakings engaged in competition. It prohibits them from entering into agreements that restrict competition and from abusing a dominant position that may affect trade between Member States (Articles 85 and 86). It thus guarantees broadcasting organizations the freedom to compete with one another within the Community and protects their suppliers and customers from any abuse of economic power.

The Commission is entrusted under the Treaty with the task of securing compliance with these provisions on the freedom of Community-wide competition and trade.

PART ONE

TECHNICAL ASPECTS

A. NEW DEVELOPMENTS IN THE AUDIO-VISUAL FIELD

The rapid development of audio-visual techniques in the Community is regarded in all Member States as exceptionally important for the future coexistence of individuals and of nations.

The increasing speed and lower costs of electronic data transmission will, apart from other considerations, make this mode of communication more generally accessible and lead to an internationalization of communications. This is true not only of individual communications, where decentralized computers now enjoy access to the well-developed international telecommunications network, thus giving electronic data-processing an international dimension, but also of electronic means of mass communication. Direct satellites and cable are techniques which, individually but above all jointly, make it possible simultaneously to transmit vast quantities of information over long distances.¹

This development is occurring at the same time as the expanding use of the new storage techniques involving video cassettes and discs, which permit a further substantial improvement in the international availability of electronic data transmission.

In the Community, the free movement of goods extends to video cassettes and discs as economic assets in the same way as it does to sound cassettes and records. As a rule, therefore, films, television recordings and the like may circulate without restriction in the Community.

Wide-band cable makes it technically possible to relay national television programmes throughout the Community. Those on cable are able to choose between the national and foreign programmes offered by the cable operator. Direct broadcasting by satellite (DBS) knows no frontiers, since the programmes relayed can be received direct by any viewers in the coverage area that possess the necessary receiving equipment.

¹ Interim report, loc. cit., pp. 43 et seq.

It is impossible at the moment to say how DBS will develop in comparison with the cable transmission of radio and television programmes. In any case, the internationalization of broadcasting, to which both techniques will lead, gives rise to serious legal problems. It is not out of the question that, in line with the results of the experimental phases of DBS and given the rising costs associated with individual receiving aerials including the requisite accessories, cable transmission of radio and television programmes will gain readier acceptance, especially as cable offers a wide variety of possible applications. It is to be expected though that both broadcasting techniques will complement one another: satellites will feed the programmes they carry into the cable networks.

The Commission is looking into the problems associated with the development of these techniques and will present appropriate proposals as part of its work to formulate a Community telecommunications policy.¹

¹ Commission of the European Communities, Communication to the Council on Telecommunications - Lines of Action, doc. COM(83) 573 final of 29 September 1983, and Communication to the Council on Telecommunications, Progress Report on the Thinking and Work done in the field and initial Proposals for an Action Programme, doc. COM(84) 277 final of 18 May 1984.

B. DIRECT SATELLITE TELEVISION - A CONCEPT TO OVERCOME THE SPATIAL LIMITATIONS OF CONVENTIONAL TELEVISION TRANSMISSION

I. Agreements under international law

The World Administrative Radio Conference held in Geneva in January 1977 (WARC 77) drew up the technical rules for a satellite broadcasting service for Regions I and III (Europe, Africa, Asia, Australia and Oceania).¹ The Final Acts of this Conference² give the details of the allocation of frequencies and orbital positions (i.e. the "locations" of satellites above the Equator), contain information on the protected service area, the elliptical coverage area and the transmitting power of satellites, and set out the technical broadcasting specifications for a total of 40 channels (in Europe). All the Member States, but not the Community as such, are involved in this allocation of frequencies, which came into force on 1 January 1979 and is valid for at least 15 years.

II. Technical concept

The satellite, which remains in a circular orbit some 36 000 kilometres above the Equator, picks up the radio signals beamed from a ground station (upward transmission) and relays them back to Earth in heavily bunched form once the technically necessary conversion and amplification processes have been completed (downward transmission). It works in the same way as would a conventional transmission mast located high above the Earth.

With the help of a special parabolic-reflector aerial some 90 cm in diameter and an electronic conversion and demodulation component, the signals relayed from the satellite can be received direct by individual television viewers.³

¹ A conference dealing with Region II (America) was held in 1983 in Geneva with similar results.

² International Telecommunication Union, Final Acts of the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service, Geneva 1977, Geneva RE III/1982.

³ For details, see Interim report, loc. cit., pp. 41 et seq.

III. Reception possibilities

The so-called super beams, which are consistent with the principle of the free flow of information and are able to harness the special technical possibilities of satellite television for serving large cross-frontier areas, failed to gain acceptance - except by seventeen countries forming four country groupings¹ - at WARC 77 because of the insistence on national service areas, even though, from both a frequency-allocation and a financing viewpoint, direct satellites are a particularly economic and suitable way of broadcasting television over wide areas.

At WARC 77, the telecommunications conditions for direct broadcasting by satellite (e.g. beam direction, aerial elevation angle, transmitting power) were defined with a view to creating national service areas.² The satellite frequencies allocated to the Member States enjoy protection only in respect of reception within the respective national frontiers. In other words, they may be used for other purposes elsewhere even if, as a result, reception in the area in question is disturbed. The Member States are also required, when determining the characteristics of a world broadcasting agency for satellite broadcasting, to employ all available technical means to keep to a minimum transmissions beamed over the territory of other countries, unless prior agreement on the matter has been reached with the authorities of those countries.³

In spite of these technical precautions to preserve the national character of satellite television, it is evident even now that the reception areas will, in practice, be much wider (coverage areas).⁴

¹The groupings with a common broadcasting area are the following: (i) the North African countries of Algeria, Libya, Morocco and Tunisia; (ii) one grouping of six Arab countries; (iii) one grouping of three Arab countries; (iv) the five Nordic countries (Denmark, Finland, Iceland, Norway and Sweden). In the last-mentioned grouping, two of the five channels allocated to each of them are intended for transmissions to the Nordic area as a whole. The other groupings have each set aside one channel for their joint programmes.

²Definition of service area (Annex to the Final Acts of WARC 1977): "The area on the surface of the Earth in which the administration responsible for the service has the right to demand that the agreed protection conditions be provided."

³No 2674 (previously No 428 A) of the 1982 Radio Regulation of the International Telecommunication Union.

⁴Definition of coverage area (Annex 8 to the Final Acts of WARC 1977): "The area on the surface of the Earth delineated by a contour of a constant given value of power flux density which would permit the wanted quality of reception in the absence of interference."

Since elliptical service areas cannot possibly be made to fit into national frontiers, there is no way of preventing a programme transmitted via direct satellites spilling over into other countries (overlapping).

In order to ensure high-quality reception in all parts of the service area, and for security reasons, it was decided in Geneva that the signal should be sufficiently strong (high-power satellite) to provide good reception even in outlying areas.

Advances in receiver technology are improving these cross-frontier reception possibilities. Recently developed aerials as well as receivers of a sufficiently broad technical design are lower-powered than was envisaged in Geneva in 1977.

In particular, the use of more costly aerials with larger diameters and/or incorporating more sophisticated electronics, e.g. community aerials, significantly enhances reception capability outside the original service areas. Lastly, cable companies use antennas 3m-5m in diameter that are able to pick up virtually all direct satellite programmes transmitted in the Community.

IV. Compatibility of broadcasting systems

Moves are under way in Europe to harmonize the technical broadcasting norms for direct satellite television. The broadcasting organizations in Europe that form the European Broadcasting Union have adopted and sent to the International Radio Consultative Committee a technical report setting out the final detailed specifications for a more sophisticated technique, the Multiplex Analogue Component (CMAC packet) System, to replace the existing PAL and SECAM systems. It is expected that a governmental conference will be convened to take the final decision on whether or not to adopt this system, which would make it possible, among other things, to improve broadcasting quality significantly and to extend further the coverage area.

The Commission has announced that it will take the measures it considers necessary to promote adoption of a European standard by the Member States.¹

¹ Answer to Written Question No 51/83, OJ No C 243 of 19 September 1983, p. 4.

V. Plans for direct satellite television in Member States

Several Member States have firm plans for developing and operating direct television satellite systems.¹

On 29 April 1980, Germany and France concluded a government-level agreement on technical and industrial cooperation in the field of satellite broadcasting. Under the agreement, a German satellite (TV-Sat D 3) and a French satellite of the same design (TDF 1 F 3) will be developed, manufactured, launched, positioned and tested by 1985.

The United Kingdom Government has decided to introduce direct satellite television starting in 1986 and has allocated two channels each to the British Broadcasting Corporation (BBC) and the Independent Broadcasting Authority (IBA).

In Italy, Radiotelevisione Italiana (RAI) is planning to broadcast a direct satellite programme on a trial basis using one of the channels offered by the L-Sat Olympus, which belongs to the European Space Agency (ESA). The satellite is expected to be in operation from around 1986.

In Luxembourg, Radio-Télé-Luxembourg (RTL) is studying the potential of direct satellite television and is involved in discussions with other operators on the use of future direct satellites.

Belgium, Greece, Ireland and the Netherlands are currently studying the potential of direct satellite television.

Denmark, which has withdrawn from the joint Nordsat Programme involving the Scandinavian countries, has no intention at the moment of introducing direct satellite television.

¹For details, see Interim report, loc. cit., pp. 199 et seq and pp. 143 et seq.

C. CABLE TELEVISION - A CONCEPT FOR OVERCOMING THE RESTRICTIONS ON THE CONTENT OF TELEVISION BROADCASTS

I. Enhancing broadcasting capability

Cable television permits the simultaneous transmission of a large number of television programmes. Unlike broadcasting via ground transmitters, cable technology does not have to contend with the natural limitation imposed by the frequency bands available; it tends to be "limitless" where the number of parallel information channels is concerned.

The dissemination of information (in the first place, the transmission of conventional programmes) is, therefore, only one of the areas that can be handled. Provided the network has been properly designed, in particular with the use of optical fibre technology, the whole gamut of interactive services can also be provided. The recall facility enables a user to access specific information stored elsewhere. Unlike in the case of conventional or direct-satellite transmissions, the dissemination of information by cable is invariably restricted to particular areas.

II. Technical criteria

Instead of radio waves being freely transmitted over the air, signals are sent along "wide-band" cables direct to individual receivers. With this transmission technique, signals retain their high quality even over long distances. Overlapping of different programmes is virtually eliminated.

Straightforward distribution systems (tree-and-branch network) are specialized in the transmission of radio and television programmes. At the same time, interactive systems (switched-star network) are increasingly being installed, enabling a dialogue to be carried on between the participant and the information provider and thus permitting any form of information exchange desired by the participant. A precondition for this is the profitable operation of modern light-wave conductors (optical fibre cables), which have an enormously greater transmission capability while also ensuring better quality.

III. Reception capability

Unlike those broadcasting for direct reception via land-based transmitters or satellite, the cable-network operator exercises control over what is receivable. Depending on what he may legally transmit and in the light of economic criteria, he selects the programmes that are to be relayed.

The main legal conditions imposed are a ban on "active" cable television, which, with a few exceptions,¹ still applies in all Member States, the obligation to broadcast national programmes within the service area and the requirements attaching to the transmission of foreign programmes.

