

# TOWARDS A NEW AUDIOVISUAL SPACE

*Version 2.0*

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*(Valencian Audiovisual Sector Committee)*



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# PREAMBLE

## PREAMBLE

The professional audiovisual sector is facing the worst situation in its history. The sudden, irrational shutdown of RTVV (Valencia's public broadcaster) and the ongoing lack of policies supporting and promoting employment and business development have pushed the unemployment rate in the sector past 90%. Many audiovisual companies have had to close down and the future of most Valencians working in this sector lies either outside our region or in jobs completely unrelated to their academic training and experience.

In response to this situation, MESAV, the *Mesa Sectorial de l'Audiovisual Valencià* (Valencian Audiovisual Sector Committee) has been established with the aim of laying the foundations for the recovery of an important part of the productive fabric of our society.

We are a working committee that brings together the better part of the sector's professional and academic institutions. MESAV seeks to collectively represent the agents that make up the Valencian audiovisual industry. As a primordial aim, we propose to develop measures that will promote audiovisual production in general, through legislation, fiscal policies, agreements and other types of initiatives that can foster the recovery of the sector.

An essential part of this recovery is the immediate reinstatement of the public broadcasting service in the Valencian Community, as a starting point for the regeneration of all aspects and professions of this sector. The new regional broadcaster must be a strong, democratic, pluralist, independent and quality media network in the Valencian language, with an innovative and technologically advanced approach that will make it the driving force of the Valencian audiovisual industry. This recovery would be meaningless without the creation of regulatory bodies to ensure the correct implementation of the regulations to be established for the sector. We therefore also consider there to be an urgent need for the creation of a Valencian Audiovisual Council.

The following document is the product of the collective work of various MESAV boards and the result of the consensus of many people with extensive professional experience in the sector. It outlines the proposals for a consistent audiovisual policy and for the operation of the Valencian Audiovisual Council, the management model and the internal and external regulatory bodies for the new Valencian public broadcaster, the condition of RTVV's facilities and the possibilities for a quick resumption of its broadcasting activity.



MESAV has been established with the intention of bringing all the sector's professionals together, opening up dialogue, working for and representing the sector in dealings with political, social and labour organisations. We are working to give the sector a single voice that can defend our rights both as professionals and as citizens.

# 1 POLICIES FOR THE RECOVERY OF THE AUDIOVISUAL SECTOR

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The audiovisual sector is an industrial macro-sector covering a wide range of subsectors and professional groups. It includes the subsectors of film and television production, content distribution, online distribution and video game creation, as well as service companies (equipment rentals, recording studios, sound studios, dubbing, artists' agencies, etc.), and diverse professional groups and institutions such as universities, intellectual property management agencies and film libraries.

It is thus such a huge sector that although they are closely interrelated, the groups and subsectors that form part of it do not always share the same interests.

This is considered to be a strategic sector, important for job creation and essential for the development of democracy, culture, art and identity at both global and local levels. It provides more than 1 million jobs in the European Union (more than 5,000 in the Valencian Community), and constitutes the primary source of news and entertainment for Europeans (and, therefore, for Valencians). It is also a cross-cutting sector with a wide range of activities due to the development of the so-called "digital economy", and is currently the fastest growing industrial sector in the world. There can be no doubt that technology is now the driving force of the global economy, and is thus a vital factor for growth, job creation and the generation of new opportunities.

The digital economy refers specifically to the Internet, to multimedia content that may be distributed in a wide variety of formats and for many purposes, whether in images, sound, text or a combination thereof; to online publications involving other subsectors such as publishing, music and advertising. This digital economy creates wealth beyond the purely technological field, encompassing both cultural/entertainment content and the activity of content production and distribution.

## 1.1 AUDIOVISUAL POLICY

Audiovisual policy could be defined as the combination of legislative measures and action plans implemented by both governments and the different organisations in the audiovisual sector with respect to industrial, economic, communication, educational and cultural policy, with a solid basis in research and development. A broad consensus among political powers and a cooperative attitude among all involved parties is necessary to make such policy viable and sustainable. This is the spirit and the basic principle of MESAV.

Audiovisual policy must necessarily be understood as a set of measures and regulations implemented by governments to regulate the communications system (*Freedman, 2008; Murciano, 2006*).

These include policies that bring into play fundamental democratic rights, most of which are set forth in Article 20 of the Spanish Constitution: the right to freedom of expression, to pluralism of information and to accurate information, to the protection of childhood, to privacy, to cultural identity, and other rights such as copyright entitlements.

## **1.2 AUDIOVISUAL POLICIES THAT LED TO THE BANKRUPTCY OF THE VALENCIAN AUDIOVISUAL SECTOR**

Based on an analysis of the communication policies implemented in the Valencian Community in recent years, it is clear that they were designed to serve a specific ideology and partisan interests. Thus, based on a study conducted by Andreu Casero (Universitat Jaume I, Castelló) and Guillermo López (Universitat de València, Valencia), the following problems can be identified in policies aimed specifically at the audiovisual sector:

- The financial crisis and the partisan exploitation of RTVV.
- The conflict over TV3's broadcasts in the Valencian Community.
- The Digital Terrestrial Television (DTT) licence concession process, affected by the considerable power acquired by conservative and media groups outside the Valencian Community, acting on Spanish national and commercial criteria.
- The absence of a Valencian Community Audiovisual Council.

Any discussion of the recovery of the Valencian audiovisual sector must recognise that the public policies applied by the Valencian government in recent years has led the audiovisual sector to the state of bankruptcy in which it now finds itself. The current outlook is extremely discouraging.

The removal of RTVV from the airwaves under Law 4/2013, of 27 November 2013, meant the cancellation of Valencia's public broadcasting service, the dissolution of the legal entity RTVV S.A.U. and the termination of the contracts of its employees. But this law goes further, as Article 2 cancels the provision of any other general radio or television service provided by the regional government under its statutory powers. In other words, the Valencian Community has been turned into a second-class region, without a public broadcaster to operate as a driving force for the audiovisual sector, and thus becoming the only region in the European Union with its own native language but with no public media network.

The purchase and outsourcing of RTVV programmes and services have favoured companies either unrelated to the audiovisual sector or located outside the Valencian Community rather than Valencian companies. A paradigmatic example of this is the Toledo-based real estate agency TECONSA, hired for the installation of video screens to

re-broadcast Pope Benedict XVI's visit to Valencia. Moreover, while some of the production companies located outside the Valencian Community were paid on time for their services, payment for the services of Valencian production companies was delayed and passed over to the *Fondo de Liquidez Autonómico* (a line of credit opened by the Spanish national government to support regional governments in the context of the crisis), leaving these companies in debt to their workers. This situation has led to their virtual disappearance, as well as that of services companies and dubbing studios in our region.

The Valencian government tried unsuccessfully to ameliorate the void left by RTVV by means of an agreement with RTVE, whereby Spain's national public broadcaster would extend the time scheduled for regional programming. Obviously, this arrangement would limit the management of local news, culture and entertainment, and would entail the recentralisation of the promotion of Valencian identity. The agreement was extremely complicated in legislative terms and represented an economic expenditure that was difficult to reconcile with RTVV's closure supposedly due its unsustainability.

With respect to DTT channels, in 2012 the Supreme Court revoked all of the Digital Terrestrial Television licences granted by the Valencian government in December 2005: a total of 42 local frequencies in 14 territories, many of which were assigned to Mediamed, a group of companies linked to the entrepreneur José Luis Ulibarri, who was implicated in the Gürtel corruption case.

The Supreme Court ruling casts doubt on the Valencian government's allocation procedure and selection criteria were not underpinned by the principle of impartiality. Moreover, regional DTT licences continue to be issued illegally, and both Mediterráneo TV and Las Provincias TV (Vocento group) are broadcasting thanks to preferential treatment received from RTVV. This situation has been denounced and judicial proceedings are underway at the time of writing this report.

Adding to the above the Valencian government's erratic budgetary policies for the promotion of the audiovisual and dubbing sector, the decommissioning of the Ciudad de la Luz film studio and the cancellation of the *Mostra de Cinema del Mediterrani* film festival has resulted in an audiovisual sector with an unemployment rate of more than 90%.

In short, it is a catastrophic situation resulting from policies aimed more at self-promotion and cronyism than at the development and expansion of the industry, the fostering of talent and audiovisual creation and the quality of employment within the sector.

It is therefore time for analysis and self-critical reflection on all that has gone wrong in order to redirect and reorganise a sector which, unless it is given urgent support, is in danger of losing its main asset: its professionals.

The purpose of this report is to offer the perspective of those professionals with respect to the measures needed for the audiovisual sector to resume activities on solid foundations that will ensure the viability of all its professional, business and academic organisations.

