



**International Foundation for Election Systems**

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***ASPECTS OF POLITICAL FINANCING:  
ADDRESSING SPECIFIC OBJECTIVES FOR REFORMS  
IN THE RUSSIAN FEDERATION***

**by**

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## **CONTENTS**

### **Introduction    Some objectives of reforms of regulations relating to political financing in Russia.**

- Tackling the problem of too many competing candidates and electoral associations in Russia.
- Tackling the problem of enforcement.

### **One                Regulating political broadcasting on television and radio, with special reference to privately owned media.**

- Publicly owned versus privately owned media.
- Political broadcasting during the period that immediately precedes an election versus political broadcasting during ‘electoral peacetime’.
- Regulations relating to advertisements by candidates, parties and electoral associations; regulations relating to the neutrality of news broadcasts and current affairs programmes; and regulations relating to entertainment programmes and other ‘non-political’ broadcasts.
- Legal versus non-legal controls.

### **Two                Alternative formulae for distributing public financial subsidies to parties, electoral associations and electoral blocks.**

- Different concepts of ‘fairness’.
- Types of state financial aid to political parties and candidates.
- Examples of allocations of state financial aid to political parties and candidates.
- Examples of methods of allocating free broadcasting time to political parties.

### **Three              The use of financial deposits as a method to regulate the number of candidates.**

### **Four                The use of the doctrine of ‘agency’ to regulate unauthorised campaign expenditures.**

### **Appendix        Further issues relating to the regulation of free political broadcasts by political parties.**

## ***INTRODUCTION      SOME OBJECTIVES FOR REFORM OF REGULATIONS RELATING TO POLITICAL FINANCING IN RUSSIA***

This paper will address some of the main questions raised during the roundtable conference organised by the International Foundation for Election Systems and the Central Election Commission of the Russian Federation at the Aerostar Hotel, Moscow on 18 December 1997. The title of the roundtable was Campaign Finance Disclosure and Enforcement: Russian and Comparative Perspectives. It also discusses questions raised at additional meetings with staff members of the Central Election Commission on 17 and 19 December 1997.

The following five core issues were discussed at these meetings:

### **1.      BROADCASTING**

- What are the methods used in other countries to regulate political output on the broadcast media?
- In particular, how are privately-owned television and radio stations regulated?
- Apart from rules concerning political broadcasts by candidates and electoral associations, is it possible to regulate news broadcasts and other programmes to ensure that they are free from partisan bias?

### **2.      PUBLIC FINANCING OF CANDIDATES AND ELECTORAL ASSOCIATIONS**

- What formulae are used in other countries to allocate public funds to competing candidates and parties?
- What are the practical implications of alternative formulae?
- Does 'fairness' mean that every party or electoral association must be given an equal share regardless of its size, political significance and past electoral performance?

### **3.      FINANCIAL DEPOSITS**

- Is a system of financial deposits for candidates at parliamentary elections (such as that in Britain) a reasonable and effective way of discouraging 'trivial' candidates?

### **4.      THE DOCTRINE OF AGENCY**

- Does this legal device, used in Britain, Canada and elsewhere, make it easier to control unauthorised campaign expenditures?
- Precisely how do the rules relating to 'agency' operate?

### **5.      ENFORCEMENT AND PENALTIES**

- In practice, are serious penalties for contraventions of laws regulating the financing of political campaigns ever imposed in other countries ? Or are the penalties merely theoretical ?
- Are there any suitable intermediate penalties between what might be viewed as the extremes of, on the one hand, small fines and, on the other hand, of substantial prison sentences ?

The first four of these topics are considered in this paper, the fifth will be the subject of a separate paper prepared by Robert Dahl.

Though the above questions will be considered separately, they reflect two main concerns that were repeatedly expressed. These underlying problems may be summed up as (a) too many competing candidates and electoral associations in Russia and (b) poor enforcement of regulations relating to political financing.

The emergence of a confusingly large number of competing political organisations is characteristic of systems where competitive elections have a relatively short history. The fact that the number of electoral associations is now seen as an issue for regulators is, in my view, a healthy sign that Russia is moving to a new stage of democratic development.

Why does a large number of electoral associations pose a problem? The existence of 43 electoral associations, as in 1995, is a problem because, quite simply, it makes it very hard for voters to make an informed, well-considered choice since they are faced with a confusingly large number of alternatives. In William Shakespeare's play The Merchant of Venice, the heroine, Portia, had to make a choice between three different suitors. Imagine what the play would have been like if Shakespeare had been obliged to base the plot on the Russian elections of 1995. Portia would have had not three suitors (or 'electoral associations') but 43. The rules would have forced the Bard to give equal time in his play to every claimant for the princess's hand in marriage. The audience would have fallen asleep from boredom and confusion.

Assuming that there are too many competitors for electoral office in Russia, is it possible and is it desirable to introduce regulations designed to reduce the number of candidates and the number of electoral associations or parties?

First, it is well known by political scientists that each country's electoral system tends to affect the number of parties. (a) Majoritarian systems (such as those of the United States, Britain, and Canada) usually produce fewer political parties, while systems of proportional representation usually lead to greater numbers of parties. (b) Within systems of proportional representation, the number of parties may be reduced by rules which prevent small parties which fail to obtain a minimum threshold of the national vote from winning any seats in the legislature. This device to limit the number of parties within a proportional system is associated with postwar Germany and, of course, exists in Russia too.

Second, apart from rules relating to the electoral system, the number of political parties and the number of candidates may also be affected by regulations concerning the funding of elections. At

one extreme, it is possible to impose financial restrictions on would-be candidates. These are considered in Section Three below. In Japan, each candidate is required to make a financial deposit of no less than ¥ 2 million (about US\$16,000).

By contrast, systems encourage the proliferation of parties or electoral associations if they provide equal shares of free broadcasting time and public subsidies to all of them regardless of their size and their past electoral performance.

Although it seems sensible to consider institutional reforms - including those concerning political financing - that are likely to discourage the multiplication of electoral forces, it is nevertheless a matter of judgement how far the rules should penalise small parties. Countries where the rules strongly discourage the emergence of new political parties (as in the United States) may be open to criticism as are those (such as Russia) where there arguably exists a confusion of electoral actors.

## ***SECTION ONE      REGULATING POLITICAL BROADCASTING ON TELEVISION AND RADIO, WITH SPECIAL REFERENCE TO PRIVATELY OWNED MEDIA***

In most countries, television and, to a lesser extent, radio have become the most powerful channels of communication for entertainment, for news broadcasts and for political information. This causes problems both for stated-owned and private media.

Ownership of the media by the state need not always lead to control of broadcasts by the government of the day - but it often does. A common complaint in a number of countries is that the government uses its influence over publicly owned television channels to ensure that the news broadcasts give an unreasonably favourable slant to the actions of the party in power and of its leaders. The bias is especially pronounced in the weeks before an election.