From an economic angle, the demand for additional programmes must be sufficient to finance the costs of receiving and transmitting the programmes and acquiring any legal rights involved.

Under the circumstances, cable television in the Community has developed in the first place as a passive system, the companies involved being content to relay programmes produced by existing domestic and foreign broadcasting organizations. To this extent, there is no functional difference between them and the large number of smaller master aerials and community aerials that have now sprung up.

IV. Progress with cabling²

Taking the broadest definition of cable networks (including master and community aerials), there are some 600 000 different networks in Western Europe. However, 50% of cable subscribers belong to networks serving fewer than 100 subscribers. Around 7% of households are wired to cable networks and a further 17% receive transmissions from community aerials or smaller master aerials (serving apartment blocks, etc.). This means that just under one quarter of Western European households receive television programmes otherwise than via individual aerials.³

Belgium has the densest cable network in Europe and, after Canada, the second-densest in the world. Ten cable television companies (some communal, some inter-communal and some private) make available between 13 and 16 domestic and foreign channels to some 75-80% of all registered television connections.⁴

¹ In a number of Member States, pilot projects are being carried out to test new programmes and services.

² See also Interim report, loc. cit., pp. 99 et seq.

³ CIT-Research: Cable-TV Communications in Europe, quoted in: Patrick Whitten, "Die Zukunft der Kabelkommunikation in Europa", Media Perspektiven 4/83, pp. 233 and 234.

⁴ Information on facts concerning cable distribution, document of the ILO, UNESCO, WIPO, BEC/IGC/ICR/SC.2/CTV/2, Paris, November 1982, Annex, p. 10; Inter-Parliamentary Consultative Council of Benelux, Report "L'influence des satellites de télévision et de la télédiffusion sur l'organisation de la radio-télédiffusion dans les Pays du Bénélux" presented on behalf of the Cultural Affairs Committee by Mr Eyschen, Mr Schotten and Mr Wyninckx on 3 and 4 April 1981, pp. 17 et seq.

In Denmark, over 1 000 000 households, or more than half of all television viewers, are linked to community or master aerials. There are no cable television companies that transmit programmes that are not receivable locally.¹ In a number of border areas, however, programmes from neighbouring countries can be picked up (Jutland: German television; Copenhagen: Swedish television).²

In Germany, 9 700 000 households (out of some 22 000 000 registered receivers) are linked to community or master aerials. Individual cable networks are to be found in Hamburg and Nuremberg. Pilot cable projects have been launched in Munich, Ludwigshafen, Dortmund and Berlin. The Federal Government has decided to press ahead with the expansion of cable networks.³

In France, between 6 000 000 and 8 000 000 households are linked to small community aerials transmitting programmes that are receivable locally. Cable television networks (some 400 000 subscribers) relaying foreign programmes have been introduced primarily in the regions of Northern France. The French Government has decided to launch a cabling programme and has made the necessary arrangements for financing this costly venture. The initial objective is to have 1 400 000 subscribers by 1985, with around half of the households in France being linked to a modern cable network using light-wave transmission technology by 1995.

There are as yet no cable networks in Greece. Cable television in Italy has not progressed beyond the first tentative attempts to introduce it. In Ireland, some 26% of all television viewers are linked to 21 - mainly small - cable networks which carry domestic and, above all, British programmes.

In Luxembourg, the number of households receiving their television programmes via small cable networks is put at some 65 000, or around 90% of all households.⁴ In the Netherlands, around 2 800 000 television viewers (just under 65% of the total) are at the moment linked to a community aerial or a cable network. In addition to the two Dutch channels, German, Belgian and, in some cases, British and French television is offered.⁵

In the United Kingdom, 2 600 000 households, or 14% of television-set owners, currently receive television transmissions via cable. Of these, 1 500 000 subscribe to the services provided by 440 private operators, with the remainder being linked to non-commercial networks operated by the local authorities, housing associations, etc.⁶

¹ Information Technology Advisory Panel (ITAP), Cable Systems,

² A report, Cabinet Office, London 1982, p. 18.

³ BEC/IGC/ICR/SC.2/CTV/2, Annex, p. 6.

⁴ Government declaration by Helmut Kohl, "Bulletin des Presse- und Informationsamtes" of 14 October 1982, No 93, p. 857.

⁵ Doc. BEC/IGC/ICR/SC.2/CTV/2, loc. cit., p. 13.

⁶ Inter-Parliamentary Consultative Council of Benelux, loc. cit.,

p. 26.

⁶ ITAP report, loc. cit., p. 10.

D. RELATIONSHIP BETWEEN SATELLITE AND CABLE BROADCASTING

The two new broadcasting techniques of satellite transmission and cable transmission are complementary, and not mutually incompatible, developments.

One of the characteristics of direct broadcasting by satellite is its ability to beam signals to large, cross-frontier areas at comparatively little cost. The system's advantages are clearly discernible when it comes to servicing thinly-populated or "shadow" areas. It leaves individuals the utmost discretion as to whether, when and to what extent they wish to avail themselves of the opportunities thus afforded for receiving signals direct from domestic and foreign transmitters. However, because of the cost of purchasing and installing an individual receiver and in view of certain other, technical difficulties, e.g. mobile reception in the case of cars or portable equipment, broadcasting satellites will not replace land-based transmissions for some time to come.

For its part, cable distribution can be profitably operated only in areas with a high density of subscribers. Once in place, the modern, high-capacity networks are able to relay programmes transmitted via satellite. The cost of the receiving equipment needed is inversely proportional to the cost of laying the cables and, when shared between all the subscribers, is hardly significant.

The Satellite-transmission and cable-transmission systems are complementary and mutually advantageous. In the difficult starting-up period, cable subscribers provide new direct-satellite channels with the viewer potential essential to their future viability, while the availability of direct-satellite channels acts as an additional incentive to be on cable and the increase in the number of subscribers and monthly fees means that the cabling operation can be financed more quickly. Indeed, a cable network on which not all programmes receivable locally are available will probably encounter considerable scepticism, both on financial grounds (double the cost because of the extra aerials needed) and for reasons of media policy, especially if, at the same time, the operation of individual aerials is restricted for legal reasons or because of actual circumstances.

With a view to the standardization of technical input specifications, preparatory work has been undertaken within the EBU to ensure that programmes picked up are relayed in full, i.e. with no deterioration in quality and including any multilingual sound channels, teletext subtitles, etc., and that, as a result, cable reception is put on the same footing as direct reception.

Such considerations do not apply to the relay of programmes via another kind of satellite, the so-called telecommunications satellite.

The signals transmitted via these satellites (telecommunications between individuals, live transmissions over long distances, exchange of Eurovision programmes) are not intended for the general public but for one or more qualified receivers (postal and telecommunications authorities, broadcasting authorities, cable operators).

Individual "insular" cable networks can be supplied cheaply with centrally produced programmes via such relatively low-power satellites. This development is already well advanced in the United States, for example, and will also gather momentum in the Community. In the United Kingdom, Satellite Television PLC already uses such a delivery satellite, the ECS, with the approval of both the Government and the satellite operator, Eutelsat, to transmit its own television programme, "Skychannel", for between three and five hours a day to Norway, Helsinki and Switzerland, where it is fed into local cable networks with some 500 000 subscribers in all. Negotiations on the relaying of the programme to other cable companies are under way.

Under telecommunications legislation, it is not the transmission by satellite but only the feeding of programmes into the cable network that ranks as broadcasting, since this alone is intended for the general public. A cable operator who supplies programmes in this way is, in many cases, treated as a domestic broadcaster even if the programme comes from abroad.

PART TWO

CULTURAL AND SOCIAL ASPECTS

The number of those reached by radio and television in the Community is impressive; Annex 1, at the end of this Green Paper, gives some figures. They show the extraordinary cultural, social and economic significance of the two media. However, the bulk of television viewers, and a great many radio listeners too, receive programmes only from the country in which they live. For practical purposes only people living in Belgium, Luxembourg and the Netherlands, and in some areas along the Community's internal frontiers, currently enjoy a common market in broadcasting services. Details of the present television overspill in Europe are given in Annex 2.

New transmission and broadcasting techniques, such as direct broadcasting by satellite and cable diffusion, will allow those in the other Community regions also to be reached from other Member States,¹ giving them access to a broad range of information, opinion and culture in the Community.

The citizens of the Community will welcome the extension of the potential coverage and content of television all the more if the Community is in a position to view the opportunities offered by these new broadcasting techniques as a cultural challenge and to place them within the context of a broad plan for the future of Europe not based on economic precepts alone.

¹ Interim report, loc. cit., pp. 103 et seq., and pp. 151 et seq.

A. POLITICAL FREEDOMS

Community-wide television broadcasting is already guaranteed by the fundamental rights of freedom of information and opinion which are binding in the Community.

I. Freedom of information and opinion

The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, which has been ratified by all the Community Member States and to which the European Parliament, the Council and the Commission of the European Communities pledged themselves in a common declaration on 2 April 1977, lays down in Article 10(1): "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises".

The Universal Declaration of Human Rights, which was unanimously adopted by the United Nations General Assembly on 10 December 1948, embodies the following principle in Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

The International Covenant on Civil and Political Rights to which, of the Member States, Denmark, Germany and the United Kingdom have acceded, also assumes the principle of freedom of information. Article 19(1) and (2) state: "Everyone shall have the right to hold opinions without interference. 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".

The conclusions of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) also referred to this principle of the free exchange of information. Although these are not binding, they have great value as a moral commitment by the signatory states, which include the Member States. Section VII of the catalogue of principles includes the statement that the participating states "will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief for all". Direct reference is made to freedom of information under the heading "Information" in basket 2. There the participating states express their intention, in particular, to improve the circulation of, access to and exchange of information, including "filmed and broadcast information".

All these international instruments, to which others could be added¹ feature not just freedom to express opinions (active freedom of information), but also freedom to receive information from all the usual sources of access (passive freedom of information). Both of these freedoms act as guarantees for cross-frontier broadcasting. Broadcasts over the airways are a particularly important example of a generally accessible source of information. With respect to freedom to express opinions, improvements in the technical potential for simultaneous broadcasting of a large number of programmes open up new opportunities for all shades of opinion to participate more directly in broadcasting.

In addition to these human rights guarantees with regard to the freedom to express opinions and of information, there is an older body of rules, arising from international bilateral and multilateral treaties relating to international exchanges of information or significant for such exchanges. Many bilateral cultural, friendship, maritime and trade agreements provide guarantees for cross-frontier exchanges of information as a means of promoting economic and cultural relations.

In addition, the principle of the freedom to broadcast radio or television programmes has largely been accepted into international customary law. This can be confirmed by examining the practice of radio broadcasting and the reactions of receiving states.

Radio has already become an international medium. Television will move towards becoming one through the use of direct satellite broadcasting and cable relay systems.

