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Final report of the study on "the information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed"

Prepared on behalf of the European Parliament by the European Institute for the Media

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Abstract

This report presents the final results of the study:
Information of the citizen in the EU: obligations for the media and the Institutions regarding the citizen's right to be fully and objectively informed.

The report contains an analysis from the twenty five EU member states : Austria, Belgium, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Spain, Slovakia, Slovenia, Sweden and the United Kingdom in relation to:

- Freedom of expression, freedom of information, and freedom of the media
- Media ownership regulation
- Media landscape and main players
- Conclusions and overview

Regarding media freedom and media ownership, the project addresses two broad and interconnected areas of media development which have a major impact on the role played by broadcasters and the press industry in society and, more particularly, in democracy. The role of the media in a democratic system involves the provision of information about political life and policy-making and assumes a transparent system allowing access to information. Additionally, the media are expected to provide the citizen with a range of opinion and analysis regarding politics, and with platforms for debate on these issues. The media is also referred to as the 'Fourth Estate' in a political system whereby it is assumed that the media plays a role as watchdog for the public regarding the conduct of political and government institutions and actors.

In examining the 'citizen's right to be fully informed' the report outlines how the rights to 'freedom of expression' and 'freedom of information' (and where relevant also the 'freedom of the media') are enshrined in national systems. The obligations of the media professionals (in terms of ethics and standards) with regard to these freedoms will be indicated through the codes of practice and systems of regulation, which are in place. The fulfilment of obligations of institutions regarding these freedoms can be expressed a) through the legal protection of these rights; and more qualitatively b) with reference to the practice of these freedoms as indicated in case law or in concrete examples.

The report will outline the regulation of media ownership and the media landscapes of the twenty five countries.

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The authors in preparing this report have tried as far as possible to ensure it contains up to date and accurate information. Given the nature of the industry, it is possible that already some of the information may have changed.

Executive Summary

In 2003 the European Parliamentary Committee on Citizen's Freedoms and Rights, Justice and Home Affairs requested a research report to examine the: “Information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen’s right to be fully and objectively informed”; and to: “verify with appropriate methodologies and statistical data to what extent the citizen fundamental right to be fully and objectively informed (art. 11 of the Charter of Fundamental Rights of the European Union) is or is not insured within the EU Member and Candidate Countries; to verify whether the power of the media and of their financing channels are in the hands of oligopolies; and to propose appropriate remedies at EU level.”[1]

Just as the Council of Europe has historically based its work in the media field on Article 10 of the European Convention of Human Rights, which deals with freedom of expression and information, the European Union now has a new impetus for action in this area with Article 11 of the Charter of Fundamental Rights of the European Union, and of the EU Constitution, which enshrines the right to information and freedom of expression.

The following report, based on research carried out between January and July 2004, attempts to address the above questions in relation to the twenty-five European Union Member States.

This report examines the ‘Media,’ at least the traditional media, a fairly wide all encompassing term. The Committee’s main concern was with the citizens right to be ‘fully and objectively informed’ i.e. to receive clear objective information regarding political, economic and social issues relevant to their daily lives. Hence our concern should really be the purely ‘informational’ media. However, such media does not stand alone, or exist in a vacuum. Broadcasters inform and entertain. Publishers of newspapers are frequently publishers of entertainment periodicals. Additionally, the integration of the media implies that companies are frequently active in printing, distribution, advertising, broadcasting and the Internet. Many of the companies presented in this report are such integrated multi-media actors. The globalisation of the media and the opening of markets additionally gives media companies the scope to diversify in new markets and new sectors. These are of course simple premises but need to be borne in mind when discussing the ‘media’.

The media also produce products, which have specific importance both culturally and politically for society. Given the important role that the media play in disseminating information about the economy and political actors, and of course in helping to influence opinion during election periods, it would be unwise to imagine that there is any EU Member State where political actors do not need friends in the media. Equally, it is probably not realistic to expect to find a system where ‘full and objective’ information is available at all times regarding all issues. Hence, it is clear that there will always be links between political and media actors, as politicians rely heavily on the media to bring their message to the citizen. These links do of course serve to make the role of the authorities in regulating the media rather more complicated.

It is equally not so surprising that business and industrial actors have an immense influence on the media. Public opinion regarding their products and services, and additionally regarding the effects of business activities on society, working conditions and the environment are vital to the world of business. They pay for the advertising that allows the media to function, they attempt to influence content through public relations and ‘spin’, and of course they buy in slowly, or rapidly, to media outlets in order to have greater influence (or at least some influence) on content and strategy.

[1] Findings were used as data for the Report on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental Rights)2003/2237(INI)) Committee on Citizens' Freedoms and Rights, Justice and Home Affairs Rapporteur: Johanna L.A. Boogerd-Quaak

Despite this, there is sufficient concern regarding the impact of ownership and concentration to warrant continuous examination, and discussion of these issues. As Sigve Gramstad (2003:11) points out:

> *"The free and independent position of the media is never won permanently, neither is media pluralism. Efforts will always be made to exploit the media for personal or political purposes, to create media monopolies in order to raise profits, to concentrate content to what sells the best or to sweeten, change or ignore content to favour the owners, the authorities, the sources or others. The struggle to make favourable conditions for freedom of expression and information is therefore an important and never-ending story in all societies. Positive results are vital to the maintenance and development of our democracies."*

It is also important to bear in mind that the production of media, particularly audiovisual media is an expensive task. Financial backing and capital has to come from somewhere: either the state (i.e. the citizens) supports this through taxes, license fees, or subsidies, or industry and business finance the media through advertising. Many instances are noted in this report where the involvement of political or religious groups in media outlets came about as an attempt to provide more pluralism (more voices) in a system of limited choice. Investment in growing media markets was also necessary, particularly in the new democracies of the East in order to bring capital, know-how and technology.

The report recommends that further research examine the aspect of internal pluralism, actual content, and the potential impact of direct ownership by politicians or business, or indirect influence of political or business interests on media reporting of issues. None-the-less there are many instances cited here of exactly such influence or interference on the activity of journalists and media professionals.

The report examined frameworks for ensuring the freedom of expression and freedom of access to information. With a couple of rare exceptions, such freedoms are legislated. The actual practice of freedom of the media does however, vary, and examples of problems are outlined in the reports on national systems.

The working conditions of journalists were an issue that frequently arose in relation to media ownership. The report recommends the introduction of editorial Statutes should be stimulated aiming at providing journalists protection from interference in content and editorial decisions. It also suggests the support of self-regulation for the press, connected with the establishment of an independent body such as a Press Council, is necessary to uphold standards of journalism. The journalism unions of all the Member States, as well as their European and International associations and federations all have codes of ethics. Not all countries have a Press Council or other body to arbitrate these issues and some are more effective than others. It has frequently been noted in this report that the working status, payment and rights of media professionals are not always secured in many of the EU member states.

Legal frameworks, monitoring systems and systems of control for limiting the concentration of ownership and ensuring media pluralism were examined in each of the member states. The approach to controlling media concentration and ensuring media pluralism varies widely between the countries. In certain countries: Austria, Germany, Ireland and the UK, competition policy includes media specific rules. In other countries various levels of co-operation takes place between broadcasting and competition authorities. In Spain a flexible approach is taken to thresholds where mergers impact on public interest.

A variety of measures are used to assess a companies influence on the market, and to limit the influence of companies: circulation and audience share, number of licenses, capital shares, voting shares, advertising revenue, or involvement in a certain number of media sectors. In several countries, while there may be general legal statements prohibiting monopolisation of the media, or the creation of a dominant position, there are no/few provisions to limit ownership: Denmark, Finland, Lithuania, Poland, Portugal, Sweden. It is apparent that some of these systems are lacking in definition regarding thresholds, outside of general competition law. Ownership of the press is limited through market share in Italy, Greece and France, and through types of publications in Greece. In Austria, Ireland, the UK and Germany press mergers are dealt with under media specific rules. Aside from this, the press is treated by and large in a liberal way. Cross media ownership restrictions do not exist in Spain, Belgium, Latvia, Luxembourg, Lithuania, Portugal or Sweden. Foreign ownership rules regarding EU countries have been removed by the new member states in line with EU membership. There are now no limitations on foreign ownership (including non-EU) in Germany, Sweden, the Netherlands, Italy and Latvia, and the UK regulatory frameworks.

The report suggests that Member States should weigh carefully the balance between the right of establishment of media enterprises, and that of pluralism of opinion, in order to ensure that a wide range of diversity and pluralism of opinion exists in the media (in line with the interpretation of the ECJ).

In preparing this report the authors noted the difficulty in finding clear and comparable data regarding circulation and audience figures, which in some countries are far more comprehensive than others. Also the transparency of ownership and interests held by companies in media outlets varies widely between states and we would repeat the recommendation of the Council of Europe (2003:22): 'an up-to-date collection and public access to economic information on providers and operators (turnover, audience share, etc.) are absolutely necessary. Only on the basis of appropriate data is it possible to determine if media pluralism is vibrant or endangered.'

As part of the recommendations the authors suggest the establishment of an Observatory focusing on media markets and concentration, with the provision of a data-base of information on EU member states, would go a long way towards providing such transparency and enhancing national systems of regulation.

Additionally we feel that Competition Policy should recognise the specific cultural and democratic importance of the media industries as opposed to other industries when examining merger and acquisitions. However, taking into account the fact that a competition law approach alone is not sufficient in order to safeguard media pluralism, sector-specific media ownership regulations are necessary. At the national level monitoring of media concentration should be supported as part of the remit of the Broadcasting regulatory authorities (such as is the case in the Netherlands) or specialised authorities (such as the Norwegian Media Ownership Authority).

As one major contributor to the pluralism (both cultural and political) of the media landscapes, due to the Public Service Remit is the national Public Service Broadcaster. A strong, independent and financially secured Public Service Broadcasting should be supported in all EU member states, in particular in the new digital environment. The future development of the Digital television environment, given that in most countries there are no rules on vertical concentration, vertical integration should be closely monitored so that access of content suppliers/broadcasters to main platforms would be ensured. This also applies to the future role of PSB in this environment.

The final analysis and recommendations look carefully at the different situations in the member states as concerns market size, media legislation, and historical and geographic influences. Based on this analysis, the authors put forward some suggestions for a possible approach to action at the European Union level.

Introduction

1. Methodology and Overview

This report is divided into three sections:

- The first provides a background to the issue of media pluralism based on academic work and the relevant international and EU legislative framework.
- The second section provides reports on the EU member states: Austria, Belgium, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. Each report is divided into three parts: relevant legislation and regulation related to the media; the media landscape and main players in the industry; conclusions and future perspectives.
- The third part gives a comparative analysis of the mechanisms in place in each of these countries regarding the protection of freedom of speech, freedom of the media and pluralism and provides, with reference also to other major studies and declarations of various organisations, and a list of recommendations for ensuring these freedoms, and a plural media system in the European Union member states.

The information and data in this study has been collected from a wide range of sources including books, reports, websites of journalism and non governmental organisations, international yearbooks, company websites, company yearbooks, news reports, websites and reports of broadcasting audience and newspaper circulation measurement organisations, websites and reports of regulatory authorities and governments. As far as possible the most recent data has been provided, despite the disparity in availability of data between the countries, and reports double-checked by national experts. In all cases a status has been allocated to each country report indicating when data gathering was completed. Given the necessity to provide two language versions of the research, and the work involved in updating information, the status will indicate the date on which the report was completed, providing a basis for anyone wishing to update the information. Sources are clearly referenced and an annexe has been provided listing documentation and relevant Internet sources.

2. Themes of the research

2.1 Freedom of the media, freedom of expression and freedom of information

Article 11 enshrines the right to information and freedom of expression within the Charter of Fundamental Rights of the European Union; a right, which in most cases is already enshrined in the Constitutions or in other legislative Acts of the member states. Member states of the Council of Europe are also obliged to protect and ensure pluralism of opinion in the media as freedom of the media and diversity is regarded by the European Court of Human Rights as part of the individual's right to freedom of expression enshrined in Article 10 of the Human Rights Convention. This right has been further developed and enhanced through court cases at the European Court of Human Rights and the European Court of Justice.

In its judgement in the case *Sunday Times Vs United Kingdom*, the European Court of Human Rights stressed the importance of the protection of political expression and of freedom of the press in general. It stated that it is incumbent on the media to "impart information and ideas concerning matters ... of public interest. Not only do the media have the task of imparting such information and ideas: the public also has a right to receive them."

Separately, the Court pointed out that it was 'faced not with a choice between two conflicting principles but with a principle of freedom of expression that is subject to a number of exceptions which must be narrowly interpreted' (COE 2001).[2]
The response of the European Court of Justice (ECJ) to case law in this field has also been to interpret this freedom in the sense of maintaining a pluralistic radio and television system which can justify restrictions on the individual right to establishment of a media enterprise.

The concepts of the freedom of the media, or of the freedom of expression are in themselves relatively straightforward. While it is possible to outline the constitutional safeguards for these concepts it cannot be assumed that an actual range of diversity of opinion and information exists. Neither should it be assumed that Western democracies by virtue of age and experience provide a superior system for citizen information than that of the newer democracies of Central and Eastern Europe. The ways in which political authorities or economic actors can limit media freedom range from the more overt closing of media outlets on the dubious grounds of (for example) tax evasion, to political influence over editorial decisions, to the sophisticated media manipulation of spin doctors, to the suppression of opposing voices in moments of crisis on the grounds of anti-patriotism.

In order for the media to carry out its function as the fourth estate, and in order for the citizen to be fully informed regarding the democratic process, a 'freedom of information' system is also required, allowing access to information and policy documents and ensuring transparency in the functioning of government and state authorities. The report outlines the way in which both 'freedom of expression' and 'freedom of information' are ensured in the selected countries. With regard to the concept of editorial freedom which can also impact on the freedom of the media, the report will refer to where this is protected through contract agreements between owners and editors, through the establishment of an 'editorial statute', or protected in the case of mergers and takeovers of newspapers through media ownership regulation.

2.2 Codes of practice for journalism and self-regulation

Media freedom, of course, needs to be balanced with a set of principles regarding professionalism in journalism and a system of ensuring high standards within the profession. All countries in the EU, including the accession countries have adapted (or have an equivalent to) the code of conduct outlined by the International Federation of Journalists. The national reports briefly outline these codes and any additional systems of codes or standards, and also explain the way in which this process of self-regulation of standards works in each of the countries.

2.3 Media ownership and regulation

Related to the issues outlined above, the issues of media freedom and diversity of information are also raised in the context of ownership of the media, and concerns over consolidation of ownership. Where one proprietor commands a large portion of a particular sector, for example, the press, there may be a concern of development of 'editorial concentration' within the newspapers owned, i.e. a singular stance on issues or policies going through the ideology of the newspapers. Before addressing the issue of media ownership and the response of policy-making it is important to examine the concept of ***media pluralism***.

2.3.1 Media Pluralism

Despite the variety of national media systems and political cultures, the current and future member states of the European Union, and the member states of the Council of Europe are now obliged to protect pluralism in the media of their national systems. Pluralism of the media is a two-fold concept, relating to both the diversity of ownership of media outlets (external) and also the diversity of output or content of media outlets (internal). Pluralism can also be considered as relating to two aspects of the media's role in society. Doyle (2003:12) describes it thus:

[2] Council of Europe (2001) *Case Law Concerning Article 10 of the European Convention on Human Rights.* File Number 18. Council of Europe. Quoted in: Pertzinidou and Ward (2002).

> "..'Political' pluralism is about the need, in the interests of democracy, for a range of political opinions and viewpoints to be expressed in the media. Democracy would be threatened if any single voice, with the power to propagate a single viewpoint, were to become too dominant. 'Cultural' pluralism is about the need for a variety of cultures, reflecting the diversity within society, to find expression in the media. Cultural diversity and social cohesion may be threatened unless the cultures and values of all groupings within society (for example those sharing a particular language, race, or creed) are reflected in the media."

Our concern here is mainly with the former, the diversity of opinion and viewpoints related to politics and democracy. It is necessary to consider the potential impact of levels of both 'internal' and 'external' pluralism on the range of ideas and opinions expressed in the media, and indeed to consider whether 'external' pluralism may or may not guarantee 'internal' pluralism. However, the focus of the report is on external pluralism and the impact of concentration/convergence on the diversity of ownership of the different media.

External pluralism, pluralism of ownership

The relationship between the plurality of ownership of the media and the plurality of opinion and information in media outlets can be difficult to assess. The extent to which 'editorial freedom' is protected from the influence of media owners, a process that provides one safeguard, will be addressed in the national reports (see also 2.1 freedom of the media), whether through statutes, agreements, or ownership (mergers and take-overs) regulation. However, the interference in editorial freedom by media owners can take less obvious forms through: the choice of personnel perhaps sympathetic to their opinions; the investment decisions regarding resources in particular areas of programming or reporting; or in how content is sourced (Doyle 2003:19). Many of the arguments for the necessity of a certain level of consolidation of the media industry apply to the potential economies of scale that a company can achieve. With a certain mass, a large media firm may more easily be able to provide (or indeed preserve) an additional outlet. The economies of scale allow a transfer of resources, material, shared administration etc. These issues are sometimes taken into account by competition authorities (see national reports) in dealing with mergers and takeovers of media enterprises, when trying to strike a balance between economic benefit, and the need to preserve a competitive plural media sector. Some of these actual economic benefits, for example, the sharing of resources and sources may also cause a certain reduction in the plurality of information.

The question of whether there exists a pluralism of opinion in democratic societies is just one problem regarding concentrated media markets. There is also the issue of dominance in the market. Within competition regulation, a company will be penalised for abusing a position of dominance in the market by perhaps tying in other products to their own and limiting consumer choice. Such was the case with Microsoft linking its Internet browser Explorer with the Microsoft Operating System (Konert, 1998). But questions can also be raised in the context of the media as to whether it is appropriate to allow media organisations to be in a 'dominant position' in the market, which allows for a 'potential abuse of power' (see Cavallin, 1998). Where a media organisation has a large proportion of the audience reach through its outlets, and hence a potentially strong influence on political opinion, it becomes a player in the political process with the potential to hold politicians to ransom on particular issues not least that of media regulation. Where the political activities and statements of the head of a major corporation can be 'blacked out' across his media outlets, questions regarding censorship and the impediment to fully informing the citizen are raised. In this sense 'external pluralism' should provide some safeguard to the overall level of pluralism in the media.

Internal pluralism, pluralism of opinion

Diversity of output or content in the broadcasting sector could be stimulated and easily monitored by adopting measures such as imposing/setting detailed programme requirements/obligations in the broadcasting laws or in the broadcasting licences (e.g. as to sources of and percentages of news and current affairs, local programming, etc.). Public service broadcasting, by its very nature, is obliged to provide educational, informational and entertainment content; it is expected to be independent and impartial; to provide accurate information; and to uphold standards of journalism and respect human dignity and privacy. Certain requirements (relevant to both PSB and commercial), for example, the use of independent producers is intended to both, stimulate the industry, and add to the diversity of programming. Similarly, the quota system for European audiovisual works is intended to retain a balance between US and European audiovisual output, to stimulate the industry and to provide some cross-national exchange of products (main regulatory base is the Television Without Frontiers Directive). Additionally, in certain countries, including "the UK, Norway and Denmark, and to a lesser degree France, commercial free to air channels have certain programme obligations to provide a minimum service, in a number of programme strands" (Machet, Pertzinidou and Ward, 2002:4). These obligations are somewhat similar to those outlined for PSB and may include the provision of services for a variety of groups, including children, or minorities, and also refer to the provision of news and educational content.

The aforementioned measures could not be applied to the press sector. The notion of a free press implies that any regulation of content of the press would amount to interference in this freedom. In certain countries (particularly Norway, Sweden and Finland) a subsidy system has long been in place to support diversity and independence in the regional press. Generally speaking, the nature of the content and the quality of news that a newspaper produces or the impact of the nature of the press markets (highly concentrated or not) on the information offer could be actually evaluated only with some form of comparative content analysis.

The strongest phase of regulation of media content with regard to 'political pluralism' and diversity of opinion, occurs during election campaigns, and is relevant to both the press and the broadcasting sectors. The intention of such regulation is generally to ensure 'free and fair elections', to ensure that candidates and parties receive an appropriate fair share of media coverage (whether equal, or based on levels of representation in Parliament etc.) and to provide a system of 'right of reply' for those who feel they did not receive fair or equal treatment. The regulation is also intended to ensure that the space given to policy issues and election manifestos is not distorted through financial influence, for example in relation to the rules for political advertising. The regulation also attempts to ensure that the media does not interfere in the political process by, for example, regulating when political opinion polls can be published during the campaigns.[3]

The process of election campaign coverage is usually monitored by regulators or other authorities to ensure that the media carries out its duties according to the rules laid down regarding election campaigns, and the systems in place vary between countries. Aside from this particularly focused period of the democratic process during elections, there is little monitoring of the diversity of media output (aside from particular studies or observations related to particular topics) and therefore on the whole, it is very difficult to assess the process of internal pluralism.

2.3.2 Concentration and consolidation in the media industries and policy responses

Concerns regarding the concentration of media industries date back to the 1970s when several countries began implementing regulations to control the development of the market. With the rapid expansion and commercialisation of the media sectors in the 1980s these issues again came to the fore, with the push for free trade and de-regulation of industries including the media. While in Western Europe the number of media outlets increased, a consolidation of the industry took place through mergers, acquisitions, agreements etc. This development has been on the international rather than European level and sparked further concern leading to the development of a system for monitoring developments at the Council of Europe.

[3] For a discussion and analysis of how these systems work in a range of countries: France, Germany, Italy, Russia, South Africa, the UK and the USA, see: Lange, B.P. and Ward, D. (2004): *The Media and Elections: A Handbook and Comparative Study*. From the European Institute for the Media Book Series. London/ New Jersey: Lawrence Erlbaum and Associates.

The Council of Europe was indeed very active in the field of media concentration/media pluralism and diversity through recommendations and reports. The first recommendation on transparency was adopted in 1994, although work on the issue had already started in 1989[4], followed by the Recommendation on measures to promote media pluralism adopted in 1999.[5] Two reports: "Pluralism in the multi-channel market: suggestions for regulatory scrutiny" (1999) and "Media Pluralism in the Digital Environment" (2000) were published by the group of specialists on media pluralism. In 2003, the Advisory Panel to the Council of Europe Steering Committee on the Mass Media (CDMM) on media concentrations, pluralism and diversity questions compiled a report on media diversity in Europe.[6]

At the 6th European Ministerial Conference on Mass Media Policy, which was held in Krakow in June 2000, the Ministers of the participating States agreed, *inter alia*, that the "human and democratic dimension of communication should be at the core" of states' activities in the field, and should focus on four essential axes:

- the balance between freedom of expression and information and other rights and legitimate interests;
- pluralism of media services and content;
- the promotion of social cohesion;
- the adaptation of the regulatory framework for the media in the light of ongoing developments.

In particular, with regard to pluralism, the Ministers agreed that the CDMM should monitor the impact on pluralism of the development of new communication and information services and the trend towards greater media concentrations, and examine the importance for pluralism of preserving the diversity of sources of information.

In the context of the European Union, the development of media markets in Europe was considered an important concern in terms of safeguarding European cultural and political identities in the face of US domination of the information and cultural industries. The EU has always been caught between the two, often contradictory, desires to develop strong media organisations on a pan-European level in order to counteract US or Japanese strength in the media sector, while also desiring to retain pluralism at the national level in terms of cultural representation and political opinion. However, member states have frequently blocked or hindered any pan-European approach to establishing harmonised rules with the argument that the regulation of market structure is more appropriately dealt with at the level of the nation-state. One example was the 'Green Paper on Pluralism and Media Concentration in the Internal Market' of 1992, which due to political and industry opposition did not result in the adoption of a directive. Therefore, the main legal instruments at EU level up to now have been the TV without Frontiers Directive, the "Telecom" package which entered into force in July 2003 and the competition rules, in particular the Merger Regulation.

However, the European Parliament remained active in the field by adopting a number of resolutions over the years.[7] The most recent resolution on media concentration was adopted in 2002 where the Parliament called upon the Commission and the Member States to safeguard media pluralism. It also called on the Commission to launch a broad consultation process assessing the impact of new

[4] Rec(1994)013 and Explanatory Memorandum, RECOMMENDATION No. R (94) 13 of the Committee of Ministers to member States on measures to promote media transparency.

[5] Rec(1999)001 and Explanatory Memorandum, RECOMMENDATION No. R (99) 1 of the Committee of Ministers to member States on measures to promote media pluralism (Adopted by the Committee of Ministers on 19 January 1999 at the 656th meeting of the Ministers' Deputies).

[6] All three reports are available at: http://www.coe.int/t/e/human_rights/media/5_Documentary_Resources/2_Thematic_documentation/Media_pluralism/default.asp - TopOfPage

[7] Resolution in OJEC C 68 of 19.03.90, Resolution in OJEC C 284 of 2.11.92, B4-0262 in the OJEC C323 of 21.11.94, B4-0884 in OJEC C 166 of 3.07.95.

technologies on media pluralism and on the right to freedom of expression, aiming at drawing up an updated Green Paper on these issues.

The logic of concentration of the industry is clear from the perspective of industry actors. Media corporations have expanded their interests vertically in order to control content development, production and distribution, as convergence along the supply chain reduces costs and enhances potential profits. They have also integrated vertically across sectors (cross-media ownership) in order to exploit revenues or promote content e.g. the promotion of films through publications or music through film. With the development of media technologies and the convergence of audiovisual content, IT and telecommunications, media corporations also seek to develop their ownership of, or links to, the variety of distribution platforms now available for content, with the AOL/ Time Warner merger being a not so successful example. However, the proposed Disney Comcast merger is a further example of this development.

Recently, we have witnessed further trends in de-regulation of the media industry with an increased loosening or easing of the rules regarding ownership at the national level, with the Federal Communications Commission in the US planning a relaxation of ownership rules (allowing media corporations to reach 45% rather than just 35% of television viewers), and the recent Communications Act in the UK (relaxing foreign ownership restrictions, cross media ownership rules). Both moves have been highly controversial and in the case of the UK a compromise has been reached with the development of a 'public interest test' which is intended to determine the potential share of the 'public voice' which a merged company would have (see UK report).

From the perspective of practitioners, the European Federation of Journalists have highlighted their concerns regarding the concentration of ownership in Europe and focused on three major threats to the media landscape: the threat to public service broadcasting, to media pluralism, and to emerging markets in Eastern Europe (EFJ, 2002). It is clearly an area of concern for civil society, for practitioners and policy-makers.

The report specifically examines the system of regulation of media ownership in each of the countries, outlining relevant legislative acts, indicating the relevant authorities and how they cooperate, and explaining the specific criteria used in each system. These systems and their effects on the media landscape will be indicated when describing the state of play, and also with reference to any concerns regarding ownership issues.

3. Media systems in Europe: an overview

The range of countries under examination is varied in terms of media traditions and industry development. Press readership is traditionally stronger in the northern European countries than in the southern, while levels of television consumption tend to be higher in Italy and Spain. The state of competition in the audiovisual media in different countries also varies with, for example, Germany having a highly competitive market while in neighbouring Austria the public service broadcaster ORF still largely dominates the audiovisual scene. Press systems within the EU are in some cases based on regionalism reflecting different identities (Italy, Spain, France) and regional press in some cases has national coverage (Germany). Many newspapers have tended to have a relatively clear affiliation with political ideologies, either conservative (*FAZ, ABC, The Times, Le Figaro*), or more left-wing (*Le Monde, The Guardian, Frankfurter Rundschau, El País*) although the support of the tabloid press (particularly in the UK) often wavers depending on editorial perceptions of public opinion (Kevin, 2003). This tradition tends to ensure a balance of political opinion is available to the reader. The media landscape in several countries is shaped by industrial actors, as is the case with Italy where the principal industrial groups in the country represent an important force in the fields of publishing and broadcasting (Perucci and Villa, 2003).

Additionally, many of the accession countries have been through the process of transformation from one-party soviet states to 'new democracies' with the added challenge of incorporating the entire *acquis communautaire* of the European Union. Within this context the main vehicles of citizen information, the media, have undergone rapid change involving both the transition from state media to public and private media outlets, and also, as is the case in many industries, the influx of foreign capital and explosion of foreign ownership in the media field. The accession countries have varied audiovisual landscapes, which is not surprising given the different levels of economic and political development. The nature of public policy, political culture and the administrative capacity of regulatory authorities are varied, with consequences for how policy is employed and implemented in each country. Newly established or re-established nation-states are also commonly caught between issues of 'national interest' and that of 'public interest' which has a direct impact on the media in terms of their role as 'nation builders', developers of national identity, or their role as the Fourth Estate, the watchdogs of public affairs.

In the case of all countries within the study, public perceptions of media performance play an important role in the extent to which citizens trust the media or the information that they receive. A lack of trust in media and political institutions hinders the development of political and civic participation. While recent Eurobarometer data indicates varying levels of trust in the media with radio being the most trusted medium in the EU member states yet generally less utilised than broadcasting or press (European Commission 2003a), the results of Eurobarometer surveys consistently indicate the importance of media (particularly television) as sources of information at the national and EU level. Levels of trust in the media on the whole are lowest in Italy and Greece, with UK respondents showing least trust in the press. For accession and candidate countries levels of trust are similar although they have more confidence in television and least in the press (European Commission, 2003b). Despite any scepticism that may exist regarding the media it is clear that citizens rely on the media for political and cultural information. The use of the Internet in this context is growing steadily but usually only indicated as a source of EU information by 12-15% of respondents. The situation among young people indicates a stronger use of the Internet in the context of EU information, particularly in the accession and candidate countries (European Commission, 2003c). The findings of the World Internet Project[8] illustrate that Internet users consider the Internet as a very important source of information. However, trust and reliability of information distributed via Internet, is an issue of concern among experienced users in nearly all countries.

The report outlines the media landscapes in the twenty five countries indicating the major players (dependent on shares of audience and circulation) in broadcasting and press. Additional information is given where available regarding pay television (cable and satellite). Reference to the Internet will be made where relevant. However, the individual country reports focus mainly on the traditional media (press and broadcasting).

[8] http://www.worldinternetproject.net

Austria

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The freedom of expression is enshrined in the Staatsgrundgesetz of December 21st, 1867:

> *"Art. 13. Everyone has the right within the limits of the law freely to express his opinion by word of mouth and in writing, print, or pictorial representation. The press may be neither subjected to censorship nor restricted by the licensing system. Administrative postal distribution vetoes do not apply to domestic publications."*[9]

In July 1974, a special constitutional law was adapted which protects the freedom of expression in broadcasting.[10]

1.2 Freedom of Information

Freedom of information, understood as citizens' right to access government documents, is enshrined in the Austrian constitution's Article 20, Subsection 4, which holds that:

> *"(4) All functionaries entrusted with federal, state and municipal administrative duties as well as the functionaries of other public law corporate bodies shall impart information about matters pertaining to their sphere of competence in so far as this does not conflict with a legal obligation to maintain secrecy; an onus on professional associations to supply information extends only to members of their respective organizations and this inasmuch as fulfilment of their statutory functions is not impeded. […]"*[11]

The legal obligation to maintain secrecy that is referred to in this paragraph, is, however, given a rather extensive interpretation itself at the level of the constitution with Subsection 3 of the same article establishing:

> *"(3) All functionaries entrusted with federal, state and municipal administrative duties as well as the functionaries of other public law corporate bodies are, save as otherwise provided by law, pledged to secrecy about all facts of which they have obtained knowledge exclusively from their official activity and whose concealment is enjoined on them in the interest of the maintenance of public peace, order and security, of universal national defence, of external relations, in the interest of a public law corporate body, for the preparation of a ruling or in the preponderant interest of the parties involved (official secrecy). Official secrecy does not exist for functionaries appointed by a popular representative body if it expressly asks for such information."*

The constitutional provisions have been translated into two laws at the federal level: firstly, the Federal Law on the Duty to Furnish Information[12] describes the circumstances under which access to documents held by federal institutions and self-administrative bodies regulated by federal legislation can be gained. According to the law, everybody is entitled to file a request for information either orally, in writing or per telephone, to which the addressee shall be obliged to respond in so far as no countervailing duty of discretion exists and the request itself is not manifestly unfounded; requirements to supply information under special legislation remain unaffected by this general

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[9] *Basic Law of 21 December 1867 on the General Rights of Nationals in the Kingdoms and Länder represented in the Council of the Realm*, Federal Law Gazette No. 142/1867, as amended by Federal Law Gazette No. 684/1988, available from: http://www.wienerzeitung.at/linkmap/recht/verfassung3.htm [in German]; English translation: http://www.ris.bka.gv.at/erv/erv_1867_142.pdf.

[10] *Bundesverfassungsgesetz vom 10. Juli 1974 über die Sicherung der Unabhängigkeit des Rundfunks (BVG - Rundfunk):* http://www.rtr.at/web.nsf/deutsch/Rundfunk_Rundfunkrecht_Gesetze_RFGesetze_BVG-Rundfunk-Text.

[11] A selection of the most important Austrian Federal Constitutional Laws, including the Bundes-Verfassungs-gesetz (BVG) referred to here, can be downloaded from: http://www.ris.bka.gv.at/info/bvg_eng.pdf.

[12] *Bundesgesetz vom 15. Mai 1987 über die Auskunftspflicht der Verwaltung des Bundes und eine Änderung des Bundesministeriengesetzes 1986 (Auskunftspflichtgesetz)*: http://www.ris.bka.gv.at/bundesrecht/.

provision. Secondly, the federal government has enacted a piece of framework legislation[13] that commits the state legislators to the same principles, which have been translated in corresponding acts at the level of the Austrian provinces.

1.3 Code of conduct for Journalists

The Code of ethics for the Austrian Press[14] was adopted in 1983 by the Austrian Press Council. In subscribing to this code, the parties and their employees commit themselves to the highest standards of accuracy in their reporting, including the cross-checking of third party information where uncertainty exists with regard to its validity, clearly separating factual reports from the reproduction of third party views and own commentary as well as the rectification of false information as soon as attention has been drawn to it. Anonymous quotes are to be avoided, unless anonymity is required to protect sources, as are statements indicting a person or an institution, without having tried to obtain a statement on the subject matter on their behalf. Likewise, pictures shall generally not be published without the prior consent of the person affected, with a deviation from this rule being justifiable only in cases where there is a clear public interest in doing so.[15] The truthfulness of the information published shall also be guaranteed by preventing outside influence on editorial content, whether sources external to the newspaper, or the economic interests of the publisher himself. To this effect, the acceptance of any personal advantages on behalf of the individual journalist is deemed to constitute a breach of professional ethics as laid down in the code. The procurement of information has to correspond to a number of principles, including a total ban on unfair or improper methods of obtaining information,[16] and the respect for the individual's right to privacy, which shall take precedence over the news value in the case of children. There is currently no self-regulatory organisational structure, to apply and oversee the code of ethics. This situation is due to a unresolved conflict of interest between the Austrian Newspaper Association and the Austrian Trade Union's Section of Journalists which arose over a proposal for the reform of the Press Council put forward by the Austrian Newspaper Association in 2001. Failing to establish a consensus on the issue, the Austrian Newspaper Association left the Press Council at the end of June 2002.[17]

1.4 Media Ownership Regulation

The Austrian legal order comprises one of the most developed range of instruments to protect media pluralism within the EU member states. These instruments consist of a combination of media specific regulation in the form of broadcasting licensing rules, specific merger thresholds and assessment criteria applicable to media concentrations under cartel law (see Section 1.4.2 below) and transparency rules with regard to media ownership. Under the current rules for the licensing of broadcasting operations,[18] which are administered by Austria's convergence regulator *KommAustria* (set up in 2001), both radio and television operators are required to disclose their ownership structure when applying for a broadcasting license.[19] Where the information provided is lacking or insufficient, the regulator is entitled to request additional information, and ultimately to dismiss the application,

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[13] *Bundesgrundsatzgesetz vom 15. Mai 1987 über die Auskunftspflicht der Verwaltung der Länder und Gemeinden (Auskunftspflicht – Grundsatzgesetz)*: http://www.ris.bka.gv.at/bundesrecht/.

[14] *Grundsätze für die publizistische Arbeit (Ehrenkodex für die österreichische Presse) as of 21 January 1999,* available from: http://www.press.at/kodex.htm.

[15] This also applies to reports in general; a public interest exists particularly in those situations "in which publication of the facts in question might help to bring a criminal to justice, or might be desirable in the interest of protecting public security or health or preventing the general public from being misled." (Section 9.2. of the Code).

[16] Pursuant to Section 7.2. of the Code, "[u]nfair or improper methods shall include misrepresentation, pressure, intimidation, exploitation of emotional or stressful situations and, as a rule, the use of wiretapping or bugging equipment."

[17] While the Press Council's decision making fora, the senates, haven't met since then, its Ombudsman has continued his work during the two years that have passed since then.

[18] *Bundesgesetz, mit dem Bestimmungen für privaten Hörfunk erlassen werden (Privatradiogesetz - PrR-G)*: http://www.rtr.at/web.nsf/deutsch/Rundfunk_Rundfunkrecht_Gesetze_RFGesetze_PrR-G; *Bundesgesetz, mit dem Bestimmungen für privates Fernsehen erlassen werden (Privatfernsehgesetz - PrTV-G),* http://www.rtr.at/web.nsf/deutsch/Rundfunk_Rundfunkrecht_Gesetze_RFGesetze_PrTV-G.

[19] Where shares in the broadcaster are held by partnerships, limited liability companies or cooperative societies, the ownership structures of these companies have to be made known as well. Chapter III, Section 7 Subsection 5 PrR-G; Chapter III, Section 4, Subsection 2 and Subsection 4, Nr. 2 i.c.w. Chapter IV, Section 10, Subsection 6 PrTV-G.

where such a request is not complied with by the applicant. Changes in the ownership structure have to be immediately notified to the regulator. Any transaction of capital that involves more than 50 percent of shares in the case of radio, or more than 25 percent in the case of television, has to be notified ex ante to the regulator, who will then assess whether the license decision can be upheld given the new ownership situation. For a radio broadcaster, failure to notify such transactions will invoke a procedure leading to the revocation of the license, provided that the operator fails to comply with the orders of the regulatory body, or has repeatedly been addressed for violations of this provision, whilst in the case of national TV broadcasting licenses, a transfer of more than 50 percent of shares will immediately lead to the revocation of the license.

Decisions concerning the allocation of broadcasting licenses are generally taken with a view to promoting diversity, and both radio and television broadcasters are obliged to reflect the diversity of opinion in their programming.[20] As an additional safeguard against the concentration of ownership interests, the acts on private radio and television stipulate that a person can only hold multiple radio or analogue terrestrial TV licenses when the transmission areas served by the respective licenses do not overlap; this restriction also applies where the person itself is not the holder of the license, but exercises significant influence over its application by way of a shareholding of more than 25 percent of capital shares or voting rights or in a manner comparable thereto.

