Online Strategies of Public Broadcasting Services in the Tension Between Sustainable Public Services and State Aid Control

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The aim of this study was to analyze the conflicting situation faced by the public broadcasting service (PBS) companies in Germany. However, the paper points to a possible conflicting situation which fails to illustrate the situation that is unique to Germany. Rather, the situation in the online strategies of the public broadcaster is very similar in all European Union member states (Moe 2010; Donders 2010; 2009; European Audiovisual Observatory 2010; see also for example EC Commission 26.1.2010; 4.3.2011; 24.04.2007; Tosics/van de Ven/Riedl 2008; Depypere/Tigcheelaar 2004).

Key words: digital and Internet economics, media economics, public service broadcasting, European state aid control, public management.

Introduction

The aim of this paper is to analyze a conflicting situation faced by the public broadcasting service (hereafter: PBS; or öffentlich-rechtliche Rundfunkprogramme, as it is named in Germany) companies in Germany. However, the paper points to a possible conflicting situation which fails to illustrate a situation that is unique to Germany. Rather, the situation for the online strategies of the Public Broadcaster is very similar in all European member states (Moe 2010; Donders 2010; 2009; European Audiovisual Observatory 2010; see also for example EC Commission 26.1.2010; 4.3.2011; 24.04.2007; Tosics/van de Ven/Riedl 2008; Depypere/Tigcheelaar 2004).
The digital and online strategies of public broadcasters have provided the background of this paper. Some PBSs are drivers of innovation in the online media. For example, new offerings, such as mediatheks (i.e. catch-up TV), regional information portals, news portals, program guides, edited weblogs, and children’s portal and mobile services (i.e. news apps for smartphones) intensify the dynamics of supply on the Internet. The new digital offerings of PBS improve the scope and quality of online services for consumers, because they allow them to have more diverse professional information and media content with increasing its richness, compatibility, and convenience.

However, public service broadcasters are public undertakings that are committed to a particular public service remit and funded by public money for it. Therefore, the management cannot lead a public service broadcasting company as a private company. This means that the management of public broadcasters must consider whether the innovations are covered by a public service remit. Further trade-offs are possible with the single-market objectives of the European Commission or the EU state aid control. Therefore, the management will have to justify that the new online service contributes to creating a public value for society. This relates to very complex aspects of online services and their impacts on the market, so this may be hardly regulated by law in advance. Therefore, a special approval process has been introduced in Germany. The process can lead to the necessary political decision that PBS is supposed to provide online services (e.g., a regional information portal).

Therefore, this paper discusses the thesis that the online strategies for a public information portal must, for example, consider three factors: (1) the media policy, (2) the media change and the future role of PBS, and (3) state aid control of the European Union. These three factors create a conflict situation which has to be solved by the public management.

The article starts with the most important regulatory frameworks that are relevant to the development of the strategy of a PBS company. After that, the service concepts of the public broadcaster will be presented. For this purpose, the hypothesis states that the retrieval of TV videos online and the offering of applications for mobile devices are the critical areas of the online strategy. At this point, widely divergent value judgments on the critical points become evident. A critical point pertains to determining which services should be provided by public companies in a market economy and how the ratio of public to private companies should be regulated. Then, the contribution illustrates why public broadcasters need to develop online strategies so that they might remain sustainable. Finally, the consideration of state aid control in the European Union will be explained. In order to assess the market impact of new public online services, a form in the hypothetical monopolist test was used in several ex-ante tests in Germany.¹

A conjoint analysis was conducted as an empirical method, and their application is explained. However, the public value of

¹ The hypothetical monopolist test is also referred to as the SSNIP-Test: Small but Significant Non-Transitory Increase in Prices (Motta 2004; Bishop/Walker 2009; Argentesi/Ivaldi 2007).
public online service and its qualitative contribution to the editorial competition and the formation of public opinion are crucial.

The German dual broadcasting system

The German public broadcasters offer 23 TV channels and nearly 60 radio channels, with online services affiliated with each. The online services offer information, news, entertainment, and sports. The services make the broadcasting content available via online videos, livestreams, mobile services for smartphones, and much more.