It is time for direction and the proposition of the audiovisual policies of the future, which, from the perspective of a restructuring of the industry, can serve as a guide for the government in the adoption of measures to promote the creation of a strong audiovisual industry capable of developing its own identity and being competitive in a global market, beyond the borders of the Valencian Community.

While it is important to re-establish a public broadcaster of quality, that can act as a driving force for the industry and for content production companies, the audiovisual sector cannot and must not depend exclusively on the future broadcaster. We urgently need to develop the use of new technologies and expansion beyond our borders, to address a new legislative reality and to avoid the same mistakes committed in the past.

### **1.3 REQUIRED MEASURES**

#### ***1.3.1 Legislative***

Not all the measures that could be implemented fall under the jurisdiction of regional governments. The role of the Spanish national government and of EU directives also need to be taken into account. There is a broad and complex legislative framework that encompasses culture, economics, industry, businesses and the labour market, from which we have taken a series of laws regulating the structure of the audiovisual sector that need to be considered before taking any legislative action. These are included in Annex 2 of this report (page 46).

Obviously, regulation directly affects the structure, operation and dynamics of the communications and audiovisual sector. In this respect, the Valencian Community has clearly fallen behind other regions of Spain. Most of the laws ruling the operation, democratic oversight and independence of the audiovisual sector and of RTVV (such as the Advisory Council, the Editorial Committee or the Valencian Audiovisual Council) are either not observed or have not even been implemented.

Based on the above, MESAV makes the following proposals:

A new **Audiovisual Law**. The Valencian Audiovisual Law of 2006 (LAV) is outdated. Its preamble cites laws that have since been repealed. It was enacted prior to 7/2010 of

31 March, the General Law of Audiovisual Communications (*Ley General de la Comunicación Audiovisual, LGA*), and prior to the analogue blackout, and, furthermore, it has failed to consolidate the audiovisual sector in the Valencian Community. This law contains a series of precepts whose ambiguity reflects a clear lack of interest in their application and implementation.

A new audiovisual law is also needed more than ever today due to the current chaos in the map of regional and local DTT channels, as a result of the illegitimate licence-granting process. In order to protect citizens from a monopoly on opinion, it is necessary to guarantee pluralism and consumers' rights, and to give service providers the legal certainty they need. A new licensing process must be established in accordance with the territorial distribution of the Valencian Community. Of course, these service providers will be subject to the supervision of the future Audiovisual Council to ensure their compliance with current legislation and their service of the public interest.

The **Valencian Audiovisual Council**. As noted above, this regulatory body urgently needs to be established. Equivalent bodies already exist in other regions at both national and European levels, and its establishment is stipulated in Article 56.3 of Valencia's *Estatut d'Autonomia* (Statute of Autonomy) as well as in the Valencian Audiovisual Law of 2006.

This Council would have the jurisdiction to identify monopolies and abusive practices in the Valencian audiovisual market, with powers to inspect, supervise and impose fines. It would also oversee the management and fulfilment of the public service role of the future regional public broadcaster.

In addition, the Central Government must also be called upon to establish the Consejo Estatal de Medios Audiovisuales (CEMA) (National Council for Audiovisual Media) and its Advisory Committee, as defined in Title V of Law 7/2010, as the regulatory and supervisory body for the audiovisual sector, which will fulfil its role under the principle of independence from the political and economic authorities. Its main functions will be to ensure transparency and pluralism in the sector and the independence and impartiality of public media networks and their fulfilment of their public service role.

A new, independent *Estatut de RTV* (public broadcasting regulations) for the region, which can ensure the stability of the model beyond the next elections. It is important to remember that although RTVV was created with a broad political and social consensus through the *Llei de Creació* (Creation Act) in 1984, the public broadcaster's history was marked by two very different stages. During the first, from its creation in 1989 to 1995, it enjoyed a sustainable and viable operation based on local production, outsourcing of fiction series and some entertainment, and carefully measured staff

numbers. The second stage from 1995 to the shutdown was characterised by repeated attempts at privatisation and production outsourcing, an oversized staff, a financial debt of more than 1,200 million euros, corruption and manipulation of news. It thus went from a start-up with unanimous support in 1984 to a forced shutdown in 2013 with the support only of the parliamentary members of the ruling party and the opposition of all other parties.

### ***1.3.2 Public grant system for the audiovisual sector***

The principles and the system of grants for the audiovisual sector are regulated by Title III of the Valencian government's Audiovisual Sector Law 1/2006. This law would be sufficient if it were respected. But in most cases, public grants have only been given for the production of films, TV fiction series, documentaries and animation, while other grants essential to the industry, such as for screening and promotion of audiovisual products, have been forgotten.

The biggest problem with the subsidies provided for the creation and production of audiovisual content is the uncertainty provoked in the sector by the lack of guarantees with respect to the form, time and amount of the subsidies. As a result, production becomes more an uncertain adventure than an industrial activity.

To achieve stability throughout the sector, we consider it essential to create a genuine long-term strategic plan (5-6 years) that clearly sets out the year-to-year budgetary allocations, and that defines the guidelines to be followed with respect to the production of films and of other audiovisual and transmedia products. Only in this way will audiovisual companies, professionals and creators be able to work with clear medium- and long-term objectives.

Another problem with the grants is the composition of the committees that award them, as they are normally made up of government representatives and senior officials of RTVV who come to some very dubious decisions.

Although the grant model may seem reasonable, its application has been a failure for years. Very few Valencian productions have been released commercially, and those that have been have had very little impact. We at MESAV advocate the allocation of a larger proportion of grants to scriptwriting, because investing in the creation stage is always much more profitable. Later, in the writing process, it will become clear which stories are worth continuing to support in the development and production stages and which should be dropped. This is a pyramid concept of public investment in the sector, which supports more projects in the writing and development stages than in the production phase. Along these lines, we believe that the pyramid model for grants

established in 2014 and 2015 should be continued and reinforced. As measures to reinforce this model, we propose the following:

- The *Institut Valencià de l'Audiovisual i la Cinematografia* (IVAC, Valencian Audiovisual and Cinematic Institute) must have budgetary independence so that the grants can be announced regularly and with enough time for applicants to submit the required paperwork. The current budgetary dependence makes its administration more difficult.
- The announcement of the grants should include the dates of grant payments once the administrative process has been completed.
- Access to subsidies should not be open to companies or individuals with outstanding debts to their employees, or who have not fulfilled their tax or social security obligations.
- Applicants for subsidies should provide proof of payment of wages in accordance with the terms of the Collective Bargaining Agreement for the audiovisual production industry.
- We support the creation of an independent evaluation committee made up of prestigious professionals from the different professional associations, which is not under the direction of the government of the future public broadcaster.
- We believe it essential that Valencian production companies applying for public grants be required to allocate a percentage of the grant to the promotion of their productions, and to provide proof of that allocation.

As noted above, we support the terms of the Law of 2006 with respect to the following types of subsidies:

- Direct financial grants for the development of projects and the drafting of film and audiovisual scripts.
- Grants for small and medium-sized enterprises in the Valencian Community's audiovisual sector to promote their audiovisual products in the market and boost their competitiveness.
- Grants for financing of activities involving the production, distribution and screening of Valencian cinematic and audiovisual works.
- Grants for investment in the purchase of equipment for audiovisual production, and for the development of audiovisual industry infrastructures and technological innovation. To do this, the Valencian Government could coordinate the necessary collaboration or cooperation agreements with financial institutions, giving priority to digital technology for the development of companies that distribute online in real time (live streaming) or on demand.

- Grants to reduce production costs of Valencian films, applying objective criteria that can be determined automatically such as audience acceptance at film screenings and the collection achieved during a concrete regulated period.

We also advocate the creation of screening circuits that would facilitate access to these audiovisual products through conventional platforms and also through consumer platforms that use digital technology.

### ***1.3.3 Measures for the promotion and creation of audiovisual companies and job creation in the audiovisual sector***

Although grants for audiovisual companies are considered in the previous section, the current situation of the sector is alarming. Many companies have been forced to close down or to implement drastic staff cutbacks. This has resulted in an extremely precarious job situation in the sector. The promotion of audiovisual company creation will contribute to improved employment rates. However, creating jobs is not enough: they must also be decent jobs. If workers in the audiovisual sector are to accept the temporary nature of their jobs and work contracts, they should at least have decent wage conditions that take into account the short-term and specialised nature of the work. We suggest that any production company applying for an IVAC subsidy or a contract with the new public broadcaster should be required sign a legal document of good labour practices and a code of ethics for the Valencian audiovisual sector. The Audiovisual Council would oversee the fulfilment of these commitments, imposing warnings and penalties in any cases of noncompliance that may be identified.