In addition to this general limitation on the number of licenses that may be held per geographical area, there exist further specific limitations for each medium: for radio, this implies that an owner of media operations is banned from participation in a radio broadcaster that is organised as an association. For analogue terrestrial television, this means that a media owner will forfeit eligibility for a national broadcasting license, where he achieves a market share of more than 30 percent in terrestrial radio broadcasting, or the daily press, or the weekly press, or services more than 30 percent of the population by way of his cable services. At the regional level, a broadcasting license cannot be awarded where an applicant meets more than one of these criteria in the transmission area that is to be serviced by the TV broadcasting operation.

Finally, Section 25 of the Media Act[21] obliges the the owners of all periodic media to publish once a year their name or the name of the company through which they operate, the character of their business activities and the ownership structure. Where the owner of the medium is a company itself, all shareholders with a direct interest of more than 25 percent or an indirect interest of more than 50 percent therein shall also be disclosed. Along with the ownership data, the company is also required to publish a statement on its editorial line. This provision to increase transparency with regard to ownership interests is complemented by provisions in the acts on private radio and television which hold that shares cannot be issued anonymously.

1.4.1 Audiovisual Media

More so than other European countries, the Austrian audiovisual landscape has been shaped by the national public service broadcaster, the *Österreichischer Rundfunk (ORF)*. The first steps towards liberalisation weren't taken before 1993, when the Regional Radio Act for the first time introduced the legal possibility of private radio broadcasting at the subnational level. With a total of 154 applications received, ten applicants were appointed as holders of the first radio broadcasting licenses by the Regional Radio Authority located within the Federal Chancellery. Due to a complaint by those applicants that had not been awarded a license, the Constitutional Court dismissed the Regional Radio Act as invalid, ordering the legislator to produce a new law. Only two stations were able to go on the air in late 1995 already as the licensees were able to negotiate deals with rival applicants, granting

[20] Diversity of opinion as a selection criterion is laid down in Chapter II, Section6, Subsection 1 PrR-G for radio and in Chapter III, Section 7, Subsection 1, Nr.1 and Section 8, Subsection 2 PrTV-G. The general obligation to reflect the diversity of opinions in their programming is reflected in Chapter IV, Section 16, Subsection I PrR-G (for radio) and Chapter VII, Section 30, Subsection 1 PrTV-G (for television).
[21] *Bundesgesetz vom 12. Juni 1981 über die Presse und andere Publizistische Medien (Mediengesetz), BGBl. Nr. 314/1981 i.d.F. BGBl. I Nr. 136/2001*, available from: http://www.ris.bka.gv.at/bundesrecht/.

them capital share participation. Two years later, in 1997, parliament finally adopted a new Regional Radio Act, under which the remaining eight regional licenses were awarded as were an additional 43 local radio broadcasting licenses. In the same year, a Cable and Satellite Broadcasting Act was enacted which reacted to the fact that certain cable operators had started providing own programming content in 1995 already, followed by specific Austrian advertising windows produced by German commercial broadcasters RTL and SAT.1 in 1996. Only in 2001, however, did the legislator adopt the Private TV Act which ultimately created the basis for private terrestrial television, parallel to the Private Radio Act which contributed to a further liberalisation of radio markets by collapsing the distinction between local and regional broadcasters and relaxing ownership restrictions. While no national radio operator has been licensed due to technical reasons so far, the first analogue terrestrial television channel, *ATV+*, was licensed in Feburary 2002 and went on the air in June 2003.

1.4.2 Competition Policy and Mergers

Austrian competition policy falls within the remit of the Federal Ministry of Economics and Labour. The application of the provisions of competition and cartel law are entrusted to the Federal Competition Authority that was created under the auspices of the Ministry as part of the competition law reform in late 2002. The special importance of the media as more than simply another class of economic enterprises is attested to by a range of provisions of the Austrian Cartel Act[22] relating to mergers involving media companies. A concentration will be deemed to be a media concentration, whenever at least two of the parties involved in a merger are considered either as (i) media enterprises or media services, (ii) media support companies,[23] or (iii) enterprises that hold at least 25 percent of the shares in any one of the aforementioned. Furthermore, a concentration will also be qualified a media concentration, when only one of the enterprises qualifies according to the criteria set out, and another one has 25 percent of its capital held by one or more media enterprises, media services or media support companies.

Media concentrations are treated differently relative to other mergers both by virtue of the applicability thresholds that invoke the merger control procedure in such cases and the assessment criteria to be applied. Where normal mergers have to be notified only if the combined annual turnover of the enterprises involved exceeds 300 mio. Euro worldwide and 15 mio. Euro domestically, with at least two of them achieving worldwide turnovers of more than 2 mio. individually, these thresholds are lowered to 1/200 for media enterprises and media services and 1/20 for media support companies. If applicability has been established using these lowered threshold values, the concentration will be assessed with regard to the possible creation or strengthening of a dominant position; where either one of those is the likely outcome of the merger, the concentration shall be denied clearance. In addition to this general assessment criterion, media pluralism itself is accounted for when assessing media concentrations, in as far as a concentration may also be prohibited exclusively on grounds of an expected negative impact on media diversity,[24] provided it is not imperative "for the maintenance or improvement of the international competitiveness of the enterprises involved" and "economically sound".[25]

[22] Bundesgesetz vom 19. Oktober 1988, BGBI 1988/600, über Kartelle und andere Wettbewerbsbeschränkungen (KartG 1988) i.d.F. BGBl 33/2003, available: http://www.bwb.gv.at/BWB/Gesetze/Kartellgesetz/default.htm
An English translation can be downloaded from: http://www.bwb.gv.at/NR/rdonlyres/4E837A92-B3BC-494A-92ED-833A4613FCCA/0/kartellgesetz_englisch.pdf.
[23] Media support companies are "1. Publishing houses (provided that they are not media enterprises), 2. Printers and enterprises of the pre-printing stage, 3. Enterprises procuring or brokering advertising orders, 4. Enterprises that handle the distribution of media products on a large scale [and], 5. Film rental businesses."; Chapter V, Section 42c, Subsection 2 KartG.
[24] Chapter V, Section 42c, Subsection 5 KartG. Pursuant to Chapter IV, Section 35, Subsection 2a, "[m]edia diversity shall be understood to mean a diversity of independent media enterprises which are not associated within the meaning of Section 41 and through which news reporting with due regard to different opinions is ensured."
[25] Chapter V, Section 42c, Subsection 5 i.c.w. Chapter V, Section 42b, Subsection 3, Nr. 2 KartG.

1.4.3 Cross Media Ownership and Foreign Ownership

The issue of cross-media ownership is addressed two-foldedly in Austrian legislation: the Cartel Act addresses possible negative repercussions on media pluralism arising from cross-media ownership by way of its broad understanding of media concentrations, which allows for the taking into consideration of upstream and downstream markets as well as cross-sectorial activities. Secondly the licensing regime for terrestrial television broadcasting operators explicitly excludes a number of possible ownership scenarios in order to prevent possible threats to media pluralism that might arise from cross-media ownership at the national level or in a more narrowly delimited geographical area (cf. Section 1.4). Sector-specific audiovisual legislation also contains certain limitations on foreign media ownership in the broadcasting field. Under the current rules, both radio and television broadcasters have to be Austrian citizens, legal persons or partnerships established in Austria, although citizens and undertakings of EEA Member States are entitled to equal treatment and thus are considered to have the same rights as their Austrian counterparts for the purpose of the provisions relating to foreign ownership. Where a broadcaster is organised as either a partnership, limited liability company or a cooperative society, no more than 49 percent of shares can be foreign-owned.

2. Main Players in the Media Landscape

2.1 Radio

Although a great number of private radio operators has been licensed since the market was formally liberalised in 1993 with the adoption of the Regional Radio Act, and the programming supply available to listeners has increased correspondingly, national public service broadcaster ORF still exercises a dominant influence on the national radio landscape. Despite substantial investments undertaken by companies such as Mediaprint, private commercial broadcasters have largely failed to create a substantial listener base.

The Arabella network, which has been formed under license of the Bavarian station of the same name, is a good example of a streamlining of content, despite preserving a decentralized ownership structure: a particularly striking case was the adoption of Arabella's oldies format by the Bregenzer Lokalradio 95.9 Music Radio in early March 2000, which had previously been broadcasting a hot adult contemporary programming schedule. While Arabella relies mostly on its position as the most successful commercial radio operator in the Austrian capital for its placement among the most successful networks in the national context, the Antenne network, which is organised along similar lines, achieves its overall leading position among commercial radio broadcasters thanks to its operations in the provinces outside the capital.

Among these is the Styrian Antenne Steiermark, which is owned by the publishing group Styria Medien AG, who also controls the outlet in Carinthia, alongside a number of other radio operations,[26] which make it a major force in the radio business of both of these provinces. Another prominent radio station also located outside of Vienna is Life Radio of Oberösterreich, which is financed by a consortium of local investors, spanning a range of financial interests as well as a number of publishing houses, including the Wimmer Medien GmbH & Co. KG, responsible for the most successful daily at the provincial level, the *Oberösterreichische Nachrichten*.

A share of the "national" market corresponding to that of Life Radio is held by *Kronehit* that is owned by the publishers ZVB GmbH and the Krone Verlag, who are connected to each other via the Mediaprint group. As the network, despite substantial investements, has so far failed to generate the earnings expected, a new partner has been sought, which is likely to appear in the form of the French radio broadcasting group NRJ. The take over of the majority of shares by NRJ, which has yet to be cleared by the Austrian competition authorities,[27] would extend the group's presence beyond the capital of Vienna, where it controls the fairly successful Radio Energy 104.2.

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[26] In Styria, the group also operates Radio A1 and the Musikradio Mur-Mürztal, while in Carinthia it controls the station Radio Harmonie. These activities are supplemented by the regional TV stations Steiermark 1 in Styria and KT 1 in Carinthia.
[27] See the Standard of 3 June 2004, http://derstandard.at/?id=1667694.

Table AT 1: Main Radio Companies

Broadcasters	Ownership Structure	Main Radio Stations*	Total Market Share Jul-Dec 2003**
ORF	Public service broadcaster	Österreich 1 5% Ö2 37% Ö3 37% FM 4 2%	82%
Antenne network	Network (decentralised ownership)	Antenne Salzburg 1% Antenne Steiermark 2% Antenne Tirol 1%	4%
Arabella Network	Network (decentralised ownership)	Radio Arabella Wien Radio Arabella Innsbruck Radio Arabella Bregenz	3%
LIFE RADIO GmbH & Co KG	Landesverlag Holding Ges.m.b.H. 26% Druck- und Verlagshaus J. Wimmer 26% Telekurier 10% Österreichischer Zeitungs-Verlags - und VertriebsgmbH 10% Privates Radio OÖ, GmbH 10% Bank für Oberösterreich und Salzburg 6% Informationsdienst- und MedienbeteiligungsgmbH 5% Gutenberg-Werbering GmbH 5% Freie Medien GmbH 2%	Life Radio	2%
Krone Hit Radio Medienunternehmen Betriebs- und Beteiligungsgesellschaft	Krone Verlag Ges.m.b.H. & Co Vermögensverwaltung KG 70% ZVB GmbH 30%	Kronehit[28]	2%
Radio Eins Privatradio Gesellschaft m.b.H.	Moira Rundfunk GmbH 100% Medien Union GmbH	88.6 Supermix	1%
N & C Privatradiobetriebs GmbH	NRJ group 52.54% Florian Novak 4.5%	Radio Energy 104.2	1%

* Stations attracting one more percent or more of daily radio listeners (ages 10 and up) on average.
** Market shares as reported by RMS Austria (www.rms-austria.at).

Vienna is also home to the second foreign controlled radio operation of major importance in the Austrian context, *88.6 Supermix*, which is operated by an Austrian subsidiary of the German Medien Union GmbH, one of the most important players in the German regional radio business.

2.2 Television

The Austrian television landscape today is still clearly influenced by the long-standing monopoly of public service broadcaster ORF, which despite a formal market opening with the ratification of the Private Television Act in 2001 still has a market share of more than fifty percent as regards viewing time. Although this situation means a loss in audience share of ten percentage points compared to the situation in 1996, the weakening of the incumbent's position has translated largely into a corresponding increase in the market share held by foreign television broadcasters, whose aggregate 47 percent are eight percentage points more than the equivalent for the year 1996.

Due to linguistic affinity and geographical proximity, German television channels have a strong position in the Austrian market. The three largest commercial German TV channels RTL, PRO 7 and Sat.1 together account for no less than 15 percent of viewing time on average, but German public service broadcasters ARD and ZDF also enjoy some popularity with a market share of three percent each. In an effort to strengthen its position in the Austrian market, the German ProSiebenSAT.1 Medien AG has acquired national satellite broadcasting licenses for Austrian programme windows of its PRO 7 and Sat.1 channels.

[28] Network with outlets in St. Polten, Upper Austria, Styria, Carinthia, Salzburg and Tyrol.

Table AT 2: Main Television Companies

Broadcasters	Ownership Structure	Main TV Stations*	Total Market Share Jan-Mar 2004**
ORF	Public service broadcaster	ORF 1 22% ORF 2 30%	52%
ProSieben Austria GmbH	**SevenOne Media Austria GmbH** ProSiebenSAT.1 Medien AG	PRO 7 5%	5%
SAT.1 Österreich Privatrundfunk und Programmgesellschaft m.b.H.	Medicur Holding 33.3% ProSiebenSat.1Media AG 33.3% Styria Medien AG 33.3%	Sat.1 5%	5%
ATV Privatfernseh-GmbH	**ATV Privat-TV Services AG** INGEBE Medien Holding GmbH 41.5% Concorde Media Beteiligungs GmbH 36.9% ATHENA Zweite Beteiligungen AG 10.0% Tele München Fernseh GmbH & CO. Produktionsgesellschaft 6.1% ERSTE BANK der österreichischen Sparkassen AG 2.1% FUNDUS Gesellschaft für Unternehmensbeteiligungen GmbH & Co. KEG 1.9% *(Wiener Städtische)* GENERALI Holding Vienna AG 1.7%	ATV/ATV+	1%
Foreign broadcasters	Various	RTL 6% PRO 7 5% ARD 3% ZDF 3% Kabel 1 3% VOX 3%	37%

* Stations attracting one percent or more of daily television viewers on average.
** Market shares for the year 2003 according to TELETEST.

Since 1st of June 2003, the first national terrestrial commercial TV channel has been available to Austrian viewers. *ATV+* was awarded the only analogue terrestrial broadcasting license in Austria on 1. February 2002. It involves a range of German and Austrian investors, including the well known German Tele München GmbH, controlled by Dr. Herbert G. Kloiber (55%), who is also the owner of the Concorde Media Beteiligungs GmbH, thus giving him a total of 43 percent of capital shares. Another major shareholder is the Austrian Bank for Labour and Economics, BAWAG, which holds 41.5 of shares via its INGEBE Medien Holding, and is indirectly involved in the ATHENA Zweite Beteiligungen AG together with another financial investor, the Raiffeisenlandesbank Oberösterreich.

2.3 Press and Publishing

Levels of newspaper consumption are quite high with 75.2 percent of the population picking up a newspaper on an average day in 2003 (radio: 84.1 percent; television: 69.3 percent). With the limited range of commercially attractive broadcasting services, advertising spending in the printed press continues to account for the largest part of national adspend, amassing a total of 52.8 percent in 2003, of which 25.4 percent went to newspapers.[29] Of the more than 3 million newspapers that are circulated each day, approximately 1.4 million are accounted for by the six national dailies (see Table AT 3).

By far the largest player in this market is the Mediaprint group, a holding company set up between the two largest Austrian newspapers, the tabloid *Kronen Zeitung* and the *Kurier*, which has been qualified as a "semi-tabloid with a slightly liberal touch." Both companies have the German Westdeutsche Allgemeine Zeitungsgruppe as a major shareholder with around 50 percent of capital shares, while the remaining capital is spread among Austrian shareholders, notably the founder and editor of the Kronen Zeitung, Hans Dichand, and financial investor Raiffeisen-Holding Niederösterreich-Wien. Both the Mediaprint holding and its two parent companies are involved in a host of media activities, spanning printing, advertising, online content production, the magazines market and commercial radio broadcasting, the Kronehit network being its most prominent operation in the latter field.

[29] In comparison, the television industry's share of national adspend that year amounted to 21.4 percent.

Table AT 3: Main Publishers of Daily Newspapers

Major Group	Ownership Structure	Titles	Market Share July-Dec 2003*
Mediaprint Zeitungs- und Zeitschriftenverlag Ges. m.b.H. & Co KG	**Krone Verlag Ges.m.b.H. & Co Vermögensverwaltung KG 70%** Hans Dichand 50% NKZ Austria Beteiligungs GmbH 40% Austria Medien GmbH 10% **ZVB GmbH 30%** Printmedienbeteiligungsges.m.b.H. 50,54% Westdeutsche Allgemeine Zeitungsverlagsgesellschaft E.Brost & J.Funke GmbH & Co. KG 49.41%	Kronen Zeitung 63.8% Kurier 14.2%	78.0%
"Die Presse" Verlags-Gesellschaft m.b.H. & Co. KG	**Styria Medien AG** Private Foundation of the Catholic Media Association 98.3% Catholic Media Association 1.67%	Die Presse	6.9%
Salzburger Nachrichten Verlagsgesellschaft m.b.H. & Co. KG	Dr. Maximilian Dasch 55.4% Dkfm. Trude Kaindl-Hönig 43.6% Salzburger Nachrichten Verlagsges. m.b.H. 1% (Komplementär)	Salzburger Nachrichten	6.2%
Standard Verlagsgesellschaft m.b.H.	Oscar Bronner 10% Bronner Familien-Privatstiftung 41% Süddeutscher Verlag GmbH 49%	Der Standard	6.0%
„Wirtschaftsblatt“ Verlag AG	"Wirtschaftsblatt" Holding Ges. m.b.H. 50% Dagens Industri Holding A.B. 50%	Wirtschaftsblatt	2.8%

* Based on circulation figures reported by Österreichischen Auflagenkontrolle (www.oeak.at) for the second half of 2003.

The remaining 20 percent of the national newspaper market are divided among Austria's four quality newspapers, the conservative *Die Presse*, the liberal *Der Standard*, economic daily *Wirtschaftsblatt* and the only national daily produced outside the capital of Vienna, the *Salzburger Nachrichten*. Of these, *Der Standard* and the *Wirtschaftsblatt* relied on foreign venture capital for their (re)introduction into the Austrian market: while the former has seen a change in the prinicpal foreign shareholder from the Springer group to the Süddeutscher Verlag Ltd., the Swedish Bonnier group has retained its fifty percent share in the economic daily *Wirtschaftsblatt*. The *Salzburger Nachrichten* and *Die Presse* on the other hand are fully Austrian owned. The Salzburger Nachrichten Verlagsgesellschaft, despite some interests in online content production, is focused primarily on the print sector. Styria Medien AG, which is owned by a catholic foundation and committed to the values of Christianity in its editorial policy, is not only the biggest publisher of regional newspapers, but also has substantial interests in broadcasting (SAT 1 and regional radio), weeklies and monthly publications as well as online services, with a geographical focus on the provinces that form the core of its business area, Carinthia and Styria.

2.4 Cable and Satellite operators

The Austrian cable sector is highly regionalised, featuring only one major operator with activities in multiple parts of the country, the UPC Telekabel, which at the same time also is the only major player in the Austrian cable market to be in the hands of a foreign investor; the second company among the top-seven CATV service providers with a significant foreign interest – whose market share is slightly more than five percent of UPC's – is the dependence of the dominant player in the Swiss cable market, Cablecom, itself owned by a consortium of US financial investors.

All other companies are in the hands of Austrian investors, featuring a mix of municipal and regional authorities and energy suppliers, with the most prominent being the Energie AG Oberösterreich (LIWEST Kabelmedien GmbH and Salzburg AG für Energie, Verkehr und Telekommunikation) and the EVN Energieversorgung Niederösterreich (Kabelsignal AG and BKF Burgenländische Kabel- und Fernsehen GmbH). Only one of the large cable operators, the Telesystem Tirol GmbH & Co. KG, is owned by a private investor, the Moser family, who also controls the largest regional newspaper in Tirol, the *Tiroler Tageszeitung*.

Table AT 4: Main Cable Companies

Cable Companies	Ownership Structure	Total Market Share*
UPC Telekabel GmbH	**UGC Europe, Inc. 95.0%** UnitedGlobalCom, Inc. 100% **City of Vienna 5.0%**	40.1%
LIWEST Kabelmedien GmbH	Energie AG Oberösterreich 44% LINZ AG 43% E-Werk-Wels AG 13%	8.1%
Salzburg AG für Energie, Verkehr und Telekommunikation	Land Salzburg 42,56% Stadt Salzburg 31,31% Energie AG Oberösterreich 26,13%	5.4%
Kabelsignal AG	EVN Energieversorgung Niederösterreich AG 100%	5.0%
Telesystem Tirol GmbH & Co. KG	Moser family (majority shareholders)	4.0%
BKF Burgenländische Kabel- und Fernsehen GmbH	**Burgenlandische Elektrizitatswirtschafts-AG (BEWAG) 100%** Burgenland Holding AG 49.4% *EVN Energieversorgung Niederösterreich AG 68.7%* *Austrian Hydro Power > 10%* *Burgenländische Elektrizitätswirtschafts-AG (BEWAG),* *Wiener Stadtwerke Holding AG 5-10% each* *remaining shareholders < 5% each* Land Burgenland 50.6%	2.8%
Cablecom Kabelkommunikation GmbH	Apollo Management Goldman Sachs Capital Partners Soros Private Equity Partners	2.4%

* Market shares are based on company data for the year 2003 and data provided by SES Astra.

2.5 Share of Advertising revenue

The table below outlines the share of advertising revenue in the media sector.

Table AT5: Share of advertising revenue within the media sector 2002*

Media	Market Share in %*
Television	20%
Print	52%
Direct marketing	15%
Radio	7%
Outdoor	6%

*Source: Focus 2002

3. Conclusions

3.1 Freedom of the Media

In 2003, the European Court of Human Rights rendered its judgements on a number of cases brought by various Austrian publishers that had been sanctioned for violations of the national defamation rules laid down in the Media Act and the Austrian Criminal Code.[30] Several of the proceedings had originally been initiated by members of the right-wing Austrian Freedom Party (FPÖ), who felt slandered by the journalists of the respective media. In line with its earlier rulings on the subject, the ECHR emphasised once again the need for politic ians to display greater tolerance towards critical media reporting practices than persons who not by the virtue of their position can be required to stand up to public scrutiny to the same extent.

Another problem that received some attention during the past year was the waning legitimacy of the press cards used by journalists. Several reports were filed with the Austrian Trade Union's Section of Journalists, indicating that law enforcement officials attributed little to no importance to the

[30] Where the former establishes the liability of the publisher together with the maxmium amount of damages that can be sought, the latter specifies a fine or a prison sentence of up to twelve months as the possible result of defamation.

document, and were unwilling to help journalists in the carrying out of their work, because the identity cards did not have the status of an official document. When the Ministry of the Interior announced plans to require an extract from the judicial record as part of the procedure leading to the renewal/granting of press cards, this provoked heavy resistance from numerous sides who all feared that the Ministry actually tried to build a database to be used against critical journalists. The parties eventually settled on a compromise, according to which an extract will still be required for purpose of the application, but will only be checked by the professional bodies without any involvement of the ministry, so that the upgrading of the old press card into an official document could be ensured.

Finally, criticism has also been leveled at the federal government for trying to exert pressure on public service broadcaster ORF, the results of which were seen to be echoed in the broadcaster's programming, particularly as the framing of news items and the selection of guests for political talk shows were concerned, as well as in personnel policy, where high-standing employees of a leftist or liberal orientation were replaced by persons more reflective of the government's political line.

3.2 Ownership and market concerns

As has been shown in the preceding sections, there is a substantial degree of interpenetration between the publishing and radio sectors as illustrated by the Mediaprint and Styria Medien groups, in parallel with a particularly high degree of concentration in the newspaper market. Earlier this year, the government introduced a legislative proposal that may well contribute to further increases in the degree of concentration, especially in the radio sector. In general, the draft law seeks to "develop the dual broadcasting system by promoting private broadcasting", which is to be achieved, inter alia, by way of relaxing the thresholds on concentrations that have existed in sector-specific legislation so far. In the radio industry, a requirement to have financing in place prior to the award of a broadcasting license, will put smaller broadcasters at a disadvantage, particularly those who depend on public subsidies usually granted only after a license has been secured. Furthermore, the proposed amendments fail to properly recognise the importance of, and protect accordingly, non-commercial radio broadcasters' contribution to media pluralism, although the distinction between non-commercial and commercial programming as such is explicitly acknowledged by the proposal. The Association of Free Radios in Austria expects that under the new rules, the number of independent radio broadcasters will diminish further. Combined with the introduction of nationwide radio broadcasting licenses and a tendency towards larger transmission areas, this initiative comes at a time when a possible entry of the French radio NRJ group as the majority shareholder of Kronehit is about to create a financially powerful player in the radio market.

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Belgium

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

In Belgium, the right to freely express oneself is guaranteed by Article 19 of the (1994) constitution, which states:

> *"Freedom of worship, public practice of the latter, as well as freedom to demonstrate one's opinions on all matters, are guaranteed, except for the repression of offences committed when using this freedom."*[31]

Article 25 specifies this general freedom with regard to the press:

> *"(1) The press is free; censorship can never be established; security from authors, publishers, or printers cannot be demanded.*
> *(2) When the author is known and resident in Belgium, neither the publisher, nor the printer, nor the distributor can be prosecuted."*

1.2 Freedom of Information

Belgium is one of a few EU Member States to have enshrined the freedom of information at the constitutional level. This was done by virtue of the constitutional reform of 1993 that amended Article 32 of the constitution to read:

> *"Everyone has the right to consult any administrative document and to have a copy made, except in the cases and conditions stipulated by the laws, decrees, or rulings referred to in Article 134."*

Such conditions have been laid out in legislation applicable both at the federal level,[32] and at the level of the provinces and the municipalities.[33] At the federal level, documents may be withheld from public scrutiny if their special character necessitates confidential treatment[34] of the information contained therein, e.g. in order to protect sensitive individual information or public security against becoming public, or if the request for information itself is either abusive or excessively vague. Citizens retain the right to challenge denials of information requests before the responsible administrative agency as a first step, and secondly before the Council of State (*Conseil d'État*). At the subnational level, similar provisions apply. Namely, requests for information may be denied where releasing the document is likely to result in it being misinterpreted (e.g. due to its unfinished or incomplete character) or where the information contained therein has been made available to the authority on confidential terms only; additionally, the requests must not be manifestly abusive or excessively vague (art 7). At this level of the political system there is also a two-stage complaints procedure open to citizens whose requests for information have not been met (art 9).

1.3 Code of conduct for Journalists

The Belgian code of journalistic principles was agreed between the Belgian Association of Newspaper Publishers (*Belgische Vereniging van de Dagbladuitgevers*, BVDU), the General Association of Professional Journalists of Belgium (*Association Générale des Journalistes Professionnels*, AGJPB) and the Federation of Belgian Magazine Editors (*Fédération Belge des Magazines*, FEBELMA) in 1982.[35] It stresses the importance of factually correct and unbiased reporting, including the immediate

[31] *La Constitution de la Belgique fédéral*: http://www.arbitrage.be/fr/textes_base/textes_base_constitution.html. In English: http://www.oefre.unibe.ch/law/icl/be00000_.html

[32] *Loi du 11 avril 1994 relative à la publicité de l'administration. Modifee par Loi 25 Juin 1998 et Loi 26 Juin 2000*, available from: http://www.mumm.ac.be/cgi-bin/wwwusr/downloads/download.pl?file=bmdc_LOI-WET_11_04_1994.pdf.

[33] *Loi du 12 novembre 1997 relative à la publicité de l'administration dans les provinces et les communes*, available from: http://www.ejustice.just.fgov.be/mopdf/1997/12/19_1.pdf.

[34] Furthermore, all information that has been classified under the 1998 law on the security of information is exempted from access under the 1994 access law.

[35] In Frenchhttp://www.agjpb.be/activites3.htm - codes; English language version: http://www.uta.fi/ethicnet/belgium.html.

correction of erroneous information, as well as the clear separation of information from commentary, and from advertising. Generally, no form of presentation shall be used that glorifies crimes, terrorism, cruelty or other inhumane activities that contradict the fundamental importance of human dignity and the right to privacy as the core values to be respected by publishers, editors and journalists alike. These values may only be compromised where there is a threat to the freedom of the press itself; under no circumstance can the latter yield to mere considerations of public and private secrecy as they are defined by the law. Journalistic work shall at all times observe the necessity of remaining independent from particularistic viewpoints, eschew discrimination of any form and on any grounds, and make a positive contribution to the protection and fostering of the diversity of opinion.

While these principles form the basis of journalists' work throughout the entire country, the French- and Dutch-speaking communities each have their own organisational structure to deal with complaints. In the Flemish community the Council of Journalism (*Raad voor de Journalistiek*) is a self-regulatory body dealing with the press. Complaints in the audiovisual field are taken care of by the *Vlaamse Geschillenraad voor Radio en Televisie* and the *Vlaamse Kijk –en Luisterraad voor Radio en Televisie* respectively. Upon receiving a complaint in writing, the *Raad* will try to mediate between the parties concerned. After a maximum of two such attempts, if no agreement has been reached, formal proceedings will be initiated, at the end of which the Council will render a decision that is published via its website, and additionally may have to be published by the publication concerned as well. Just as its Walloon counterpart (the *Conseil de Déontologie*), the *Raad* as a self-regulatory body has no real sanctions at its disposal, whereas the government institutions entrusted with the supervision and monitoring of the audiovisual media may apply instruments ranging from a simple warning to a suspension of the programme or an administrative fine.[36]

1.4 Media Ownership Regulation

Similar to other federal states, the regulatory competences affecting the media are spread across several levels in Belgium. While competition policy and regulation are located at the federal level, both broadcasting and the press fall within the remit of the communities that represent Belgium's three linguistic groups, i.e. the French-speaking, the Dutch-speaking and the German-speaking part of the population. Until the early 1990s, the broadcasting competence of the communities involved programming content only, while technological aspects of broadcasting such as frequency allocation were decided at the federal level. Following two rulings by the Cour d'Arbitrage in 1990 and 1991, the system of "double authorisation", i.e. the granting of technical licenses by the federal government parallel to granting of content-based programme authorisations by the communities, was abolished. Today, both of these functions are carried out by the communities, each of them having instituted, through legislation, a distinct body responsible for questions of audiovisual regulation.[37]

In the French-speaking part of Belgium, the *Conseil Supérieur de l'Audiovisuel* (CSA) has been given an important role in safeguarding media pluralism via the licensing mechanism. Considering the media assets held by a potential licensee, the Council has to determine whether or not the applicant can be deemed to occupy a dominant position (*position significative*). Such a position will be assumed to exist if more than 24 percent of the capital in two broadcasting companies of the same kind (i.e. television or radio) are held by the same person, or if a larger number of broadcasting operations attributable to the same person account for more than twenty percent of the audience in either the television or radio market in the French-speaking community.[38] In this case, an assessment will have to be made regarding possible repercussions that this position has for the diversity of broadcasting services being offered in the relevant market. If the Authority concludes that the concentration of ownership interests implies a threat to pluralism, it then has a period of six months to reach an

[36] *Decreten betreffende de radio-omroep en de televisie, gecoördineerd op 25 Januari 1995* [available from: http://www2.vlaanderen.be/ned/sites/media/gecoordineerde%20decreten2003.pdf (includes amendments until 4 June 2003)], Art.116octies decies, §5; Art. 116nonies decies, §4.

[37] In Flanders: *Decreten, gecoördineerd op 25 Januari 1995*, supra note 8, Art.116*bis* et seq.; in Walloon: *Décret du 27 février 2003 sur la radiodiffusion*, Art.130 et seq.; available from: http://www.csa.cfwb.be/pdf/Décret%20radiodiffusion.pdf.

[38] *Décret du 27 février 2003 sur la radiodiffusion*, supra note 16, Art.7, §2.

agreement with the person concerned with a view to restoring pluralism to the market. Failing to consent to such an agreement, or to effectively implement it, the owner would be faced with a range of possible sanctions, spanning from the imposition of a fine to the revocation of one or more of the operator's licenses.

In Flanders, too, the manner in which licenses are accorded to broadcasters has been regulated in a way that is intended to put a stop to excessive concentrations in the broadcasting field. Instead of applying an ownership share model to test possible issues of market dominance, the legislator has chosen to institute an absolute limit on the number of broadcasting licenses that any one person may hold. Consequently, no legal entity may operate more than one community-wide, regional or local radio broadcaster,[39] and there is a direct prohibition against any type of linkage, directly or indirectly, between radio operators at the community-wide and regional levels.[40] Radio broadcasters at these levels can engage in cooperation with other broadcasters only, if such cooperation does not lead to "a structural uniformity of programming behavior"[41] (i.e. collective dominance). A similar restriction applies to the cooperation between television broadcasters within the geographical area covered by the Flemish Broadcasting Decree,[42] yet there are no limitations to the number of TV broadcasting licences that can be held by one person.[43]

1.4.1 Audiovisual Media

Since the Broadcasting Act of 1960, the development of the Belgian audiovisual media has been substantially shaped by the need to reflect the diversity that is characteristic of Belgian society. A first step towards this end was the institutionalisation of separate broadcasting entities serving the two major linguistic communities, namely of the BRT (*Belgische Radio en Televisie*) for the Dutch-speaking, and the RTBF (*Radio Télévision Belge Francophone*) for the French-speaking community. With the constitutional amendments introduced in 1970, the broadcasters were officially relegated to the Ministries of Cultural Affairs of the two communities, before being rendered fully autonomous in 1977. On this occasion, the German language community was granted a public service broadcaster of its own as well, which since then has been known as the BRF (*Belgischer Rundfunk und Fernsehen*). Although a pilot study into the possible uses of local television was launched by the Walloon government as early as 1976, the three public service broadcasters formally still had a legal broadcasting monopoly, when at the outset of the 1980s their status was challenged by foreign broadcasters that were reaching Belgian viewers via the cable networks, which had been gradually expanded since the 1960s. At the same time an increasing number of pirate radios drew the authorities' attention to the need for a revised regulatory framework.

These developments forced a liberalisation of the broadcasting markets. In 1981 and 1982, local commercial radio broadcasting was legalised in Flanders and Wallonia, respectively. In 1987 the legalisation of commercial television broadcasting took place in both communities. The legal framework accounted for the multi-level architecture of the Belgian political system by differentiating among broadcasting licenses according to their geographical coverage, i.e. whether a broadcaster would be serving a local, regional or community-wide constituency. The first commercial TV broadcasting licenses at the community level were granted to VTM in Flanders, and RTL TVi in Wallonia. Although these private TV channels fared very well against the incumbent public service

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[39] *Decreten, gecoördineerd op 25 Januari 1995*, Art.38, §1, no.2 (communitywide radio); Art.38quinquies, §1, no. 2 (regional radio); Art. 38nonies, no. 2 (local radio). The effectiveness of this provision has been criticized by the Flemish regulator itself, who pointed out that such a rule cannot prohibit mergers or cooperation agreements giving one operator control over another licensee as long as the latter retains a distinct legal personality.

[40] *Ibid* Art.38, §1, no.2 (communitywide radio); Art.38quinquies, §1, no. 2 (regional radio).

[41] *Ibid* Art. 37 (communitywide radios), Art. 38quater (regional radios, excluding cooperation with local radios in the region they serve; with regard to the latter, see also Art.38octies). Regional radio broadcasters can cooperate with regional tv stations in programme production, information gathering and advertising sales.

[42] *Decreten, gecoördineerd op 25 Januari 1995*, Art. 73.

[43] However, there is a limit to the total number of regional television broadcasting licenses that may be awarded by the Vlaamse Commissariaat voor de Media. To this effect, Art.52, § 1 holds that no more than 11 such TV stations may be licensed, to be distributed evenly among the provinces.

broadcasters, indicating a possibility of licensing a greater number of operators at this level, it was not until 1994 that the status of VTM was challenged – and when it was, the challenge came from outside the country's borders in the form of the London-based VT4. In Wallonia, a competitor to the hugely successful RTL group only emerged with the arrival of AB3 in late 2001. Local TV broadcasters went on the air between 1993 and 1995 in Flanders, whilst the Walloon stations that had been created as part of the pilot study were granted their broadcasting licenses as early as in 1987.

1.4.2 Competition Policy and Mergers

Under the competition law regime currently in force, which is applicable in all parts of Belgium, uniform procedures for the assessment of market dominance, mergers and restraints of competition apply to all companies, including those operating in the media sector.[44] The merger control procedure laid out in Chapter 2, Section 2, Article 9 et seq. of the Competition Act is invoked whenever the companies concerned have an annual turnover of more than 40 million euros in sum, and a turnover of more than 15 million euros individually. While the law does not contain any provisions prescribing the protection of media pluralism to be considered as a specific criterion when assessing the impact of mergers between companies, the protection of consumers' interests enters as a factor into the evaluation of the case at hand.[45] However, given the fact that mergers of larger groups with smaller companies (e.g. newspapers not part of a bigger group) will often not be scrutinised by the authorities because the latter do not surpass the individual turnover threshold, the protection that this clause affords citizens is rather limited: in fact, no mergers in the media business have so far been prevented due to an overriding consumer interest. This qualitative dimension of merger evaluations is reinforced by the market share values that will render a merger incompatible with the Competition Act, a market share of 25 percent or more will render a concentration inadmissible.[46] Yet even in this case, the Council of Ministers can, for reasons of general interest[47] authorise a concentration, which has been rejected by the Competition Authority because of its harmful effects on competition. Belgian competition law only affords a rather limited degree of protection to media pluralism; the reason behind this most likely being the special constitutional competence of the communities in the field of the media preventing what might be considered "overriding" action being taken at the federal level.

1.4.3 Cross Media Ownership and Foreign Ownership

Although there are certain restrictions on the possibilities for cooperation between radio and television broadcasting operators at the regional level in the Dutch-speaking community, the legal framework here does not contain any prohibitions against cross media or foreign ownership. Neither type of restriction exists in the French-speaking community.

2. Main Players in the Media Landscape

2.1 Radio

Radio broadcasting is equally popular among media users in both the Northern and the Southern part of Belgium, but the media landscapes in each are very different. This is particularly evident when looking at the public service broadcaster in each of the major linguistic communities: while the bouquet of channels provided by the VRT in the North and the one produced by the RTBF in the South grant each of the public service broadcasters the leadership position in their respective markets, this effect is much more pronounced in the case of the VRT whose programmes account for more than 75 percent of listeners per day, a figure almost three times as high as that of RTBF.

