

# Cultural Diversity Practices among Broadcasting Regulators

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**Disclaimer**

The report is based on research conducted for the Broadcasting Regulation and Cultural Diversity Network over a period of six months

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## Aim and Scope of this Report

The Broadcasting Regulation and Cultural Diversity Network (BRCD) is a global network of regulators that have come together to promote cultural diversity in eth audiovisual media. They have all signed the Declaration of Barcelona which avers that:

‘Regulatory authorities are responsible for ensuring the respect of basic rights and freedoms and for pluralism in societies and in cultural expressions of the media.’

One of the BRCD’s missions is

‘to generate and exchange information and experiences regarding cultural diversity in the broadcasting sector among audiovisual regulatory authorities, experts and organizations from around the world’.

Thus, the BRCD commissioned this report to examine global regulatory initiatives for cultural diversity, with particular regard to their impact on the development and implementation of broadcasting policy. Regulatory models and initiatives are examined and the project points to examples of good practice, always being aware of differing legal, cultural and social circumstances between countries.

The report does not discuss how the concept of cultural diversity is interpreted nor does it analyse or judge if regulatory practices fit with a particular definition of cultural diversity. Instead it considers how regulators themselves have defined ‘cultural diversity’ and examines the forms of regulation developed.

Neither does the report pretend to list all the regulatory measures being implemented by a given country or regulator. Rather, it draws attention to those examples that regulators themselves have put forward.

The project used two principal methodologies:

1. Desk research – a cross section of countries, drawn from the five continents and with known diverse populations, were chosen for detailed research. The objective was to understand their legal frameworks and their regulatory structures insofar as they relate to the promotion of cultural diversity. For this, publicly-available research was interrogated, drawn primarily from the websites of regulators. In some cases this was supplemented by information supplied directly.
2. Questionnaire – with assistance from the BRCD Board, a questionnaire was developed. It asked a series of questions about the media environments in which regulators operate and what guidelines or practices are in place to promote cultural diversity, if any exist. A total of 38 regulatory bodies in 36 countries replied to the questionnaire.

The results of the project are presented in this report.

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**Principal contributor:**

Josep Alias is a consultant in strategy on new media and audiovisual and was involved in the early development of the BRCD.

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The project has been directed and moulded with the cooperation of the Catalonia Broadcasting Council (CAC), in particular Marti Petit from the International Department of the CAC. Without the support, patience and encouragement of him and his colleagues, this work would not have been possible.

Finally, thanks are due to Deirdre Kevin and Mariona Codinach for their contribution to the project, as well as to Xavier Vilalta (former Head of the International Department of the CAC).

## Executive Summary

Issues around the concept of cultural diversity in the broadcasting media need to be studied closely and then evaluated in the light of the ever-increasing globalisation of audiovisual content and its reception. The way in which cultural diversity is delivered through such media can act as 'glue' for social cohesion as well as protecting national cultures and providing a mirror into one's own culture and society. It can remove misconceptions and it can add to the understanding of the richness of the world.

The Broadcasting Regulation and Cultural Diversity Network (BRCD) consists of broadcasting regulators who seek to promote cultural diversity based on the UNESCO Universal Declaration on Cultural Diversity. The network does not aim to instruct but provides opportunity for the sharing of good practice and the exchange of information between regulators<sup>1</sup>.

Broadcasting remains an important medium, an influential way of reaching large audiences at the same time. However its dominance is fading in some countries as the multiplicity of technologies make possible access to audiovisual content through a variety of means. Access is also available in many different environments. Reception of audiovisual content is not confined to a fixed or static delivery platform, but can be obtained through mobile technologies such as portable computers or appropriate telephony systems. But this is not true in all countries of the world and in some, radio remains far more powerful and current than broadband can be, and will be so for many years to come.

Nevertheless it is a fact that the future broadcasting and regulatory environment will radically change. Previous levels of state intervention were aided by stable technologies – these have now evolved, and are continuing to evolve, into systems over which the regulator has increasingly little formal control. Models of regulation will have to change to keep pace with these developments. It is likely that public policy interventions, designed to promote certain public and/or social purposes, will have to be more carefully targeted at key areas of concern or opportunity.

The BRCD commissioned this study of the regulatory practices adopted to promote cultural diversity within the broadcasting and television-based audiovisual sectors. Behind this study is a key principle of the Network - that information and experience can be usefully shared so that regulators can benefit from the knowledge of others

While national measures to promote cultural diversity were the prime focus of the study, it did look beyond domestic territories and found that international legal frameworks and agreements had not yet been successfully implemented. Although this is the case, they do provide a platform for some countries to implement national legislation that takes account of cultural diversity in broadcasting.

The research found that there were many differences between countries:

- Legal frameworks that govern broadcasting may or may not include explicit reference to cultural diversity

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<sup>1</sup> [http://www.brcd.net/cac\\_brcd/AppPHP/index.php](http://www.brcd.net/cac_brcd/AppPHP/index.php)

- Cultural diversity within broadcasting means different things to different countries – and sometimes a multiplicity of things. It covers
  - The protection of national heritage and culture
  - The protection of local and/or aboriginal culture
  - Ethnic and linguistic diversity
  - Protection of other potentially disadvantaged groups such as the visually impaired or the hard of hearing
  - Plurality of voice and opinion
  - Diversity of programme genres
  - Plurality of media ownership
- Regulatory frameworks that govern broadcasting differ depending on the longevity of the regulatory tradition in the country, the media environment and technological developments. Within the sample there are countries where:
  - there is no independent broadcasting regulator
  - the regulator has jurisdiction over private broadcasters or privately owned organisations involved with audiovisual content only
  - the regulator has power over the public service broadcaster in addition to the private broadcaster
  - a converged regulator oversees both the broadcasting and telecommunications sectors.

Different regulatory bodies do not intervene in the same way and apply differing measures upon broadcasters. These interventions take the form of requirements placed upon the broadcasting organisation and vary from broadcasting type to type (i.e. these change depending on whether or not it is a public service broadcaster, a free to air broadcaster, a subscription television provider, a provider of audiovisual content over the internet). The most common interventions are:

- Requirements placed upon the broadcaster to ensure a diversity of programme genres
- Requirements placed upon broadcasters to provide content that a purely commercial service might not (such as arts programming)
- Quotas placed against airtime, or earnings or types of programming.
- Quotas that determine how much content should come from the national independent production sector.
- Scheduling-based interventions to ensure that material of a particular, identified, type is programmed at times that majority audiences might see it.
- Plurality of ownership is another intervention noted in a few of the countries where cross-media ownership is controlled for to ensure a barrier against undue influence.
- In one country there is an explicit intervention described as 'plurality of opinion'.

A few of the countries in the sample also have policies within their organisation to 'sensitise' them to issues around cultural diversity and broadcasting. These were mostly in the area of research and evaluation but also included training.

In many countries there are advocacy groups or champions of cultural diversity that sit outside the broadcasting regulator. These are not much explored in this study and it will be important that those with similar interests – whatever their provenance – can work together to achieve the public value and national good created by the positive promotion of cultural diversity in society (and in societies).

However there are a number of areas of uncertainty that the research also points to :

- Many countries rely on the public service broadcaster to fulfil the cultural diversity needs they have. The ability of the public service broadcaster to meet these requirements becomes increasingly uncertain in a world of almost-infinite channel choice, with fragmented audiences accessing only that content which interests them.
- It will be for the regulator (and policy makers) to ensure that public interest content is provided but it will also be important – as this research has shown – that it is made accessible to as wide an audience as possible. This may require the regulator to incentivise content producers and distributors – some regulators in this project are already doing this by offering financial incentives or other, indirect, incentives such as time credits.
- The regulator might need to look beyond the traditional broadcasting market, largely the subject of this research. The opportunities offered by technologies mean that regulators will need to consider how they might encourage communities and individuals to participate actively in the debate and arguments for the positive promotion of cultural diversity.
- It is unclear how quickly the changes and developments discussed here will come to the territories that took part in this project. Nor is it clear how much audience behaviour will change and how the time the audience spends on viewing audiovisual content will be shared between competing (and complementary) media. Studies show that there is little increase in the overall time spent on media by the addition of other media delivery systems, it is just divided up differently. And the mainstream broadcast media continue to dominate although their dominance is being weakened, especially among certain demographic groups.
- What is clear is that audience control over content access is increasing. This creates a difficulty when trying to encourage audiences to view material they may not wish to by choice. This, in itself, will impact on the effectiveness of programming that offers desirable social and public goods. The regulator has an opportunity to anticipate and develop relevant strategies to address these issues, should that be considered important.
- Alongside this continuum of change comes the likelihood that regulation itself will have to adapt to meet the evolving needs of the industry, of policy makers and other stakeholders, and of citizens. This will require closer relationships and cooperation both within countries and outside national boundaries, be they regional or international. Many of those countries with established regulatory environments find themselves moving towards alignments with other organisations as co- and self-regulation becomes more appropriate.

Other regulators increasingly act as advisors to parts of their stakeholder community (such as government).

The overall finding of the study suggests differences of opinion and practice in almost every area that considers the promotion of cultural diversity within broadcasting. Nevertheless, while the measures they take are based on differing foundations and are different in nature, the desire to promote cultural diversity is a constant. The sharing of information allows the regulator to pick and choose what suits their criteria. It is important that regulators be prepared for the changes ahead and use the opportunities offered by organisations such as the Network to gain a thorough understanding of how markets develop and to think through the strategy that they wish to adopt to meet those challenges, most appropriately and efficiently.

## A: Introduction

### Summary

*The BRCD as a network of regulators aims to promote cultural diversity within the audiovisual media, with a particular focus on broadcasting. The definition used for 'cultural diversity' is derived from the UNESCO Universal Declaration on Cultural Diversity. This declaration does not give a precise definition of cultural diversity, rather it presents a series of principles and aims. This study finds that no single definition of cultural diversity is common across the countries sampled for this project but that it is, in itself, a dynamic concept.*

*The Network recognises that different territories have different needs but all members share a conviction of the importance of encouraging a reflection of the culture in which they are situated as well as the multiplicity of cultures that viewers and listeners are exposed to in an increasingly global media content environment.*

*Legislation provides a framework in which regulators must work and in this Section of the report we explore, briefly, the international agreements that have been sought in the area of audiovisual content. Most of these have not been ratified as yet. Regional and bilateral agreements are more successful, it seems, from this brief survey. What is clear from this study however, is the desire that countries show to cooperate with one another, although on a less formal basis. An example of such cooperation is, of course, the BRCD.*

*In addition to the variances noted in the way cultural diversity is approached, are the development and technological evolution of the communications sector, and the media in particular. These challenge the traditional model of broadcast regulation. That was based on spectrum scarcity the result of which was to create a tightly defined market of limited channel choice, broadcast through controlled and controllable delivery platforms, which delivered large audiences. It was relatively simple to apply regulations and rules for a relatively small number of content producers and publishers.*

*Now there is already a multiplicity of channels, and digitalisation promises to bring yet more.*

*There is also an increasing number of ways in which to receive audiovisual content. Different devices offer a plurality of distribution channels and mobility of access. Further, the content producer is not just the professional company with significant capital outlay, but can be the individual capturing images that may be broadcast, more or less widely, through the different delivery mechanisms.*

*Nonetheless the project found that there remains a general consensus about the importance of the broadcast media, to the financial and cultural economy and well-being of a society and within a country.*

*Finally the methodologies used are discussed briefly in this section. The sample of countries used for the publicly-available desk research was drawn up based on a number of variables including the known diversity (in terms of language, ethnicity etc.) of the population and geography. A questionnaire was sent to as wide a group as possible – with help from BRCD Board members and associates – and 38 completed questionnaires were received back.*

## Background

The BRCD was set up at the time of the “Global broadcasting, cultural diversity and regulation” dialogue, organised by The Catalonia Broadcasting Council (CAC), held in connection with the Barcelona Universal Forum of Cultures 2004. The event was held in Barcelona on May 28 and 29, 2004.<sup>2</sup>

At this event representatives from broadcasting regulatory authorities from around the world, together with organizations representing broadcasters, producers and experts, met to debate the possible role that such regulators could play in fostering cultural diversity in the activities of broadcasters and cultural industries on a global scale.

The principal outcome from this event was an agreement of the need to create a means of permanent participation among broadcasting regulators in order to address the challenges facing the promotion of cultural diversity. This led to the Barcelona Declaration<sup>3</sup> that called for the establishment of a permanent, international, network of regulators who could exchange information and experiences in this area, headquartered in Barcelona. This network is the BROADCASTING REGULATION & CULTURAL DIVERSITY (BRCD).