The key points of the German public broadcasting system are described as follows:

1. The public service remit includes the perspective that the intention of the public service is to create public value. With respect to the public service remit, the PBS company’s objectives are, for example, to ensure the diversity of opinion, to support editorial competition, and to meet the democratic, social, and cultural needs of German society. Public broadcasters have to support the process of democratic, free, and public opinion formation. They are serving both the tastes of the majority and the minority. The legislation of the regional German countries provides a number of programs and specifies their tasks according to programming concepts. The laws of the German federal

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2 The programmatic requirements are based on decisions of the Federal Constitutional Court (Bundesverfassungsgericht); see www.bundesverfassungsgericht.de/en/index.html

3 Especially the Interstate Treaty on Broadcasting and Telemedia, also called Interstate Broadcasting Treaty, the German abbreviation is RStV and stands for “Staatsvertrag für Rundfunk und Telemedien” or short “Rundfunkstaatsvertrag”; an English translation is available, see www.alm.de/fileadmin/Download/Gesetze/RStV-englisch_updated.pdf
states also regulate the supervision and govern the rules and procedures under which the supervisory bodies and leadership positions are filled.\footnote{For example, “NDR-Staatsvertrag” (Interstate Treaty for the North German Public Broadcasting Stations), 1991, November 17th/18th, in its current version that becomes a law in August 1, 2005, see www.ndr.de/unternehmen/organisation/staatsvertrag100.pdf [2011, August 10]}

2. The public financing of PBS is based on license fees. The license fees reach a sum of approximately 7.100 million euro (2008). There are also limited advertising revenues (about 550 million euro in 2008). However, very few television and radio programs are also financed by advertising (e.g., so-called “mixed funding”); their main funding source is the license fee. The PBS Internet services are ad-free offerings.\footnote{See www.kef-online.de Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten (Commission to determine the financial needs of broadcasters).}

3. The special term of “dual” broadcasting system means that the German media policy has created a mixed broadcasting system. The ratio of public to private broadcasting is characterized by audience shares of 40% to 60%.\footnote{See Kommission zur Ermittlung der Konzentration im Medienbereich (KEK) (Commission on Concentration in the Media); www.kek-online.de/cgi-bin/esc/englisch.html}

4. Another key point is the constitutional law requirement that broadcasting must be organized free of the state. This provision is a pecu-

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Fig. 2. German dual broadcasting system: Audience shares of public versus private broadcast groups, January 1996 and June 2011

Sources: KEK, September 2011.
liarity of the German regulation. Therefore, the regulation takes place through the Broadcasting Council which guarantees the internal pluralism. Internal pluralism means that socially relevant groups of civil society ensure the political independence of broadcasting.⁷

5. Germany has 16 federal states (“federalism”). Therefore, another special feature is that the cultural and, therefore, broadcasting sovereignty belongs only to the German regional countries (federal states): only the federal states have the competence to regulate the media.

**Online public broadcasting services and their regulation**

Regarding the new digital and online services, it is necessary to clarify how far the public service remit should reach into the new media sphere. It must be noted that the online services are part of the public service remit. This is necessary, because an offering of online PBS is not natural; rather, PBS and their public service remit concern originally pertained to television and radio stations, not online services. The required political decision and entrustment have been done by the Interstate Treaty on Broadcasting and Telemedia in Germany.

PBSs are now offering online services (so-called “telemedia services”)⁸, for example:

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⁷ For example, see Broadcasting Council of the NDR North German Public Broadcasting Stations, www.ndr.de/unternehmen/organisation/rundfunkrat/mitglieder/index.html

⁸ The German media law denominates the online services as “telemedia services” (“Telemedien”, § 11f 4 RSStV)

→ Web sites of TV newscast (i.e. www.tagesschau.de, the Web site of the wide-reaching TV newscast that offers news, reports, videos);
→ regional information portals and services⁹;
→ online videos (e.g., videos of a political satire journal which is preferred by younger viewers)¹⁰, and
→ catch-up TV (mediatheks¹¹)

and much more. The Web sites make available the TV content as Video-on-Demand (VoD) and as catch-up TV. The offering of catch-up TV is a very important strategic issue. Catch-up TV offers online videos in which the content of the videos is part of the TV program. Catch-up TV makes programs available through the Internet for a period of days after the original broadcast.