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[44] *Loi sur la protection de la concurrence economique, coordonnée le 1er juillet 1999* [henceforth: 'Competition Act'], available from: http://mineco.fgov.be/organization_market/competition/law_competition_fr_001.pdf.
[45] Competition Act, , Art. 10, § 2, lit. b).
[46] Competition Act, Art. 32quater, §2.1, lit a.).
[47] Competition Act, , Art. 34bis enumerates the public interest, national security, the competitiveness of the industries concerned, the interest of consumers and employment considerations as possible justifications for a derogation from the decision reached by the Competition Authority.

Table BE 1: Main Radio Companies (Dutch-speaking community)

Broadcasters	Ownership Structure*	Main Radio Stations	Total Market Share Jan-Mar 2004**
VRT	Public service broadcaster	Radio 2, Radio Donna, Radio 1, Studio Brussel, Klara	77.0%
NV VMMa	**VMM** De Persgroep 50.0% Roularta Media Group 50.0%	Q-Music	7.9%
4FM Groep N.V.	Vlacom N.V. 75.8% 4FM Holding NV 24.2%	4FM	4.1%
NV Vloro (NV Contact Vlaanderen)	**Contact groep** RTL 33.9%	Radio Contact	2.2%
TOPradio	Network (decentralized/local ownership)	TOPradio	1.2%
Local stations (NL)	Various		1.1%
Others	Various		6.6%

*Information from company websites
** Market shares calculated based on data for the first quarter of 2004 reported by the CIM (www.cim.be).

Likewise, there are important differences in the shape of the commercial markets. In the Dutch-speaking part of Belgium, private broadcasters do not present a major challenge to the strong PSB channels. The closest competitor Q-Music is run by VMM, a joint venture between Flemish press groups Roularta and De Persgroep. A major financial investor, Vlacom, has entered the radio sector supporting the founders of 4FM, a new station set up in 2001 in the struggle to compete with Q-Music. Radio Contact and TOPradio, on the other hand, function as networks of locally owned and managed radio stations, with Radio Contact effectively being the only operator with a significant foreign interest, as RTL holds slightly more than one third of the network.

Table BE 2: Main Radio Companies (French-speaking community)

Broadcasters	Ownership Structure*	Main Radio Stations	Total Market Share Jan-Mar 2004**
RTBF	Public service broadcaster	La Première, Fréquence Wallonie, Radio 21, Musique 3	26.6%[48]
Inadi SA	RTL 42.8% Audiopresse 34.0% (Rossel, and Cie SA, CNC SA, SA IPM, and Mediabel)	Bel RTL	16.6%
NV Vloro (Contact SA)	**Contact groep** RTL 49.7%	Radio Contact, Contact 2	14.5%
CGS FM SA	NRJ/Jean-Paul Baudecroux 49.0%	NRJ	8.0%
SA Sofer	NRJ/Jean-Paul Baudecroux 48.9% VUMmedia NV 51.1%	Nostalgie	7.8%
Fun Radio	RTL	Fun Radio	4.6%

* Information from company websites
** Market shares calculated based on data for the first quarter of 2004 reported by the CIM (www.cim.be).

The Bertelsmann-controlled group is also a major force in the French-speaking community's broadcasting sector, being involved in the single most popular channel Bel RTL as well as the most successful radio network Radio Contact. Furthermore it also controls Fun Radio, a Paris-based music channel, giving it a sphere of influence in the South of the country that amounts to one third of the

[48] In February 2004, RTBF merged Fréquence Wallonie and Bruxelles Capitale to create VivaCité. Based on the performance of the newly created entity, the overall market share of RTBF would drop to 25.6 percent when considering those of its programmes that can classified as main radio stations according to the criterion proposed above.

entire market. In a similar manner, French broadcasting giant NRJ, with its involvement in radios NRJ and Nostalgie (the latter being run in cooperation with the Flemish VUM group), accounts for another 15.8 percent of the market. Although foreign shareholders do not hold the absolute majority of capital shares in any of the radio outlets concerned, their presence is more strongly felt in the South, and their standing relative to the public service operator RTBF is much more competitive than is the case with regard to the VRT and its private sector competitors in the North: while in the latter case, competition is restricted to the ranks of the privately owned operators themselves, here even RTBFs leading role as the largest broadcasting group might be successfully challenged in the long run.

2.2 Television

The situation of Belgian TV broadcasting mirrors to a certain extent the structural features of the radio industry outlined in section 2.1. Here too, the most obvious difference between the North and the South is the relative importance of the public service broadcaster. In Flanders, the VRT is the undisputed market leader, both as the most successful group and as the operator of the most successful individual TV station, giving it a market share of no less than 41.3 percent. Its Walloon counterpart on the other hand, the RTBF, has lost the battle over market shares to the Bertelsmann-owned RTL group and its national outlets, RTL TVi and Club RTL, which outrank both RTBF's generalist and theme channel.

Table BE 3: Main Television Companies (Dutch-speaking community)

Broadcasters	Ownership Structure*		Main TV Stations		Total Market Share Jan-Mar 2004**
VRT	Public service broadcaster		TV1 Ketnet - Canvas	31.0% 10.3%	41.3%
VMM	**VMM** De Persgroep Roularta Media Group	 50% 50%	VTM Kanaal 2	24.2 5.5%	29.7%
SBS Belgium nv	**SBS Broadcasting** UnitedGlobalCom Europe B.V. Janus Capital Corporation EnTrust Capital Inc CanWest Global Communications Corp Capital Research and Management Reed Conner & Birdwell Investments SMALLCAP World Fund Inc State Farm Insurance Companies	 21.0% 7.3% 7.2% 7.1% 6.7% 6.6% 6.2% 5.5%	VT4		6.1%
NOS	Public service broadcaster (NL)		Nederland 1 Nederland 2 Nederland 3	1.5% 1.6% 0.9%	4.0%
Others	Various				18.9%

* Information from company websites

** Market share calculated on basis of average monthly viewing share data for the first quarter of 2004 from www.audimetrie.be, not adjusted for amount of shares held in station.

Secondly, while both markets display high degrees of concentration (the top three companies commanding 77.1 and 59.4 percent of audience share, respectively), the problem of market dominance is clearly more pronounced in the Flemish case where the top commercial network and the public service broadcaster account for almost three quarters of the entire market. In the French-speaking part of the country, viewers are more equally distributed.

Another remarkable difference between the audiovisual landscape of the two communities is the impact that foreign broadcasting services have had on the respective markets. While in the North, only the Dutch public service broadcaster NOS has succeeded in capturing a small piece of the market, foreign operators enjoy a strong standing in the South, where both the now privatised former French public service channel TF1 (whose main shareholder currently is building tycoon Bouygues) and today's French public service stations France 2 and France 3 achieve audience ratings giving them market shares largely similar to that of the domestic RTBF. This leaves the Flemish market for television broadcasting largely insulated from foreign influence both in terms of advertising revenue and ownership, with the exception of the VT4 channel that is operated by a local outlet of the SBS Broadcasting group, which is strongly influenced by US telco company UGC who is also present in the Belgian cable market. With the presence of RTL and TF1 among the biggest operators, the Walloon market has become the battleground of the most prominent French-language TV broadcasters, which most likely will stifle any emerging competition. While it is true that both markets have seen examples of successful market entry, as has been proven by the forays of AB3 and VT4 into these highly contested areas, it is questionable whether successes of a similar magnitude are still possible under present-day conditions.

Table BE 4: Main Television Companies (French-speaking community)

Major Groups	Ownership Structure*	Main TV Stations	Total Market Share Jan-Mar 2004**
RTL Group	Bertelsmann AG 53.4% BW TV und Film Verwaltungs GmbH+ 37.0% various 9.6%	RTL TVi (66%) 18.6% Club RTL (66%) 5.8%	24.4%
RTBF	Public service broadcaster	La Une 15.7% La Deux 3.0%	18.7%
YTV S.A.	Jeebee Media 62.6% Mediafi 12.4% Groupe AB 25%	AB3	4.1%
Canal + Belgique	ACM-Applications Cable Multimedia 68,1% Socofe 16,9% Deficom Group 15%	Canal + blanc, Canal + bleu, Canal+ jaune	0.8%
Foreign Channels			
TF1 Group	Bouygues 41.3% Société Générale 1.5%	TF1	16.3%
France Télévisions	Public service broadcaster	France 2 9.1% France 3 5.6%	14.7%
Others	Various		21.1%

* Information from company websites

** Market share calculated on basis of average monthly viewing share data for the first quarter of 2004 from www.audimetrie.be, not adjusted for amount of shares held in station.

+BWTV is a holding company 80% owned by Bertelsmann and 20% owned by WAZ

2.3 Press and Publishing

Between 1950 and 2000 the total number of newspapers supported by the Belgian market has been more than halved, while simultaneously the number of independent publishing houses has been reduced. Twelve of today's 23 major newspaper titles target the Flemish-speaking part of the population, nine dailies target the French-speaking readers and there is one newspaper for the German language community. Despite having the largest number of newspapers available on a daily basis, the Flemish press market is characterised by a particular high degree of concentration, with the three most important publishing houses amassing almost 90 percent of average daily circulation. During the last decade, all three have moved from being focused exclusively on the publishing business to becoming full-blown media conglomerates with interests in a number of different fields in the media industry.

VUM, who controls three of the most important Flemish dailies, including the tabloid *Het Nieuwsblad/De Gentenaar*, has interests both in the audiovisual field (radio and TV stations as well as a TV production company), printing and the provision of digital services. Besides controlling Passe-Partout, the largest player within the free regional press in Belgium, VUM is also active in the French community newspaper market by virtue of its controlling stake of 52 percent in Mediabel, publisher of the successful *Vers l'Avenir* (see below). Its nearest competitor, De Persgroep, has an almost equally large share of the market with only two major daily publications, yet has an even more diversified portfolio of media assets,[49] among which is a 50 percent share in VMMa (*Vlaamse Media Maatschappij)*, the holding company that controls the most successful commercial broadcaster in the Dutch-speaking community, VTM (see 2.2). The other 50% of this joint venture are held by the Roularta Media Group (RMG) that ranks fourth in the Flemish newspaper market in terms of circulation. Like VUM, it is also involved in the French-speaking community's press market by way of a cooperation with the largest publisher in that part of the country, Rossel & Cie. Together they publish the freesheet *Metro*, the most successful launch of a new daily in the Belgian newspaper industry in recent years, achieving considerable circulation both in the French- and the Dutch-speaking community.

Table BE 5: Main Publishers of Daily News papers (Dutch-speaking community)

Major Group	Ownership Structure	Titles	Market Share**
VUM nv	**VUM Media**	Het Nieuwsblad/De Gentenaar Het Volk De Standaard	36.4%
De Persgroep	**De Persgroep** Van Thillo family	Het Laatste Nieuws/De Nieuwe Gazet De Morgen	32.5%
de RUG NV	**Concentra nv** Stichting De Zeven Eycken (Baert family) amd Katholiek ImpulsFonds (non-profit organization) 98.9% Others 1.1%	Gazet van Antwerpen Het Belang van Limburg	20.0%
West Vlaamse Media Groep NV	**Roularta Media Group** Stichting Administratiekantoor RMG 71.7% Public 25.39% Own shares 2.91%	Krant van West Vlaanderen	7.2%
Uitgeversbedrijf Tijd NV	**De Tijd**	Financieel Economische Tijd	3.9%

* Information from company websites
** Based on circulation figures submitted to the CIM (www.cim.be; period: I/2004).

While RMG has a weaker standing compared to the market's number three in terms of circulation, de RUG/concentra, the participation in the VMM venture gives it considerable leverage at the community wide level as far as the audiovisual industry is concerned, while de RUG/concentra is represented only at the regional level in this field.[50]

The De Tijd group who publishes Flemish business oriented publications (aside from the daily De Tijd, it also publishes a number of specialist journals as well as running a training facility and an advertising sales company specialising in ads targeted at the business community) only plays a minor role in terms of competition due to its strong specialist orientation.

Family ownership plays a considerable role in the shaping of the press landscape, and also that of the audiovisual industry (as is evident from the multiplicity of cross ownership relations among media outlets that can be traced to the same group), with three of the five publishing houses active in the newspaper market being controlled by families or a legal entity (e.g. a foundation, or a holding company) set up on their behalf.[51]

The press-landscape in the French-speaking part of Belgium is also dominated by three major players, namely Rossel et Cie, SA IPM and Mediabel. The first of these, Rossel, is still controlled by the

[49] De Persgroep publishes a number of journals (TV, youth, cars), is involved in national and regional television, runs a radio station and a range of successful internet services, which it supplies with editorial content from its newspaper publishing activities. It has recently become involved in the French language community newspaper market by acquiring a 49 percent stake in financial daily L'Echo.
[50] The company operates regional broadcaster ATV (together with DePersgroep), located in Antwerp and is the economically most interesting of the regional TV broadcasters. de RUG has a decisive influence on regional television broadcasting through Regionale TV Media, the advertising time marketing agency for the eleven local broadcasters.
[51] These are De Persgroep, Concentra, RMG. In the case of Concentra, action was even taken to buy out private investors earlier this year; ultimately it is the company's intention to become delisted from the Belgian stock exhange.

founding family Hurbain, although former French publishing giant Hérsant became a shareholder in 1989. Rossel has developed into the prime publishing house in the Southern part of Belgium, controlling the most widely circulated range of regional newspapers (*Sud Presse*) as well as the most important daily newspaper, *Le Soir*. In 2003, Rossel extended its roster of cooperations to include Flemish publisher De Persgroep with whom the company acquired possession of *L'Echo*, a financial newspaper that was facing economic difficulties at the time. Rossel now has by far the most diversified newspaper portfolio, encompassing regional, community-wide and special interest newspapers; it is also the majority stakeholder of Belgium's only German language newspaper, the *Grenz Echo*. The company is also involved in the audiovisual field by virtue of its participation in the Audiopresse consortium that holds 34% of the shares in RTL television channels RTL TVi and Club RTL,[52] and it cooperates on a bilateral basis with RTL in running the Bel RTL radio channel.

Table BE 6: Main Publishers of Daily Newspapers (French-speaking community)

Major Group	Ownership Structure		Titles	Market Share*
Rossel & Cie SA	Hurbain Family Socpresse	60% 40%	Sud Presse (60%) Le Soir (60%) Grenz Echo (50%) L'Echo (49%) Nord Éclair (33%)	30.4%
SA d'Information et de Production Multimedia (SA IPM)	Le Hodey family		La Dernière Heure/Les Sports (88.3%) La Libre Belgique/Gazette de Liège	25.8%
Socpresse	Dassault group	30%	Sud Presse (40%) Le Soir (40%) Nord Éclair (67%)	19.5%
Mediabel	VUM	52%	Vers l'Avenir	9.9%
De Persgroep n.v.	**De Persgroep** Van Thillo family		L'Echo (49%)	2.1%

* Information from company websites
** Based on circulation figures submitted to the CIM (www.cim.be; period: I/2004).

The main contender to Rossel's position is the entirely family-owned SA IPM, who publishes Southern Belgium's most popular tabloid *La Dernière Heure/Les Sports* as well as the conservative *La Libre Belgique* (with regional version *Gazette de Liège*). Although the IPM group controls an impressive 25.8 percent of the market, thereby contributing to the high degree of market concentration which stands at 56.2 percent market share of the two largest companies when adjusted for capital shares, the fact that Rossel has the absolute majority of capital rights in the two largest Walloon newspapers effectively leaves the shares of Socpresse at its disposal, without the need for some sort of coordination between shareholders. Seen from this viewpoint, Rossel's market position becomes that of a monopoly with an overall market share of almost 50 percent. This is more than five times as much as the share of the market controlled by the third ranking publisher of French-language dailies, Mediabel, who depends on the regional editions of its daily *Vers l'Avenir* for its market position. Just as *L'Echo*, it allows a Flemish publishing house access to the market in the Southern part of Belgium. By acquiring a majority stake of 52 percent in Mediabel, the market leader among the Flemish community's newspaper publishers VUM has also become the strongest national print publisher, whereas De Persgroep shares control of the somewhat smaller special interest newspaper *L'Echo* with Rossel.

2.4 Cable operators

With a cable penetration rate of more than 95 percent in 2003, Belgium is the most densely cabled country in the European Union. The building of cable networks commenced already in the 1960s as a means of, inter alia, bypassing the public service broadcasting monopoly and increasing the number

[52] Audiopresse is jointly owned by the French-speaking community's major newspaper publishers, i.e. CNC SA, SA IPM, Rossel & Cie SA and Mediabel.

of programmes available to the end-user. The ensuing proliferation of cable at the same time limited the development prospects of alternative technologies (e.g. satellite), so that today a mere nine percent of viewers have their television programming delivered via alternative means.

Table BE 7: Cable Companies

Cable Companies	Ownership Structure	Total Market Share*
Telenet	De gemengde intercommunales 34.0%, Cable Partners Europe 21.4%, GIMV 14.9%, Financieel consortium 14.9%, Interkabel 9.2%, Electrabel 4.9%, Others 0.7%	40.6%
Electrabel	Suez-Tractebel 50.0%, Various (free float) 45.3%, Municipalities 4.7%	13.3%
Brutele	Association of municipalities	7.4%
Coditel	Altice One	3.6%
UPC	United Pan-Europe Communications (UPE)	3.3%
Municipalities	Public undertakings	31.8%

*Information from company websites
**Market share calculations based on data reported by Informa Media Group for III/2002.

The forms of ownership characteristic of the cable industry vary according to the role that the technology was afforded by local governments as part of their regional development plans: while some regarded the provision of these services to be of a general economic interest and therefore had to be provided for publicly, others left this to private investors, while a third strategy was to set up so-called "mixed inter-municipal companies" that are comprised of a certain number of municipalities cooperating with a private-sector partner towards the end of tapping into the latter's management expertise so as to render the operation of distribution networks as efficient as possible.

Despite this, the cable market has largely remained in the hands of the Belgian municipalities who either individually, collectively (Brutele) or as a partner among other shareholders (Telenet) have retained a decisive say in the provision of cable services throughout the country. Some foreign investors from the telecommunications and energy sectors, such as the French Suez and Altice One, and the American UnitedGlobalCom, have captured a significant share of the market. A possible rearrangement of the overall market structure might occur in the near future, if US conglomerate Liberty Media Corp., who controls UnitedGlobalCom, should close a deal with the UK's Callahan Associates who are considering selling their minority stake in Telenet (21.4%) held through Cable Partners Europe.

3. Conclusions

3.1 Freedom of the Media

The most strongly debated issue during the last year with regard to the freedom of the media was the arrest of German journalist Hans-Martin Tillack on March 19, 2004, who allegedly had bribed an EU official in order to gain access to confidential information. During the arrest, both Tillack's home and workplace were searched and numerous personal items confiscated, including files with the contact information of Tillack's sources inside the Commission, who now face disciplinary action. This happened after the Commission's anti-fraud office OLAF had acknowledged in November 2003 that there was no evidence against Tillack to support the allegations of bribery, which nevertheless were used to initiate the federal authorities' actions. The case once more drew attention to the problematic provisions under Belgian law, which oblige journalists to provide the authorities with information about their sources. Although a new draft law guaranteeing the protection of journalists' sources has been elaborated parallel to the Tillack incident, and was indeed adopted by the legal committee of the Belgian parliament only five days after the arrest, the Belgian journalist's association has voiced concerns that the new piece of legislation contains exemption clauses that render the protection of sources subject to political discretion.

3.2 Ownership and market concerns

The Belgian media industry is among the most highly integrated ones in Europe with all major players having spread their activities into various branches of the media landscape. This dynamic towards cross-media ownership has originated mainly within the newspaper industry, which historically has been granted a strong say in the development of the audiovisual sectors by the governments of the Dutch- and French-language communities. With the national market leaving little room for further consolidation especially in the press industry, the future is likely to see either an increased number of cross-sectoral cooperations, such as the recently aired proposal for a new radio station to be financed by print-publisher Rossel and the RTL broadcasting group, or initiatives towards integration at the international level, which will be targeting neighbouring markets with a strong linguistic affinity, such as the Netherlands and France. The recent unsuccessful take-over bid by the Flemish De Persgroep for the Dutch PCM in this sense seems to be only the first step in a logical progression for the large press groups whose possibilities for further expansion at home are finally reaching the limits of competition law.

Report status: the gathering of data for this report was completed on May 30th 2004

Cyprus

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The freedom of expression is enshrined in the Constitution of the Republic of Cyprus (6 Aug 1960)[54] under Article 19:

> *1. Every person has the right to freedom of speech and expression in any form. 2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers. 3. The exercise of the rights provided in paragraphs 1 and 2 of this Article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary. 4. Seizure of newspapers or other printed matter is not allowed without the written permission of the Attorney-General of the Republic, which must be confirmed by the decision of a competent court within a period not exceeding seventy-two hours, failing which the seizure shall be lifted. 5. Nothing in this Article contained shall prevent the Republic from requiring the licensing of sound and vision broadcasting or cinema enterprises.*

The Press Law of 1989 also safeguards the freedom of the press, the free circulation of newspapers, the right of journalists to protect sources, and access to official information.[55]

1.2 Freedom of Information

Access to information is referred to under the Press Law where it states that all journalists have the right to free access to state sources of information, freedom to seek and acquire information from any competent authority of the Republic and the freedom to make this public.[56] There is, however, to date no legislation regarding the general right of access to public documents for the citizens of Cyprus.

1.3 Code of conduct for Journalists

The Code Of Ethics[57] established by the Union of Cyprus Journalists and the Association of Publishers of Newspapers and Magazines states that: Respect for the truth and the citizen's right to objective, complete and reliable information is an obligation of all the media and journalists; Respect for the journalist's right to unobstructed access to the sources of news and transparency and necessary prerequisites for proper information; The conduct, dignity, honesty and professional work of journalists should be of the highest standard; Journalists have an obligation to defend their independence and not to allow interference with their work; Journalists in carrying out their functions (a) respect and promote democracy and the other universal values. They respect and promote the human rights and the fundamental freedoms of all. (b) show the indicated sensitivity in matters that concern national security and are particularly careful in presenting issues such as violence, crime, human grief and death and also of information or pictures that could cause panic or horror or revulsion. (c) act always in good faith and comply with the letter and spirit of this Code.
An ethics committee, the Cyprus Media Complaints Commission[58] was established in 1997 with its own constitution which is in charge of implementing the code and in general with regard to accuracy, the right to reply, privacy, mourning and grief, the sourcing of information, copyright, the use of

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[54] Constitution of Cyprus: http://www.cyprus.gov.cy/cyphome/govhome.nsf/Main?OpenFrameSet
[55] http://www.moi.gov.cy/moi/PIO/PIO.nsf/All/EB1537FFF94080FFC2256D71001D1F06?OpenDocument
[56] http://www.moi.gov.cy/moi/pio/pio.nsf/All/EB1537FFF94080FFC2256D71001D1F06?OpenDocument
[57] Journalists Code of Conduct adopted in April 1997 by the Union of Cyprus Journalists, the Association of Publishers of Newspapers and Magazines, and the owners of the Electronic Media: www.presscouncils.org/library/CYPRUS.doc
[58] http://www.cmcc.org.cy/home.html

economic information, confidentiality of sources, and information that is of public interest. It is an independent press council, responsible for the self-regulation of the news media, both written and electronic where members of the public are given the opportunity to lodge their grievances against the media when they feel they have been offended. The Cyprus Broadcasting Corporation, a self-governing organisation operating under public law, also comes under the regulations governing the operation of the CMCC and the Code of Media Ethics.

1.4 Media Ownership Regulation[59]

The Ministry of Communications and Works is responsible for frequency allocation and there is close co-operation between the Cyprus Radio-Television Authority (CRTA), the Ministry of Interior and the Ministry of Communications and Works, regarding broadcasting issues and drafting of proposals for Law and Regulation amendments. The authority is responsible for licencing of national and local television stations and national, local and small local radio stations, as far as terrestrial analogue broadcasting is concerned. As yet they have no competences for digital broadcasting.[60]

The media is regulated through the following pieces of legislation. The Law 2328/1995: "On the legal status of private TV and local radio, regulation of matters related to the electronic market, and other clauses", was enacted in order to open the market to private broadcasting and regulate local radio. Aside from setting out the licensing process the law also included aspects of content and programming in line with the provisions of the directive on Transfrontier Broadcasting. The legal framework under which the CRTA regulates the stations, consists of the Radio and Television Stations Law 7(I)/98 (as amended) and the Radio and Television Stations Regulations of 2000.

There are no restrictions regarding horizontal concentration in the press sector, so a company can be involved in as many regional or national publications as they wish. There are detailed rules regarding transparency of ownership and financial backing of mass media companies and their relationship with advertising companies (Law 2328/1995).

1.4.1 Audiovisual Media

Law 2644/1998: "On the provision of subscription-based radio and television services and related clauses", deals specifically with pay television (cable and satellite) and already addresses the future requirements of digital media, and more recently the “Law Consolidating and Revising the Laws Regulating the Establishment, Installation and Operation of Radio and Television Stations" as Amended up to August 2000

Ownership of the audiovisual media is controlled through restrictions in licensing (these restrictions aim at ensuring pluralism and transparency regarding ownership - therefore there are restrictions regarding number of licenses and regarding shareholding) as laid out in Article 19.[61]

Regarding national radio and TV stations and local TV stations, no shareholder can hold/control more than 25% of the total share capital of the company. Regarding local radio stations, no shareholder can control more than 40% of the share capital of the company.[62] The total of the company shares that belong to people who are relatives up to second grade or are husbands/wives cannot be higher than 25% of the total share capital of the company. For a local radio station the limit is again 40%.

[59] European Journalism Centre Media Landscape web site; World Press Trends 2003; CRTA; EPRA
[60] Information courtesy of the European Platform of Regulatory Authorities members' profiles.
[61] Translation courtesy of Eleftheria Pertzinidou
[62] From the 6 national TV Stations one has 157 shareholders, one 47, one 18 and three have 4 shareholders each. From the 9 national radio stations, one has 174 shareholder, one 44, one 18, one 16, one 8, one 6 and three have 4 shareholders each. From the 6 local TV stations, one has 12 shareholders, three have 5 each, and two have 4 each. The majority of the local radio stations (22 stations) have 4 shareholders each. No company holding a licence of a radio station has or controls shares in a publisher, newspaper or magazine or national TV station. No company holding a licence for TV station has or controls shares in a publisher, newspaper or magazine or national radio station. From CRTA reports on audiovisual ownership.

No company that holds shares of another company can hold or control directly or indirectly more than 25% of the total share capital of the company (Article) 19(2) (a))

As long as the limits above are adhered to there are no restrictions for holding shares in 2 or more national TV stations, in 2 or more local TV stations, in one national TV station and one local TV station. For radio, there are no restrictions for holding shares: in 2 or more national radio stations, in 2 or more local radio stations, in national radio station and local radio station. For TV and radio: there are no restrictions for holding shares in local TV stations and local radio stations.

1.4.2 Cross media ownership and Foreign ownership

Regarding foreign ownership, (Article 19(1) (d)): a foreigner can obtain, following authorisation of the Council of Ministers, not more than 5% of the shares (total share capital) of a company (after modification by Law 78(I)/2001. Restrictions regarding companies of EU Member States are no longer valid after accession.

Regarding cross media ownership, the following restrictions apply after modifications by Law 134(I)/2000: No licence for a radio station to be granted to a natural person or company that has or controls in any way: (i) more than 5% of the share capital in a publishing company, newspaper or magazine; (ii) or more than 5% in national television station.

No licence for television station to be granted to a company that has or controls in any way: (i) more than 5% of the share capital in a publishing company, newspaper or magazine; (ii) more than 5% in national radio station.

No licence for television or radio station to be granted to a company, the shareholders of which have or control in any way: (i) more than 5% of the share capital in a publisher company, newspaper or magazine; (ii) more than 5% in national radio or television station. For the purposes of this article, in the proportion of the shares that one person holds are also included the shares that their relatives up to second grade or their husbands/wives hold.

1.4.2 Competition Policy and Mergers

The Commission for the Protection of Competition in Cyprus regulates Cypriot markets but has no specific provisions within the legislation regarding the media sector.[63] The legal bases for action in the area are the Protection of competition Law 207/89 and the Control of Concentrations between Undertakings Law 22(1)/99.[64] Mergers are examined where enterprises are considered to be 'of major importance': where the 'aggregate turnover achieved by at least two of the participating enterprises exceeds, in relation to each one of them, two million Cyprus pounds' (at least one of them must operate in the Republic of Cyprus (Article 3).

Article 2 defines a dominant position as a 'position of economic power enjoyed by an enterprise which renders it capable of substantially obstructing competition in the market of a specific product or service and of acting to a marked degree independently of its competitors and customers and effectively independently of consumers' This is not further defined by a market share.

However, the merger of companies will be examined where: (a) two or more of the enterprises participating in the concentration engage in business activities in the same market or a specific group of products or services (horizontal relationship), and the concentration of their activities leads to a combined market share of 15% and above; or (b) any of the enterprises participating in the concentration engages in business activities in a market of products in a preceding or subsequent stage of the procedure of production of products or of specific groups of products in the markets of which

[63] http://www.competition.gov.cy/

[64] http://www.competition.gov.cy/competition/competition.nsf/All/04D13351C652079BC2256C8E003CD9A3/$file/22%20%C9%2099._English_Text.pdf?OpenElement

any of the other enterprises participating in the concentration engages in activities (vertical relationship) and provided any of the market shares of these enterprises amounts to 25% or more, irrespective of whether or not there exists a supplier/customer relationship among the enterprises that participate in the concentration (Schedule 1, section2, Article1).

2. Main Players in the Media Landscape[65]

The island of Cyprus has been geographically and ethnically divided since 1974, and in 1983 the area under Turkish control declared itself the "Turkish Republic of Northern Cyprus." Technically, the acquis communautaire applies to all of Cyprus. But under the island's 5,000-page treaty of accession it was agreed that it would only extend to the Turkish-held north in the event of a solution between these two communities. The Greek Cypriot community rejected the United Nations plan for re-unifying the island in a referendum in April. This report will focus mainly on the media situation in the Republic of Cyprus. While there are Turkish language media in the north, in the Greek section of Cyprus English, Standard Modern Greek and the Cyprus Dialect are the languages of importance for the media. Additionally, a small percentage of the southern part of the island speaks Turkish.

2.1 Radio

There are nine national radio stations and 22 local radio stations in Cyprus. The Public Service Broadcaster Cyprus Broadcasting Corporation (CyBC) has four radio channels, the second of which broadcasts programmes for Turkish, English and Armenian speaking listeners. The most popular station is the public service RK Trito.

The next most popular channel is the private station Radio Proto owned by the company who also owns the strongest commercial television channel SIGMA TV. SIGMA RADIO TV LTD is controlled by the publishing company Dias Ltd, who publish the daily newspaper *Simerini* (see section 2.3). The Antenna TV company (see 2.2) also own the radio channel Antenna FM. Many radio stations are owned by various political parties (similar to the situation in Malta).

Table CY1: Main Radio Companies

Companies/ channels	Main Radio Stations	Audience Listenership (survey)*
Cyprus Broadcasting Corporation	RK1 RK2 RK Trito RK 4	19% 39.9%
SIGMA RADIO TV LTD,	RADIO PROTO.	36.5%
ANTENNA TV	ANTENNA FM	26.6%
	Super FM,	18.7%
	RADIO ASTRA	
	Radio Athina,	
Church of Cyprus	Logos/Church of Cyprus	
	Radio Ant 1 FM	
	Radio Ammochostos,	
	Radio Helios	

* Source : Carat- AGB CYPRUS - CYMAR LISTERSHIP STUDY, oct 2002 Quoted in IMCA (2004)

[65] European Journalism Centre Media Landscape web site; World Press Trends 2003; IMCA (2004)

2.2 Television

There are the 6 national TV Stations and 6 local television stations broadcasting in Cyprus. The Public Service broadcaster CyBC has two channels: CyBC1 and CyBC2, with a combined audience share of 17.2%. CyBC also broadcasts a satellite channel.

The most widely watched channels are however the commercial channels. SIGMA TV with an audience share of 26.3% is the strongest commercial channel and also has the largest share of advertising revenue in the television sector.

The second strongest commercial channel is ANTENNA TV (an affiliate company of the Greek Antenna 1 channel, see Greek report). ANTENNA TV enjoys a market share of 22.1%. The third private channel MEGA (audience share 15.1%) is partly owned by the company who owns MEGA TV in Greece, Tiletypos (a consortium of publishing companies, see Greek report). They co-operate with local company Logos TV.

Table CY2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Market Share 2002**	Market share July 2004***
Cyprus Broadcasting Corporation (CyBC)	Public Service State-owned	CyBC 1 CyBC 2 CyBC SAT	9.7% 7.6%	10.5% 6.7%
SIGMA RADIO TV LTD		Sigma	27.3%	26.3%
Antenna TV S.A.	(See Greek report)	Antenna 1	22.7%	22.1%
Mega Cyprus	Logos Cyprus Teletypos S.A. (see Greek report)	MEGA	17.4%	15.1%
ERT	Greek Public Service	ERT		3.2%
Others			14%	14.5%

* From the Malta Media Landscape, European Journalism Centre website: www.ejc.nl..
** Market share 2002, Carat – AGB Cyprus. Quoted in IMCA (2004)
*** Market share July 2004. AGB Cyprus:

2.3 Cable and Satellite operators

Pay Television is mainly provided by the group Multichoice (affiliated with the Greek Multichoice Hellas), and also by the ALPHA group serving up to 50,000 households with terrestrial pay television. About 11,000 households are connected to cable, while a further 2,685 receive television via satellite.[66]

2.4 Press and Publishing

According to the recent report of the European Journalism Centre[67] there are currently nine daily newspapers (8 Greek, 1 English) and eight weekly (7 Greek, 1 English) newspapers published, most of which apparently belong to or are linked to various political parties. In the Turkish north of the island there are eight daily papers, with press from mainland Turkey being the best-selling titles

The best-selling newspaper by far is the daily *Phileleftheros* published by Phileleftheros Ltd. Four other dailies have an average circulation of 4-6,000 copies. Another important paper is the English language daily the *Cyprus Mail* with a circulation of 3,600.
Of the publishing companies listed below, at least one Dias Ltd, is also involved in the broadcasting sector through involvement in Sigma TV and Radio, having the most popular television channel and a popular commercial radio channel.

[66] http://www.europa.eu.int/comm/avpolicy/stat/2002/5886_imca/59-02-cyprus-fr.pdf
[67] European Journalism Centre Media Landscape web site http://www.ejc.nl

Table CY3: Main Publishing Companies

Publishing companies*	Main Titles Daily	Owner/ Director	Circulation 2000**	Weekly
Greek language				
Phileleftheros Ltd	Phileleftheros (Liberal)	Director:Nicos Pattichis	25,000	
Arktinos Publications Ltd	Politis (Citizen)	Publisher: Yiannis Papadopoulos	4,500	
Dias Ltd;	Simerini (Today)	Director: Costis Hadjicostis	6,500	
Tilegraphos Ltd	Haravgi (Dawn) (Communist Party paper)	Director: Nicos Katsourides	4,500	
Alithia Ltd	Alithia (Truth)	Owner-Managing Director: Frixos N. Koulermos	5,000	
ATROTOS» Ltd	Machi 1,200	Founder: Nicos Sampson	1,200	Tharros: (Courage):
English language				
Cyprus Mail Co Ltd;	Cyprus Mail	*Director: Kyriacos Iacovides*	3,600	
				Cyprus Weekly

* Information from the Republic of Cyprus Press and Information Office and European Media Landscape: Cyprus http://www.ejc.nl/jr/emland/cyprus.html
** World Press Trends 2003

2.5 Advertising revenue

The table below outlines the share of advertising revenue between the media sectors.

Share of advertising revenue within the media sector 2002*

Media	Share in euros	Market Share in %
Television	32.8m	48.6%
Press	17.2m	25.5%
Radio	5.8m	8.6%
Outdoor	4.7m	7%
Cinema	2.6m	3.8%
Internet	.9m	1.3%
Total	67.5m	100%

*Information from Carat – AGB Cyprus Advertising Expenditures: Quoted in IMCA (2004)

3. Conclusions

The rights and working conditions of journalists, alongside editorial independence are issues of concern for the Union of Cyprus Journalists, including the abolition of some outdated laws that restrict the work of journalists. It still occasionally happens that the Attorney-General (as outlined under section 1.1 freedom of expression) can seize publications or block broadcasts. This happened in 2002 when footage of a demonstration was seized from the broadcasters. The problems of freedom of the media in the Northern Turkish part of the Island are more extreme where journalists can be arrested, put on trial, an d sentenced under chapter 154 of 7th paragraph of the so-called Criminal Code.[68]

Cyprus is another example of a very small state where a limited source of revenue through advertising does not allow for a development of a wide range of media outlets. Despite this there is a large range of local radio services. Many of the companies in Cyprus have affiliations with or co-operations with media companies in Greece. This development is also important in the area of new media. Despite the detailed ownership restrictions outlined above there are concerns regarding the concentration of the media in Cyprus. The Union of Cyprus Journalists claims there is a need for further action in this area.

Report status: the gathering of data for this report was completed on July 31st 2004

[68] See Myria Vassiliadou (2003) for more detail. See also the reports and website of SEEMO

Czech Republic

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The Charter of Fundamental Rights and Basic Freedoms[69], which forms part of the constitutional order (according to Art. 3 and 112) of the Czech Republic[70], states in Art. 17 (§§ 1-4):

> *(1) The freedom of expression and the right to information are guaranteed.*
> *(2) Everyone has the right to express his views in speech, in writing, in the press, in pictures, or in any other form, as well as freely to seek, receive, and disseminate ideas and information irrespective of the frontiers of the state.*
> *(3) Censorship is not permitted.*
> *(4) The freedom of expression and the right to seek and disseminate information may be limited by law in the case of measures that are necessary in a democratic society for protecting the rights and freedoms of others, the security of the state, public security, public health, or morals.*

1.2 Freedom of Information

Within the Charter of Fundamental Rights and Basic Freedoms, Article 17 (§§ 1 and 5) stipulates:

> *(1) The freedom of expression and the right to information are guaranteed.*
> *(5) State bodies and territorial self-governing bodies are obliged, in an appropriate manner, to provide information with respect to their activities. Conditions therefore and the implementation thereof shall be provided for by law.*

The Law on Free Access to Information[71] was adopted on 11 May 1999 and became effective on 1 January 2000. Restrictions on the right to information may be imposed due to considerations of protection of personality and privacy, protection of secrecy, of business secrecy, and of confidentiality of property standing. Information on criminal procedures taking place, decisive activity of the courts, assignments of intelligence services, preparation, performance and review of control results in bodies of the Highest Control Office will not be provided.