The Barcelona Declaration established the remit of the BRCD:

- To promote cultural diversity in the broadcasting sector, placing emphasis on the regulatory organizations
- To promote the presence of broadcasting regulatory authorities in forums where cultural diversity is discussed
- To maintain permanent contact among broadcasting regulatory authorities from around the world in order to exchange information and experiences on the protection of cultural diversity
- To generate and exchange information and experiences regarding cultural diversity in the broadcasting sector among audiovisual regulatory authorities, experts and organizations from around the world
- To provide tools for analysis and improvement to assist broadcasting regulatory authorities in their work to guarantee cultural diversity in the broadcasting sector.

## Definitions

The BRCD bases its definition of ‘cultural diversity’ on the UNESCO Universal Declaration on Cultural Diversity. While this Declaration does not give a precise definition of cultural diversity, it presents a series of principles and aims:

- Cultural diversity reflects the pluralism of groups and societies and represents the common heritage of humankind.
- Cultural diversity is inseparable from human rights and fundamental liberties.

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<sup>2</sup> For more information about this event visit: [www.audiovisualcat.net/forumbcn2004](http://www.audiovisualcat.net/forumbcn2004).

<sup>3</sup> [http://www.brcd.net/cac\\_brcd/AppPHP/modules/publications/files/declaration\\_of\\_barcelona\\_eng.pdf](http://www.brcd.net/cac_brcd/AppPHP/modules/publications/files/declaration_of_barcelona_eng.pdf)

- Cultural rights are an integral part of human rights, and, as such, are linked to freedom of creation, multilingualism, and freedom of access to artistic, scientific and technological expression.
- Cultural goods and services, which are means of identity, cannot be considered to simply be merchandise or consumer goods.
- The capacity to define and implement cultural policies is a condition of cultural diversity.

As will be seen in Section B, regulators themselves define ‘cultural diversity’ in many different ways. It can include references to national communities as well as local and aboriginal communities. It can refer to the way in which linguistic differences are protected or it can refer to on-screen representations. Cultural diversity also includes, for respondents to this report, other areas such as programme genres, and media ownership.

The terms are also proving dynamic within countries. In the UK for example, there has been a structural move away from specifying types of diversity. There were formerly a number of NGOs that oversaw various forms of minority or diversity. These were:

- the Equal Opportunities Commission (that started as a gender-discrimination agency),
- the Commission for Racial Equality and
- the Disability Commission.

Overlaps were often found and frequently the targets of recommendations and campaigns were the same group (such as parliament or industry). These organisations are to be merged, therefore, into a single organisation: the Commission for Equality and Human Rights and that will become operational in 2007.

Similarly the non-commercial public service broadcaster in the UK (the BBC) has appointed a ‘diversity executive’. When interviewed for this project, she said that the first part of the phrase ‘cultural diversity’ had been dropped as the role was increasingly encompassing many issues of diversity such as gender, age and disability as well as racial or ethnic or linguistic diversity. Many of these issues are elaborated upon in this report.

Article 19, the London-based human rights group, has produced a training manual for African broadcasting regulators. In this, a distinction is made between broadcasting pluralism and diversity<sup>4</sup>:

‘**Pluralism** simply means that there is a variety of different types of media and different owners. It is perhaps easiest to explain this by looking at what pluralism is **not**.

- Pluralism is **not** having a single state monopoly broadcaster.
- Pluralism is **not** having a single private company owning all broadcasters.
- Pluralism is also **not** having a single model of broadcasting ownership so that, for example, all broadcasters are owned by private companies.

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<sup>4</sup> <http://www.article19.org/pdfs/tools/broadcasting-manual.pdf>

.. **Diversity** is something different. This is about a variety of different types of voices being given access to the media and a variety of different types of information and viewpoints being heard. Pluralism of the media is only part of the solution to the problem of how to obtain diversity.’

The findings from this research will show that there is often conflation of these, and other, ideas.

## Legislation

### International agreements

There has been much discussion about international treaties and agreements which may impact broadcasting and other audio-visual sectors, and thus the treatment of cultural diversity issues. The BRCD has taken as its foundation UNESCO’s Convention on the Protection and Promotion of the Diversity of Cultural Expressions, better known as the UNESCO’s Convention on Cultural Diversity which came into force in March 2007. This Convention recognises the right and the duty of a State to implement public policies in order to promote cultural diversity.

The impact of the Convention is as yet unclear<sup>5</sup>. A number of countries that have signed the Convention have not acceded to it. It is also uncertain what its relationship is to other international, regional or bilateral trade agreements that may be in force. For example, it is not clear how it will affect agreements that a given country may have signed which include domestic cultural assistance policies such as local content quotas.

The international agreement that is being contested still is the introduction of the audiovisual sector in the General Agreement on Trade and Services (GATS) in the World Trade Organisation (WTO)<sup>6</sup> framework. This would allow the greater movement of content across national boundaries. However no firm agreement has been reached on this proposal.

The other international agreement that considers audiovisual content globally is that being developed by the World Intellectual Property Organization (WIPO) Standing Committee on Copyright and Related Rights (SCCR). In 2006 a review of the Rome Convention was completed<sup>7</sup>. This revision<sup>8</sup> gives worldwide protection to broadcasters who consider that their broadcast signals (and so the content carried) are being pirated or re-transmitted without permission or the appropriate clearance of rights. However, the revision is being challenged by technological developments and

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<sup>5</sup> For more on the implications of the UNESCO’s Convention on Cultural Diversity, see: Bernier, I. and Ruiz-Fabri, H. “[Implementing the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions—Future Action](#)” and Bernier, I. “[An Important Aspect of the Implementation of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions: The International Fund for Cultural Diversity](#)”,

<sup>6</sup> Torrent, R and Gómez, L *Report on the Treatment of the Audiovisual Sector and Cultural Diversity in the Framework of the Main International Agreements and Organisations*, 2006. [http://www.brcd.net/cac\\_brcd/AppPHP/modules/publications/files/av\\_intl\\_informe\\_feb2006.pdf](http://www.brcd.net/cac_brcd/AppPHP/modules/publications/files/av_intl_informe_feb2006.pdf)

<sup>7</sup> [http://www.wipo.int/treaties/en/ip/rome/trtdocs\\_wo024.html](http://www.wipo.int/treaties/en/ip/rome/trtdocs_wo024.html)

<sup>8</sup> Non-paper on the WIPO Treaty on the Protection of Broadcasting Organizations. [http://www.wipo.int/edocs/mdocs/sccr/en/sccr\\_s2/sccr\\_s2\\_paper1.doc](http://www.wipo.int/edocs/mdocs/sccr/en/sccr_s2/sccr_s2_paper1.doc)

the not-yet resolved issues include the creation of new copyright regulation on transmitted content and its implications for web casting<sup>9</sup>.

Although the scope of the research did not extend to an analysis of the impact of international agreements on the broadcasting sector, it was important to consider its possible influence upon regulatory development. It should be noted therefore, that not one respondent mentioned any constraints they felt because of such agreements, or the need to adapt their regulatory remits regarding quotas or other guidelines intended to promote cultural diversity.

### **Bilateral and regional agreements**

While international agreements are being discussed, there has been a need to create frameworks within which countries can work<sup>10</sup>. To this end, a number of bilateral trade agreements have been reached between countries, and other regional alliances made based on geographical proximity or on common language<sup>11</sup>.

For example in the bilateral negotiations driven by the United States of America, which has been the most prolific country, cultural goods were formerly not considered separately. This changed in 2002 because, according to Bernier<sup>12</sup>, USA trade negotiators understood that the future of audiovisual goods would be linked with electronics. The basic characteristics of these more recent agreements are:

- The adoption of the most liberal approach through the negative list<sup>13</sup>. This means that the parties to the agreement accept they will liberalise all sectors except those scheduled on a list (in contrast to the WTO, which works on a positive list scheme).
- Acceptance of the existence of local content quotas and public funding support for audiovisual production.
- Inflexibility on any trade barriers on electronic commerce.

In the European Union the Television without Frontiers Directive (TVWF Directive) is a regulatory framework for the audiovisual sector for inter-regional exchange across Member States. In operation since 1989, its mission is to facilitate the free movement of European programmes within the European Union and establish broadcasting quotas for European works in order to promote the European cultural industry. The Directive reinforces the mission of EU States “to take appropriate measures to

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<sup>9</sup> At the time of writing (July 2007) it has just been announced that the proposed treaty for the protection of broadcast organisations (Broadcast Treaty) will probably not succeed as the Diplomatic Conference that was supposed to approve the treaty has been cancelled.

<sup>10</sup> Gagné, G., Côté, R., Deblock, C. *Les récents accords de libre-échange conclus par les états-unis : une menace à la diversité culturelle*. Centre Études internationales et Mondialisation, UQAM, 2004.

<sup>11</sup> To track the Free-Trade-Agreements in negotiation see: [www.bilaterals.org](http://www.bilaterals.org)

<sup>12</sup> Bernier, I. *The Recent Free Trade Agreements Of The United States As Illustration Of Their New Strategy Regarding The Audiovisual Sector*. <http://www.mediatrademonitor.org/filestore2/download/146>

<sup>13</sup> Under the negative list approach, all sectors and services of the trade agreement are bound to liberalise except for those explicitly listed.

protect minors, to promote European works and independent audiovisual productions, and to prohibit content that would incite religious or racial hatred”<sup>14</sup>.

The Directive is currently undergoing a revision to reflect technological changes in the audiovisual sector. At the time of writing, this has been agreed in theory (known as the Audiovisual Media Services Directive) and it will come into operation within the next three years<sup>15</sup>.

## International cooperation

Broadcasting regulation has always been within a national framework. Increasingly, however, regionally defined pressures (such as NAFTA, the European Union, CARIFTA, etc.) are driving national structures to adapt their broadcasting requirements. An example is the TVWF Directive, referred to above, which requires programme quotas to be set for European content across Member States. It is likely that such moves towards greater economic, social and legal regional integration will require greater regulatory cooperation across countries and between regulators.

In response to this changing environment, a number of regional regulatory organisations have been set up, many of which – to some extent – consider cultural diversity issues:

- The African Communication Regulation Authorities Network (ACRAN-RIARC)
- The Mediterranean Network of Media Regulatory Authorities (RIRM)
- The European Platform of Regulatory Authorities (EPRA)

There are also international forums in which broadcasting regulators are active participants such as:

- The International Institute for Communications (IIC) – International Regulators’ Forum
- Organisation internationale de la francophonie
- The Asia-Pacific Institute for Broadcasting Development

Such cooperation between broadcasting regulators shows a desire to play an active role in these areas.

On a global scale, the purpose of the BRCD is to ensure that there is national consistency and international cooperation in the way in which countries promote or encourage cultural diversity. This can be achieved through greater dialogue between countries and also in the sharing of information about measures that have been successful. This is a key mission of the Network and is a constant throughout this project.

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<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/311&format=HTML&aged=0&language=en&guiLanguage=en>

<sup>15</sup> At the time of writing the agreed text was available at [http://ec.europa.eu/avpolicy/docs/reg/modernisation/proposal\\_2005/avmsd\\_cons\\_amend\\_0307\\_en.pdf](http://ec.europa.eu/avpolicy/docs/reg/modernisation/proposal_2005/avmsd_cons_amend_0307_en.pdf)

## Technological change

The Network has been established at a time of fast paced change in the communications sector, and the media sector in particular. Audiovisual content has been liberated from the restrictions created by spectrum scarcity. It can be accessed from a wide variety of devices and, increasingly, it is not restricted to a particular location but can be retrieved while on the move.

Alongside these developments has come, in many countries, a growth in broadband penetration and the associated competition for audiences. The control of the 'gateway to the consumer' has moved from the regulator to the content provider, which may or may not be the broadcaster.

Indeed the provision of content is moving from the broadcaster or professional content producer to the individual. While not the subject of this report, the growth in the market for user-generated content and social networking sites, and their associated audiences and users, is proving to be a significant regulatory challenge as traditional rules and provisions are increasingly inadequate for these new media forms.

Nonetheless the significance of the media sector and broadcasting, especially, remains important. It is recognised as such in policy terms and is seen as vital for the economic, social and cultural health of societies.

The BRCD recognises these changes as well as the continuing influence of broadcasting (both radio and television) Its member organisations have varied regulatory structures, at different stages of development as well as different levels of growth in their communications industries, including their creative industries. These factors will all impact on the way in which the promotion of cultural diversity is addressed in any one territory.