Where a popular television station is privately owned, there may be equally serious problems, especially if there is a single owner or a small number of owners and if the owner has political ambitions for himself. A prime example is Italy, where the media mogul, Silvio Berlusconi, entered politics. Obviously, there is a strong temptation for a powerful private owner to use television channels which he owns to forward his own viewpoints and interests and not to use those channels to present information in a neutral fashion.

It is convenient to consider the problems of political broadcasting under the following headings:

1. Publicly owned media versus privately owned media.
2. Political broadcasting during the period that immediately precedes an election versus political broadcasting during 'electoral peacetime'.
3. Regulations relating to advertisements by candidates, parties and electoral associations; regulations relating to the neutrality of news broadcasts or current affairs programmes; and regulations relating to entertainment programmes and other 'non-political' broadcasts.
4. Legal versus non-legal controls.

## ***1. Publicly owned versus privately owned media***

During the conference at the Aerostar Hotel and in subsequent discussions, a few participants appeared to assume that privately owned media cannot be subjected to public control. Yet there is a basic distinction between private ownership and unfettered private control. Quite simply, the fact that a television channel is privately owned does not mean that it need be immune from public regulation. Indeed, broadcasting channels have (until recently) been subject to tight regulation and licensing in most Western countries.

The distinction between ownership and regulation is seen in many fields. For example, most cars in Britain as in other countries are privately owned. Yet, private owners must obey a number of public regulations. Owners cannot drive a car on the public highway unless they have previously taken out insurance in case of accidents; they cannot drive the car if the tires, lights and other parts of the vehicle do not conform to public safety standards and if they have not passed certain tests carried out by authorised inspectors; the owner cannot drive the car unless he has passed a specified driving test; and so on.

In the case of mass media, private channels may similarly be subject to important regulations concerning political broadcasts.

Types of public regulation of privately owned television and radio stations include the following:

### ***a. Anti-monopoly measures***

Control of TV and radio bestows great political influence and for this reason requires especially careful and tight regulation. The main television channels are each powerful, in the first place, because TV has emerged in recent decades as by far the most popular and formative channel of communication. In the second place, technology has permitted only a limited number of television and radio channels. Whereas it has been possible - given the political freedom and the will - to create numerous publishing outlets of all sizes, broadcasting has been a near monopoly. (Admittedly, this situation is changing in some countries with the introduction of new technologies. Cable television is creating numerous alternative channels and is slowly challenging the dominance of the traditional television channels.)

It is possible and may be appropriate to use the legal controls of monopolies that exist in a number of countries to prevent or at least to limit the concentration of ownership of the media. In Britain, rules not only control the proportion of television stations that may be owned by one financial interest, but they also place limits on the extent to which owners of newspapers may invest in television and commercial radio stations.

b. *General regulations and standards regarding television and radio programmes*

In Britain, newspapers may advocate whatever political policy their owners and editors desire. By contrast, the legislation regarding both public broadcasting (the British Broadcasting Corporation) and commercial television and radio stations lays down that they must be *politically neutral* in their programming.

In the early days of television, the executives who ran the BBC considered that the only way of assuring politically neutral broadcasting, especially during general election campaigns, was to broadcast no news about the election. A later view has been that broadcasts may be 'neutral' if they are balanced. Some news programmes may report one viewpoint provided that other programmes report opposing positions.

c. *A ban on paid political advertisements*

One type of regulation in a number of countries is that private television stations are not permitted to accept payment for advertisements by political parties or by other political organisations. Again, Britain is an example. Originally this ban came into operation when the director general of the BBC ruled that its charter, which required that it should act in the 'national interest' precluded paid political advertisements. When Winston Churchill wrote to the director general in 1929 offering to pay £100 to be able to make a ten-minute radio broadcast on the subject of India, the director general refused, explaining that he was not willing to introduce "American" methods into British broadcasting.

d. *Requirement to make broadcasting time available to parties and/or candidates for free political advertisements*

One common method is to oblige the broadcasting authorities (both those in charge of operating publicly owned networks and the owners and operators of privately owned channels) to transmit party election broadcasts as a condition of their licenses. Making time available for free political advertisements is a service the broadcasting networks are legally obliged to provide. As far as expense is concerned, this is obviously a cost-free way to provide assistance to the political parties - it is the broadcasting networks rather than the tax-payers who must foot the bill. (Britain is one country which uses this method.)

In countries where the legal frameworks controlling broadcasting do not permit the State to compel TV and radio channels to provide free time for parties and candidates, or if it is considered undesirable to make this demand on the owners of the broadcasting stations, an alternative (though expensive) method of securing this free time is possible. In Mexico, for example, the government provides funds to the central authority responsible for administering elections and this authority then purchases broadcasting time from the TV networks, which is then allocated to the rival parties.

It is important to note that provision of free broadcasting time for parties and/or candidates during the period that proceeds an election is the normal practice in Western democracies. The



United States is the main exception. Formulas for allocating this free time are considered later.

Some of the more detailed issues involving free time for political broadcasts are discussed in an appendix to this paper.

*e. Regulation of paid political advertisements in countries where they are permitted*

In countries where paid political advertising on TV and radio is allowed, it is normally subject to regulations.

First, there are rules that prevent the TV networks from profiting at the expense of the parties by demanding especially high rates for advertising time. In Canada, the rate charged to political parties must correspond to the lowest rate charged to non-political advertisers.

Second, the broadcasting networks may be required to make a certain amount of time available for political advertising during the period immediately before an election. This regulation is likely to be unpopular with the TV managers who will often resent having to limit the amount of time given to paid commercial advertisements during the pre-election period. For example, the Canada Elections Act requires every broadcasting station to make a total of six and a half hours available for political broadcasts during a period beginning on the 29th day before the poll and ending on the second day before the poll.

Third, rules commonly stipulate that a broadcasting station cannot make time available to one party for paid political advertising without making time available to other parties. It cannot say to a party - possibly one with whose views the owners of the broadcasting station disagrees - "We are sorry, but all the available time for advertisements has already been booked!" If there is only a limited total amount of time available for all paid political advertisements, and if the demand from parties for this time exceeds the supply, then there will need to be a method of fair allocation of paid time between the rival parties and candidates. This raises questions similar to those regarding the allocation of free broadcasting time, and these are discussed later.

One possible abuse is that a broadcasting station may make advertising time available to a party it favours and charge an unusually low rate. Such a reduction will amount, in practice, to a disguised political donation to the party by the broadcasting station and its owners. To guard against this possibility, regulations in Australia stipulate that broadcasting stations must make disclose in detail information about all political advertisements accepted during an election campaign and must detail the costs charged for each of them.

2. *Political broadcasting during the period that immediately precedes an election versus political broadcasting during ‘electoral peacetime’*

Clearly, the public is most interested in campaign issues during the days and weeks that immediately precede an election. However, political opinions are moulded not merely in this final period but also during the months and years of ‘electoral peacetime.’

