4. RESERVING SPECTRUM FOR COMMUNITY BROADCASTING

AT A GLANCE

- In addition to licences, community broadcasters, and especially community radio stations, must also have **equitable access to the frequency spectrum**, as a practical means to distribute content to their target communities.
- One of the best ways to guarantee this is for policy and regulations to **reserve a minimum percentage of the available spectrum for community radios**.
- Community broadcasters should also have the **right to distribute their content freely over the Internet**.
- Consideration should be given, where appropriate, to **requiring cable and satellite distribution operators to carry community broadcasting channels** either for free or at a low cost.

INTRODUCTION

The issue addressed in this *Policy Brief* is access to spectrum. If community broadcasters cannot access broadcasting distribution systems, and in particular frequency spectrum, they will not be able to distribute their content and the whole idea of community broadcasting will falter. It also addresses other distribution systems, but specific issues relating to digital transmission systems are addressed in *Policy Brief Seven: The Digital Terrestrial Transition and Use of Digital Frequencies*.

An important thrust of this *Policy Brief* is the specific need to **reserve frequency spectrum for community broadcasters**, in recognition of the fact that they are less able to compete openly for it with commercial broadcasters, let alone telecommunications services providers. The message here is a little bit analogous to the one in *Policy Brief Three: Licensing Systems for Community Broadcasting*, which called for separate licensing processes for community broadcasters, on the basis that they should not have to compete with commercial broadcasters.

Reserving frequencies for community broadcasters links back to the need for a clear definition of this broadcasting sector (see *Policy Brief 2: Defining Community Broadcasting*). Absent a clear definition, entities which are not really community broadcasters may try to gain access to the reserved frequencies, distorting the sector and undermining the very purpose of the reservation in the first place. It is also important for the regulator to **apply the rules and definitions strictly and appropriately**.

KEY POLICY ISSUES

The main idea of this *Policy Brief* is about how to ensure that community broadcasters can actually **distribute their content to target communities**. There is little point in offering licences to community broadcasters if, as a matter of practice, they cannot make effective use of those licences to distribute broadcasting signals to members of the community using technologies to which those individuals have access.

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In practice, the **dominant type of community broadcaster in most of the world is radio** and the dominant form of distribution of radio remains via terrestrial frequency spectrum using analogue transmitters. So a key question is how to reserve an equitable portion of that spectrum for community radios. In some countries, community televisions also distribute terrestrially and, again, this requires fair access to frequency, albeit much larger frequency allocations.

1. Equitable access to frequency spectrum

As noted below, numerous international statements call for an **equitable allocation of frequency spectrum to community broadcasting**. This seems uncontroversial as a principle but the matter becomes significantly more complicated when one attempts to unpack what equitable actually means.

In practice, different approaches have been employed here. In some countries, a **flat percentage of broadcasting frequencies** have been allocated to community broadcasting. In a few, this is 33 percent of all frequencies, presumably on the basis that it is one of the three tiers of broadcasting. This does not really make sense, however, since this sort of allocation needs to be based on real life factors such as overall demand for frequency and the capacity of the community broadcasting sector to make effective use of frequency. In addition, a different allocation would presumably be reasonable for radio than for television, given that community radio is relatively more developed in most countries. In other countries, a smaller percentage of the spectrum, for example 20 percent, has been reserved while other countries limit the reservation to radio frequencies (such as the FM and AM bands).

In some other countries, the legislation simply refers to the idea of a fair or equitable allocation and then leaves it up to the **regulator to decide on a case-by-case basis what this might be**. The risk with this approach is that only a quite organised, forward planning regulator will actually be able to ensure that a sufficient amount of frequency goes to community broadcasters, as it is difficult to avoid the pressure to operate on a first-come first-served basis.


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Yet another approach is to provide for **at least one community radio in each geographic community**, with an option for the regulator to allocate more licences where this is warranted and there is interest. This somehow strikes a balance between the two approaches although it is based on a rather minimal approach towards allocating spectrum to community radios.