¹ UN Resolution 59(1), 14.2.1946: "Freedom of information is a fundamental human right and basis for all freedoms to which the UN is committed". UN Charter Article 56, in conjunction with Article 55, commits UN members to promoting "universal respect for, and observance of, human rights and fundamental freedoms ...". The International Convention on the Elimination of All Forms of Racial Discrimination of 7 March 1966 lists, in Article 5, civil rights in respect of which discrimination is forbidden. Section (d)(VIII) refers to "the right to freedom of opinion and expression". The preamble to the UNESCO Constitution advocates the free exchange of ideas and knowledge and Article 1 advocates the promotion of the free flow of ideas by word and picture. The UNESCO Resolution of 1948 recommends to Members that they should recognize the right of citizens freely to listen to broadcasts from other countries. (Records of the General Conference of UNESCO, Third Session, Res. 7.2221, Beirut 1948). The UNESCO declaration on the mass media of 28 November 1978, on the free flow and the comprehensive and balanced dissemination of information as a significant factor for international understanding, is also relevant; it lays down in Article II(1): "The exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding".

The greater range of radio waves, inherent in their technical characteristics, was exploited from an early stage. In many parts of the Community, cross-frontier reception of other nations' programmes is either already a reality or perfectly feasible. A specifically international radio system was simultaneously built up, whose programmes are aimed directly at foreign audiences (e.g. Deutsche Welle,¹ Deutschlandfunk, Radio France, Radio Wereldomroep, BBC World Service). Nowadays, two-thirds of all states transmit their international programmes in the shortwave band. There is no place on earth where it would be impossible to receive this type of broadcast.

The admissibility of beaming radio across frontiers has been recognized by the legal systems of the free democracies and may to some extent be regarded as international customary law. This also applies to international radio programmes specifically aimed at a foreign audience. Freedom of broadcasting has in this specific area become accepted as customary law.

II. Obstacles

Freedom of expression and information do not of course apply without restriction. International guarantees of human rights contain a number of reservations for national rules, and permit freedom of information and expression to be weighed against other important values. However, the principle of freedom of information is not jeopardized by this, but confirmed. An example is Article 10(2) of the European Convention on Human Rights, according to which the right to freedom of expression and information (Article 10(1)) may be subject to legal restrictions which "are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary".

¹

Whose programmes are required "to provide foreign audiences with a comprehensive picture of the political, cultural and economic life of Germany and to present to them the German attitude on important questions of national and international affairs". Law on the creation of Federal Broadcasting Authorities, 29.11.1960, Bundesgesetzblatt I p. 862, Article 1(1) second sentence.

III. Policy for safeguarding freedom in the field of communications

This brief overview of the international legal situation shows how fundamental is the decision taken by the Western democracies to promote free transmission of information as an expression of political freedoms. They have on many occasions, in the United Nations and in its ancillary organizations, opposed efforts to introduce, in the field of cross-frontier exchange of information, the principle of prior agreement of receiving states and to replace free exchange of information by the principle of control over such exchanges within a new World Order for Information and Communication.

All the Community Member States refused to approve the United Nations Resolution of 10 December 1982, which, in its annex entitled "Guiding principles for the use of artificial satellites for international direct television broadcasting" contains amongst other things the requirement that states must seek the prior agreement of countries in which broadcasts might possibly be received before broadcasting any television programmes direct (Sections 13 and 14).¹

Requirements of this nature clash with the basic principles of the European democracies. Freedom of information is a prerequisite to the exercise of the right of citizens to elect their parliament. Only citizens who can obtain information freely are in a position to assume responsibility for their democratic rights and duties. In all the Member States, broadcasting enjoys a wide degree of independence from Government. There is no state responsibility for the content of individual programmes and this is actively discouraged.

In sum it may be observed that the Member States have committed themselves, both politically and - with specific reservations - legally, to guaranteeing the free cross-frontier exchange of information.

This commitment by the Member States tallies with the obligations of Community law enshrined in the EEC Treaty to create the legal preconditions for Community-wide broadcasting (see Part Five).

¹ Reprinted in the interim report, loc. cit., pp. 75-78.

B. THE NEW TECHNOLOGIES IN THE SERVICE OF EUROPEAN INTEGRATION

Cross-frontier radio and television broadcasting would make a significant contribution to European unification. According to the preamble to the EEC Treaty the intention is "to lay the foundations of an ever closer union among the peoples of Europe", while Article 2 states that the Community's task is "to promote ... closer relations between the States belonging to it". Television will play an important part in developing and nurturing awareness of the rich variety of Europe's common cultural and historical heritage. The dissemination of information across national borders can do much to help the peoples of Europe to recognize the common destiny they share in many areas.

It is also essential to improve coverage of events in the other Member States if the citizens of Europe are to play their full part - in particular as voters in elections for the European Parliament - in building the Community. A greater role for the citizens in the decision-making process of the European institutions will stimulate interest in Community affairs. This requires awareness on a much wider geographical scale. Accordingly, the European Parliament called for a supranational approach to the dissemination of information: "European unification will only be achieved if Europeans want it. Europeans will only want it if there is such a thing as a European identity. A European identity will only develop if Europeans are adequately informed. At present, information via the mass media is controlled at national level".¹

In its Resolution of 12 March 1982 the European Parliament stressed the need for the Community to encourage and participate in plans by the national television companies and the European Broadcasting Union to establish a European television channel.² The Commission stated its readiness to do so in its interim report "Realities and tendencies in European television - perspectives and options".³

The fact that cross-frontier television broadcasting offers an opportunity for helping to develop a European identity is an aspect of the new broadcasting technology which also holds some attraction for the Member States. The aim is to use the possibility of direct television transmission via satellite in order to produce and broadcast a new kind of programme with a European focus. In Germany the ZDF has given thought to the possibility of a European satellite channel.⁴ In France plans are being developed for cooperation with neighbouring countries on a joint channel for the French-speaking areas. Radio Luxembourg's satellite plans envisage a channel tailored to European requirements.

¹ European Parliament, Report on behalf of the Committee on Youth, Culture, Education, Information and Sport on radio and television broadcasting in the European Community, rapporteur W. Hahn, document No 1-1013/81 of 23 February 1982 (PE 73.271/fin.), pp. 9, 11 and 12.

² OJ C 87, 5.4.1982, p. 110 and p. 111.

³ Interim report, loc. cit.; see especially p. 27, section 36.

⁴ ZDF-Schriftenreihe, Heft 25, Mainz 1981.

However, new programmes specifically designed for European interests are not the only contribution; the broadcasting of national programmes across national borders can do just as much to promote European integration:

- the range of sources for information about the other Member States of the Community and their peoples is thereby dramatically increased;
- access to programmes from other Member States provides a common background of information which offers far better chances of mutual understanding, trust and rapprochement;
- with more information available, different sources can be compared; this will sharpen people's judgment and help them to make a more objective assessment of the situation in the Member States and hence in the Community.

It would be a great advantage for the millions of workers and self-employed persons who have made use of the freedom of movement guaranteed by the EEC Treaty to be able to receive programmes from their home countries in the Member States where they are working.

Cross-frontier broadcasting of European as well as national programmes will also give a boost to those bodies in the Community which endeavour to further the progress of European unification, by providing them with a wealth of information, arguments and new impulses.

C. THE NEW TECHNOLOGIES IN THE SERVICE OF CULTURAL EXCHANGE

All the Member States of the Community welcome and promote cultural exchanges between their peoples both for the stimulating effect they have on the creativity of artists and thinkers and for the sake of developing a wider audience.

Television, like radio, would become a means of conveying information about political, social and cultural events from one country to another and thus a source of cultural enrichment. Added to the impressions gained from travel and other activities, this would provide citizens from neighbouring countries with a far more rounded and clearer picture.

Cooperation between the broadcasting organizations in the Community, both bilateral and within existing international bodies such as the European Broadcasting Union (EBU, widely known as "Eurovision") which at present mainly involves programme exchanges, would be supplemented by something much more immediate: a direct "exchange" of programmes in the Community. With wider coverage areas, viewers would have direct access to programmes broadcast in neighbouring countries. However, the advantage of being able to receive the original programmes direct is offset by the problem of language, as the scope for language aids under such a system is still very limited.¹

To begin with, however, the main objective will be to make programmes aimed at national audiences available to people in the other Member States. At a later stage television could follow the example of radio, producing programmes intended to convey life and events in one country for audiences in the other Member States.

Transmission of domestic television programmes across national borders also offers the interested public new opportunities for learning about the cinema and other cultural productions in the audio-visual field in other Member States.

This applies in particular to productions which are not marketed via the large international distributors (film workshop broadcasts). There are many examples to show that creativity is heightened by contact with different cultures.

¹ Possible technical solutions include multichannel sound and simultaneous transmission of subtitles in several languages via teletext. Such arrangements would be facilitated by a single set of standards for direct broadcasting by satellite in Europe.

These advantages are not merely theoretical. The Nordic countries are already working on the practical details of using direct satellite broadcasting for supranational programme exchange. At the WARC in 1977 they applied for and were granted a number of satellite channels to cover the entire Nordic region. A joint satellite project (Nordsat) was agreed. In the preamble to the draft treaty governing cross-frontier transmissions by satellite particular emphasis is placed on the cultural opportunities offered by intensified programme exchange:

"Conscious of the vital need to maintain and strengthen the cultural proximity of the Nordic peoples, anxious to promote mutual interest and knowledge between the neighbouring Nordic countries in order to acquire a better understanding of the individual character of each country, intent on promoting these objectives by the transmission of radio and television programmes from individual countries throughout the Nordic region and thereby at the same time allowing ethnic and cultural minorities greater opportunity to enjoy cultural productions and information in their own languages, desiring to offer the inhabitants of the region a greater and broader range for programmes on a pan-Nordic basis and to strengthen cooperation between the Nordic broadcasting companies in order to provide a platform of programme production that will extend beyond the resources of the individual countries, realizing the value of Nordic programme exchange via satellite as a counterbalance against the growing range and extent of radio and television broadcasts by other countries across national and language frontiers ... the Governments of Denmark, Finland, Iceland, Norway and Sweden have agreed as follows.¹"

The Council of Europe, which regards the promotion of culture in Europe as a priority, has carried out a detailed study of the cultural effects of direct television broadcasting by satellite (DBS). In a report

¹ Nordic Council of Ministers, Nordic Radio and Television via Satellite - Final Report, Stockholm 1979 (the emphasis is the Commission's).

adopted by the Committee of Ministers¹ it notes that DBS will offer viewers a greater number of channels to choose from than ground transmissions. In addition, a wider European audience would be given the opportunity of watching foreign television broadcasts and even specifically European programmes. This could help understanding between peoples, deepen their knowledge of each other's culture and development and contribute towards a more widespread European identity. Europe must therefore exploit the opportunity offered by the new transmission techniques for increasing the range of programmes available in order to exchange broadcasts on a pan-European basis. Provision of a greater variety of programmes cannot, in its view, be limited to national possibilities.² This is particularly true as regards the Member States of the European Community.

Cultural exchanges worldwide are the particular concern of UNESCO. The final report of the World Conference on Cultural Policies, held from 26 July to 6 August 1982, contains a section on international cultural cooperation, which begins as follows: "Creative human activity and the full development of the individual and society depend upon the widest possible dissemination of ideas and knowledge by way of cultural exchanges and contacts."³

The Commission itself recently reiterated the value of cultural exchanges for promoting culture in the Community and stressed that "widening the audience" must be accompanied by other measures.⁴ These include ensuring that the benefit gained by the holders of authors' and performers' rights from the commercial exploitation of their work via satellite and cable television broadcasts is commensurate with the increasing audience potential. They must - if they cannot already do so - be enabled to adapt their marketing practice to changing consumer patterns. This Green Paper contains proposals along these lines (Part 6, C).