## Methodology

### Desk research

The regulatory structures of nine countries, and the way in which they considered issues of cultural diversity, were considered in some detail. The sample was chosen on the basis, in part, of their diverse populations, either ethnically or linguistically. Data on each country was drawn from publicly available material, often – but not exclusively – from the regulator's website. The countries are:

Bosnia Herzegovina	Canada	Catalonia
Chile	China	Colombia
India	Mozambique	South Africa

The principal – and very real – constraint was the lack of adequate information for some countries. In one country, a constraint was the lack of information in a language that could be read by the researchers but it was clear that little data of the sort being searched for would be publicly available.

This stage of the research helped formulate the questionnaire.

### Questionnaire

The key instrument used for data collection in this project was a questionnaire sent out to broadcasting regulators globally. Some organisations also helped encourage responses (and thanks are given to them). These are:

- the European Platform of Regulatory Authorities (EPRA),
- African Communication Regulation Authorities Network (ACRAN-RIARC)
- the Broadcasting Commission of Jamaica

The questionnaire covered three principal areas:

- the remit of the regulator, insofar as it relates to cultural diversity
- policies that relate to the regulators' own organisation
- some general questions about the media environment in the regulators' country

The questionnaire also permitted regulators space to suggest what more could be done to promote cultural diversity in their region.

The findings of the two research methods are given in the following Section. A total of 65 questionnaires were sent out and 32 received back – a response rate of 49%.

In total then, data have been collected from the following countries:

Alaska	Australia
Belgium – Flemish	Belgium - French
Bosnia Herzegovina	Burkina Faso
Canada	China
Cyprus	Czech Republic
Germany	Germany-Bavaria
Hong Kong	Hungary
India	Ireland
Israel	Italy
Jamaica	Japan
Korea	Latvia
Malaysia	Mali
Mozambique	Netherlands
New Zealand	Norway
Poland	Romania
South Africa	Singapore
Switzerland	United Kingdom
Zimbabwe	

The following maps show the distribution of the data gathered:



In Europe:



## **B: Regulation and Cultural Diversity**

### **Summary**

*The brief for this project was to look at the practices of broadcasting regulators insofar as they relate to issues of cultural diversity. The analysis does not cover other content issues.*

*Information about the legal and regulatory frameworks of 9 countries was searched for through the Internet and other publicly available information. This was supplemented with questionnaire-based data from 32 countries<sup>16</sup>. The results of these two data sets are presented here.*

*In most countries there is a Broadcasting or Communications Act. Within this there is generally reference made to public service requirements. In all the countries surveyed with a public service broadcaster, these provisions include several aspects of cultural diversity, however defined.*

*The regulatory structure of each respondent-country is also outlined. It is important to note that regulatory systems and procedures have been created to respond to the different needs of the media environment as well as social factors such as diversity within domestic populations. Some regulators still sit within government departments while – more usually – other countries have broadcasting regulatory structures that are independent of government. These may cover the whole spectrum of broadcasting regulation, from licensing of broadcasters to content regulation. They may also address content regulation across a range of media delivery platforms, not just broadcast services.*

*In many, but not all, the countries, the regulatory remit extends to public service broadcasting as well as to commercial broadcasters. However only one country in the sample, Singapore, had a regulator with jurisdiction over all the media – public and private, television and radio.*

*In a few countries the broadcasting and telecommunications regulator have merged in preparation for the evolving convergence of technologies and the integration of organisations involved in the communications sector.*

*Often the remit of the regulator includes licensing arrangements, especially for broadcasting that is free at the point of access. Some regulators also licence the newer content delivery systems, such as television delivered via internet protocol. When asked, some respondents to the study say that they offer licences for broadcasting services targeted at particular culturally-diverse groups. These can be full, 'normal' licences or licences that are short-term, spanning the period for a particular religious festival, for example.*

*During the course of the research the authors noted that the term 'cultural diversity' was associated with different variables in different countries. A number of respondents pointed to the remits of the public service broadcaster in their country, required principally to serve the domestic audience. Others had definitions based on*

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<sup>16</sup> Two regulatory bodies in each of two countries (Belgium and Germany) answered the questionnaire so responses are based on 38 completed questionnaires. Four countries that had been the subject of the desk research also responded to the questionnaire.

*minority ethnic or linguistic groups within their populations. Still others considered diversity to be pluralism – either of views and opinions or of media ownership.*

*Where available, examples of the measures taken to promote or encourage cultural diversity in broadcasting are given. These vary – in some countries these take the form of licence commitments, requiring certain genres of programming to be made, which may have to be transmitted at a certain time (scheduling requirements). In a number of countries (cross) media ownership restrictions apply to avoid undue influence and ensure a plurality of voice.*

*When asked, some regulators say they are able to provide direct funding to create or support, often indigenous, programming. This is especially so for public service television and radio services. Others offered airtime-based support. Often a variety of measures are used together..*

*The questionnaire also asked regulatory bodies to say what measures were taken, if any, within their organisations to increase awareness of issues around cultural diversity. While such measures are less common than those measures imposed upon broadcasters as part of a regulatory 'pack', some regulators do offer staff training or have internal evaluation processes.*

*Some regulators mentioned special broadcasting services that are targeted at particular groups within the population, or that offer programming aimed at specific groups. Advocacy bodies and other organisations in many countries also play a role in the promotion of cultural diversity in the audiovisual media and some are mentioned here, although not the focus of this study.*

*In conclusion, the importance of broadcasting as a medium and its continuing influence are not underestimated by the respondents to this project. There is an acceptance that broadcasting remains culturally vital and acts as an effective reflection, both of one's own country's social and cultural values but also as a window on other countries. Importantly too, its economic value is recognised both for the domestic creative industry and for the promotion of social cohesion. Increasing globalisation – or the fear of globalisation - has made countries look to their own domestic arrangements, often within the public service sector. However it is true to say that this part of the media industry will come under increasing pressure from other media players who may not have the same restrictions placed upon them.*

## **National legal frameworks**

In an early part of the manual prepared by Article 19 for African regulators called *Broadcasting Pluralism and Diversity*<sup>17</sup>, it is said that 'An important aspect of promoting diversity is to ensure that everyone has access to the media.. (Because of the changing nature of content delivery mechanisms) access to telecommunications may in future become as significant an aspect of democratising broadcasting as having a radio or television set'<sup>18</sup>. In this case the broadcasting regulator must pay heed to developments in the entire communications sector, not just broadcasting.

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<sup>17</sup> [http://www.brcd.net/cac\\_brcd/AppPHP/modules.php?name=blog&sec=8&month=07&year=2006](http://www.brcd.net/cac_brcd/AppPHP/modules.php?name=blog&sec=8&month=07&year=2006)

<sup>18</sup> <http://www.article19.org/pdfs/tools/broadcasting-manual.pdf>

In most countries the regulatory framework for broadcasting is defined by a Broadcasting or Communications Act. Whether or not this refers directly to matters of cultural diversity differs from country to country in the sample. In Hungary for example, the Act on Radio and Television Broadcasting (1996) sets clear definitions for public service programmes, which include references to cultural diversity. It is for the regulator, the National Radio and Television Commission, to ensure compliance<sup>19</sup>:

The Broadcasting Act defines public-service broadcasts as broadcasts ‘in which public-service programs play a decisive role, and which regularly inform the listeners and viewers residing in the broadcasters’ reception area of issues of general interest to the public’.

The Act also contains a list of definitions concerning public-service programs, according to which public-service programs are programs serving the informational, cultural, civic and lifestyle-related requirements of the (national, regional and local) listeners and viewers residing in the broadcasters’ reception area, in particular:

- ‘(a) works of art or communications presenting universal and Hungarian culture and the culture of national and ethnic minorities living in Hungary, the life of national and ethnic minorities in Hungary and minority viewpoints,
- (b) the dissemination of information serving educational and training purposes,
- (c) providing information on scientific activities and their achievements,
- (d) programs that contribute to the achievement of the freedom of religion and present ecclesiastic and religious activities,
- (e) children and youth programs and educational and general information programs with the purpose of the protection of children,
- (f) the dissemination of information assisting people in their daily affairs, providing citizens with information on legal issues and public affairs, promoting healthy lifestyles, the protection of the environment and the natural landscape, public security and road safety,
- (g) programs designed for groups at a serious disadvantage due to their age, physical, mental or spiritual condition or social circumstances,...
- (h) news services.’

In South Africa the law requires, among other things, that the Regulatory Authority, when licensing broadcasting services must ensure that cultural diversity in respect of ownership and control of the broadcasting services, programming, and employment is enhanced<sup>20</sup>.

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<sup>19</sup> <http://net.jogtar.hu/jr/gen/getdoc.cgi?docid=99600001.tv&dbnum=62>

<sup>20</sup> Information supplied by respondent; see also <http://www.info.gov.za/gazette/acts/1999/a4-99.pdf>

In the United Kingdom Ofcom, created by the Communications Act 2003, has, within its general duties, requirements to fulfil various obligations towards diverse groups and be aware of considerations such as:

- (h) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;
- (i) the needs of persons with disabilities, of the elderly and of those on low incomes;...
- (l) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas

Some of the countries within the sample such as Cyprus and Mali are currently discussing revisions to their national broadcasting laws which may take into account issues of cultural diversity<sup>21</sup>.

In New Zealand regulation of broadcasting is defined by the Broadcasting Act 1989 and various principles are implemented through a number of agencies and organisations. These may not be principles that impact directly upon the broadcasting regulator however. For example, certain frequencies are reserved, in line with Government policy, for public policy purposes e.g. for the promotion of Maori language and culture, or for the provision of community broadcasting (access radio). It is the Ministry of Economic Development that is responsible for issuing the licences for reserved frequencies, and monitoring compliance with their terms, not the government department more generally associated with broadcasting matters (the Ministry for Culture and Heritage).

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<sup>21</sup> Information supplied by respondents

## Regulatory structures: an overview

The research found differing regulatory models across the sample. In a number of countries that the authors would have wished to sample, there is only a telecommunications regulator and they are not appropriate to this project. In these cases, broadcasting is generally regulated within a government department such as the Ministry of Information or the Ministry of Communications. Data were collected from four such countries:

China	State Administration of Radio, Film and TV (SARFT)
India	Ministry of Information and Broadcasting
Japan	Ministry of Internal Affairs and Communications
New Zealand	Ministry for Culture and Heritage

A limited amount of information on China was collected. Here regulation of the media is currently within a number of departments, both national and local. Rationalisation into a single institution (the Commission on Culture) is underway.

In India, the creation of an independent broadcasting regulator (the Broadcasting Regulatory Authority of India) is being considered.

The Ministry of Culture and Heritage in New Zealand answered the questionnaire on behalf of that territory. As will be noted, there is an independent broadcasting regulator in New Zealand but it deals with content regulation only. Issues to do with cultural diversity fall primarily within the Ministry and other associated organisations.

The prime sample for the project however, is independent broadcasting regulators and these are well-represented here.

Alaska	Alaska Public Broadcasting Commission
Belgium	Conseil Supérieur de l'Audiovisuel de la Communauté Française
	Vlaamse Regulator voor de Media
Bosnia Herzegovina	Communication Regulatory Agency
Burkina Faso	Conseil Supérieur de l'Information
Catalonia (Spain)	Consell de l'Audiovisual de Catalunya
Chile	Consejo Nacional de Televisión
Colombia	Comisión Nacional de Televisión
Cyprus	Cyprus Radio Television Authority
Germany	Direktorenkonferenz der Landesmedienanstalten
Germany (Bavaria)	Bayerische Landeszentrale für neue Medien
Hong Kong	Television and Entertainment Licensing Authority
Ireland	Broadcasting Commission of Ireland
Israel	The Second Authority for Television and Radio
Jamaica	The Broadcasting Commission
Korea	Korean Broadcasting Commission
Latvia	National Broadcasting Council
Mali	Conseil Supérieur de la Communication
Mozambique	Conselho Superior de Comunicação Social
Netherlands	Commissariaat voor de Media
Norway	Medietilsynet

Poland	National Broadcasting Council
Romania	Consiliul National al Audiovizualului
Singapore	Media Development Authority
Switzerland	Office Fédéral de la Communication
Zimbabwe	Broadcasting Authority of Zimbabwe

In a number of countries surveyed, changes in distribution technologies (with a particular focus on digital developments) have made regulation designed for analogue broadcast platforms less durable. Digital technologies will make spectrum scarcity redundant and there will be an increasing amount of choice for the viewer or listener – in terms of programmes, services, and modes of access. The latter will include not only different forms of access (broadcast, cable, satellite, internet) but also mobility (such as through wireless technologies including mobile phones and gaming devices such as the PSP).

