

Feature: The Road to Commercialization

From Public Monopoly to a Dual Broadcasting System in Germany

*Christina Holtz-Bacha**

This article examines the far-reaching changes in the German broadcasting system during the 1980s before the unification of the two Germanies in October 1990. The West German broadcasting system developed from a monopoly of public corporations to a dual system of public and private stations. Because of the country's federal structure, different models of private broadcasting have emerged. The Federal Constitutional Court, which has always had a formative influence on German media policy, has defined the dual system as a balanced model with the public stations guaranteeing a 'fundamental supply' and the private stations fulfilling a supplementary function.

During the 1980s the West German media structure underwent considerable change, due to the introduction of private broadcasting in 1984. From the Second World War until the beginning of the 1980s, the West Germans maintained the heritage of the Allied media policy which gave public broadcasting a monopoly. This was confirmed by a decision of the Federal Constitutional Court in 1961, which decided that broadcasting should be organized as a public corporation only so long as there was a shortage of broadcasting frequencies. Private ownership was not negated in principle but was not regarded as appropriate at that time. Only public broadcasting seemed to guarantee the representation of the pluralistic interests in society. The same judgement also confirmed the juridical competence of the German Länder (i.e. the eleven federal parts of the FRG) in matters of broadcasting law. Thus, nationally binding regulations exist only as treaties of the eleven Länder.¹

The introduction of private broadcasting in Germany was enabled by a judgement of the Constitutional Court in 1981, but this did not yet open the way for commercialization. The Court

* Christina Holtz-Bacha is Assistant Professor at the Institut für Kommunikationswissenschaft (Zeitungswissenschaft), University of Munich, Germany.

European Journal of Communication (SAGE, London, Newbury Park and New Delhi), Vol. 6 (1991), 223–233.

then decided that with the new technologies of cable and satellite, terrestrial broadcasting also might be privately owned. At the same time, the court asked the Länder to prepare new media laws including regulations for private stations, and to guarantee pluralistic programming in order to ensure the representation of different social interests. Two alternative models were proposed to meet the demands for diversity: either *internal pluralism* (this is the model of the existing public broadcasting stations),² or *external pluralism* through a multitude of stations.

However, these demands on private broadcasting were weakened by another decision of the Constitutional Court, in 1986, when it designed the new dual broadcasting system. Taking into consideration that the public stations cover the whole country and are guaranteed income through the broadcasting fee,³ and thus are less compelled to offer a ratings-oriented schedule the court assigned the task of 'fundamental supply' to the public stations. 'Fundamental supply' was defined broadly as not only comprising information and news but also culture and entertainment as well as minority programmes.

The co-existence of the public and the private broadcasting sectors is seen as a balanced model: the function of private broadcasting is regarded as supplementary to the public programmes. The private stations' interest in presenting mass-appeal programmes is acknowledged because they are financed through advertising. For the public corporations this decision granted a guarantee for survival. The court reaffirmed that the continuance and further development of the public stations must be secured. For the demands for diversity can only be relaxed in the private sector as long as public broadcasting provides the 'fundamental supply'. This balanced model ties the public and the private broadcasting sector into interdependence. The survival of public broadcasting thus lies in the interest of the private stations: because they would have to fill the gap if the public stations were no longer able to offer the whole range of programmes defined by 'fundamental supply'.

The 1981 decision of the Constitutional Court to permit private broadcasting was made within a certain political climate. Pressure towards privatization of broadcasting had been a long-standing demand of the Christian Democrat Party (CDU/CSU). After it failed to win a majority in the 1976 national election by only a narrow margin, the CDU/CSU became convinced that television

was the most influential medium during election campaigns. Feeling disadvantaged by public television, the Christian Democrats pleaded for the opening of the broadcasting market to private stations. This also was the position of the newspaper publishers. In the past, they had tried several times to get a foot in the door of the electronic media, especially after television advertising had been introduced and the press feared a loss of advertising income.

