

# Explaining the de facto independence of public broadcasters

## Abstract

Arms' length institutions such as central banks, constitutional courts, and public broadcasters enjoy guarantees of de jure independence. However, de jure independence is no guarantee of de facto independence. Public broadcasting is a difficult case for de jure independence, since many competing explanatory variables are non-institutional and assumed to be heavily determinative. In this article, I operationalize the de jure and de facto independence of thirty-six public service broadcasters world-wide. I find that de jure independence explains a high degree of de facto independence when the size of the market for news is accounted for. Other variables present in previous literature – bureaucratic partisanship and the polarization of the party system - are not significant.

# Explaining the de facto independence of public broadcasters

## *Introduction*

In the past eight years laws on public service broadcasters (PSBs) have been revised in Austria, Portugal, Italy, Spain, Slovenia, the United Kingdom and Finland. Reform efforts continue in Italy, where legislators are considering the fourth proposal to reform public broadcaster Rai in fifteen years. Such reforms often aim to give the PSB greater independence from politics.<sup>1</sup> To this end, they propose new legislative provisions concerning appointment, funding, and accountability. Unfortunately, we know little about the effects of such legislative provisions on the independence of PSBs. In part, this is because previous work on the politics of public broadcasting has either been country-specific<sup>2</sup> or has not upset the null hypothesis.<sup>3</sup> Given the dominant market position of most PSBs in Europe,<sup>4</sup> this lack of knowledge is regrettable.

In part, however, we lack knowledge because there is uncertainty about the effect of de jure measures designed to increase independence. Scholarly literature on the independence of other arms' length bodies, such as central banks,<sup>5</sup> constitutional courts,<sup>6</sup> and regulatory agencies<sup>7</sup> has used indicators of de jure independence and has sidestepped the issue of whether such de jure independence guarantees de facto political independence. Analyses which do distinguish between de facto and de jure independence, carried out by

economists rather than political scientists, have found that the two items are only weakly correlated.<sup>8</sup>

Public service broadcasting is an important area in which to distinguish the effects of de jure independence, since it is an area in which most of the mooted explanatory factors concern features of the wider society which are often assumed to have a large effect, and thus would only ever run parallel or contrary to predictions based on analyses of de jure independence. This article attempts to assess the impact of grants of de jure independence on de facto independence using a sample of 36 PSBs drawn from across the world. The article employs measures for de jure and de facto independence which I describe and cross-validate with other more direct (but less widely available) measures. My finding - that de jure independence explains a high degree of de facto independence when the size of the market for news is taken into account - shows that the prospects for designing independent PSBs are good.

### *De facto political independence*

By de facto political independence, I mean the degree to which PSB employees take day-to-day decisions about their output or the output of their subordinates, without receiving and acting on the basis of instructions, threats, or other inducement from politicians, or the anticipation thereof; or considering whether the interests of those politicians would be harmed by particular choices about output. I do not consider independence from powerful economic groups within society, nor do I wish to include political involvement in setting the types of programming and strategic goals of the broadcaster, activities which are more common and less normatively

troubling.

The definition applies whether inducements or threats come from politicians in government or those in opposition. Coppedge and Reinicke use 'partiality in and greater availability of government-controlled media' as an indicator of the lack of "alternative sources of information",<sup>9</sup> thus impairing voters' ability to choose between electoral alternatives. Yet interference by elected politicians in general also impairs voters' ability to choose between alternatives, since it is one of the means by which cartel parties protect themselves against political insurgents not currently represented in the legislature.<sup>10</sup> Thus, political independence in general is desirable. It is also desired: the 2007 reform of Rai sought specifically to grant it autonomy "from the parties", not just from the government.<sup>11</sup>

Ideal measurement of this concept would rely on surveys of PSB journalists and the considerations which influence their work, yet such surveys are rare. I therefore use a proxy measure of independence based on executive turnover. In doing so, I follow Cukierman and Cukierman and Webb, who developed two proxies for de facto independence: the rate of turnover of chief executives (TOR), and the political vulnerability index (VUL).<sup>12</sup> TOR is equal to the reciprocal of the average tenure of the chief executive in years. VUL is the percentage of government changes which were followed within six months by a change in the chief executive.

The logic behind the use of TOR is as follows. Where chief executives are in office for a very short period of time, they lack knowledge of the broadcaster, and consequently lack capacity to defend it. By contrast, where the chief

executive has been in office longer than one legislative term - and perhaps longer than many legislators - then she will know more about the broadcaster, and be better able to defend it.

The logic behind the use of VUL is as follows. If, following a new government, there is a change in the chief executive, then either the chief executive reached the end of her term, or left early. If she reached the end of her term, it may be that the terms of chief executives are designed so as to coincide with changes in government (the case in Spain before 2006 and Estonia). If this is the case, then one may assume that the chief executive is, in some sense, the expression of a government choice. If the terms do not coincide by design, then the fact that they did so coincide may create this impression in any case. If, on the other hand, the chief executive left early, she was either constrained to resign, or did so of her own accord. If she was constrained to resign, this likely represents the introduction of some new constraint connected to the government. If she did so of her own accord, this may reflect a belief that the government should have a 'clean slate' to influence the forthcoming selection of a chief executive.

Since the use of multiple imperfect proxies can reduce the error present in each single proxy, I operationalise independence,  $I$ , as the average between TOR and VUL. Since higher values of TOR and VUL indicate lower independence, the formula for independence is:

$$I = 1 - \frac{(TOR + VUL)}{2}$$

where higher values of *I* indicate greater de facto independence. Table 1 shows values of *I* for the thirty-six PSBs included in my sample.<sup>13</sup> The worth of *I* as a proxy is limited at higher values. BBC directors-general who have retired have done so after seven or ten years; SRG-SSR directors who have retired have done so after twenty years; but this difference, whilst it affects TOR at higher levels, does not reflect differences in de facto independence.