1.3 Codes for journalists

The general meeting of the Union of Publishers on 5 September 2000 has approved a Code Of Ethics[72]. The Press Code of Practice of the Union of Publishers is the base of the system of self-regulation in the industry of periodical press publishing in the Czech Republic. Infringement of the principles, their interpretation and any adjustments to the Press Code of Practice are solved and ensured by the Czech Press Council, which is an individual body of the Union of Publishers.
According to the Code Journalists shall:
Seek the truth, give truthful and correct information to the public, preserve human dignity, verify the truthfulness of information. Journalists must not use unfair methods when acquiring information, truthfulness of information must not be misrepresented by incompleteness, processing, mutilation, falsification, by accompanying photographs or other pictures or by their description. The disclosure of unconfirmed news and accusations, especially of an offensive manner is not in compliance with ethics. If, exceptionally, for some serious reasons unconfirmed information or assumptions are disclosed they must be indicated as such and it must be apparent that they are such. Third party intimations must be stated or truly interpreted and must as such be indicated. Assumed quotations as well as own quotations using third party information must disclose the original source. Photographs used for illustration or other pictures must be indicated as such. Untruthful information shall be

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[69] Charter of Fundamental Rights and Basic Freedoms, http://www.mdac.info/region/czech/CZ_RESOLUTION.doc
[70] Constitution of the Czech Republic, http://www.concourt.cz/angl_verze/constitution.html
German Version: http://www.verfassungen.de/cz/verf93.htm
[71] Law on free access to information,
http://www.ijnet.org/FE_Article/MEdiaLaw.asp?CID=115659&UILang=1&CIdLang=1
[72] Available from the International Journalists Network: http://www.ijnet.org/

corrected without delay. Journalists shall abstain from any kind of discrimination or offence due to sex, race, color of skin, language, faith or religion, political or other views, national or social origin, pertinence to a national or ethnic minority. The press shall respect privacy including the intimate sphere; special protection shall be given to victims of criminal acts and accidents, the presumption of innocence has to be respected. The press shall not be influenced by private or commercial interests, no benefits shall be accepted. When reporting the press must always have consideration for the interests of children and teenagers.

There is also a Code of Ethics[73] from the Czech Syndicate of Journalists. It states that journalists shall: respect the truth and the right of the public to truth; defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism; report only in accordance with facts of which he/ she knows the origin. The journalist: shall not suppress essential information or falsify documents; shall use only fair methods to obtain news, photographs and documents; rectify any published information which is found to be harmfully inaccurate; observe professional secrecy regarding the source of information obtained in confidence; be aware of the danger of discrimination being furthered by the media, and shall avoid facilitating such discrimination based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national or social origins. The journalist shall regard as grave professional offences: plagiarism, malicious misrepresentation, calumny, slander, libel, unfounded accusations, the acceptance of a bribe in any form in consideration of either publication or suppression.

1.4 Media Ownership Regulation

The Media in the Czech Republic are regulated by the Council for Radio and TV Broadcasting which is responsible for frequency allocation, licensing and safeguarding the independence and plurality in Radio and TV broadcasting and retransmission. The field of responsibility of the Czech Office for the Protection of Competition as the general competition authority also comprises media concentration. Important laws include the Act on the Protection of Competition of April 2001, the Press law of 2000 and the Broadcasting Act of 2001. There are no restrictions on foreign ownership of the Czech Media. The Press Law of 2000[74] does not contain any rules on ownership, therefore the general competition policy applies

1.4.1 Audiovisual Media

The regulatory framework set up soon after the end of the communist era by the 1991 Broadcasting Law (in the meantime replaced by the above-mentioned Broadcasting Act of 2001), foresees a dual broadcasting system with both public service and private Radio and TV broadcasters. The Law took a very liberal approach to ownership regulation, both legal and natural persons were allowed to hold licences and foreign investors having established a national Company could apply for a license, too, although the representation of Czech nationals among the shareholders and the decision makers had to be taken into account in the course of the licencing procedure of the Broadcasting Council (Šmíd 2004: 144). There were no restrictions on maximum foreign ownership or cross-ownership limits for broadcasters.

The current Broadcasting Act carries forward the light-touch approach of the old Broadcasting Law (cf. Šmíd 2004: 144). However, it contains a number of ownership restrictions. On the national scale, no single legal entity, nor any single natural person, may be a holder of more than one licence for nation-wide analogue terrestrial television broadcasting. Accordingly, no single legal entity, nor any single natural person, may be a holder of more than one licence for nation-wide analogue terrestrial radio broadcasting (Article 55 §§ 1 and 2).

Furthermore, nation-wide television broadcasters may not possess any ownership interest in the business of any other nation-wide television broadcaster and likewise, nation-wide radio broadcasters

[73] Ibid
[74] Available on the website of the Czech Publishers association: http://www.uvdt.cz/english.htm

may not possess any ownership interest in the business of any other nation-wide radio broadcaster (Article 55 §§ 3 and 4).

No nation-wide statutory television broadcaster may consolidate with any other nation-wide television broadcaster, such a consolidation being based on the fact that their statutory bodies or members of statutory bodies are the same persons or related parties, or are partners in the same business entity or are related parties, or in any other manner except if the persons concerned are involved in the canvassing and sale of advertising services, sponsorship-related services, market surveying services and services relating to the purchase of broadcasts, except news broadcasts (Article 55 §§ 5, 7 and 10)

No nation-wide statutory radio broadcaster may consolidate with any other nation-wide radio broadcaster, such a consolidation being based on the fact that their statutory bodies or members of statutory bodies are the same persons or related parties, or are partners in the same business entity, or are related parties or in any other manner except if the persons concerned are involved in the canvassing and sale of advertising services, sponsorship-related services, market surveying services and services relating to the purchase of broadcasts, except news broadcasts (Article 55 §§ 6, 8 and 10).

On the local and regional levels, any single legal entity or any single natural person that is a holder of more licences to operate analogue terrestrial radio broadcasting or to operate analogue terrestrial television broadcasting, may, in total, not cover more than 70 % of the Czech population (Article 56 § 1).
This limit also applies if a single legal entity or a single natural person holds ownership interests in the business of more than one analogue terrestrial radio broadcaster or in the business of more than one analogue terrestrial television broadcaster; then the total coverage of the population of the Czech Republic by the broadcasting of all analogue terrestrial radio broadcasters or TV broadcasters other than nation-wide radio or TV broadcasting such an entity or person has an interest in must not exceed 70% of the total population (Article 56 § 2).No programme network may cover, through radio or TV broadcasting, more than 70% of the total population (Article 57).

In the case of consolidation between broadcasters, the participating entities have to attend to various duties of notification (Article 58 § 1), especially if a consolidation of radio or TV broadcasters occurs whereby one legal entity or one natural person possesses a substantial interest in two or more radio, or accordingly in two or more TV broadcasters.

A legal entity or natural person shall be regarded as having a substantial influence on a broadcaster insofar as it possesses a direct or indirect interest greater than 34% of the voting stock, it makes decisions regarding the majority of employees of the broadcaster who are under the direct managing authority of the statutory body or a member thereof, or makes decisions on the persons/entities who/which provide, on the basis of a mandate or any other agreement, significant administrative, managing or trading activities for the broadcaster, it has opportunities to exercise controlling influence on the management of the broadcaster upon the basis of a contract, a special provision in the Statutes, Articles of Partnership or Founder's Deed or agreement with persons who are partners to or shareholders of the broadcaster (Article 58 § 2).

1.5 Competition Policy and mergers

Apart from the general competition policy that also applies to the media sector, there are the above mentioned rules on consolidation between broadcasters. Mergers require the Broadcasting Council's approval if a natural or legal person gains a substantial influence (direct or indirect interest greater than 34% of the voting stock or a certain influence on the decision-making process).

According to Article 11 § 1 of the Economic Competition Protection Act of 2001, the abuse of a dominant position to the detriment of other undertakings or consumers is prohibited. The definition of the term "dominant position" can be found in Article 10 § 1: One or more undertakings jointly (joint dominance) are deemed to have a dominant position in a relevant market, if their market power enables them to behave to significant extent independently of other undertakings or consumers. Article 10 § 3 provides that unless otherwise proven an undertaking or undertakings in joint dominance shall be deemed not to be in dominant position, if its/their share on the relevant market achieved during the examined period is below 40%. This limit was raised from 30% to 40%. However, it serves as an orientation point and not as a strict limit, as the Office assesses market power according to market share, and pursuant to other indices, in particular the economic and financial power of the undertakings, legal or other barriers to entry into market by other undertakings, vertical integration level of the undertakings, market structure and size of the market shares of their immediate competitors (article 10§2).

In 1993, the then competent Ministry for the Protection of Economic Competition, applying the provisions of the Economic Competition Protection Act of 1991, concluded that the German Verlagsgruppe Passau did not have a dominant position. The relevant market comprised in the Ministry's opinion, both national and regional dailies.

2. Main Players in the Media Landscape

2.1 Radio

With an average listening time of more than two and a half hours[75], radio is a popular medium in the Czech Republic. The early admission of commercial broadcasters to the Czech market with the Broadcasting Law of 1991 shortly after the fall of the iron curtain has led to a quite competitive radio market with about 80 stations.

Table CZ 1: Main Radio Companies

Companies	Ownership Structure*	Stations	Total Market Share 2002
Czesky Rozhlas	PSB	CR1 Radiozurnal CR Praha 2 small stations regional Stations	27,5% (CR1: 12%; CR Praha 5,5%)
Londa Ltd.	2/3 Eurocast Rundfunk Beteiligungs GmbH Investment consortium/Joint Venture of Radio broadcasters from Eastern Germany 1/3 Ivan Batka	Radio Impuls	11,9%
Lagardère Active Radio International	Lagardère Group	Frekvence1 Evropa 2	10,1% 5,3

* Ownership structure based on information from: respective company websites
** Source Carat-MML 2002-A-Connect

The three stations with the largest audience share are the public service station CR1 Radiozurnal and the commercial stations Frekvence 1 and Radio Impuls. The French Lagardère Group is the strongest owner in the market operating the second largest commercial radio station Frekvence 1 and the third largest commercial station Evropa 2 (see also national reports on Poland and France). The market leader Radio Impuls is run by Londa Ltd., which, since 2002, is controlled by Eurocast, a joint venture of Radio broadcasters from Eastern Germany (see also report on Poland).

The public service Broadcaster Czesky Rozhlas runs CR1 Radiozurnal, a news-oriented station with a market share of 12 %, CR Praha, with a listenership mainly from Prague and two smaller national stations and eleven regional stations. Regional private stations have a total market share of around 40%.[76]

[75] IMCA 2004
[76] Media Map Yearbook 2004:46.

2.2 Television

Television is the most popular medium in the Czech Republic, accounting for the lion's share of individual media consumtion with an average three and a half hours[77] of daily consumtion. The Czech Television market is dominated by four major stations, two of which are commercial stations and two are public service channels.

The market leader with by far the largest audience share (43,4%) is TV Nova, owned by the Czech financial group PPF (with a controlling share of 66%) and Nova Holding (formerly MEF Holding; with a share of 34%). PPF took over TV Nova in 2002 after the former owner, Vladimir Zelezny had to pay damage claims to former investor CME for breach of contract and the Czech Republic then had to pay damage claims for not protecting CME's investments. PPF settled Zelezny's liabilities in return for his shares. TV Nova's programme consists mainly of foreign (mostly American) movies and series as well as poplar shows and information programmes. The second-largest commercial broadcaster is Prima TV (formerly TV Primiéra) which broadcasts more Czech productions but also foreign movies and Talkshows and has to provide programme windows for regional TV stations. It reached an audience share of 20,1% in 2003.

Nationwide public service Channels are CT 1 and CT 2, with market shares of 22,2% and 7,9% respectively, with CT 1 being aimed at a mass audience and CT 2 being the more sophisticated alternative. A project to establish a third commercial broadcaster (TV3), that had been started by Peter Gerwe and the American Insurance company Prudential, came to an end in 2002 to due to conflicts between the investors. A starting date for the launch of Digital Terrestrial Television has not yet been envisaged[78]

Table CZ 2: Main Television Companies

Companies	Ownership Structure*	Main TV Stations	Market Share**
TV Nova	PPF (66%) Nova Holding (34%)	TV Nova	43,4%
FTV Primiéra	GES Media Holding, 100% (owned by Ivan Zach[60%], Radka Zachova [20%] and Petra Marschallova [20%])	Prima TV	20,1%
	PSB	CT 1	22,2%
	PSB	CT 2	7,9%
Various			6,4%

* Ownership structure based on information from: respective company websites
* *Market share based on Internationales Handbuch Medien 2004/2005

2.3 Press and Publishing

Contrary to the Television Market that is dominated by Czech owners, the press market has attracted many foreign investors. On the national scale, there are six dailies controlled by five different owners

The main players include the Swiss publisher Ringier (see also Hungarian report) with its popular tabloid *Blesk* and the German Rheinisch-Bergische Verlagsgesellschaft that controls *MF DNES* and, through its daughter Pressinvest, another important Czech daily by the name of *Lidové Noviny*.

Handelsblatt and Dow Jones Investment play an import role in the market of financial dailies with the title *Hospodarske Noviny*. The only Czech publishing hause involved in this market is Borgis with its national daily *Právo.*

[77] IMCA 2004
[78] For more information on that matter see http://www.epra.org/content/english/press/papers/DTTWG_finalreport.doc

Table CZ 3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles Daily	Circulation 2003	Other	Circulation 2003
Ringier CR A.S.	Ringier Switzerland (100%)	Blesk	485.334	Ceskoslovensky Sport (through CS.Sport.A.S) **TV guides:** TV plus Tydenik Televize	69.274 122.000 182.000
Mafra A.S.	Rheinisch-Bergische Verlagsgesellschaft (74%) MAF A.S.(26%)	MF DNES	316.206		
Borgis A.S.	Zdenek Porybny (91.4%) Small shareholders (8,6%)	Právo	189.593		
Lidové Noviny A.S.	Pressinvest A.S. (owned by the Rheinisch-Bergische Verlagsgesellschaft) (96,93%) Small shareholders (3,07%)	Lidové Noviny	77.558		
Economia A.S.	Handelsblatt-Dow Jones-Investments (77,5 %) CTK (10,9%) Small shareholders (11,6%)	Hospodarske Noviny	74.195		
Futura A.S	Central Committee of the Communist Party (Majority) Small shareholders	Haló Noviny	n.a		
Vlatava-Labe Press	Passauer Verlagsgruppe (80%) Rheinisch-Bergische Verlagsgruppe (20%)			**Regional press** Rovnost, Den, Moravskoslezsky denik, Visocina, Vecernik Pr aha, , plenzky denik, Hradecke Noviny, Pardubicke Noviny, Ustecky denik, Liberecki den, Ceskobudejovicke listy	Total circulation of 462.647[79]
Sanoma Magazines International	See report on Finland			**Magazines** Vlasta; Puls Prakticka zena Kve ty; Story Ring; Prekavpeni National Gepgraphic	Total circulation of 905,000
Europress	Bauer Verlag (see report on Germany)			**Magazines** Rhythmus zivota Chvilka pro tebe Napsano zivotem Zena a zivot Bravo; Bravo Girl Divka	Total circulation of 851,000

* Ownership structure based on information from company websites
** Circulation figures from: Audit Bureau of Circulation (October 2003)

However, one of the largest publishing houses on the Czech market is Vlatava-Labe – Press. They are not present on the market of national dailies, but the total circulation of the regional titles published by VLP gives them a unique standing and makes VLP one of the biggest players in the Czech Republik, with an average sold circulation of 462.647.[80] VLP is controlled by the German Passauer Verlagsgruppe; the German Rheinisch-Bergische Verlagsgruppe holds a minority share of 20 %. The Passauer Verlagsgruppe is also active in the Polish market. The Finnish Sanoma Magazines International (see report on Finnland) has a strong position in the market of women and lifestyle magazines, as does the German Bauer Verlag.

2.4 Cable and Satellite operators

Around 700.000 Czech households are connected to cable, which is a share of about 70% of all the country's households. The Netherlands based and US-financed company United Pan-European

[79] Ibid
[80] Šmíd 2004:153 quoting Audit Bureau of Circulation.

Communications (UPC) has, due to several mergers and acquisitions, become the largest player in that area, accounting for 600.000 connected households 390.000 of which are cable subscribers. UPC is also a major player in the cable markets of Austria, Belgium, the Netherlands, Hungary, Poland and France. The majority shareholder in UPC is Liberty Media (51%) who are also major players in the cable sector in Ireland and the United Kingdom.

UPC's strongest competitor is One Team, a new company that has arisen from a merger of Interkabel and TES media and has connections to 500.000 households and accounts for 270.000 subscribers. Both companies offer a variety of dubbed foreign productions and invest in broadband technology. UPC also offers a direct to home satellite service called Czech link, which is the only commercial pay-TV satellite service and has about 58.000 customers.[81]

2.5 Advertising

The table below outlines the share of advertising revenue in the media sector, with the share of revenues from advertising on Television (43,8%) being considerably higher than the European average (29%; see Luverá 2003).

Table CZ 4: Share of advertising revenue within the media sector 2002*

Media	In billion CZ	Market Share in %*
Television	15.5 CZ billions	43.8%
Press	13 czech billions	25.1%
Radio	1.5 czech billions	5.42%
Outdoor	2 czech billions	3%

*Source: PriMetica Ltd 2004, Taylor Nelson Sofres A-Connect

3. Conclusions

3.1 Freedom of the Media

Media freedom in the Czech Republic is not endangered by legal provisions; after the end of the communist era, a liberal legal framework for the media has been rapidly established. Nonetheless, economic constraints have negative effects on the working conditions of journalists, hinder expensive investigative journalism, convey a certain tabloidisation of the Media and endanger editorial independence, causing bias not so much in favor of political ideologies as in favor of powerful advertisers such as the Czech telecom, whose behavior had been criticized as monopolistic in only a very few weeklies and periodicals[82].

In terms of media pluralism, a debate on the future financing of the public service broadcaster (the license fee has not been raised since 1997) is taking place and concerns are raised that politicians might trade higher funding for political influence on the broadcaster[83].

3.2 Ownership and market concerns

Concern has been expressed in relation to foreign ownership especially in the press sector,[84] with the markets – contrary to the TV sector - being almost entirely controlled by foreign companies (see section 2.3 above). The strong German dominance is often particularly criticized and some commentators fear pro-German bias[85]. Others consider the behaviour of the foreign companies as politically neutral[86] and point out that the only Czech-controlled national daily *Právo* (Borgis) is more

[81] Media Map Yearbook 2004:45.
[82] Šmíd 2004:159
[83] Šmíd 2004:161.
[84] Banisar 2003:159.
[85] See for example Czech press – a German monopoly ? by Benjamin Kuras, available on the homepage of the Czechoslovak Society of Arts and Sciences (SVU): http://www.svu2000.org/
[86] Šmíd 2004:154.

vulnerable in terms of editorial policy than the ones controlled by foreign companies because it is more liable to yield to the pressure of advertising money due to a lack of strong financial reserves, and because the editor-in chief, Zdenek Porybny, holds a 91,4% controlling share of the publishing house Borgis.

But even though foreign capital was indispensable in the 1990s and foreign investors might be less likely to use their potential influence on editorial contents - partly because they are not interested in national politics, partly because they are eager to show their neutrality- a press market that is entirely in foreign hands poses problems for the cultural identity of a nation.

The strong position of TV Nova (with a market share of 43,4%, see table CZ 2) might raise concerns. However, the market share has dropped from more than 70% to 43,4% due to the better performance of competitors,[87] implying that the position of TV Nova is not so dominant that it endangers the proper functioning of the mechanisms of competition in that field. Nonetheless, a strong public service broadcaster is vital for media plurality in that context.

The above-mentioned damage claims of the investor CME against the Czech Republic led to the dissolution of the Czech Council of Radio and Television Broadcasting by the Parliament with the governing coalition's majority in April 2003, on the grounds of failing to protect the investments of CME, proving media ownership to be a highly political issue in the Czech Republic.

Report status: the gathering of data for this report was completed on July 26th 2004

[87] Šmíd 2004:161.

Denmark

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Section 77 of the Constitution of the Kingdom of Denmark enshrines the freedom of expression:

> *"Section 77. Any person shall be entitled to publish his thoughts in printing, in writing, and in speech, provided that he may be held answerable in a court of justice. Censorship and other preventive measures shall never again be introduced."*[88]

1.2 Freedom of Information

The freedom of information is legislated through the Access to Public Administration Files Act that was agreed to by parliament in 1985[89] and entered into force in 1987, and supplemented by the 1986 Public Administration Act,[90] the 1997 Archives Act and the Act on Processing of Personal Data[91] as the most important pieces of legislation governing access to public documents. The 1985 Act is based on a presumption of general accessibility, meaning that access to documents of public administrative bodies is to be granted except where the law provides for explicit exemptions from this general principle. This is true for documents relating to the national administration of justice as well as those pertaining to the drafting of bills where these have not yet been presented for parliament. Moreover, the Act specifies classes of exemptions for certain types of documents (e.g. minutes of the Council of State), certain types of information (e.g. business secrets) and a number of justifications grounded in the general interest (e.g. protection of public security). Requests for information pertaining to cases that have been or will be decided upon by a public authority are to be handled by the authority itself; in all other cases, questions of access to public documents shall be settled by the authority in the possession of said documents. In both cases, citizens can seek legal redress if unsatisfied with the authority's decision, which has to be reached within a time limit of ten days from the reception of the request. As a general rule, individuals are also to be granted access to the personal files that public authorities store on them, and to be given the opportunity to rectify factually incorrect information contained therein. Access in these cases can be denied, however, where reasons of the general interest or similar justifications so demand.

1.3 Code of conduct for Journalists

The current code of ethics comprises a set of guiding rules that is applicable to journalists in all media, including, but not limited to, the printed press, television and radio. It is based on the premise that the media's right to access information and to impart such information to the general public is an essential precondition of the effective exercise of the freedom of expression. The right to be informed and to inform others is limited, however, by the values that are the individual's personal integrity, the right to a private life not subject to public exposure and the protection against unjustified violations thereof. Derogations from this principle are possible only where a substantial public interest justifies interference with an individual's private sphere. The code of conduct stresses the need for journalists to take a critical approach to their news sources, especially where these may be interest driven, and to cross check information that may be damaging or harmful to an individual; special discretion is advised when reporting on criminal law proceedings due to the possibly irreparable damage that may be caused to an individual's integrity and/or reputation by a mis-statement of the facts in such cases.

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[88] *Danmarks Riges Grundlov, Lov nr. 169 af 5. juni 1953* available from: http://www.grundloven.dk/. An English translation is available from: http://www.oefre.unibe.ch/law/icl/da00000_.html.
[89] *Lov om offentlighed i forvaltningen (Offentlighedsloven), Lov nr. 572 af 19. december 1985*, available from: http://147.29.40.91/DELFIN/HTML/A1985/0057230.htm; an English translation is available from: http://aabenhedskomite.homepage.dk/07love/offentlighedsloven_paa_engelsk.htm. The latest amendments were made by law nr. 276 of 13 May 1998, which is available from: http://www.retsinfo.dk/_LINK_0/0&ACCN/A19980027630.
[90] *Forvaltningslov, Lov nr. 571 af 19. december 1985*, available from: http://147.29.40.108/_GETDOCI_/ACCN/A19850057130-REGL; a consolidated version including the amendments of law nr. 347 of 6 June 1991 can be found at: http://147.29.40.108/_LINK_0/0&ACCN/A19911100614.
[91] *Lov om behandling af personoplysninger, Lov nr 439 af 31 Mai 2000* available from: http://147.29.40.90/_LINK_B781515959/1747&ACCN/A20000042930.

Where factually incorrect information is published despite all precautions having been taken, this should be rectified as soon as possible, and the public informed. Factual information, editorial comment and advertising should be clearly separated.

The code is given legal weight by virtue of Chapter 5, § 34 of the Media Liability Act,[92] which stipulates that all journalistic activity shall conform to good journalistic practice, which is defined, among other things, by the code. As a rule, complaints about a possible breach of these professional principles can be addressed either to the medium concerned or to the Press Council.[93] The Council can require the editor of the medium concerned to publish all or parts of its decision, granting it at a prominent position or time slot (whichever is applicable). In cases where such publication is deemed necessary, the medium is not allowed to publicise any commentary alongside the decision.

1.4 Media Ownership Regulation

In Denmark, the three government institutions who are primarily responsible for the regulation of media activities are the Ministry of Economic Affairs, the Ministry of Cultural Affairs and the Prime Minister's Office. The Ministry of Economic Affairs establishes the general framework for the economic activities of media companies through general competition law and policy. The Ministry of Cultural Affairs develops Danish broadcasting policy, including audiovisual regulation, funding and coordination of legislative developments in the field of broadcasting with other policy areas. In this capacity, it is aided by the Radio and Television Board (*Radio- og TV naevnet*), whose tasks apart from its advisory function comprise the registering and licensing of radio and TV broadcasters, the monitoring of programming content and the handling of complaints about advertising pursuant to Chapter 5, § 35 of the Media Liability Act and Chapter 7, § 44 of the Radio and Television Act.[94] The Board itself is hosted by the Media Secretariat, which provides administrative support and functions as a knowledge centre in media affairs for the Danish government. Finally, the Prime Minister's Office has traditionally been responsible for the regulation of the printed press.

The current legislative framework in the audiovisual field contains no specific rules to limit the amount of media assets that may be held by any one person. While the licensing procedure that applies to terrestrial analogue broadcasters, as specified by the Radio- and Television Act, allows for the possibility of including ownership as one of the criteria to be considered when carrying out a tender for national broadcasting licenses, no absolute quantitative thresholds have been established ex ante as is the case in other EU Member States. The registration procedure to which all broadcasters employing cable, satellite or FM technology (and targeting more than a local area) are subject, contains no reference to ownership as a parameter by which to judge whether or not registration will be granted. While operators do have to provide information on, inter alia, the ownership structure and the economic situation of their company as part of the registration process, registration itself depends on the completeness of the information provided rather than an evaluation of the ownership structure itself.

1.4.1 Audiovisual Media

As with other European countries, in Denmark it was not until the 1980s that the monopoly of the incumbent public service broadcaster was challenged. Prior to a formal opening of the broadcasting industry for private operators, public service broadcaster *Danmarks Radio* had already been exposed to competition from the highly successful *Radio Merkur*, operating from a vessel in the North Sea. *Danmarks Radio* chose to establish a third programme similar to that of *Radio Merkur*: the project was met with substantial popular approval, and the resultant *P3* has remained the single most popular

[92] *Lov nr. 348 af 6. juni 1991, Medieansvarsloven*: http://www.pressenaevnet.dk/lovgivning/medieansvar.html.

[93] In the case of public service broadcasters, complaints are to be addressed to the companies themselves before the Press Council can be called upon; cf. *Medieansvarsloven*, supra note 5, Chapter 5, § 34, Subsection 3. Pursuant to Chapter 7, § 44, Subsection 2, the Council can also initiate proceedings on its own, if the case is of a principal nature or otherwise of special importance.

[94] *Lov nr. 1052 af 17. december 2002, Lov om radio- og fjernsynsvirksomhed (Radio- og fjernsynsloven)*, available from: http://www.retsinfo.dk/_LINK_0/0&ACCN/A20020105230.

Danish radio station until today. Following a further extension of *Danmarks Radio*'s programming activities with the establishment of a range of regional radio outlets in 1973, an examination into the possibilities of local commercial broadcasting was launched in 1981, one year after a Media Commission had been created under the auspices of the Prime Minister's Office to assess the challenges facing the Danish audiovisual landscape. The year that the Commission delivered its final report in 1985, parliament created the legal framework for local commercial radio broadcasting and the stations set up under the pilot study became permanent as of 1986. In the television field, a legal basis for local private TV was instituted in 1987. One year later, the national television broadcasting monopoly of *Danmarks Radio* was abandoned, when the government launched the second Danish public service broadcaster *TV2*, which quickly became the most popular channel. At the same time, the London-based commercial operator *TV3*, owned by the Swedish Modern Times Group, also contributed to increased competition in the national television market. While the number of commercially owned, national TV broadcasters continued to increase during the 1990s, in the radio market it was not until 2003 that *Danmarks Radio*'s monopoly was abolished when the license for the fifth national FM channel was sold to Sky Radio Europe.

1.4.2 Competition Policy and Mergers

Under current Danish competition law, media companies and their activities are assessed according to the same criteria as other economic enterprises. This means that mergers involving media companies will be subject to the merger control procedure as it is laid down in Chapter 4, § 12 of the Danish Competition Act[95] if the aggregate turnover of the undertakings involved exceeds DKK 3.8 billion (approx. 0.51 billion €) in the relevant Danish market and at least two have an individual turnover of more than DKK 300 million per year, or if the aggregate turnover of at least one company is more than DKK 3.8 billion (approx. 0.51 billion €) in Denmark and the turnover of another company exceeds DKK 3.8 billion internationally. Under current conditions, these rules imply that most of the conceivable mergers between major media companies would have to be assessed by the Competition Authority; however, under these rules some of the smaller national newspapers (e.g. *Kristeligt Dagblad*, *Information*) could be taken over by larger media groups without any assessment of the case by the Competition Authority. Concerning television, no mergers between any of the major broadcasting operators at the national level are possible without an assessment by the national authorities.

1.4.3 Cross Media Ownership and Foreign Ownership

Just as there are no specific assessment criteria for media activities in general competition law, neither are there any limitations on cross media ownership or foreign ownership in Danish legislation. This has meant that the Danish media industry, relative to its limited size, has seen an influx of foreign investors in the form of Talpa International and Sky Europe in the radio broadcasting business, Orkla and Metro International in the press industry and TeliaSonera in the cable business. The market for commercial national television services, although in foreign hands, cannot be assessed using the same parameters as the biggest groups (SBS Broadcasting, Modern Times Group) have established their operations outside the country to benefit from the less restrictive advertising provisions in place in the United Kingdom.

2. Main Players in the Media Landscape

2.1 Radio

In 2003, radio was the most popular and most frequently used medium, with 84 percent of the Danes tuning into the radio every day. The Danish radio landscape today still bears the marks of the long-standing dominance of public service broadcaster Denmarks Radio, who holds a share of almost two

[95] *LBK nr 539 af 28/06/2002, Bekendtgørelse af konkurrenceloven*, available from: http://www.retsinfo.dk/_LINK_0/0&ACCN/A20020053929; an English translation is available from the homepage of the Danish Competition Authority at: http://www.ks.dk/english/competition/legislation/comp-act539-02/.

thirds of the entire market, having rearranged and expanded its schedule of programming to reflect the changes in media preferences of the younger generation.

The largest competitor to DR as a group is the pan-Scandinavian SBS Broadcasting group who increased its overall share in the Danish radio market by acquiring, in July 2003, Radio 2 from a subsidary of US broadcasting giant Clear Channel Communications. By doing so, Scandinavia's now largest radio group[96] not only strengthened its own position, but at the same time hindered Sky Radio's future development possibilities in the market. At the time, Sky Radio A/S, a local outlet of the Sky Radio Europe group (itself owned by Rupert Murdoch's News Corporation), had just been awarded the 5th FM radio broadcasting license at a price of 54 mio. DKK annually (approx. 7.2 mio. €), which turned it into the first nationwide commercial network.[97]

Table DK-1: Main Radio Companies

Broadcasters	Ownership Structure	Main Radio Stations*	Total Market Share Jan-Mar 2004**
DR	Public service broadcaster	P1 5.3% P2 2.6% DR Klassisk 1.0% P3 17.7% P4 total 38.3%	64.9%
SBS Broadcast Danmark A/S	**SBS Broadcasting S.A.** UnitedGlobalCom Europe B.V. 18.8% Fidelity Management & Research Company 9.1% Janus Capital Corporation 6.5% Capital Research and Management 6.3% SMALLCAP World Fund Inc 5.8% State Farm Insurance Companies 5.0% Directors & executive officers 16.1%	The Voice 3.6% Radio 2 2.0% Pop FM 1.0%	7.3%
Sky Radio A/S	**Sky Radio Europe Ltd.** News Corporation 93% Veronica Holding 3.5% Private investors 3.5%	Sky Radio	6.1%
Talpa Radio Danmark Aps	**Talpa Radio International** John de Mol	Radio 100 FM	4.7%
Nordjyske Medier A/S	Nordjyske Holding A/S	ANR Hit FM 1.0% ANR Guld FM 0.8%	2.2%
Others	Various		14.8%

* Main radio stations are those with a market share of approx. 1 percent or more of daily listeners on average.
** Market shares calculated based on data for the first quarter of 2004 reported by tns gallup (www.gallup.dk).

The market's commercial number three, Radio 100 FM who started operating on 15 November 2003, is also in the hands of a foreign broadcasting group. John de Mol, the former owner of Dutch film production outfit Endemol (*Big Brother*), and his Talpa Radio International succeeded in acquiring the 6th FM radio broadcasting license at a cost of 22.5 mio. DKK (approx. 3 mio. €) per year, thereby extending its interests to incude the Danish market. This leaves the regional ANR networks (ANR Hit FM and ANR Guld FM, operated by the Nordjyske Medier A/S multimedia group, which is centered around the Northern Jutland regional newspaper Nordjyske) as the only nationally owned commercial network.

[96] As part of the deal acquiring Clear Channel's Danish assets, SBS also bought the Norwegian radio network Radio 1 Norge (8 stations), parallel to merging its Swedish activities with those of publishing house Bonnier: http://www.radionyt.com/artikel/default.asp?id=7446
[97] Sky has been operating as an FM broadcaster in Denmark since 2001 (Dutch edition receivable via cable since 1988); with the acquisition of the new license it now covers approx. 95 percent of the Danish territory.

2.2 Television

Although the television market was opened up to competition earlier than radio, public service broadcasting also has a very strong position in the national television landscape, with the two public service broadcasters DR and TV2 accounting for 72 percent of the total market.

Table DK-2: Main Television Companies

Broadcasters	Ownership Structure	Main TV Stations*	Total Market Share Jan-Mar 2004**
TV 2/DANMARK A/S	Public service broadcaster (public ltd. Company)	TV2 34% TV2 Zulu 2%	36%
DR	Public service broadcaster	DR 32% DR 2 4%	36%
Viasat Broadcasting Danmark	**Modern Times Group** Invik & Co AB 9.3% SEB 7.1% Industriforvältnings AB Kinnevik 5.7% Emesco AB 5.0% AMF Pension 5.0% 4th AP-Fund 4.3% Robur 3.3% State Street Bank and Trust Co. 2.8% 2nd AP-Fund 2.8% 3rd AP-Fund 2.5% Fideliy 2.5% Skandia 2.4% Jan Hugo Steinbeck (estate) 2.3%	TV3 6% TV3+ 3%	9%
SBS Broadcast Danmark A/S	**SBS Broadcasting S.A.** UnitedGlobalCom Europe B.V. 18.8% Fidelity Management & Research Company 9.1% Janus Capital Corporation 6.5% Capital Research and Management 6.3% SMALLCAP World Fund Inc 5.8% State Farm Insurance Companies 5.0% Directors & executive officers 16.1%	TV Danmark 4% Kanal 5 2%	6%
	Discovery Communications Inc. Liberty Media Group 50% Cox Communications 25% Advance/Newhouse 25% John S. Hendricks (founder)	Discovery 1%	1%
Others	Various		12%

* Main TV stations are those averaging a market share of one percent or more of the national market.
** Market share calculated on basis of average monthly viewing share data for the first quarter of 2004 from www.gallup.dk, not adjusted for amount of shares held in station.

Including the third largest broadcasting group, the MTG owned Viasat Broadcasting Danmark, this raises the concentration for the largest three players in the market to 81 percent. MTG itself has a broad interest in the television industry, operating TV channels in an additional thirteen countries, offering TV shopping services, owning a production company and providing dubbing and translation for content industries. It is also one of the major radio groups in the neighboring Swedish market, while its closest commercial competitor SBS Broadcasting is the market leader among private radio operators in the Danish market (see section 2.1 above). Together the two groups hold more than 50 percent of the private TV broadcasting market. However, the Media Agreement of 2000 reached by the parties currently in government will bring about the privatisation of Public Service channel TV2 , who will retain some public service obligations, hence changing the landscape.

2.3 Press and Publishing

The Danish press industry, in 2003, experienced a shock with the coming together under one roof of the traditionally fiercely opposed bourgeois daily *Jyllands-Posten* and its leftist competitor *Politiken*. Through the setting-up of a shared publishing house, the two companies not only placed their bid for becoming the largest Danish publisher of dailies and newspapers in general, but also created a platform for a possible take-over of the soon-to-be privatized public service broadcaster TV2, a feat none of them could have achieved on its own.

Table DK-3: Main Publishers of Daily Newspapers

Major Group	Ownership Structure	Titles	Market Share July-Dec 2003*
Det Berlingske Officin A/S	**Orkla Media 87%** Folketrygdfondet 11.7% Capital Research 9.2% Canica 8.8% Franklin Mutual Advisers 6.2% Skandinaviska Enskilda 5.2% Storebrand 5.2% Orkla (own shares) 3.5% State Street Bank 2.9% JPMorgan Chase Bank 2.7% DNB Investor / Avanse Forv. 2.4%	Berlingske Tidende, B.T., ErhversBladet, Urban	42.8%
JP/Politikens Hus A/S	A/S Politikken Holding 50% JyllandsPosten Holding A/S 50%	Politiken, Jyllands-Posten, Ekstra Bladet	34.0%
MetroXpress A/S	**Metro International 70%** Industriförvaltnings AB Kinnevik 37.0% Modern Times Group MTG AB 28.4% Invik & Co. AB 2.8% SEB 2.8% Skandia 2.5% Robur 2.3% **A-Pressen 30%**	MetroXpress	14.2%
Dagbladet Børsen A/S	Bonnier	Dagbladet Børsen	5.2%
A/S Kristeligt Dagblad	Det Berlingske Officin 22% Chr. Augustinus Fabrikker A/S Kristeligt Dagblads Fond	Kristeligt Dagblad	1.8%
A/S Dagbaldet Information	Informations Medarbejderforening Magistrenes Pensionskasse A/S Dagbladet Information (own shares) Foreningen Informations Venner	Information	1.7%
Aller Business A/S	**Aller Gruppen / Aller Press A/S** Carl Allers Etablissement A/S (Aller family) -> Rella Holding A/S (50.9% of capital shares in CAE)	Dagbladet Licitationen	0.4%

* Based on circulation figures reported by Dansk Oplagskontrol (www.do.dk) for the second half of 2003.