Assuming that it is necessary to distinguish between the rules that apply in ‘electoral peacetime’ and those that apply in the ‘pre-election’ period, two issues therefore arise: first, how is the ‘pre-election period’ to be defined? Second, what rules should apply to political broadcasting during ‘electoral peacetime?’

a. *Definitions of the ‘pre-election’ or ‘campaign’ period*

The question of this definition is vital whenever special rules apply to the this period. Since ‘electoral peacetime’ and the ‘campaign period’ are in practice indistinct, the technical boundary between them is inevitably somewhat artificial and complex. In countries such as Canada, the issue of defining ‘campaign’ from ‘non-campaign’ has been the subject of detailed examination by the Canadian Royal Commission on Electoral Reform and Party Financing, 1991 (The Lortie Commission.) These details can be made available if needed. For present purposes, only some brief examples will be given:

- i. *Australia and Canada:* The ‘election’ period lasts from the time the election writ is issued to the time until the close of polling. In Canada, too, the start of the official campaign period is the same. As far as regulations concerning paid advertisements by political parties are concerned, the Canada Elections Act, as already mentioned, defines the campaign period as the time beginning on the 29th day before the poll and ending on the second day before the poll.
  - ii. *Britain:* The campaign starts, for the purposes of spending limits incurred by parliamentary candidates, at whatever time they start campaigning. For this reason, a would-be candidate will normally arrange to postpone his nomination until after the election date has been announced by the Prime Minister. It is from the time that he has been formally nominated (usually by the local organisation of his party) that the expenses clock starts to run. Before nomination, a candidate can in practice start to ‘nurse’ the constituency provided that he is careful to refer to himself as “prospective parliamentary candidate” but never as the “parliamentary candidate.”
  - iii. *Japan:* The length of the formal campaign period is only 12 days.
  - iv. *Turkey:* Regulations relating to the fair use of news broadcasts starts 15 days before the poll and free party political broadcasts are squeezed into the final seven days before voting day.
- b. *Entitlements of political parties to free broadcasting time in the period between election*

### *campaigns ('electoral peacetime')*

In some countries, political parties are given time for free political broadcasts on a regular basis and even when no election is in the offing. Normally, the amount of time given for these broadcasts in 'electoral peacetime' is less than during the campaign period.

A system of allocating free time to political parties during electoral peacetime will work only if political parties (or electoral associations or electoral blocks) that have contested the last election continue to exist as distinct organisational entities. If there is a split within a political party that fought in the previous election, or if a new party or electoral association comes into existence after the previous election, problems of allocation of time will arise.

Examples of free party political broadcasts in 'electoral peacetime' are as follows:

- i. *Britain*: Precise allocations vary from year to year, but the system is broadly similar to that outlined in Michael Pinto-Duschinsky, *British Political Finance, 1830-1980*. (Washington, DC: American Enterprise Institute for Public Policy Research, 1981, table 69.) Each of the two main political parties is normally entitled to six free party political broadcasts per annum of up to ten minutes each. (This compares with five such broadcasts during the campaign period, which usually lasts in Britain for three to four weeks.)
  - ii. *Mexico*: The 1993 amendments to the Electoral Code charged the Federal Electoral Institute with buying and allocating 15 minutes per month on television and radio for each party.
3. ***Regulations relating to advertisements by candidates, parties and electoral associations; regulations relating to the neutrality of news broadcasts or current affairs programmes; and regulations relating to entertainment programmes and other 'non-political' broadcasts***
- a. *Is it possible to control bias in news bulletins?*

Advertising time allocated to political parties and/or candidates, regardless of whether it is free or paid for, is likely to be of relatively limited importance in persuading the voters in comparison to the daily diet of regular news broadcasts and reviews of current affairs. Even if a system of free party political broadcasts works fairly, it may be possible for state owned channels to project a pro-government line in their choice of news items and for privately owned stations to arrange for news programmes to reflect the political bias of their proprietors.

Examples of allegations of manipulation of the airwaves by governments include the following:

- i. *Mexico*, 1994: The National Action Party (PAN) and the Party of the Democratic Revolution (PRD) accused the networks of biased coverage in favour of the PRI. They especially criticized Televisa, a network watched by 80% of the Mexican television viewers. In July 1994, Televisa ignored one of the biggest PRD rallies of the campaign, while it spent 22 minutes of air time on now-President Ernesto Zedillo. PRD has called Televisa “one of the pillars that sustains the authoritarian regime.”
- ii. *Malaysia*, 1982: “The news programmes [on television] were filled with ministers opening schools, temples, bridges, roads and virtually anything else that could be opened during the weeks before the election.”<sup>1</sup>

Ultimately, the best way to protect the public against bias such as that alleged in the above examples is to foster a tradition of professionalism and independence among the broadcasters so that professional pride will help them to resist pressures from their proprietors (public or private) to manipulate the news. However, it may also be possible to assure some fairness by introducing some rules about the composition of news bulletins, especially those in the campaign period. Two examples of this are *Britain* and *Turkey*.

- iii. *Britain*: During the campaign period immediately before a general election, which normally lasts three or four weeks, news bulletins must give coverage to the activities of the rival parties and their leaders which is proportional to each party’s entitlement to free party election broadcasts. For example, if the Labour and Conservative Parties each are entitled to five free broadcasts of ten minutes each and the Liberal Democrats are entitled to four such broadcasts, then the number of minutes of coverage given on news bulletins to each of the parties and their leaders during the campaign must also be in the ratio of 5:5:4. The same applies to the coverage of these parties in current affairs discussion programmes.

This division of time is a fairly crude device. If broadcasters are determined to favour a particular party, they may use the minutes allowed to cover its activities to broadcast favourable events in its campaign; another party - whom the broadcasters wish to damn - may be given a similar number of minutes, but these minutes may be used to portray this rival party in a poor light. In practice, this ‘stop-watch’ method of control of news bulletins during election campaigns has nevertheless worked fairly well in Britain.

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<sup>1</sup>H. Crouch, *Malaysia’s 1982 General Election*. Singapore: Institute of Southeast Asian Studies, 1982, p. 38. Cited in Library of Congress, Law Library, *Report for Congress: Campaign Financing of National Elections in Selected Foreign Countries*. Washington D.C.: July 1995, LL95-4,95-1354.

- iv. *Turkey*: During the period that begins 15 days before the election and ends at 6 p.m. on the eve of the elections, radio and television news bulletins must contain messages that are submitted by the political parties participating in the elections. The High Election Board limits the number of words in each party's text.

Further questions arise about the rules for the broadcasting of debates such as the famous and probably decisive TV duels in the 1960 presidential election in the United States between John Kennedy and Richard Nixon. The regulation of televised political debates raises complex questions, especially where the debates have to attempt to be fair to a number of parties or candidates. International practice varies considerably regarding such debates and this important subject will not be considered in this paper.