However, the Social Democrats (SPD) were firmly against a change in the broadcasting system toward commercialization. But with the judgement of the Constitutional Court in 1981 and the technical possibilities of cable and satellite, it became obvious that change could be resisted no longer. After the CDU had established the first commercial broadcasters, the SPD began to review its media policy. As a consequence, the SPD-governed Länder also prepared new broadcasting laws to allow private broadcasting.

After several years of negotiating the eleven Länder at last in 1987 agreed to a treaty confirming the dual broadcasting structure. It guarantees the further development of the public system and the establishment of the commercial broadcasting sector. At the same time, general regulations for advertising in the commercial programmes are laid down (no more than 20 percent of the daily schedule).

The Dual Broadcasting System

In keeping with the parties' political views, the conservative Länder were the first to introduce private broadcasting. In 1984, the first commercial radio stations started. Depending on the Länder legislation, different structures developed: on the whole, the North preferred regional Land-wide stations (except Northrhine-Westfalia), while the South (Bavaria, Baden-Württemberg) opened the way to a multitude of local stations. Private broadcasting is licensed and controlled by public corporations which were founded in each Land.

Table 1 presents a list of the eleven Länder (including West Berlin) from north to south, the names of the public stations (of which each offers at least three different radio programmes) and the number of private radio stations which are presently on air.⁴ Most of the private radio stations are owned by press publishers. All broadcasting laws permit cross-ownership but most limit the shareholding for those who already have a newspaper monopoly. Northrhine-Westfalia introduced a 'two-column-model' separating

TABLE 1
Public and Private Radio Stations in the Federal Republic of Germany

Land (capital city)	Public radio station (based in)	Private radio station (local/land-wide)
Schleswig-Holstein (Kiel)	Norddeutscher Rundfunk (Hamburg)	1 Land-wide station
Hamburg (Hamburg)	Norddeutscher Rundfunk (Hamburg)	3 Land-wide = local stations
Lower Saxony (Hanover)	Norddeutscher Rundfunk (Hamburg)	2 Land-wide stations
Bremen (Bremen)	Radio Bremen (Bremen)	—
West-Berlin (West-Berlin)	Sender Freies Berlin (West-Berlin)	2 Land-wide = local stations
Northrhine-Westfalia (Düsseldorf)	Westdeutscher Rundfunk (Cologne)	15 local stations (about 45 planned)
Hesse (Wiesbaden)	Hessischer Rundfunk (Frankfurt)	1 Land-wide station
Rhineland-Palatinate (Mainz)	Südwestfunk (Baden-Baden)	1 Land-wide station
Saarland (Saarbrücken)	Saarländischer Rundfunk (Saarbrücken)	1 Land-wide station
Baden-Württemberg (Stuttgart)	Süddeutscher Rundfunk (Stuttgart) Südwestfunk (Baden-Baden)	30 local or regional stations (about 90 planned)
Bavaria (Munich)	Bayerischer Rundfunk (Munich)	59 local stations (about 90 planned) 1 Land-wide station

economic control from programme responsibility of a station, thus preventing newspaper publishers from directly influencing programming.

Private television also started in 1984. In addition to the three public networks, today there are four nationwide commercial television channels. The private television stations are owned mainly by newspaper publishers or companies which are already

TABLE 2
Public and Private Television in the Federal Republic of Germany
(nation-wide stations only)

Television station (based in)	Public/private
ARD	joint TV service of the nine public broadcasting corporations on the first channel with regional windows between 6 and 8 p.m.; also offering five regional programmes on the third channel (covering one Land or several Länder)
ZDF (Mainz)	(centralized) public programme
EINS PLUS	public satellite programme of the ARD
3 SAT	public satellite programme jointly produced by ZDF, ORF (= Austrian television) and SRG (= Swiss television)
RTL plus (Cologne)	private
SAT 1 (Mainz)	private
Tele 5 (Munich)	private
Pro 7 (Munich)	private