This move can also be understood as a signal towards Norwegian group Orkla Media, who in 2000 acquired control over the daily *Berlingske Tidende* and the associated publishing house Det Berlingske Officin, thereby substantially strengthening its standing in the Scandinavian market behind the Norwegian Schibsted and the Swedish Bonnier group. Bonnier is present in the Danish market through the best-selling financial daily *Dagbladet Børsen*, whereas Berlingske targets the business community through the freely circulated *Erhvervsbladet*.[98] Urban is another freesheet published by Berlingske as a competititor to the Swedish Metro International group, who was first to launch a free daily targeting the greater metropolitan area of Copenhagen. Metro has responded by extending its activities to include the city of Aarhus, the second largest city of Denmark and also the biggest market that *Det Berlingske Officin* has outside of Copenhagen. This has resulted in an even more precarious situation for its ailing regional daily *Aarhus Stiftstidende*, which Berlingske has kept alive mainly to offer a local alternative to Morgenavisen Jyllands-Posten: with the arrival of MetroXpress on this market as well, the Stiftstidende's advertising revenues are now threatened from two sides. Under these conditions, the major question for its new Norwegian owner seems to be whether or not the group as a whole will be able to generate a profit: Berlingske's leadership position in the dailies market relies to a fair extent on its freesheets which, given the sluggish recovery in the advertising market, might well become a financial liability in the medium to long term. If one chooses to exclude the freesheets from the market share calculations, it is the JP/Politiken group that emerges as the true

[98] *Erhversbladet* is delivered to registered companies free of charge, but generally not available to the end-consumer on an individual basis.

market leader with a market share of more than fifty percent. Irrespective of the outcome of this struggle between the two groups, it is evident that the future market leader will have to be found among them, as neither Aller nor Bonnier with their special interest dailies is likely to attract a substantially broader audience than what they do today.

4. Cable operators

The Danish cable market was liberalized in 1996, two years after the transformation of the state owned monopolist in the telecommunications sector, Tele Danmark, into a limited company. Since then, the market has been divided between two major service providers, TDC Kabel A/S, a subsidiary of Tele Danmark's successor TDC A/S, and TeliaStofa A/S, owned by the pan-Scandinavian TeliaSonera group. While the latter still features the Swedish and Finnish governments among its shareholders, Danish TDC has been entirely privatised, with the largest amount of shares being held by the American communications group SBC Communications Inc., whose business activities include, inter alia, Internet services, telecommunications equipment, and, since the first quarter of 2004, satellite television services.

Table DK-4: Cable Companies

Cable Companies	Ownership Structure	Total Market Share*
TDC Kabel A/S	**TDC A/S** SBC Communications Inc. (San An, TX) 41.6% ATP 5.4% Franklin 5.0% Capital 1.9% Private investors 12.3% Institutional investors 33.9%	55.9%
Telia Stofa A/S	**TeliaSonera** Swedish state 45.3% Finnish state 19.1% Robur 2.8% SEB 1.6% Nordea 1.3% AMF Pension 1.2% Skandia 1.1% Fjärde AP-fonden (4th AP fund) 1.0% SEB-Trygg Försäkring 1.0% SHB/SPP fonder 0.9% Others 24.7%	11.8%

* Market share calculations based on company data for the year 2003 and data provided by SES Astra.

According to data published by the two companies for the year 2003, TDC Kabel continues to be Denmark's prime cable operator with a market share of more than 50 percent. While Telia accounts for approximately 12 percent of cable subscribers when considering direct subscribers alone, the company maintains that it effectively services about 630,000 subscribers (or 38.1 percent of the market), the difference (26.3 percent) representing indirect subscriptions via locally owned, non-commercial community antenna systems.

3. Conclusions

3.1 Freedom of the Media

From a general perspective, the very foundation of the freedom of expression, § 77 of the Danish constitution, has been criticised as being based on an outdated understanding of the societal function to be fulfilled by the freedom of expression.[99] A contemporary understanding of the freedom of expression has to ensure its protection in the widest possible manner, rather than restricting itself to a censorship ban. This requirement could best be fulfilled by embedding the freedom of expression in the context of a general freedom of information and granting to it the status of an inviolable freedom alongside the right to property and the inviolability of the home. It is currently feared that the

[99] See to this effect the discussion in Dahl, Hans Frederik (2001) *Grundloven, medierne og ytringsfriheden*, Copenhagen: DDF.

legislator may opt to further restrict the freedom of expression without properly paying heed to its fundamental importance rather than enacting the constitutional amendments thought necessary.[100]

Such legislative activity is already threatening to undermine the effectiveness of the freedom of information provisions embedded in Danish law. To this effect, a Danish NGO has documented that the number of acts and decrees restricting access to government information has continuously increased since the adoption of the Access to Public Administration Files Act in 1985. Furthermore, the expansion of the relevant provision over the domains of several ministries has created a legal situation devoid of transparency to the citizen, with more than 100 legal norms stipulating various specifications of the access to government documents.[101]

In connection with the war in Iraq, concerns have been raised over the working conditions of journalists, when two reporters of the Danish conservative daily *Berlingske Tidende* published documents of the Danish Defence Intelligence Service that served the Danish government in reaching its decision whether to go to war in Iraq or not. As a result of their whistle-blowing, both journalists are now facing legal prosecution under the Danish penal code. This has caused the European Federation of Journalists to address itself to Prime Minister Anders Fogh Rasmussen, stressing that there was a clear professional obligation on behalf of the journalists to publish the documents given their importance for the process of opinion formation, and that no legal impediment was justified in the case at hand.[102]

3.2 Ownership and market concerns

As outlined above, the audiovisual markets today are still dominated by the public service broadcasters. In the radio market, further consolidation might occur, should Sky fail to generate sufficient earnings under the newly acquired license, although a buyer in this case might just as well come from outside the country's borders. Increased concentration might also result from efforts of network operators to expand their reach at the local level, which is exemplified by Nordjyske Medier's open speculations about a possible takeover of local broadcaster *Radio Viborg* in Mid-Jutland to strengthen its ANR broadcasting family. The greatest challenge to Danish media policy in the near future will, however, undoubtedly relate to the television market, where the selling of TV2 might create a dominant position in the national TV market. The impact of this sale on the audiovisual landscape will depend both on the specificity of the public service obligations to be imposed on the future owner as well as the ability of possible national consortia to find the financing necessary to place a bid for the company. The bidding process is likely to involve the major newspaper publishers Det Berlingske Officin and JP/Politikens Hus, both of which have contributed to some consolidation in the newspaper business. While the recent restructuring that has been taking place should afford the market some stability in the short run, the viability of highly target group specific dailies like *Kristeligt Dagblad* and *Information* might be less secure in the medium term, partly due to changing preferences among younger readers, and partly because both publishers have little or no other media activities to rely on.[103]

Report status: the gathering of data for this report was completed on June 30th 2004

[100] Although Denmark is a party to the European Charter of Human Rights, this does not afford citizens effective protection against such legislative action, as the ECHR is transposed into the national legal order only at the level of general laws, and thus stands below the constitution.
[101] See the homepage of the The Committee for Openness and Transparency in the Administration in Denmark and in the European Union at http://aabenhedskomite.homepage.dk/.
[102] See the EFJ press release at: http://www.ifj-europe.org/default.asp?index=2405&Language=EN; a similar conclusion is reached by Oluf Jørgensen in his assessment of the case from a legal perspective at: http://www.cfje.dk/cfje/Lovbasen.nsf/ID/LB03913241?OpenDocument&Print.
[103] This is somewhat mitigated, however, by the presence of big financial investors among the shareholders, i.e. Det Berlingske Officin (Orkla) in the case of *Kristeligt Dagblad*, and Magistrenes Pensionskasse in the case of *Information*.

Estonia

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The Freedom of expression is enshrined in the Estonian Constitution[104], Art. 45:

> *(1) Everyone shall have the right to freely circulate ideas, opinions, persuasions, and other information by word, print, picture and other means. This right may be restricted by law for the purpose of protecting public order or morals, or the rights and liberties, health, honour and reputation of others. The law may likewise restrict this right for state and local government officials, for the purpose of protecting state or business secrets or confidential communication, which due to their service the officials have access to, as well as of protecting the family life and privacy of other persons, and in the interests of justice. (2) There shall be no censorship.*

1.2 Freedom of Information

The freedom of information is also guaranteed in the constitution, Article 44 of which states:

> *(1) Everyone shall have the right to freely receive information circulated for general use. (2) At the request of Estonian citizens, and to the extent and in accordance with procedures determined by law, all state and local government authorities and their officials shall be obligated to provide information on their work, with the exception of information which is forbidden by law to be divulged, and information which is intended for internal use only. (3) Estonian citizens shall have the right to become acquainted with information about themselves held by state and local government authorities and in state and local government archives, in accordance with procedures determined by law. This right may be restricted by law in order to protect the rights and liberties of other persons, and the secrecy of children's ancestry, as well as to prevent a crime, or in the interests of apprehending a criminal or to clarify the truth for a court case. (4) Unless otherwise determined by law, the rights specified in Paragraphs (2) and (3) shall exist equally for Estonian citizens and citizens of other states and stateless persons who are present in Estonia.*

On 15 November 2000 the parliament adopted the Public Information Act[105], which entered into force on the 1 January 2001. The act allows access to documents of state and local authorities, of those conducting public activities including educational, health care, social or other public services. Authorities must respond to requests within 5 working days. Requests for information are registered. Fees may be waived if information is requested for research purposes. The Act does not grant free access to information, which is classified as a state secret. Furthermore, internal information can be withheld for five years. These categories cover information relating to pending court cases, collected in the course of state, supervision proceedings, draft legislation or regulations, information relating to armaments and location of military units, information that would damage the foreign relations of the state etc. Additionally, the Act obliges national and local government departments to maintain document registers and websites on which they have to provide information like statistics on crime and economics, enabling statutes and structural units of agencies, job descriptions of officials, their addresses, qualifications and salary rates etc.

Complaints concerning the implementation of the Public Information Act by the executive can be filed with the Data Protection Inspectorate. This body can review the procedures of the public authorities, demand explanations from government bodies and examine internal documents. The Inspectorate has the power to order a body to release a document. In cases of non-compliance, it can appeal to an administrative court.

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[104] Constitution of the Republic of Estonia, http://www.oefre.unibe.ch/law/icl/en00000_.html
[105] Public Information Act: http://www.legaltext.ee/text/en/X40095K2.htm

1.3 Codes for journalists

The Estonian Newspaper Association, the Association of Estonian Broadcasters and Estonian Press Council ("Council of the Public Word") introduced a Code of Ethics[106] in December 1997. In 2002 the Council of the Public Word faced a serious crisis, which climaxed in the Estonian Newspaper Association leaving the Council of the Public Word and setting up its own Press Council.[107] These two organisations do not co-operate with each other, however, both use the same code of ethics. The Code of Ethics states (in brief) that: news, opinion and speculation shall be clearly distinguishable; Advertisements and promotional materials shall be clearly differentiated from editorial material; the media shall not treat any individual as a criminal prior to a court sentence to that effect; Care should be taken in the use of quotes, photographs, audio and video materials in a context different from the original; Individuals subjected to serious accusations should be offered an opportunity for immediate rebuttal in the same edition or programme; the reputation of any individual shall not be unduly harmed without there being sufficient evidence that the information regarding that person is in the public interest; media outlets have a moral obligation to safeguard the identity of confidential sources of information; the editors shall, especially in the case of controversial materials, confirm the accuracy of the information and the reliability of the sources. A Journalist: shall be responsible for his or her own statements and work; media organisations shall undertake to prevent the publication of inaccurate, distorted or misleading information; shall not accept posts, bribes, or other inducements which may cause a conflict of interest in connection with their journalistic activity; may not work for an institution whose activities they cover; may not be obliged by their employer to write or perform any like activity contradicting their personal convictions; identify themselves and the media outlet they represent; may not take advantage of people lacking experience in relating to the media;

1.4 Media Ownership Regulation

The prevalent opinion in Estonia is that a certain degree of concentration is inevitable taking into account the small size of the Estonian media market (Paju, 2004:182). Another decisive aspect (similar to the other Baltic states) is the fact that there is a large Russian-speaking minority in Estonia with a strong level of use of programming and channels in Russian language. In fact the Russian minority is larger in Estonia than in either Latvia or Lithuania, representing about 30% of the population (400.000 people).[108] Under the Broadcasting Law, the Broadcasting Council, a parliament-appointed supervisory body, monitors the activity of the public service radio and TV. The licences for private broadcasters are issued by the Ministry of Culture (§ 37 para. 1).

1.4.1 Audiovisual Media

The audiovisual media are regulated in the Broadcasting Act of 19 May 1994[109], which has been approved two years after the foundation of private broadcasting companies in Estonia. According to § 40 para. 4 subpara. 6, a broadcasting licence shall not be issued if this "results in a press or information monopoly or cartel in the territory planned for the broadcasting activity, or the broadcasting in the planned territory or part of the territory of Estonia would accumulate in the hands of persons who co-operate with each other."

One problem cited with this provision is a lack of clarity, i.e. no precise definitions (World Press Trends 2003, and Paju, 2004:170). Although it is clear that the law wishes to prevent the development of a dominant position either through one company, or co-operating companies, the lack of precise thresholds allows no system of measurement of the influence of such companies. Furthermore, the Ministry shall refuse to grant a licence if this would violate the requirements of free competition and

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[106] Code of Ethics, http://www.asn.org.ee/english/code_of_ethics.html

[107] The different views on the reasons for that crisis are reflected in the statements of the respective organisations. Council of the Public Word: http://www.asn.org.ee/english/related/collapse-of-self-reg.html / Estonian Newspaper Association: http://www.eall.ee/news/29_07_2002.html

[108] see Media Map 2003, p. 84

[109] Broadcasting Act of 19 May 1994, as last amended by Act of 29 January 2002: http://www.rhn.ee/dokumendid/seadused/seadusandlus_eng/Broadcasting%20Act.pdf

of enterprise based on equal grounds in the territory planned for the broadcasting activity or a part of the territory of Estonia (§ 40 para. 4 subpara. 6).

1.4.2 Competition Policy and Mergers

There are no specific provisions in the Law on Competition[110] with regard to the media. Therefore, the general competition rules on concerted practices and mergers also apply to the media sector. According to § 22 (2) of the Competition Act, planned mergers shall be prohibited by the Competition Board if they may create or strengthen a dominant position as a result of which competition would be significantly restricted in the goods market. § 16 prohibits the abuse of a dominant position in the market. An undertaking holding a dominant position is defined as an undertaking, which accounts for at least 40% of the turnover in the goods market (§ 13 I). The Competition Board has never prohibited any merger of any media companies so far. However, as already mentioned above competition principles have to be taken into consideration in the licensing procedure by the Ministry of Culture. The Commercial Code (that also applies to the media industry) obliges companies to enrol in a business register, which is publicly accessible.

1.4.3 Cross Media Ownership and Foreign Ownership

According to § 40 (para. 4, subpara. 8) the granting of a broadcasting license may be refused under certain conditions which account for a limitation of cross media ownership: if "a person operating as a television and radio broadcaster or the responsible publisher of a daily or a weekly newspaper would become simultaneously a person operating as a television and radio broadcaster and the responsible publisher of a daily or a weekly newspaper in the territory planned for the broadcasting activity or a part of the territory of Estonia." There are no restrictions with regard to foreign ownership of the broadcast media: any person (whether Estonian citizen or foreigner) can own or operate a broadcast company (§ 23 (1) Broadcasting Act).

2. Main Players in the Media Landscape

As noted above (section 1.4), the Estonian media landscape is another example of a small market with a strong outside influence, and a high level of division between language groups. The population requires both Estonian and Russian language media. In addition, the Estonian language bears a relationship with Finnish, which allows for reception and consumption of media from neighbouring Finland.

2.1 Radio

Statistics show that the Estonians are very eager radio listeners. According to TNS Emor's radio-audience survey, Estonian inhabitants spent four hours and fifty-two minutes on average per day listening to radio during the period October-December 2003.[111] There are 35 radio stations run by less than 20 companies in Estonia.[112] Two of the three biggest radio groups are mainly foreign owned. The most successful radio group is the private undertaking Trio LSL, which is partly (34%) owned by the biggest media corporation Eesti Media, while Metromedia International have a majority (66%) share. Metromedia International are also active in the Hungarian and Finnish radio markets (see relevant reports).

The most popular radio channel is Vikerraadio of the Public Service Broadcaster Eesti Radio, a general interest channel offering a mix of news and information, music and entertainment. The strongest competitor is the commercial station Raadio Elmar (Trio LSL), followed by the Russian-language channel Raadio 4 (PSB), which serves Estonia's large Russian speaking minority.[113]

[110] Competition Act, http://www.konkurentsiamet.ee/eng/dokumendid/compet.pdf
[111] Media House, www.media-house.com
[112] Estonian Media Overview, March 2004
[113] Paju, 2004: 178 quoting: TNS Emor 'Radio Diary Survey' and Media Map 2004

Table EE 1: Main Radio Companies

Companies	Ownership Structure*	Stations Market Share**	Media reach winter 2003***	Total
Eesti Raadio	Public Broadcasting	Raadio 2 (7%) Raadio 4 (in Russian) (12%); Klassikaraadio (ad-free); Vikerraadio (ad-free) (19%)	9,2% 14% 22,4%	45.6%
Trio LSL	Eesti Media 34% Metromedia International (USA) 66%	Raadio KUKU (5%) Raadio UUNO (4%) Raadio EEVA Raadio 100 FM (in Russian) (4%); Radio ELMAR (16%) Raadio UUNO PLUS	6.3% 5.1% 5.0% 17.7%	29.1%
Sky Media	Group of Estonian Businessmen	Sky Plus (6%) Sky Raadio (3%) Russkoje Radio (in Russian) (6%); Radio Mania Energy FM	8.4% 6.5% 8.3%	23.2%
Mediainvest Holding	Modern Times Group	Star FM Power Hit Radio	3.6%	

* Source: Paju, 2004:178 quoting: Special addition Marketing Top Companies 2003, Äripäev, May 2003
** Source: Media Map 2004, figures for 1st quarter of 2003
*** Data from Media House: Estonian Media Index, source TNS Emor

2.2 Television

According to TNS EMORS's TV audience survey, Estonian inhabitants (age 4+) spent four hours and 20 minutes on average per day watching TV in January 2004. The Public Service Broadcaster Eesti Televisioon (ETV) does not have a very strong position on the market with an audience share of 18%.

Table EE 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Audience share January-April 2003**	Daily Reach Feb 2004***	Audience share Russian speaking 2003****
TV3	Modern Times Group (Sweden)	TV3	24,2%	50,8%	2.9%
AS Kanal 2	Schibsted Group (Norway) via Eesti Media	Kanal 2 (Channel 2)	19,7 %	48,1%	1.8%
Eesti Televisioon (ETV)	Public Service Broadcasting Channel	ETV	18,2 %	49,0%	1.6%
Foreign Channels					
PBK Russia			7.4%		25.9%
Rossija RTR Planeta					14%
Finnish channels			1.5%		

* Ownership structure based on information from: Company websites
**Audience shares from Media Map 2004 quoting TNS Emor
*** Data from Media House: Estonian Media Index, source TNS Emor
**** Data from TNS Emor on Ministry of Foreign Affairs website: http://www.vm.ee/estonia/kat_399/pea_172/2840.html

The most popular channel is the commercial channel TV3, which belongs to the Modern Times Group and has an audience share of 24,2%. The Modern Times Group is also active in Broadcasting in Denmark, Hungary, Latvia, Lithuania and Sweden (see relevant country reports). The second commercial channel is Kanal 2, which has an audience share of 19,7%, and is owned by the Norwegian media group Schibsted. A third commercial competitor - TV1 – vanished from the Estonian TV market in 2002 after the Culture Ministry had decided to revoke its licence. The reason for the withdrawal was that TV1 (partly owned by the Polish company Polsat Media) failed to pay its debts towards the Broadcasting Transmission Centre. As is apparent from the table above (EE2), the media use of the Russian speaking population of Estonia is extremely different from that of the entire population as a whole.

2.3 Press and Publishing

There is currently no general press law in Estonia, although there have been attempts to create one. The press in general is treated in a rather liberal way with it being quite easy to set up a newspaper. There are no requirements for a licence, permit or registration, for a newspaper.[114] However, according to Paju (2004:183) levels of readership are being affected by high costs of newspapers, and additionally there are high entry barriers into the industry. Given the small size of the market and the need for a further division of the market along linguistic lines (as in Latvia), it is unlikely that the situation of concentration would change. While the Russian speaking population apparently has a lower level of readership of newspapers (31%) than the Estonian speaking population (67%), there are still in total 34 Russian-language newspapers and 26 Russian-language magazines published in Estonia.

There are essentially two big players on the Estonian press market, who not only control most of the best selling publications, but as apparent from below, also co-operate and share ownership: the Eesti Media Group and the Ekspress Group. The Norwegian company Schibsted has a majority shareholding (93%) in Eesti Meedia Group, the country's largest media group. Eesti Media publishes the best-selling daily newspaper, which is the quality paper *Postimees* that recently overtook the national tabloid *SL Õhtuleht*, which is published jointly by the Eesti Media Group and the Ekspress Group. Furthermore, Eesti Media runs Estonia's biggest printing plant AS Kroonpress. Another joint venture with Ekspress Media is the Estonian Magazine Group, which publishes a number of periodicals and special-interest magazines.

The Ekspress Group is solely owned by the Estonian entrepreneur Hans Luik (who acquired the Swedish Bonnier Group shares in 2001). The Swedish Bonnier Group still publishes the leading business daily *Äripäev* in Estonia. Besides its 50%-stake of *SL Õhtuleht*, the Ekspress Group has a 50% share of the quality paper *Eesti Päevaleht* (concentrating on the capital Tallinn) and solely owns the national weekly *Eesti Ekspress*. Eesti Päevaleht owns the three largest free newspapers that are distributed in Tallin, Tartu and Pärnu. It additionally runs the printing house Printal, the second largest in terms of turnover.

Table EE 3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles	Circulation March 2004**
Eesti Media	Schibsted (Norway) 92,5% Tulevik Foundation 7,5%	Postimees SL Õhtuleht (50%)	70.300 65.500
Ekspress Group	Local investor Hans Luik	Eesti Päevaleht (50%) SL Õhtuleht (50%) Eesti Ekspress (weekly) Free newspapers (via Eesti Päevaleht): Linnaleht Tallinn Linnaleht Tartu Linnaleht Pärnu	35.500 65.500 44.700 46.700 26.300 15.300
Bonnier Group	Bonnier Group	Äripäev	
Maahlet	N/A	Maahlet (weekly)	

* Ownership structure based on information from company websites and SR
** Market share based on circulation figures from Estonian Newspaper Union EALL, quoted in Paju (2004)

2.4 Cable and Satellite operators

Cable TV in Estonia is governed by the Cable Distribution Act[115] from 1999, which was amended in 2001 abolishing the obligatory tendering process that caused problems when the law originally entered into force. Cable TV operators have to obtain a network licence from the Communications Board[116], which is valid for ten years unless the operator requests a shorter term. About one third of

[114] European Journalism Centre. The Estonian media landscape. Tarmu Tammerk
[115] Cable Distribution Act, http://www.esis.ee/legislation/cable.pdf
[116] http://www.sa.ee/atp/eng/

Estonia's homes are subscribed to cable services. The number of companies holding a cable distribution network licence increased to 42 in the start of 2003. However, the market remains dominated by three multi-service operators (MSO's): Tele2, Starman and STV. The leading company is Starman with a market share of around 35%. A stake of 66% in Starman is held by Highbury Investments (a subsidiary of Emerging European Capital Investors) and the remaining equity belongs to Estonian investors. The second largest player is the locally owned STV with a market share of about 24%. STV also holds a broadcasting licence for its four own- TV channels (STV, World Cinema, Russian Cinema and Video-Radio). The third cable company reaching a significant part of the Estonian TV households is Tele2, backed by Kinnevik, who also have cable interests in Lithuania (Primetrica,2004), and have links with the Modern Times Group.

Estonian cable operators have been accused of illegally providing Russian TV channels to their subscribers by the Baltic Authors and Distribution Union (BALL). The distribution of Russian TV programmes by an Estonian cable company requires a licence issued a representative of the respective channel. The BALL claims that a range of Russian channels are offered by the cable operators without having previously obtained a licence.[117]

Table EE 4: Cable and Satellite operators

Cable Companies	Ownership Structure*	Main networks	Subscribers / Market Share
Starman	Highbury Investments: 66% Estonian investors: 34%	Tallinn, Viljandi, Hajuma, Kuressa	65,000 / 35 %
STV	locally owned	Tallinn, Narva, Tartu, Parvu	45,000/ 24%
Tele2	Kinnevik: 20,3%	Tallinn, Tartu	35,000/ 19%

*Information from Media Map 2004, and from company websites

Satellite TV operators do not have to obtain a licence but are obliged to notify the Communications Board before starting to operate. The Swedish satellite operator Nordic Satellite AB (NSAB) launched Riga Skyport in March 2002 as the first digital satellite TV and radio platform serving the Baltic region. 30 TV and radio channels are being transmitted via this platform. Currently, no subscriber figures are available.

2.5 Advertising

The legal framework for Advertising in Estonia is the Advertising Act.[118] In December 2001 the Estonian Parliament amended the Broadcasting Act in order to prohibit the public service broadcaster Eesti Televisioon (ETV) from using advertising, teleshopping or sponsorship as means of income from 1 July 2002. The ban on advertising on its sister company Eesti Radio's (ER) two commercial stations will not be implemented before 2005 (Primetrica, 2004: 68). The losses are compensated by a frequency licence that private TV stations have to pay whereas ETV does not receive these fees directly. (Paju, 2004:170). Additionally, the government promised extra funding to the Public Service Broadcaster in order to compensate for this loss of income. The agreed funding has not however been entirely forthcoming, leaving the broadcaster in an insecure financial situation.[119] The total revenue of the advertising market in 2003 was approximately EUR 58 million. The advertising market suffered recessions in 1998 and 1999 due to the Russian economic crisis. Unlike in many other states, in Estonia newspapers always held and still hold the largest share of the advertising market. The table below outlines the share of advertising revenue in the media sector.

[117] Media Map 2004, p. 72
[118] Advertising: http://www.rhn.ee/dokumendid/seadused/seadusandlus_eng/Advertising%20Act%20(consolidated%20text%20July%202002).pdf
[119] Discussion: *Media Concentration and Regulation of Cross-ownership* conference organised by TAIEX Office of DG Enlargement of the European Commission , Radio and Television Commission of Lithuania, National Broadcasting Council of Latvia , Estonian Broadcasting Council, Vilnius, 13 –14 May 2004.

Table EE 4: Share of advertising revenue within the media sector *

Media	Share in 2003
Total Revenue	**EUR 58 mill.**
Newspapers	44%
Magazines	12%
Television	26%
Radio	9%
Outdoor	6%
Internet	3%

* Source: Media House 2004, www.media-house.com

3. Conclusions

3.1 Freedom of the Media

According to the International Press Institute, the mass media in Estonia is one of the most free in the context of the former Soviet republics, although there is a high level of concentration. Aside from individual misconduct of media professionals, like the spectacular case of a journalist, who made up a series of interviews, no serious violations of the freedom of expression are being reported. However, the Estonian Union of journalists points to the low level of unionisation and the lack of collective agreements in the media business. A parallel problem of lack of proper working rights and the impact that this has on professional quality of journalism (and public perception of journalism) is also frequently cited by experts. There is also, in general, concern regarding the future of the Public Service Broadcaster. While the removal of the advertising revenue represents a unique development in Europe, and ends the complaints from commercial broadcasters regarding a distortion of the market, the plans for compensating the PSB for this have not been fully realised.

3.2 Ownership and market concerns

As shown above, there is a high level of concentration in the Estonian media market. The largest media corporation, the Eesti Media group, gained a strong position both in the press market and in the television sector with its TV channel Kanal 2. This is only compatible with the ownership rules described above because Kanal 2 is registered as the property of the Norwegian Schibsted Group, which owns a majority share of Eeesti Media. Some authors therefore emphasize that Eesti media is *formally* not in contravention of the law (Paju, 2004:170), indicating perhaps that the ratio of the ownership rules is to prevent a media corporation from gaining such a strong position in the market.

As is the case in other small countries (see reports on other Baltic states, and Ireland) the Estonian media landscape also faces the problem of channels that broadcast from abroad but act as a competitor on the bcal advertising market. This is the case with the channnel Pervõi Baltiiski Kanal (PBK), which broadcasts from Latvia and targets the significant Russian-speaking part of the Estonian population. More than 10 percent of Estonian commercials are already sold to this channel without PBK being obliged to pay a licence fee to the Estonian authorities.

Report status: the gathering of data for this report was completed on June 22nd 2004

Finland

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Within the Constitution of Finland[120] Section 12 (1) states that:

> *Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an Act. Provisions on restrictions relating to pictorial programmes that are necessary for the protection of children may be laid down by an Act.*

The Act on the Exercise of Freedom of Expression in the Mass Media[121], which applies to publishing and broadcasting in Finland, contains more detailed provisions on the exercise of the fundamental right by the media. It entered into force in January 2004 with the purpose to modernize the 1919 Freedom of the Press Act, in particular by broadening its scope of application to all kinds of mass media. The new law obliges publishers to designate a responsible editor, outlines the conditions of the right to reply and the right to correction, establishes a duty to record publications for a certain period of time and defines the responsibilities for the contents of published messages. The law, which has been prepared in cooperation with media organisations, is generally welcomed by the mass media because it takes into account the technical development and treats all kinds of media equally.

1.2 Freedom of Information

The right to freedom of information is enshrined in Section 12 (2) of the Constitution, which states that:

> *Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the right of access to public documents and recordings.*

This fundamental right has a long tradition in Finland going back to the 1766 Access to Public Records Act, the world's first freedom of information law. Today, the Act on the Openness of Government Activities[122] accomplished by the Decree on the Openness of Government Activities in the Information Management[123] provides the legal framework with regard to freedom of information. The Act grants access to any "official document" in the public domain held by public authorities and private bodies that exercise public authority (Section 4 para. 7). Decisions on requests to access to documents have (in general) to be reached within two weeks. (Section 14 para. 4). The person requesting access does not have to identify himself/herself nor provide reasons for the request, unless this is necessary for the exercise of the authority's discretion or for determining if the person requesting access has the right of access to the document (Section 13).

Access to a document is excluded if it is declared as secret by the Act on Openness of Government Activities or another Act, or if it has been declared secret by an authority by virtue of an Act, or if it contains information covered by the duty of non-disclosure, as provided in an Act (Section 22). Section 24 gives an detailed list of documents that fall under this category including documents relating to foreign affairs, criminal investigations, the police (including tactical and technical plans), the security police, military intelligence and armed forces, business secrets and personal information including lifestyle and political convictions except for those in political or elected office. The period of secrecy for official documents is 25 years. A document, which is secret for the protection of

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[120] Constitution of Finland, http://www.finlex.fi/pdf/saadkaan/E9990731.PDF
German version: http://www.finlex.fi/pdf/saadkaan/S9990731.PDF

[121] Act on the Exercise of Freedom of Expression in the Mass Media (460/2003), http://www.webfact-test.de/epi_research/doc/9122683e62299c328ff6b221daed9557.pdf

[122] Act on the Openness of Government Activities, No. 621/99, http://www.om.fi/1184.htm

[123] Decree on the Openness of Government Activities in the Information Management, No. 1030/1999, http://www.finlex.fi/pdf/saadkaan/E9991030.PDF In German: http://www.finlex.fi/pdf/saadkaan/S9991030.PDF

privacy, has to be declassified 50 years after the death of the person whom the document concerns. Individuals have the possibility to appeal against the negative decisions of an authority, regarding access to documents, according to the general administrative judicial procedure (Section 33). Government authorities are also required to publish information about their activities and indices of documents must be maintained. According to Section 26 of the Personal Data Act[124], everyone shall have the right of access to the data on him/her in a personal data file, or to a notice that the file contains no such data.

1.3 Codes for journalists

The Union of Journalists in Finland has adopted Guidelines for Good Journalistic Practice,[125] which entered into force on 1 January 1992. The Council for Mass Media [126], a self-regulating committee, interpret and complement these guidelines in its decisions and statements. The Guidelines *inter alia* state (in brief) that journalists: must not misuse their own position nor accept benefits which might compromise their independence; must not act against their own convictions or good journalistic practice, it is good practice to mention the source when using information acquired and published largely by a second party. The division between advertising and editorial material must be kept clear, a journalist must aim at truthful, essential and unbiased information, Sources of information must be treated critically; the public must be provided with the opportunity to distinguish facts from opinions and fictional material used to provide background, pictures and sound must be used truthfully. Information must be acquired openly and by using honest means Sources of information must be protected. Incorrect information must be corrected without delay. Those subjected to heavy criticism must be granted the right of reply if they have grounds for requesting this. The human dignity and reputation of every individual must be protected. No prior assumption of guilt should be made, nor should the decision of a court or an authority be anticipated.

Any person who considers that there has been a breach of good professional practice in any newspaper or magazine or on radio or television can file a complaint with the Council for the Mass Media. Once the Council has established, through investigation, that good professional practice has been breached, it issues a notice, which the party in violation must publish within a short time span. However, it has to be stressed, that the Council is not a court nor does it exercise legal jurisdiction. Its members have voluntarily committed themselves to advancing and upholding the ethical principles of the profession.

1.4 Media Ownership Regulation

The legal framework for the mass media has undergone significant changes in the recent years. In January 1999, the Act on Television and Radio Operations [127] entered into force, which *inter alia* implemented the Television Without Frontiers Directive. It replaced the Freedom of the Press Act (1/1919) and the Broadcasting Liability Act (219/1971). The Communications Market Act[128] installed uniform rules for communication network operators and also adopted some changes to the responsibilities of the authorities involved. Responsibilities with regard to the regulation of mass media are divided between the Ministry of Transport and Communication[129] and the national regulatory authority: the Finnish Communications Regulatory Authority (FICORA).[130] Licences to operate television or radio broadcasting over the air are granted on application by the Ministry of Transport and Communication (Council of State). The FICORA supervises advertising and

[124] Personal Data Act (523/1999), http://www.tietosuoja.fi/uploads/hopxtvf.HTM
[125] http://www.presswise.org.uk/display_page.php?id=198 or at http://www.jsn.fi/english/guidel.html
[126] http://www.jsn.fi/english/
[127] Act on Television and Radio Operations, http://www.mintc.fi/lvm_old/data/www/sivut/english/tele/massmedia/1998_744.htm
[128] Communications Market Act, http://www.mintc.fi/www/sivut/dokumentit/viestinta/tavoite/communications_market_act.pdf
[129] http://www.mintc.fi/www/sivut/english/tele/massmedia/index.html
[130] http://www.ficora.fi/englanti/index.html

sponsorship in television and radio broadcasting and compliance with some specific provisions on programmes.

According to the Act on Television and Radio Operations, the authority grants short term licences[131] for analogue radio broadcasting or digital terrestrial radio or television broadcasting. Broadcasters, who transmit their programmes terrestrial, in particular cable television broadcasters, do not have to apply for a licence but submit a notification to the FICORA. The Public Service Broadcaster YLE has to file a yearly report on its public service operations with the FICORA, which then has to send its opinion on YLE's Report to the Council of State.[132] The FICORA administers the licence fees that the television or radio broadcasters pay to the Television and Radio Fund. The provisions on licence fees are issued in the Act on the State Television and Radio Fund.

There are no restrictions on the ownership of the media in Finland. According to Section 10 of the Act on Radio and Television Operations, "the licensing authority shall, taking into consideration the television broadcasting and radio broadcasting of the area in question as a whole, aim at promoting freedom of speech as well as safeguarding the diversity of the provision of programmes as well as the needs of special groups of the public."

1.4.1 Competition Policy and Mergers

As the Act on Competition Restrictions[133] does not contain specific provisions for the media sector, the general competition rules on mergers and abuse of dominant positions apply to media undertakings.[134] Control of concentrations only applies if the combined turnover of the parties to the concentration exceeds 350 million euros and the turnover of a minimum of two parties derived from Finland exceeds 20 million euros (Article 11a I). According to Article 11 d (1) of the Act, the Market Court may, upon the proposal of the Finnish Competition Authority,[135] prohibit or order a concentration to be dissolved or attach conditions on the implementation of a concentration, if, as a result of it, a dominant position shall arise or be strengthened which significantly impedes competition. Article 3 (2) gives a definition of the notion "dominant position" without providing any specific thresholds. However, due to its obligation to define and analyse markets under the Communications Market Act, the FICORA has increased its cooperation with the Finnish Competition Authority (FICORA, Annual Report 2003).

1.4.2 Cross Media Ownership and Foreign Ownership

The legal framework in Finland does not contain restrictions on cross media ownership or foreign ownership of media undertakings. This is reflected in the activity of the main players on the Finnish media market, who hold shares in a variety of media sectors.

2. Main Players in the Media Landscape

The two main players in Finland are Sanoma WSOY and Alma Media. Sanoma WSOY (based in Helsinki) is the second largest Nordic media group after the Swedish Bonnier group. It was formed through the merger of publisher Sanoma and WSOY with Helsinki Media, a print and broadcast group. Following the acquisition of consumer magazines from the Dutch VNU group it is also present in Eastern (Czech Republic and Slovakia), Central and Western Europe, including 50% of the Dutch magazine market and 39% of the magazine market in Belgium. Sanoma WSOY publishes the two largest national daily newspapers and several local titles, owns printing plants and runs the commercial TV station Channel Four. Additionally, Sanoma WSOY runs the country's largest cable

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131 Act on Television and Radio Operations, Section 7 (2): no longer than 3 months

132 Act on Yleisradio OY, Section 12a: http://www.mintc.fi/www/sivut/english/tele/massmedia/yle_legisl.htm

133 Act on Competition Restrictions, http://www.kilpailuvirasto.fi/cgi-bin/english.cgi?luku=legislation&sivu=act-on-competition-restrictions-amended

134 Brantner, C. and W.R. Langenbucher (2003)

135 http://www.kilpailuvirasto.fi/cgi-bin/english.cgi

company Helsinki Television (HTV), publishes books and is active in many other fields of the media business.

Through the merger between the Finnish publisher Aamuleheti and the commercial television group MTV Corporation Finland's second largest media group – Alma Media – was created in 1998. The Swedish Media Group, Bonnier, holds a 33% share (shares and votes) in Alma Media.[136] The Bonnier Group is active in markets in Finland, Lithuania, Estonia and Latvia. Alpress – a division of Alma Media – publishes 31 newspapers. Furthermore, Alma Media runs MTV3, Finland's leading commercial TV channel, holds a majority share in the national radio station Radio Nova and is also active in the printing business and new media.

2.1 Radio

Radio is a popular medium in Finland with the average person tuning in for up to 31/2 hours per day in 2003. The strongest player on the Finnish radio market is the Public Service Broadcaster YLE with its channels reaching a market share of 51 % in 2003 (according to the company website). YLE offers YLE Radio Suomi, a nationwide news and service channel with 20 regional stations. YLE 1 is a news, current affairs and culture channel, whereas YLEX is targeted at a young audience. YLEQ is a semi-nationwide channel fro adults and young families. Finland is officially a bilingual country with the Swedish minority accounting for 6% of the total population. The Swedish-language channels YLE Radio Vega and YLE Radio Extrem broadcast in the Swedish speaking coastal region. Additionally, the Sámi-language Sámi Radio operates in Northern Lapland.