2. Access to other distribution platforms

The Internet is quickly becoming the dominant global communications platform and in more developed countries radio and even television stations are increasingly using it for distribution purposes. At the same time, globally Internet access has only reached about 40 percent penetration, with many of those living in communities served by community broadcasters remaining offline. It is clear that community broadcasters, like their commercial counterparts, **should have the right to distribute over the Internet** but, for many of these broadcasters, at least for the near term, this will remain a secondary distribution system in terms of reaching their target audiences.

In many cases, cable and satellite distributors, whether television or radio, have excess capacity in the sense that they can carry additional stations on their services. Taking advantage of this, in some countries these sorts of service providers are subject to **must-car-**

ry obligations for community broadcasting. Thus, cable and/or satellite operators are sometimes required to make channels available to the community which they then distribute for free. In these cases, there is also a need to ensure complementary access to support services, such as being **featured appropriately in electronic programme guide**s.

3. Alternative approaches

Beyond these approaches to distribution of community broadcasting, a few more innovative approaches have been employed. For example, in some countries, very low-power stations, say of five to ten watts, **may simply start using any free frequencies** (i.e. frequencies which have not been licensed), as long as they do not interfere with any licensed users. Of course in this case these low-power operators have to cede the frequency if it is subsequently allocated via a licensing process to another user.

INTERNATIONAL STANDARDS

Quite a few international statements call for the equitable allocation of broadcasting frequency spectrum among the different types of broadcasters. For example, Principle V(2) of the *Declaration on Principles of Freedom of Expression in Africa* calls for an, "equitable allocation of frequencies between private broadcasting uses, both commercial and community". Similarly, the UN Human Rights Committee's *2011 General Comment* states:

> *Licensing regimes for broadcasting via media with limited capacity, such as audiovisual terrestrial and satellite services should provide for an equitable allocation of access and frequencies between public, commercial and community broadcasters.*

The *2009 Declaration of the Committee of Ministers of the Council of Europe* on the role of community media in promoting social cohesion and intercultural dialogue, on the other hand, calls for "a sufficient number of frequencies" to be allocated to community broadcasters.

Other statements refer more broadly to the right to community broadcasters to have access to different types of distribution systems. For example, the *African Charter on Broadcasting 2001* calls for an equitable allocation of broadcasting frequencies among the three tiers of broadcasters, but also calls for the right of community broadcasters to have access to the Internet to be respected.

Principle 5 of the *AMARC Principles for a Democratic Legislation on Community Broadcasting* notes that "organized communities and non-profit groups have the right to use all available broadcasting and telecommunications technologies". A good statement along these lines, also covering all distribution systems, is found in the *2007 Joint Declaration of the special international mandates on freedom of expression*, which states:

> *Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across national frontiers, and non-discriminatory access to support services, such as electronic programme guides.*

RECOMMENDATIONS

1. That part of the radio frequency spectrum used for broadcasting should be allocated equitably among the three tiers of broadcasting, including community broadcasting. While there are different legitimate ways of doing this, **reserving a specific minimum percentage of frequencies for community broadcasting i**s a robust way to ensure that adequate spectrum is in practice allocated to this sector. In some cases, it may make sense to begin with an allocation of frequency for community radio.

2. Community broadcasters should be able to **broadcast over unused frequencies** if using low-power transmitters and not interfering with licensed broadcasters.
3. Community broadcasters should be able to **distribute freely over the Internet**.
4. Consideration should be given, where appropriate, to **requiring cable and satellite distribution operators** to carry community broadcasting channels either for free or for low fees.
5. Alternative approaches to the **distribution of community broadcasting signals** should be considered.

POLICY CHECKLIST

- ○ Community broadcasters are allocated an equitable portion of the frequency spectrum for broadcasting
- ○ Community broadcasters are able to broadcast over available frequencies using low-power transmitters and distribute freely over the Internet
- ○ Cable and/or satellite providers are required to carry community stations for free or for very low fees