[TABLE 1 AROUND HERE]

The proxy nevertheless agrees with more direct measurements. Polls conducted in Denmark, Britain, Canada, France and Italy show that broadcasters with higher scores were more likely to be perceived as independent by the public. 42% and 38% of respondents believed that the BBC and Danmarks Radio respectively were independent of the government;<sup>14</sup> a slightly lower percentage (35%) believed CBC was independent of the Canadian government.<sup>15</sup> 22% of respondents thought that the French media in general was independent of political interests;<sup>16</sup> in a subsequent question, France Télévisions was neither substantially more trusted, nor substantially less trusted, suggesting that if a question had been asked about independence, France Télévisions would not score substantially better. Finally, older internal polling for Rai showed that only 4.1% of respondents believed Rai to be 'outside of politics', which I take to be equivalent to 'politically independent'.<sup>17</sup> These responses match the broadcasters' ranking and relative distance according to Table 1.

#### *Four potential explanatory factors*

The potential explanatory factors identified below are, with the exception of de jure independence, all derived from previous work on the politics of the media. Not all, however, are mutually compatible, or enjoy the same logical standing. Foreshadowing the descriptions below: explanation in terms of the partisanship of the bureaucracy works by altering politicians' perceptions of the appropriateness of interfering; it therefore falls within a logic of appropriateness model.<sup>18</sup> Explanations in terms of the polarization of the party system and the size of the market for news work by altering PSB journalists' attitude to their work and, a fortiori, politicians' perceptions of journalistic output at the PSB. Where politicians' perceptions are positive (or at least not negative), their motives for interfering are reduced (or, more dryly, the net utility derived from interference relative to the status quo ex ante decreases). Finally, explanations in terms of de jure independence work by partially constraining politicians' attempts to sanction the broadcaster, given adverse views of PSB output. Where interference attempts are severely constrained, the politician cannot interfere, no matter how pressing the motive. These three explanations fall within a (constrained) consequentialist logic. Since de jure independence acts as a constraint after other factors have provided politicians with motives to interfere, one might think that its influence should always be felt. However, legal provisions are never entirely clear or entirely self-enforcing. Where other factors such as the size of the market for news and party system polarization furnish politicians with motives to interfere, their interpretation of de jure provisions may be determined more by their motives than by disinterested interpretation of the

relevant text. That noninstitutional background factors in society have usually been held to be determining in this way is strongly suggested by the way in which typologies of media system and descriptions of public broadcaster have tended to use geographic and social labels, rather than institutionalist ones, to describe different media systems.

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<sup>1</sup> Emilio Lledó Iñigo et al., “Informe para la reforma de los medios de comunicación de titularidad del estado”. Report for the *Consejo para la reforma de los medios de comunicación de titularidad del estado* (February 2005); Paolo Gentiloni, “Linee guida per la riforma della Rai”. Available online at [www.comunicazioni.it](http://www.comunicazioni.it) (2007).

<sup>2</sup> Ellis S. Krauss, *Broadcasting Politics in Japan: NHK and television news* (Ithaca, NY: Cornell University Press, 2000); Ken Inglis, *This is the ABC: The Australian Broadcasting Commission 1932-1983* (Melbourne: Black Inc., 2006); Jean-Claude Burgelman, “Political parties and their impact on public service broadcasting in Belgium”, *Media, Culture & Society*, 11 (1989), 167-193.

<sup>3</sup> Eva Etzioni-Halevy, *National Broadcasting Under Siege: A Comparative Study of Australia, Britain, Israel, and West Germany* (London: Macmillan, 1987).

<sup>4</sup> Robert Picard, “Assessing Audience Performance of Public Service Broadcasters”, *European Journal of Communication*, 17 (2002), 227-235.

<sup>5</sup> Vittorio Grilli, Donato Masciandaro, and Guido Tabellini, “Political and Monetary Institutions and Public Financial Policies in the Industrial Countries”, *Economic Policy*, 6 (1991), 341-392.

<sup>6</sup> Erik Herron and Kirk Randazzo, “The Relationship between Independence and Judicial Review in Post-Communist Courts”, *Journal of Politics*, 65 (2003) 422-438.

<sup>7</sup> Robert Elgie and Iain McMenamin, “Credible commitment, political uncertainty, or policy complexity? Explaining the discretion granted to Independent Administrative Authorities in France”, *British Journal of Political Science*, 35 (2005), 531-548; Fabrizio Gilardi, “Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis”, *Journal of European Public Policy*, 9 (2002), 873-893.

<sup>8</sup> Lars Feld and Stefan Voigt, “Economic Growth and Judicial Independence: Cross Country



## *Bureaucratic partisanship*

The one factor which has been cited in a comparative work on PSB is the partisanship of the bureaucracy. 'Since a public national broadcasting corporation exists in the same normative framework and in the same political arena as the government bureaucracy, it is likely to have some features in

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Evidence Using a New Set of Indicators", *European Journal of Political Economy*, 19 (2003), 505-6;

Alex Cukierman and Steven B. Webb, "Political influence on the Central Bank: International Evidence", *World Bank Economic Review* 9 (1995), Tab. 3.

<sup>9</sup> Michael Coppedge and Wolfgang H. Reinicke, "Measuring Polyarchy", in Alex Inkeles (ed.), *On Measuring Democracy* (New Brunswick, N.J.: Transaction, 1991), p. 50, emphasis added; Robert A. Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 2006), p. 70; Robert A. Dahl, *Polyarchy: participation and opposition* (London: New Haven, 1971), pp. 2-3.

<sup>10</sup> Carina S. Bischoff, "Political competition and contestability : a study of the barriers to entry in 21 democracies", Ph. D thesis, European University Institute (Florence, 2006), pp. 112, 117.

<sup>11</sup> Gentiloni, 'Linee guida per la riforma della Rai', §2.6.

<sup>12</sup> Alex Cukierman, *Central bank strategy, credibility, and independence: theory and evidence* (Cambridge MA: MIT Press, 1992); Cukierman and Webb, 'Political influence on the Central Bank'.