In many of these countries regulatory structures that cover the broadcasting and telecommunications sectors have converged in anticipation of these changes. Such countries are also represented in this project:

Australia	Australian Communications and Media Authority
Canada	Canadian Radio-television and Telecommunications Commission
Czech Republic	The Council for Radio and Television Broadcasting
Hungary	National Radio and Television Commission
Italy	Autorità per la Garanzie delle Comunicazioni
Malaysia	Malaysian Communications and Multimedia Commission
South Africa	Independent Communications Authority of South Africa
United Kingdom	Office of Communications

While not addressed by this study, a number of countries, faced with the changing media environment, are choosing alternative or additional forms of regulation. In some countries, the model chosen is co-regulation, described as *a generic term for co-operative forms of regulation that are designed to achieve public objectives and that contain elements of self-regulation as well as of traditional command and control regulation.*<sup>22</sup>

The prime benefits of co-regulation are perceived to be

- the expertise and flexibility offered by a more specialised industry-based organisation and
- a detached regulatory organisation which nevertheless has a clear system of legal backstops and accountability.<sup>23</sup>

In other countries, and often to deal with the regulation of newer media such as those provided via the internet, self-regulatory models have been developed. Self-regulation is the process whereby industry actively participates in and is responsible for its own regulation, while remaining subject to the general rule of law<sup>24</sup>. The basic elements of self-regulation usually consist of a code of practice or guidelines adopted by the industry and processes by which application of the code or principles may be assessed, complaints handled and corrections applied. Impartiality is seen to be key to the success of such organisations, supported by good governance, and self-regulatory organisations go to some length to ensure they are not accused of ‘industry capture’, for example, through the appointment of lay members<sup>25</sup>.

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<sup>22</sup>Palzer, C, *Co-Regulation of the Media in Europe: European Provisions for the Establishment of Co-regulation Frameworks*, IRIS plus 2002-6

<sup>23</sup> See for example, *Co- and Self-regulation in the UK*, Co and Self Regulatory Forum, 2006 - [http://www.broadbanduk.org/reports/Directives/060526%20Co\\_and\\_SelfRegulation\\_intheUK\\_FINAL.pdf](http://www.broadbanduk.org/reports/Directives/060526%20Co_and_SelfRegulation_intheUK_FINAL.pdf)

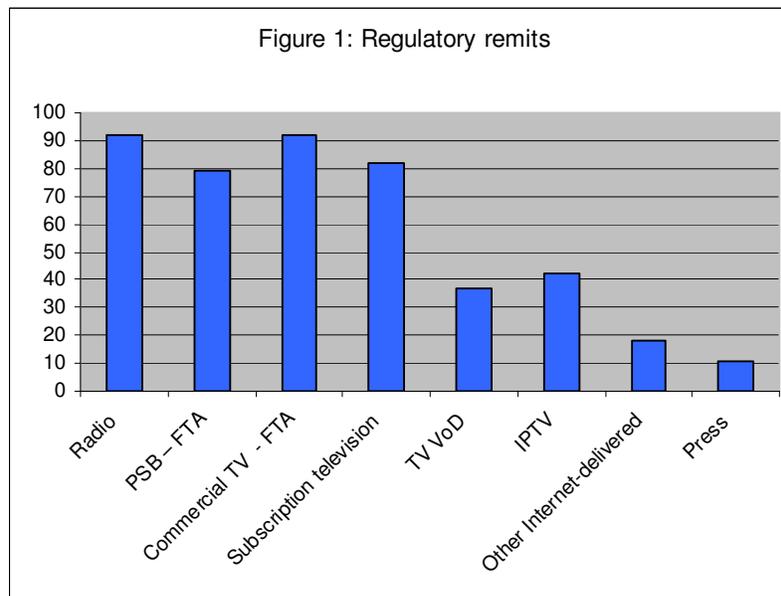
<sup>24</sup> Millwood Hargrave Ltd., *Issues facing broadcast regulation*, 2007  
<http://www.bsa.govt.nz/publications/IssuesBroadcastContent-2.pdf>

<sup>25</sup> It should be noted that one of the authors is closely associated with a self-regulatory organisation in the UK.

## Regulatory remits

Within the sample of 38 regulatory bodies surveyed, only one (Singapore) has jurisdiction over all the media considered here.

Regulator has jurisdiction over:	%
Radio	92
Public service television – free at point of access	79
Commercial television - free at point of access	92
Subscription television	82
Television delivered via VOD	37
Television delivered via Internet Protocol (IPTV- incl. mobile TV)	42
Other Internet-delivered content	18
Press	11



In some territories public service broadcasters fall outside the remit of the independent regulator, being regulated by governance systems that sit within their own organisations or within government departments. Most of the sample regulates commercial and subscription-based services in this manner.

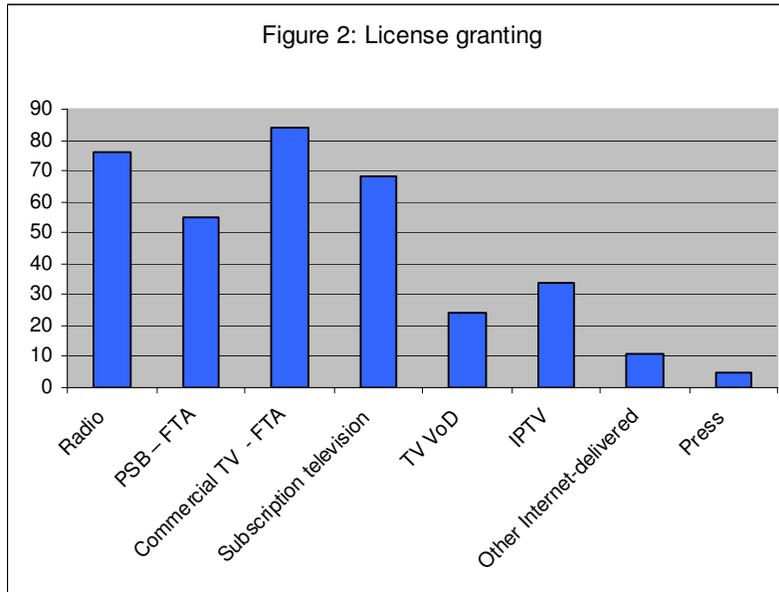
In a number of the countries the newer services, delivered via mechanisms such as internet protocol, are also regulated if they are 'streamed' or otherwise appear to the viewer to be television-like services, delivered by non-traditional broadcasting means<sup>26</sup>.

### Licensing

The survey found that the regulatory remits differ across the sample. The majority of the sample does issue licences. This is most commonly for private or commercial broadcast services, although a significant percentage also licence public service broadcasters. A significant minority say that they also issue licences for other delivery mechanisms offering broadcast content.

Regulator grants licence for:	%
Radio	76
Public service television – free at point of access	55
Commercial television - free at point of access	84
Subscription television	68
Television delivered via VOD	24
Television delivered via Internet Protocol (IPTV- incl. mobile TV)	34
Other Internet-delivered content	11
Press	5

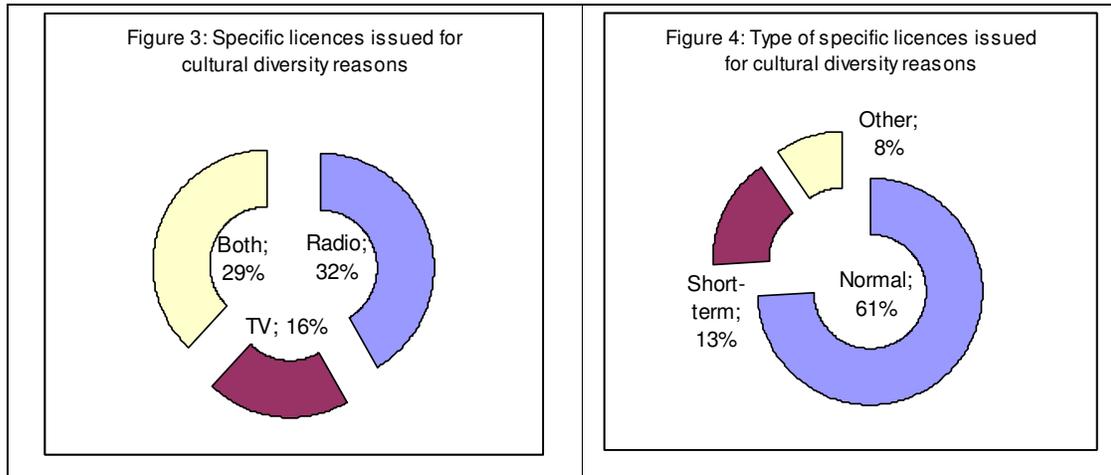
<sup>26</sup> While these responses to questions about some of the newer media delivery platforms appear high, they reflect the fact that, in some countries, the regulator has jurisdiction over such services, although there may not be mechanisms in place to impose the sort of obligations that are applied to broadcasting.



The questionnaire asked if regulatory bodies granted broadcasting licences aimed at particular, culturally diverse, groups. It was found that such licences were given by many in the sample. One-third said such licences were available for radio and a further 29% said they were available for both radio and television. Sixteen per cent said they were available for television alone. In the majority of cases (61%) these are full-term 'normal' licences although in countries such as the United Kingdom, there may be short-term licences such as those granted for the period of a particular religious festival.

In Germany, television licences for Turkish programmes are given while in Italy 'community media licences for non-profit organisations' are granted. These may be targeted at particular groups; Italy is the country with the most community broadcasters (138 were reported).

Specific licences issued for cultural diversity reasons		
Do have	Radio	32%
	TV	16%
	Both	29%
Type	Normal	61%
	Short-term	13%
	Other	8%

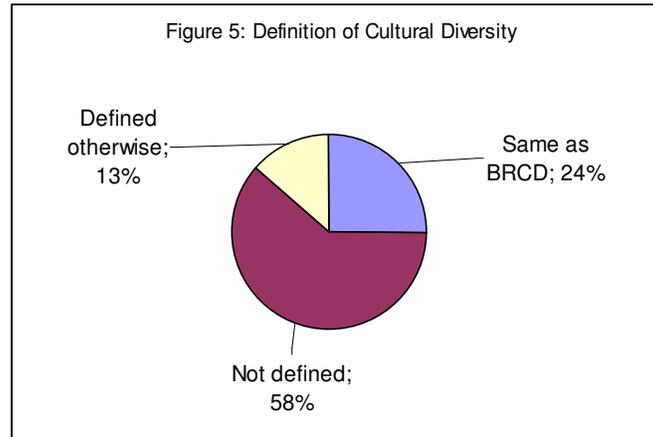


### Cultural Diversity: Definitional issues

The questionnaire used in this study began with the definition of cultural diversity as described in the Universal Declaration on Cultural Diversity, adopted used by the BRCD (see Section A).

Respondents were asked how their organisations define 'cultural diversity'. As the table below shows nearly one quarter (24%) said they defined cultural diversity in a way similar to the BRCD. For the majority of organisations (58%), however, there was no formal definition offered.

Define same as BRCD	24%
Not defined	58%
Defined otherwise	13%



Nonetheless, examination of the responses to the questionnaires show that, although a number of organisations do not define 'cultural diversity', they are able to answer a question on definition or have an understanding of what it means in their context. It is just that this phrase means different – or multiple - things in different territories.

## 1. Diversity: National communities

The requirement to address national communities and national aspects of culture – in the broadest sense - is a common interpretation of cultural diversity. Frequently this is delivered through public service broadcasting, that may or may not be licensed by, or fall within the remit of, the independent regulator.

In Romania for example, there is essentially a self-regulatory structure that sits under national and European legislation. There are requirements that

The programmes offered to the audience by radio and television channels shall correspond to the editorial standards laid down according to (self)-regulation mechanisms, respect European rules and specific national legislation, **shall reflect the cultural diversity**, and shall respect national and European identity. (Art. 89; Decision no.187<sup>27</sup>)

No further definition of cultural diversity is given but it is clear from the introduction to Decision 187 that such diversity includes '*the observance of pluralist expression of opinions and ideas and the pluralism of the sources of information for the public*'.