Table FI 1: Main Radio Companies

Companies	Ownership Structure*	Stations Market Share	Total Market Share March-May 2004***
YLE	PSB	YLE Radio Suomi: 34% YLE Radio: 8% YLEX: 7% YLEQ** Sámi-Radio** Radio Vega /Extrem** (in Swedish)	50%
Radio Nova	Alma Media: 74% Finland Radio Investment AS: 26% (P4 50% / MTG 50%)	Radio Nova: 13%	13%
SBS	SBS UnitedGlobalCom Europe B.V.: 21.0% Janus Capital Corporation: 7.3% EnTrust Capital Inc: 7.2% CanWest Global Communications Corp: 7.1% Capital Research and Management: 6.7% Reed Conner & Birdwell Investments: 6.6% SMALLCAP World Fund Inc: 6.2% State Farm Insurance Companies: 5.5%	Kiss FM ** 6% Radio City** 2% SBS Iskelmäradiot** 7%	15%
Oy Metromedia Finland	Metromedia International Inc (US) 90%	Groove FM** 1% SuomiPOP** 3%	4%
NRJ (FR)	Jean-Paul Baudecroux	NRJ** 4%	4%
Sävelradio	Janton 65% Keski-Uusimaa 35%	Sävelradio** 2%	2%

* Ownership structure based on information from: respective company websites, Media Map 2004
**not available nationwide
***Market share based on audience figures from: Finnpanel[137]

Radio Nova, the second most popular radio channel, is the only national commercial broadcaster and has an audience share of 13%. The majority share of 74% belongs to the company Alma Media, a company that is also important in the television and publishing sectors. Aside from Radio Nova there are nine semi-national radio networks and 61 radio local channels. The two most important radio networks Kiss FM (6%) and SBS Iskelmäradiot (7%) belong to the SBS Broadcasting Group, the US owned, Luxembourg based company. SBS is also a major player in the broadcasting markets of

[136] http://www.almamedia.fi/principalshareholders
[137] http://www.finnpanel.fi/tulokset/radio/krt/200419/kanavaosuus.html

Sweden, the Netherlands and Hungary (see relevant reports). Two radio stations are run by the American company Metromedia International (who are involved in the radio sector in Hungary), and one by the French Radio Group NRJ.

As in many other countries, a tendency to establish networks of local commercial radio stations can also be assessed on the Finnish radio market.

2.2 Television

The average daily television viewing time in Finland is about 3 hours, in the 2.2 million TV households. The two main national channels of the Public Service Broadcaster YLE are TV1 (news, current affairs and factual journalism channel, documentaries, drama, cultural and educational programmes) and TV2 (children, youth and sport programmes, and also drama, entertainment, factual and regional programmes).

The two most important commercial competitors on Finland's TV market are MTV3 Finland and Channel Four. With an audience share of 38,1 % MTV3, which belongs to the second largest media concern in Finland, Alma Media, is only slightly behind the combined audience shares of YLE's TV1 and TV2. Another Channel owned by Alma Media is SubTV (1,8%) which is transmitted via cable and DTT.

Then there is a significant gap to the next real competitor Channel Four (Nelonen), in which Sanoma WSOY holds a majority share (via its subsidiary Swelcom) and is watched by 12% of the viewers.

Table FI 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Market Share**
YLE	PSB	TV1 TV2	44%
Alma Media	Bonnier AB: 33% Other shareholders include a range of insurance companies, pension funds, and employer/ industrial associations.	MTV3 38,1% Sub TV 1,8%	39.9%
Channel Four (Nelonen)	SanomaWSOY: 90,55% (via Swelcom) TS-Yhtymä Oy: 9,45%	Channel Four	12%

* Ownership structure based on information from: Media Map 2004
**Audience share information from Finnpanel: http://www.finnpanel.fi

2.3 Press and Publishing

The level of newspaper readership in Finland is one of the highest in Europe. The printed press accounts for by far the largest share of the advertising market, with a possible reason being the high proportion of newspapers ordered on annual subscription. Three quarters of all papers are home delivered every morning.

Two companies dominate the market: Sanoma WSOY and the Alma Media Group. With the two leading national dailies, *Helsingin Sanomat* and *Ilta-Sanoma*, the Sanoma WSOY group is the strongest player in the press sector. The national evening paper *Iltalehti* and the most successful regional daily *Aamulehti* (based in Tampere) are published by Alpress, which belongs to the Alma Media group. Additionally, Alpress publishes the business paper *Kauppalehti* (five times a week). The best selling weekly newspapers are the Sunday editions of these four newspapers. Nevertheless, the Finnish press sector is regarded as a rare example of how concentration and cross ownership issues can be handled without having to compromise too much on pluralism or content diversity (OSCE: 2003, 115).

The small size of the Finnish market would not have enabled the existence of a high number of small and independent newspaper companies. However, through the incorporation of smaller media outlets into financially strong groups, the ongoing existence of many titles could be guaranteed, and in order not to lose their readership, both their traditional character but also their content individuality had to be maintained. This at least is the opinion of Finnish media experts and publishers.

Table FI 3: Main Publishing Companies

Publisher*	Ownership*	Daily	Market Share**	Circulation 2003***	Weekly	Circulation 2003***
Sanoma WSOY	Erkko Aatos: 26.72% Patricia Seppälä's estate: 7.92% Langenskiöld Robin: 4.8% Seppälä Rafaela: 4.8% (various bonds, insurance companies, pension funds etc).	Helsingin Sanomat Ilta-Sanomat	61.5%	439,618 198,693	Helsingin Sanomat sunnuntai (Sunday)	500.269
Alpress	Alma Media Group Bonnier AB: 33% Other shareholders include a range of insurance companies, pension funds, and employer/ industrial associations.	Aamulehti (regional) Iltalehti Kauppalehti		136,331 121,267 80,894	Aamulehti sunnuntai (Sunday)	142.663

* Ownership structure based on information from company websites
** Market shares from company websites
***Circulation figures from: Finnish Audit Bureau of Circulations : http://www.levikintarkastus.fi/English/statisti.htm

2.4 Cable and Satellite operators

According to the Finnish Cable Television Association (FCTA) 50% of the households in Finland (more than 1 million) are connected to the cable. There were 51 cable operators in June 2003 (MM 2004 quoting FICORA). 29 of them are members of the FCTA accounting for 98% of the cable households in Finland. Helsinki Television (HTV) is Finland's largest cable TV company, holding a market share of approximately 23% with around 257.000 subscribers. HTV belongs to Finland's biggest media group Sanoma WSOY. The strongest competitor of HTV is the national telecommunication operator TeliaSonera having around 160.000 cable subscribers.

In Finland, direct-to-home (DTH) satellite services are provided by two companies: Canal Digital, now fully owned by Norwegian PTO Telenor, having acquired Canal+'s 50%-share in June 2002, and Viasat, which belongs to the Swedish Modern Times Group. Both services require payment and subscription.

2.5 Advertising

As already mentioned above, the printed press' share of the advertising revenue of 72% is remarkably high in Finland. However, television, radio and the Internet managed to gain ground the last years.

Table FI 4: Share of advertising revenue in 2002

Media	In million Euros	Market Share in %
Television	200	19%
Radio	44	4%
Press	759	72%
Internet	14	1.3%
Total	1.05 billion	

Source: Media Map 2004, quoting Suomen Gallup Media

As the public service broadcaster YLE is not allowed to broadcast advertising or sponsoring in its radio or television programmes (Section 12 of the Act on Ylesradio OY[138]). It is financed mainly by the television fee paid by the public, and by the operation licence fee paid by commercial broadcasters to the State Radio and TV Fund.

3. Conclusions

3.1 Freedom of the Media

In the past few years, reports of various NGO's[139] regarding the freedom of the press in Finland have always stated that there are no serious breaches of press freedom and that there is in general a very high standard of recognition of this fundamental right. However, some authors criticise the practice of Finnish Courts when they try to find a balance between the right to private life on the one hand and freedom of expression on the other. What has changed in recent times is not the law itself but the interpretation of the law by the Courts. In an ever-increasing number of cases journalists are convicted or obliged to pay compensation to the persons covered in the media.

3.2 Ownership and market concerns

There are no restrictions on media ownership in Finland. As shown above, the media market in Finland has reached a high degree of concentration with just two main players who are active in nearly all media sectors at the same time. However, as it has already been outlined for the press sector (see section 2.3), media concentration and cross-ownership are not regarded as having the negative side effects with which they are commonly connected. Taking into account the small size of the Finnish media market, the advantages of economies of scale were used in a way that supported the existence of a variety of titles. Up to now, Finnish Journalism - has proven to be "extremely resilient to outside pressures and attacks on its professional standards and ethics" (OSCE: 2003, 118)

Report status: the gathering of data for this report was completed on July 15th 2004

[138] Act on Ylesradio OY: http://www.yle.fi/fbc/actyle.shtml

[139] see the website of the International Press Institute at http://freemedai.at or the World Press Freedom Ranking on the Website of Reporters Without Frontiers: http://www.rsf.org/article.php3?id_article=8247

France

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The freedom of expression is enshrined in the Declaration of the Human Rights of 1789 (*Déclaration des Droits de l'homme et du citoyen*).[140] Articles 10 and 11 state that:

> "*No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order*" and "*the free communication of ideas and of opinions is one of the most precious rights of man. Any citizen may therefore speak, write and publish freely, except what is tantamount to the abuse of this liberty in the cases determined by Law*."

Article 11 was further developed and interpreted by the jurisprudence of the Constitutional Court (e.g. Decision n°86-217 DC of 18 September 1986).

1.2 Freedom of Information

Article 14 of the 1789 Declaration of the Human Rights called for access to information concerning the state budget:

> "*All citizens have the right to ascertain, by themselves, or through their representatives, the need for a public tax, to consent to it freely, to watch over its use, and to determine its proportion, basis, collection and duration*."

The 1978 Law on Access to Administrative Documents provides for a right to access by all persons to administrative documents held by public bodies. Public bodies must respond within one month. However, there is a long list of documents that are excluded from the definition of administrative documents: proceedings of parliamentary assemblies, recommendations issued by the Conseil d'État and administrative jurisdictions, documents of the State Audit Office, documents regarding the investigation of complaints referred to the Ombudsman of the Republic and documents prior to the drafting of the health-organisation accreditation report. Documents that are "instrumental in an administrative decision" are not available until a decision is taken.

Furthermore, there are mandatory exemptions for documents that would harm the secrecy of the proceedings of the government and executive state authorities; national defence secrecy; the conduct of France's foreign policy; the State's security, public safety and security of individuals; the currency and public credit; the proper conduct of judiciary proceedings or operations preliminary to such proceedings, unless authorisation is given by the respective authority; actions by the proper services to detect tax and customs offences; or secrets protected by the law; documents related to personal privacy, trade or manufacturing secrets, or that contain judgment on an individual (Banisar 2003). The Commission d'accès aux documents administratifs (CADA) supervises compliance to the provisions. It can mediate disputes and issue recommendations but its decisions are not binding. On average, half of its recommendations advise releasing the information kept by the authority. In the majority of the cases, the decisions are respected by the authorities.

1.3 Codes for journalists and broadcasters

A Code of Ethics was adopted by the National Syndicate of French Journalists in 1918 (revised in 1938).[141] The code states (in brief) that a journalist: assumes responsibility for his writing; considers slander, unfounded accusations, alteration of documents, distortion of facts, and lying to constitute grave professional misconduct; recognises the professional honour of colleagues; accepts only assignments compatible with professionalism; does not use false information, or dishonourable means of acquiring information; does not accept money or bribes in order to influence his work; does not

[140] http://www.elysee.fr/ang/instit/text1.htm
[141] Source: Databank for European Codes of Journalism Ethics - EthicNet www.uta.fi/ethicnet/

sign articles of commercial or financial advertising; does not commit plagiarism; does not claim the position held by another colleague or cause him to be dismissed by offering to work under inferior conditions; protects professional secrecy; does not make use of the freedom of the press for profit-seeking; demands the freedom to honestly publish his information; respects justice; does not confuse his role with that of the police.

1.4 Media Ownership Regulation

The antitrust media rules in France concern horizontal and diagonal concentration. According to Article 11 of the Law n° 86-897,[142] an individual or legal entity cannot run or control daily publications dealing with political or general news that have a total circulation of more than 30% of the market of that type. This provision applies only to daily papers and not to other types of publications (e.g. weekly/monthly papers or magazines). Direct and indirect state support mechanisms have been put into place in order to support the press and ensure pluralism (e.g. funding for investment and distribution, financial allowances etc.).

Television broadcasting is subject to three limits: based on capital share, number of licences (together with audience share), and participation in more companies in the same sector. Accordingly, (Article 39 of the of the Broadcasting Law n° 86-1067 of 30 September 1986 as revised by Law n°2000-719 of 1 August 2000)[143] an individual or a legal entity cannot hold, directly or indirectly, more than 49% of the capital or the voting rights of an analogue terrestrial television channel at national level (more than 6 million inhabitants). For analogue terrestrial broadcasters at regional level (less than 6 million inhabitants) the limit is set to 50% of the share capital. The same (50%) limit applies to satellite broadcasters.

There are also rules on the participation in more than one company within the same sector. If a single person holds more than 15% of the capital share of one nationwide analogue terrestrial broadcaster, his participation in a second should be less than 15%. If one person owns more than 5% of the capital shares of two broadcasting companies, his share in a third cannot be more than 5%. Similar rules apply to satellite broadcasters. If a single person holds more than one third of the capital share of one satellite broadcaster, his participation in a second should be less than one third. If one person owns more than 5% of the capital shares of two satellite broadcasting companies, his share in a third cannot be more than 5%. In addition, a person or legal entity can neither hold more than one licence for nationwide analogue terrestrial television, nor one licence for analogue terrestrial television at national level and one at regional level (with the exception of overseas territories).

The licence-holder of a nationwide analogue terrestrial television can hold up to five licences for digital TV programmes. A single person can hold two licences for satellite broadcasting. At regional or local level, a single person can hold only one licence (analogue or digital) within the same geographical area. One person or legal entity may own several analogue or digital regional or local licences as long as they do not cover more than six million inhabitants. The same applies to cable licences as long as they do not cover more than eight million inhabitants.

Audience share thresholds are used in the field of radio. Further to Art. 41, an individual or legal entity can own several networks, or several services, as long as the total population of the areas in which they broadcast does not exceed 150,000,000 inhabitants.

1.4.1 Competition Policy and Mergers

Since the latest amendments to the Broadcasting Law in 2000, both the broadcasting regulatory authority, the *Conseil supérieur de l'audiovisuel* (CSA) and the Competition Authority (*Conseil de la concurrence*) are competent in competition and ownership matters in the broadcasting field and therefore work closely together. The Competition Authority consults with the CSA in mergers and

[142] Law n° 86-897 of 1 August 1986 as modified. http://www.legifrance.gouv.fr/texteconsolide/PCEAI.htm
[143] http://www.csa.fr/infos/textes/textes_detail.php?id=8784

other concentration cases (the CSA has a one month deadline in which to give its opinion). On the other hand, the CSA submits to the Competition Authority any possible anticompetitive practices monitored in the audiovisual field (Article 41-4 of the Broadcasting Law). Hence, both the audiovisual specific antitrust provisions that fall under the supervision of the CSA and general competition law applied by the Competition Authority should be respected in order for mergers in the broadcasting field to be approved. In addition, public interest objectives such as diversity, freedom of expression, and plurality of operators and the effort to maintain free competition and avoid the abuse of a dominant position are among the criteria used by the CSA in order to issue broadcasting licences. Also with regard to DTT, the CSA awarded the licences pro channel and not per multiplex, in order to protect pluralism. Pluralism and diversity were guiding principles for the awarding of licences and priority was given to free-to-air and local programmes.

1.4.2 Cross Media Ownership and Foreign Ownership

There are restrictions on foreign ownership of the French media. Individuals or legal entities from outside the European Union cannot hold more than 20% of either the capital of a daily paper, or of the capital of companies, which hold a terrestrial radio, or television broadcasting licence in the French language. This provision is also applicable to digital terrestrial television (Article 40 of the Law of 30 September 1986).

Cross-media ownership is regulated in the Law of 30 September 1986[144] both at national and regional levels. The so-called "two out of four rule" applies, i.e. operators are not allowed to hold interests in more than two of the following four sectors: terrestrial television (analogue or digital), cable, radio or press, and whenever an operator is active in two of these sectors, certain thresholds must be respected.

At national level, an individual or legal entity can be involved only in two of the following areas:

- one or more television licences for analogue or digital terrestrial channels reaching four million residents;
- one or more terrestrial radio services reaching 30 million people;
- cable broadcasting service(s) covering six million people;
- daily papers that have a market share of more than 20 percent of the national circulation

The same rule applies at regional level. No licence for terrestrial television (analogue or digital) or radio or cable for a specific region can be issued if the holder has interests in:

- one or more TV licences for analogue or digital terrestrial channels which are broadcast in the region;
- one or more radio licences for radio programmes whose audience is more than 10 percent of the potential audience of all public and private operators in the same zone;
- cable broadcasting service(s) in the same region;
- daily papers that are circulated in the region.

2. Main Players in the Media Landscape

2.1 Radio

Radio France operates four national public service radio stations: France Inter, France Musiques, France Culture, France Info, and France Bleu (broadcast on a regional network composed of 40 stations). The CSA classifies private radio into five categories in order to preserve diversity and balance in the radio landscape of each region. The categories are: non-commercial radio (category A), commercial local or regional radio, not broadcasting any national programmes (category B), commercial local or regional stations broadcasting the programme of a national thematic network (category C), thematic national stations (category D) and general commercial national stations (category E).[145]

[144] Articles 41-1, 41-1-1, 41-2 and 41-2-1
[145] http://www.csa.fr/infos/pdf/cinq_categories.PDF

Three main commercial groups, RTL, NRJ, and Lagardère have half of the market share. The RTL group operates three radio stations, with RTL being the radio station with the highest audience share among public and private stations. Shareholders in the RTL Group include Bertelsmann (53.1%), BWTV (37.3%) and the public 9.6%.

Table F 1: Main Radio Companies

Companies	Ownership Structure*		Main Radio Stations		Total Market Share in 2003**
Radio France	Public service		France Inter (RF) France Bleu (RF) France Info (RF) France Musiques (RF) France Culture (RF)	9.1% 5.7% 4.6% 1.1% 0.9%	21.4%
RTL Group	Bertelsmann BWTV+ Public	53.4% 37.0% 9.6%	RTL Fun Radio RTL2	11.9% 3.5% 2.8%	18.2%
NRJ Group	Jean-Paul Baudecroux		Chérie FM Nostalgie NRJ Rire et Chansons	4.3% 5.4% 7.7% 2.1%	17.4%
Lagardere Active	Lagardère		Europe 1 Europe 2 RFM	7.4% 4.2% 3%	14.6%

* Ownership structure based on information from company websites
* *Market share based on audience figures from: Enquête 75 000 + Mediamétrie 2003
+BWTV is a holding company 80% owned by Bertelsmann and 20% owned by WAZ

The NRJ Group operates four radio stations in France and also owns stations in Austria, Belgium, Denmark, Finland, Germany, Norway, Sweden, and Switzerland. It also has a stake in FranceMP3.com. The founder Jean-Paul Baudecroux controls the company through the NRJ Group (formerly Groupe Sonopar).

Lagardere Active is owned by the media and high technology group, Lagardère. Lagardère Media (one of the two core business branches of Lagardère) is active in four areas: books (Hachette Livre), magazines (Hachette Filipacchi Médias), distribution (Hachette Distribution Services) and audiovisual (Lagardère Active). Lagardère Active combines the activities of the group in the field of television, radio, advertising and new media. The group also owns 34% of CanalSatellite and 27.4% of MultiThématiques. (See also the report on Poland for interests in the Polish radio sector).

2.2 Television

The television sector is dominated by the activities of three main players. The public service broadcaster France Télévisions, together with the biggest commercial operators TF1 and M6, control 87.1% of the market. France Télévisions operates three channels: France 2, France 3, and France 5. The third public channel France 5 has an educational remit and shares the terrestrial frequency with the Franco-German cultural channel Arte. TF1 was a public broadcaster until its privatisation by the French government in 1987. Holding 31.5% share of the television market, TF1 is the dominant commercial broadcaster. Its main owner is the French conglomerate building giant Bouygues with 41.3% of its capital and 41.6% of the voting rights. The TF1 group is active in the fields of advertising (TF1 publicité), publishing and distribution, Internet, thematic channels (e.g. Eurosport), production and audiovisual rights and digital television.[146] TF1 also holds 66% of the shares in the digital satellite platform Télévision Par Satellite (TPS).

The commercial broadcaster M6 targets mainly a youth audience. The group M6 is involved in advertising (M6 Publicité), publications and magazines (M6 Interactions), Internet and interactive services (M6 Web), thematic channels, audiovisual rights and digital television. M6 also has a 34% share in the digital satellite platform Télévision Par Satellite (TPS). Three channels were selected by the CSA for DTT distribution. Its main two shareholders were until very recently the RTL group and

[146] http://www.tf1finance.fr/english/presentation.htm

Suez. In February 2004, Suez sold a 29.2% stake of M6's capital in a combined market and institutional investor placement but kept a residual 5% holding for a three-year period and a seat on the Supervisory Board.[147] Suez was cleared to sell the shares after RTL, M6's other founder-shareholder, came to an agreement with the CSA.[148] According to the Annex/amendment in M6's contract, RTL will be the principal shareholder in M6 with 48.39% but its voting rights will be restricted to 34%.

The Canal+ group[149] is active in the production and distribution of films and television programmes (STUDIOCANAL), the production and distribution of pay TV channels (*Multithématiques* for thematic channels), interactive services, digital pay television, and cable (NC Numéricâble). In the area of satellite pay TV, Canal+ group owns a share of 66 percent of the digital satellite platform CanalSatellite. After the take over of the Canal+ group by Vivendi Universal, special financial and legal arrangements were taken in order to comply with the ownership restrictions (maximum of 20% for foreign ownership and maximum of 49% share of ownership of any terrestrial channel). This resulted in a separate legal entity Canal+ SA being the licence holder, with 48.5 percent of its shares owned by the Canal+ group.

Table F 2: Main Television Companies

Broadcasters	Ownership Structure*		Main TV Stations		Total Market Share in 2003**
France Télévisions	Public service		France 2 France 3 France 5	20.5% 16.1% 6.4%	43%
TF1 Group	Bouygues Société Générale	41.3% 1.5%	TF1		31.5%
M6 Group	RTL Group Suez	48.39% 5.0%	M6		12.6%
Canal+ SA	Canal+ Group Société Générale Goldman Sachs	48.5% 7.3% 7.2%	Canal+		3.7%

* Ownership structure based on information from: respective websites, CSA: Bilans des chaînes
** Market share based on audience figures from: Médiamat/Médiamétrie

2.3 Press and Publishing

At the end of 2002 there were 12 national dailies, 65 regional, 38 Sunday papers and several regional weekly titles being published in France.[150] The number of regional dailies indicates that regional and local press has a significant place regarding total circulation of newspapers for dailies as well as for Sunday papers. The national daily newspaper market is dominated by three main groups.

The Hersant group was one of the major players until the death of its owner Robert Hersant in 1996. After that, the group was divided in two branches, Socpresse (30% owned by the group Dassault)[151] and France Antilles. Socpresse publishes the national daily *Le Figaro*, many dailies in the West and North of France, and Sunday papers (*Le Progrès Dimanche* and *Le Dauphine Libéré Dimanche*). It also holds a 49% share in the TV Nantes Atlantique and more than 50% of the group *La Voix du Nord*. France Antilles operates in the market of dailies in the French West Indies, and also in Eastern France. It is very active in the free press sector (around 200 papers). It also holds a 48% share in the *Dernières Nouvelles d'Alsace* and 27% in *L'Est Républicain*.

The Amaury group publishes the dailies *Le Parisien*, *Aujourd'hui en France*, and *l'Equipe* (sports paper) and several sports magazines (France Football, Vélo Magazine). It owns 35% of the regional

[147] Already, in September 2003, Suez had stated its intention to withdraw from the communications sector.
[148] CSA, M6/Suez : délibération du 20 novembre 2003: http://www.csa.fr/actualite/decisions/decisions_detail.php?id=14605 Convention de M6
[149] http://www.canalplusgroup.com/
[150] The Media Map Yearbook 2003 CIT publications Limited UK; Stratégies Les chiffres clés 2003
[151] The ownership structure of Socpresse changed in June 2004 when Dassault increased shares to 83%. See tables F3 and F4

daily *La République du Centre*. Its main activities focus on the central region of France as well as the region around Paris. It is also the owner of the sports television channel l'Equipe TV.
The third group is the Le Monde Group, which publishes the popular daily *Le Monde* and has publications in the South-West of France with its daily *Le Midi Libre*. Since the merger with PVC (Publications de La Vie catholique) at the end of last year, the group owns 43 press titles, among them regional dailies (*Midi Libre, L'Indépendant, Centre-Presse*), magazines, books and libraries. According to Jean-Marie Colombani, this merger constitutes an essential part of a long term strategy to develop a large independent press group.[152]

Table F 3: Main publishers of daily newspapers

Publishing companies	Ownership Structure*	Main Titles	Market Share	Total Market Share 2002**
Groupe Amaury	Amaury family 75% Hachette Filippachi Medias group 25%	L'Equipe Aujourd'hui en France	17.29% 7.92%	25.21%
Socpresse***	Dassault: 82% Aude Ruettard (child of Robert Hersant): 13% Yves de Chaisemartin (Head of Socpresse): 5%	Le Figaro Paris Turf	18.58% 4.69%	23.27%
Le Monde SA	Le Monde & Partenaires associés (SAS) 96.35%	Le Monde		19.45%
Libération	SCPL (Société civile des personnels de *Libération*) 36,4% Soparic Participations (Pathé) 21,77% 3i (Investors in industry) 20,77% Communication et Participation (Les Amis de *Libération*) 13,06 % Suez Net Invest 3.0% El Mundo 2.0% La Libre Belgique 2.0% Le Nouvel Observateur 1.0%	Libération		8.40%
Pearson Group (UK)		Les Echos		6.33%
Bayard	Religious	La Croix		4.93%
DI Group	LVMH Group	La Tribune		4.35%
Poligrafici Editoriale	Monrif Holding	France Soir		4.17%
L'Humanité	Société des lectrices et lecteurs de l'Humanité 20% Société Humanité Investissements Pluralisme (Hachette-TF1-Caisse d'Epargne) 20% Société des personnels de l'Humanité 10% Société des Amis de l'Humanité 10%	L'Humanité		2.47%
New York Times		Internat. Herald Tribune		1.41%

* Ownership structure based on information from: http://www.esj-lille.fr/docpresse/Presse/eco.htm
** Market share based on circulation figures from: OJD 2003/Stratégies Les chiffres clés 2003.
***Ownership structure of Socpresse changed in June 2004. There are plans to have a 5% participation of the group Bouygues

At the regional level, there are many large press groups that also have interests or subsidiaries in radio, advertising and multimedia products. The Ouest France Group publishes the top selling newspaper *Ouest France*, with 2,336,000 regular readers (SPQR/IPSOS) and 42 local editions distributed in Normandy, Brittany and the Loire. It owns about 60 paid local newspaper titles and has interests in free press (25% in 20 minutes France SA). Through its subsidiary Publihebdos, it also owns 38 weekly newspapers.

Groupe Sud Ouest publishes several newspapers (dailies and weeklies), and magazines, has a 6% share in the Spanish Group Correo, and is also involved in television (TV7 Bordeaux).

Hachette Filipacchi Médias (HFM) (sister company of Lagardère Medias) is the top publisher of magazines in the world with 229 titles in 36 countries (52 titles in France). In France, HFM is particularly strong in the field of women's magazines and television journals. In the field of the daily press, HFM owns several outlets in the South East of France.

[152] Naissance d'un nouveau groupe de presse indépendant, Le Monde, 30.12.03

Groupe Est Républicain publishes many regional dailies, and also has interests in advertising, free press, and television (M6 Nancy). The group Centre France – La Montagne is also active in television (Clermont Première, Centre France TV).

Table F 4: Main Publishing Companies of regional press

Publishing companies	Ownership Structure*	Main Titles	Circulation 2002**
Groupe Ouest France	SIPA (Société d'Investissements et de Participations) which is owned by *l'Association pour le Soutien des Principes de la Démocratie Humaniste* (association loi 1901)	Ouest France La Presse de la Manche	764,731 25,348
Socpresse***	Dassault: 82% Aude Ruettard (child of Robert Hersant): 13% Yves de Chaisemartin (Head of Socpresse): 5%	Le Progrès-La Tribune Le Dauphine Libéré Le Courrier de l'Ouest	253,961 252,549 97,723
Groupe Sud Ouest	80% Lemoine family 20% members of the staff	Sud Ouest La Charente Libre La République des Pyrénées	320,735 38,816 30,483
Hachette Filipacchi Médias	Lagardère Médias	La Provence Nice-Matin Var-Matin	162,260 133,641 84,414
Groupe Voix du Nord	Socpresse (more than 50%)	La Voix du Nord	307,191
La NRCO	1/3 staff; no shareholder has more than 1.25%	La Nouvelle République du Centre-Ouest	238,560
Centre France – La Montagne		La Montagne Le Populaire du Centre Le Berry Républicain Le Journal du Centre	206,813 47,688 32,751 32,338
Groupe Est Républicain		L'Est Républicain Dernières Nouvelles d'Alsace	204,344 198,847

*Ownership structure based on information from: http://www.esj-lille.fr/docpresse/Presse/eco.htm
**Circulation figures from: OJD 2003/Stratégies Les chiffres clés 2003
***Ownership structure of Socpresse changed in June 2004. There are plans to have a 5% participation of the group Bouygues

2.4 Cable and Satellite operators

Transmission via satellite has grown since the launch of digital television in 1996 and is emerging as the main competitor to terrestrial television. Currently, there are two big operators in the field of digital satellite platforms, Télévision par Satellite (TPS) and CanalSatellite.

Table F 5: Cable and Satellite Companies

Satellite Operators	Ownership Structure*		Subscribers /Market Share**
CanalSatellite	Canal+ group Lagardère	66% 34%	2,300,000 (end of 2002)
TPS	TF1 M6	66% 34%	1,172,000 (end of 2002)
Cable Operators			
Noos***	Suez NTL Morgan Stanley	50.1% 27% 22.9%	1,089,803 subscribers (32% of connected households)
France Télécom Câble	France Télécom		850,000 subscribers (25%)
NC-Numéricâble	Canal+		752,380 (22%)
UPC France	UnitedGlobalCom		533 600 (16%)
Est Vidéo-Communication			143,266 (4%)

* Ownership structure based on information from: company websites
** Subscription figures from: websites for satellite operators, Media Map Yearbook 2003 for cable operators
***The European Commission cleared the takeover of Noos by UPC (controlling shares bought from Suez) on May 18th 2004. The company would now have a combined share of 48% of cable market.

TPS was launched at the end of 1996 and is currently owned by TF1 (66%) and M6 (34%), offering more than 200 television channels, interactive services and 43 radio channels. CanalSatellite was launched a few months prior to TPS. It is owned jointly by Lagardère (34%) and Group Canal+ (66%). It offers more than 260 channels and services and more than 70 radio stations. The cable market is dominated by five operators: Noos, France Télécom Câble, NC-Numéricâble, a subsidiary of Canal+, UPC (United Pan-Europe Communications) and Est Vidéo-Communication. Currently, the total number of cable subscribers amounts to 3,707,508.[153]

2.5 Advertising

Publishing absorbs half of the advertising revenues in the media sector. However, divided into categories, national dailies get only 4.8 percent of the total.

Table F 6: Share of advertising revenue within the media sector 2002*

Media	In million Euros	Market Share in %
National dailies	455	4.8
Regional dailies	1,008	10.6
Magazines	1,613	17
Specialised press	620	6.5
Free press	892	9.4
Regional weeklies	120	1.3
Total Publishing	4,708	49.6
Television	2,921	30.7
Outdoor	1,085	11.4
Radio	713	7.5
Cinema	74	0.8

*Source: IREP 2003

3. Conclusions

3.1 Freedom of the Media

Although there is wide range of daily newspapers at national and regional level contributing to free and diverse information and opinions, concerns are raised by the outdated defamation legislation in France, by frequent challenges to the principle of confidentiality of sources, and by the repeated abusive detention of journalists by police.

In 2002 there were several press freedom violations (e.g. destruction of the print-run of a new free daily by the Unions, and journalists under pressure from the police). An ongoing tension between the press and the French state authorities exists regarding what may be published. French courts often rule against journalists in cases of libel and the protection of confidential sources. On 25 June 2002, the ECHR ruled that a Paris Appeals Court violated Article 10 of the European Convention on Human Rights. The Paris court had confirmed a guilty verdict handed down to the daily *Le Monde* for defamation. The guilty verdict was based on the outdated press law of 1881, which contains some clauses, which contradict international standards, concerning the banning of insulting language when reporting on the activities of foreign heads of state.[154] In a number of cases, journalists were held and pressurised by the police to reveal their sources or were charged or convicted by courts for "disclosing confidential information". However, there was also a case, where the court supported the right to freedom of expression. On 12 July 2002, a Paris court rejected a lawsuit against French radio journalist Daniel Mermet and his boss, Jean-Marie Cavada, head of the Radio France network for incitement to racial hatred and slander.[155]

Attempts by French print union members to prevent or disrupt the distribution of copies of the free newspapers *20 Minutes* and *Metro* also raised serious concerns regarding freedom of the media. The

[153] http://www.aform.org/pages/chiffres_du_cable.php#
[154] 2002 World Press Freedom Review
[155] Reporters without Borders, France – Annual Report 2003

union is involved in a growing dispute over what they see as a threat to the stability of France's media landscape. As a result of their action, some 20% of the launch edition was not distributed.

3.2 Ownership and market concerns

Cross media ownership legislation was adopted in order to prevent consolidation of media groups and preserve pluralism and diversity across all media platforms. These rules are based, as mentioned before, on the "two out of four rule" and apply to television, radio, cable and daily newspaper sectors. New media activities such as the Internet are not included. Vertical integration of groups is not covered either.

However, there is a desire to relax the cross ownership rules especially with regard to cable. The trade association AVICAM (Association des Villes pour le Câble et le Multimedia) has suggested extending this ceiling from 8 million to 15 million households. At the moment there is no discussion on revising the existing rules. However, implementation of the existing rules is closely monitored by the Broadcasting Authority, the CSA and the Competition Authorities with regard to merger cases.

The most recent development in the media sector was the increase in shares in the publishing company Socpresse by the Dassault Group, from 30% to 83%. Dassault owner, Mr Dassault, when interviewed in 1999, told a French channel: "It is important for me to be the owner of a newspaper to express my opinion but also to respond to those journalists that write anything they want". Journalists' unions at "Le Figaro" have vowed to closely monitor the deal.[156] The European Commission cleared the acquisition on June 17th 2004 with the requirement that the group divest one of its political magazines. The Dassault Group operates in the aviation and defence industries, and has developed into: 'Europe's leading exporter of combat aircraft and into a high-ranking player in the worldwide aviation industry.'[157] On the 24th of June a national strike of print workers (CGT union) took place (the day after Dassault took control of Socpresse), protesting against 'recent upheavals in the publishing industry which it says are threatening jobs.'[158]

The European Federation of Journalists issued a statement on the development that media concentration in France "threatens pluralism and diversity," and "there is a danger that France will follow Italy into conditions that are dangerous for democracy - when media power is concentrated in the hands of a powerful few." The EFJ and French journalists and media unions called on the European Union to act to combat cross-ownership and concentration.[159]

Report status: the gathering of data for this report was completed on March 3rd 2004 (update 20.7.04)

[156] (*Expatica France/AFP*, March 15, 2004) European Journalism Centre Media News Archive
[157] Dassault company website: http://www.dassault-aviation.com/defense/gb/activites/produits.cfm
[158] (*Expatica.com*, June 25, 2004) European Journalism Centre Media News Archive
[159] (*International Federation of Journalists*, July 13, 2004) European Journalism Centre Media News Archive

Germany

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The right to freedom of expression is enshrined in Article 5 of the Basic Law, which holds:

> *"(1) Everyone shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship. (2) These rights shall find their limits in the provisions of general laws, in provisions for the protection of young persons, and in the right to personal honour. (3) Art and science, research, and teaching shall be free. The freedom of teaching shall not release any person from allegiance to the constitution."*[160]

More than simply enshrining an individual right, this constitutional provision has played a pivotal role in the shaping and continuous development of the German media system, as it has laid the foundation for a number of rulings by the Federal Constitutional Court concerning the nature of the German broadcasting system and the balance between private and public service broadcasters.

1.2 Freedom of Information

Contrary to the majority of the European Union's Member States, Germany has no law ensuring access to documents of public authorities at the national (i.e. federal) level. Currently, only four of the federal states have enacted such legislation, namely Brandenburg, North Rhine-Westphalia, Schleswig Holstein and the capital of Berlin. Several other states have introduced proposals for similar laws at the start of the last legislature, which are still pending ratification. The annual reports of the state-commissioners for freedom of information indicate that little use has so far been made of the provisions already in place.

1.3 Code of conduct for Journalists

The German Press Council (Presserat), and the interest organisations representing the press industry enacted the code of fundamental journalistic standards, the *Pressekodex*.[161] The code obliges journalists (in brief) to: avoid exclusive agreements or other practices leading to a monopolisation of information; practice balanced campaign reporting, providing plurality of opinion; provide accurate and full information, indicating sources, while guaranteeing anonymity of sources where appropriate; respect the *Redaktionsgeheimnis*, (editorial information may not be passed on to third parties); rectify inaccuracies; honestly acquire news, information and pictures; maintain the reputation of the media by clearly separating journalistic from other professional activity, rejecting any offers that might jeopardise journalistic objectivity; maintain a clear separation between journalistic content and advertising; respect privacy of the individual, respect the right to informational self-determination and guarantee the protection of data; ensure the protection of minors; not publish any unjustified claims and accusations or material discriminating on grounds of racial, ethnic, religious, social or national affiliation; not to make use of material likely to offend the moral or religious sensibilities of a particular group; refrain from reporting practices driven by sensationalism, especially regarding violence, brutality and medical research. In all of their activities, journalists are expected to adhere to the values of the respect for truth, human dignity and the truthful information of the general public.

As a general rule, where individuals' rights are likely to be jeopardised by the publication of a particular set of information, decisions are based on a balancing of individual's right against the public's need for information. Complaints regarding standards are dealt with by the Press Council. Where a breach of standards is judged to have taken place the Press Council may: issue a comment; a

[160] Text of the German Basic Law, available from: www.bundestag.de/htdocs_e/info/gg.pdf.