- b. *Is it possible to control possible political bias in 'non-political' programmes such as plays, historical dramas and portrayals of every-day life ('soap operas')?*

According to some market research, the greatest influence on the political opinions of electors is exerted not by news bulletins or by party political broadcasts; more important than these are apparently 'non-political' programmes. A celebrated example of this is the work of Charles Dickens, whose novels probably did more to publicise the poor conditions in parts of Britain in the nineteenth century than did the studies and pamphlets of Friedrich Engels.

At the present time, every-day dramas - the so-called 'soap operas' - that are compulsive TV viewing in many countries may have a political bias. They may either show the supposedly typical characters in relatively prosperous surroundings or they may show them confronting grave social problems.

Unfortunately, it is hard to tackle such bias without at the same time imposing unacceptable restrictions on freedom of expression of authors and broadcasters. Non-legal controls may be as effective (and more acceptable) than legal controls.

#### **4. *Legal versus non-legal controls***

There are three main forms of independent control of the output of broadcasting stations, one of them legal, one of them non-legal but statutory, and one of them informal.

- a. *The right of aggrieved political parties and individuals to appeal to the Courts*

If the legislation concerning broadcasting includes a general obligation on broadcasters to be neutral or to avoid political bias, it will be open to those who feel that the rules have been broken to appeal to the Law Courts. In some cases, it may be possible for a political party to obtain an emergency injunction against a broadcast which, it feels, breaks the rules. Indeed, the law may be a useful weapon of last resort, especially if the senior members of the judiciary are politically independent. Very occasionally, British parties have successfully appealed to the Courts to stop a politically unfair broadcast.

b. *Statutory review bodies*

In a number of countries, there is a provision in the laws governing broadcasting for an independent committee or for a single independent regulator or arbitrator to review controversial matters relating to political broadcasts. If the review body contains a number of members, then it will usually include personages drawn from different parties and from different fields of public life (on a basis similar to the composition of a central election commission).

c. *Independent, unofficial monitoring bodies*

Even though these bodies rarely have an official status, they may be influential if they monitor political broadcasting and bring to light any obvious bias or lack of balance.

- i. *Britain:* A media research group based at Glasgow University has regularly monitored television output before and during election campaigns.
- ii. Another example comes from *Mexico*: A study done by the Mexican Academy of Human Rights on news coverage by the air programs “24 Horas” ... of the Televisa Network and “Hechos” ... of the Azteca Television Network, from January-April 1994 found that the PRI had a 3:1 advantage in total air time compared with PAN and PRD, which were the two strongest opposition parties.”<sup>2</sup>

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<sup>2</sup> Cited in Library of Congress, 1995, p. 160.

## ***SECTION TWO ALTERNATIVE FORMULAE FOR DISTRIBUTING PUBLIC FINANCIAL SUBSIDIES TO PARTIES, ELECTORAL ASSOCIATIONS AND ELECTORAL BLOCKS***

### ***1. Different concepts of ‘fairness’***

Elections need not only to be free, they must also be fair and ‘genuine’. This is set out - albeit in brief and broad terms - in a number of international instruments such as the 1948 Universal Declaration of Human Rights (article 21), the 1966 Covenant on Civil and Political Rights (Article 25). The idea of fairness is thus basic to democratic practice. Indeed, it is incorporated into Germany’s postwar constitution. Article 21 of the (West) German Basic Law of 1949 sets out the principle of *Chancengleichheit* (equality of opportunity). In the United States the most commonly used term is a ‘level playing field.’ This term has become common in modern English usage, particularly in the USA, to refer to competition on a fair basis. It is an allusion to a football field where neither side has the advantage of running downhill against opponents who are handicapped by having to run uphill.

Yet the terms such as ‘fairness’ and ‘level playing field’ may have a number of different, contradictory meanings. They include:

- a. fairness of outcome (for example, all political parties or electoral associations should have the same allocation of free television time or of state finance);
- b. fairness as a bias towards opposition or small parties (e.g., the small parties should have especially large portions of free television time or state finance since they need it most);
- c. fairness based on the extent of each party’s political support (e.g. free television time and state funding should be proportional to each party’s share of the vote at the last election).

Each of these alternative concepts of ‘fairness’ will now be examined in more detail. The examination will show that the first concept of ‘fairness’ - equal shares for all political parties regardless of their size - is usually inadequate and is, by international standards, unusual. This form of ‘fairness’ has usually been adopted only in the early years after the transition to multi-party democracy in countries where new parties and electoral associations have (for the obvious reason that there have been no earlier competitive elections) failed to establish any record of past performance.

It is thus usual and logical for countries to start with rules that provide for equal aid for all parties and electoral associations regardless of size but subsequently to move to other methods of allocation of state financial aid.

a. *Fairness as equality of outcome*

Arguably, one way to ensure that each party and each candidate is treated fairly is to provide precisely the same opportunities and subsidies to each irrespective of their size and popularity. The argument for giving all parties and all candidates an equal share of free television time or of financial subsidies is that they all require an equal opportunity to put their case to the electors.

This is the principle followed for the allocation of free postal facilities to parliamentary candidates in *Britain*. Candidates nominated by major and minor parties as well as independent candidates have equal entitlements.

By contrast, it can be argued that equal treatment for major parties and for fringe groups is both impractical and unjust. It is arguably unreasonable to give a fringe party the same public benefits and the same financial aid as a major party. For a fringe party, that may have only a handful of members, the chance to obtain even a few minutes of free time on television represents a huge benefit. By contrast, that same few minutes will be inadequate for the major contenders. Where there are dozens or hundreds of competing parties, a policy of allocating precisely the same amount of time to each inevitably results - as argued earlier - in near chaos as electors are confronted with a multitude of different messages.

Moreover, such an 'equal time' policy may conceal a strong bias against the main opposition parties. The governing party will normally have separate opportunities to project itself. If the main opposition party receives the same small slice of free television time as dozens of insignificant parties, it will receive a wholly inadequate opportunity to present its message, something that will help the government. The unsatisfactory results of the policy of equal television time for large and small parties has been seen in founding elections in several of the previously Communist countries of Eastern Europe and the former Soviet Union.

One compromise is to divide subsidies into two categories: first, one relatively high level of subsidy for all parties gaining over, perhaps five percent and the second lower level subsidy for all parties with a voting support of, perhaps, one-and-a-half to five percent.

b. *Fairness as a bias towards opposition parties and small parties*

It may be argued that 'fairness' demands positive discrimination in favour of new or small parties. According to this interpretation, the major political forces in any society already have ample chances to express themselves. Extra opportunities need, therefore, to be provided to the political outsiders to organise themselves and to put forward their views to the electors.

An example of an application of this compensatory ideal of 'fairness' is the scheme introduced in 1975 in the *British* House of Commons whereby financial subsidies are given to the opposition parties represented in the lower chamber. The governing party does not receive a subsidy. The rationale for the arrangement is that the governing party receives the benefit of the advice of the



civil service. It is only the opposition parties that need funds to employ staff to prepare their arguments.