engaged in other media activities (cf. Daten, 1989). SAT 1 is controlled by the Springer group, which accounts for 26 percent of West Germany's daily newspaper circulation, and Leo Kirch, a highly influential film trader. For several months these two have fought a personal and legal battle for predominance in SAT 1. Kirch's son also owns 49 percent of PRO 7. Nearly half, some 46.1 percent of RTL Plus is in the hands of CLT (Compagnie Luxembourgeoise de Télédiffusion) based in Luxembourg; 38.9 percent is held by the world's second biggest media company, the German Bertelsmann group. The rest of the shares are owned by newspaper and magazine publishers. Forty-five percent of Tele 5 belongs to another film trading company; major blocks of shares are also held by the CLT (24 percent) and the Italian entrepreneur Silvio Berlusconi (21 percent). In addition to these nationwide channels, several regional or local television stations have been founded which offer window or occasional local programmes.

Though the Constitutional Court and the 1987 Länder treaty

confirmed the continuance of public broadcasting, the public stations are in a dilemma. Their task of providing the fundamental supply for the audience was the prime legitimation for the broadcasting fee. However, it also places restrictions on public television which cannot react to the new competition with mass appeal programmes to prevent the audience's drift to the private channels. Thus, there remains the open question of what might happen if public television loses its audience: how can the broadcasting fee be justified if people do not watch the public service channels? Moreover, because the monthly fee is determined by the Länder prime ministers, public broadcasting is to an extent dependent on the politicians.⁵ They may use low ratings as a pretext to reduce, or at least not to increase, the broadcasting fee. Moreover, since advertising is restricted (20 minutes per weekday, only before 8 pm, only as blocks), public broadcasting cannot increase its income from advertising. Again, any weakening of these restrictions is dependent on the Länder governments. Therefore, a detailed definition of 'fundamental supply' may be needed in the future in order to provide a legitimation and a guide for the public stations and their financial basis.

After more than five years since the introduction of private and commercial broadcasting the consequences of the new competition can only be described provisionally. The private radio system is still under construction; private television cannot yet be received all over the country. Public broadcasting, at first passive and self-conscious, reacted to the new competitors with hesitation. Nevertheless, first trends can be summarized and will here be distinguished according to four aspects:

1. structural consequences of the dualism within the broadcasting market, excluding the intermedia effects (broadcasting vs. print media);
2. consequences with regard to programme content, which is closely connected with
3. effects for the journalists; and
4. reactions of the audience.

Structural Consequences of the Dual Broadcasting Market

The commercial newcomers to the German media market introduced all-day television. The public ARD and ZDF only offered a joint programme in the morning, mainly composed of repeats from the previous evening. After a break at lunchtime,

both started their own programmes in the afternoon with children's broadcasts. Two of the private stations (SAT 1 and RTL Plus) offer breakfast television and all the commercial channels offer at least a 20-hour programme per day. In response the public channels also extended their daily programming by closing the gap at noon (cf. Krüger, 1988, 1989). Since autumn 1990 RIAS-TV has produced breakfast television for ARD and ZDF.

Sport as a mass-appeal genre, was a field of fierce competition between the public and private broadcasting sectors from the beginning. When private television bought the exclusive rights for the transmission of tennis or soccer matches even those politicians who are known to be in favour of private broadcasting judged the exclusion of public television as a hindrance to their task of fundamental supply. As a consequence, a new law was passed giving each station the right of access for news and sports bulletins even if one station had bought the exclusive right to broadcast the entire sports event.

The new broadcasting rivalry has also led to stronger competition between the public ARD and ZDF corporations. The two television channels used to co-ordinate their schedules, for example, by taking into account each other's newscasts: ZDF did not start its prime time programme before the end of the ARD news. However, this was scrapped in summer 1990.