<sup>13</sup> Information on executive turnover was obtained from broadcasters directly and from LexisNexis news coverage. The most recent chief executive of each PSB has been omitted where including their tenure would reduce the value of TOR. Data on government changes was taken from Ian Budge, Jaan Woldendorp and Hans Keman, "Party government in 20 Democracies: an update (1990-1995)", *European Journal of Political Research*, 33 (1998), 125-164; Ferdinand Müller-Rommel, Katja Fettelschoss and Philipp Harfst, "Party government in Central Eastern European democracies: A data collection (1990-2003)", *European Journal of Political Research*, 43 (2003), 869-894; and subsequent issues of the *European Journal of Political Research*, except for Chile (Dieter Nohlen, "Chile", in Dieter Nohlen (ed.), *Elections in the Americas*, volume 2 (Oxford: Oxford University Press, 2005)), and for the French language community and the Flemish community in Belgium.

<sup>14</sup> MORI, "Quantitative Research to Inform the Preparation of the BBC Charter Review 2004".

common with it'. Etzioni-Halevy hypothesises that 'countries that have party-politicised bureaucracies are also more likely to have party-politicised public broadcasting corporations as compared with other countries where the bureaucracies have become largely partisan'.<sup>19</sup> Suppose that, subsequent to the establishment of a public broadcaster, politicians engage in a search for appropriate models of behaviour to guide their behaviour towards the broadcaster, using an availability heuristic.<sup>20</sup> Given that PSBs in certain respects resemble government departments more than they do corporations, politicians may use the same model that they use to govern their relationships with bureaucrats in their subsequent relationship with broadcasters. Where the model of politician-bureaucrat relations involves party-politicisation, politicians will be used to giving partisan orders to bureaucrats, and will subsequently give such orders to broadcasters (and will expect them to be carried out). Where instead the model of politician-bureaucrat relations involves "professionalized" bureaucracy, politicians will

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Report of a Research Study conducted on behalf of the Department for Culture, Media and Sport (2004).

<sup>15</sup> COMPAS, "Attitudes Toward Broadcast Issues, Canadian Content and the CBC". Survey carried out for the Friends of Canadian Broadcasting (1999), p. 7.

<sup>16</sup> CSA and Marianne, "L'image des journalistes et l'objectivité des médias" (27 February 2003).

<sup>17</sup> Istituto Eurisko and Maria Pia Montesi, "Immagine della RAI". Internal company document (1988).

<sup>19</sup> Etzioni-Halevy, *National Broadcasting Under Siege*, pp. 8-9.

<sup>20</sup> Daniel Kahneman and Amos Tversky, "Availability: a heuristic for judging frequency and probability", in Daniel Kahneman, Paul Slovic and Amos Tversky (eds.), *Judgement under uncertainty: Heuristics and biases* (Cambridge: Cambridge University Press, 1982).

be used to having bureaucrats disallow certain orders as incompatible with basic norms of professional conduct, and will thus not make partisan requests of broadcasters, and/or will accept broadcasters rebuffing such requests.

To operationalize the partisanship of the bureaucracy, I use data from the International Institute of Management Development, which includes in its survey of business executives a question on whether 'public service... is [or is not] independent from political interference'.<sup>21</sup> Scores range from one to six; higher scores indicate greater independence.

### *Size of the market for news*

The size of the market for news differs widely between European countries. In Sweden and Switzerland, close to four hundred newspapers are printed for every 1,000 people. In Spain and Italy, the figure is closer to one hundred.<sup>22</sup> These relative differences are stable across time and correlated with past growth in literacy.<sup>23</sup> They also have important consequences for the perception of journalism in a country. A smaller market for news means that newspaper publishers facing fixed costs will struggle to break even or profit

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<sup>21</sup> International Institute for Management Development, *IMD World Competitiveness Yearbook 2006* (Lausanne: International Institute for Management Development, 2006).

<sup>18</sup> Johan P. Olsen and James G. March, "The Logic of Appropriateness", Arena Working Paper 04/09 (Centre for European Studies, University of Oslo, 1 May 2004).

<sup>22</sup> UNESCO, "Daily newspapers: Total average circulation per 1,000 inhabitants", <http://stats.uis.unesco.org/> (2007)

<sup>23</sup> Daniel C. Hallin and Paolo Mancini, *Comparing Media Systems: Three Models of Media and Politics* (Cambridge: Cambridge University Press, 2004), p. 64

from sales and advertising revenue alone.<sup>24</sup> Consequently, publishers who remain in business will either be uninterested in profit or will take subventions from other interested groups.<sup>25</sup> Examples of the former case include newspapers owned by political parties or large industrial groups (the so-called *editori impuri* in the Italian case). These publishers or groups will seek favourable coverage in exchange for their subventions, either by pressuring existing journalists or by recruiting on the basis of ideological affiliation. As Giovanni Bechelloni writes of the Italian case, '[p]olitical-ideological militancy became, from the twenties and thirties onward, a winning card for entry into the profession. This condition. . . has meant that the body of Italian journalists has been, in large part, made up of successive cohorts of individuals selected on the basis of their political militancy'.<sup>26</sup> Such conditions make it difficult for the idea of objective or impartial journalism to flourish.<sup>27</sup> Instead, journalists are more likely to adopt an idea of journalism as politically engaged activity.<sup>28</sup> Patterson and Donsbach found that 74% of Italian journalists rated "championing values and ideas" as very or quite important in their work, compared to 45% in higher-circulation UK and 36% in Sweden with higher circulation still.<sup>29</sup>

This has consequences for the type of journalism practised by the PSB. The more partial the journalists for hire - partial in the sense that they champion certain values and ideas which are not widely held across society but instead held by particular identifiable groups within society - the more partial the resulting stock of journalists within the PSB, other things being equal. The more partial the stock of journalists within the PSB, the more likely politicians are to see the output of the PSB as a partial activity, and as such

potentially damaging to them and worthy of sanctioning. Conversely, the larger the market for news, and the better established the idea of objective or impartial journalism, the more likely it is that PSB journalists will be committed to such ideals, and the more likely politicians are to see the output of the PSB as an attempt to report the facts. Facing negative coverage from today's facts, they may believe that tomorrow's facts will lead to better coverage; or, they may believe that sanctioning in response to such negative coverage will be ineffective if journalists are strongly committed to the idea of reporting the facts.