In addition to the above, we at MESAV would like to suggest some measures that we consider necessary for the job development and creation in the audiovisual sector:

- Use of the *Ciutat de la Llum* studio for the purpose for which it was conceived and as an audiovisual studies centre. Although the decision to build this complex was controversial at the time it was taken, we believe that a public asset that cost Valencia's citizens millions of euros should not be privatised.
- Resumption of the *Mostra de Cinema del Mediterrani* festival in the spirit in which it was founded: to serve as a showcase for the cinematic production of countries of the Mediterranean. Other types of audiovisual events that include audiovisual market forums in their programmes should also be promoted.
- Promotion of R&D for the development of tools and platforms for the production and distribution of content in all sectors of audiovisual and cultural activity.
- Preparation by MESAV of a code of ethics and good labour practices for the Valencian audiovisual sector.



## **2 THE VALENCIAN AUDIOVISUAL COUNCIL: AN URGENT NEED**

## 2 THE VALENCIAN AUDIOVISUAL COUNCIL: AN URGENT NEED

The historical benchmarks for the role and social function of the regulatory mechanisms for the audiovisual sector begin with the stage of consolidation of liberal communications systems over the course of the twentieth century and, especially, after the Second World War.

The conflict of interests and of principles between the defence of press freedom (which form the basis of democratic communications models) and the defence of economic and media ownership freedoms (which form the basis of the capitalist/commercial communications model) required the establishment of control and mediation mechanisms such as audiovisual councils, whose role is to safeguard respect for and promotion of democratic values (which form the basis of the theory of social responsibility).

When these ideas and proposals are put into practice and institutionalised, the debate normally turns to the composition and operation of these regulatory bodies, with the recurrence of the typical patterns of the distribution of power, political influences and control. Beyond these stereotypes and the different formulas used, we need to consider social and political needs of the media system with respect to having stable benchmarks that ensure respect for and fulfilment of the rules of the game that affect society as a whole. The economic interests of operators are just as legitimate as the socio-political and cultural interests of the public.

Spain is the only original EU member state that does not have a national audiovisual council. Of its seventeen autonomous regions, only three currently have an audiovisual council. This historical inertia, along with the apparent disinterest of the political class in the media (beyond their partisan and economic interests), has resulted in an utterly tragic situation for the Valencian media industry.

The closure of RTVV, a decision taken without the necessary consensus, highlights the need for a strong, responsible and independent Valencian Audiovisual Council.

It has become clear that media policies based on the propaganda interests of certain parties, mismanagement of public corporations and the irrational submission to the political powers cannot guarantee the survival of the audiovisual sector, or even of its most loyal subjects.

Our profession needs to be valued, and the first who need to value it are us, the professionals, by working efficiently, ethically and professionally. When professionals sell their services out to political or economic interests they lose respect for their work. Instead, we become merely another toy in the fickle hands of the political powers, and we fail to offer what our audience expects of us.

This is the reason why it is the professionals who need to show all our support for the creation of a Valencian Audiovisual Council that can regulate and oversee best practices in the Valencian Community's media industry and, at the same time, serve as a protection for professionals against possible abuses by political or economic powers. This is the only way to give professionals, audiences and ethical journalism a tool to defend them against the interference of self-interested parties..

There are two audiovisual councils already incorporated and operating in Spain. These are the CAC (Catalan Audiovisual Council) and the CAA (Andalusia Audiovisual Council).

There are also other councils that are in the process of being incorporated in other regions, such as the Canary Islands or in Valencia. However, the current governments' lack of political will and their loss of control over the media has brought the implementation of the 2006 Law to a standstill.

In our proposal for an Audiovisual Council we will take the three councils already incorporated and operating, mentioned above, as a starting point, along with the proposals of the political groups of our region.

## 2.1 PRINCIPLES OF ACTION

The principles of action and duties of the Audiovisual Council would be as follows:

- To defend freedom of expression and information, language pluralism and the use of Valencian as the native language of this region.
- To defend political, social, religious and cultural pluralism and pluralism of thought, as well as neutral treatment of different views and honesty in news presentation.
- To guarantee the constitutional principle of equality and to promote values such as tolerance, solidarity and respect for human dignity.

**Sphere of action.** Full jurisdiction over both publicly and privately owned sound and television broadcast media networks in the Valencian Community and also at the local level, irrespective of the broadcast system used.

Full jurisdiction over the content of local programming for the Valencian Community on national networks.

**Duties.** Authority to regulate, inspect and impose penalties.

**Licences.** Authority to grant licences authorising the provision of audiovisual communication services and to ensure fulfilment of their conditions.

**Content.** Oversight of compliance with audiovisual regulatory standards, particularly the principles of political, social, religious and cultural pluralism and pluralism of thought.

Oversight of compliance with language pluralism and compliance with the laws in effect related to the Valencian language.

Oversight of compliance with legislation related to the rights and protection of children and adolescents, and compliance with legislation related to advertising.

Oversight of compliance with public service broadcasting assigned to public media networks.

Reports that impose penalties must be binding and must be considered in all application processes for grants or contracts with the public broadcaster.

Commissioning researchers at Valencian universities to conduct studies, by public tender.

**Issuance of reports.** Issuance of preliminary reports on proposed laws related to the audiovisual sector, as well as reports on its own initiative.

Issuance of an annual report on the activities of the Valencian Audiovisual Council and the state of the audiovisual industry in the Valencian Community.

**Co-regulation, self-regulation and arbitration.** Promotion of the adoption of measures for co-regulation and self-regulation of the Valencian audiovisual sector, and fulfilment of the role of arbitration and mediation at the request of parties to the conflict.

## 2.2 ORGANISATION PROPOSAL

- **Content area.** In this section we suggest the creation of the Office of the Audience Ombudsman, which will establish direct interaction between the public and the council. Through this office, any citizen can lodge a complaint or suggestion about the programming or advertising broadcast on the media networks of the Valencian Community.
- **Legal area.**
- **Organisational area.**
- **Telecommunications office.**

## 2.3 COMPOSITION

The Valencian Audiovisual Council should be composed of seven members and one chairperson. These members should be proposed by at least two parliamentary groups and elected by a two-thirds majority of the legislature, from among professionals of

recognised prestige and experience in the audiovisual sector, who should provide proof of their qualifications to a committee of the *Corts Valencianes* (Valencian legislature), which will interview and assess them.

The Valencian legislature will propose at least twice as many candidates as the number of members to be elected. The CVs of the candidates will be assessed by a committee of experts from MESAV and of academics in communications from Valencian universities. The purpose of this procedure is that the members of the legislature can consider these preliminary expert reports on the suitability of the candidates when they appear before the parliamentary committee prior to their election.

The members of the council will elect the chairperson, who will be appointed by the Government Council for a period of six years. In the case of the rest of the Council, every two years one third of its members will be replaced. We also recommend that all members be appointed on a full-time basis, to ensure that they will act with full independence and neutrality, while also being subject to the conflict of interest conditions applicable to senior positions in the regional government. Moreover, any direct or indirect connection with political party or union leadership or with business interests in the audiovisual sector should be prohibited.

#### **2.4 THE AUDIOVISUAL COUNCIL: CONCLUSIONS**

The danger of creating an audiovisual council that reproduces the endemic problems of politicisation, organic dependence or arbitrary or self-interested activity lies not so much in the model to be adopted as in the a priori interpretation of the ulterior political motives that would be revealed after its establishment. This would partly explain the lack of agreement and consensus in the Valencian case, where both the political context and party interests and the preconceptions related to the operation of other audiovisual councils colour the debate with mutual accusations over an institution that has not even been created yet.

Nevertheless, there is agreement that the purpose of the audiovisual council is to oversee the principles of communication that underpin a democratic society: the defence and promotion of pluralism, veracity of information, respect for different opinions, etc.

In addition, there are other duties and responsibilities that are less obvious but just as important for an audiovisual council: promoting the self-regulation of the sector and the respect for the normal standards, research and prospective analysis of the sector to ensure that the regulations meet economic and sociocultural needs, the arbitration and mediation between the different interests involved, etc.

In conclusion, although an audiovisual council model not reached by consensus might be a poor solution for the sector, it is necessary to establish a coherent audiovisual policy that makes it possible to complete the design of the Valencian audiovisual model.

In this sense, the creation of the future council needs to serve specifically to ensure the implementation and oversight of many of the aspects set forth in the *Llei General de l'Audiovisual Valencià* currently in force, and any other future legislation.

# **3 CHARACTERISTICS OF THE NEW VALENCIAN PUBLIC BROADCASTER: TOWARDS A NEW MODEL OF GOVERNANCE**

### 3 CHARACTERISTICS OF THE NEW VALENCIAN PUBLIC BROADCASTER: TOWARDS A NEW MODEL OF GOVERNANCE

The establishment of regional public radio and television networks was the result of the implementation of the *Estatut d'Autonomia* (Statute of Autonomy) set forth in the Spanish Constitution of 1978, under Title VIII, Public Ownership, ratified by the *Ley del Tercer Canal* (Third Channel Law, 46/1983). Article 56 of Valencia's Statute of Autonomy (Organic Law 5/1982, of 1 July) makes explicit reference to the power of the *Generalitat Valenciana* (Valencian regional government) to "regulate, create and maintain public television, radio and mass media outlets, for the fulfilment of its objectives".