However, a critical issue is the TV online-video retrieval. Private broadcasters complain that the PBS catch-up TV services would disrupt the development of their business models for paid VoD services. Therefore, a critical and complex question arises: How long should the online videos be available for retrieval? Only 7 days, or is a longer period of time acceptable? Perhaps an unlimited period of time, or only for 24 hours, as in the case of popular sports programming?

The regulation of the period of availability is the setting screw of the media policy. The regulation specifically provides

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⁹ for example: www.ndr.de

¹⁰ for example: www.ndr.de/fernsehen/sendungen/extra_3/videos/index.html

¹¹ for example, www.ndr.de/flash/mediathek/index.html
restrictions on the period of availability in relation to the offer (see Fig. 3).

If the public broadcaster wants to offer more than 7 days’ online videos, then a prior assessment procedure for the entrustment must be performed. Regarding the prior assessment procedure, the management must create a telemedia concept for the PBS VoD services. The concept must be checked and approved. This prior assessment procedure is called the ex-ante-test or, in German, the three-steps-test (Schulz, 2008; Kops, Sokoll, Bensinger, 2009).

Apps are another example. The term “app” is now very common for specific application programs or software used for modern smartphones and tablet computers. The apps allow for the optimized display of Web pages for mobile devices. Public broadcasters also provide free mobile Web apps in addition to other offers. Newspaper publishers complain that the free mobile online services of public broadcasters create an unfair competition. They claim that the public broadcasters’ free apps would cause the audience to become accustomed to free mobile services. Therefore, users are unlikely to be willing to pay for the publisher-provided apps.

**Media change and the future of public broadcasting services**

The second factor is that the management of public broadcasters must also take into account the ways in which the PBS can remain viable in the future. It is not enough to have a public mandate. Future viability requires that public broadcasters meet the tastes and demands of the Internet users. This means that the services should remain particularly attractive to younger people.

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**Fig 3. Regulation of catch-up TV (online video retrieval)**

Sources: see Article 11d (Telemedia) of Interstate Treaty on Broadcasting and Telemedia (Inters-state Broadcasting Treaty; in German RStV)
**Fig. 4. YouTube: Unique Audience, U.S.: September 2005 to June 2011**

Read as: During the considered month, how many unique people in the U.S. visited the Web site YouTube from their PCs/laptops from home and work locations at least once? Nielsen, NetRatings, www.nielsen-online.com (News & Insights > Nielsen Wire); June 2011
Therefore, attractive online services (e.g., specifically VoD services) are needed. YouTube, for example, shows the direction of change.

Figure 4 shows the U.S.-specific data. The user numbers have quintupled in five years. Considering this dynamic development of demand for online video, the question arises: In comparison, how does the market currently evaluate public broadcasters’ television and radio services? The data for audiences’ program use suggest that public broadcasters’ traditional services – television and radio – are primarily situated in the market segments that are of little interest to private and commercial broadcasters. Among other things, this assessment is based on the age structure of the viewers and listeners. First of all, most viewers or listeners are too old for advertisers. Correspondingly, there are only a few exceptions, i.e. some radio stations are targeted at younger listeners. There are also very few television shows that constitute an exception. However, very few youth-oriented, interesting TV shows are also seen on YouTube, not just the PBS Web site or on TV.

European policy issue: state aid control of the European Union

The regulation by the German Interstate Treaty on Broadcasting and Telemedia is not sufficient from the perspective of the internal market policy. Beyond that, the European state aid control constitutes the third factor. This is why the online services that public broadcasters provide are funded through license fees. A number of state aid complaints about PBS brought by private broadcasters and publishers were filed at the European Commission. Therefore, the European Commission conducted several state aid procedures which were mostly aimed at the scope of the PBS remit for the new media activities.

The European state aid control leads to critical questions when markets on which there is a competition between public and private companies are relevant. Not only is this the case in the media. Similar political fault lines are visible in other sectors, such as the public banking arena. Private companies do not want to compete with public companies. Therefore, stakeholders’ rationale is influenced by the fact that the competition with public enterprises would disrupt their business models and their market opportunities would obstruct or even prevent it.