In Jamaica, while the term is not formally defined in Jamaican broadcasting law or any regulatory instrument, the guiding principles underpinning cultural diversity, for the most part, are an accepted part of broadcasting in Jamaica:

'Broadcast media and cable providers recognise the diverse ethnic backgrounds of Jamaican people, and have a practice of including programming reflecting a wide sphere of cultural influences. For instance, programming related to Indian, Chinese, Lebanese, South African, Nigerian

<sup>27</sup> <http://www.cna.ro/english/decisions/decisions/d18706.html>

and Hispanic cultures can be found on many subscriber television systems and radio stations in Jamaica.

Persons applying for broadcasting licences to operate in Jamaica are required to give details about the intended programming policy, particularly in relation to the Caribbean region, which is culturally diverse<sup>28</sup>.

Research conducted some years ago in the UK showed that for most members of minority ethnic groups the optimum way in which to see their culture reflected in broadcasting services was as an inclusive part of mainstream programming<sup>29</sup>: *'This type of approach described broadcast output which reflects society on-screen or on-air in an unselfconscious and, for some, almost coincidental way.'* This contrasted with mono-cultural or targeted programming and so-called cross-cultural programming, which was programming perceived to have a specific perspective on differing minorities, although designed to appeal to broader audiences. Examples of cross-cultural programming are often found in comedy.

## 2. Diversity: Local and aboriginal communities

In many countries there are specific regulations and guidelines in place to allow for the protection or promotion of aboriginal or otherwise minority languages and cultures within broadcasting. New Zealand has a range of measures to protect and promote the Maori language and culture as well as other communities within New Zealand. These measures are spread across a number of broadcasting-related charters:

*TVNZ Charter* (Television New Zealand Act 2003 Section 12 (b)(v)): “promote understanding of the diversity of cultures making up the New Zealand population.”

*RNZ Charter* (Radio New Zealand Act 1995 Section 7 (1)(b)): “a range of New Zealand programmes, including information, special interest, and entertainment programmes, and programmes which reflect New Zealand's cultural diversity, including Maori language and culture.”

*Maori Television Service* governing legislation (Maori Television Service Act 2003 Section 8 (1)): “The principal function of the Service is to promote te reo Maori me nga tikanga Maori through the provision of a high quality, cost-effective Maori television service, in both Maori and English, that informs, educates, and entertains a broad viewing audience, and, in doing so, enriches New Zealand's society, culture, and heritage.”

*NZ On Air's* mission statement: “to reflect and foster the development of New Zealand culture and identity through broadcasting”. Its television strategy is to promote a diverse range of innovative programmes that reflect and foster the different expressions of New Zealand's cultural identity and serve the needs of viewers as citizens, not simply as consumers. [www.nzonair.govt.nz](http://www.nzonair.govt.nz)

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<sup>28</sup> Information provided by respondent

<sup>29</sup> Millwood Hargrave, A (ed), *Multicultural Broadcasting: concept and reality*, November 2002 <http://www.ofcom.org.uk/static/archive/bsc/pdfs/research/multicultural.pdf>

In Italy local broadcasters have to promote 'regional and local culture' while in Alaska broadcasters have to respond to their 'local constituency'.

In both Ireland and Catalonia there are clear linguistic distinctions made across diverse populations and provisions or requirements made for such diversity.

### **3. Diversity: Programme genres**

A number of countries in the sample talk of 'cultural diversity' in terms of a diversity of programme genres. In Bosnia Herzegovina, there are requirements that public service broadcasters should make available arts and cultural programming to broad audiences. These programmes should '*reflect cultural heritage and contemporary artistic endeavour in all art forms*'. Similarly in Chile reference is made to programmes '*dedicated to the arts and sciences*'.

### **4. Diversity: Groups within society**

Some countries, such as Canada and the UK, refer to the 'diversity' of people based on disability, race, age, gender, faith and sexual orientation. In the German federal state of Bavaria there are particular requirements made for people with disabilities<sup>30</sup>.

In Israel 'periphery programmes' are made that focus on a group in the Israeli population '*which is not substantially represented at the centres of public, economic, social or cultural power and which have low access to the centre of Israeli existence generally and to the media specifically*'. It is this that is used as the definition of diversity. The respondent went on to say that '*a group.. can have ethnic, national, communal, religious, social or geographical characteristics*'<sup>31</sup>.

Within Germany particular protection given to 'plurality of opinion':

(1) The editorial content of commercial broadcasting must express plurality of opinion. The important political, ideological and social forces and groups shall be given appropriate opportunity to express themselves in the full service channels; minority views shall be taken into account. The possibility to offer theme channels remains unaffected.(...)<sup>32</sup>

### **5. Diversity: Media ownership**

Some countries mentioned pluralism and media ownership within their interpretation of diversity. This is based on the influence that the (broadcasting) media are considered still to have. In the Netherlands there are significant ownership and cross-media ownership rules, as in the UK.

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<sup>30</sup> Information supplied by respondent

<sup>31</sup> Information supplied by respondent; see also [http://www.rashut2.org.il/english\\_role.asp](http://www.rashut2.org.il/english_role.asp)

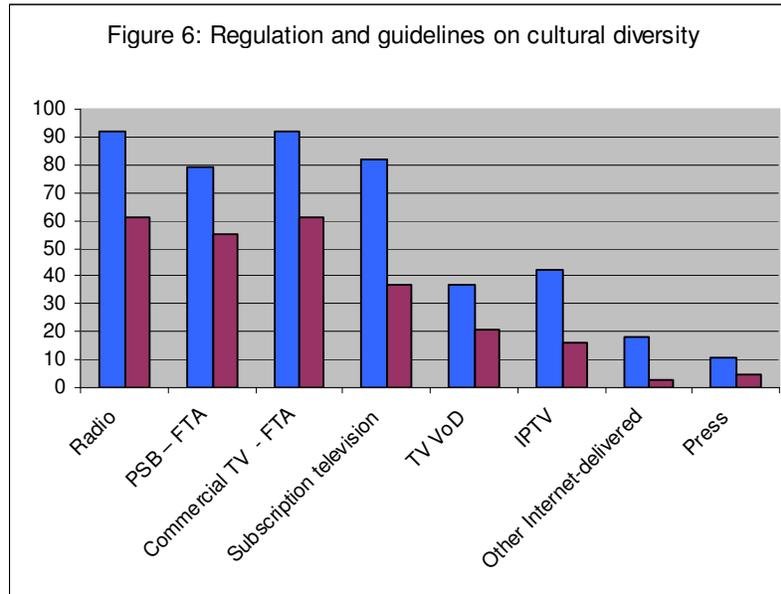
<sup>32</sup> Section III, subsection 2, Article 25 of the German Interstate Treaty on Broadcasting (Rundfunkstaatsvertrag- RStV)

## Cultural Diversity and the regulatory remit

Regulatory bodies were asked about the regulations and guidelines that they have in place specifically to promote and encourage content that addresses cultural diversity. As we have seen, there are different interpretations of what cultural diversity might mean ranging from provisions for diverse audiences to a plurality of media ownership. This undoubtedly affects responses to this question - 92% of all organisations that answered the questionnaire say that they have some regulations or guidelines affecting cultural diversity.

These regulations or guidelines most commonly cover radio and commercial television (mentioned by 3/5 of the sample). Public service broadcasting also has cultural diversity requirements, although, as we have noted, by its very nature such content is expected to cover domestic social and cultural issues. Newer delivery platforms are less likely to have such regulatory frameworks applied to them.

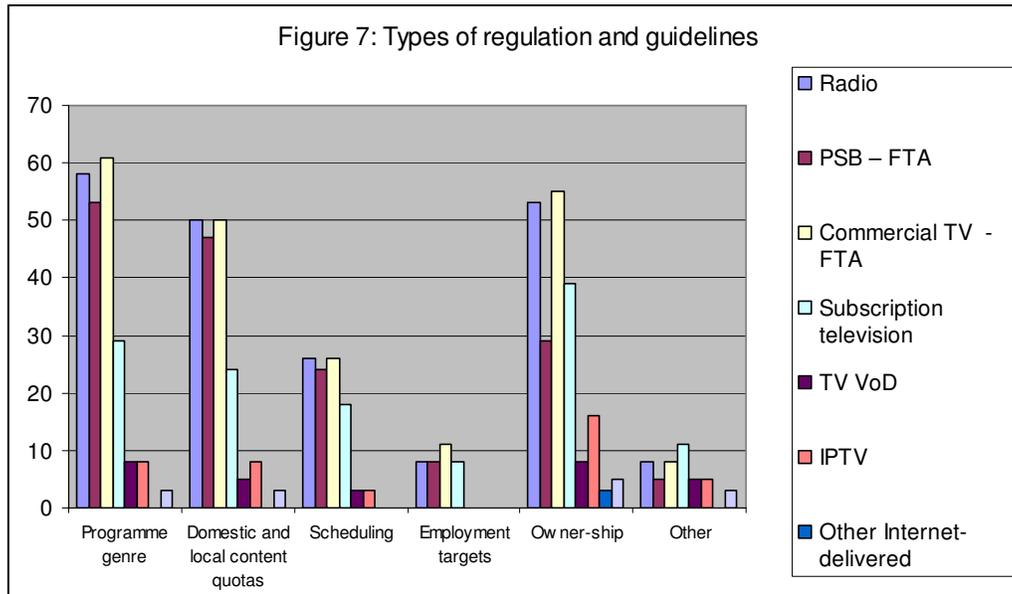
<b>Regulation and guidelines on cultural diversity for:</b>	Have jurisdiction over (%)	Have regulation and guidelines (%)
Radio	92	61
Public service television – free at point of access	79	55
Commercial television - free at point of access	92	61
Subscription television	82	37
Television delivered via Video on Demand	37	21
Television delivered via Internet Protocol (IPTV- incl. mobile TV)	42	16
Other Internet-delivered content	18	3
Press	11	5



### Forms of regulation

The table below is a summary, based on the entire sample, of the requirements placed on broadcasters and other for cultural diversity aspects. It shows that in many (but not all) the countries surveyed, content rules of some form are applied to broadcasting services. These relate to domestically-produced content and may be regulation for particular types of programme genre, production quotas, amount of transmission time or a mixture. In a number of the countries there are also regulations that affect ownership and some respondents consider these to be appropriate to mention here, as noted above.

<b>Regulation and guidelines on cultural diversity for: (%)</b>	<b>Programme genre</b>	<b>Domestic and local content quotas</b>	<b>Scheduling</b>	<b>Ownership</b>	<b>Other</b>
Radio	58	50	26	53	8
Public service television – free at point of access	53	47	24	29	5
Commercial television - free at point of access	61	50	26	55	8
Subscription television	29	24	18	39	11
Television delivered via VOD	8	5	3	8	5
Television delivered via Internet Protocol (IPTV- incl. mobile TV)	8	8	3	16	5
Other Internet-delivered content	0	0	0	3	0
Press	3	3	0	5	3



## 1. Programme genre requirements

Within the total sample 60% say they have programme genre requirements in place for cultural diversity-related issues. As noted, these may be for particular types of programming (such as arts or science programmes) or for indigenous language programming.

In Singapore and Japan (where there is no independent broadcasting regulator), there is a requirement that a mix of programme genres is available to ensure diversity.

In Canada the regulator, the Canadian Radio-television and Telecommunications Commission (CRTC), has set out an Action Plan for the implementation of the Official Languages Act, which commits to '*enhancing the vitality of English and French linguistic minority communities in Canada*'. It regulates broadcasting services serving a variety of communities such as the Aboriginal Canadians. These are mainly community-based radio stations in geographically small areas, although the public service broadcaster operates a station transmitting in English, French and eight Aboriginal languages. There are also 9 originating Aboriginal language television services, and one national Aboriginal television network - Aboriginal Peoples Television Network (APTN) which falls under a must-carry rule for cable and satellite<sup>33</sup>.

The Netherlands have a mix of programme genre (linguistic) requirements and quotas. At least 50% of the transmission time of public service broadcasters should be to programmes originally produced in the Dutch or Friesian language. For private broadcasters this proportion is reduced to 40%<sup>34</sup>.

<sup>33</sup> Millwood Hargrave Ltd., 2007 *ibid*

<sup>34</sup> Article 54a of the Media Act

In New Zealand licence criteria and funding support address cultural diversity for non-commercial regional and community broadcasting licences and a new category of commercial regional/local radio licences are being granted.