More than thirty years later, after the emergence of DTT channels, the region's exclusively public television industry has turned into an industry largely dominated by private networks. In regional radio public participation has always been limited, while commercial radio stations have clearly predominated.

The current dire situation in the Valencian Community, aggravated by the closure of RTVV on 29 November 2013, prompts us to call for the restoration of public radio and television services in our region. We understand public services in this context to mean radio and television stations that offer democratic guarantees (especially the defence of pluralism) to serve as a stimulus for public participation to work for the promotion of civic harmony, the democratic and pluralist development of society, and awareness of and respect for all political, social, cultural and religious choices, all based on full dedication to principles of equality. Public services should also promote regional culture, identity, society and welfare, serve to support the economy, development and stability of the region, serve as a driving force for the audiovisual industry and, in general, for all cultural and creative industries, and disseminate knowledge and social awareness, among other roles, as has been stressed by nationally and internationally recognised specialists (*Prado, Moragas, Bustamante, Zallo, Miège, Hesmondhalgh, Richeri, etc.*).

Thus, the main parameter to establish a clear distinction between public and private radio and television networks is the question of their social and cultural profitability, in the case of public networks, as opposed to the economic and commercial profitability of the private and commercial radio and television networks which are, quite legitimately, profit-driven.

### 3.1 CHARACTERISTICS OF THE PUBLIC SERVICE

The main characteristics that a public radio and television service should have in the territory of Valencian Community are outlined below.

**Promotion of the Valencian language and culture.** As set forth both in Law 7/1984 of 4 July, on the creation of the RTVV public broadcasting network, and in Law 3/2012, 20 July, the corporate bylaws of *Radiotelevisió Valenciana* (RTVV S.A.U.), although with different priorities, the promotion of the Valencian language and culture is the most important and fundamental objective of all, and justifies the creation of a new Valencian public broadcaster.

The Valencian language expresses the identity of the Valencian people and is a vehicle of communication with extraordinary cultural and historical value, yet it currently has only a marginal presence in the mass media of Valencian Community.

We therefore believe that all programming on the new broadcaster should be 100% in Valencian. In this sense and, as a public broadcasting service, it should offer the maximum amount of content with all sound versions and subtitled options that the technology will allow, including options adapted for deaf people and other groups with limited perceptive abilities.

**Pluralism and independence from political powers.** The creation of a Valencian public broadcaster also responds to the constitutional mandate of the citizens' right of access to information. The regional public broadcaster will therefore have to guarantee that citizens have access to information that is pluralist, verified and free of partisan or individual bias, services that can only be offered by a public broadcaster. This is an essential tool for the democratic health and progress of an advanced society. In Valencia's broadcasting industry today, dominated as it is by private operators, the existence of a strong public news service that scrupulously respects these principles constitutes a guarantee of democratic handling of information, of pluralism and of independence from the political powers and commercial interests.

**Transparency of information.** It is essential that the news services on the Valencian public broadcaster are managed transparently and professionally, free from the interference of the political powers.

In order to achieve this objective, procedures and control mechanisms will be arbitrated to protect the professional work of public employees from any attempt at manipulation of the activity of this public service on behalf of partisan interests.

**Driving force for the audiovisual sector.** The creation of a public radio and television service in the Valencian Community has to serve to promote and contribute to the

growth of the Valencian audiovisual sector, and, in general, all cultural and creative industries, which are of strategic importance in a modern knowledge-based economy.

The new Valencian public broadcaster has to promote the creation of production and service companies, encouraging business and cultural innovation. This public media network, of unquestionable strategic importance, should stimulate the creation of a more cohesive audiovisual industry, which not only provides work for the Valencian public broadcaster but that also has the ambition to offer quality productions to other public and private networks outside the Valencian region.

**A supportive broadcaster connected to the academic world.** The public broadcaster for the Valencian people needs to ensure a consistent and regionally proportional development of the Valencian audiovisual sector, fostering the presence and participation of all *comarcas* and territories within the Valencian Community.

The Valencian public broadcaster has to stimulate the visibility of audiovisual production produced not only by independent producers but also productions by the universities, educational institutions, civic and cultural associations and, in short, by civil society in general.

This does not mean that the new Valencian public broadcaster should not also promote **collaboration with other regions of Spain**, particularly with national and regional public broadcasters.

Exchange and production of programmes and audiovisual productions should be promoted in the regions that share our language and numerous cultural features, such as the Balearic Islands and Catalonia. At the same time, it is essential to promote collaborations and co-productions with other European Union and Latin American countries, to ensure a presence in international audiovisual markets.

**Quality as a premise.** Public radio and television in the Valencian Community are mass media which, as a public service, have to offer quality information, entertainment and education to Valencians.

**Free and accurate newscasts.** The public broadcaster of the Valencian people must satisfy the citizens' right to free and accurate information, and facilitate the exercise of freedom of speech in a pluralist, open and horizontal way. News programmes must be entirely self-produced by the public broadcaster, which must have the sufficient technical and economic resources to offer quality information.

**Style guide.** The Valencian public broadcaster will have a Style Guide that will set out its editorial policy and its media policy, the language standards based on the

appropriate and correct use of the language, and journalistic and professional standards aimed at ensuring citizens receive accurate and quality information.

**Balanced programming.** The design of entertainment programming on the public broadcaster must be balanced, combining local programmes produced internally with external productions.

Self-productions must be in proportion with the staff numbers of the future Valencian public broadcaster and with its programme production capacity. To this end, the production of quality broadcasting requires a sufficient number of highly qualified professionals. The news programs should be produced by the network's own staff in order to guarantee the independence and pluralism of information that only a transparently and professionally managed public broadcaster can offer.

External production of programmes and the purchase of programmes, films, series, documentaries, etc., must be controlled and managed by the public broadcasting network itself in order to ensure their quality and the fulfilment of the mission of the public media service.

**Local content.** The programming of the new Valencian public broadcaster must be committed to offering debate programmes, programmes interviewing our political and cultural representatives (demonstrating the social, cultural and political heterogeneity and richness of the Valencian Community), programmes featuring investigative journalism and self-produced magazine programmes that help build a modern, pluralist and respectful image of our region. Moreover, it should also make a commitment to live local programming, a hallmark and a sign of quality of television and radio broadcasters in communications industry today.

**Promotion of documentaries and cultural series.** The production of documentary series and cultural programmes is another important aspect that the new public broadcasting service should promote. These kinds of productions have a devoted public and an unquestionable educational value. The network should encourage the production of documentary and cultural series, both with its own resources and through tenders open to specialist production companies in the Valencian Community.

**Sports.** Sports programming should be included on the Valencian public broadcaster. However, the network should avoid participation in bidding wars for the broadcast rights of sporting events that often have costs that cannot be covered by government budgets.

Traditional Valencian and minority sports should be given a solid space in the programming of the Valencian public broadcaster.

In short, the network should seek to broadcast sporting events that do not generally attract the attention of private radio and television stations due to their low commercial profitability, but that are nevertheless of unquestionable social importance and, moreover, contribute to the promotion of grassroots sports in our region.

**TV and cinema** Valencia's public broadcaster must respect the quotas for films produced in Spain and Europe, and even go beyond the limits established by current legislation. The screening of productions that present our cultural environment should be increased.

In order to save costs, content from broadcasters in neighbouring regions could be exchanged, facilitating exchange formulas with these networks. A policy of this kind could have positive effects on the promotion of the use of the Valencian language and its linguistic variants, while also promoting cultural features shared between regions with important historical and cultural ties.

However, it is important to stress that the new public broadcaster must especially promote the production of fiction films and television series (historical, sitcoms, dramas, series, etc.) filmed in our region, which would help to create a local star system. At the same time, it should also work to promote the theatre industry and other auxiliary enterprises such as set design, make-up and hair, costumes, equipment rental companies, the restaurant and hotel industries, etc.

**Humour and democratic health.** Programming on the new public broadcaster should include a space for locally based comedy programmes that also portray the social, political and cultural reality of our country. The existence of these kinds of programmes on public networks is a very clear sign of the maturity of the society in which we live.

Valencian public **radio** can fulfil an important role in supporting the world of local musical production and serve as a stimulus for the creation of music in the Valencian language.

**Child and youth programming** should be given special consideration in the programming of the Valencian public broadcaster, including educational and entertainment content aimed at teaching values. This programming should logically be in Valencian to support the use and dissemination of our language, and should preferably include animation production, in which an increasing number of professionals in our region are involved, turning us into a global force in this field.

**Transmedia environment.** The new public broadcasting service should adopt a clear focus on transmedia, in tune with the digital convergence that is shaping the evolution of the world's audiovisual industry today.

