

Verena Wiedemann

**Cultural Diversity:
The Central Mission of Public Service Broadcasting
at the Crossroads of WTO and UNESCO**

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1. Introduction

I am here on behalf of ARD, the German public service broadcasting system. It is part of our public service mission to foster cultural diversity in all our programmes, be they television or radio programmes. But our public service mission to promote local cultural content also extends to online services. This is because in the information society online services will play a key role for cultural diversity.

We have ample proof that the market place alone cannot ensure this diversity. Thus, our public policies in Europe are premised on the conviction that the responsibility of policy makers to foster cultural diversity extends to the digital environment. This also means that governments must safeguard their flexibility to pursue national pro-active cultural and audiovisual policies on the international level. But how should governments defend their audiovisual policies successfully against global developments that could put these policies in jeopardy?

2. WTOs General Agreement on Trade in Services Endangers Cultural and Audiovisual Policies

One key area governments need to look at in this context is the legal regime of the WTO, and, more specifically, the General Agreement on Trade in Services (GATS). If audiovisual services were to be liberalised under GATS as some countries request, the most basic and fundamental audiovisual and cultural policies would be put at risk or would even become flatly illegal. This is because the main principles of the GATS are incompatible with many audiovisual policies, because these policies, if looked at from the perspective of international trade law, typically discriminate against foreign audiovisual service suppliers. Two key principles of the GATS prohibit this kind of discrimination, namely the Most Favoured Nation principle, and the National Treatment principle. Examples of national policies directly at odds with the GATS are: all financial support systems for local audiovisual productions, quota systems and must-carry-rules in favour of local content, and a number of media ownership rules. In addition, public funding of public service broadcasting may one day be found in violation of disciplines for subsidies under GATS.

This is why in the present GATS negotiations the European Union is taking the position that no liberalisation commitments must be made in the audiovisual sector and that we must maintain the exemptions from the Most Favoured Nation clause that we negotiated during the Uruguay Round. Given that in the digital age audiovisual content delivered online will be as important for cultural diversity as traditional cinema and broadcasting were in the analogue world, we must also resist attempts by some countries in the GATS context to define anything on the Internet exclusively as electronic commerce. If we allowed this to happen, we would be prevented from extending most pro-active cultural and audiovisual policies to the digital world. Thus, one of the most decisive factors to safeguard the future of our audiovisual policies is how we classify audiovisual services for the purposes of the GATS. The delivery mechanism of the Internet certainly does not change the character of an audiovisual programme: It is always part of our cultural experience as a people. This is why we must ensure that audiovisual policies will remain as legitimate in the digital interactive environment as they were in the analogue world.

3. UNESCO Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions is Much Needed

Against this background, we very much welcome the decision taken by UNESCO to start work on a convention on the protection of the diversity of cultural contents and artistic expressions. What we need today is a recognition on the global level that cultural policies are not only legitimate, but that they are very much needed to ensure that our creative diversity will withstand massive global pressures from dominant market forces for “more of the same”. As the Universal Declaration on Cultural Diversity of UNESCO and the Bangkok Declaration have already recognised, cultural diversity is as important for human beings as biodiversity is for nature. Biodiversity and cultural diversity are on an equal footing in terms of their importance for future generations. Both objectives are part and parcel of sustainable development.

UNESCO is best placed to ensure that audiovisual and cultural policies receive the legally binding recognition on the global level that they deserve. At the same time, this convention must foster cultural exchanges on a global level. UNESCO is ideal to ensure that the concept of cultural diversity is not misunderstood: It is not about nationalism, and it is not about protectionism. It is as much about the human right to live ones’ own cultural identity, as it is about the human right to have access to the wealth of cultural diversity represented by others. And thus, I would like to wish UNESCO much luck for its work on a convention that will both safeguard national cultural policies as well as foster and encourage cultural exchange on a global level. All nations and all people need to be able to participate in this cultural exchange successfully and on an equal footing.