These developments are, of course, mediated by the strategies and the agency of executives of the broadcaster. Broadcasters may be better at hiring impartial journalists; or may constrain journalists by adopting certain procedural rules governing their journalism. In its most extreme form, they may require journalists to read out news supplied by other companies. Thus, the BBC, Sweden's Radiotjänst, and Denmark's Statsradiofonien all began by broadcasting the news they were supplied with by the press agencies. Agency influence persisted: as late as 1936 the Ullswater Committee on Broadcasting was able to state that '[t]he BBC... is dependent for the bulk of its news on four commercial agencies'<sup>30</sup>, and in Denmark, Radioavisen's news was supplied by the press agencies until the sixties. Consequently, the mould for public broadcast journalism was set early by press agencies specialising in a terse, factual style. Yet these news agencies are themselves a product of a large market for news: whilst the BBC in 1936 could count on four news agencies to supply them with material, EIAR, Rai's predecessor in Italy, could only count on one agency, Agenzia Stefani, which supplied only 'insufficient

and stale' dispatches.<sup>31</sup>

To operationalize the size of the market for news, I use the natural log of daily newspaper circulation per 1,000 population for each country in 1975. 1975 is used since there is reliable data available for this year, since later data would in certain cases be later than the early years of the broadcaster (thus implying reverse causation), and because there is some comparable data for countries which did not exist in 1975.<sup>32</sup> Because newspaper circulation in communist countries was artificially inflated, I also use a dichotomous control variable to account for this inflation.<sup>33</sup>

### *Party system polarization*

Party system polarization has been cited both as a correlate of certain media systems and as a specific explanation of low levels of independence in PSBs. As Mancini and Hallin write, 'the notion of politically neutral journalism is less plausible where a wide range of competing world views contend'.<sup>34</sup> Their view is echoed by PSB journalists and managers. Ruggiero Orlando, Rai's London correspondent in the fifties, wrote that, '[w]hereas in Britain, the existing agreement of '90% of the people on 90% of the issues' (Sir Winston Churchill's figures) leaves ample scope to 'non-controversial' political broadcasts, the disagreement between government and pro-Communist opposition runs deep to the foundations of the national constitution which makes it very difficult, and often impossible, to plead absolute impartiality'.<sup>35</sup> The sentiment is not restricted to Italy. Oliver Whitley, chief assistant to the BBC Director-General, claimed that 'the nation divided always has the BBC on the rack'.<sup>36</sup>

The intuitive idea is that politicians react badly to claims repeated on radio or television that are far from their own preferred positions; that journalism which repeats such claims can defend itself when such claims are rare, as they are in party-systems with limited polarization; but that journalists cannot so defend themselves when they report claims made by politicians in polarized party systems, where claims made are by definition far apart. Consequently, politicians react by interfering in the broadcaster to avoid such objectionable claims being made in the future.

Outside of Britain and Italy, this idea seems less applicable. Mancini and Hallin claim that political journalism in Spain is similar to that in Italy because "Spain and Portugal. . . had a form of polarized pluralism. . . during brief periods of democracy early in the twentieth century",<sup>37</sup> but it is unclear why polarized views ninety years ago should affect independence now. Adopting the polarization of the party system as an explanation also means grouping Italy with other countries frequently described as polarized, such as Finland, where, despite a tendency towards self-censorship,<sup>38</sup> the broadcaster is relatively independent according to the measures presented in Table 1.

To operationalize polarization, I use the unweighted range of party left-right scores for each country for parties reported by Huber and Inglehart.<sup>39</sup> Huber and Inglehart's measures are used in preference to other data, since they track party position, rather than policy stands: to the extent that polarization

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<sup>37</sup> Hallin and Mancini, *Comparing Media Systems*, p. 61 .

<sup>38</sup> Ari Heinonen, "The Finnish Journalist: Watchdog with a Conscience ", in David Weaver (ed.), *The Global Journalist* (Cresskill, N.J.: Hampton Press, 1998).

is thought to affect independence, it is through the broadcasting of extreme politicians' statements, rather than politicians' extreme policy proposals.

### *De jure independence*

Perhaps because it has sometimes been used as a proxy for de facto independence, the idea of de jure independence has often been unclear. Clearly, de jure independence must refer to legal provisions, but which ones? It may seem tautological to suggest that one should include those legal provisions which are thought to have a bearing on actual, de facto independence, but this should draw attention to the fact that every empirical link between de jure and de facto independence itself depends on a theory of which legal provisions are thought to influence independence. (Therefore, it is entirely possible that the low correlation observed in previous works between de jure and de facto independence results from a mis-specification of those legal features which affect de facto independence).

Potential links between legal provisions and de facto independence are numerous. Provisions might involve moral suasion: the presence of a commitment to independence might shame politicians and/or journalists into living up to such a provision. Or, provisions might create (dis)incentives for independent behaviour - say, if licence fee settlements were decided by viewers' panels. The most common links, however, are the extent of sanctioning methods and the possibilities for selecting executives.

First, sanctioning. Assume that PSB executives' utility is a function of their own income, autonomy, reputation, and the success (commercial or



otherwise) of the broadcaster. Politicians can act so as to reduce (increase) these goods contingent on the broadcasters' actions, thereby sanctioning (rewarding) PSB executives, who will come to anticipate sanctioning and avoid the kind of programming that leads to sanctions, thereby reducing independence. Where sanctioning mechanisms are heavily constrained by law, this effect will be negligible, and the broadcaster will consequently enjoy a high degree of de facto independence.

