



COMMERCIAL TV CALLS FOR CLEAR RULES TO ENSURE COMPETITION IN THE AUDIOVISUAL MARKET

Brussels, 17 July 2008 – On the occasion of the “*European Conference on the Public Service Broadcasting in the Digital Age*” held in Strasbourg today and tomorrow, the Association of Commercial Broadcasters in Europe (ACT) calls on the European Commission to update the rules for state aid to public broadcasters.

Ross Biggam, Director General of the ACT commented: “The rapid change of the media environment needs more than ever a clear and future-proof review of state aid rules applicable to public broadcasters. The development of transparent criteria to differentiate between public and commercial broadcasting will enable both players to more effectively pursue their respective tasks and thus continue to generate public value for European citizens.”

Commercial broadcasters acknowledge the role of public broadcasters in European democratic societies. However, in a changing media environment with challenges such as digitisation, convergence and increased competition for advertising, the ACT questions current practices of unlimited state funding for public broadcasters’ new media activities. With an estimate of around € 22 bn across the EU, the amount of funding granted to public broadcasters – often used for activities falling outside the mission of public broadcasters - endangers competition, leverages market power and leads to market foreclosure.

Need to address four structural deficiencies

According to commercial broadcasters, the rapid change of the media landscape would require immediate action, by Member States but also by the European Commission on the “Broadcasting Communication” adopted in 2001 to address four major structural deficiencies:

- **Need for a clear definition of the public service remit:** The prevalence of vague, unquantifiable and ill-defined remits around Europe forms the basis for many of the competitive distortions in the media markets. To ensure a clear differentiation between public and commercial broadcasting activities, a precise and more detailed definition of the public service mandate is required. Any funding activities, which fall outside the remit of public broadcasters severely distorts competition. Against this background the ACT calls for the inclusion of core criteria (“lists of examples” of activities falling in and outside the concept of public broadcasting) into the Broadcasting Communication as a guidance for Member States when defining the public broadcasting remit at national level.

- **Need for independent control for public broadcasters:** Supervision of public broadcasters is often neither systematic nor independent. In order to ensure compliance with the public service mission, a minimal set of conditions must be established and control should be entrusted to a truly independent regulator with effective control powers. An independent authority should also carry out an all-inclusive and independent ex-ante scrutiny which relates particularly to the remit of public broadcasters in the new media field. In this context the ACT refers to ambitions by public broadcasters all over Europe to expand into new media. The entrance of financially powerful players such as public broadcasters in such new markets, by leveraging their market power entails the risk of market foreclosure.

- **Avoiding over-compensation of public broadcasters:** In order to limit the risk of overcompensation of public broadcasters, the ACT calls for the introduction of a system to evaluate potential overcompensation. The introduction of a negative test (“proportionality test”) can be a suitable option to serve this purpose. The definition of clear-cut cost allocation rules would ensure that compensation does not exceed what is necessary to cover all part of the costs incurred in discharging the public service obligations.

- **Minimising the market distortions caused by dual financing:** The dual financing model allows public broadcasters to receive revenues from state aid and advertising. The inevitable consequence of price undercutting in the advertising market remains a serious problem in several EU member states. As long as the dual financing model exists, it must be watched very closely to avoid any market distortions, particularly relating to competition for advertising and for bidding for key rights to content. In order to encourage distinctive programming, and prevent unfair competition, the ACT repeats its support for separate financing models, in which public broadcasters benefit from public funding while commercial broadcasters compete for market resources.

Ross Biggam, Director General ACT, stressed: “We look forward to working closely with the European Commission and Member States on the review of state aid rules to public broadcasters. There is a clear need for transparent and effective rules to avoid the risk that the current structural deficiencies will be replicated in the new media world.”

About the ACT:

The Association of Commercial Television in Europe (ACT) is a trade association representing the interests of the commercial broadcasting sector in Europe. The ACT has twenty seven member companies active in 34 European countries operating over 400 free-to-air and pay-tv channels and distributing 540 channels and 170 new services. For further information, please see: www.acte.be

Press contact:

Ross Biggam

Director General

Phone: +32-2-738 76 13

GSM: +32-477-407 733

E-mail: rb@acte.be

Utta Tuttlies

Head of Communications

Phone: +32-2-738 76 18

GSM: +32-495 – 24 64 67

E-mail: ut@acte.be