Transmedia management of production and, at the same time, the transmedia production itself are key factors for achieving a solid presence in the market, and especially to connect with younger audiences, who consume content via mobile devices.

Public radio and television networks today are also multimedia platforms. The new audiovisual technologies make it possible to fill radio and television programming with differentiated content without a high added cost.

**R&D&I.** In view of this transmedia environment, a department needs to be created to specialise in the design of new formats (avoiding the production of programmes already provided by the competition) sensitive to innovation and on the lookout for new forms of communication. We believe that any modern public broadcaster that aims to promote the knowledge economy must have an R&D&I department and, therefore, must be in close contact with universities and research centres, especially those in the Valencian region.

### ***3.1.1 The new Valencian public broadcaster: a local transmedia group***

As suggested above, the new broadcaster must define itself as a transmedia corporation adapted to the current context and to present, future and upcoming formats. The transmedia strategy involves five basic changes:

- 1.** Defining transmedia content associated with topics that cross-connect the different media types of the group. Formats will be grouped into transmedia content and will have a coordination shared by the different media types: news, sports, kids, festivals, weather, etc. Although the content strategy will be shared, each media type will build the story using its own language. Thus, in this new scenario the specific format of each media type remains but must be adapted and subordinated to the transmedia content with which it is associated.
- 2.** Defining strategic actions with common objectives for all transmedia content. The network could implement actions related to current social, language, economic or cultural topics that motivate the audience and contribute to their participation through different broadcasting platforms.
- 3.** Using the same media types accessed by users to inform and entertain, i.e., radio and television, but also the new devices. Television and radio are still the essential devices, but they now coexist with new screens that also need multimedia content.

Work flows need to change to make it possible to share part of the process that used to be concealed via these new channels. For example, the takes from an interview that is not broadcast may be attractive for social media, and images used to locate a broadcast could also be used on a blog. It now becomes a question of managing the products of internal communication so that it can be shared on the different broadcasting platforms.

4. . The transmedia scenario involves a change of model whereby viewers become users and decide at each moment whether they want to be active. It is therefore necessary to create a department to work on designing strategies to make the presentation of the content on the different platforms more attractive, in order to manage and optimise the interactivity of the user.

5. As noted previously, there is a clear need for the creation of an R&D&I department or service to develop new television and radio formats which, always with a clear commitment to public service, could have social, educational and commercial benefits. This department would work with the network of Valencian public and private universities.

### **3.1.2 Local content**

It is now that RTVV has been taken off the air that we have become fully aware of the void that the public broadcaster has left, and it is this void that the new broadcaster will have to fill. As Valencians, we miss our television network when things happen that affect our towns and cities, our sports or our culture. And there is no media network covering these things. Twenty-five years ago it was enough to provide the information in the Valencian language to justify the value of any topic. But today, with the wide range of television and media content currently available, it would be more appropriate to focus our attention (in Valencian, of course) on content that has a direct repercussion on our people. In this we can be the best, providing the service that Valencian society needs and that we now so sorely miss.

To determine the number of channels that the future regional public broadcaster could offer, we need to consider the availability of airwaves and the personnel structure of this new broadcaster. In any case, the staff numbers for the future Valencian broadcaster must be proportionate and sufficient to offer a quality public service and, as such, its objective should be to offer a quality public service with good levels of audience acceptance, i.e., it should aim to achieve audience levels sufficiently in keeping with its mission.

In this respect, the Valencian public broadcaster should not refuse to have broadcast windows that are financially and professionally sustainable, with the aim of offering the best service to the public.

Following this line of argument, MESAV recommends the urgent reinstatement of RTVV as the quickest way for the Valencian Community to once again enjoy benchmark audiovisual public media content that can serve as a tool for social cohesion and democratic consolidation, while defending and promoting the use of the Valencian language, fulfilling the right of Valencians to information, and consolidating a strong and competitive audiovisual sector.

The reinstatement of RTVV will mean the immediate reversal of the shutdown and liquidation ordered by the Partido Popular government, resolving the judicial proceedings currently underway, respecting employee rights and initiating a process of adaptation and replacement of staff on the basis of the new production needs.

### **3.2 MANAGEMENT MODEL**

We consider the following aspects essential to the management and governance model that would need to be articulated in the new public radio and television services:

The sense of public service represented by public radio and television for the Valencian people needs to be promoted from the outset. Along these lines, employees of the future broadcaster must be aware that they are working to offer a public service of maximum quality.

A culture of public enterprise needs to be created, whereby the management (which has to be and to act in an exemplary fashion) must convey a sense of belonging to an institution with a very clear social and cultural mission, of vital importance to the consolidation of the Valencian Community.

Regulatory bodies external to the institution (the Valencian Audiovisual Council, the Parliamentary Control Commission of the *Corts Valencianes* and other bodies such as the Valencian Culture Council) with very clearly defined roles and internal organisation are essential for the new broadcaster to be able to offer a quality service, as are internal governance bodies (the General Management of the Valencian broadcaster, the Board of Directors, the News Service Editorial Committee, the Audience Ombudsman, the Advisory Council and the Works Council) with structures and work and operation protocols that ensure the prevention of intervention by political parties in the professional management of the broadcaster, especially with respect to the independence and pluralism of information.

### **3.2.1 External regulatory bodies**

With respect to regulatory bodies external to the Valencian public broadcaster, we recommend that a set of basic ideas be taken into account.

As noted previously, we still do not have a Valencian Audiovisual Council (CAV), in spite of the fact that the establishment of this body is stipulated in the Valencian Statute of Autonomy, and there is also no Audiovisual Council at the national level. For decades the world's most developed countries have had regulatory authorities that have as their main objectives the oversight of the independence of public media, the regulation of proper operations and compliance with the legislative framework applicable to public and private broadcasters, even with punitive powers to penalise non-compliances and illegal practices. The absence of such an institution is symptomatic of the lack of maturity of our democracy. An institution like the CAV could only work properly if there is a sufficiently broad consensus among the political parties represented in the Valencian parliament. The existence of the CAV could be key to the healthy birth and development of Valencia's future public broadcaster.

The *Comissió Parlamentària de Control* (CPC, Parliamentary Oversight Commission) is a public broadcasting regulatory body that has all the legal jurisdiction needed to monitor the evolution of the new public broadcaster. It is essential that all the members of the CPC, from all of the parliamentary groups, have access to any documentation they may request to properly exercise their regulatory role, raising questions and proposals for action. The CPC must meet regularly and periodically to receive explanations about the management of the Valencian public broadcaster.

The *Consell Valencià de Cultura* (CVC, Valencian Culture Council) is another external body that should periodically assess the evolution of the Valencian public broadcaster in relation with its role in the defence and use of the Valencian language.

In general, the new Valencian public broadcaster will have to submit budgetary and accounting management reports annually to the Valencian government's audit office, as this is mandatory for all publicly-owned entities, companies, administrations and foundations to ensure close monitoring of their expense levels, identifying budgetary deviations and/or valid proof of their expenses and revenues. The management of the new public broadcaster will be required to respond to all the observations and recommendations made by the audit office.

### **3.2.2 Internal control bodies**

With respect to the internal control bodies of the Valencian public broadcaster, the following observations are considered pertinent:

The **general management** of the Valencian public broadcaster should be directed by a professional of recognised prestige and proven experience in radio and/or television broadcasting. His professional qualifications must be the main selection criterion. The election procedure should be conducted through a public tender where each candidate may present his management project. The selection procedure could be managed by the Valencian Audiovisual Council in order to depoliticise the election as much as possible.

The **appointment of the General Director** of the public broadcaster should not fall on the Board of Directors of the broadcaster or the Parliament if this public service is expected to be managed professionally. In any case, the appointment must be supported by the Valencian Parliament with a majority of two-thirds of members (66%); simple majority votes should be avoided. The General Director's mandate will be for five years, with the possibility of renewal for a new mandate.

Along the same lines, the **members of the Board of Directors** of Valencia's new public broadcaster should also be appointed for 5-year mandates. The General Director should not be a members of the Board of the Directors, as this internal body undertakes a regulatory function over the broadcaster's management.

The selection procedure would be very similar, by means of a public tender. The Board of Directors should include a variety of professional profiles, all related to the fields of radio and TV, not only including journalists, but also lawyers, economists and audiovisual system managers, as well as content production professionals (i.e., producers and broadcasting specialists). No Board members may have a political affiliation (any candidate who is a member of a particular political group would be required to de-register temporarily, for as long as he/she is a member of this governing body).

The Board of Directors will oversee transparency of management and accountability at the public broadcaster, and strict compliance with the Framework Mandate and the Programme Contract in its budgetary operations, aiming for a strictly balanced budget. The Board of Directors should also include representatives of the public broadcaster's employees, chosen upon proposal by the Works Council.