Second, appointments. Whilst sanctions operate through changing executives' actions given their preferences, appointments may reduce independence by changing the preferences of those at the top of the broadcaster. Where few (political) actors are involved in appointments, the closer the match between the ideal point of the appointing individual and that of the the appointee; conversely, where multiple (political) actors need to agree on appointments, the match between any appointing actor and the appointee will be looser. Where appointments last for a long time, the greater the potential that appointees' preferences will diverge from those of the appointing agent over time, thus increasing the possibility for independence. Conversely, the more frequent and more easily revoked these appointments are, the stronger this effect. (Powers of dismissal may, of course, also be interpreted as a method of sanctioning).

Table 2 presents thirteen indicators used to construct an index of de jure independence using these two links. These indicators are heavily reliant on prior work done by Gilardi and Elgie and McMenemy.<sup>40</sup> Items in the first column refer to sanctions; items in the second column refer to appointments.

Each is based on legal provisions commonly found in the laws establishing PSBs.

[TABLE 2 ABOUT HERE]

The first two indicators - reporting to government and reporting to parliament - are already used in the literature. Where an agency must report to a political body frequently, the psychological costs of appearing before intense committee pressure and/or questioning and media intrusion can operate as sanctions where members of the committee wish to sanction. Therefore, the more often legislation allows for such reports, the greater the opportunity for the politicians to sanction the broadcaster.

Borrowing is also used in Gilardi. The idea is this: due to the capital-intensive nature of broadcasting, broadcasters occasionally require large capital expenditure which cannot be met by current revenue streams, but must be borrowed. Failure to invest will result in competitive disadvantage. Where borrowing requires ministerial permission, the minister can threaten to withhold permission either to punish the broadcaster for prior behaviour, or to blackmail the broadcaster and so induce future behaviour. In either event, where legislation requires the broadcaster to seek ministerial permission to borrow, the greater the opportunity for the relevant minister(s) to sanction the broadcaster.

New operations is not, to my knowledge, found in other indexes. Due to the high-technology nature of broadcasting, new operational techniques may become necessary, or old operational techniques obsolete; broadcasters may therefore require to adopt new techniques or jettison old ones in order to

avoid competitive disadvantage. As with borrowing, where new operations require ministerial permission the minister can threaten to withhold permission either to punish the broadcaster for prior behaviour, or to blackmail the broadcaster and so induce future behaviour. In either event, where legislation requires the broadcaster to seek ministerial permission to start new operations, the greater the opportunity for the relevant minister(s)

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<sup>24</sup> James Hamilton, *All the News That's fit to Sell: How the Market Transforms Information Into News* (Princeton, N.J.: Princeton University Press, 2004)

<sup>25</sup> Maria Petrova, "Newspapers and Parties: How Advertising Revenues Created an Independent Press". Unpublished working paper (2007).

<sup>26</sup> In Alessandro Mazzanti, *L'obiettività giornalistica: un ideale maltratto* (Napoli: Liguori, 1991), p. 14

<sup>27</sup> *ibid.*, pp. 49, 91, 189

<sup>28</sup> Daniel Hallin and Styliano Papathanassopoulos, "Political clientelism and the media: southern Europe and Latin America in comparative perspective", *Media, Culture & Society*, 24 (2002), 175-195.

<sup>29</sup> Thomas Patterson and Wolfgang Donsbach, "News Decisions: Journalists as Partisan Actors", *Political Communication*, 13 (1996), 455-468.

<sup>30</sup> *Report of The Broadcasting Committee 1935*, Cmd. 5091 (London: Her Majesty's Stationery Office, 1936).

<sup>31</sup> Valerio Castronovo, Luciana Giacheri Fossati and Nicola Tranfaglia, *La stampa italiana nell'età liberale* (Bari: Laterza, 1979), p. 64.

<sup>32</sup> Data for the Baltic countries were taken from Svernik Hoyer, Epp Lauk and Peeter Vihalemm (eds.), *Towards a Civic Society: The Baltic Media's Long Road to Freedom* (Tartu: Baltic Association for Media Research/Nota Baltica, 1993); data for the Czech Republic, Slovakia, Flanders and the French language community in Belgium were imputed from parent countries. It is likely that the model fit would have improved had separate 1975 data for these latter four areas been available; the Belgian French-language broadcaster has lower levels of independence than predicted, and the French language community reads fewer newspapers than Flanders; the same is true for Slovakia compared to the

to sanction the broadcaster.

Contract Term is specific to public service broadcasting. Some public broadcasters are established in perpetuity, as is their qualification as a public service broadcaster. Other public broadcasters are established as companies for a limited time; or, their public service concession is time-limited; or, increasingly, agreements regulating the public service concession are set for a limited number of years.<sup>41</sup> Where such contract terms are limited, the broadcaster is more likely to face periodic intrusion into its operations, and the threat of sanctioning.

Funding is obviously of key importance. Where the funding mechanism guarantees a secure revenue stream, the *de jure* independence of the Czech Republic.

<sup>33</sup> It might be thought that this control variable might in fact be an independent variable in its own right, reflecting the legacy of a Leninist philosophy of the press (cf. Andrew Milton, "Bound but not gagged: Media Reform in Democratic Transitions", *Comparative Political Studies*, 34 (2001), 493-526). For all that they were under Soviet influence, it would be a mistake, however, to think that a Leninist philosophy of the press applied equally well in Poland, Estonia and Russia; or to think that stated commitments to such a philosophy were incompatible with the development of professional norms (see Jane Lefwich Curry, *Poland's Journalists: Professionalism and Politics* (Cambridge University Press, 1990)).

<sup>34</sup> Hallin and Mancini, *Comparing Media Systems*, pp. 59, 61.

<sup>35</sup> Ruggero Orlando, "Letter to Harman Grisewood, Director, BBC Spoken Word". In BBC Written Archives Centre File E1/1008/3 (11 July 1954).

<sup>36</sup> Quoted in Asa Briggs, *Governing the BBC* (London: BBC, 1979), ch. 1.

<sup>39</sup> John Huber and Ronald Inglehart, "Expert Interpretations of Party Space and Party Locations in 42 Societies", *Party Politics*, 1 (1995), 73-111.