[161] See the *Publizistische Grundsätze (Pressekodex) Vom Deutschen Presserat in Zusammenarbeit mit den Presseverbänden beschlossen und Bundespräsident Gustav W. Heinemann am 12. Dezember 1973 in Bonn überreicht, in der Fassung vom 20.06.2001*, retrievable from: http://www.djv.de/downloads/pressekodex.pdf [3 February 2004].

statement of disapproval; a non-public or a public reprimand. The latter obliges the publisher to publicise the Council's findings along with the facts of the case.

1.4 Media Ownership Regulation

The regulatory framework for the media in Germany is drawn up by a variety of actors. The Federal Ministry of Economics and Labour is responsible for establishing the general policy framework under which companies operate, including questions of competition policy. Moreover, the minister responsible may play a particular role regarding media mergers under the German competition act (see section 1.4.2 below). Due to the country's federal structure, certain competences are attributed to the different Länder (states) with regard to media regulation. Regarding broadcasting, competences are located exclusively at the state level. However, the constitution foresees the possibility for the federal legislator to establish a framework law for state legislation concerning the press.[162] So far, no use has been made of this clause. The press laws in the states are based on self-regulation, and the German Press Code reflects these laws. There are no state regulatory bodies for press supervision, no licensing regime for press companies, and all state press laws contain an explicit prohibition of any such limitations on the access to the press industry.[163]

The broadcasting sector is regulated by the federal states, based on the media laws of the individual federal states as well as the Interstate Treaty on Broadcasting (*Rundfunkstaatsvertrag*). Issues of broadcasting policy and proposals for new legislation are usually within the remit of the Ministry of Cultural Affairs of each state, or are negotiated among the states in the *Rundfunkkommission der Länder*.[164] As the latter has no legislative powers, the treaties it negotiates have to be ratified by the state parliaments. The media laws of the federal states commonly refer to the plurality of opinion (*Meinungsvielfalt*) as part of the licensing procedure. In terms of ownership this entails that no single company or channel may exercise an undue degree of influence on processes of opinion formation ("exercise dominant opinion-forming power"). The criteria for establishing such dominance differ from state to state: some states impose a limit on the number of broadcasting enterprises that a single company may be involved in; others grant an unlimited number of licences as long as this does not enable the company to exercise dominant-opinion forming power (both approaches may be combined with restrictions on cross-media ownership (see section 1.4.3). The latter approach mirrors the regime governing national television, which is binding on all states. According to this system, dominance will be assumed if the channels attributable to a company reach an average market share of 30%, or more, of the national market in a given year, or if a market share of 25% is attained and the company holds a dominant position in a media-related market.

The regulation of broadcasting is carried out by the regulatory authorities for broadcasting of the federal states, (the *Landesmedienanstalten*), the *Kommission zur Ermittlung der Konzentration im Medienbereich (KEK)* and the *Konferenz der Direktoren der Landesmedienanstalten (DLM)*.[165] The regional regulators are responsible for the issuing of all licences, including those of national broadcasters, and the supervision of radio and regional television. The other organisations are involved in the safeguarding of media pluralism with regard to national television. Any application for a nationwide TV broadcasting licence will first be assessed by the KEK with regard to pluralism of opinion, taking into account the assets already held by the applicant. The result of this assessment is binding on the regulatory authority responsible for the issuing of the licence who may appeal the KEK's decision to the DLM who may then overturn it within three months. Similarly, it is up to the KEK to judge whether changes in the ownership structure of a given national television broadcaster constitutes a threat to the pluralism of opinion.

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[162] Publishing law, on the other hand, is an exclusive competence of the federal legislator; cf. Art. 73 of the Basic Law.
[163] See as an example, Gesetz über die Presse (Landespressegesetz [Baden-Württemberg]) vom 14. Januar 1964 (GBl. S. 11) zuletzt geändert durch Gesetz vom 4. Februar 2003, §2 Zulassungsfreiheit.
[164] An interstate body that brings together the ministers responsible for broadcasting matters in each state.
[165] The DLM draws its members from among the Managing Directors and/or the legal representatives of the regulatory authorities for broadcasting of the federal states (the Landesmedienanstalten); as such it does not constitute an entity which is distinctly independent from the member regulatory authorities, but rather makes for a standing committee which facilitates cooperation between them.

1.4.1 Audiovisual Media

Until 1984, the German broadcasting industry was exclusively in the hands of public service broadcasters ARD, ZDF and the so-called third channels, which constitute the principal shareholders of the ARD. Following the Federal Constitutional Court's *FRAG* ruling in 1981, which highlighted a need for a legislative framework for the operation of private broadcasting, the various federal states adopted legislation between 1984 and 1989.[166] This established the regulatory authorities for broadcasting whose prime responsibilities are the licensing and monitoring of private broadcasters. After a brief transitional period following German reunification, the new federal states of Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt and Thuringia all enacted similar pieces of legislation in 1991. In Brandenburg a legal framework for private broadcasting was instituted only in 1992, which was the year when the federal state entered into the Interstate Treaty in the Field of Broadcasting together with the capital of Berlin. Since then, the two federal states have had a common regulatory body for broadcasting. Also on the interstate level, the Interstate Treaty on Broadcasting (*Rundfunkstaatsvertrag*, cf. section 1.4) was signed on 31 August 1991, entering into force on January 1st of the following year after having been approved by all the state parliaments. With the enactment of the new state laws and the Interstate Treaty, the legal framework for private broadcasting in the reunified Germany was established.

With regard to the regulation of media ownership, the Interstate Treaty of 1991 stipulated a model for national television based on capital shares, which prohibited the single-handed ownership of broadcasters offering generalist programming or of theme channels with a specialisation in informational programming. The treaty was amended in 1996, and the model changed to the audience share approach (see 1.4). This policy change occurred due to concern over the lack of transparency of ownership structures that the old regime seemed to promote, as companies set up holding companies to circumvent ownership limitations. Additionally, there were fears of a tendency towards concentration of TV ownership in the hands of two groups, namely Bertelsmann/*RTL* and Kirch/*SAT.1*, *Pro7*, that became evident during the early and mid-nineties. While the German television market saw a significant increase in the number of national TV licences granted following this switch in approach, a survey of the current market situation reveals that it has been unable to reverse the processes of concentration, which led to the change. (see section 2.2 below).

1.4.2 Competition Policy and Mergers

The German competition law regime recognises the special character of media companies in two ways: firstly, by way of Section 38 Subsection 3 of the Act Against Restraints on Competition, the thresholds which will invoke the merger control procedure are lowered to one twentieth (five percent) of the normal values, for companies involved in the "publication, production and distribution of newspapers, magazines and parts thereof, the production, distribution and broadcasting of radio and television programmes, and the sale of radio and television advertising time."[167] Secondly, the number of thresholds to be passed to invoke the procedure is lowered from two to one where a merger affects competition in the markets related to newspapers and magazines (as outlined above e.g. publication, production and distribution): in this case, the only factor to be considered is the domestic turnover of any one of the companies involved in the merger, where otherwise world turnover is also a threshold.

The assessment of a merger involving media companies will be conducted using the general criteria of competition law. Following the general procedure, if the Federal Cartel Office has declined clearance of the concentration, the Minister of Economics and Labour has the possibility of granting, upon application, a ministerial authorisation of the merger provided that the ecomonic advantages arising from it outweigh the restraints on competition that it causes, or if there is an overriding public interest to justify it.[168] In 2003, the German press group Georg von Holtzbrinck tried to obtain such a

[166] An exception to this was Rhineland-Palatinate who had already enacted a similar law in 1980 which was then modified in 1984 according to the criteria set out in the FRAG judgment.
[167] Act Against Constraints on Competition, available from http://www.bundeskartellamt.de/GWB_E.PDF
[168] The empirical importance of this provision is limited however, as only eighteen applications have been filed since the inauguration of the German merger control regime in 1973. Of these, only eight were successful.

ministerial authorisation for its acquisition of the Berlin based publishing house Berliner Verlag that had originally been blocked by the Federal Cartel Office. However, before any final decision was made, the group decided to retract its application and instead to divest some of its assets in order to gain the Cartel Office's approval of the take-over. At the beginning of this year, the Cartel Office indicated, however, that the steps undertaken by Holtzbrinck had not been sufficient to remove the doubts under anti-trust law.[169] Holtzbrinck chose to file a complaint against the decision rendered by the authority.[170]

1.4.3 Cross Media Ownership and Foreign Ownership

While there are no explicit provisions regarding cross-media ownership in German anti-trust and competition law, there are certain limits to cross-media ownership flowing from sector-specific legislation, as it exists in the form of the Interstate Treaty on Broadcasting and the state media laws. There are no limits on foreign ownership under either type of regulatory framework.

As referred to in section 1.4 above, a company is considered to exercise dominant opinion-forming power either if the channels attributable to it reach an average market share of more than 30 percent of the national market in a given year, or if a market share of 25 percent is attained and the company holds a dominant position in a media-related market. The notion of such a media-related market introduces the possibility of considering other media assets owned by the company, including those in press and advertising. Dominance in these markets is to be established by reference to the criteria contained in the Act Against Restraints on Competition.[171] Moreover, the federal states have introduced restrictions on cross-media ownership into their media laws in order to prevent the emergence of dominant opinion-forming power across sectors, primarily at the local level. By way of example, the Northrhine-Westphalian media law stipulates that press companies that have a dominant position in either the newspaper or magazines market must not at the same time have a controlling stake in any one broadcaster located in the same area served by its press products.[172] With regard to local broadcasters, companies "with one or more newspapers" are not allowed to own more than 75 percent of shares and/or voting rights in the operating company.[173]

As most of the radio stations in Germany are local or regional rather than national, this type of legislation has resulted in newspaper groups only holding limited shares where they are involved in radio broadcasters at these levels, thus leading to a high degree of ownership fragmentation regarding some of the most popular regional broadcasters. On the other hand, the limitations on cross-media ownership introduced by the Interstate Treaty on Broadcasting have had no equally visible effect, as the twenty-five percent threshold necessary to invoke them (in combination with a dominant position in a media-related market) has so far not been reached by any company. In general, cross-media ownership is pursued more often by the large German press groups who hold shares in local and regional radio broadcasters as well as in TV production companies, and sometimes even TV channels (the most prominent example being the Axel Springer AG). Among the large broadcasting groups, only RTL has marked cross-sectoral interests with its presence in the radio industry.

2. Main Players in the Media Landscape

2.1 Radio

The German radio landscape is characterised by a division along federal and regional lines, whereas the number of stations targeting the national market is severely limited: according to a study conducted in 2001, no more than nine stations followed a nationwide programming strategy (Breunig, 2001). The public service channels produced by the members of the ARD are delivered along federal

[169] See the press release by the Federal Cartel Office of February 4, 2004 available from: http://www.bundeskartellamt.de/04_02_2004.html.
[170] Cf. *Financial Times Deutschland* of February 4, 2004: http://www.ftd.de/tm/me/1075534262191.html?nv=se
[171] Cf. the definition given in Chapter III, Section 19, Subsection 2 of the Act Against Constraints on Competition.
[172] Landesmediengesetz Nordrhein-Westfalen vom 2. Juli 2002, Section 33, Subsection 3.
[173] Landesmediengesetz Nordrhein-Westfalen vom 2. Juli 2002, Section 59, Subsection 3.

lines. Private broadcasters operate at both state and sub-state level (which allows for regional marketing efforts that cut across state borders). On average, public service broadcasting is more popular with the ARD programs attracting around 27% of listeners. Due to cross-ownership restrictions established at the state level (cf. section 1.4.3 above) and the regional character of programming, there are no major national broadcasting groups.

Table DE 1: Main Radio companies

Major Groups	Ownership Structure*	Main Radio Stations (Share in station)	Total Market Share**
ARD	PSB	NDR 1, Bayern 1, Eins live, WDR 4, MDR 1 SWR 4, hr4, RBB Antenne Brandenburg	27.5
RTL	Bertelsmann AG 53.4% BW TV und Film Verwaltungs GmbH+ 37.0% various 9.6%	radio NRW (16.1%), Antenne Bayern (16%) Hit-Radio Antenne (36%), RTL Radio Hit-Radio Antenne Sachsen (48.9%) BB Radio (40%), Radio Hamburg (29.2%) Radio Regenbogen (27.6%) Antenne Mecklenburg-Vorpommern (24%) Antenne Thüringen (16.7%), Radio 7 (6.7%)	4.9% *18.5%*
Axel Springer AG	Axel Springer Gesellschaft für Publizistik mbH & Co. KG 50.1% Friede Springer 10% Hellman & Friedman 19.4%	radio NRW (7.3%), Antenne Bayern (16%) Hit-Radio FFH (15%), Radio RSH (17.3%) radio ffn (7.7%), Radio Hamburg (36.4%)	2.2% *17%*
Hubert Burda Media Holding AG	Hubert Burda 100%	Antenne Bayern (16%), Hit-Radio FFH (3.4%) Hit-Radio Antenne (7.6%) HIT-RADIO RPR Eins (0.4%) BB Radio (37.5%), RPR Zwei (0.4%)	1.2% *11.5%*
Radio Schleswig Holstein KG GmbH & Co.	Consortium of regional newspapers and other media companies including: Schleswig-Holsteinische Landeszeitung 26.2% Lübecker Nachrichten 19.2% Kieler Nachrichten 18.4% Axel Springer AG 17.3% Dithmarscher Landeszeitung 4.3%	Radio PSR (30.3%), Radio SAW (10%) 94.3 r.s.2 (43%) Antenne Mecklenburg-Vorpommern (10.9%)	1.1% *5%*
Verlagsgesellschaft Madsack	DDVG 20.4% Beteiligungsgesellschaft Madsack 18.5% Gebr. Gerstenberg GmbH & Co. 6.4% Gruppe Baedeker 5.9% Various 48.8%	Hit-Radio Antenne (20%), Radio ffn (11.8%) HIT-RADIO RPR Eins (8.7%) Antenne Thüringen (10%), RPR Zwei (8.7%)	0.8% *6,5%*

* Information from company websites
** Market shares calculated based on data reported in KEK (2003) *2. Medienkonzentrationsbericht* (www.kek-online.de), adjusted for amount of shares held in station; figures in italics indicate the size of the market share that the group has an interest in. Data for public service broadcasters taken from *ARD-Jahrbuch 2003*.
+BWTV is a holding company 80% owned by Bertelsmann and 20% owned by WAZ

The five largest commercial radio groups in Germany have no more than 10% of the national market, with the two leading players being: the RTL group, who is a major player in the German television industry (see section 2.2), with 4.9% of the market, while the Axel Springer AG, Germany's most prominent group in the newspaper business (see section 2.3) has 2.1%. The three remaining groups are associated with the publishing industry, two having strong links with the regional press markets (Radio Schleswig-Holstein, Madsack), and the last one firmly established in the magazines business (Burda). The main groups share the ownership of many of the regional stations.

2.2 Television

German viewers can choose from the greatest range of free-air to television available anywhere in Europe: today, there are no less than 31 channels operating under a domestic licence.[174] Ownership of the most popular channels has remained, however, in the hands of a limited number of enterprises.

[174] Situation as of July 2003 published by the KEK, http://www.kekonline.de/kek/information/publikation/programmliste.pdf

The public service broadcasters ARD, ZDF and their associated channels, including international co-operations, account for close to 45% of viewers on average. The channels owned by the Luxembourg RTL group and the German ProSiebenSAT.1 Media AG together draw around 43% of the national audience, with each of them having around 21%. The RTL group, while registered in Luxembourg, is owned and run by a number of German companies, the most prominent of which is the Bertelsmann AG who holds more than half of the shares. The rival ProSiebenSAT.1 media group, while based in Germany, has a significant number of foreign shareholders, who are brought together in German Media Partners. They include a number of American investment funds.[175] German press group Axel Springer AG, has an 11.5% share of capital in ProSiebenSAT.1, and a minor share of Hamburg based cable TV operator KG Hamburg 1 Fernsehen Beteiligungs GmbH. While Comcast's take-over bid for Disney has sparked speculation over a similar buy-out in the German market, the recent arrangement among the investors involved in ProSiebenSAT.1 suggests this is unlikely.

Table DE 2: Main Television Companies

Major Groups	Ownership Structure*		Main TV Stations*	Total Market Share**
ARD	PSB		ARD, ARD third channels	27.7%
ZDF	PSB		ZDF	13.4%
RTL	Bertelsmann AG BW TV und Film Verwaltungs GmbH+ various	53.4% 37.0% 9.6%	RTL, RTL II, Super RTL, VOX	21.3%
ProSiebenSAT.1	German Media Partners Kirch Media GmbH & Co. KG Axel Springer AG Various	36.0% 17.0% 12.0% 36.0%	Kabel 1, ProSieben, SAT.1	21.4%

* Information from company websites
** Market share calculated on basis of average annual viewing share data for 2003 from www.agf.de, adjusted for amount of shares held in station.
+BWTV is a holding company 80% owned by Bertelsmann and 20% owned by WAZ

2.3 Press and Publishing

Newspapers in Germany are primarily a regional product, although these include a wide range of genuinely national offerings, including internationally renowned titles such as the *Frankfurter Allgemeine Zeitung*, the *Süddeutsche Zeitung* or *Die Welt*. *Die Welt* belongs to one of the five major German groups in the newspaper business, Axel Springer AG, who also publishes the most popular German daily, the tabloid *Bild*. Due to the unrivalled success of *Bild* and its extensive involvement in the regional press sector, Springer enjoys a unique position in the German newspaper business accounting for approximately one fifth of the newspapers sold each day. Aside from the shares held by American financial investors Hellmann & Friedman, who are also involved in ProSiebenSAT.1 (see section 2.2 above), the group remains firmly in the hands of the Springer family who control the Axel Springer Gesellschaft für Publizistik that holds more than 60% of shares. The majority of these shares is controlled by Friede Springer, who also has a direct 10% stake in the company.
The second largest German newspaper publisher, the WAZ Zeitungsgruppe, is also controlled by family shareholders; descendants of founders Erich Brost and Jacob Funke today each control 50% of the company. The WAZ Zeitungsgruppe is heavily involved in the German regional newspaper market, and together with its activities in Austria and South-Eastern Europe, it constitutes Europe's largest publisher of regional newspapers.

While the remaining three major groups in the newspaper industry also are widely influenced by private investors, there is little data available on the ownership structures of these groups as they only randomly publish information on their activities and none of them issues annual reports on a regular basis.

[175] Bain, Hellmann & Friedman, Providence, Thomas H. Lee and two minor funds as well as US private investor Haim Saban who controls the majority of voting rights

Table DE 3: Main Publishing Companies

Major Group	Ownership Structure*	Main Titles** and (% of ownership)	Total Market Share***
Axel Springer AG	Axel Springer Gesellschaft für Publizistik mbH & Co. KG 60% Friede Springer 10% Hellman & Friedman 19.4%	Bild Hamburger Abendblatt B.Z. Die Welt Berliner Morgenpost Leipziger Volkszeitung (50%) Ostsee Zeitung (50%) Kieler Nachrichten (24.5%) Dresdner Neueste Nachrichten (50%) LVZ-Muldental Zeitung (50%)	19.6%
Zeitungsgruppe WAZ	Anneliese Brost 30% Erich Schumann 20% Petra Grotkamp 1.7% Renate Schubries 16.7% G. und R. Holthoff 16.7%	WAZ Westfälische Rundschau Neue Ruhr/Neue Rhein Zeitung Westfalenpost Ostthüringer Zeitung(1) Thüringische Landeszeitung Thüringer Allgemeine(1) Isalohner Kreisanzeiger + Zeitung (24.8%)	5.1%
Verlagsgruppe Medien-Union	Dieter Schaub 50.5% Various 49.5%	freie presse Südwestpresse, Ulm Die Rheinpfalz Stuttgarter Zeitung, Stuttgarter Nachrichten, Fellbacher Zeitung Märkische Oderzeitung Waiblinger Kreiszeitung (36%)	4.7%
Ippen-Gruppe (Verlagsgruppe Münchener Zeitungsverlag / Zeitungsverlag TZ München / Westfälischer Anzeiger / Dirk Ippen)	Dirk Ippen + others	Münchener Merkur Hessisch / Niedersächsische Allgemeine tz Oberbayrisches Volksblatt Offenbach Post (50%) Westfälischer Anzeiger Soester Anzeiger (40%) Kreiszeitung, Syke (50.9%) Oranienburger Generalanzeiger Altmark-Zeitung (70%)	3.4%
Verlagsgruppe M. DuMont-Schauberg	Neven-DuMont family	Kölner Stadtanzeiger Kölnische Rundschau Mitteldeutsche Zeitung Express Düsseldorf Express	3.4%

* Information from company websites
** Main titles are those averaging 25,000 sold copies or more per day.
*** Market share based on circulation figures from: www.ivw.de for the third quarter of 2003, adjusted for amount of shares held in title.
(1) 40 percent share sold to private investor Harald Freiherr von Seefried following pressure from the Federal Cartel Office.

2.4 Cable operators[176]

In Germany, cable network ownership is held by four principal operators, which are all dominated by financial investment companies. The largest of these is the *Kabel Deutschland Gesellschaft* (KDG) (operates the system previously held by Deutsche Telekom).[177] Callahan Associates (now Cable Partners Europe), sold the Northrhine-Westphalian operator *ish* to a consortium led by Citigroup and Deutsche Bank in 2003, while remaining in possession of its Baden-Wurttemberg activities. The smallest one of the major four is Hesse-based *iesy* controlled by Apollo Management and Pequot

[176] The German cable delivery infrastructure is divided into four levels: (i) the level of programme production (radio stations TV channels); (ii) the level of the so-called head stations which receive the signals and distribute them; (iii) the distribution points at street level, and (iv) the "last mile" which constitutes the ultimate part of the distribution network. The data presented in this section relate to the third of these levels. It is at this level that the highest degree of concentration is to be found. Focusing on this level is also justified by the fact that it constitutes a strategic bottleneck in relation to the subordinate fourth layer of the cable TV distributon network and by the fact that level 4 operators have only limited chances of acquiring control of the third level infrastructure.
[177] Deutsche Telecom sold this in March 2003 to a consortium consisting of APAX, GS Capital Partners and Providence Equity Partners. Providence also holds a 11 percent stake in the consortium German Media Partners that controls ProSiebenSAT.1 Media AG

Capital Management. At the time of writing, there were expectations towards a possible major consolidation in the market by March 2004, when *KDG* might take over any one or even all three of its competitors.[178] Although Deutsche Bank indicated that it might be interested in selling its stake in *ish*, any further acquisition by the owners of *KDG* is likely to spark an investigation by the competition authorities. (See section 3 for further developments)

Table DE 4: Cable Companies

Cable Companies	Ownership Structure	Total Market Share*
Kabel Deutschland GmbH	APAX, GS Capital Partners, Providence Equity Partners	48.5%
Ish Gmbh & Co. KG	Deutsche Bank, Citigroup	20.4%
Kabel BW GmbH & Co. KG	Cable Partners Europe	10.7%
Iesy Hessen Gmbh & Co. KG	Apollo Management, Pequot Capital Management	6.0%

* Market share calculations based on company data 2003.

2.5 Share of Advertising revenue

The table below outlines the share of advertising revenue in the media sector.

Table DE5: Share of advertising revenue within the media sector 2002*

Media	In million Euros	Market Share in %*
Television	7,249	43.8%
Share per channel 2003 (Jan-June)** RTL ProSiebenSAT.1 ARD/ZDF	 RTL, RTL II, Super RTL, VOX Kabel 1, ProSieben, SAT.1 ARD/ZDF	**share of TV revenue in %** *44.83%* *42.19%* *4.69%*
Magazines	4,443	25.1%
Newspapers	3,719	22.5%
Radio	897	5.42%
Outdoor	499	3%
Total	16,521	0.8

*Source: PriMetica Ltd 2004, from TNS-Emnid
** Source: PriMetica Ltd 2004, from TNS-Emnid

3. Conclusions

3.1 Freedom of the Media

In March 2003, the Federal Constitutional Court rendered a judgment perceived to constitute a fundamental threat to journalistic freedom. The court found that the surveillance of telecommunications, i.e. the tracing of journalists' phone calls, did not constitute a breach of constitutional liberties as provided for in Articles 10 and 19 of the Basic Law, which guarantee confidentiality of information. The finding was made contingent on the seriousness of the case, which was to be decided on a case-by-case basis by the investigating judge who would have to weigh the freedom of the press against the efforts to fight crime, in considering whether to allow the surveillance of a journalist's communications. The decision met with strong resistance from journalists who claimed the judgment not only made their work more difficult, but also more dangerous, as informants might feel threatened by the possibility of their interactions with reporters being monitored by government authorities.

[178] Cf. http://www.heise.de/newsticker/meldung/44582.

A legislative proposal introduced by the Bundesrat in September 2003, following an initiative by the federal state of Baden-Wurttemberg, has been equally controversial among media professionals. The proposal which is intended to afford individuals better protection against unauthorised photographing in private locations, by amending the Criminal Code so as to punish infringements with prison sentences of up to two years or equivalent fines, has been criticised in a joint statement by public and private broadcasters, journalists' trade unions and the German Press Council alike.[179] Critics point out that beyond failing to properly take into account existing provisions of civil and criminal law, the current proposal uses excessively vague terminology and lacks any limitations with regard to the applicability of the proposed sanctions for purposes of reporting, thus compromising the practice of investigative journalism.

3.2 Ownership and market concerns

The most extensively debated issue concerning media ownership during the past year has been the amendment of the German Act Against Competitive Constraints that was made necessary by a change in European competition law. As part of the revision, the Federal Ministry of Economics and Labour has proposed changes to the existing regime which will significantly raise the applicability thresholds of the merger control procedure with regard to press undertakings,[180] thus allowing for greater ease of mergers between smaller publishers of magazines and newspapers and large press groups. The draft has been seen to accommodate tendencies in the German press market as illustrated by the unsuccessful Holtzbrinck take-over attempt of the Berliner Verlag referred to above (see section 1.4.2). The largely economic reasoning of the Ministry, which pointed to a structural change in the newspaper business as one of the main justifications for such a loosening of the merger regime has been widely criticised by academics and representatives of smaller and medium-sized press outlets.

Other concerns regarding media ownership relate to the cable business and the market for radio broadcasting. In the cable industry, as mentioned above (see section 2.4), current developments in the market point towards a possible consolidation in 2004. In a recent statement, the Association of regulatory authorities for broadcasting (ALM) commented upon the prospect of such a development regarding threats to competition and media pluralism emanating from renewed consolidation (which would effectively reverse the liberalisation achieved in selling Telekom's assets in the sector). This may affect competition for Deutsche Telekom's Internet services, and the close cooperation between Premiere and KDG could lead to a lack of competition in the marketing of TV services if KDG's competitors were to disappear from the market.[181] This developed further in April 2004 when KDG announced its intention to take over Ish, Kabel BW and Iesy for the sum of €2.7 billion.[182] The European Commission has returned the case to the German Competition Authority (Bundeskartellamt), while several actors in the media, including private television companies have expressed concern regarding the development of a monopoly in the provision of cable services.

Finally, while less likely to bring about serious consolidation, the German radio market(s) may well see increased participation by large press groups during the immediate future. One major player in the German media landscape who has officially announced an interest in this part of the industry is Axel Springer AG. Despite various cross-ownership limitations in place at the state level, the high profitability of radio operations compared to their relatively low production costs seems attractive to investors such as Springer who seek new business opportunities.[183] With the possible merging of local radio stations into regional ones, such a development may well see an increase in the number of radio stations similar to *Hit Radio Antenne*, two thirds of which are controlled by three of the major forces in German radio broadcasting.

Report status: the gathering of data for this report was completed on February 20th 2004 (update July 2004)

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[179] See the press release of the German Journalists Association of February 9, 2004 at http://www.djv.de/aktuelles/presse/archiv/2004/09_02_04.shtml. The joint statement is available from: http://www.djv.de/downloads/stellungnahme_presserat.pdf.

[180] According to the draft, the factor by which the annual turnover of press undertakings is to be multiplied for the purpose of determining the applicability of the merger control procedure shall be halved from 20 to 10 (cf. section 1.4.2 above).

[181] See the ALM press release of February 6, 2004, available from. www.alm.de

[182] Neues TV-Kabel-Monopol 04.04.2004 11:41 http://www.heise.de/

[183] See the *Financial Times Deutschland* of July 11, 2003, http://www.ftd.de/tm/me/1057486302436.html?nv=sl.

Greece

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Article 14 of the Greek Constitution[184] addresses the freedom of expression of citizens. It states that:

> *1. Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State.*
> *2. The press is free. Censorship and all other preventive measures are prohibited.*
> *3. The seizure of newspapers and other publications before or after circulation is prohibited. Seizure by order of the public prosecutor shall be allowed exceptionally after circulation and in case of: a) an offence against the Christian or any other known religion. b) an insult against the person of the President of the Republic. c) a publication which discloses information on the composition, equipment and set-up of the armed forces or the fortifications of the country, or which aims at the violent overthrow of the regime or is directed against the territorial integrity of the State. d) an obscene publication, which is obviously offensive to public decency, in the cases stipulated by law.*

The article further specifies the procedure regarding seizure of publications where the courts must be informed within 24 hours. Article 14 (par 5), as amended (2001) also refers to the right to reply to inaccuracies published or broadcast by the media. Article 14 (par 9) outlines the obligation for media outlets to register ownership status and information regarding the financing of the outlet, and refers directly to the prohibition of concentration of ownership (see 1.4). Article 15 states, however, that the 'protective provisions for the press are not applicable to films, sound recordings, radio, television or any other similar medium for the transmission of speech or images. Radio and television shall be under the direct control of the State. The control and imposition of administrative sanctions are under the exclusive competence of the National Radio and Television Council, which is an independent authority, as specified by law' (article 15 par 1-2).

1.2 Freedom of Information

Article 10(3) of the Constitution provides for a limited right of access to documents, requiring at least a response from authorities to requests. A Code of Administrative Procedure was adopted in 1999 and Article 5 of this provides "interested persons" with the right to access administrative documents created by government agencies. Previously the legislative framework under article 16 of Law 1599/1986 on the relations between citizen and the state, it was necessary for the person seeking information to show a specific legal interest in the documents. Now under the new legislation the applicant must show a "special legitimate interest" in order to obtain documents. The authorities or agencies must reply within one month and there are financial charges attached to the receipt of documents (similar to the Republic of Ireland). Certain documents of a secret nature will not be made available such as those relating to national defense, public order and taxation, or those relevant to discussions of the Council of Ministers or if they could harm judicial, military or administrative investigations of criminal or administrative offenses.[185]

1.3 Codes for journalists and broadcasters

The Code Of Ethics of Greek journalists, agreed in 1988[186] states (in brief) that: 1. Journalism is a function. 2. Truth and its presentation constitutes the main concern of the journalist. 3. The journalist defends everywhere and always the freedom of the press, the free and undisturbed propagation of ideas and news, as well as the right to opposition. 4. The religious convictions, the institutions, the

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[184] Greek Constitution of 1975, as amended in 2001. Available from: http://www.oefre.unibe.ch/law/icl/gr__indx.html
[185] Banisar. D (2004): http://www.freedominfo.org/survey/global_survey2004.pdf
[186] Approved on 31 October 1988 by five Greek journalists' unions: the Union of Journalists of Daily Newspapers of Athens, the Union of Journalists of Daily Newspapers of Macedonia-Thrace, the Union of Journalists of Daily Newspap ers of Peloponissos, Epirus and Islands, the Union of Journalists of Daily Newspapers of Thessaly, Sterea, Evia and the Union of Journalists of Periodical Press.

manners and customs of nations, peoples and races, as well as citizens' private and family life are respected and inviolable. 5. The primary task of the journalist is the defence of people's liberties and of the democratic regime, as well as the advancement of social and state institutions. 6. Respect for national and popular values and the defence of people's interests should inspire the journalist in the practice of his function. 7. The journalist while practising his function rejects any intervention aimed at concealing or distorting the truth. 8. The access to sources of news is free and undisturbed for the journalist, who is not obliged to reveal his information sources. 9. The function of journalism may not be practiced for self-seeking purposes. 10. The journalist does not accept any advantage, benefit or promise of benefit offered in exchange for the restriction of the independence of his opinion while practising his function.

There is additionally a Code of Conduct for News and Other Political Programmes, which was ratified by a Presidential Decree (77/2003) in March 2003. The codes are to be developed by the National Council for Radio and Television in consultation with the National Federation of the Reporters' Associations, with Advertising Agencies, and public and private broadcasters. The code will apply to all radio and television broadcasts, both free-to-air and subscription services, and is intended to protect individuals' rights and respect for public order, pluralism and democracy, within the framework of the Greek constitution (Article 15).[187]

1.4 Media Ownership Regulation

The media in Greece is regulated by several institutions. The Greek National Council for Radio and television (NCRT) is responsible for enforcing media legislation, and was established under Law no. 1866 of 6 October 1989 amended by Law no. 2683/2000. The Council ensures freedom of expression and pluralism, oversees journalism ethics in broadcasting (see above), and oversees the quality of radio and television broadcasts as set out in the Constitution. The NCRT is the only responsible body with regard to the control of media companies and the imposition of fines. Furthermore, it is the competent authority for allocating licences and to take any decision of non-regulatory character. However, the NCRT has no consultative or regulatory powers.[188] The Ministry of Transport and Communications, and the Ministry of Press and the Mass Media[189] grant licenses for terrestrial television and radio, for cable and satellite television, in consultation with the National Radio and Television Council. The ministries also regulate the printed press market. The NCRT is responsible for implementing media ownership restrictions in Greece. While the NCRT makes decisions in this area, all decisions must be checked and approved by the Ministry for the Press and Mass media.

Transparency of ownership of the media, and restriction of ownership of the media is addressed in the Greek constitution (Article 14 par 9), which calls for further legislation to regulate the media field.
The ownership status, the financial condition and the financing means of information media should be disclosed, as specified by law. The measures and restrictions necessary for fully ensuring transparency and plurality in information shall be specified by law. According to Article 1 par 17 of the Law 2328/1995, the CNRT can request information regarding the organisation and financing of radio and television stations

The capacity of owner, partner, main shareholder or management executive of an information media enterprise is incompatible with the capacity of owner, partner, main shareholder or management executive of an enterprise that undertakes towards the Public Administration or towards a legal entity of the wider public sector to carry out works or supplies or to provide services. This includes the activities of all types of related persons, such as spouses, relatives, financially dependent persons or companies.

[187] Maria Kostopoulou (2003): New Code of Conduct for News and Other Political Programmes. Published in IRIS Legal Observations of the European Audiovisual Observatory. IRIS 2003-7:10/20
[188] http://www.epra.org/content/english/index2.html
[189] Greece is the only EU country with a specific Ministry for the Press and Mass Media. The website of which provides interesting background information on the media sector.

Regarding the printed media Law 2328/95 Article 13 (Paragraphs 10-14) outlines the horizontal limits of media ownership in the newspaper industry. It provides that a physical or a legal person and his/her relatives up to the fourth degree can be holders of or participate in:

- up to two daily political newspapers (a morning and an afternoon one) issued in Athens, Piraeus or Thessaloniki.
- one daily financial paper and one daily sports paper issued in Athens, Piraeus or Thessaloniki,
- two non-daily provincial newspapers issued in different regions
- and only one Sunday publication.

1.4.1 Audiovisual Media

Law 2328/1995 provides for property restrictions in the sphere of the media, which limit the monopoly in printed and broadcasting media. Concerning the broadcast media, horizontal concentration is restricted. According to Article 1 (Paragraphs 10-12) and Article 6 (Paragraph 8) a joint stock company can have only one license for a television station and/or one license for a radio station. More specifically, concentration of more than one electronic information media of the same type is prohibited.

Every physical or legal person can participate in only one company and with only up to 25% of its capital (Law 2644/1998 has increased this limit to 40% for the pay-per-view broadcasting media (SG: 233/1998)). The same rules apply to relatives up to the fourth degree.

1.4.2 Cross Media Ownership and Foreign Ownership

Regarding cross media ownership a 'two out of three' rule exists, similar to, but less restrictive than, the French rule (two out of four). A single company or individual cannot participate in more than two media categories (television, radio, and newspapers).

The participation of foreigners (outside of the European Union) in the shareholding of limited companies with a license to broadcast free to air television or limited companies with a license to broadcast free to air radio should not exceed 25% of the total capital.

2. Main Players in the Media Landscape

Greek broadcasting, both radio (1930s) and television (1960s) were established under dictatorships, and hence were always considered to be instruments of the state. Concern over government control of the media continued after the restoration of the Parliament in 1974, whereby the constitution claimed direct control over the media by the state, and additionally opposition parties continually accused government of controlling media output.[190] Commercial broadcasting was introduced in Greece during the 1980s.

2.1 Radio

The radio sector in Greece was deregulated in the mid 1980s after the mayors of Athens, Thessaloniki and Piraeus simply announced that they would launch radio and television stations in their respective cities. As this idea began to take hold in other cities the Government responded with legislation,[191] which states that local radio stations could belong to municipalities or local authorities or to companies of which the shareholders were Greek citizens. This led to a proliferation of radio stations throughout Greece, the licensing system of which up to 2001 was still not appropriately regulated. The ministry decided to limit the number of licenses in the Athens region to 20. The end result of a complicated process, interrupted by elections, was the allocation of licenses to 20 applicants (in 2001), and the shutting down of all other stations on the pretext of there being a technical concern regarding the new airport in Athens. It is claimed that the final list of those to receive licenses was strongly influenced by the links between politics and business rather than any specific licensing

[190] Ministry of Press and Mass Media: http://www.minpress.gr/web/mmedia/2.htm

criteria.[192] Despite the attempt to control radio frequencies there are apparently still many pirate stations broadcasting throughout the country.

The Public Service radio channels ERA has seven national radio stations, two international stations (including Voice of Greece) and nineteen regional stations.[193] While there are many municipal stations the majority are now privately owned. Most of the major stations are Athens based and have developed networks with local stations.

Bouranis-Sims (2003) in investigating what she terms the *Diaplokí*: (the interplay between politicians and media owners) claims that the 'seven Greek media barons': Aristedes Alafouzos, Christos Bobolas, Socrates Kokkalis, Minos Kyriakou, Christos Lambrakis, Christos Tegopoulos, and Vardis Varinoyannis have "influenced how and why Greek radio moved in certain directions since privatization; their actions affected the kind of pluralism able to develop in Greece."

The table below outlines the Greek radio sector, in as far as information was available.