The **news services editorial committee** is an essential body for guaranteeing the new broadcaster's independence from the political powers. Its operations will be regulated by the Professional Editorial Statutes, which must be approved by the broadcaster's News Service staff and it will arbitrate on procedures for good professional practices. For example, in the event that a particular news item or approach were considered to be erroneous or manipulated by the newsroom it would be compulsory in the next news programme to identify the divergent opinion of the Newsroom, provided that

this was approved at a meeting with at least half of the members represented. In short, it is very important to provide genuine participatory formulas for the Newsroom in the management of the Department.

The broadcaster's General Director will propose the **radio and television news and programme directors**, who must be professionals of recognized and extensive experience. In the case of the news director, his/her appointment will be submitted for a binding consultation in the Newsroom according to the terms established by the Newsroom Statute.

These directors will fill the different intermediate positions from among their staff of professionals. In the case of the News Department, these appointments will follow the same consultation model used to appoint the director. In the case of appointments prior to approval of the Newsroom Statute, these must be subject to a consultation with retroactive effect once the regulatory text comes into effect.

News and Programmes directors' terms will automatically end when the General Director's term ends, and they will leave the company unless they are members of the staff. Intermediate position terms will also end at the end of the terms of the News and Programmes directors who appointed them.

The General Management may freely appoint staff associated with its action project, although such staff cannot exceed the 2% of the total number of employees.

The **Advisory Council** should be a mixed body, including members who are staff working for the company and other members external to the broadcaster, such as Valencian civic and cultural associations and organisations. As a governing body of the public broadcaster, the Advisory Council should include members who are representatives of the broadcaster's employees, of public broadcasting societies, of Valencia's Department of Culture, of the Valencian government, of civic associations such as *Escola Valenciana*, of Valencian universities, of viewer and consumer associations, etc. The selection of its members should be supervised by the Valencian Audiovisual Council.

The Advisory Council will propose to the General Management the appointment of the Audience Ombudsman, who should be a professional of recognised prestige. There will be a weekly programme scheduled to channel the complaints of public radio and television users, listeners and viewers. This space should serve to explain to citizens the structure of the new broadcaster and the services it offers, and to answer questions and discuss the accountability of the programming.

The **management model** of the new public broadcaster must be based on a **programme-contract** that determines the budget and conditions of the public service.

This programme-contract will determine the maximum level of expenses of the broadcaster for a period of at least three years, to allow for mid-term planning.

In addition to funding via programme-contract, the new broadcaster should also be funded by broadcasting of advertising and sponsorship: in the context of a public service broadcaster, commercial advertising should be understood as a tool for supporting Valencian business, as a window for local and non-local advertisers. Advertisements will generally be broadcast in Valencian, as a strategy to normalising the use of the Valencian language, with incentives offered to advertisers who do so.

Funding will also be obtained through the presentation and marketing of products, favouring the distribution of audiovisual production via media types that facilitate their market penetration and the presence of these products in any commercial context.

### **3.2.3 The Framework Mandate**

The new Valencian public RTV will be subjected to the framework mandate. Article 41.1 of the national *Ley General del Audiovisual* (Audiovisual General Law) 2010 specifies that the general objectives of the function of the public service will be established in a normative for a period of nine years. Its development and concretion for all and each of its channels will be conducted for shorter periods by the subscription of the State and the Autonomic Communities, in its concrete fields of competence, within the correspondent programme contract. It must specifically identify the public service contents, in particular it must concrete the percentage of contents of public service that have to be broadcasted by the channels managed by a same supplier. The Framework Mandate is precisely the document gathering the general objective for a period of nine years. We suggest as a Framework Mandate the one of RTVE subscribed in 2007. It defines concepts such as:

- General objectives of public service.
- Independence, pluralism, neutrality, impartiality and accuracy.
- Respect for ethical principles.
- Commitment to equality between men and women.
- Ombudsman for viewers, listeners and interactive media users.
- Adaptation of programming to potential audience.
- Style guide and production guidelines for newscasts with the aim of ensuring journalistic rigour and proper use of language.
- Rights of access.
- Strategic guidelines for content, broadcasting and production; definition of the legal nature of production:
  - ✓ External production.
  - ✓ Internal self-production.

- ✓ External self-production.
- Production contracting.
- Management model.
- Innovation, research and development of the RTVE Corporation's public service.
- Institutional Relations.

### **3.3 THE NEW PUBLIC BROADCASTER AND ITS MODEL OF GOVERNANCE:**

#### **CONCLUSIONS**

In short, the new Valencian public broadcaster should be understood as a local topic-based channel, a new public service that should enter into the bitter battle for audiences, and thus avoiding competition with private networks, which are driven by a commercial logic. This does not mean that it is not important to aspire to have a good audience response and to be valued by most Valencian citizens.

This public radio and television service has excellent chance of wide acceptance among Valencian citizens if it can offer a quality local programming in the Valencian language, and is able to distance itself from the old RTVV by making transparency of management and political independence its hallmarks.

Although it may seem unnecessary to state it, it is important to stress that laws, norms, regulations, etc. are created to be complied with.

An analysis of our recent past reveals that this has not been the case in our region. The audit reports by agencies like the Valencian audit office should serve to correct the budgetary deviations, adopting the principle of balanced budgets that any company, especially in the public sphere, is required to respect, aiming for constant improvement of the management of these public services.

In this respect, it is important to provide for the creation of mechanisms to guarantee the correct application of laws, norms, etc., as they should be complied with scrupulously if we want a sustainable audiovisual system in Valencia.

To oversee strict compliance with the principles on which Valencia's new public broadcaster is to be established, an internal ethical audit must be conducted annually to confirm that the publicly-owned broadcaster is faithfully complying with the principles and objectives for which this public service was created. This is a common practice among all of the world's biggest institutions and companies that take their reputation seriously.

Accountability to the public should be viewed as equivalent to the accountability report that a Board of Directors presents to a company's shareholders. In this case, the

shareholders would be the millions of Valencians who live, work and pay their taxes in the Valencian Community.

In conclusion, Valencia's new public broadcaster should be based on a more professional and cooperative management model, open to society, committed to ongoing accountability and transparency of management, based on non-hierarchical coordination mechanisms, new collective practices and more participatory approaches, the ultimate aim of which is to ensure that the public feels that Valencia's new public broadcaster belongs to them and represents them.

## 4 CONCLUSIONS

## 4 CONCLUSIONS

The promotion of the Valencian language and culture is a fundamental, indeed perhaps the most important, objective justifying the creation of a new Valencian public broadcaster. The programming of the new broadcaster must be 100% in the Valencian language.

Public radio and television networks in the Valencian Community are mass media outlets which, as a public service, should offer audiences quality information, entertainment and education.

As Valencian citizens we are entitled to free, pluralist, verified information free of partisan and individual interests. The new broadcaster must facilitate the exercise of freedom of expression in a pluralist, open and horizontal way. The news services of the public broadcaster must be self-produced, avoiding interference from the political powers.

The new Valencian public broadcaster will promote internal and external self-production and will contribute to the growth of the Valencian audiovisual sector and, the cultural and creative industries in general.

The design of entertainment programming on the public broadcaster must be balanced, combining self-produced programmes with externally produced content.

The programming of the new Valencian public broadcaster must be committed to offering debate programmes, programmes interviewing our political and cultural representatives (demonstrating the social, cultural and political heterogeneity and richness of the Valencian Community), programmes featuring investigative journalism and self-produced magazine programmes that help build a modern, pluralist and respectful image of our region.

Sports programming should be included on the Valencian public broadcaster. However, the network should avoid participation in bidding wars for the broadcast rights of sporting events that often have costs that cannot be covered by government budgets. Traditional Valencian and minority sports should be given a solid space in the programming of the Valencian public broadcaster.

The new public broadcaster should especially promote the production of fiction films and television series (historical, sitcoms, dramas, series, etc.), supporting the creation of a local star system. At the same time, it should also work to promote the theatre industry and other auxiliary enterprises such as set design, make-up and hair, costumes, equipment rental companies, the restaurant and hotel industries, etc.

Child and youth programming should be given special attention in the programming of the future Valencian public broadcaster.

Any modern public broadcaster that aims to promote the knowledge economy must have an R&D&I department, and a large multimedia platform.

Operations could commence at the production and program centre in Burjassot quite promptly. Subsequently, a technological investment will be needed to ensure that the equipment is the latest technology and innovation-ready.

The staff structure needs to be adapted to the programming needs of the new broadcaster and new job categories need to be defined. The permanent staff of the future broadcaster must be proportionate and big enough to offer a quality public service.

Valencia's new public broadcaster should be based on a more professional and cooperative management model, open to society, committed to ongoing accountability (i.e., transparency of management) based on non-hierarchical coordination mechanisms, new collective practices and more participatory approaches, the ultimate aim of which is to ensure that the public feels that Valencia's new public broadcaster belongs to them and represents them.