In India broadcasting content regulation currently falls within the Ministry of Information and Broadcasting, although a Broadcasting Services Regulation Bill is being debated. This would create the Broadcasting Regulatory Authority of India (BRAI) to regulate private broadcasters, oversee compliance with a content code (in preparation) and set limits on cross-media ownership. The formation of this organisation and its structure are being hotly contested by the industry.

In 2006 the Ministry of Information and Broadcasting in India liberalised community radio station licensing<sup>35</sup>. These free-to-air services have strict rules on what they may transmit: but are clearly aimed at diverse, local populations:

The programmes on the community radio service will focus on issues relating to education, health, environment, agriculture rural and community development. The content must be confined to social, cultural and local issues and the format, subject, presentation and language must reflect and exude the local flavour and fragrance.

## 2. Quotas

The study found that there were a number of different types of quota set:

- Against airtime (daily, weekly, monthly, yearly); scheduling and transmission time
- Against financial markers:
  - a. annual cost of production
  - b. financial performance
- Against programme genres

Where such regulation exists, it is often applied solely to commercial broadcasters. This is because public service organisations are generally felt to reflect indigenous programming.

In the countries of the European Union a quota requires that European productions should account for over 50% of the transmission hours of each broadcaster (including the public service broadcaster) and European independent productions should account for at least 10% of transmission hours.

In Catalonia quotas are set additionally against transmission time and private broadcasters are required to ensure that 50% of transmission time is of programming in the Catalan language. For the public broadcaster, it is assumed that Catalan will be the '*normal communication language*'.

In Romania, "*broadcasters shall reserve for Romanian audiovisual works a proportion of at least 30% of the transmission time of each audiovisual programme*

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<sup>35</sup> <http://mib.nic.in/CRS/CRSmainpg.htm>

*service, excepting the transmission time appointed to news, sports events, games, advertising, as well as teletext and teleshopping services will be excluded.*<sup>36</sup>

South Africa has recently published a consultation document which suggests raising the percentage of South African content in certain programming strands to 55%<sup>37</sup>.

In Israel, similarly, the regulatory code sets a quota of 45% - 50% of the broadcasting time to original (Israeli) production. There are additional quotas for programme genre (documentary and drama are described as superior genres) both in terms of annual broadcasting time (180 hours) and in terms of annual cost of production (50,000,000 Israeli Shekel, about 10 million Euros)<sup>38</sup>.

In Australia there is a detailed system of local content genre quotas applied to commercial television broadcasters. Pay TV is required to commit 10% of the channel's annual programme expenditure on drama to Australian produced material<sup>39</sup>.

### **3. Scheduling**

In Chile requirements are placed both on programme genres (content must be dedicated to the arts and sciences) and on scheduling – these programmes must be broadcast at prime time (6-11p.m.)

Scheduling requirements are placed on periphery programmes in Israel. The majority of these must be transmitted between 5p.m. and midnight.

### **4. Accessibility**

The CRTC in Canada sets levels for subtitling or closed captioning for persons who are deaf or hard of hearing. While the rules are not as stringent for persons with visual impairments, the CRTC is active in increasing accessibility for these groups.

Similarly in the United Kingdom there are requirements placed upon broadcasters to aid the hard of hearing or the visually impaired, for example. These requirements take into account the audience share and revenues of licensed broadcasters and create the environment for such access provisions.

### **5. Ownership**

There are a number of different types of ownership rules in place across the countries surveyed for this report. In South Africa one of the duties of ICASA, the regulator, is to promote and encourage the ownership and control of telecommunication and broadcasting services by '*people from historically disadvantaged groups*'.

The Netherlands also have regulation over cross-media ownership; although a 'relaxation of the cross ownership rules is planned' as it is thought the current

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<sup>36</sup> <http://www.cna.ro/english/decisions/decisions/d18706.html>

<sup>37</sup> <http://www.icasa.org.za/Content.aspx?Page=39>

<sup>38</sup> Information supplied by respondent

<sup>39</sup> [http://www.acma.gov.au/WEB/STANDARD//pc=PC\\_91809](http://www.acma.gov.au/WEB/STANDARD//pc=PC_91809)

restrictions are anti-competitive for the print media in the new technological landscape.

Zimbabwe has ownership rules for all regulated media based on nationality, residency and cross-media ownership. Japan has limits placed on how many stations or broadcast services one operator can own.

In Jamaica, as in New Zealand, there has been a liberalising of media ownership rules. This means that now, *'under the Broadcasting and Radio Re-Diffusion Act, cable services can be controlled by persons who are not Jamaican as long as they are from any of the 14-nations of the Caribbean Community. This principle is supported by Jamaica's participation in the Caribbean Single Market and Economy CSME) which provides for free movement of labour and capital within the Single Market'*.

### Regulatory support for cultural diversity

In the Netherlands there are a variety of regulatory measures in place to support cultural diversity, many of these aimed at younger groups – and often immigrant communities. These include funding mechanisms, requirements for access to airtime and even governance structures:

**Cultural and ethnic minorities** are catered for by the Programme Service Foundation (NPS) which 'should include 20% of programmes for or in relation to ethnic and cultural minorities; as well as programmes of an educational nature aimed at young people. For radio the percentage should even be higher: .. at least 25% must consist of programmes for or relating to ethnic and cultural minorities.

An urban radio station (available in the four largest cities in the Netherlands), has been launched by the public service broadcasters, aimed at immigrant young people. 'The programmes are in the Dutch language, made by and aimed at multicultural youngsters: urban and multicultural pop music combined with information. Besides that the channel must fulfil an educational and cultural .. function... Extra frequencies and money (half Ministry, half local governments) have been reserved for this initiative'.

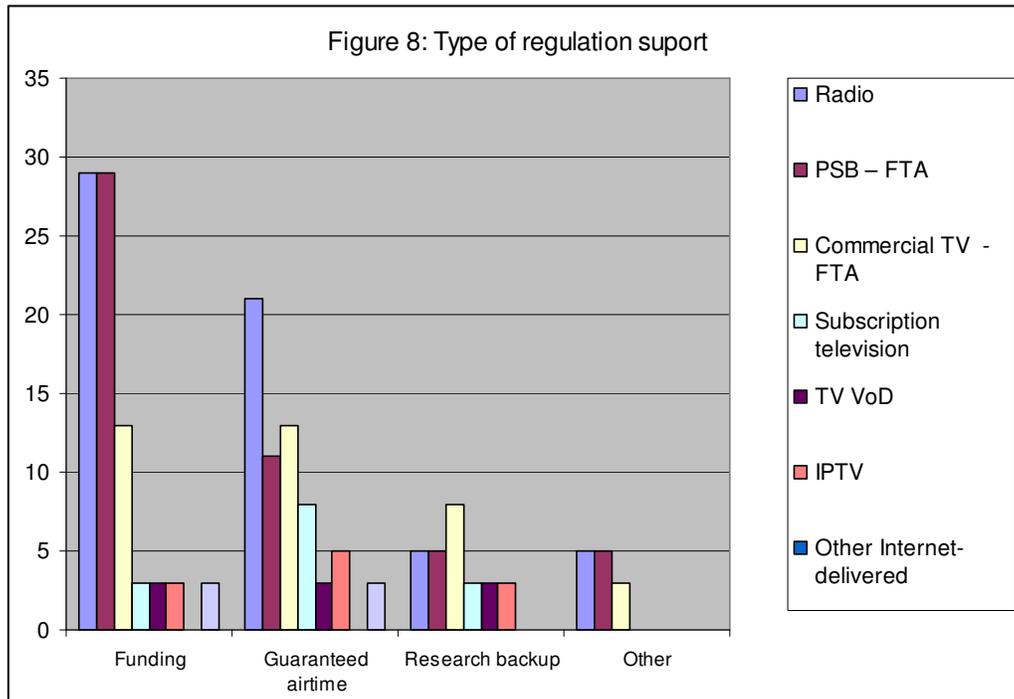
**Spiritual or religious interests** are also catered for through the public service broadcasting mechanism and airtime is given to organisations that represent a dominant religious faith in the Netherlands.

**Local and regional public service broadcasters** are required to have a governance structure that is 'representative of the main social, cultural, religious and ideological movements within the municipality (article 30 Media Act). Since this body has to be representative for the different movements in the local and regional society, it is recommended that also members of the present local organisations of immigrants should participate in the programme policy body'<sup>40</sup>.

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<sup>40</sup> Information supplied by respondent

Regulation and guidelines on cultural diversity for: (%)	Funding	Guaranteed airtime	Research backup	other
Radio	29	21	5	5
Public service television – free at point of access	29	11	5	5
Commercial television - free at point of access	13	13	8	3
Subscription television	3	8	3	0
Television delivered via Video on Demand	3	3	3	0
Television delivered via Internet Protocol (IPTV- incl. mobile TV)	3	5	3	0
Other Internet-delivered content	0	0	0	0
Press	3	3	0	0



Quotas set on airtime are in a similar proportion to the quotas set for transmission times (programmes to be played out at prime time, for example). This suggests a recognition that it is important to have content easily accessible to audiences, placed at points in the schedule where it is likely to be seen or heard.

The evaluation of research into the effectiveness of such regulatory policies are not found to be common in this study. Notwithstanding this, most regulators (74%) say that their countries subscribe to audience ratings data collection systems.

## 1. Funding of productions

Providing direct financial support for broadcast productions that promote cultural diversity is not widespread among regulators. Only 10 regulators say they directly fund – in total or in part – content that promotes cultural diversity in public service broadcasting services and four said the same for commercial services. In Israel the regulator itself produces documentary programmes that have, as their focus, minority or less well represented groups within Israeli society. Broadcasters are required to allocate transmission time to these productions.

In Hungary both funding and airtime-related support are offered to radio productions while funding support alone is given to public service television<sup>41</sup>.

Such funding comes from the regulators' own budget or is drawn from a levy on the licence fee (these sources are mentioned equally). In one case the funding is drawn from a number of areas including application fees, fines, a state contribution paid out of the central budget as a lump sum and a supplementary amount plus voluntary payments. In another case the funding comes from an additional grant from government or other international donor bodies.

Much of the funding support is found within those countries where there is more than one official language. In such cases, broadcasting in all the official or in other main indigenous languages is regulated or encouraged.

In Ireland for example, the Broadcasting (Funding) Act 2003 for private broadcasters makes requirements regarding national culture and identity. The regulator of commercial services, the Broadcasting Commission of Ireland, itself funds '*new television or radio programmes on Irish culture, heritage and experience*' from 5% of the licence fees collected. The content that is so funded must have a commitment from a broadcaster that it will transmit the programme at peak viewing or listening hours. In addition the public service broadcaster, RTE, transmits a Gaelic language channel.

Similarly in Switzerland, about CHF 1.2 billion per year, is earmarked to finance the radio and television programmes of the public service broadcaster, SRG SSR idée Suisse. In addition, about one percent of the annual revenue from licence fees benefits local or regional private radio and television stations. '*This so-called "fee-splitting" arrangement serves to ensure a regionally diverse private broadcasting landscape*'<sup>42</sup>.

In New Zealand a government department, the Te Puni Kokiri (Ministry of Māori Development or TPK) supports the maintenance and development of Māori language and culture. It funds Māori broadcasting services and is also responsible for developing policy on reserving radio and television broadcasting frequencies for such content. All free-to-air broadcasters are eligible for this funding (which is mainly for

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<sup>41</sup> <http://net.jogtar.hu/jr/gen/getdoc.cgi?docid=99600001.tv&dbnum=62>

<sup>42</sup> [http://www.bakom.ch/themen/radio\\_tv/marktuebersicht/00519/index.html?lang=en](http://www.bakom.ch/themen/radio_tv/marktuebersicht/00519/index.html?lang=en)

programming) from a contestable pool of funding - although this is not reserved exclusively for issues of cultural diversity.

In Chile the regulator co-funds local productions<sup>43</sup>, while in Jamaica the regulator provides some funding support to the newly-established public service broadcaster<sup>44</sup>.

From Alaska the project received a questionnaire from a volunteer member of the Public Broadcasting Commission (PBC). While the PBC allocates grants to stations for operations, they take into account the way in which local constituencies are served. The respondent pointed out that while there may not be much diversity within an Inuit and American Indian village (the examples given by the respondent), the presentation of their way of life and *'by bringing in their news to the predominantly Caucasian audiences in the cities, we build on the cultural diversity of Alaska'*. This motive, to increase an understanding of diversity and, in particular, of minority groups among majority populations, is an important one. Although not particularly well-articulated in many of these responses, there is an implicit recognition that relevant, accurate and non-stereotypical representations of diverse groups can benefit the population as a whole.