¹ Council of Europe, Steering Committee on the Mass Media (CDMM), Committee of Experts on Media Policy (MM-PO), Final activity report on the possibility of reaching agreement on a legal instrument relating to direct broadcasting by satellite DBS, Strasbourg, 7.10.1982, Document MM-PO (82) 24.

² Loc. cit., 30-31.

³ Unesco, World Conference on Cultural Policies, Mexico City, 26 July - 6 August 1982, Final Report, Paris, November 1982, p. 45, Section 43; even more explicit are recommendations No 136 on the dissemination and exchange of cultural information (p. 146) and No 142 on cultural agreements and cultural exchanges (p. 151).

⁴ Stronger Community Action in the Cultural Sector, Supplement 6/82 - Bull. EC. pp. 12 and 13.

Frequent warnings are heard about the dangers of the cultural domination of one country by another in the cinema, although this is not a problem between Member States. As for the production of television programmes within the Community, no individual Member States are predominant. Statistics on the films broadcast on television in the Member States show that the proportion of films from other Member States is regrettably small (Annex 3). Greater cooperation between the European broadcasting authorities is desirable and is being pursued in various ways.

However, most of the films shown come from one single non-member country - the USA. As a result there is already a certain uniformity in the range of films screened on television in the Community. Programmes such as "Dallas" are carried by almost every television channel in the Member States. The creation of a common market for television production is thus one essential step if the dominance of the big American media corporations is to be counterbalanced. This is yet another area where the establishment of a Community-wide market will allow European firms to improve their competitiveness.

D. THE SOCIAL CONSEQUENCES

An important question for the Community is what effect the opening up of internal frontiers made possible by Community-wide broadcasting will have on viewers and on the content of broadcasts in the future.

I. Effects on viewers

Some of the dangers attributed to the "new media" are simply irrelevant to an increase in the number of programmes achieved by relaying foreign programmes. People will not be overwhelmed with information or stimuli simply by having the opportunity to watch or listen to radio or television broadcasts from other Member States rather than their domestic programmes.

Moreover, contrary to the common fear regarding the "media revolution", the provision of cross-frontier broadcasting is unlikely to produce an increase in viewing and listening. Neither in Belgium nor in the Netherlands, where cable television offering nine to sixteen foreign channels is widespread, has the average daily viewing time risen. Indeed, long-term surveys of viewing habits in those countries have shown that average viewing settles down at just over two hours per day, even where the number of channels actually available has increased.¹ The alleged "addictive fascination" of television does not come into play in the case of foreign programmes simply because, for most viewers, watching them requires a greater intellectual effort. Consequently, fears that a greater choice of channels could lead to "personality disorders" are unjustified.

Looking at the average picture does not, however, tell us anything about the dangers for certain specific categories of persons - such as children and young people. In fact, the above findings apply to them in an even greater measure because they, especially, will be unable to follow programmes from abroad because of the language barrier. Their interest in foreign language broadcasts will tend to develop only as they progress through school and come to learn foreign languages - in other words, when their maturity and experience have grown.

For other groups - foreigners, for example - cross-frontier broadcasting will be a positive advantage, offering them for the first time a chance to maintain closer contact with and share directly in the life of their home country.

¹ Daniel Poesmans, Verkabelung und Fernsehverhalten in Flandern, Media Perspektiven 1981, pp. 240 and 243.

Assuming that the availability of foreign channels is hardly going to affect the average amount of viewing time, it follows that the number of programme choices made by viewers - whether positive or negative - will increase. Viewers and listeners are likely to learn to use greater judgment and to be more selective.

What criteria and direction such selectivity will follow requires further study. Any forecast involves more or less plausible conjecture. One type of attitude is for the viewer to select programmes which corroborate and confirm his own opinions. This is quite compatible with a differentiation of opinion through awareness of additional arguments. Whether or not the overall effect is to strengthen existing opinions and prejudices depends primarily on the type of programme available: crudely stereotyped programmes presenting sweeping judgments in line with majority sentiment heighten the negative effects, while programmes presenting different facets of the arguments tend to heighten the positive effects. Another attitude, widely welcomed, but which depends very much on the quality of the programmes available, treats the media critically, as a source of information and culture (cognitive growth). The contrary (escapist) attitude is to seek in the media easy answers and surrogate solutions to problems and relief from stress. Finally, selectivity can be directed towards social objectives, treating the media as the frame and fabric of interpersonal communication. None the less, a number of social factors such as parental example, family unity, style of upbringing, play a determining role.

The growth in broadcasting may also significantly affect the availability and dissemination of knowledge, even if other factors - such as home, school, social status and interpersonal relations - predominate initially.

II. Effects on programme content

The increase in the number of channels available to media users as a result of Community-wide broadcasting may have both positive and negative effects (increased variety as against poorer quality and less scope for financing individual programmes).

The effects on programme content and quality are closely linked with the scale and nature of the available sources of finance. For example, in the case of an oligopolistic market structure the supplier might endeavour to find the lowest common denominator: programmes which would not be anyone's first choice, but which people will prefer to watch rather than to switch off, are duplicated until the audience which can be captured by a more specialist programme is greater than could be attained by re-duplicating the most popular type of programme

(i.e. that with the lowest common denominator). In the case of "pay TV" this tendency towards duplication and the production of programmes with the lowest common denominator is less strong because the fact that there is a charge for programmes provides programme producers with a more accurate picture of audience preferences and thus encourages the production of special interest programmes.

Community-wide broadcasting is unlikely to have such consequences, as it does not directly affect the way in which existing channels are financed. But channels with differing forms of finance will increasingly be competing for the same audience. The co-existence of two types of television organization - the one financed from licence fees and the other financed on a commercial basis, both equally bound to provide a public service - has proved its worth in the United Kingdom over many years. A further increase in the choice available is currently taking place there, and past experience shows that there are no grounds for fears of a drop in the high quality of programmes.

PART THREE

ECONOMIC ASPECTS

Action on broadcasting is needed for two reasons. One is the Community's brief to create a common market for this important branch of the economy (A.I). The other is the desire to facilitate cross-frontier broadcasting in the Community (A.II) and to exploit its integrating effect.

As a cursory review of costs and financing possibilities for broadcasting shows (B), the use of new transmission techniques such as direct satellite and cable will further enhance the economic significance of broading. The infrastructure costs of introducing these new transmission techniques will, however, be met only in part and indirectly by the broadcasting organizations. Production costs differ significantly depending on the type of programme. Among the financing possibilities, subscription programmes and advertising promise substantial rewards that can be fully realized only through the introduction of Community-wide broadcasting. New financing possibilities must also be examined, however. The advantages of cross-frontier DBS cannot have their full impact unless there is a uniform European standard.

From an economic angle, establishment of a common market for broadcasting does, however, have implications that go far beyond the broadcasting sphere. As an advertising medium, broadcasting organizations help to stimulate sales of goods and services in many branches of the economy. The cross-frontier broadcasting of advertising promotes cost savings and increases in efficiency (D). These economic aspects must not be overlooked if, from a cultural and social point of view, the role of broadcasting as a medium providing information, expression of opinions, education and entertainment is to be preserved.

Moreover, as the technical infrastructure necessary for the new transmission techniques is being developed, financial resources to the tune of some 100 000 million ECU are being channelled into specific activities simply in order to create efficient service-integrated cable networks. These activities include cable technology, communications technology, entertainment electronics, component technology including micro-electronics, electrical trades and the space industry (C).

The transmission of broadcast programmes is only one of several functions performed by modern integrated communication networks. Where the production and marketing of goods and services are concerned, such networks also play a key role in maintaining the competitiveness of the European economy on international markets. Moves towards integration, which go hand-in-hand with an increasingly marked division of labour, heighten the need for a cross-frontier exchange of information within the Community. Efficient communication networks, which are the nervous systems of modern industrialized societies, enable firms to reduce production, organization and communication costs and, in so doing, lead to rationalization and higher productivity.

Financing these communication networks, which are essential to the economy as a whole, cannot simply be a matter for business users but should also be tailored to the requirements and purchasing power of private households, which will be prepared to invest in the new techniques only if the variety and attraction of the new means of communication available provide them with an incentive to do so. Here too, we see just how necessary Community measures to liberalize broadcasting are.

Lastly, the keener competition within the common market will trigger adjustment processes in broadcasting and in the competing media and will lead to a greater degree of supply specialization. For example, advertising aimed at encouraging leisure activities ("hobby advertising") will provide television with new sources of revenue, especially as a larger share of private income is expected to be spent on such activities in the longer term (E).

A. BROADCASTING

I. The broadcasting organizations as a force in the economy

Broadcasting organizations perform an important role in the Community economy as a whole. They are active on the market as an economic force and, as employers, provide a large number of jobs. In all, over 100 000 people from a wide range of specialist fields and covering a broad spectrum of skills (economists, technicians, artists, journalists, craftsmen, etc.) are employed on a permanent basis by broadcasting organizations in the Community. Details are given in Annex 4 at the end of this Green Paper. In addition, many more people are employed in a temporary capacity or on a fee-receiving basis, and without them broadcasting would not be possible.

The broadcasting organizations publish annual accounts, usually drawn up in accordance with company law or analogous rules.

In Belgium, there are two large independent broadcasting bodies, Belgische Radio en Televisie (BRT) and Radio-télévision belge de la Communauté culturelle française (RTBF), and one smaller independent body, Belgische Rundfunk und Fernsehzentrum für deutschsprachige Sendungen (BRF). In 1981, they had an aggregate turnover of some BFR 9 250 million. The RTBF balance sheet at 31 December 1981 showed a total of BFR 5 330 million and that of the BRF one of around BFR 100 million. The 1981 revenue and expenditure account for Danmarks Radio showed a total of some DKR 1 200 million for television and one of DKR 133 million for radio (Radiofond). In Germany, the corresponding figures on the revenue and expenditure accounts for ARD and ZDF were some DM 3 900 million and some DM 1 200 million respectively for 1981. The total budget for the French broadcasting organizations in 1982 was fixed by the National Assembly at more than FF 7 800 million. In Greece, expenditure by ERT-1 in 1982 was given as just under DR 6 000 million (the figures for ERT-2 are not available). In Ireland, expenditure by RTE totalled around IRL 50 million in 1981. In Italy, RAI announced expenditure of LIT 1 143 146 million for 1981. A large private broadcasting sector exists alongside RAI. In Luxembourg, the CLT (Compagnie Luxembourgeoise de Télédiffusion) recorded a turnover of LFR 8 280 million in 1982 and showed a profit of some LFR 971 million in 1980. The broadcasting authorities in the Netherlands were able to call on revenue totalling HFL 768 million for their domestic programmes in 1982. In the United Kingdom, revenue accruing to the BBC amounted to UKL 602 million in 1982, while the ITV companies recorded a turnover of UKL 680 million. The aggregate turnover of broadcasting organizations in the Community is around 7 500 million ECU. A summary table with national currencies converted in ECU is given in Annex 5 at the end of the Green Paper.