In some *Scandinavian countries*, the method of allocation of state financial aid to political parties also discriminates against the governing party. Each party receives aid based partly on the number of seats it has won in the previous parliamentary election. But the governing party receives less aid for each seat won than the opposition parties.

c. *Fairness based on the extent of each party's or each candidate's political support*

This involves the principle that small parties and fringe candidates should receive less support than the main ones. This idea may apply to the allocation of time for free electoral broadcasts on television and radio. It may apply also to financial subsidies. For example, it may be argued that only the principal candidates in a presidential election should be expected to debate with each other on national television, or that the large parties should be given more time slots for party political broadcasts than small ones.

This principle has common sense and justice behind it. But it also has problems. The common sense argument for fairness as an allocation *pro rata* to the support enjoyed by each contestant is that it avoids the situation where dozens or even hundreds of trivial candidates and parties set themselves up merely to gain the free publicity that results if all legally recognised contestants are given the same exposure. It is simply not practical for electors to digest so many different messages. In the slang of political scientists and diplomats, there exist (especially in newly formed democracies) 'sofa parties' - parties so small that all their members can be seated on a single settee.

The argument of justice is that it is unreasonable for a party or candidate representing a sprinkling of supporters to have the same opportunity to broadcast to the electors as a major party.

The above considerations provide a strong basis for the argument that 'fairness' should mean the proportionality of state aid to each contestant's support. However, the application of this principle produces problems.

The first problem is whether the extent of each party's support should be measured according to its past performance or according to its current performance. The easiest and apparently most objective measure of support is the percentage of the vote gained by each party at the most recent election. This is the main basis for state funding of party organisations in *Germany*. A difficulty of this system of allocation is that it may support existing parties at the expense of newly-formed ones or ones that have increased their popularity (as measured by opinion polls or other means) since the last election.

The second problem is that party organisations and electoral associations may split or merge between elections. It therefore may be difficult to decide whether an existing party or electoral association is the same as one (possibly with a different name) which contested the last election. If

current financial allocations are based on earlier electoral performance, this becomes a crucial question. Unless there are clear rules about the internal management of parties and electoral associations, there are likely to be legal quarrels between different factions of a former electoral association, each of them claiming the mantle (and the financial subsidy) of the 'successor.' Such quarrels will resemble those between brothers and sisters each claiming their parents' financial inheritance.

The third problem is whether the extent of support should be measured by votes gained in the previous election or by some other indicator. It could be argued, for example, that public financial subsidies should match the membership or the private financial support for each party rather than its votes. Apart from the proportion of votes won in the previous election, the following are among the alternative criteria by which political significance (and thus public funding) may be gauged:

- I. number of seats (as opposed to votes) gained in the last election;
- ii. number of seats and/or votes gained in the last two elections;
- iii. number of seats being contested in current election;
- iv. number and size of small or medium-sized donations received by party from members or supporters. (This is the basis for matching grants given to politicians seeking party nominations as presidential candidates in the United States. The exact rules of this and of similar schemes are not included in this paper but are available if needed.)

*d. Allocations based on a combination of principles of fairness*

There is no need for policymakers to adopt one principle of fairness alone in making allocations of public funding to political parties and electoral associations. It is common to adopt a formula that combines at least two different principles. For example, there are several countries, including *Sweden*, *Denmark* and *Israel*, where allocations of state funding or of free broadcasting time are calculated partly on the principle of equality for all parties regardless of size and partly on the basis of past electoral performance. In *The Netherlands*, allocations of free broadcasting time are based partly on the principle of equality and partly on the number of seats being contested in the current election by each party or group.

As the examples show, it is also possible to have a system in which public subsidies are provided to parties based upon past performance, but permitting new parties or parties that did not succeed in the past to demonstrate current popular support and thus qualify for subsidies (for example seats presently contested, donations raised, or signatures collected).

*e. Allocations based on principles apart from fairness*

Although fairness is a fundamental principle governing the management of competitive elections, it is not the only principle. There may sometimes need to be a compromise between fairness and other principles. For example, it is common practice to enact regulations which aim to

restrict politically-extreme or very small parties, regardless of the fact that this is 'unfair'. In these cases, a small measure of fairness is sacrificed for purposes of practicality - that is, to limit the number of parties so that clear and meaningful choices may be made by electors.

## **2. *Types of state financial aid to political parties and candidates***

First, financial assistance from the state to political parties may be given on an annual basis to support the regular activities of the party organisation regardless of whether an election is about to take place. Germany is an example of this system. Alternatively, state aid may be directed specifically to the expenditures of parties and/or candidates in election campaigns. Canada is an example of this system.

Second, financial assistance may be given either in monetary form or it may be given in-kind. Examples of assistance in-kind are free broadcasting time, free or reduced postal facilities, free use of halls for public meetings, free space for advertisements in newspapers, free use of billboards.

Third, financial aid from the public funds may either be given unconditionally to each party or candidate or it may be conditional upon each party's own fundraising efforts. Methods of conditional financial aid include (a) tax reliefs on political donations, (b) tax credits (a method that favours parties whose supporters are generally poor and who therefore do not normally pay income tax), and (c) matching grants.

Fourth, financial aid may be given either to central organs of each party (a method which will have the effect of centralising power within the party) or some or all of the aid may be given to local organisations of each party.

Fifth, aid may be given either to political parties and/or to candidates for public office.

## **3. *Examples of allocations of state financial aid to political parties and candidates***

### **a. *Thresholds***

It is standard practice to impose a minimum requirement on parties and candidates wishing to receive public financing. The requirement may be in a number of different forms.

- i. A condition of financial aid to individual candidates may be that they should obtain a certain percentage of the votes cast in their districts in the election for which the subsidy is being sought - i.e. in a future election. Since it will be unclear before the election whether each candidate will obtain the necessary threshold of support, it will then be necessary to reimburse money after the election to those candidates who qualify. This system has the disadvantage for candidates who are uncertain about whether their level of support is likely to meet the requirement for subsidies. Such candidates will therefore be under pressure to limit their outlays in case they do not receive a post-election reimbursement.

Alternatively, for routine grants to political parties, the threshold may be based on the results of the most recent general election.

- ii. For a political party, the requirement for subsidy of campaign costs may be that it puts forward candidates in a certain number of seats.
- iii. For subsidies for routine organisational costs or of campaign costs, parties may be required to win a certain number of seats in the legislature.
- iv. The test may be a certain percentage of the national vote.
- v. There may be a combination of tests: a minimum percentage of the national vote and a minimum number of seats in the legislature.

In general, (a) thresholds are higher for candidates in individual seats than for parties nationally, and (b) thresholds for obtaining state financial aid for parties' organisational or campaign costs are usually lower than thresholds for gaining seats in the legislature. For example, in *Germany*, the threshold for receiving state aid is one-half percent of the national votes whereas the threshold for obtaining seats in the legislature is five percent.

Thresholds for public subventions vary between one-half percent of the national vote in *Germany* to 15 percent of the vote for individual candidates in *Canada*. Other examples include: *France* (National Assembly election): five percent; *Australia*: four percent; *Sweden*: two-and-a-half percent in the last two elections; and *Japan*: two percent or over five candidates.