<sup>40</sup> Gilardi, 'Policy Credibility and Delegation to Independent Regulatory Agencies'; Elgie and McMenamin, 'Credible commitment, political uncertainty, or policy complexity?'.

broadcaster will be high, as politicians cannot intervene arbitrarily to reduce company revenue. Where the funding mechanism guarantees a secure revenue stream but future increments are subject to political discretion, the broadcaster will be less secure; where the funding mechanism generates a short-term income stream only, and where continuation of that income stream is subject to political discretion, the opportunities to sanction will be numerous. Finally, state participation in the ownership of a company may generate opportunities for sanctioning, where, if the broadcaster is structured as a normal public company with share ownership, the requirement that certain resolutions be approved at annual general meetings may give the share-holding minister power over the broadcaster. (In recognition of this possibility, some laws - i.e., the Portuguese law on radio and television restructuring - explicitly forbid the minister this power).

The second group of indicators, Appointments, is largely drawn from Elgie and McMenemy, comprising three indicators (Tenure, Appointing Body, and Dismissal) for the first and second executive bodies. An example of a first, or upper executive body, is the former Board of Governors of the BBC or the Fernsehrat of ZDF; an example of a second executive body is the post of Director-General, Intendant, or, more rarely, a multiple-member executive board.<sup>42</sup>

Broadcasters were first assigned scores for each indicator on the basis of the appropriate legislative text.<sup>43</sup> The two groups of indicators - Appointments and Sanctions - were then averaged, and the average of the two groups taken as the overall value for the broadcaster's de jure independence. Alternate

specifications of the index of de jure independence do not change the results appreciably. Gran and Patterson argue that the de facto independence of agencies depends not on the mean value of legislative guarantees of independence, but on the minimum, since politicians will attack the 'weakest link'.<sup>44</sup> Yet countries which score highly on Appointments also score highly on Sanctions; the correlation between the two terms is 0.91. The specification also matches expert attempts to insulate PSBs from political pressure: the score for one model law on public broadcasting would be the second-highest in the sample, beaten only by Switzerland.<sup>45</sup>

### *Methodology*

The universe of public service broadcasters operating at national level in consolidated democracies consists of approximately fifty cases. From these, I have drawn an availability sample of the 36 PSBs listed in Table 1, periodicised according to the duration of the legislative text. The sample is an availability sample in that broadcasters were excluded if they lacked information on legislative standing and/or turnover. Values for the partisanship of the bureaucracy were imputed in five cases using the mean.<sup>46</sup>

This sampling is likely to underestimate the number of low independence broadcasters, since a number of the excluded PSBs have low values of *I*: numerous government changes in Turkey have been followed by a change in the Director-General of TRT, and the average tenure of Directors-General of ERT in Greece during the eighties was eight months.<sup>47</sup> Nevertheless, such omitted cases seem to be in line with theoretical expectations: both Turkey and Greece have extremely low newspaper circulation per population.

Periodicisation of the broadcasters according to legislative standing may seem artificial, given the historical continuity present in the development of the market for news. Given the theoretical interest in identifying the effect of de jure independence, however, periodicisation does seem necessary; as for the remaining variables which vary less over time, one can only note that "one faces continuous problems of 'aggregation' of the temporal units. . . [if] for one aspect of the research the temporal unit of reference is the legislative period, those properties/ variables which can be evaluated only at the temporal level of the regime will have to be considered as constant for each legislative period internal to the regime".<sup>48</sup> The shortest period under consideration is the nine years of France Télévisions under loi no. 696/1974; the longest is the BBC (1944-2006).

I use multivariate ordinary least squares (OLS) linear regression to estimate the relative effects of the four potential explanatory factors listed above. The use of a dependent variable bounded between zero and one means that checks for heteroskedasticity are necessary. I therefore report statistics for the Breusch-Pagan test alongside each model.

### ***Results***

Table 3 shows the results of the regression analysis. The first column of data shows the full model, with all four main explanatory variables and one interaction term included. With an  $n$  of 36, this model has too high a ratio of variables to observations. It also faces problems of heteroskedasticity. It is, however, clear from the model that the partisanship of the bureaucracy and the degree of polarization add little to the model, and can safely be removed.

The second column shows the reduced model, with all three terms significant at the 0.05 level. All coefficients are in the predicted direction; the value of Cook's distance is less than 0.25 for all cases, and problems of heteroskedasticity faced by the previous model disappear. The resulting model explains over half of the variance in PSB independence.

[TABLE 3 ABOUT HERE]

If the model is broadly correct - and if the unexplained variance is not the result of some other systematic factor - then the prospects for designing independent public service broadcasters are relatively good. Assuming average press circulation, an increase from no legal protection to full legal protection would result in an increase from negligible to almost total de facto independence. Of course, these values are never observed in real life, as every PSB law grants the broadcaster some protection. Within the range of observed values, however, the difference between the minimum De Jure score of 0.15 and the maximum of 0.82, is, nevertheless, still large. We can understand the substantive significance of these coefficients better if we apply them to a real-world example of PSB reform. In Spain, the Zapatero government, following a report by a committee of sages, drafted a new law on RTVE establishing a single-tier board of twelve members nominated by the parliament for a non-renewable six year term, one of whom would be the President of the new corporation. The reform scores much higher than the previous law of 1980 (0.8 compared to 0.5). The likely effect of the law on RTVE's independence will be positive: from an independence score of 0.49, the mean predicted independence score would rise to 0.78 (SD = 0.068),



fulfilling the intent behind the legislation of liberating RTVE from excessive governmental control.<sup>49</sup>

### *Conclusion*

Given the magnitude of the effects of de jure independence noted above, the potential for designing independent PSBs seems great. If, as I claimed at the beginning, PSB independence is both desired and desirable, then this conclusion should be heartening: within the limits of what can be explained by existing theories, an important determinant of independence - legislative provisions - is easily tractable. Questions of institutional design, however, are rarely simple. Designers often have a multiplicity of goals in mind; there is no guarantee that PSB independence is compatible with other desirable characteristics of the broadcaster. Additionally, asking about the capacity of institutional design to resist politicians' current desires to interfere in the PSB begs the question of whether these institutions are, as Riker memorably put it, "congealed preferences",<sup>50</sup> and, if so, just how congealed? If independence-preserving institutional designs could be easily rewritten, their worth is greatly diminished. Fortunately, the de jure independence granted by PSB reforms seems only to increase: reforms of the French, Italian and Spanish laws on PSB have all granted greater de jure independence to the broadcaster. Thus, de jure PSB independence tends to congeal upwards, a positive finding if PSB independence is indeed valued as I have suggested.