Norway also offers financial support to local radio stations aimed at ethnic minority groups and financial support to local television productions.

## 2. Airtime

Some countries make it a requirement that a certain percentage of transmission time is devoted to programmes that promote cultural diversity. In Zimbabwe broadcast services are required to allot 10% of their total transmission time to aboriginal languages other than Shona and Ndebele<sup>45</sup>.

There are two countries that mention airtime-related inducements for content promoting cultural diversity. In Canada, the CRTC encourages broadcasters to devote programming time to Canadian content. As an incentive it offers 'time credits' to encourage such content to be produced and scheduled attractively. That is, broadcasters can claim a 125% to 150% time credit for Canadian dramas when they are aired during peak viewing hours (7PM - 11PM)<sup>46</sup>. That means that a greater proportion of non-Canadian content can be scheduled elsewhere.

In addition, Canadian content productions (drama, children and youth, documentary and variety/performing arts) are funded via the Canadian Television Fund (CTF), a public/private partnership supported by the government, cable companies and direct-to-home satellite service providers.

In Bavaria in Germany, credits or reimbursements are offered to broadcasters if they integrate religious programmes in their schedule.

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<sup>43</sup> [http://www.cntv.cl/link.cgi/Fondos/Fondo\\_Produccion\\_Local/319](http://www.cntv.cl/link.cgi/Fondos/Fondo_Produccion_Local/319)

<sup>44</sup> Information supplied by respondent

<sup>45</sup> Information supplied by respondent

<sup>46</sup> [http://www.crtc.gc.ca/eng/cancon/t\\_support.htm](http://www.crtc.gc.ca/eng/cancon/t_support.htm)

### 3. Research

In some of the countries in the sample, regulators fund research into diversity issues, primarily to do with the representation of diverse groups on television. The European Union for Fundamental Rights for example, some years ago commissioned a comprehensive analysis of how racism and cultural diversity were presented in the media<sup>47</sup>. Similar analyses are conducted in a number of countries (Canada, Belgium, Israel and the UK for example) either on a regular basis so that trends may be tracked or less frequently.

In nearly three-quarters of the countries surveyed (74%), audience ratings data were collected by an external organisation. Seven countries said that additional data on the diversity of audiences were provided. These were

- Latvia
- Malaysia
- Mozambique
- New Zealand
- Singapore
- South Africa
- United Kingdom

These data were generally based on the ethnic rather than the linguistic variances within audiences. Just over a quarter of the sample (26%) said that companies provided non-ratings data on diverse audiences.

In Germany there is a non-state, independent body, the Kommission zur Ermittlung der Konzentration im Medienbereich – KEK (Commission on Concentration in the Media) that *'verifies compliance with the provisions on ensuring plurality of opinion in nationwide television. It verifies whether an undertaking has attained a dominating influence on public opinion through the operation of channels it owns or through a change in the distribution of ownership or both'*.

### 4. Other

In Zimbabwe the training of personnel within broadcast organisations about cultural diversity issues is supported by the regulator while in the United Kingdom, the regulator co-funds the Broadcast Training and Skills Regulator (BTSR). The BTSR helps to promote training and development across the broadcasting industry and ensures that the arrangements made by broadcasters for such training are effective.

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<sup>47</sup> Ter Wal, J., *Racism and Cultural Diversity in the Mass Media: An overview of research and good practice in the EU Member States 1995-2000*, 2002

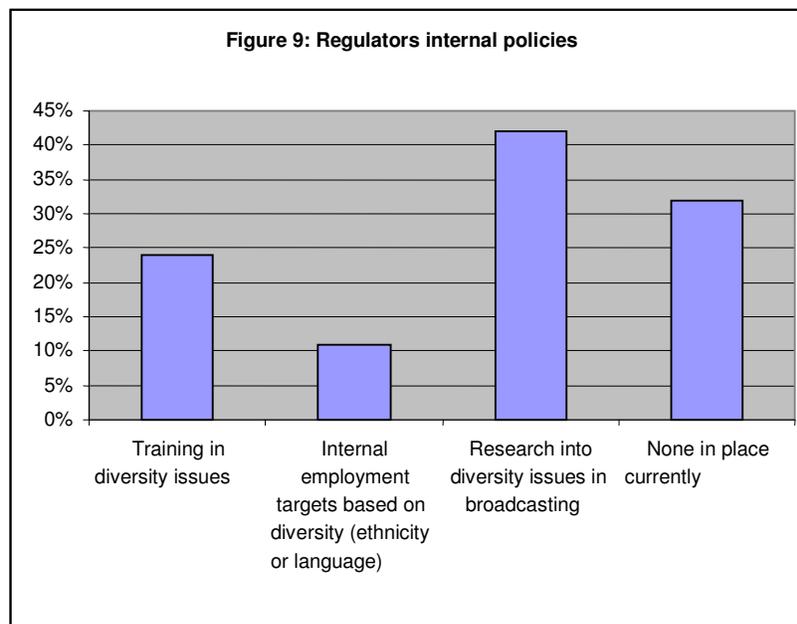
[http://eumc.europa.eu/eumc/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=3fb3f9cfb3592](http://eumc.europa.eu/eumc/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=3fb3f9cfb3592)

### Internal policies regarding cultural diversity

Respondents were asked what, if any, policies were in place within their organisations regarding cultural diversity. About one-third said there were no policies in place at present, although a significant minority mentioned research. One example of such research is the advisory report “Presence and Representation of Cultural Minorities in the Audiovisual Media”, prepared by the Belgian CSA at the request of the Belgian Government.<sup>48</sup>

A number of countries (nearly one quarter of the sample) did offer training in diversity issues although employment targets based on ethnicity or language are far less common.

Training in diversity issues	24%
Internal employment targets based on diversity (ethnicity or language)	11%
Research into diversity issues in broadcasting	42%
None in place currently	32%



When asked, over half the regulators surveyed (58%) say they work with their government on cultural diversity issues.

<sup>48</sup> [http://www.csa.be/system/document/nom/552/CAV\\_Avis\\_20061107\\_interculturalite.pdf](http://www.csa.be/system/document/nom/552/CAV_Avis_20061107_interculturalite.pdf)

In other cases, such as New Zealand, the regulator acts as advisor to the government and it is the government that has the remit to establish criteria for, for example, regional/local non-commercial licence allocation.

Another, recent, example of collaboration between the regulator and government on cultural diversity issues comes from Mali. There, the Conseil supérieur de la communication is assisting the government with the processes required to approve, and bring to legislation, the UNESCO Convention on Cultural Diversity<sup>49</sup>.

Similarly, the Colombian Comisión Nacional de Televisión (CNTV) has been an active participant in the negotiation process which has led to the integration of Colombia into the Andean Free Trade Agreement with the USA<sup>50</sup>. Of particular importance has been the CNTV's advice not to include broadcast services in the Agreement. The CNTV made strong representations about the importance of (national) culture to the national identity, even within a trade negotiation.

### **Plans for regulation in sphere of cultural diversity**

Respondents were asked what, if any, plans were being developed for cultural diversity. As the report has shown, in many territories measures are already in place to varying degrees.

Other countries talked of evolving plans to promote and encourage cultural diversity within broadcasting. Bosnia Herzegovina, Mali, Mozambique and Cyprus all say they are currently looking at processes (including amending national legislation) to encourage cultural diversity in broadcasting.

In Jamaica, there are a number of considerations underway. Recommendations have been made to the Minister of Information and Development for the establishment of quotas for indigenous programming and consideration is being given to the establishment of a specialised media content regulator, which could lead to specific provisions about cultural diversity.

### **Cultural diversity measures outside the regulator**

This project focussed on the remits of broadcasting regulators and how they address the promotion of cultural diversity. In many countries it falls to the public service broadcaster to reflect national and cultural diversity. Many of the respondents, mostly independent broadcasting regulators, do not oversee the content rules of public service broadcasters and so, when asked about regulations and guidelines that cover cultural diversity but are not within the regulatory body, a number refer to their public service broadcaster.

In some countries there are specific channels devoted to programmes that promote cultural diversity or answer the needs of diverse groups. In Australia, the Special Broadcasting Service (SBS) is funded by the government. Its stated purpose is *'to provide multilingual and multicultural radio and television services that inform,*

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<sup>49</sup> Mentioned by Mali's CSC president at a BRCD board meeting

<sup>50</sup> <http://www.cntv.org.co/opcion.html> and <http://www.cntv.org.co/pdf/discursodrayalainsforo.pdf>

*educate and entertain all Australians and, in doing so, reflect Australia's multicultural society.*"<sup>51</sup>

Through the Public Notice CRTC 1990-89, the Canadian regulator stimulated the creation of an Aboriginal content-based broadcaster. In 1999 the Aboriginal Peoples Television Network (APTN) was formed<sup>52</sup>.

S4C is a commercial broadcaster that transmits some programming in the Welsh language in the UK. It is paid for by government grant and also receives programming from the commercially funded public service broadcaster, Channel Four. There is also a part-time Gaelic digital channel called TeleG which is broadcast on a digital terrestrial platform.

Similarly in Ireland the public service broadcaster, RTE, offers Gaelic language services.

In Spain, the Catalonia Broadcasting Council ensures that the public service broadcaster guarantees regular radio and television broadcasts in Aranese for the Aran valley. The General Linguistic Policy Act in Catalonia states that<sup>53</sup>:

- *Public broadcasters will use Catalan as a normal communication language.*
- *Private licensed broadcasters shall guarantee 50% of viewing and listening time is in Catalan.*
- *Private broadcasters must guarantee 25% of Catalan language songs in music programmes.*

These requirements are only placed on the regional media. There is no obligation on national Spanish media to use the Catalan language when broadcasting in Catalonia.

In some countries external bodies give funding to broadcast productions that serve diverse communities or the national population.

In the Netherlands there are two sources of such funding:

- The *Stimuleringsfonds Nederlandse culturele omroepproducties* (Dutch Cultural Broadcasting Promotion Fund) encourages the development and production of cultural radio and television programmes by the national public broadcasting companies.
- The second funding organisation, *Co-Productiefonds Binnenlandse omroep* (COBO Fund), co-funds productions made by national public service broadcasters with one of the following:
  - film producers
  - foundations for performing arts
  - the Flemish Radio- and Television Foundation (VRT)
  - the German public service broadcasters.

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<sup>51</sup> <http://www20.sbs.com.au/sbscorporate/index.php?id=378>

<sup>52</sup> Decision CRTC 99-42: Television Northern Canada Incorporated  
<http://www.crtc.gc.ca/archive/ENG/Decisions/1999/DB99-42.HTM>

<sup>53</sup> Catalan Linguistic Policy Act <http://www6.gencat.net/llengcat/legis/en/lpl.htm>

Already mentioned, Māori language programming in New Zealand is funded through a variety of sources.

There are also pressure groups in some countries that lobby for, or act as advocates for, cultural diversity issues. One such is the Media Diversity and Development Agency (MDDA) in South Africa created *'to grapple with issues of media diversity and ownership*.

*Amongst others, the MDDA wants to "encourage ownership and control of, and access to, media by historically disadvantaged communities, historically diminished indigenous language and cultural groups, encourage the channelling of resources to community and small commercial media, as well as supporting initiatives which promote literacy and a culture of reading."* It offers both funding and non-funding support to community- and not-for-profit media.

Other audiovisual media also recognise the importance of cultural diversity and the UK Film Council has created a Diversity Toolkit to help the film makers (principally) create relevant content reaching diverse audiences. This Toolkit has six 'goals'<sup>54</sup>:

1. be aware of the diversity agenda and individual responsibilities for change and delivery
2. bring in and develop talented individuals at all stages of their careers
3. retain a diverse workforce
4. ensure full and equal access to film for disabled people, particularly in cinema audiences
5. champion the diversity of its role models and leading industry figures
6. ensure that film education and training directly addresses diversity and inclusion, and that those delivering and receiving training and education reflect diverse groups.

### **Requirements for the promotion of cultural diversity: the future**

The questionnaire asked respondents what they thought would be helpful or necessary to promote cultural diversity within broadcasting in their country. The importance of broadcasting as a medium of influence upon society remains important – and is core to the mission of the BRCD, a global organisation. A number of regulators such as the Bavarian regulator in Germany, the Belgian (French) regulator and the UK underscored the importance of the awareness and understanding of cultural diversity for society. As the regulator in Bosnia Herzegovina said, summing up how important it is in their view that the regulator addresses these issues:

*'(The) cultural dimension of the audiovisual media is extremely important because they play a fundamental role in shaping our cultural identity.*

*(Because of this), the Agency considers this issue an important part of programming regulation. Since public service broadcasting and public media in general can make a valuable contribution to preserving cultural diversity in*

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<sup>54</sup> <http://www.diversitytoolkit.org.uk/>

the different regions and autonomous communities,... (the) CRA has a great role in the reform and functioning of the PSB, in administrative, technical and especially in programming issues. Preservation of cultural diversity will for sure be an important issue to pay due attention to in our regulatory processes’.