The broadcasting organizations obtain their finance primarily from licence fees and/or advertising. The radio and television licence fees payable in each country are shown in Annex 6. Licence fees generate about 4 200 million ECU for 30 television and radio organizations in the Community, while the other broadcasting organizations rely on commercial advertising. However, as an advertising medium, the latter compete with broadcasting organizations that, in addition, can count on revenue from licence fees. In 1981, commercial advertising brought in some 3 300 million ECU in the Community as a whole. Details of expenditure on television advertising in the various European countries and the share of such expenditure in total advertising expenditure are given in Annex 7.

Broadcasting organizations act in the market as potential buyers of goods (e.g. land, buildings, broadcasting premises and equipment, and office equipment), services (e.g. independent programme productions, concerts, theatre, ballet and opera performances, and general services) and rights (copyright and performers' rights). They are also suppliers of goods, services (e.g. advertising) and rights (e.g. marketing of television productions recorded on video cassettes, international programme exchanges).

Commercial subsidiaries or dependent public undertakings set up for predominantly business and industrial purposes are extremely powerful and active in a wide variety of fields; transmitting and broadcasting programmes via cable networks,¹ selling advertising,² time and preparing programme schedules,³ producing programmes,⁴ procuring, acquiring and exploiting films,⁴ distributing and marketing film and television

¹ In France, a public undertaking with industrial and business responsibilities was set up under the Audio-visual Communications Act of 29 July 1982. It is financed in part out of the revenue it receives from programme companies in consideration for the broadcasting services it provides.

² In Germany, all the "Land" broadcasting organizations have set up independent advertising companies to sell and to carry out advertising on the air. In some cases, they are even responsible for that part of the programme into which advertising spots are fitted (Westdeutsches Werbefernsehen GmbH). In other countries, this responsibility falls to a central body (Régie française de publicité, Stichting Ether Reclame) that shares out its profits among the broadcasting organizations according to a formula fixed by the government.

³ In France, the Société nationale de production carries out those of its activities not directly financed out of the licence-fee revenue on a commercial footing. According to Mr B. Labrusse, its chairman and managing director, it is one of the three largest production companies in the world, with 2 500 permanent employees, 500 people employed on an occasional basis and 10 000 self-employed collaborators (artists, authors, etc.) as well as a turnover of FF 1 000 million and just under 2 000 hours of programme production.

⁴ In Germany, Degeto-Film GmbH acts in this capacity on behalf of all the "Land" broadcasting organizations.

productions,¹ compiling and publishing magazines containing programme schedules,² collecting, storing and exploiting sound, picture and written documents,³ carrying out R&D into the technical aspects of broadcasting,⁴ monitoring and checking broadcasting equipment and premises as well as ascertaining the extent of service areas and adapting broadcasting facilities accordingly,⁵ transmitting programmes by cable,⁶ organizing training and further training courses for employees⁷ and providing them with retirement pensions.⁸

Even more than with actual broadcasting, these activities bring them into competition with other undertakings. They vie with the other media participants: independent authors/artists, the press (newspapers/magazines), the book trade (publishing/retailing), libraries/museums, the theatre, the film industry, manufacturers of audio and video material, and distribution companies.

As an advertising medium, the broadcasting organizations compete with newspapers, magazines, outside advertising, directories, cinema advertising and direct advertising. Of the total of some USD 27 000 million that is spent on advertising in Europe, 12% on

¹In France, the Institut national de la communication audiovisuelle is responsible, among other things, for marketing television productions. A new agency, the Société de commercialisation, has been set up to market television productions abroad and to secure for the culture industry in France a larger share of the world market in audio-visual productions as a means of increasing the volume and quality of productions. In the United Kingdom, the total turnover from sales of programmes and records and from a variety of services amounted to UKL 12 million in 1980, and the trend is upwards. Hearst, Britisches Fernsehen, Media Perspektiven 1981, pp. 353 and 365.

²In Ireland, the Netherlands and the United Kingdom, to name just three countries, the broadcasting organizations publish magazines listing their programmes. In 1980, the gross revenue from the BBC's extensive publishing activities, including the Radio Times, totalled over UKL 56 million. Hewlett, BBC Data, Media Perspektiven 1981, p. 367.

³The Deutsche Rundfunkarchiv has a central filing system, sound archives and historical archives. BBC Data provides the BBC with a centralized and comprehensive information service. It also operates on a commercial basis the facilities necessary to provide this service. Hewlett BBC Data, Media Perspektiven 1981, p. 367.

⁴In Germany, the Institut für Rundfunktechnik in the case of ARD and ZDF.

⁵In Germany, the Rundfunk-Betriebstechnik GmbH, in which seven "Land" broadcasting organizations and ZDF have shares.

⁶RTE Relays contributed IRL 336 784 to the RTE's results in 1981.

⁷In Germany, the Schule für Rundfunktechnik, Nuremberg, and the Zentralstelle Fortbildung Programm ARD/ZDF.

⁸In Germany, the Pensionkasse freier Mitarbeiter, Frankfurt, on behalf of all ARD broadcasting agencies, including RIAS, and on behalf of ZDF.

average goes on television advertising and 3% on radio advertising.¹ For want of accurate statistics, the economic significance of the media in the Community as a whole can only be estimated. It is reckoned that between 1.5% and 2.0% of the Community's gross national product is generated by the media and that some 1% of the labour force is employed in that sector, if both wholesale and retail levels are included.

No fundamental differences in economic behaviour are discernable between private broadcasting organizations and the majority of their counterparts in the public sector. In performing their service in the public interest, public broadcasting organizations operate in the same way as private commercial undertakings.²

II. The financing of broadcasting organizations exposed to competition from other Member States

From an economic viewpoint, the dismantling of internal barriers to broadcasting, which permits the cross-frontier transmission of programmes throughout the Community, will entail changes in broadcasting companies' financing arrangements and possibilities. Fears have been expressed that the economic base of some of them will be undermined. Because of its implications for the freedom to express opinions and to receive and impart information and for the unhindered access of social groups to the media, this anxiety has to be taken seriously. However, there is little to suggest that the establishment of a common market in broadcasting provides any justification for such fears.

Cross-frontier broadcasting will have no direct effect on the revenue that flows to broadcasting organizations in the form of licence fees or government grants. As a rule, mere possession of a radio or television receiver ready for use entails payment of the national licence fee. This source of financing is not, therefore, conditional on the actual transmission of programmes, or on audience size. Its effect is to seal off national markets, and this cannot be remedied if only because imposition of an official licence fee is confined to the national territory. Financially speaking, no account is taken of the cross-frontier reality of broadcasting. On the one hand, financial participation by foreign listeners or viewers is not possible even where the programme is relayed by cable and, on the other, there is no provision enabling foreign broadcasters of programmes received within the country or relayed by cable to share in national licence-fee revenue.

By contrast, subscription fees in respect of the transmission of foreign programmes from other Member States could be a new source of finance, on top of the broadcasting organizations' conventional sources of revenue. However, future pay-TV programmes, as planned, for example, by the BBC for one of the direct-satellite channels, will have to compete with foreign as well as with other, domestic cable programmes. In those Member States that are planning

¹ International Advertising Association, World Advertising Expenditures 1980, pp. 16 and 17.

² See, for example, the RTE information sheet, The Finances of Broadcasting, Dublin 1982, p. 1.

to expand the supply of domestic programmes in this way, cross-frontier broadcasting of foreign programmes is seen not as constituting a threat but as providing a welcome, additional stimulus to the rapid introduction on the market of the new transmission techniques.

It is difficult to predict what effects the Community-wide dissemination of television programmes will have on the advertising revenue of individual broadcasting organizations and systems. Given the present differences between Member States in the rules on television advertising, the danger of a shift in the pattern of advertising revenue for reasons other than those dictated by competition is not to be lightly dismissed. If the rules on television advertising in Member States were to be aligned, as proposed by the Commission (Part Six, A), this cause of unnatural and unjustified movements in revenue would be eliminated. What is more, larger reception areas increase audience coverage and pave the way for higher advertising revenue.

Community-wide broadcasting of television programmes provides broadcasting organizations with yet another source of revenue, viz. remuneration from copyright and performers' rights. The exact amounts of such remuneration will have to be negotiated with foreign cable companies. In this connection, agreements were concluded recently on feeding foreign programmes into the Belgian cable networks. Under the agreements, the broadcasting organizations receive a fixed percentage of subscription fees. If programmes were broadcast throughout the Community, revenue from this source would be much higher.

B. NEW TRANSMISSION TECHNIQUES: SATELLITE AND CABLE

The introduction of satellite and cable transmissions will entail substantial new investment and operating costs that will have to be financed wholly or partly by subscribers and other users. The Commission is at present examining the associated questions, particularly with the operators of communications infrastructures, and is drawing up proposals in connection with the development of a Community telecommunications policy.

I. Costs

1. Direct broadcasting by satellite

With a direct satellite system, both the operator and the individual recipient incur costs. The foreseeable costs of building, launching and operating a direct television satellite depend primarily on its size, which in turn determines its capacity. All available estimates of those costs are subject to a considerable measure of uncertainty. Because of the wide variety of government support measures, development costs are not passed on in full. In individual cases, substantial rebates are available for repeat orders.

Differing interest and inflation rates and technical specifications make comparisons difficult.

In the United Kingdom, a Home Office report² puts the total cost of building, equipping, launching and operating a DBS system over a ten-year period at between UKL 14 million and UKL 16 million per channel and per year for a two-channel system and between UKL 10 million and UKL 11 million for the Olympus L-sat five-channel system. In Germany, the broadcasting organizations estimate the capital cost of operating on a permanent basis a five-channel satellite-broadcasting system, including the two launches needed and the terrestrial facilities for steering the satellite and for transmitting the programmes, depending on whether interest payments and redemption in respect of this investment are spread over ten³ years or longer, at some DM 30 million per channel and per year.

¹ Commission of the European Communities, Communication from the Commission to the Council on telecommunications, lines of action, document COM(83)573 final of 29.9.1983.

² Home Office, Direct Broadcasting by Satellite, London 1981, p. 23.

³ Report by the "Arbeitsgruppe Satellitenrundfunk" set up by the officials responsible for broadcasting in the Länder, Media Perspektiven 1982, p. 776 (783).

The cost of the receiving equipment has to be borne by the individual receiver. At present, it is reckoned to be in the region of 400 ECU, including the necessary electronics. This cost will be one of the factors determining the speed with which direct broadcasting by satellite is introduced. Most estimates assume that, by the end of the century, around 50% of subscribers will be able to receive direct-satellite transmissions either direct or via cable.

2. Cable broadcasting

The transmission of programmes by cable requires more investment by the operator than does satellite broadcasting. At the moment, actual cabling costs are known only approximately. The differences between current estimates can be attributed in part to the different assumptions made. Indeed, the specifications imposed for cable networks are a major factor in determining the amount of technical work involved and the network design (capacity, return channel, tree-and-branch or switched-star network). The future cost of optical fibre cable, which, starting around 1985, will be used in all Member States for regional transmissions at least, is not yet known.