*b. Examples of formulas for financial subventions*

- i. *Canada*: An example of the reimbursement of campaign costs is the Canadian system. (a) Each candidate receives a reimbursement of 50 percent of campaign costs. Candidates must receive 15 percent of the vote in order to qualify and they must also adhere to a set spending limit. (b) For campaign expenses of national party organisations, the reimbursement is 22.5 percent of the total. Again, there is a spending ceiling. National parties are not required to obtain a minimum percentage of the vote in order to qualify; instead, they are required, first, to spend at least 10 percent of the maximum permitted budget and, second, they must field at least 50 candidates.<sup>3</sup>
- ii. *Germany*: An example of a formula for annual, routine subsidies to national party organisations is the German system. (a) The public subsidy is computed on the basis of the latest election result. For the first five million votes, each party receives DM 1.30 per annum and DM 1 thereafter. (b) In addition, DM 0.5 is granted for every DM 1 received by the party

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<sup>3</sup> Library of Congress, 1995, pp. 49-50.

in membership dues. (c) The direct subsidy must not exceed the amount raised by each party from membership subscriptions and other private sources. (d) In order to qualify for matching funds, membership subscriptions must be no more than DM 6,000 per person per annum. (e) The party must have obtained at least one-half percent of the vote in the last election (or one percent of the vote in a state election). (f) According to an amendment of 1993 to the Parties Law, there is an absolute ceiling of DM 230 million a year on the total direct subsidy to all parties combined.<sup>4</sup>

These formulae exclude a number of additional categories of state financial aid to party organisations. These include (a) large-scale aid to 'party foundations' (such as the Konrad-Adenauer-Foundation and the Friedrich Ebert Foundation), (b) aid to the party groups within the federal and länder legislatures, (c) free broadcasting time, (d) free use of billboards in some municipalities, (e) assistance to youth groups attached to the political parties, and (f) 'party taxes' - i.e. enforced contributions to the party from its public office-holders of a set portion of their official salaries (which are, of course, derived from public funds).<sup>5</sup>

- iii. *Nicaragua*: This is another example of a combination of criteria. For the 1990 elections, the Supreme Electoral Council was authorised to allocate a specific amount to political parties. (a) Fifty percent of this was to be divided between them in equal amounts, and (b) the remainder on the basis of the number of votes received in the 1984 elections. (c) Parties which did not contest the earlier ballot each received the same as the party with the fewest votes.<sup>6</sup>

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<sup>4</sup> Werner Kaltefleiter and Karl-Heinz Nassmacher, 'The New German System of Public Subsidies to Political Parties.' In Josef Thesing and Wilhelm Hofmeister, editors, Political Parties in Democracy. Sankt Augustin: Konrad-Adenauer-Stiftung, 1995. Library of Congress, 1995, pp. 74-75.

<sup>5</sup> Ibid.

<sup>6</sup> Guy S. Goodwin-Gill, Free and Fair Elections: International Law and Practice. Geneva: Inter-Parliamentary Union, 1994, p. 58.

4. *Examples of methods of allocating free broadcasting time to political parties*

a. *Equality between parties regardless of size and previous performance*

For example:

- i. *India*: Party political broadcasts were first arranged on radio and television during the 1977 state elections, with the order of speaking arranged by drawing lots. This followed agreement by all parties that they would have equal time.<sup>7</sup>

This is also the most common method in ‘new democracies.’ For instance:

- ii. *Czech Republic*: In the electoral campaign, all political parties contesting the elections are allotted a total of 21 hours of broadcast and television time which is divided among them equally. The actual hour of presentation for each party is determined by lot.<sup>8</sup>

b. *Allocation based on the number of candidates put forward by each party in the current election*

This method is used in Japan .

c. *Allocation based wholly or largely on results of previous election*

This is the method in Germany. Other examples include:

- i. *Belgium*: Free access to the State-owned television network is in proportion to the strength of each party group at the level of the European Union.
- ii. *Greece*: The allocation of time among political parties is based on the size of the party in the previously dissolved Parliament. The three largest parties in the previous Parliament are entitled to at least 38 minutes weekly on televised programmes. Smaller parties having members in the previous Parliament are entitled to eight minutes weekly. Parties with no representation in the Parliament but with a list of candidates in 75 percent of the electoral districts are entitled to five minutes weekly. In addition, each large party is entitled to one 45-minute broadcast.

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<sup>7</sup> Library of Congress, 1995, pp. 103-4.

<sup>8</sup> Ibid, p. 58.

- iii. *Spain*: The formula is: (a) 10 minutes for parties, federations or coalitions which did not participate or did not have representation in the previous election; (b) 15 minutes for those with up to five percent of the vote at the previous election; (c) 30 minutes for those with 5-20 percent; 45 minutes for those with at least 20 percent.
- d. *Allocations based on a mixture of principles*
  - i. *Israel*: The allocation of broadcasting time is based on a compromise between the status quo and the new situation. “Each party, including those which were not represented in the previous parliament, has been given ten minutes and each party already represented in the outgoing parliament receives three additional minutes for each member in the parliament.”<sup>9</sup>
  - ii. *The Netherlands*: The allocation is based on a compromise between the principle of equality and that of preference for large parties as defined by the number of seats contested in the current election. In the period preceding an election the Media Commissariat (established under the Media Law) may allocate extra time to political parties and groups which have submitted a list of candidates in all 19 electoral districts.<sup>10</sup>
  - iii. *Turkey*: All parties participating in the election are entitled to 10 minutes. Parties with parliamentary groups may receive 10 more minutes. In addition the governing party is entitled to another 20 minutes and the main opposition party to another 10 minutes.<sup>11</sup>
- e. *Allocations agreed by a committee (of broadcasters or of broadcasters and party representatives)*
  - i. *Australia*: The Australian Broadcasting Commission (ABC), the public broadcasting authority, is not obliged by law to provide free broadcasting time to participating parties in an election. It is up to the discretion of the ABC’s Election Coverage Committee to determine how the public is to be informed on “issues of current debate”. It has in the past been its policy to allocate free time
  - ii. *Britain*: A committee is formed from representatives of the broadcasting authorities and of the political parties. The committee tries to agree on a fair allocation. This has in the past

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<sup>9</sup> Ibid, p. 58.

<sup>10</sup> Ibid, p. 171.

<sup>11</sup> Ibid, p. 194.

consisted of a number of elements. First, the two main parties have received equal shares. The share of the third party - the Liberal Democrats - has been based partly on the result of the previous election and partly on its subsequent performance in by-elections local government elections and in the polls. Moreover, the formula has usually given the third party a share which is, on the one hand, smaller than that of the main parties, and on the other hand larger than its pro-rata share as measured either by its previous or current political showing.