Mozambique and Ireland underlined the importance of a concerted effort across all sectors and stakeholders involved with the industry – including government, the industry and civil society. Zimbabwe thought it important to encourage internal policies within regulatory bodies to raise awareness of this area and Hungary, among others, mentioned research and evaluation tools that it has at its disposal.

In some countries (such as Cyprus and Mali) new legislation is being enacted which directly empowers the regulator to promote cultural diversity.

Other regulatory bodies also stressed the particular role of public service broadcasting – in Singapore for example there are must-carry rules imposed on private commercial broadcasters, as there in the UK. The Czech Republic suggested that removing commercial pressures could create an appropriate environment for the promotion of cultural diversity.

In other countries the need for more funding to support such initiatives was called for. In New Zealand for example, *‘the government has established a new Regional and Community Broadcasting Framework covering high level policy for commercial and non commercial broadcasting in regard to licensing and funding support. One of the objectives of the policy framework is Diversity in broadcasting’*<sup>65</sup>. The development of direct funding initiatives would also be welcomed and was mentioned by both Burkina Faso and Latvia as being beneficial to the promotion of cultural diversity in broadcasting.

Jamaica thought it important that provisions within international agreements that touch upon cultural diversity are clarified so that regulators know how to manage the commercial health of the industry they regulate. Jamaica also suggested creating support – through funding or transmission time requirements, for example – that would allow the flourishing of indigenous programming. *‘At this time, while there is a growing local television production sector, whose output is finding its way onto cable, the genres of locally-made programming are limited. There is a disproportionate amount of local music entertainment channels when compared to cultural, historical and educational programming. This is largely due to the difficulty faced by producers of informational and educational programmes in raising the sponsorship support to pay for air-time, in addition to the production costs’*. Creating the right commercial environment would aid this greater diversification of programming.

The Malian regulator discussed the possibility of training programmes for media professionals so that they may think about and include these matters in their productions. They also envisage the creation of a cultural audiovisual fund for domestic production, similar to that in Chile and Canada.

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<sup>65</sup> <http://www.mch.govt.nz/publications/community-broadcasting/framework.html>

## C: Conclusions and Implications

### Summary

*This Section of the report draws together the top line findings from the study. It is designed to assess what the commonalities are in terms of a variety of factors:*

- *Definitions of cultural diversity*
- *International, regional and national agreements and processes*
- *Legal and regulatory structures*
- *Regulatory interventions in the area of cultural diversity*
- *Interventions by other regulators*
- *Coordination across agencies and internationally.*

*The report has looked at concrete examples of measures taken in different countries to promote (or protect) cultural diversity and this Section assesses the trends that are being followed. It also 'listens' to what regulators have to say when asked what measures need to be taken to encourage cultural diversity within the broadcasting sector.*

*The way in which cultural diversity is defined by the broadcasting regulator is broad and varied. It covers a range of areas, as already described, that relates to individual groups within a nation to more objective variables such as economic power.*

*Broadcasting has been the prime focus of regulation for many decades because its importance as a cultural medium of influence has always been recognised. Further, the delivery means (and spectrum scarcity) have made the regulation of broadcasting possible. It has been a truly 'mass medium' and has reached large audiences, regardless of income, location and culturally defined characteristics such as language. Radio has led the way and remains important as a mass medium in many parts of the world.*

*However, there are rapid developments now which mean that the carefully constructed 'broadcasting ecology' and regulated environment will give way in many countries to one in which audiences have far greater control and ability to choose, create and deliver content. By understanding these processes, and by sharing information and experiences, BRCD members can ensure they can play an active and positive role in this emerging communications world. This may also mean the development of new regulatory models which allow for greater flexibility and cooperation between various stakeholders that has traditionally been the case.*

*The research shows that in many countries formal rules can still be applied to broadcasting and these are used widely to promote cultural diversity. The preservation of national cultures and the promotion of cultural diversity drive national policy precisely because of their impact in terms of economic value and social cohesion. This research found that freedoms of expression and protection from undue influence are guarded against through measures taken to ensure that there is a diversity and plurality of voice, through media ownership rules or content quotas.*

*The implications of these measures and processes suggest an increasing reliance on the public service and private broadcasters to fulfil a role that is seen to be difficult for*

*other media delivery platforms to offer. With the increasing fragmentation of audiences, it is these media that are looked to provide citizens with the social purposes delivered by such public media.*

*There is also recognition that there needs to be more cooperation, both nationally – within organisations – and internationally in an increasingly global marketplace.*

*What this project is not designed to do is to evaluate the effectiveness of any individual measure. That sort of undertaking could only be done by a regulator ‘matching’ their country’s media, social and economic environment against that of a country being used as an exemplar. What the project was designed to do is to expose the various procedures in place – all of which aim to promote cultural diversity, and the benefits that brings, through the most influential of media still, broadcasting.*

## **Moving forward**

There are (continuing) attempts to bring broadcasting – and therefore aspects of cultural diversity – into a global, or international, arena. Its importance is increasingly recognised, especially as the boundaries between broadcasting and other forms of content distribution become blurred.

The concept of cultural diversity is not in itself a single clearly defined concept – the UNESCO declaration recognises this. Its meaning ranges from protecting one’s national culture from global external influences to diversity among peoples based on language or race or religion to diversity within the media environment. This last covers areas such as plurality of ownership and range of programme choice.

While this allows freedom for individual countries to create regulatory environments that suit the media in their country it does mean that global agreements and legislation will be hard-pressed to come to any conclusion that will be acceptable. Not only is agreement trying to be reached among groups with differing national interests to safeguard, but the concept has no definition that can be fastened on to.

Overlaying this consideration about cultural diversity and its meaning are the changes taking place in the audiovisual media environment. Changes in the broadcasting and communications sectors are recognised as being important by all respondents, whether or not they have jurisdiction over the media delivery platforms that are gaining ground in many countries – such as services delivered via internet protocol. Cultural diversity issues remain important – qualitatively one might argue more so, but regulators seem to look increasingly to the national public service broadcasters to meet those cultural and social requirements, and even this system may be unstable in many countries:

*‘Many countries around the world have a reasonable desire to ensure that their citizens can see films and TV programmes that reflect their history, their cultures and their languages. In the past when their towns might have had only one local cinema and received only one or two broadcast signals, the motivation for foreign governments to set some time aside for local entertainment products was understandable. In today’s world, with multi-plex cinemas and multi-channel television, the justification for local content quotas is much diminished. And, in the e-commerce world, the scarcity problem has completely disappeared. There is room on*

*the Internet for films and video from every country on the globe in every genre imaginable. There is no 'shelf-space' problem on the net.*<sup>56</sup>

The above comment reflects not only on the changes in broadcasting and the concomitant changes in regulation and audience behaviour, but also on probable developments in the content production sector. It is likely that many content providers will not be producers but aggregators of material, acquired from many sources. They may well reach out to audiences directly, bypassing third party delivery platforms. They will become increasingly international and global and it is to these areas that policy makers with an interest in cultural diversity will want to look.

Regulatory structures are also changing in many countries to keep in touch with the developments in broadcasting – and, in many territories, the move from analogue to digital broadcasting. With that shift comes an increase in content and access choice. People will be able to choose from a multiplicity of channels and services in those countries where spectrum scarcity as a barrier to growth is removed. People will be able to choose how they access content – through television screens, through PC screens, on a mobile handset or a video iPod. To meet this challenge in some countries the 'content and carriage' have merged and are regulated by a single regulator that covers both broadcasting and telecommunications.

Increasingly too, different regulatory structures are emerging to cope with these changes and co- and self-regulation systems may need to develop that can take account of some of the issues raised in this report.

Importantly the technological developments are not universal, and one of the regulators pointed to the continued importance of radio in their country as a form of communication and information acquisition. For that country, with its significant rural population in a primarily agricultural economy, broadband is a long way off as a 'mass medium'.

Again the dilemma for the regulator is how to ensure that the technological developments allow room for plurality and diversity within broadcasting, accessible to many people. There is no doubt from this study that broadcasting and other forms of distribution of audiovisual content (such as film) are considered both important and influential for a host of socially and culturally vital reasons:

- To create ideas and concepts
- To transmit and impart information
- As a learning tool
- As the glue for social cohesion
- To ensure greater equality among and within populations who have access to similar content.

### **Regulatory interventions**

It is clear from the analysis of the results of this research that there is a significant appetite for cultural diversity, variously defined. All the regulatory bodies that were either part of the publicly-available data search or that answered the questionnaire had some interest in these issues, if not directly intervening.

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<sup>56</sup> Richardson, BJK, before the House Commerce Committee Sub-Committee on Commerce, Trade and Consumer Protection, 22 May 2001 <http://www.mpaa.org/legislation>

The lack of commonality in regulatory intervention was of interest however. It is in part, fuelled by the very different interpretations of what cultural diversity means. It may also be affected by the different media environments in countries – be they different in terms of legal and regulatory structure (some are relatively nascent regulatory bodies, some still sit within government) or in terms of technological development and progress.

The research found a range of direct interventions such as direct funding support for local or indigenous programming or requirements made of broadcasting transmission time, for example. If the regulator was not empowered to make any requirement of the broadcaster this was generally because the promotion of cultural diversity sat within the public service broadcaster.

Most of the interventions are of the sort that require compliance and use the medium as the currency – through programme genre requirements, through scheduling and through quotas set on amounts of transmission time.

Some of the interventions require pre-production commitments such as the use of a particular language or the requirement to transmit representations of a particular community or group within society. There are also regulations that cover how the programmes are made – for example, are the content producers indigenous, are they from the independent production sector?

Procedures to ensure compliance were not well-outlined in many countries and this might be an area of either joint research or an area where advice and experience can be shared between regulators. There are differences to be found among regulators in terms of how well-established their research or monitoring or compliance departments are. Some of the countries surveyed had long-established research traditions that examined these areas in detail and over time. Others had never conducted research among audiences, except for basic audience ratings data, and may not have the means to do so as they fight to gain enough resource to 'be a regulator'.

## Implications

Indeed it is the lack of commonality of regulatory measure and the lack of commonality in evaluation and assessment that make it difficult to draw conclusions that can be applied to the whole sample, and thus extrapolated beyond the sample.

However cultural diversity is an important issue and a particular one. It is not just about economic protectionism, although the health of a national audiovisual sector may be crucial to the economy, but it is increasingly important for the good of society. This in turn, relates to the importance of broadcasting within society. Respondents to the survey noted its continued influence and it acts as a reflection of one's own culture in an increasingly globalised world.

Importantly in countries where there are many cultures living together, it can help to show differences and remove ignorance thereby increasing understanding and tolerance.

Nonetheless there are recommendations that come from the close analysis of this study. The summary of the main results of the research taken from publicly-available sources and from the survey show that are a number of key factors that can be used to promote cultural diversity in broadcasting, and possibly beyond to other, newer, forms of content delivery :

- It is of great importance that networks (such as the BRCD) are created for the exchange of information and sharing of good practice. This becomes particularly important in the audiovisual content sector where national boundaries are increasingly being broken down, but where international and intra-national agreements are difficult to achieve.
- Broadcasting can still be regulated and requirements placed upon broadcasters to fulfil certain public purposes. The importance of promoting cultural diversity should be acknowledged as an important social good – and ultimately therefore, as an economic benefit. That would require more research and audience measurement and audience data collection.
- The entire weight of this burden need not be put on the public service broadcaster and can be shared with the private sector, especially free to air broadcasters. The incentive to undertake these obligations should be made clear to all. There would be a need to promote self-regulation by the broadcasting industry in order to cope with the public service.
- While it is important to bring the industry along, the regulator must get buy-in from other stakeholders – the public is key here as is government.  
*'It's about looking at the whole range of output and asking whether you are serving the entire audience'.<sup>57</sup>*
- The evaluation of the effectiveness of regulatory measures should be tracked and made a part of the regulatory process. Again the sharing of experience and information will be invaluable in this area.

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<sup>57</sup> Millwood Hargrave, A (ed), *ibid*