#### **External regulatory bodies**

- CAV (Valencian Audiovisual Council)
- Parliamentary Control Commission (CPC)
- Valencian Department of Culture (CVC)
- *Sindicatura de Comptes* (Audit Office)

#### **Internal regulatory bodies**

- General Management
- Board of Directors
- Advisory Council
- Works Council
- Editorial Committee

*MESAV would like to thank all the people who have made the preparation of this report possible.*

Valencia, March 2015

# ANNEXES

## ANNEX 1: ANALYSIS OF THE TECHNOLOGICAL EQUIPMENT OF RTVV

The RTVV Liquidation Council is currently engaged in the decommissioning of the facilities and the auctioning of the assets of what was once the biggest communications company in the Valencian Community. In the process so far, the inventory of assets is the only information that has been made public. This document has provoked considerable controversy in the media and the legislature due to the low value assigned to many of RTVV's assets: totalling around 40 million euros. The liquidation team has still yet to file a claim against the company entrusted with the preparation of this inventory, based on the complaints submitted by the technical personnel of RTVV in view of its lack of precision and accuracy.

We of MESAV consider it of vital importance that the liquidation should not include what we would call the *technological heart* of the programme production centre in Burjassot. Although technology is advancing at a dizzying pace, and most of the equipment of the Valencian public broadcaster is becoming obsolete, the most expensive elements of this equipment are still perfectly usable. These are also the elements that take more time and effort to replace, and they are therefore essential for the resumption of broadcasting.

Therefore, the decommissioning and sale of this *technological heart* should not be permitted if the intention is to re-establish the public broadcasting service as soon as possible.

With respect to radio, the situation is both more difficult and simpler. It is difficult because the premises it used to occupy have already been decommissioned, but it is simple because the equipment and facilities needed are much cheaper than in the case of television. Its full re-commissioning and integration into the programme production centre in Burjassot (a process that had already begun before the shutdown) and the setup of studios in Alacant and Castelló would be easily affordable. This study will therefore be focused on the case of the television network.

### A1.1 THE NEW TECHNOLOGICAL MODEL

The computerisation of operations and content entails a reduction in equipment and production costs for audiovisual companies. However, in the case of companies still trapped in an analogue past, the shift to an entirely digital environment involves a complex adjustment that is difficult to carry out without suspending or modifying production activities.

RTVV is a good example of the above, especially because in recent years the lack of funds provided by the Valencian government has impeded the progressive updates and replacements that are essential to keep up with technological developments. Before the shutdown this situation had reached such a critical point that it would have required some highly imaginative measures to update this complex technological framework and rationalise work procedures without seriously affecting the service.

We can therefore affirm that, leaving aside the serious tragedy for Valencian employment figures and for Valencian society represented by the shutdown and the dismissal of its whole staff, the closure of RTVV could represent a great opportunity to technically redesign the regional public radio and television service.

### **A1.2 THE TECHNOLOGICAL RESURRECTION OF RTVV**

RTVV was a company that had been operating without interruption for 25 years which had suffered a tumultuous period in financial terms in its last few years, preventing it from undertaking the technological updating that it needed.

Obsolete equipment, outdated or inefficient machinery and certain erroneous decisions in the choice of operation formats are now issues to be corrected in order to ensure the future viability of a new broadcaster. Remodelling the staff structure, defining job categories adapted to the technological reality and modernising the technical environment of the future regional broadcaster are the keys to the success of this project. For example, it would be seriously inefficient to continue using the current ENG cameras, as none of them operates in High Definition (HD), few of them can record in widescreen format and all of them still use tapes.

However, this is not the case with what we could call the *vital organs* of the former RTVV, which either have been updated recently or belong to a technological sector that has not undergone such drastic changes. This is the part of the equipment that should be retained during the liquidation process. In other words, it is essential for the expected re-establishment of Valencia's public radio and television that certain key equipment and facilities not be decommissioned or auctioned off. Only in this way can the return to the airwaves be ensured within a reasonably short period and with an *a priori* affordable cost.

The investment needed to equip the new broadcaster from scratch would make the commissioning of the project practically unfeasible, considering the complicated financial legacy left to the current Valencian government.

On the other hand, retaining these vital organs and updating the equipment, adapting it to the much cheaper and more versatile technological reality of today, would considerably reduce the investment in materials needed. It would be enough to adapt

the facilities to the latest technology, and to design new work methods that will save on costs and optimise results.

### A1.3 THE VITAL ORGANS

As a preliminary assessment, we consider the useful and essential equipment and facilities for the future project to be the following:

- ❖ The broadcaster's own network of broadcast and relay stations. More than a hundred, distributed across the Valencian region and guaranteeing coverage of around 99% of the population, much higher than the coverage offered by any private operator. It also services the 112 (the Valencian government's emergency service) and local and provincial councils Wi-Fi networks and broadcasters. The network also provides revenue through leases to private telephone companies.
- ❖ RTVV Programme Production Centre. Classified as a unique building and protected due to its architectural value. Located on land donated by the local council of Burjassot and publicly owned.
- ❖ Documentation and audiovisual and multimedia archive management unit.
- ❖ Central Technical Control, including a system room, sending and receiving system and signal traffic control. The real heart of the building and the guarantee of access to news agencies and exchanges with FORTA (Spain's federation of broadcasters) and other television networks around the world.
- ❖ Broadcasting and continuity controls. Contains HD equipment newly installed at the time of the shutdown and, therefore, as yet unused.
- ❖ Newsroom. With the integrated systems *Isis*, *iNews* and *Tarsis*, designed to receive images, edit them and file them from any workplace.
- ❖ Studios 1 and 2. With their respective sets, large in size, for multiple uses.
- ❖ Studio 3. For the production and broadcasting of daily and non-daily news programmes.
- ❖ Studios 4 and 5. Smaller in size, designed for filming with virtual sets. Cheap and useful for any kind of programme, except for large-scale shows.
- ❖ Mobile Unit 3. The only unit equipped with an HD compatible digital system that will facilitate coverage of institutional events, sports and festivals.
- ❖ Shuttles and mobile satellite connections. For live connections and local newscasts.
- ❖ Audio and video postproduction booths. Equipped with updated electronic and IT equipment.

It is essential to recognise the **use value** of this equipment, which is considered vital. This not only includes equipment with a specific value, but also with a particular value in a particular work context and with a core of professionals who know how to use it

and can get the most out of it. This means that the real value of these assets is the market value of 40 million euros stated in the inventory, as the use value of this equipment is much greater due to the **alternative cost** that would be incurred to replace it with new equipment.

It is also important to introduce the concept of **workflow**. Big audiovisual companies no longer purchase technologies; rather, they adopt workflows that determine a way of doing things and that require the use of compatible equipment, with interchangeable formats and supports that make it possible to establish agile work dynamics and synergies and optimise production costs. This is especially important due to the need to offer a transmedia multiplatform that includes DTT, radio, the web and mobile apps.

If the decommissioning of this equipment is permitted, the time needed to resume broadcasting with the conditions of technical quality that have always characterised RTVV would be several months longer and would require a much bigger technological investment which, at the same time, would delay the process even more due to the need to design, choose, purchase, install and test the new equipment.

We can affirm, although not without some caution, that almost all of the other equipment should be replaced with simpler, faster and cheaper equipment that would be integrated into the High Definition workflow.

The adaptation and remodelling of the local studios in Alicante and Castellón, as well as the location of the regional radio station in the same building as the television station, will also represent a rationalisation of expenses and an optimisation of operations.

In conclusion, we have before us the opportunity to tackle a new viable and exciting project, that could provide Valencian citizens with the twenty-first century mass media network that we need.

#### **A1.4 THE LIQUIDATION OF RTVV BY 9 OCTOBER 2014**

The process of liquidation of the companies that comprised RTVV SAU is still progressing slowly at this time.

Over the last few months some of the permanent facilities of the public radio and television network in locations where frequent connections were made have been decommissioned. These include football pitches, Valencian *pilota* courts and basketball courts (Mestalla, Ciutat de València, Madrigal, Rico Pérez, Trinquet Genovés, La Fonteta, etc.), and public institutional offices (*Generalitat Valenciana*, *Corts Valencianes*, *Ajuntament de València*, etc.). These are locations that had connections

for live broadcasting, with the consequent installation of cables, satellite dishes and associated equipment.

Apparently, the next priority for the liquidation team has been to move out of any locations that entailed a rental cost, such as the local RTVV studio in Castellón, which has been almost completely decommissioned and its equipment and furniture have been stored in the building in Burjassot. Nevertheless, there are still some unresolved issues and the studio is far from being completely wound up.

Some of the equipment located at the Madrid local studio and at other correspondent offices have been collected and transferred to the programme production centre in Burjassot.

In some cases, it has been preferred to collect the equipment but maintain the cables that are extremely depreciated, as their collection would have incurred a greater expense and workload than the actual value of the metres of cable installed.