The formula that has normally emerged has, therefore, reflected a compromise between a number of conflicting ideas of 'fairness.' It has moreover reflected the fact that the broadcasting authorities have the final authority to decide on what they consider to be a reasonable allocation if there is no agreement between the political parties. Finally, if the broadcasting authorities make a decision in the wake of disagreement between the parties, it is open to any of the parties to take the matter before a court of law. It will then be up to a judge to decide what is 'fair.'

- iii. *Canada:* Parties are permitted to purchase air time and to receive partial reimbursement of their costs. The Canada Elections Act requires every broadcasting station to make a total of six and a half hours available for political broadcasts during a period beginning on the 29th day before the poll and ending on the second day before the poll. These hours are divided up by agreement between the rival political parties. If an agreement cannot be reached between them, the matter is referred to the Government -appointed Broadcasting Arbitrator.<sup>12</sup>

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<sup>12</sup> Ibid, pp. 52-3.



### ***SECTION THREE    THE USE OF FINANCIAL DEPOSITS AS A METHOD TO REGULATE THE NUMBER OF CANDIDATES***

It is beyond question that democracies should encourage citizens to put themselves forward as candidates for election to public office. Yet, it may be necessary to introduce measures to deter some who wish to abuse the system of voting. This can be illustrated by several real examples.

First, some people may wish to put their names forward as a joke. In Britain, candidates have regularly been nominated by 'The Monster Raving Loony Party.' One of the most constant of fringe candidates has been a former pop-musician called 'Screaming Lord Sutch'. Since all candidates in a British parliamentary election are entitled to appear before the television cameras when the election result is announced, and since every candidate's name must (by law) be mentioned whenever there is a report on television or radio about the election campaign in the constituency, joke candidates gain publicity. In Poland, a Beer Drinkers' Party was created and, in fact, gained a considerable number of votes. Russia, too, has had its Beer Lovers' Party.

Second, groups with extreme political opinions may present candidates who have no hope of winning but who ensure that their party has the entitlement to a free party political broadcast that is given in Britain to any party with at least fifty candidates. Since the election deposit is £500 per candidate, the cost of fifty deposits (£25,000) gives a 'party' the right to broadcast its views - a marvelous opportunity for groups which, for example, wish to present a piece of racist propaganda at a bargain cost.

Third, the fact that individuals in Britain are permitted by law to change their names permits another form of 'joke' candidature. Someone may change his name so that it is exactly the same (or almost exactly the same) as that of a famous politician. The joke candidate may then stand for election in the same constituency as the famous politician. The voter will then find it hard to distinguish between the real Mikhail Gorbachev and the one (or several) 'fake' Gorbachevs. This has happened in Britain, the United States and, probably, elsewhere.

Fourth, it was a few years ago possible in Britain for soldiers wishing to leave the armed forces to abuse a loophole in military regulations. Since it is undesirable to permit serving members of the armed forces to stand as candidates for the House of Commons, and since it is also desirable to allow soldiers to have full civil rights, special regulations allowed a soldier who wished to stand for Parliament to leave the army, even if his contract had a number of years to run. Suddenly, dozens of soldiers used the rule as an easy way to break their contracts.

These examples all illustrate the need to restrict 'fringe' candidates. This may be done in several ways. They include a requirement that candidates (apart from those representing established political parties) must obtain the signatures of a considerable number of electors in support of their

nomination. The advantage of a system of signatures is that it may weed out fringe candidates without penalising candidates who are merely poor and who may thus find it hard to raise a financial deposit. The disadvantage of a signature system is that it is hard to administer and open to abuse. It may not be possible for members of election commissions to check the accuracy of the signatures within the time available for nominations.

The alternative to a barrier of signatures is a system of financial deposits. In Britain, a candidate must submit a deposit of £500 (U.S. \$ 800). This is returned if the candidate obtains at least five percent of the votes cast.

The practical effects of a system of financial deposits will depend both on the amount of the deposit and on the threshold a candidate must overcome in order to obtain the return of the deposit.

The American political scientist, Richard Katz, has recently published a study of the effect of the change in the law in Britain in 1985. The new regulations raised the level of the deposit from £150 to £500 but lowered the threshold required for the return of the deposit from 12.5 percent of the votes cast in the constituency to five percent. The results of the change were as follows: (a) under the new system, the main parties in Britain (Conservative, Labour, Liberal Democrat/Social Democrat Alliance and Scottish Nationalists) lost virtually no deposits. (b) Some of the other small parties (such as the Welsh Nationalists and the Greens) lost many deposits but were not deterred from presenting candidates. The rise in the deposit from £150 to £500 was merely regarded by these parties as an added campaign expenditure. The only effect of the higher deposit was to limit the number of independent candidates and those representing fringe or joke parties.<sup>13</sup>

Deposit levels in a number of countries are listed in the book Democracy and Elections by Richard S. Katz.<sup>14</sup> They suggest that it is only in a few countries that the level of deposit of sufficiently high to have a significant effect. As shown by the following list (Table 1), the deposit is a device found especially in countries influenced by the British model of electoral administration.

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<sup>13</sup> Richard S. Katz, Democracy and Elections. New York: Oxford University Press, 1997, pp. 255-61.

<sup>14</sup> See Table 14.2 in Richard S. Katz, Democracy and Elections. New York: Oxford University Press, 1997.

**TABLE 1**

| <b>Country</b> | <b>Level of Deposit</b> | <b>Conditions for return</b>   |
|----------------|-------------------------|--|
| Australia      | Lower House      A\$250 | Four percent of first preference votes   |
|                | Upper House      A\$500 | Membership in group receiving four percent of vote   |
| Britain        | £500                    | Five percent of vote   |
| Canada         | C\$200                  | 15 percent   |
| India          | R 500                   | One sixth of the vote  |
| Ireland        | I £100                  | One-third of constituency quota  |
| Japan          | ¥ 2 million             | House of Representatives: One-fifth of the valid vote divided by the number of members to be elected |
| Malaysia       | Ringgit 5,000           | 12.5 percent of votes cast   |
| New Zealand    | NZ\$100                 | One quarter of votes of successful candidates  |

## ***SECTION FOUR      THE USE OF THE DOCTRINE OF 'AGENCY' TO REGULATE UNAUTHORISED CAMPAIGN EXPENDITURES.***

The doctrine of 'agency,' like the financial deposit, is a device associated mainly with countries influenced by the British model. 'Agency' is a device intended to make easier the enforcement of regulations related to financial disclosure and statutory limits on permitted campaign expenditure. Since the candidate is likely to be engaged to the political tasks of his campaign - giving speeches, meeting electors and so forth - he puts the responsibility for the finances of the campaign into the hands of a single campaign assistant, the 'agent'.

Essential to the system is, first, that no significant expenditures may be incurred by members of the candidate's campaign team or by his local party organisation without the authorisation of the agent. This is meant to prevent supporters from exceeding the legal limit 'accidentally on purpose' (i.e. in reality on purpose but, if discovered, supposedly by accident and without consultation with the candidate).