The estimates compiled in the Member States do, however, provide a useful starting point. According to one set of calculations, the laying of a wide-band delivery network incorporating a return channel will cost around DM 2 500 per house. In 1982, the ITAP report still reckoned on an average cost in the range of UKL 200-300,² a figure which,³ viewed under present circumstances, is probably on the low side.

Provided there is an attractive selection of programmes on offer, the demand from television viewers is expected to produce a continuous increase in cable connections. Assuming a commercially attainable cable-network density equal to around half of the television households in the Community, a total of up to 42 million television sets could be on cable.

Subject to all the reservations that have to be made, it follows that the costs of setting up a broadcast distribution network in the Community would work out at just under ECU 50 000 million.

¹ Expertenkommission Neue Medien - EKM Baden-Württemberg, Abschlußbericht, Bd. I, Stuttgart 1981, p. 92.

² Information Technology Advisory Panel (ITAP), Cable Systems, A report, Lond 1982, p. 28.

³ Rt. Hon. Patrick Jenkin, Secretary of State for Industry, UK, Financial Times Conference Organization, Cable Television and Satellite Broadcasting, London 1983, pp. 1 and 3.

3. Programmes

Programme production costs depend on a variety of factors, the most important being the length and nature of each day's programme, the production method, the proportion of repeat programmes, etc. The following table illustrates the variability in the cost per programme minute of individual programme components:

- Broadcasts with a story-line	DM 7 962
- Entertainment broadcasts without a story-line	DM 8 478
- Music broadcasts	DM 4 454
- Information broadcasts	DM 3 336
- Broadcasts with a variety of items and forms	DM 6 169
- News and current affairs	DM 4 756
- Sport and specialist sports programme (ARD)	DM 2 407
- Weather forecast	DM 914
- Feature films	DM 1 892
- Other	DM 804
- Average cost	DM 4 436

In 1979/80, the average cost per programme minute in the United Kingdom was UKL 373 (BBC) and UKL 540 (ITV). At the moment, major national broadcasting companies produce few high-cost programmes, although it is still felt that savings can be made without quality requirements having to be lowered.

Depending on programme requirements, additional television programmes can be produced at much lower cost. In the United Kingdom, the cost of a direct-satellite programme is put at between UKL 100 million and UKL 10 million while, in Germany, the estimates for a European television programme range between DM 130 million and DM 200 million. The cost of local or regional cable programmes is appreciably lower. The Bayerische Rundfunk, which is responsible for the additional programmes for the Munich pilot cable scheme, estimates that two cable programmes will cost only around DM 60 million. Short-duration cable programmes, running for half an hour each day, actually cost only some ECU 2 million. These figures might, however, prove to be on the low side if, in the short term, the authorization for additional programmes causes surges in demand on the programme production side.

By contrast, cross-frontier broadcasting of national television programmes is a readily available way of offering viewers in the Community an additional choice of programmes. Recourse to existing programmes does not necessitate the creation of any additional programme production capacity or entail any extra programme production costs. Extending service areas makes programme production more profitable. A cursory look at the existing exchange of programmes within Eurovision illustrates the potential this approach offers, with 833 programmes lasting 1 460 hours being fed into the Eurovision programme exchange in 1979. This compares with the 5 109 broadcasts lasting 8 710 hours in all actually produced by the broadcasting organizations belonging to Eurovision.

¹ ARD-Jahrbuch 1983, Hamburg 1983, p. 345.

II. Financing

The question how the cost of satellite transmission and, above all, of cable broadcasting is to be met is a long way from being resolved in any of the Member States. There are several alternative or mutually complementary solutions. The repercussions that the different types of financing have on the extent to which individual sections of the population will have to foot the bill are not only a problem for the media but also an economic problem, since the level of costs determines demand.

The cross-frontier broadcasting of programmes increases revenue derived from advertising and subscription fees, while financing based on official licence fees is not directly affected. It would seem that only now is the financial potential of other economic activities engaged in by broadcasting organizations, e.g. sales of their own productions on video tape, beginning to be exploited.

1. Licence fees

With just under 100 million households possessing sets in the Community, the average licence fee (radio and colour television) of 81.9 ECU, generates a total gross revenue of 5 000 million ECU.¹ The official licence fees payable in the individual Member States are given in Annex 6. At the moment, the television and radio companies in each country (there are 30 in all) share the net national revenue from this source² according to a specific formula, normally laid down by parliament.

Part-financing of the new transmission techniques out of the general licence fee, an idea being discussed in a number of Member States,³ would also fall on those who were unwilling or unable to take advantage of the possibilities on offer. This effect is not avoided by introducing a special supplement (known as "kabelgorschen" in Germany) for all radio and television subscribers. On the other hand, sharing out the financing costs among a larger number of people than the direct beneficiaries would make it possible, at least initially, to increase more rapidly the number of network link-ups by charging attractively low licence fees. All in all, it seems clear that diversion of parts of the general licence fee (including the increases at present under discussion) will not be sufficient to finance the volume of investment mentioned at I (some DM 2 500 per household simply for being connected to the cable network).

¹ Estimate based on the number of receivers for which the licence fee is payable multiplied by the amount of the licence fee in Member States as at 31 December 1981; European Broadcasting Union (EBU) Review,

² "Programmes, Administration, Law", No 2, March 1983, pp. 60-63.

³ After deductions, in particular to cover collection costs.

³ In the case of the United Kingdom, for example, see Home Office, Direct Broadcasting by Satellite, loc. cit., pp. 66 et seq.

2. Advertising

Annex 8 at the end of the Green Paper gives a survey of the European countries in which there is television and/or radio advertising, broken down into national and regional commercial advertising, and the countries in which broadcast advertising is wholly or partly prohibited.

Radio and television advertising already contributes significantly to the financing of the activities of most broadcasting organizations in the Community. Further details for each Member State are given in Part Four. Annex 9 shows what percentage of the income of the individual European television channels or of the television companies behind them was derived from advertising in 1981.

Commercial advertising brought in some 3 300 million ECU for broadcasting organizations in 1981, or just under half of their total financing needs. The details are given in Annex 10. In the absence of any revenue from advertising, the average licence fee would be 121.57 ECU instead of 81.9 ECU as at present.

Advertisers are demanding that advertising time be extended according to free-market principles, since they reckon that advertising boosts economic growth. This conviction is reflected in the fact that their overall spending on advertising is increasing at an average annual rate of 5%-10%. Details of the advertising turnover and growth in advertising of the individual advertising media in the Member States in the period from 1970 or 1975 to 1981 are given in Annexes 11 and 12. Expenditure in Europe on advertising as a whole in 1982 and on television advertising in 1981 is shown in Annex 7.

Among broadcasting organizations too, there is the view that advertising will be the major source of finance for television in the future. This is an assessment also shared by representatives of public broadcasting organizations.¹ Similar expectations prompted the decision in 1982 to remove the statutory limitations on the share of revenue accruing to French public broadcasting organizations that may be financed by advertising (25%).² According to a statement by the French Minister for Communications,² the Régie française de publicité was obliged in 1981 to refuse advertising applications worth FF 1 400 million because of this ceiling. FF 800 million to FF 1 000 million of this would probably have been actual purchases of advertising time. This demand had not been transferred to other media: less than 2% of this amount of FF 800 million to FF 1 000 million had gone to the regional daily press. "These figures mean at all events that, as far as television is concerned, there is a potential market which can be exploited for the benefit of the public sector."

¹ See, for example, Dieter Stolte, General Manager of the ZDF, on the occasion of the 1983 annual meeting of the Zentralausschuss der Werbewirtschaft in Bonn.

² In connection with the debate on the new Law in Parliament. Published in "TF 1, Loi sur la communication audiovisuelle", Paris 1981, p. 112.

If, therefore, the amount of television time devoted to advertising is to be extended, the restrictions on television advertising time that are in force in virtually all Member States must be eased. These restrictions have led to artificial shortfalls in the supply of advertising time, with the result that there is substantial excess demand for advertising time in most Member States, and in particular in Germany¹ and France.² Accordingly, firms have been unable to spend the considerable resources they have available on their desired advertising objectives.

Spending on television advertising in the Community is currently running at 3 100 million ECU (see Annex 7 for 1981 figures). If it is assumed that the resources available for television advertising in the Community will, in the longer term, reach the level recorded in the United Kingdom in 1980, we have a market potential two or three times greater than at present. At first sight, the additional potential of between 3 500 million ECU and 7 000 million ECU³ seems huge. However, it must not be forgotten that the United Kingdom is one of the countries in the Community where commercial television has been allowed to develop along free-market lines.

3. Subscriptions (Pay-TV)

Consideration is also being given to the idea that those who benefit from the new transmission techniques should help directly to finance the costs involved. For example, a special financial contribution over and above the licence fee is already levied for connection to the cable network. Regardless of the organizational structure of the cable operator, this special contribution is intended to finance cabling costs. Similar special charges for the right to operate receiving equipment for direct-satellite broadcasts are under discussion in a number of Member States.⁴

Experience in Member States shows that subscribers are prepared to pay more for additional programmes. A rapid review of the differing situations in three Member States will illustrate the incentive effect of broadcasting foreign programmes where cable financing is concerned.

¹ARD-Jahrbuch 1982, Hamburg 1982, pp. 57 and 59.

²In France, the surplus demand was estimated to be equivalent to over FF 1 000 million even in 1979 (Rozenblum, Die Fernsehwerbung in Frankreich, Media Perspektiven 1981, pp. 131 and 133) and to as much as USD 260 million in 1980 (Pilati/Richeri, "Satellite Broadcasting in the '80's", Lo Spettatore Internazionale, July-September 1982, pp. 179 and 186.

³The ITAP report, loc. cit., 21, 3.7, put the potential for extra advertising revenue at UKL 2 000 million a year.

⁴In the United Kingdom, for example, see Home Office, Direct Broadcasting by Satellite, loc. cit., pp. 71 et seq.

In Belgium, the cable television companies meet the total costs of a simple cable distribution network out of an annual subscription fee of some BFR 2 700 for the simultaneous transmission of between thirteen and sixteen domestic and foreign programmes. The UK cable systems carry only four or six television programmes and have to make do with an annual fee of around UKL 15 per subscriber, hardly sufficient for the operation of the network and certainly not sufficient to finance the laying of wide-band networks in the future. In Germany, the Federal Postal Administration was planning to charge, with effect from 1 July 1983, a once-for-all connection fee of DM 400 per household and a basic monthly fee of DM 6 in respect of its cable networks. For programmes fed into a cable distribution system via a microwave link or via satellite and then piped to the receiver, an additional monthly fee of DM 3 is charged.¹ During the start-up phase, this scale of charges will apply in the first place until 1985; it is doubtful whether the charge of DM 3 fully reflects the market price of transmitting foreign programmes.