With regard to state aid proceedings and the public broadcasters’ online strategy, the EU Commission has informed the member states that market impact assessment is necessary when planning a new or a modification of an existing online service. However, the political choice of a dual broadcasting system necessarily implies distortions of competition, because the mere existence of a public broadcaster has an impact on competition as such. The competitive effects occur because the recipients will spend some of their available time on the consumption of publicly offered media. In addition, the editorial competition is explicitly required by the German constitution and the media

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12 For example, N-JOY XTRA, see www.n-joy.de
13 For example, NDR Extra 3, see www.ndr.de/fernsehen/sendungen/extra_3/index.html
14 For example, (9th August 2011) search term “NDR Extra 3” on Youtube and count the views.
policy because it leads to a better quality of media offerings and improves the information conveyed through the media. By contrast, the representatives of public enterprises emphasize that they fulfil the public service remit. However, what is the precise public task? In Europe, the fact that different regulatory models have developed clarifies the public service remit for the online PBS services. The models provide an ex-post evaluation of the fulfilment of the public service remit, including public financial control. Institutional innovations are also being introduced in the EU member states, which, like the “three-step test,” have the objective of introducing an ex-ante regulation of new PBS.

What to check? First, the public value assessment must be conducted. The assessment will answer the question whether the new online public broadcasting service creates a public value. Second, before the question can be answered by the public value, the market impact assessment and research are required. The market investigation should analyze whether a new online public broadcasting service will create a negative impact. This assessment results in a balancing decision that must be made.

**Market investigation**

To carry out a market impact assessment on an empirical base, it is necessary to gather data of the preferences of relevant target groups. There are two main fundamental approaches to execute a survey: compositionality or de-compositionality. The tools of the compositionality methods are based on questioning single dimensions of a product, service or something else. The most commonly used method...
is the so-called Likert scale. The proband has to evaluate many independent criteria between the worst and the best attribute value. The advantage is a relatively simple calculation of the aggregation of the total performance of the object. The disadvantage is that this questioning does not reflect a concrete consumption decision situation. More advanced methods are the de-compositional approaches. Under this umbrella there are several conjoint modi operandi. At the edge of the scientific progress is the choice-based conjoint analysis. Surprisingly, it is also preferred by large enterprise consulting companies. The frame of this method is applied to a real consumption situation. The proband has only to make a decision about his preferences concerning concrete alternative products. He has to calculate the overall utility based on an assessment of the trade-offs between the levels of attributes and the compensation against each other.

So, the input for the analytical face is only the priority of one product conception. The result of this enquiry is not based on a metric scale; therefore, the so-called “dummy” calculation is necessary.

The statistical utility multinomial logit-choice model looks as follows:

\[
\text{Prob} \left( k \right) = \frac{1}{1 + \sum_{k' \neq k} e^{-\beta_i u(k) - u(k')}}
\]

\[
U_k = \sum_{j=1}^{J} \sum_{m=1}^{M} b_{jm} x_{jmk}
\]

\[
b_{jm} = \text{part-worth of level } j, \text{ attribute } j, \text{ level } m;
\]

\[
x_{jmk} = \text{Dummy Variable } = 1 \text{ if Concept of Product } k, \text{ relating to attribute } m, \text{ level } j \rightarrow \text{ otherwise } 0;
\]

\[
\beta_i = \text{Rationality of the proband } (i).
\]

There is a summation of partworths (part “utilities”). It is the probability concept based on an iterative maximum likelihood calculation. So, the result is the probability of a chosen attribute.

If there is a decision in favour of the conjoint based analysis, the next step will be designing the questionnaire with the following requirements:

\rightarrow full profile method: all relevant levels and attributes have to be integrated to choices;
\rightarrow non-option: consumer must have the option to choose none of the levels;
\rightarrow supplier must have the possibility to configure or to influence the levels;
\rightarrow levels and attributes must be relevant to the evoked set of the consumer;
\rightarrow levels have compensatory interrelations.