Second, the system of agency does not remove from the candidate the responsibility for significant wrongdoing by the agent. Since the agent is specifically appointed by the candidate, the candidate is not free from penalties if the agent authorises spending above the legal limit or if the agent indulges in illegal practices.

The main legal guide to elections in Britain expresses the (complex) legal situation as follows (the references in brackets are to past law cases):

### **19.19 Relationship of candidate and agent**

Once created, the relation between the candidate and his agent is much more intimate than that which subsists between the principal and agent at common law (Harwich , 3 O'M & H. 69)...

The candidate is responsible, so far as his seat is concerned, for all the acts and misdeeds of the agent committed within the scope of his authority (Harwich , 3 O'M & H. 69). This principle applies even though the candidate may not intend such acts to be done, and even did his best to hinder them (Taunton, 1 ib. 182; Great Yarmouth, 5 ib. 179); or even though such acts were done contrary to, and in defiance of, his express orders (Lichfield, 1 ib , 26; Harwich, 3 ib. 69).

The reason for this stringent law is that candidates put agents forward to act for them. If it were permitted that these agents should play foul, and that the candidate should have the benefit of their foul play without being responsible for it in the way of losing his seat, great mischief would arise (Stalybridge , 1 ib . 67). No one can win And wear a prize on whose behalf the contest has not been legitimately and fairly carried on; the principal must suffer, and cannot hold the benefit in respect of that in which his agent has compromised him (

Blackburn , 1 ib . 202; acc . Coventry , ib . 107).<sup>15</sup>

A classic, though dated, study of political financing laws mentions the following countries as having a doctrine of agency: Australia, Britain, Canada, and Ireland.<sup>16</sup> Along similar lines a feature of public disclosure of campaign finance in the United States is that political committees and candidates must appoint a ‘treasurer.’

Specific legislation relating to the doctrine of agency in *Canada* is contained in one of the items which the author of this paper deposited in December 1997 with the resource center of IFES, Moscow. This is: Canadian Royal Commission on Electoral Reform and Party Financing, Reforming Electoral Democracy: Final Report. Ottawa: Communication Group Publishing, 1991, volume 3. Among the paragraphs of legislation and proposed legislation included here, are the following. They are not intended to give more than an impression of the fairly long list of rules pertaining to the agent and his duties:

- 341. In addition to registered parties, registered constituency associations and candidates, every person seeking nomination as a candidate by a registered constituency association ... shall appoint a financial agent.
- 342. ... (3) No person shall have more than one financial agent at the same time...
- 347. (1) Financial agents shall be responsible for administering, in accordance with this Act, the finances of the person who appointed them ...
- 349. (1) No person except a financial agent or person authorised in writing by a financial agent shall make a payment in excess of \$50 on behalf of a registered party, registered constituency association, candidate, ... as the case may be...
- 360. (1) No registered party or registered constituency association shall incur an election expense except through its financial agent or a person authorised by the financial agent.

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<sup>15</sup> Parker’s Conduct of Parliamentary Elections, August 1990 edition.

<sup>16</sup> Khayyam Z. Paltiel, ‘Campaign Finance: Contrasting Practices and Reforms.’ In Democracy at the Polls: A Comparative Study of Competitive National Elections. Edited by David Butler, Howard R. Penniman and Austin Ranney. Washington, DC: American Enterprise Institute, 1981, table 7.1.

(2) No candidate shall incur an election expense ... except through the candidate's financial agent.

## ***APPENDIX FURTHER ISSUES RELATING TO THE REGULATION OF FREE POLITICAL BROADCASTS BY POLITICAL PARTIES***

Tensions often arise between the broadcasting networks, on the one hand, and the political parties, on the other hand, about the amount of time they must make available for political broadcasting. Commercial stations stand to lose money from their advertisers if too many advertising slots are used up for political broadcasts. Moreover, that fact that TV sets can often be operated by remote control means that viewers will be tempted to turn to another station as soon as a political broadcast comes on the air.

A further issue is the length of the time slots allocated for political broadcasts. If a political party is given a total number of minutes of free broadcasting time during an entire campaign, it will want the maximum flexibility about how long each broadcast should be. If political broadcasts are to be 'serious' and to provide the opportunity for each side to present its policies and its leaders in detail, then each transmission needs to be relatively long. However, the advertising experts advising parties normally feel that a large number of short 'spots' are more effective than a small number of long programmes. The following regulatory issues therefore arise:

### ***1. Minimum length of free political broadcasts***

In *Britain*, where the two main parties are each entitled to five free TV broadcasts lasting ten minutes during an election campaign, they have tended in recent campaigns to schedule broadcasts of only five minutes even though they have therefore had to 'waste' the other five minutes allotted to them. The British parties are not permitted to pay for broadcasts to supplement their entitlements to free time.

It has become a given among professional advertising advisers that members of the public are bored by political broadcasts that are long. On the other hand, the broadcasting regulators have been unwilling to permit the parties to trade five slots of ten minutes each for ten slots of five minutes or for fifty slots of one minute. The civic argument against short advertising spots is that they encourage ever shorter 'sound bites,' a 'dumbing down' of political discourse, and negative campaigning.

As far as the minimum length of time slots for free political advertisements is concerned, examples from other countries are as follows: in *Germany*, slots are of 150 seconds. In *Turkey*, parties must use their portion of time in slots of at least two minutes.

**2.     *Simultaneous transmission of free political broadcasts on all TV channels or on all radio channels***

If it is assumed that members of the public will switch to another channel as soon as a party political broadcast commences, it is possible to prevent this by ruling that the same political broadcast must be shown at the same time on all the main channels. The remote control thus provides no escape for the politically-apathetic viewer. (Electricity authorities and water authorities have occasionally remarked on the increase in the number of cups of tea or of visits to the nation's bathrooms during such 'no escape' periods.) This regulation nevertheless causes considerable technical problems for the broadcasters. If one channel is in the middle of a long programme (such as a film) at the time required to show a political advertisement, it will be difficult to accommodate the requirement without drastic changes to a whole schedule of programmes. Largely for this reason, the requirement of simultaneous transmission has been abandoned in Britain.

**3.     *Production costs of free party advertisements on television and radio***

Even if two parties are given the same number of minutes of free broadcasting time, the system may still work to the advantage of the wealthier party. A well-financed party will be able to spend money on preparing elaborate and costly film clips and will be able to employ some of the most experienced and costly advertising advisers and film-makers. By contrast, poor parties may be able to do little more than use their time slots for face-to-camera recordings of party leaders.

Arguably, the contrast between the production costs of rival parties may undermine the fairness principle on which the idea of free election broadcasts are based. If this is seen as a problem, possible solutions are (a) to provide money or facilities to each party to assist in the production of their broadcasts, or (b) to ban the use of filmed materials and to insist that all the parties use their slots for simple, face-to-camera broadcasts.

An example of the latter solution is adopted in *Turkey*. On free TV broadcasts, male and female speakers must wear suits and males must also have ties. Only the Turkish flag and party emblem can be seen in the background.