In addition, efforts being made in Member States to widen the selection of domestic programmes available, in part by granting authorization to other broadcasters, are now taking firmer shape, and this is expected to stimulate the demand for cable link-ups. Additional programmes can be offered either as "programme packets", individual subscription programmes (pay-TV) or parts of programmes (pay-per-view). Subject to certain conditions designed primarily to avoid the dangers highlighted by experience in the United States, a 1983 White Paper in the United Kingdom is supposed to pave the way for all these programme possibilities.²

Subscription provides a further source of revenue and does not directly damage the interests of television companies whose financing needs are met out of either licence-fee revenue or advertising revenue. As yet, it is not possible to say with any degree of reliability what the subscription fee will be. In the United States, where, given the peculiarities of the domestic television system as regards both technical and programme quality, experience points to a particularly buoyant demand for additional programmes, the largest cable company, HBO, reckons that, in the case of new housing developments, there will be a consumer price elasticity of between USD 25 and USD 30 per month for a "basic packet" and two or three pay-TV programmes.³

In the Community, the basic selection of television programmes available at the moment provides less of an incentive than in the United States to "buy" additional programmes. However, direct satellite programmes are being considered in the Member States as an attractive complement to the terrestrial programmes on offer. Furthermore, in addition to the transmission of television and radio programmes, the cable networks should provide other, new services. Mention should also be made here of the current boom in sales of video cassette systems in the Community, which is to be explained by the large demand for additional programmes.

¹ Bundesgesetzblatt (BGBL.) I 1983, pp. 713 and 715.

² Home Office, Department of Industry, The Development of Cable Systems and Services, London 1983, pp. 47-49.

³ Robert J. Bedell, Vice-President, Home Box Office, Financial Times Conference Organization, Cable Television and Satellite Broadcasting, London 1983, pp. 40 and 44.

For the United Kingdom, the ITAP report estimates that, at a subscription of UKL 5 monthly, the existing cable systems in Europe could generate additional income for programme producers of UKL 1 500 million annually.¹

4. State subsidies

State subsidies play a quite considerable role in the financing of new broadcasting techniques. Several Member States finance modern communication networks via satellite and cable at least in part from the State budget. Existing broadcasters, however, do not generally receive State subsidies. In Belgium and the United Kingdom radio and television licence fees go towards the budgets of the linguistic communities or to the general State budget, from which broadcasting companies receive allocations, which in the case of the BBC, for example, amount to the net income from licences (see Part Four, sections D and E). In Germany part of the licence fee is transferred by way of compensation to broadcasting companies, which, in view of their small coverage area, have a relatively low income from licences. For example, the Saarländische Rundfunk finances its budget, currently amounting to some DM 120 million, on the basis of about one-third from licence fees, about one-third from advertising and about one-third from the compensation transfer. The foreign services of broadcasting companies, whether independently organized or not, are financed primarily by State subsidies.

5. Other forms of revenue

Almost all broadcasting companies in the Community have to an increasing extent other forms of revenue. These include profit allocations from commercial subsidiaries, proceeds from the sale of recordings, marketing of rights in respect of their own productions, loans, contributions from members of broadcasting companies with the legal form of an association, proceeds from subscriptions for programme magazines and the like. Further details are given in Part Four.

¹ ITAP report, loc. cit., p. 21.

C. SIGNIFICANCE AND PROSPECTS OF THE SECTORS AFFECTED

The economic significance of radio and television for the Community does not stop at its immediate media-related activities.

Attractive broadcasting in the Community will pave the way, in terms of the economy as a whole, for even more significant innovations in information and communication techniques. The cross-frontier distribution of broadcasting will provide listeners and viewers in the Community with new channels and programmes, which in turn are a necessary precondition for stimulating private demand to make use of the new transmission techniques. Investment of the order of over 100 000 million ECU in the Community as a whole will be required to establish viable information and communication networks. The main initial beneficiaries will be the whole telecommunications industry,¹ including the cable industries, communication engineering, information technologies and the electronic components industry, and the aerospace industry. The establishment of a viable infrastructure will create a need for new items of consumer electronics equipment, and private and commercial users of the information and communication infrastructures will require new and additional items of consumer electronics and office equipment. The demand for programmes will increase sharply, opening up new marketing possibilities for the originators of creative works and new employment possibilities for performing artists who bring them to us. Lastly, the commercial utilization of the new communication networks will enable firms in the Community to increase their efficiency and cut their costs, as is essential if they are to maintain and improve their international competitiveness.

¹The Community is at present preparing a new policy initiative in this area, doc. COM(83) 573 final, loc. cit. and doc. COM(84) 277 final, loc. cit.

D. DISTRIBUTION OF PROGRAMMES THROUGHOUT THE COMMUNITY

The creation of a common market for broadcasting and the cross-frontier distribution of broadcasting services will help to push through the new information and communication techniques needed in terms of the economy as a whole. The cross-frontier transmission of radio and television programmes is one of the prime tasks, but still only one of the tasks, of integrated communication networks. In future, these will not just be for transmitting radio and television programmes and individual communications to end users, but will be used increasingly to convey information between independent companies or between geographically separated parts of the same company. The main point is easy access to external data banks at home and abroad. However, companies will be able to make full use of the anticipated advantages of these networks only if the technical standards and legal conditions for cross-frontier use are laid down from the outset.

Furthermore, this development is also likely to give fresh impetus to the European economy in terms of more sophisticated information and communication technologies. Improved international competitiveness would be the result. Efficient communication networks might be expected to result in cheaper and better products, new goods and services, and new forms of supply which will develop as the communication possibilities between companies and private users improve.

The cabling required for the establishment of an integrated communication network requires, for its financing, the demand and purchasing power of private households. The high investment costs are profitable only if a high subscriber density in the cabled areas permits connection to as many households as possible. Satellite television, too, is economically viable only if it is used by a sufficiently high number of viewers (especially for pay-TV channels). What might induce viewers to part with these funds is the attraction of a very wide range of additional channels, including transmission throughout the Community of national channels. Since the latter requires neither new capacities nor additional expenditure on programme production, it is the best means of increasing the attractiveness of programmes in the short term and hence helping to finance the requisite investments.

The transmission of programmes throughout the Community will certainly have to overcome existing language barriers if it is to be successful. With their increase in capacity the new transmission techniques offer the best way of achieving this. It is possible, for example, to include several different-language soundtracks on a television channel, which the viewer can select alternatively or even, by using headphones, cumulatively. Videotext can also be used to transmit subtitles. The ITAP report to the British Prime Minister states that the potential available in Europe would allow national broadcasting organizations to develop into international ones.¹

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¹ITAP report, loc. cit., p. 21, 3.7.

Offers of foreign television programmes were, in fact, the main driving force behind the development of cable networks in the Community. At the present time, for example, cable networks throughout Belgium and the Netherlands transmit the programmes of neighbouring countries. Even in 1979 more than one in three television viewers in Flanders opted for foreign programmes. In the Netherlands foreign programme viewing varies between 20 and 25% of total viewing. In other Member States, where viewers have so far only had this possibility in border areas, surveys have shown a considerable interest in additional programmes from abroad. Some 40% of the population in Germany are familiar with cable and satellite television, and about 14% have shown great interest in these developments. Havas estimates that in France one in four Frenchmen would even be prepared to pay for additional channels. In Switzerland as many as 64% of those interested in, or connected to, cable television count the larger selection of channels as the main advantage.

The establishment of the common market for broadcasting would counterbalance the free movement of goods and services in the Community. Being physical products, newspapers, magazines, books, records, tape cassettes, video discs and video cassettes are subject to the provisions governing the free movement of goods in the Community. Once they are duly marketed in one Member State they become part of the free movement of goods in the Community. Accordingly, audiovisual products sold on video cassette are equally accessible to all media users in the Community.

The difference between goods and services is becoming less and less significant in the information and communications sector. Greater accessibility to a rapidly growing supply of stored information is replacing the physical flow of information in many areas. To tie up with the Community's objectives, the freedom of movement, already achieved in goods traffic with printed media and audiovisual media must also be attained in the functionally comparable services sector. The requisite directives must take account of the peculiarities of this sector and of the legitimate interests of users.

Community-wide distribution of broadcasts also contributes to the harmonious development of economic affairs and to economic expansion in the Community. Most of the Community's television channels carry advertising for goods and services. Radio and television advertising is an indispensable instrument of the sales policy of Community companies, especially as an aid to the introduction of new products.

The cross-frontier transmission of broadcast advertising promotes the development of the common market in two ways. The target becomes a Community or at any rate a cross-frontier target instead of a national one, and the advertisers have the opportunity of reaching viewers and listeners throughout the Community, or at any rate in several Member States, with a single advertising spot. This provides one of the conditions for standard international advertising strategies and will reduce costs and increase efficiency.¹

Furthermore, as the number of programmes transmitted increases, so too does the possibility of using this medium as an advertising medium.² Depending on their specific requirements, companies will increasingly be able to choose between the various channels for their advertising. This will result in a hitherto unknown differentiation of advertising, which will help increase the sales potential of the Community economy. Whether or not these chances are actually taken, however, will depend on the approximation of the main legal and administrative provisions in the Member States to which broadcast advertising is subject (see below, Part Six, A).

¹ Saatchi and Saatchi Compton, one of the leading advertising agencies in the United Kingdom, stresses in its annual report for 1982 (pp. 10 et seq.) the increasing possibility of standard international advertising campaigns provided by the growing convergence of European ways of life and markets.

² Television advertising time is restricted in most Member States. In several of them, therefore, there is excess demand for advertising time.

E. INTERACTION OF DIFFERENT MASS MEDIA

Although this Green Paper has set out to examine the effects of Community law on radio and television at a time when new broadcasting techniques are emerging and to prepare the way for Community solutions, such an exercise is not possible without looking at the interaction of radio and television with the other media. Radio, television, newspapers, periodicals, books, records, video cassettes, video discs, films and any new services in the future must be regarded as components of a mass communications system.

Most people have recourse to several of these media - just how many of them and how frequently depends on the time available but above all on the age and social standing of the user. What is more, each individual puts his own programme together according to his preferences and the features peculiar to the different media. Newspapers and television are predominant in the field of news and the formation of opinions, whereas in other fields of information - such as science, technology, history, philosophy and psychology - people prefer to consult books or periodicals. Entertainment requirements are satisfied by books, followed by television, films and magazines. Since they have such different characteristics the individual media complement one another to a certain extent. However, they are just as much in competition with one another as are the suppliers. Even in times of technological innovation, competition to win the user's favour on a constantly expanding communications market should not cause existing media to regress or even die out. Technological innovation will, however, lead to processes of adaptation.

The different demands made on the individual media by the users have led to fundamental differences in the content of the information provided. Periodicals, journals and books provide processed information, contexts and background material. The screen's strong point (including new services) is topical events, speedy availability and the capacity for dialogue. In practical terms, however, it is assumed that the user is constantly making clear decisions about what he is actually looking for, whereas the reader perusing a periodical can come across something interesting virtually by accident (browsing effect). The printed word has the edge on technical media in that it can be available anywhere at any time. Daily newspapers provide readily available information about day-to-day events and the user can choose from the comprehensive range according to his personal priorities. On the other hand, books usually provide information and text of lasting value and interest. The form and design of the book give it a longer life.