The premises where Ràdio Nou was located, although they did not represent any additional expense as it is Valencian government property, have already been decommissioned and all the equipment have been transferred. Large quantities of sound files (of incalculable documentary value) are still to be analysed, while the magnetic emulsion of the tapes is inexorably deteriorating.

Moreover, litigation related to rights to sports broadcasts brought against RTVV by companies such as MEDIAPRO is provoking conflicts of interest that are still unresolved.

All of this suggests that the process will be long and complicated. It seems unlikely that all the equipment owned by RTVV that is currently scattered around different locations will be collected and transferred to the Burjassot centre by the end of 2015.

It is important to remember that the administrative processes underway to terminate the contracts signed (some of which have effective periods lasting several years) which include clauses stipulating penalties in the event that one of the parties requests the cancellation of the agreement. These include contracts for sports and advertising rights, and with production and distribution companies and other service companies demanding compliance with the contractual clauses.

The facilities of the RTVV production centre in Alicante warrant special mention. The building was built on rented property that is subject to a 33-year lease agreement that binds the lessee to the payment of an annual rent amount of around 300,000 euros.

The building, which is property of RTVV, was built with an ambitious plan and with the expectation that content would be produced in Alicante. This idea ended up being

dropped over the course of time, as it was found to be operationally unfeasible and difficult to manage.

The construction of the building cost more than 4 million euros, not counting the cost of lighting equipment, cameras, mixers and computer equipment which, 10 years after their purchase, are now technologically outdated.

Decommissioning these ambitious facilities constitutes an administrative problem related to the lease agreement for the land, for which there seems to be no solution. It will be very difficult to decommission the technical framework, but it will be even more difficult to address the administrative issues posed by this site.

Once all the equipment has been collected, the next step, according to the liquidators' mandate, will be to decommission the complex technical infrastructure of the programme production centre in Burjassot. According to RTVV's top experts, this is a task that could drag on for several years.

The final goal is the arrangement of the equipment into lots. Classified according to its characteristics, the equipment will be grouped for its subsequent auction. It is reasonable to expect that there will be lots for lighting equipment, cameras, editing equipment, video and sound mixers, microphones, display devices, shuttles, mobile units, computer equipment, etc., highly sophisticated technological devices that are difficult to sell, especially if we consider the age of most of it and the lack of demand of this type of technology.

All the conventional furniture will also have to be publicly auctioned: tables, chairs, hangers, cabinets, closets, computers, etc. Taking into account that the average age of this equipment is more than two decades, it is easy to see that their market value would be close to zero.

It is clear that the cost of the liquidation and dissolution of RTVV will be very high and very difficult to quantify. The labour cost of the termination of the contracts of more than 1,600 employees, plus the costs of decommissioning and of the unilateral cancellation of contracts, will raise the figure originally indicated by the RTVV Works Council: no less than 200 million euros.

If the process of decommissioning the facilities (especially the programme production centre in Burjassot) can be halted, we will be facilitating the possibility of the new commissioning of Valencia's future public broadcaster.

## ANNEX 2: EXTRACT FROM THE REGULATIONS FOR THE AUDIOVISUAL SECTOR

### A2.1 EUROPE

- ❖ Audiovisual policy in the EU is governed mainly by Articles 167 and 173 of the Treaty on the Functioning of the European Union (TFEU). The key piece of legislation for audiovisual policy is the Audiovisual Media Services Directive, which came into effect in December 2007.
- ❖ Directive 89/553/EEC, known as the 'Television without Frontiers' Directive.
- ❖ Directive 2007/65/CE of the European Parliament and the Council of December 11, 2007, amending Directive 89/552/CEE of the Council regarding the coordination of certain legal, regulatory and administrative provisions of Member States, related to TV broadcasting activities.
- ❖ Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information Services. Brussels, 16.10.1996 as (96) 483.
- ❖ Communication from the Commission on the application of the State aid rules to public service broadcasting (2001/C 320/04).

### A2.2 SPAIN

- ❖ The Cinema Law approved on 28 December 2007, Law 55/2007; Order CUL/2834/2009, of 19 October, establishing the regulations for the implementation of Royal Decree 2062/2008 of 12 December, implementing the Cinema Law, Law 55/2007 of 28 December, related to the recognition of the cost of a film and the producer's investment, establishment of the regulatory bases for State aids and the structure of the Administrative Register of Film and Audiovisual Companies.
- ❖ Organic Law 2/1997 of 19 June, regulating the news professional conscience clause.
- ❖ Law 7/2010, of 31 March, General Law of Audiovisual Communication.
- ❖ Law 17/2006 of state-owned radio and television networks, complemented by the Law of 2009 on Funding for RTVE Corporation.
- ❖ Agreement by the Joint Commission for Parliamentary Control of RTVE Corporation and its Companies, approving the mandate framework proposal to RTVE Corporation established by Article 4 of Law 17/2006, of 5 June, on state-owned radio and television networks.
- ❖ Royal Decree 944/2005, of 29 July, approving the National Technical Plan for Digital Terrestrial Television.
- ❖ Royal Decree 439/2004, of 12 March, approving the National Technical Plan for Local Digital Terrestrial Television.

- ❖ Royal Decree-Law 1/2009, of 23 February, on urgent measures related to telecommunications.
- ❖ Framework action plan for the release of the digital dividend 2012-2014.
- ❖ Audiovisual industry Collective Bargaining Agreement.

### A2.3 VALENCIAN COMMUNITY

- ❖ *Estatut d'Autonomia* (Statute of Autonomy of the Valencian Community).
- ❖ Royal Decree 1126/1985, of 19 June, trespassing of the functions of the administration of the Valencian Community State in matters of social communication.
- ❖ *Generalitat Valenciana* Law 7/1984, of 4 July, on the creation of the Valencian public organisation *Radiotelevisión Valenciana* (RTVV), and the regulation of radio and television broadcasting services by the Valencian government.
- ❖ *Generalitat* Law 3/2012, of 20 July, on the corporate bylaws of *Radiotelevisión Valenciana* [2012/7324].
- ❖ Law 4/2013 of 27 November, determining the cancellation of the *Radiotelevisión Valenciana* public service.
- ❖ *Generalitat* Law 1/2006, of 19 April, on the Audiovisual Sector.
- ❖ *Consell* Decree 212/2009, of 20 November, regulating the Register of broadcasting licences in the Valencian Community [2009/13401].
- ❖ Directorate-General of Labour, Cooperativism and Social Economy Resolution of 1 February 2010 establishing the registration and publication of the Collective Bargaining Agreement for *Radiotelevisión Valenciana*, *Televisión Autónoma Valenciana SA* and *Radio Autonomía Valenciana* (code 8000142) [2010/1181].
- ❖ Decree 5/2013, of 4 January, approving the regulation of the organisation and operation of *CulturArts Generalitat*.

## ANNEX 3: MESAV MEMBERS · MARCH 2015

Entities, institutions and teaching professionals in MESAV:

### ATRAU

*Associació de Treballadors de l'Audiovisual  
Valencià*  
(Audiovisual Sector Workers Association)

### MILDENOU

*Plataforma d'afectats i afectades per l'ERO a  
RTVV*  
(Platform of workers affected by the RTVV  
layoff plan)

### EDAV

*Escriptors de l'Audiovisual Valencià*  
(Writers in the Valencian Audiovisual sector)

### AAPV

*Associació de Actors i Actrius Professionals  
Valencians*  
(Valencian Professional Actors and Actresses  
Association)

### CPD

*Col·lectiu de Professionals del Doblatge*  
(Dubbing Professionals' Collective)

*Associació de Directors de Cinema  
Valencians*  
(Valencian Film Directors Association)

### AVAPI

*Associació Valenciana de Productors  
Independents*  
(Valencian Independent Producers Association)

### AVANT

*Associació valenciana d'empreses de producció  
audiovisual i productors independents*  
(Valencian Association of audiovisual  
production companies and independent  
producers)

### CIRTPV

*Comissió Interuniversitària en favor d'una  
Radiotelevisió Pública Valenciana*  
(Inter-university Commission in favour of a  
Valencian Public Broadcasting Network)

### Universitat Jaume I

*Javier Marzal Felici*  
Professor of Audiovisual Communication and  
Advertising  
Director of the Department of Science of  
Communication of UJI  
Member of the Inter-university Commission in  
favour of a Valencian Public Broadcasting  
Network (CIRTPV)

### *Josep Lluís Gómez Mompert*

Professor of Journalism at Universitat de  
València  
Coordinator of the Journalism Degree  
Programme at Universitat de València

### *Santiago Renard Álvarez*

Director of the Department of Language Theory  
and Communication Sciences at Universitat de  
València

### *Juan José Bas Portero*

University Lecturer and researcher.

### *Raúl Carbonell Górriz i Sebastià Hernandis*

Technical teachers of vocational training in  
Image and Sound

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