In relation to German ex-ante tests, the conjoint analysis has been carried out several times to examine the impact on the market. The following model example illustrates how the conjoint analysis is applied to define and examine the possible impacts of a new PBS online service on markets. In relation to this kind of service, we carried out an experiment with students in our university lab.

The criteria regarding the attributes and levels of this type of provider were:

\rightarrow Content:
- mix of news, entertainment, etc.
- News, background reports;
- entertainment, lifestyle.

\footnote{For detailed information on the different conjoint studies that were performed for several German three-step-tests, see among others: Goldhammer / Wiegand 2009, 2010; Gundlach / Hofmann, 2010; Hildebrand / Böge, 2009a; 2009b; Rotermund / Krob / Klatt, 2009.}
→ Advertisement (with / without).
→ Information service:
  – information from administration;
  – hint over lifestyle;
  – cultural information;
  – price robots.
→ Regional information:
  – part of Germany;
  – federal state of Germany;
  – counties of a federal state;
  – local from individual town / community.

The calculation was operated by the special Sawtooth software:
CBC System Multinomial Logit Estimation: Copyright 1993–2010
Sawtooth Software
Name/Description: Logit Run Total Main Effects
Tasks Included: All Random: Total number of choices in each response category:

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<thead>
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<tr>
<td>1</td>
<td>5813</td>
<td>47.45%</td>
</tr>
<tr>
<td>2</td>
<td>5727</td>
<td>46.74%</td>
</tr>
<tr>
<td>NONE</td>
<td>712</td>
<td>5.81%</td>
</tr>
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Iter 1 Chi Square = 6168.32744 
rlh = 0.42875
Iter 2 Chi Square = 6752.09675 
rlh = 0.43909
Iter 3 Chi Square = 6785.12749 
rlh = 0.43968
Iter 4 Chi Square = 6785.36515 
rlh = 0.43968
Iter 5 Chi Square = 6785.36516 
rlh = 0.43968
Overall Fit = Significance of the comprehensive model. The assumption that all effects are zero is compared with the estimated effects. Twice the difference between the two likelihood values is distributed by Chi-square values.

Chi-square = 6785, degree of freedom 12, p < 0.01 (26.21).

The estimation of the “Fit” of the model was extremely significant.

Result of the estimation of the utilities:
Case: Levels of Regional Information

<table>
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<tr>
<th>Effect</th>
<th>Std er</th>
<th>t ratio</th>
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<tbody>
<tr>
<td>1</td>
<td>-0.11254</td>
<td>0.02055</td>
</tr>
<tr>
<td>Part of Germany</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>-0.10674</td>
<td>0.02054</td>
</tr>
<tr>
<td>Federal state of Germany</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>0.04337</td>
<td>0.02042</td>
</tr>
<tr>
<td>Counties of federal state</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>0.17591</td>
<td>0.02044</td>
</tr>
<tr>
<td>Local from individual town community</td>
<td></td>
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“Effect” is synonymous with utility (part-worth) for each level (sum = 0 for each attribute). The larger the utility, the more preferred is a level. A negative sign means not a negative but a small, marginal utility. Maximum likelihood estimates follow an asymptotic normal distribution. The significance test of the null-hypothesis (= independent variables have no influence) 

\[ t = \text{Logit coefficient (effect) / corresponding standard error.} \]

Absolute t-value >1.96, null-hypothesis is disregarded (probability error = 5%).

The result is a comprehensive profile of preferences that represents the probability of using the Online Services relating to the different attributes. Based on this market information the provider are able to optimize their offer.
Market impact research

As mentioned above, it is necessary to prove the compatibility, the balance between the private and the public sectors. Therefore, the relevant market has to be defined and the substitution power of the market participants measured. Actually, the practice in the EU and USA is to carry out the so-called SSNIP (Small but Significant, Non-transitory Increase in Price).

The conception is as follows: if a supplier increases the price and there is no loss of demand, this will be an indicator that he is a monopolist. The public sector

![Graph showing part-worths, part-worth levels: regional information](image)

**Fig 6.** Part-worths, part-worth levels: regional information

![Chart showing substitution effects](image)

**Fig 7.** The SSNIP test
has no instruments of price setting; therefore, as an equivalent, a reduction of the main quality criterion is often used to prove the market power. In the frame of the present experiment, we have simulated the reduction of the attribute “entertainment” of the public provider. The latter loses nearly 50% of its market share (= share of preferences) and, mirrored to the relevant supplier of the private sector in the region studied, the result was an increasing market share. Thus, in our case, the public provider is not a monopolist. It is a healthy situation of competition between the public and private sectors.