The traditional media will find new openings on the market by adjusting to the new electronic media. One thinks here of radio and television programme guides, the "book of the (television) film" or the book to accompany a given broadcast (for instance for teaching purposes or for special-interest programmes). The new text transmission systems using television screens can complement the work done in the publishing house. Books on topical subjects can be updated more quickly using teletext. The user can take out a subscription to a given service and use the return channel to order any more comprehensive material (texts of laws, tables, etc.). The first electronic bilingual dictionary in the form of a pocket calculator was developed and presented to the public by a publishing house in cooperation with an electronics company. Publishers believe that there is scope for expanding their traditional occupations into the realms of cable and satellite television and video. Of course there will be limitations, caused by the differences in the media, referred to above, and in user habits but above all by the higher costs attached to the technological media by reason of the higher technology deployed. In contrast, books will remain cheaper for the time being.

Despite stronger competition from radio and television the other media are growing. Television has penetrated the preserves of other media and is influencing their future development but it has been unable to replace any of the traditional media. The number of newspapers sold has risen further in the last ten years, though the number of publishing houses has declined somewhat. Seen overall, the number of periodicals sold has also risen, as has the production and sale of books. Sales in the sound-recording industry have made impressive progress. The number of licensed radio sets has also increased, though peak listening time has shifted from evenings to daytime under the influence of television. Figures to illustrate this trend, taking Germany as an example, are given in Annex 13 at the end of this Green Paper.

The development in the film industry is variable. While production is still on the increase - not least because of demand from television¹ - the number of cinemagoers has gone down (see Annex 13). It has been necessary to re-adjust. Many cinemas have adapted to this development by drastically reducing the size of the auditorium and offering greater variety. The film industry is reacting in two ways. From the artistic viewpoint, it is treating subjects that are taboo on television. From the economic viewpoint, it is obtaining a better return on films by expanding sales via television and video recordings.² Meanwhile, in the United States, where satellite and cable television has made considerably

¹ Greater variety of programmes will lead to a further increase in demand. What measures - if any - should be taken to see that increased demand does not merely lead to increased imports of productions from outside the Community is not a question to be discussed here.

² The high share of up to 90% of the financing for a film provided by the cinema is now falling and being displaced by revenue from television and video cassettes. In the medium and long terms the latter is regarded as the most interesting financial proposition.

more progress, there have again been record attendances in cinemas.¹ Increased supply from the media would have good sales opportunities if economic developments allowed the individual more leisure time and private households were able and willing to spend more money on leisure and information. It can be seen from surveys that, in such circumstances, there would probably be changes in users' habits, provided that what the media had to offer was attractive.

Publicity content and presentation are not the only matters for rivalry and adjustments; these phenomena result also from the media's role as an advertiser. The majority of radio and television companies in the Community are financed in part or in whole by advertising revenue (Annex 9). In many Member States there are private advertising agencies offering radio and television advertising (see Part Four), so that they are in competition with newspapers, periodicals and posters, and with advertising in cinemas, books and other media.

The share of radio and television advertising in total advertising turnover in Europe is still rather small (15%) compared with the 55% accounted for by printed matter (1979).² In the United States radio and television advertising accounted for 41.7% of total advertising turnover in 1981 (Annex 11, page 10), while in Belgium (via RTL) it accounted for 10%, in Denmark 0%, in Germany 16.8%, in France 13.5% (1980), in Greece 56% (1980), in Italy 36.5%, in the Netherlands 8.9% and in the United Kingdom 30.8% (Annex 11, pages 1-9).

Obviously the introduction of a new advertising medium does alter the percentage of advertising expenditure being spent on existing media. Statistics on the distribution of advertising expenditure in the media should be considered with this fact in mind (Annex 11). However, the statistics on press advertising revenue show that the introduction of television advertising in the 1950's did not reduce the total advertising expenditure for the press.³ Annex 14 gives the figures for the United Kingdom. Even taking into account inflation, press revenue from advertising has in fact continually increased,⁴ see Annexes 12, 14, 15 and 16. Britain is particularly interesting in this respect in that local radio advertising was introduced in 1976 in direct competition to the regional press with no ill effects⁵ (Annex 14).

¹ The number of cinemagoers rose to 1 100 million in 1982 - over 9% more than in the previous year. Zentralausschuss der Werbewirtschaft,

² Service No 109, February 1983, 33.

³ International Advertising Association, loc. cit. 16, 17.

⁴ The European Association of Advertising Agencies (EAAA), New Communications Developments, A manual, Brussels, November 1983, p. 21, Tables 1 and 3 for Finland and the United Kingdom, the latter being included as Annex 14 to this Green Paper.

⁵ EAAA manual loc. cit., p. 21.

⁵ EAAA manual loc. cit., p. 21.

The statistics also show that the introduction of new advertising opportunities leads to a broadening of the market as a whole and thus acts as a stimulus for those advertising media already active on the market. For example, total advertising turnover in the United Kingdom rose most steeply in the fifties with the introduction of television advertising. Although after only five years, in 1960, the new medium accounted for 22% of total advertising turnover and the press share sank from 87.7% to 70.9%, the earnings of the press had risen in absolute and in real terms.¹ The same phenomenon was recorded in Germany in 1969, when the daily advertising time on television was increased by half,² and in 1981, when Norddeutschen Rundfunks started advertising on the air.³ A similar pattern can be seen in the case of Italy (Annex 16, Table 1).

Thus, though fears have repeatedly been expressed that allowing advertising on radio and television or reducing time limits imposed on it would result in a sharp decline in advertising revenue for the press, this has not happened. Will this situation remain unchanged? In a questionnaire to the European Advertising Tripartite (EAT)³ on the introduction of satellite broadcasting, the Council of Europe asked if the EAT considered the broadcasting of advertisements by satellite would affect the media balance in Europe. From the statistics available, EAT concluded in its reply of March 1982 that whereas other media might initially experience some shortfall in revenue, it was unlikely that the press would suffer any long-term downturn in advertising revenue. Indeed the opposite might be likely.⁴

One of the main reasons for this assumption and for past experience as regards advertising revenue earned by the press is considered to be the complementarity of the media as advertising media.

¹ Report of the Inquiry into Cable Expansion and Broadcasting Policy, "Hunt Report", London 1982, 13, point 39.

² Arbeitskreis Werbefernsehen der deutschen Wirtschaft, Markenartikel 1983, p. 84, Markenverband, Werbefernsehen und Tageszeitungen, Wiesbaden, November 1978, pp. 5-6.

³ The following organizations are represented within the EAT: the International Union of Advertisers Associations (IUAA), the European Association of Advertising Agencies (EAAA), the EEC Community of Associations of Newspaper Publishers, the Federation of Associations of Periodical Publishers in the EEC (FAEP), the European Group of Television Advertising (EGTA) and the Advertising Information Group (AIG).

⁴ Taken from the EAAA manual, loc. cit., p. 21, see also p. 10.

In fact the advertising media differ greatly in their scope, in the public they are addressing, degree of dispersion loss, effect and content.

The one feature of direct satellite television is that it can reach a public over a very large geographical area. This calls for ideas on advertising at least on a national scale but more often on a scale that transcends frontiers.

The characteristics of cable television as an advertising medium cannot be so clearly defined. Where it is a question of transmitting national programmes simultaneously across the borders into other Member States then cable television is similar to satellite television.

Local and specialized programmes for minority interest groups provide new opportunities for narrowing down the target groups from the point of view of geographical spread and content. The main difference between television advertising and advertising using printed matter remains the fact that on television a product's use and purpose can be demonstrated using a moving image, sound and time. By contrast, printed advertising is based on a message communicated through a text and a non-moving image. Whereas television advertising reaches the viewer in his own home at a predetermined time, print is not tied to a given place and is therefore more flexible.

For these reasons, it is improbable that cross-frontier satellite and cable television will cut the economic ground from beneath the press or even traditional television programmes.

No estimate so far made of possible income from advertising in a programme broadcast direct by satellite exceeds the annual average growth of the advertising market. The Home Office study does not quote any figures but expresses doubt whether business circles have sufficient interest in advertising in DBS programmes for this source of financing to be adequate, at least to start with.¹ It is considered that between UKL 10m and UKL 100m or more will be required annually for a programme of fifty hours a week, depending on content.²

¹Home Office, *Direct Broadcasting by Satellite*, loc. cit. 74, point 13.36.
²Ibid. 68, point 13.10.

It is not possible to produce reliable forecasts of number, content and viewing time for direct satellite broadcasts in the Community. On the other hand, it is certain that not all programmes will be wholly, or even partially, financed from advertising. It has not yet been decided in the Member States what role, if any, advertising should play in the financing of DBS. In France and Germany, at least in the preliminary phase, only the existing programmes are to be broadcast via direct satellite channels. Although it is possible that the advertising contained in these programmes will also be broadcast by satellite, there is no intention to call for additional fees for such transmission. The cost of running DBS will sometimes be financed by licence fees, which will probably involve putting them up in some cases. Finally, other forms of financing are being envisaged; the BBC, for example, is considering pay-TV.¹

The situation regarding cross-frontier cable distribution of television programmes is more complicated. Whether and to what extent the simultaneous and unabridged distribution of channels from other Member States, including the advertising they contain, results in an increase in radio and television advertising charges depends on the coverage which the advertising can thus achieve. For example, RTL's charges for radio and television advertising reflect the fact that its programmes are distributed in Belgium by cable. By contrast, the charges of the French and German broadcasting organizations do not take account of the fact that their programmes are also received in parts of Belgium by cable. The example of Belgium, where commercial advertising by the broadcasting organizations is still prohibited, shows that some shift may occur in orders for advertising from one Member State to another, provided of course that the relevant channel is of sufficient interest to viewers in the country in question, i.e. has a significant audience.

Where such shifts are caused by differing restrictions on television advertising, there is an evident need to harmonize the provisions concerned. Such artificial incentives for shifting business away to other Member States, thus distorting competition in the advertising and broadcasting industries, prevent the establishment of the common market for broadcast advertising and broadcasting organizations. If conditions similar to those of an internal market are to be created within the Community, advertisers must also be able, in their own country as well as elsewhere, to choose whatever broadcast they regard as the most suitable vehicle for their particular advertisement.

In view of the different roles of the media as advertising media, as described above, neither the simultaneous, unabridged cable distribution of foreign radio and television programmes nor the direct broadcasting of television programmes by satellite would appear to pose any threat to advertising revenue as the economic base of the press.

¹ ITAP Report, loc. cit. 22, 4.1

However, within individual Member States, local cable TV could come to compete with the local daily press for advertising revenue, because their coverage is largely the same. But even here there is little likelihood of anyone being put out of business so long as the distribution of local advertising is linked to the distribution of local programmes, since the potential scope of such reporting from the local area is rather limited. Limiting the amount of time available for advertising could also help to ensure that ruinous competition does not develop between the local press and local television. Furthermore, here too we find the differences to which reference has already been made between electronic and printed media. The processes of adjustment may also lead to publishers having a hand in local television, since, up to now, it has been newspapers that have had the tasks of processing local information for publication, but this task must also be carried out in the same way for local television. We are confronted here with the question of monopoly and competition policy - which also arises when considering publishers' participation in regional and inter-regional radio and television programmes - in relation to the limits on the concentration of economic power in the particularly sensitive area of freedom and pluralism of opinion.