Structural changes can also be observed in the radio market. Anticipating the competition of private stations, some public corporations have undergone a process of regionalization in order to prevent their audience drifting away in search of more local information. On the other hand, as evidenced by the Bavarian example with its multitude of local stations, the private radio companies have difficulties in realizing a local concept (cf. Holtz-Bacha, 1990). In consequence, there already is a tendency for the formation of networks which again reduces the opportunities for the programmes to have a local orientation. As the commercial radio stations mostly offer mass-appeal music programmes, the public corporations have reacted by reorganizing their provision and offering specialized programmes (e.g., classical music, information).

The new variety of broadcasting outlets has brought extended opportunities for advertising too. As commercial broadcasting is not subject to the same restrictions as the public sector, new forms of advertising, such as teleshopping, quiz game shows and sponsorship, can be introduced. The private stations are also

allowed to broadcast advertising after 8 pm. Thus, they quickly have become attractive advertising media while the advertising volume of the public stations has decreased: about three-quarters of television advertising today goes to the four private stations (Krüger, 1990).

Programme Content

The dual broadcasting system as designed by the Federal Constitutional Court ascribes the task of 'fundamental supply' to public broadcasting and defines the function of the private sector as a supplement. Several content analyses (Krüger, 1988, 1989) show that, in keeping with its remit, public television broadcasts a balanced programme of information and fiction, even at prime time. It offers a wide range of informational content; private programmes instead put less weight on information, showing a trend towards 'infotainment'. Most of the public programmes are produced in-house while the private television stations tend to buy their material.

While these results seem to indicate a division of labour and to confirm the idea of the dual broadcasting market, the public corporations have been reproached for self-commercialization. Yet, those studies comparing the structure and content of the public and private programmes cannot prove an adaptation of public to private broadcasting (Krüger, 1989; Büning and Scharf, 1990).

Effects for Journalists

Nevertheless, the suspected trend towards self-commercialization, or an internal privatization, of the public broadcasting stations can probably be observed in the changing conditions of journalistic work. A recent report by a radio journalist on a public broadcasting station refers to the reduction of technical production facilities and its consequences (Frei, 1990): the radio programme was extended without engaging more personnel. The resulting technical restrictions have consequences for the content (reduction of self-produced material) and its arrangement (montage, special effects).

The new competition within the media market has also been held responsible for the controversial ethical behaviour of journalists during the last years (see Weischenberg, 1988). For example, an interview with a bankrobber on the run with his

hostages and its transmission on public television can be interpreted as a capitulating step towards commercialization.

Reactions of the Audience

Since the introduction of commercial television Germans generally have increased their daily television exposure by only a few minutes: in 1985, mean exposure of adults was 147 minutes per day; in 1989, it was 153 minutes (Darschin and Frank, 1990). But television exposure increased considerably in those households that receive commercial television. Daily television exposure in cable households is 19 percent higher than in households not receiving private television (Darschin and Frank, 1990). Public television has lost part of its audience but still two-thirds of daily television viewing are spent on public programmes (first or second channel). At first, the loss concerned the current affairs programmes, in particular, but not the news. Meanwhile, there has also been a drift away from the entertainment programmes of public television, though the audience still clings to the traditional sports programmes of public television. Breakfast television and programmes before 3 pm have not been widely accepted and are a particular preserve of the commercial stations (Krüger, 1989).

Conclusion

Privatization and commercialization in the German broadcasting system have posed a challenge for the established public stations. How they will survive the new competition depends on their ability to show their strength (political information, foreign correspondents, great entertainment, own production facilities). Their further development is also dependent either on guaranteed revenues through a regularly-increased broadcasting fee or on opportunities to behave in a more commercially oriented manner.

Certain politicians' expectations that more stations would offer an increased variety of political perspectives have probably been disappointed: the audience interested in political information and current affairs continues to choose the public channels, though in somewhat reduced numbers. The decline in political viewing on public television has not been compensated by the private stations; instead the audience drifts away from political to entertainment content.

Also it is too early to judge the effects of the new multitude of

channels. Voiced fears concerned in particular the social consequences of an increase in television viewing and the tendency towards entertainment use only. In fact the results of audience research in cabled households does show such trends, but the increase in exposure may also be due to the appeal of novelty.