Another perspective of the potential of this market impact research is to prove that a market entry of a public provider with a new product will stimulate the competition of quality in the market. This would be the case if there is a low competition in the “base case”. Normal economic consumption is that the effect of an increasing competition will stimulate an increasing quality.

The result of our market research is as follows: if the public broadcaster provides a new special county-based online service, the private provider will lose substantial market shares. Thus, a reaction is necessary.

**Summary**

The authors of the article argue that the public management of PBS is faced with a conflicting situation. Such a scenario pertains to public service companies in Germany as well as in all European member states. Some public broadcasting services are indeed drivers of innovation in online media. However, the authors also emphasize that the public broadcasters’ management cannot lead the company as though it were a private enterprise, due to the fact that public service broadcasters are public undertakings that are committed to
a particular public service remit and are funded by public money for it. Therefore, the management will have to justify that the online strategies contribute to creating the public value and that they are in compliance with the competition policy and state aid control of the European Union. The current critical issue is the TV online-video retrieval. Private broadcasters complain that the PBS catch-up TV services would disrupt the development of their business models for paid VoD services. Therefore, the German media policy introduces the regulation of the period of availability in relation to the offer and its content. The specific regulation has become the setting screw of the policy.

However, the management must consider how the PBSs can remain fit for the future. This particularly means that the services should remain attractive to younger people. Therefore, appealing online services and, in particular, attractive VoD services are vital.

The European state aid control constitutes the third factor that a successful strategy must consider. Therefore, market impact assessment is necessary for a new Internet service. However, first, a prior assessment procedure must clarify which public value the new PBS creates. Before the question of the public value can be answered, the market impact assessment is needed. The market investigation should answer the question: if anything, what negative impact on markets will be generated by a new online public broadcasting service? A specific empirical application of the hypothetical monopolist test, in combination with a conjoint analysis, calculates the amount of emigration or immigration of consumers that will take place due to an alteration of the level of a product attribute (e.g., price, quality, or customer service). Regarding the case of a public service information portal, it calculates the shift in the amount of users who do not use an online service because of the deteriorated quality of the content. Finally, however, the public value of a public online service and its qualitative contribution to the editorial competition and to the formation of public opinion is crucial. Therefore, a balancing decision must be made.

**LITERATURE**


ROTERMUND, Hermann; KROB, Jürgen; KLATT, Heiko (2009). Marktgutachten einsfestival.de. Ludwigs GmbH & Co. KG – Die
Sandra autoriai teigia, kad viešas visuomeninio transliavimo paslaugų valdymas atsidūrė prieštaravingame padėtyje. Toks scenarijus tinka viešųjų paslaugų įmonėms ne tik Vokietijoje, bet ir visose Europos Sąjungos šalyse narėse. Kai kurios visuomeninio transliavimo paslaugos iš tiesų skatina internetinęs žiniasklaidos naujoves. Tačiau autoriai tai pat paaiškina, kad visuomeninių transliuotojų vadovybė negali valdyti įmonės taip, lyg ji būtų privati, nes viešųjų paslaugų transliuotojai yra viešosios įstaigos, įsipareigojusios vykdyti konkrečią viešųjų paslaugų funkciją, finansuojamą valstybės lešomis. Taigi, vadovybė turėtų pagrįsti, kad internetinės paslaugos ateityje būtų patrauklios jaunajai auditorijai. Taigi, svarbiausia yra patrauklios internetinės paslaugos ir ypatingai užsakomosios vaizdo tvarkymo paslaugos.

Vis dėlto autoriai privalo atsargiai vertinti taip pat skiriamą naudą informacijos portalui. Tai yra svarbus procesas, kuris įrodys ateityje, ar naudojantis internetiniu paslaugų tinkamu galima tobulinti. Taigi, privaloma rasti kompromisinį sprendimą.