TABLE 1

	Abbreviation	Period	<i>I</i>
PSB			
SRG SSR idées suisses	SRG-SSR	1950-2006	0.96
Norrikskringskasting	NRK	1948-2006	0.93
Oy Yleisradio	YLE	1945-2005	0.92
Zweites Deutsches Fernsehen	ZDF	1962-2007	0.91
Australian Broadcasting Corporation	ABC	1965-2006	0.91
British Broadcasting Corporation	BBC	1944-2006	0.89
Danmarks Radio	DR	1961-2005	0.89
Television Nacional	TN	1995-2007	0.89
Radio Telefís Éireann	RTÉ	1960-2007	0.88
Nippon Housou Kyoukai	NHK	1946-2007	0.87
Vlaamse Radio- en Televisieomroep	VRT	1996-2007	0.87
Sveriges Television Ab	SVT	1978-2007	0.86
Canadian Broadcasting Corporation	CBC	1945-2007	0.86
Osterreichischer Rundfunk	ORF	1960-2007	0.85
Eesti Televisioon	EETV	1994-2007	0.82
Radiotelevisione Italiana (1)	RAI	1975-1993	0.81
Radio-Télévision Belge de la Communauté française	RTBF	1994-2007	0.79
Israel Broadcasting Authority	IBA	1989-2006	0.79
Television New Zealand	TVNZ	1986-2006	0.78
Corporation for Public Broadcasting	CPB	1969-2007	0.75
Telewizja Polska	TVP	1994-2007	0.75
Latvijas Valsts Televizija	LT	1995-2007	0.74
France Television (1)	FT82	1982-2000	0.72
France Television (2)	FT73	1973-1982	0.72
Radiotelevizija Slovenija	RTVSLO	1991-2007	0.68
Societatea Româna de Televiziune	RO/TVR	1993-2007	0.65
Ceská Televize	CTV	1992-2007	0.63
South Africa Broadcasting Corporation	SABC	1994-2007	0.59
Television Española SA	TVE	1981-2006	0.56
Radiotelevisão Portuguesa SA	RTP	1977-2007	0.56
Bålgarsko Nationalno Radio	BNR	1997-2007	0.55
Lietuvos Radijas ir Televizija	LRT	1996-2007	0.51
Radiotelevisione Italiana (2)	RAI	1993-2005	0.42
Slovenská Televizia	SK/STV	1994-2007	0.39
Magyar Televizió	MTV	1990-2007	0.35
Bålgarska Nationalna Televizija	BNT	1991-2007	0.26

TABLE 2

Operations	Appointments
1. Reporting to government ○ no reporting requirement: 1 ○ annual written reporting to executive: 0.66 ○ annual in-person report to executive: 0.33 ○ greater than annual in-person	1. Term of office of first executive group ○ more than six years: 1 ○ six years: 0.8 ○ five years: 0.6 ○ four years: 0.4 ○ less than four years: 0.2 ○ no fixed term: 0

<sup>41</sup> Tomas Coppens and Frieda Saeyns, “Enforcing performance: new approaches to govern public service broadcasting”, *Media, Culture & Society*, 28 (2006), 261-284.

<sup>42</sup> In some cases, where the number of members was large and the methods used to appoint them divergent, I have assigned different scores for some part of the board, and averaged these scores. For example: in Italy following the passage of the 1975 reform of Rai, six members of the sixteen member administrative council were nominated by the majority shareholder (the state, coded here as the executive), whilst the remaining ten members were nominated by a parliamentary committee. The score is therefore equal to  $[(6 \times 0.25) + (10 \times 0.75)]/16$ .

<sup>43</sup> Information on legislative standing was taken from: Australia: the Australian Broadcasting Corporation Act 1983, as amended; Austria: 1966 Broadcasting Act; Belgium (Flemish-language community): "Décret relatif a la transformation de la BRTN en une société anonyme de droit public" (29th April 1997) (French-language translation); Belgium (French language community): "Décret du 14 juillet 1997 portant statut de la Radio-Télévision belge de la Communauté française (RTBF)"; Bulgaria: the Radio and Television Law of 1998; Canada: the 1991 Broadcasting Act; Chile: law 19/132 of the 30th March 1992; Czech Republic: 483/1991 Coll., Act of the Czech National Council of 7 November 1991 on Czech Television and Metykova (2005, ch. 4); Denmark: law no. 215 of the 11th June 1959, law no. 421 of the 15th June 1973, and law no. 374 of the 10th June 1987; Estonia: the Broadcasting Act of 1994, as amended; Finland: Act on Yleisradio Oy of 1993, as amended; France: Loi ordinaire 74-696 du 07/08/1974 relative a la radiodiffusion et television, loi no 82-652 du 29 juillet 1982 sur la communication audiovisuelle; Germany: Statute of ZDF (April 1962), as amended; Hungary: Act on Radio and Television Broadcasting, act I of 19th May 1996; Israel: Israel Broadcasting Authority Law, no. 5725 -1965; Japan: the Broadcast Law, no. 132 of 2nd May 1950, as amended; Latvia: Radio and Television Law (consolidated); Lithuania: Law on the National Radio and Television, No I-1571 of October 1996, as amended; New Zealand: the Television New Zealand Act