The unification of the two Germanies in October 1990 brought new changes in the broadcasting structure. The dual system of a public and a private sector will be expanded to East Germany. With the reconstitution of the five East German Länder, it is under discussion whether to build up independent public corporations as additional members of the ARD or to co-operate with one or other of the existing West German corporations.

Notes

This article is a revised version of a paper presented at the 1990 Annual Conference of the International Communication Association (ICA) in Dublin, Ireland. All data given reflect the situation in summer 1990.

1. However, the national government has the legislative competence for Deutsche Welle and Deutschlandfunk. These are federal radio stations broadcasting to foreign countries. Deutsche Welle can be received world-wide in many languages while Deutschlandfunk programmes were mainly directed to the GDR and Eastern Europe. Because both are intended to present the politics of the government, the two stations are subject to national laws. Nevertheless they are public corporations with the same internal structure as the other public broadcasting stations.

2. Control of public corporations is two-fold: the managing director is responsible for the budget and the programme. The core element of the system is the Broadcasting Council which is meant to be the representative of the public. Its members are delegates of the 'socially relevant' groups. The composition of the Broadcasting Councils has been widely discussed for many years because the political parties have gained more and more influence on this board. Most corporations also have an Administrative Council which supervises financial activities.

3. Public broadcasting is mainly financed by fees to be paid by everyone who owns a radio or a TV set. The amount is fixed in a treaty of the Länder prime ministers. The minor part of the revenues comes from advertising (ARD about 30 percent, ZDF about 40 percent).

4. While the private radio stations can be clearly assigned to the single Länder the public stations still mirror the Allied occupation zones and therefore do not always match today's Länder structure. The nine public broadcasting corporations listed in Table 1 are members of the ARD (Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland) which was founded in 1950 and offers a nationwide television programme. Also associated to the ARD are Deutsche Welle and Deutschlandfunk (cf. note 1) as well as RIAS (Berlin). RIAS (Radio in the American sector) was founded by the Americans in

the American sector of Berlin to cover the whole city and the GDR. Because of this task it was mainly financed by the German federal government and also supported by US grants. In 1988 RIAS also started a (regional) television programme. As they lost their target, the future role of Deutschlandfunk and Rias is one of the key issues in the discussion about the structure of broadcasting in unified Germany.

5. The Federal Constitutional Court is expected to hand down a decision on the question of whether this political dependence of public broadcasting is in accordance with the constitution.

References

- Büning, Wolfgang and Wilfried Scharf (1990) 'Die Öffentlich-Rechtlichen differenzieren', *medium*, 20(2): 10–12.
- Darschin, Wolfgang and Bernward Frank (1990) 'Tendenzen im Zuschauerverhalten. Fernsehgewohnheiten und Fernsehreichweiten im Jahr 1989', *Media Perspektiven*, 4: 254–69.
- Daten zur Mediensituation in der Bundesrepublik. Basisdaten 1989* (1989). Frankfurt: Media Perspektiven.
- Frei, Kurt (1990) 'Wie sich das Arbeiten im HR verändert', *medium*, 20(2): 8–9.
- Holtz-Bacha, Christina (1990) 'Zum Beispiel Bayern. Eine Zwischenbilanz für den privaten Lokalfunk', *medium*, 20(1): 16–20.
- Krüger, Udo Michael (1988) 'Infos — Infotainment — Entertainment. Programm-analyse 1988', *Media Perspektiven* 10: 637–63.
- Krüger, Udo Michael (1989) 'Konvergenz im dualen Fernsehsystem? Programm-analyse 1989', *Media Perspektiven*, 12: 776–806.
- Krüger, Udo Michael (1990) 'Werbung im Fernsehen — Angebotsformen, Tageszeiten und Produkte. Qualitative Differenzierung in der Fernsehwerbung', *Media Perspektiven*, 4: 219–40.
- Weischenberg, Siegfried (1988) 'Distanz-Verlust', *Journalist*, 38(10): 8–14.