reporting: 0 2. Reporting to parliament <ul style="list-style-type: none"> <li>○ no reporting requirement: 1</li> <li>○ annual written reporting to parliament: 0.66</li> <li>○ annual in-person report to parliament: 0.33</li> <li>○ greater than annual in-person reporting: 0</li> </ul> 3. Borrowing <ul style="list-style-type: none"> <li>○ borrowing unrestricted: 1</li> <li>○ borrowing requires ministerial</li> </ul>	2. Appointing body for first executive group <ul style="list-style-type: none"> <li>○ management board members: 1</li> <li>○ complex mix of executive and legislature: 0.75</li> <li>○ the legislature: 0.5</li> <li>○ the executive collectively: 0.25</li> <li>○ one or two ministers: 0</li> </ul> 3. Dismissal of first executive body <ul style="list-style-type: none"> <li>○ dismissal not possible: 1</li> <li>○ dismissal for non-policy reasons: 0.5</li> <li>○ dismissal at appointing body's</li> </ul>
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2003; Norway: the Broadcasting Act of 4 Dec. 1992 no. 127, as amended; Poland: the Broadcasting Act of the 29th December 1992; Portugal: the Television Broadcasting Act, Law no. 32/2003; Republic of Ireland: the Broadcasting Act, 2001; the Broadcasting Act, 1976; the Broadcasting Authority Act, 1960; Romania: Law no. 41 of June 17 1994, "On the Organization and Operation of the Romanian Broadcasting Corporation and of the Romania Television Corporation"; Slovakia: the Act on Slovak Television and Monika Metykova, "Regulating public service broadcasting: The Cases of the Czech Republic, Slovakia and Ireland", Ph. D thesis, Masaryk University (Brno, 2005), ch. 4; Slovenia: the Law on Radio and Television of 1994; South Africa: the Broadcasting Act 1999; Sweden: information made available by SVT; Switzerland: "Statuto della Società svizzera di radiotelevisione (SRG SSR idée suisse)", of 22nd November 1991, as amended; United Kingdom: successive Royal Charters and Agreements with the BBC; United States of America: the 1967 Public Broadcasting Act, as amended.

<sup>44</sup> Brian Gran and Robin Patterson, "Law and Weak Links of Independence: A Fuzzy-Sets Analysis of Children's Ombudspersons", unpublished working paper; Garry Goertz, *Social science concepts : a user's guide* (Princeton: Princeton University Press, 2006), p. 129-139.

<sup>45</sup> Werner Rumphorst, "Model Public Service Broadcasting law", UNESCO (Geneva, 1999).

<sup>46</sup> Results from the regression without imputation did not differ significantly; they are available on request.

<sup>47</sup> Georgia Chondroleou, "Policy networks in comparative perspective: Media policy networks in Britain and Greece". Paper presented at the ECPR 2001 General Conference.

<sup>48</sup> Stefano Bartolini, "On Time and Comparative Research", *Journal of Theoretical Politics*, 5 (1993), 131-167, at p. 148.

<sup>49</sup> Bootstrapped estimates after 1000 iterations obtained using Zelig, by Kosuke Imai, Gary King and Olivia Lau, "Zelig: Everyone's Statistical Software" (2006), <http://gking.harvard.edu/zelig>.

<sup>50</sup> William Riker, "Implications from the Disequilibrium of Majority Rule for the Study of

<p>permission: 0</p> <p>4. New operations, sub-contracting</p> <ul style="list-style-type: none"> <li>○ no requirement for ministerial approval: 1</li> <li>○ require ministerial approval: 0</li> </ul> <p>5. Term of service contracts</p> <ul style="list-style-type: none"> <li>○ greater than six years: 1</li> <li>○ six years: 0.8</li> <li>○ five years: 0.6</li> <li>○ four years: 0.4</li> <li>○ three years: 0.2</li> <li>○ less than three years: 0</li> </ul> <p>6. Mechanisms for altering funding</p> <ul style="list-style-type: none"> <li>○ automatically uprated licence fee: 1</li> <li>○ discretionally uprated licence fee: 0.75</li> <li>○ advertising: 0.5</li> <li>○ pluriannual grant from parliament: 0.25</li> <li>○ annual grant from parliament: 0</li> </ul> <p>7. State participation:</p> <ul style="list-style-type: none"> <li>○ independent foundation: 1</li> <li>○ non-majority state participation: 0.5</li> <li>○ total or majority state participation: 0</li> </ul>	<p>convenience: 0</p> <p>4. Term of office of second executive group</p> <ul style="list-style-type: none"> <li>○ more than six years: 1</li> <li>○ six years: 0.8</li> <li>○ five years: 0.6</li> <li>○ four years: 0.4</li> <li>○ less than four years: 0.2</li> <li>○ no fixed term: 0</li> </ul> <p>5. Appointing body for second executive group</p> <ul style="list-style-type: none"> <li>○ executive director or other independent organisation: 1</li> <li>○ complex mix of executive and legislature: 0.75</li> <li>○ the legislature: 0.5</li> <li>○ the executive collectively: 0.25</li> <li>○ one or two ministers: 0</li> </ul> <p>6. Dismissal of second executive body</p> <ul style="list-style-type: none"> <li>○ dismissal not possible: 1</li> <li>○ dismissal for non-policy reasons: 0.5</li> <li>○ dismissal at appointing body's convenience: 0</li> </ul>
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	Full model		Reduced model	
	coeff.	p-value sig.	coeff.	p-value sig.
(Intercept)	-0.119	0.665	-0.126	0.598
DeJure	0.322	0.087	0.411	0.020 *
log(Circ75)	0.109	0.051	0.125	0.007 **
HuIngPolariz93	0.001	0.951		
PubSer	0.031	0.142		
log(Circ75):PostCommunist	-0.037	0.000***	-0.038	0.000 ***
Adj R-squared	0.580		0.537	
N	36		36	
Breusch-Pagan	12.150	0.033*	3.500	0.321
	(5 df)		(3 df)	

TABLE 3



## *Footnotes*