Table GR 1: Main Radio Companies

Companies	Ownership Structure*	Main Radio Stations market share	Market Share Athens **	Market share Thessaloniki **	Regional radio
ERA	Public Service	NET ERA Sport ERA 2 programme ERA 3 programme	2.6% 6.5% 4.4% 1.5% 1.9%	1.3% 2.3% 2.5% 1.1% 14.6%	19 regional stations Radio Thessaloniki Radio Athens
	Alafouzos media group	Sky 100,4 FM	13.7%		
Kathimerini SA	A. Alafouzos: 40.5% T. Alafouzos: 21.76% E. Alafouzos: 13.89%	Melodia FM	7.9%		
Lampsi FM	SBS Broadcasting: 70% Alafouzos family: 30%	Lampsi FM	12.8%		
		Sfera	13.1%		
	Minoas Kiriakos Group	Antenna Top FM Kanali 1	11%	7%	
Alpha Group	Efstathios Tsotsoros	Alpha news Alpha Sport	3.5% 1.7%		
Others	not established	Star FM Shine GALAXY Polis Village Kiss Metropolis Nitro JERONIMO GROOVY	 12.8% 4.8% 3.7% 9.1% 4.2% 3.0% 4.8%	14.6% 8.8%	

* Company websites; Athens Chamber of Commerce
** Data from Media Net Greece[194], quoting Focus research 2003.

2.2 Television

Apparently a similar pattern of deregulation (as that in the radio sector) occurred with television, when in 1988 the Mayors of Thessaloniki Athens and Piraeus began to retransmit programs received from foreign satellite channels by distributing them to the UHF frequencies in the city. The Public

[191] law 1730 in 1987
[192] See for example the discussion of J. R. Bouranis Sims (2003)
[193] http://www.ert.gr/ertae/Etaireia/Drastiriotites.asp
[194] http://www.media.net.gr

Service Broadcaster, ERT, also started retransmiting satellite channels. After elections a new government brought in legislation law (1860 of 1989) to regulate the opening of the market.

The Public Service Broadcaster has two national channels ET1 and Net, and one regional channel ET3, and also satellite channel ERT-SAT. The audience shares of ERT suffered badly with the introduction of commercial television, with currently a total share of about 15% (see table GR2).

Two very strong commercial channels emerged which have dominated audience and advertising share ever since. Antenna TV S.A. owns Antenna TV the most popular channel, which broadcasts generalist programming including news, game shows, sports, and sitcoms. The company also owns a radio station, Antenna FM, has a 51% interest in the magazine publisher Daphne Communications, and owns 86% of music firm Heaven Music. Chairman Minos Kyriakou, who founded the company in 1989, shortly after the introduction of private commercial television in Greece, and his family control about 98% of Antenna TV.[195] The company is also involved in telephone operator Auditex, Pay TV operator NetMed (now operating the only Greek pay TV system, Nova), and outside of Greece the company owns the Bulgarian Television platform Nova TV (100%):[196]

Table GR 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Market Share 2004**	Share of TV Advertising revenue 2002+
Antenna TV S.A.	Mr Minoas Kiriakos Group: 98%	Antenne 1	20.7%	31%
Teletypos S.A.	Pegasus Publications: 22,46% Tegopoulos Publications: 12,28% Lambrakis Press: 10,76% Fidelity Investment Fund – Europe: 2,95% Hellenic Investment Company S.A.: 2,89% Eurofinanciere D. Invetsissement M 2,75% Mellon Group S.A. 2.5%	MEGA	16.5%	33.4%
ERT	Public Service Broadcaster	ET1: 4.1% NET: 8.5% ET3 Regional: 2.0%	14.6%	3.9%
Alpha	Efstathios Tsotsoros	Alpha	13.4%	12.6%
Eleftheri Tileorasi S.A.	A. Couris: 18.75% G. Couris: 18.75% A. Pavlopoulou: 18.75% D. Coutra: 18.75% Public Investment: 25%	Alter	12.8%	5.7%
Star	Vardinoyiannis family (majority shareholder) Press Institution S.A.	Star	11.6%	12.1%
		Others		1.3%

*Data from Company websites; Greek Stock Exchange; Captial Link [197] Athens Chamber of Commerce
** Channel Shares average weekly 1st quarter 2004 based on data from AGB Hellas
+ Source IP (2003)

The second channel Mega television is owned by Teletypos SA, whose principal activity is the operation of a television broadcasting station and also special studios used for the production of television programs and advertisements. Teletypos SA, is however a company owned by a consortium of the major newspapers publishers in Greece (see section 2.3). It was established in 1989 by Lambrakis Press SA, ETHNOS Publications SA, C.K. Tegopoulos SA, General Greek Publishing - Mesimvrini SA (the Vardinoyannis Group), and Kathimerini SA Publishing to operate television

[195] http://biz.yahoo.com/ic/59/59189.html
[196] Media Map 2003
[197] http://www.megatv.com/tiletypos/english/default.asp and http://www.newcompanies.gr and http://www.capitallink.com

stations and produce television programs. The current ownership structure now includes just three publishing companies: Lambrakis, Tegopoulos and Pegasus. The other investors are various investment and finance companies. Teletypos S.A. also have a 40% holding in "Multichoice Hellas" (Filmnet, Super Sport, KTV) and via "Multichoice Hellas" the Groups also have interests in the digital service Nova. In cooperation with Logos Television in Cyprus the group set up Mega Cyprus Television.

The emergence of three more commercial channels Alpha (originally called Sky) and Star channel, followed by Alter finally presented a challenge to the dominance of Mega and Antenne 1. Alpha belongs to Mr Tsotsoros, and the company was involved (40%) in the second pay television enterprise Alpha Digital (see section 2.4) that closed down in 2002. The Star channel, launched in 1993 is a Greek network that belongs to the Vardinoyannis family. Mr. V.J. Vardinoyannis and Mr. T.J. Vardinoyannis are Greek nationals with multiple business activities including oil and petroleum products, shipping, banking, real state, media, hotels, and leisure.

2.3 Press and Publishing

According to the Athens Chamber of Commerce and Industry, Athens is the centre of publishing in Greece whereby the Athenian daily newspapers represent almost 95% of the daily market. Five publishing companies account for 65% of newspapers sold, 76% of total advertising revenue and 42% of newspaper advertising revenue.[198]

Table GR 3 Main publishing companies

Publisher*	Ownership*	Daily Titles**	Circulation 2003**	Market Share 2003	Sunday	Circulation 2003**	Market Share 2003
Lambrakis Press S.A.	C. Lambrakis: 50% Public: 33.5% A. Lambrakis-Simirioti: 9.% L. G.Savvidi: 6.5%	Ta Nea To Vima	77,740 52,947	29%	To Vima Tis Kiriakis	211,292	23%
Tegopoulos Publishing S.A:	C. Tegopoulos: 34.7% M. Tegopoulou: 18.7% M. Tegopolou: 18.7%	Eleftherotypia	74,615	16.5%	Kyriakatiki Eleftherotypia	190,499	21%
Pegasus Publishing and Printing S.A.	G. Bobolas Group G. Pompolas: 11.23% M. Pompolas: 32.5% F. Pompolas: 27.28% Public Shares: 28.99%	Ethnos	57,548	13%	Ethnos Tis Kiriakis	176,785	19.6%
Kathimerini Publications S.A:	A. Alafouzos: 40.5% T. Alafouzos: 21.76% E. Alafouzos: 13.89%	I Kathimerini	44,624	10%	Kathimerini Tis Kiriakis	114,714	13%
Eleftheros Typos	Press Institution S.A.	Eleftheros Typos	37,598	8.3%			
Giannis Labdas		Expresso	21,895	4.8%	Expresso Tis Kiriakis	21,041	2.3%
Acropolis		Apogevmatini	20,783	4.5%	Apogevmatini Kiriakatiki	16,152	1.79%
Total			daily press 452,409			sunday 900,082	

* Ownership information from Company websites[199]; from Capital Link Athens Stock Exchange;
**Morning and evening daily newspapers
** Average Daily circulation for 2003 from EIHEA (Athens Daily Newspaper Owners Association)[200]

Of the morning daily newspapers, the market leaders by far are the publications *I Kathimerini* and *To Vima*. There is a wide range of evening daily newspapers, the most important at the national level being: *Eleftherotypia*, *Ethnos* and *Ta Nea*. The same titles are the leaders in the Sunday market. These newspapers are published by the four largest publishing companies, three of which are major

[198] Map of the Mass Media in Greece. In *Trade with Greece*. No. 19 Nov 2000. http://www.acci.gr/trade/No19/53-59.pdf
[199] http://www.pegasus.gr/main.asp?catid=601 http://www.dol.gr/e_finance.htm
[200] http://www.eihea.gr/default_en.htm

shareholders in the second strongest commercial television channel MEGA television: Lambrakis, Togopoulos and Pegasus (see table GR2).

Lambrakis Press S.A. publishes *To Vima* (and its Sunday edition), *Ta Nea* (and a Saturday edition with an economics supplement). The company, founded in 1922 as a family business, has remained in the Lambrakis family, but grown into a multi-media company. Lambrakis Press describes it self as the largest media company in Greece, with interests in newspaper and magazine publishing and printing, in tourist agencies (affiliated companies), terrestrial television stations (MEGA), production studios and press distribution agencies. The company also has a call-centre and CRM services and operates the largest and most well known Greek-language internet portal and e-commerce operations. [201] The company publishes 16 magazines including *Marie Claire*, *Cosmopolitan* and *National Geographic*.
In addition, together with the publishers G. Bobolas Group (Pegasus), the company has formed the partnership TV Zapping S.A. (50% each) and publish the high selling weekly TV guide, "TV Zapping."

Lambrakis Press SA recently signed a letter of intent to co-operate with German publishing firm Westdeutsche Allgemeine Zeitungsverlag GmbH & Co Zeitschriftenu.Beteilingungs-KG (WAZ), 'in order to explore the possibility to develop international co-operations, within the aspect of the new and reshaping European and global communications market, entrenching and reinforcing Lambrakis Press position as the top publishing organization in Greece.'[202] It is planned that the two will set up a holding company together with Lambrakis family having 51% of the shares of the holding company will be held by Mr. Christos D. Lambrakis and the remaining 49% by the German firm.

Kathimerini SA publishes *Kathimerini* one of the oldest and most respected newspapers in Greece. Founded in 1919, it is an up-market, national daily, political and financial newspaper. According to company information approximately 60% of *Kathimerini's* readers belong to the upper social economic segment of the population and the paper is the most read by the business community. Kathimerini SA also publishes and distributes in Greece and Cyprus the *International Herald Tribune* (IHT) with the supplement English edition of *Kathimerini*. The company is also very active in the publishing business. In co-operation with other European publishing houses like HarperCollins, DK. white Star and others.[203] The company has interests in the radio sector with Melodia FM, Sky 100,4 FM and Lampsi FM. Kathimerini S.A. is also an important actor in the shipping industry through its subsidiary Argonaftis Ocean-Going Investment Co.[204]

Aside from Lambrakis Press who co-operate with the G. Bobolas Group and the A. Bakatselos Group in Northern Greece Publishing (1/3 share each), other major players in the magazine sector are Daphne (owned 51% by Antenna TV S.A., see section 2.2) and Hachette/Rizzoli, a joint venture between French publisher Hachette, Italian publisher RCS Rizzoli, and Greek publisher Pegasus.[205]

2.4 Cable and Satellite operators

There is a very under developed infrastructure for cable. The majority of Greek households rely on terrestrial reception of channels, with some receiving digital channels through aerials. Hence cable has not developed as an important distribution system (IP, 2003). With the 1995 law, the state monopoly on the installation of cables was to be split between the telecom organisation (OTE) and the state broadcaster (ERT) but also allowed a number of public service concessions and the participation of the private sector.

The prospects for DTH are greater and therefore the focus for digital television has been satellite. The Digital Satellite Television Platform, NOVA was awarded the license in 1999. It is owned by Myriad

[201] http://www.dol.gr/e_kladoi.htm
[202] Lambrakis website: Athens, July 18, 2003 http://www.dol.gr/enews/narticle.asp?nid=35
[203] http://www.invgr.com/directory_kathimerini.htm
[204] http://www.steficon.com/inv-dyn11/site/content.php?artid=87
[205] Media Map 2003

Development (40%), Teletypos, the consortium of publishing companies that owns MEGA television channel, (40%), LTV television company Cyprus (18%) and Sun Spot Leisure (2%). The TV company ALPHA started a second platform Alpha Digital in 2001 (Papathanassopoulos, 2002). Alpha closed in 2002 and its customers moved to NOVA.[206]

2.5 Advertising revenue

The following table shows the advertising revenue share between the media sectors in 2003. For a breakdown of the share of television advertising revenue (2002) see table GR2.

Table GR 4: Share of gross advertising revenue within the media sector 2003*

Media	In 000s Euros	Market Share in %
Magazines	83.3m	37.2%
Television	69.1m	30.9%
Daily Press	33.1m	14.8%
Radio	13.2m	5.9%
Other Media	24.5m	11%
Total	223.5m	

Source: figures based on data from Media Services SA, from EIHEA (Athens Daily Newspaper Owners Association)

3. Conclusions

3.1 Freedom of the Media

According to the World Press Freedom Review (2003) there was still an issue regarding the working conditions of journalists in Greece, with many having short term contracts and low salaries. They cite the situation that at the beginning of 2003 more than 500 journalists were working with short fixed-term contracts in the public broadcaster ERT. At the beginning of this year (February 2004) International Federation of Journalists reported the attempted mass arrest of leaders of the Greek journalists' trade union, following their organisation of a strike at the Avriani and Filathlos newspapers. The arrests were apparently carried out in direct response to trade union activities. The International Centre for Trade Union Rights (ICTUR) wrote to "insist that the authorities respect the principles of freedom of association, and recalls that Greece has signalled its commitment to the principles of freedom of association by the ratification of ILO Convention of 1987."[207]

In July of 2004 Greek journalists have been on strike over pay and working conditions with a two day strike on 13-14 July. The media complained that broadcasts are being used to fill up airtime during the strike and appealed for support from international journalists.[208]

Several other issues point to a lack of freedom in the media, and the presence of state or self censorship. Regarding the issue of diversity in the media and representation of minorities, the Greek media, aside from some exceptions does not score well. One example included the political party conference (of "Vinozhito-Rainbow") representing the Macedonian minority in Greece, which was cancelled due to threats and demonstrations. Apparently only media outlets such as *Eleftherotypia* and *Express* gave any coverage of the incident (World Press Freedom Review, 2003).

3.3 Ownership and market concerns

Despite the fact that media legislation prohibits the involvement of companies in more than two of three sectors (newspapers, radio and television) it is apparent that the major players in Greece have become multimedia players, with for example Antenna TV S.A. owning Antenna TV, a radio station,

[206] F.Godard, G. Bisson, M. R. Aguete (2003): European Digital Pay Television Platforms Market assessment and forecasts to 2006. Screen Digest 2003
[207] http://www.ictur.labournet.org/Interventions.htm
[208] European Journalism Centre Media News Archive, Source: (*Macedonian Press Agency/ International Federation Journalists*, July 15, 2004)

and a 51% interest a magazine publisher. Additionally many of the companies are involved in pay television and Internet services.

In outlining the development of radio Bouranis Sims (2003) points to the existence of seven important media owners some of whom are financially connected with each other, who also represent the players involved in the *diaplokí* influencing the outcome of the political approach to media legislation (see section 2.1).

The Greek media like that of many other EU states consists of several large multimedia groups, of which the shareholders include many business people from other sectors. According to the Athens Chamber of Commerce:

> "Business people now hold shares in the majority of Greek Mass Media companies and even the so-called traditional publishers are beginning to diversify and invest in new technologies, in particular the Internet, and to forge alliances both with other Greek companies and with foreign groups. There are plenty of Mass Media businesses in Greece which envisage a future in which they and other Greek companies from other sectors will benefit greatly from expansion into the Balkans and Eastern Europe, either on their own or through strategic alliances with international business group."[209]

Report status: the gathering of data for this report was completed on July 3rd 2004

[209] Athens Chamber of Commerce Publications. Map of the Mass Media in Greece. In *Trade with Greece*. No. 19 Nov 2000. P54. http://www.acci.gr/trade/No19/53-59.pdf

Hungary

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Within the Constitution of the Republic of Hungary[210] Article 61 (1) states that:

> *In the Republic of Hungary, everyone has the right to freely express his opinion, and furthermore to access and distribute information of public interest;*

and Article 61 (2), referring specifically to the press states that:

> *The Republic of Hungary recognizes and respects the freedom of the press.*

1.2 Freedom of Information

The Constitutional Court ruled in 1992 that freedom of information is a fundamental right essential for the citizen and in this context later struck down the law on state secrets, due to its restriction of the right to freedom of information. The Protection of Personal Data and the Publicity of Data of Public Interest Act,[211] which ensures access to information, is unusual in that it combines both access for the citizen to official documents, with rules regarding the protection of personal data (Banisar, 2003:35). The Act lays out the system for access to information relating to the activities of government authorities (except for personal information). All agencies are expected to respond within 15 days to requests, and to develop a system for general access to, and publication of, information about their work.

1.3 Codes for journalists and broadcasters

A Code Of Ethics has been established by the National Association of Hungarian Journalists (MUOSZ).[212] The objective of the code is to preserve and promote ethical and honest journalism within the framework of human rights, democratic public life and the constitutional state. The Code is compulsory for the members of MUOSZ. The code states (in brief) that journalists: have the right to obtain information, to publish, and to criticise; must respect the constitutional order of Hungary; must not violate human rights, incite hatred and the infringement of lawful rights against peoples, nations, nationalities, denominations and races; shall act with special care in matters concerning human rights, human personality and dignity and the reputation of private individuals and legal entities. Journalists are obliged to: respect the organisations and persons that provide information, and those subject to media reports; to check the facts and data, and to publish them in a manner which is faithful to the facts; avoid plagarism; deal with the criticism and complaints of viewers or subjects of journalism. The code further outlines potential violations of the code and the functioning of the Ethical Committee. The committee performs the role of an intermediary in cases of complaint or supposed violation of the code, and may respond with certain sanctions: warning, censure, strict censure, suspension of membership rights for not more than one year, or exclusion from the profession.

1.4 Media Ownership Regulation

The media in Hungary is regulated by several organisations. The National Radio and Television Commission (ORTT) is responsible for the broadcasting sector regarding licensing, broadcasting agreements and monitoring of content. The National Communications and Information Council perform an advisory role for the Government on media policy including EU media regulation. The National Communications Authority has responsibilities for the telecomunnications and cable and satellite sectors. Important laws include the Hungarian Law on Radio and Television (1996) and the Act on the Prohibition of Unfair Market Practices. A consolidated Act on Communications was adopted in 2001 (largely in order to conform with EU communications legislation) and addressed

[210] Constitution of the Republic of Hungary, http://www.kum.hu/Archivum/Torvenytar/law/const.htm
[211] Act LXIII OF 1992 : http://www.obh.hu/adatved/indexek/AVTV-EN.htm
[212] Available from the International Journalists Network: http://www.ijnet.org/

issues such as the development of the Information society and the liberalisation of the telecommunications market.

1.4.1 Audiovisual Media

Hungary's Law on Radio and Television (1996) introduced the regulatory framework for a dual broadcasting system, converting the state broadcasters into a public service system. The law also established the ORTT, it's governance and remit.

The law contained specific anti-monopoly clauses regarding the market for commercial broadcasting. Broadcasting entities must have a minimum level of ownership by Hungarian citizens: natural persons with Hungarian citizenship residing in Hungary and legal entities seated in Hungary shall hold at least twenty-six percent of the voting rights in a company limited by shares with national broadcasting rights.[213] Any single enterprise may hold a maximum of forty-nine percent of the voting rights in a company limited by shares performing terrestrial television broadcasting without being connected to the national network (including the sum of direct and indirect shares) (section 122, par 2). Within the Board of Directors of a broadcasting company the majority of the members (in the case of non-profit broadcasters, the majority of managing directors) shall be Hungarian citizens residing in Hungary (section 122, par 4).

There are limitations on the types of organisations who may control a broadcaster: the voting shares in a limited company performing national and regional broadcasting may not be held by a foundation (Section 122, par 5). On the other hand a non-profit-oriented broadcaster may acquire other broadcasting rights, but only when they are also operated in the context of a non-profit-oriented broadcaster (section 127, par 1). Aside from specialised broadcasters, broadcasters with national broadcasting rights and those holding a controlling share therein may not acquire a controlling share in another enterprise performing broadcasting or broadcast transfer (section 23, par 1).

At the regional level there are certain restrictions regarding the extent of involvement a company can have in the market: a regional or local broadcaster may not acquire a controlling share in another regional or local broadcasting enterprise falling within the area of reception of its own broadcasting. There are certain exceptions to this where: a maximum overlap of twenty percent between the areas of reception of the two broadcasters exist; or following a license tender, an amount of unused broadcasting time remains (section 124, par 1). In the case of regional or local broadcasting performed through a cable network, the number of channels to be used by a single broadcaster is subject to restrictions.

A party holding a controlling share in a broadcast transferring enterprise may not acquire a controlling share in another broadcast transferor. Those holding a controlling share in a newspaper distributing enterprise may not acquire a controlling share in a broadcasting or broadcast transferring enterprise, and vice versa (Section 126, par 1 and 2). The Act provides specific criteria for measuring 'controlling share' which involves the assessment of both direct and indirect shares in a company: the total of which provides control in excess of twenty-five percent of the pecuniary or voting rights, and the direct and indirect ownership shares of close relatives (as defined in Section 685, paragraph b of the Hungarian Civil Code) shall also be considered (section 127, par 4).

Regarding cable, any single cable operator is prevented from controlling more than 1/6 of the cable market. Given the desire for consolidation in the cable market, there is currently a drive to amend this restriction (CIT, 2003:163).

1.4.2 Competition Policy and Mergers

Reference is made within the Law on Radio and Television to the Act on the Prohibition of Unfair Market Practices concerning mergers and acquisitions. Any merger or acquisition which leads to the

[213] Law on Radio and Television (1996) section 122 (1)

accumulation of an influence on the market as defined in the Law on Radio and Television Act (above) may not be authorized i.e. if it results in the infringement of the provisions contained in the media law (section 127, par 3). Hence, there is a requirement for competition policy to note the restrictions within media law regarding ownership.

1.4.3 Cross Media Ownership and Foreign Ownership

Individuals or companies who have a controlling share, or have publisher's or founder's rights in a daily newspaper with a nationwide circulation, (or in a weekly newspaper with a nationwide circulation, other than a weekly listing television and radio programmes) may not acquire a controlling share in a broadcaster or broadcast transferor operating with national broadcast diffusion, without being connected to a network, and vice versa. (section 125 par 1 and 2).

Individuals or companies having a controlling share, publisher's or founder's rights in a daily newspaper with a regional circulation, the number of copies of which sold daily reaches ten thousand may not acquire a majority share in a broadcaster or broadcast transferor, the reception area of which overlaps with eighty percent of the distribution area of the newspaper, and vice versa (section 125, par 3). Exceptions to this, where someone may acquire a less than majority ownership include: if another local or regional broadcaster or broadcast transferor covering at least seventy percent of the given area of reception is already in existence (section 125, par 4). The amendment (of 1999) to the Telecommunications Law forbids any company that provides telephone services, from having a majority controlling stake in a cable company (CIT, 2003:163). These restrictions, on companies with interest in a television channel also having significant interests in a national daily newspaper, posed problems for Bertelsmann in 2001. At this time the ORTT required Bertelsmann to divest its interests in either the TV channel RTL Klub, or in the popular daily newspaper Nepszabadsag.

Regarding foreign ownership (as mentioned under section 1.4.1 above) a minimum of 26% the shares of a broadcasting company are required to be owned by Hungarian citizens and residents. Any entity may own up to 49% of the shares of a company. This limit is apparent (see table HU 2) in relation to the shares of SBS in TV2 and those of the RTL Group in RTL Klub.

2. Main Players in the Media Landscape

2.1 Radio

The Public Service Broadcaster Magyar Rádió Rt broadcasts three national stations (with a combined audience reach of 32.9%) and operates ten regional studios. There are two major national broadcasters in the commercial sector: Danubius and Slágerrádió with a recent audience reach of 28.1% and 27.8% respectively. Danubius Radio (formerly owned by the UK GWR) was taken over by Advent International (a US private equity corporation) in May 2003 along with local Budapest station Roxy and the Danubius Sales House (media sales).[214]

Slágerrádió is owned by the Hungarian subsidiary of the US company Emmis International (75%) and the Hungarian media company of Credit Suisse First Boston.[215] Emmis International is involved in radio, television and publishing in the US, and in radio in Argentina, and has 9 local radio stations in Belgium.[216] Juventus is owned by the Metromedia International Group, a US holding company owning interests, (through wholly owned subsidiary Metromedia International Telecommunications, Inc.) in communications and media businesses that operate in Russia, the Republic of Georgia and several other European countries.[217] The Group entered radio broadcasting with the acquisition of Juventus in 1994. There are, additionally, numerous local stations, both commercial and public service, and nonprofit and community radio throughout Hungary.[218]

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214 Advent International company report on company website: http://www.adventinternational.com
215 http://www.magyarorszag.hu/angol/orszaginfo/kultura/sajto/sajto_a.html
216 http://www.emmis.com/av/pdf/2003-emmis_annual_report.pdf
217 http://www.metromedia-group.com/index-fla.html
218 Media Landscape Hungary: European Journalism Association website: www.ejc.nl

Table HU 1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Audience Reach 2003**	Regional radio
Magyar Rádió Rt	Public Service Broadcaster	Kossuth Petofi Bartok	20.6% 11.1% 1.2%	10 regional studios
Danubius	Advent International Corporation (US)	Danubius	28.1%	Roxy (Budapest)
Slágerrádió	Emmis International USA 75% Hungarian subsidiary of Credit Suisse First Boston n/a	Slágerrádió	27.8%	
Juventus	Metromedia International Group US	Juventus	,,7.8%	

*Information from company web sites
**Audience Reach 4th Quarter 2003. Source: Szonda Ipsos, courtesy of the Hungarian Radio and Televison Commission

2.2 Television

With the Hungarian Law on Radio and Television (1996) the state broadcasters began the transition to Public Broadcasting system, and the first private television licenses were issued in 1997, with local broadcaster licenses issued in 1997-98. The Public Service Broadcaster MTV operates two channels: MTV1 (free to air) and MTV2 (available on cable and satellite). MTV1 had a 15.5 % average audience share in 2003. According to various reports and studies (for example Bajomi-Lázár, 2003 and Kaposi, 2002) MTV is frequently threatened with financial difficulties, and also political pressure as governments continually see the channel as a tool for exerting political influence. The channel's status as an independent public service broadcaster is not fully established. The channel is financed through taxes and some advertising. Duna TV is a third public broadcasting channel.

Table HU 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Average Market Share 2003**
TV2	Scandinavian Broadcasting Systems 49% MTM Kommunikációs rt 38% Tele-München Fernseh GmbH and Co 12.5%	TV2	29.7%
RTL Klub	RTL Group 49% Matáv Rt.	RTL Klub	29.3%
MTV	Public Service	MTV1 MTV2 (cable)	15.5% 2.1%
VIASAT 3	Modern Times Group Sweden	Viasat 3	2.4%
DUNA TV	Public Service television (satellite)	Duna TV	1.7%

* Information from company websites
**Source: Hungarian Radio and Television Commission

There are two strong commercial channels: TV2 and RTL Klub (with audience shares in 2003 of almost 30% each). The main shareholder in TV2 is SBS Broadcasting (a US owned Luxembourg based company, see also Belgian and Swedish reports) who have a 49% share, the Hungarian MTM Kommunikációs Rt (with a 38% share) and the German Tele-München Fernseh GmbH and Co (12.5% share). Viasat 3 is a free to air channel operated by the Swedish Modern Times Group, MTG (owned by a majority of financial investors) with television interests internationally (Baltics, Scandinavia, Eastern Europe, see also Swedish, Finnish, Estonian, Lithuanian and Latvian reports).

2.3 Press and Publishing

According to Kaposi (2002) there are approximately 10 national and 24 bcal daily newspapers, the majority of which are foreign owned, as a result of lack of national capital for investment with the opening of the market (see also report on Poland). The best-selling daily newspaper is the tabloid *Blikk* owned by Ringier (through its Hungarian subsidiary) and the best selling quality newspaper is

Népszabadság (in which Ringier Switzerland also has a 49.9% share). Ringier additionally has two other daily papers: *Magyar Hírlap* and *Nemzeti Sport*. The second major daily paper *Magyar Nemzet*, is published by the Hungarian company Nemzet Lap- és Könyvkiadó Kf. (current circulation figures for this paper are not available).

Table HU 3: Main publishers of daily newspapers

Publishing companies	Ownership Structure*	Main Titles Daily	Circulation 2003**	Weekly or Business circulation	Regional/ local press
Népszabadság RT	Ringier Switzerland (through subsidiary B.V. Tabora, Amsterdam) 49.9% Free Press Foundation, Hungary 26.5% Bertelsmann+ 17.7% Association of the Workers of Nepszabadsag 5.4%	Népszabadság	182,485		
Ringier Hungary	Ringier Switzerland	Magyar Hírlap Blikk Nemzeti Sport	35,435 226,895 88,547		
Nemzet Lap- és Könyvkiadó Kf		Magyar Nemzit			
Axel Springer Verlag	through subsidiaries			Vasárnap Reggel 161,321 Világgazdaság 13,334	10 titles total circulation 244,553***
Westdeutsche Allgemeine Zeitung	see German report under publishing				5 titles *** 228,391
Funk GmbH					3 titles
Associated Newspapers / Northcliffe Newspapers Hungary	Daily Mail and General Trust, UK	The Budapest Sun			3 titles Kisalföld

* Ownership structure information: Szövérfy Milter (2002) (for Népszabadság) and European Journalism Centre: Hungarian media landscape (2002), The Media Map 2003, and from company websites
** Circulation figures from Hungarian circulation audit bureau: http://www.matesz.hu/
***Figures from 2003 from Company report of Axel Springer, and from company report of WAZ Group
+ Bertelsman has recently been required to divest/reduce its interests in the press sector.

In the local press sector a monopoly situation exists in most regions with the majority of papers being foreign owned (Kaposi 2002). The German company Axel Springer Verlag is a major player in this sector with a total of ten titles[219] (and a total circulation in 2003 of 244,553) in which ownership shares vary from 93 to 100% (EFJ, 2003:34). They additionally publish the weekly papers *Vasárnap Reggel* and *Világgazdaság*. Axel Springer is also a major player in the magazine sector in Hungary with 16 titles. Other major foreign players in the magazine sector include the Finnish company Sanoma Magazines Budapest and the Swiss company Marquard Media AG (EFJ, 2003: 35-36). Other German players in the local press sector include the WAZ group with five regional daily newspapers: *Naplo, Zalai Hirlap, Vas Nepe, Fefer Megeyei Hirlap*, and *Dunaujvarosi Hirlap*.[220] The German company Funk GmbH has three local newspapers, while the UK newspaper group, the Daily Mail and General Trust (through Associated Newspapers/ Northcliffe Newspapers Hungary) have three local titles (see also UK report regarding DMGT). Associated Newspapers also publish the English language title, *The Budapest Sun*. This company has business and publishing interests all over the world with its flagship publication being the *Daily Mail* in the UK. Northcliffe Newspapers is the regional wing of Associated Newspapers (operating their regional interests in both the UK and Hungary).[221]

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[219] Company report of Axel Springer, http://www.asv.de/inhalte/pdf/geschber/03/gb_03_gesamt.pdf
[220] company report of WAZ Group http://www.waz.de/waz/waz_media/ungarn04.pdf
[221] http://www.budapestsun.com/company_info.asp

2.4 Cable and Satellite operators

The Hungarian cable industry, while available to over half of the households, is still in the process of updating the old infrastructure (CIT, 2003:133). Despite the restrictions (outlined in section 1.4.1) of a single company not having control of more than 1/6 of the market, there has been some consolidation in the industry. The major player in the cable market is the Hungarian subsidiary of UPC (see also reports on Belgium, France, the Netherlands, Poland and Sweden) which itself is partly owned by Liberty Media (who are strong players in the Irish and UK markets, see relevant reports). Microsoft has an interest of approximately 7.8 percent in UPC. UPC Hungary has ownership interests in 19 existing Hungarian cable television systems located in different cities throughout the country, including Budapest, Miskolc, Debrecen and Pecs.[222] Matavkabel TV is partly owned by Matav Rt. (the Hungarian Telecommunications Company, in which Deutsche Telekom have a 59.3% share) and by Hungaria Allianz AG, and is the second major player in the market. As a new restriction (amendment to the telecommunications act) was introduced preventing companies offering telephone services from having a controlling stake in a cable company, Matav Rt. divested shares to Hungarian Allianz AG. Fibernet Communications is owned by a group of US and Dutch investors, the most significant being the Argus Capital Group. The Argus Capital Group was set up sepcifically to invest in central Eastern Europe and the investors are from North America, Western Europe, the Middle East and Far East.[223] EMKTV Kft since its creation, through the merger of six cable companies in 2000, has also become a major player in the cable market.

Table HU 4: Main cable and satellite companies

Company	Ownership Structure*		Subscribers 2002**
UPC Magyarorszag,	United Pan-Europe Communications (UPC N.V.) (UnitedGlobalCom) First Hungarian Fund	79.25 % 20.75 %	686,900
Matavkabel TV	Matav Rt. Deutsche Telekom Public Stake Hungaria Allianz AG	 59.53% 40.47%	339,000
Fibernet Communications	American and Dutch investors, mainly Argus Capital Group		200,000
EMKTV Kft.	n/a		120,000

* Company websites and other reports (Communication Authority, Hungary, 2003)
** Hungarian Cable Communications Association, quoted in Primetrica (2004)

2.5 Share of Advertising revenue

The table below outlines the share of advertising revenue in the media sector.

Table HU4: Share of advertising revenue within the media sector 2002*

Media	In million HUF approx	Market Share in approx.%
Television	185,000	62%
TV2	TV2	57%
RTL Klub	RTL Klub	34%
Viasat	Viasat	3%
MTV1	MTV1	3%
Newspapers	40,000	13.5%
Magazines	39,000	13.1%
Outdoor	19,000	6.4%
Radio	12,500	4.2%
Other	20,000	6.7%

*Source: PriMetica Ltd 2004, from Mediagnozis

[222] http://www.factbook.net/countryreports/hu/hu_cablemkt.htm
[223] http://www.arguscapitalgroup.com/english/about.html
[224] http://www.arguscapitalgroup.com/english/about.html

3. Conclusions:

3.1 Freedom of the Media

Concerns have frequently been expressed regarding the independence of the Public Service Broadcaster MTV, particularly as its unstable financial situation leaves it at the mercy of whatever government is in power, with the political actors frequently using the broadcaster as a tool in the manipulation of public opinion, described as the 'media war'. One problem that this has led to over the years is 'pro-government bias' on public service television (see Bajomi-Lázár, 2003). Additionally, part of this problem lies in the selection of the board of trustees of the public service broadcaster to which opposition parties are seldom included (International Helsinki Federation 2002, Bajomi-Lázár, 2003)

Bajomi-Lázár (2003) in his study on freedom in the Hungarian media suggests that the late adoption of legislation in the area is another factor which contributes to the lack of media freedom, and uncertain status of the PSB. There has been a need for new legislation in the field, and recently some new proposals have been made regarding a new media act. The policy paper addresses some of the following issues:

- the institutional structure of public service broadcasting and media supervision;
- the regulation of commercial and non-profit broadcasting;
- advertising and sponsorship;
- cable networks as a means of programme distribution;
- matters of cross-ownership and media concentration;
- digital broadcasting.[225]

3.2 Ownership and market concerns

Regarding the proposals for a new media act (mentioned above), recommendations are made to abolish certain provisions from the Broadcasting Act. This would include liberalising the cable market (as mentioned in section 2.4), suggesting that as cable operators do not produce content, they cannot endanger media pluralism. Apparently, the document has caused a good deal of public debate with critics suggesting that proposals to change the system of licensing 'could increase the danger of political influence on the media,' and also that the document does not 'attempt to define the public service remit, and the proposed system of financing these broadcasters would not reflect the actual tasks of these institutions.'[226] The European Federation of Journalists (2003) notes the strong presence of foreign actors in the media sector (which is apparent here in radio, television, publishing and cable). While a librealisation of the cable market would perhaps benefit the development of infrastructure, it is apparent that currently the strongest players in this sector are also essentially foreign owned. In the press sector, job security, social protection and and levels of pay for journalists are further issues affecting the profession, (EFJ, 2003:38).

Report status: the gathering of data for this report was completed on April 30th 2004

[225] Márk Lengyel (2003): Publication of a Concept Paper on a New Media Act. Published in IRIS Legal Observations of the European Audiovisual Observatory.IRIS 2003-10:8/14
[226] Ibid

Ireland

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The Freedom of Expression is enshrined in the Constitution of the Republic Of Ireland under Article 40, paragraph 6.1° i which states:

> *"The right of the citizens to express freely their convictions and opinions. The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State. The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law".*[227]

1.2 Freedom of Information Act 1997[228]

The Act was introduced to ensure more openness of governmental and state bodies regarding access to information. However, the Freedom of Information (Amendment) Act in July 2003 introduced financial charges for access to information/ documents etc. and has been criticised by many (including national journalists, the European Federation of Journalists, civil liberties groups and many politicians) as undermining openness and transparency.

1.3 Code of conduct for Journalists

The National Union of Journalists[229] has a code of conduct for its members. The code requires (in brief) that journalists: maintain the highest professional and ethical standards; defend the principle of the freedom of the Press and other media; ensure that the information they disseminate is fair and accurate; rectify promptly any harmful inaccuracies; obtain information, photographs and illustrations only by straightforward means; do not intrude into private grief and distress; protect confidential sources of information; shall not accept bribes; shall neither originate nor process material, which encourages discrimination; shall not take private advantage of information gained in the course of their duties, before the information is public knowledge; shall not endorse by advertisement any commercial product or service. Ireland currently has no Press Council (see 3.1).

1.4 Media Ownership Regulation

Several authorities are involved in the regulation of the media in Ireland. Regarding media ownership, the Broadcasting Commission of Ireland (BCI) pays attention to market structure and pluralism (regarding the issue of licenses to broadcasters). The Ministry of Communications, Marine, and Natural Resources is responsible for policy on Public Service Broadcasting (and as such the remit and funding of PSB, and programme making funding), while the Ministry of Enterprise, Trade and Employment has overall responsibility for issues regarding the market and competition. The Competition Act of 1991 established a Competition Authority who (since the Competition Act of 2002) regulate, in co-operation with the Ministry and in consultation with the BCI, mergers in the media industry.

1.4.1 Audiovisual Media

The Radio and Television Act 1988 established the Independent Radio and Television Commission (IRTC) as the regulatory authority overseeing the independent broadcasting sector in the Irish Republic and the body responsible for awarding broadcasting licenses. Given that, aside from the

[227] The Constitution of Ireland: Retrieved from http://www.oasis.gov.ie/government_in_ireland/the_constitution/
[228] Retrieved from Irish Statute Book: http://www.irishstatutebook.ie/front.html
[229] The National Union of Journalists of Britain and Ireland http://www.nuj.org.uk

Public Service television channels, there is to date only one domestic commercial television channel, the work of the IRTC has focused mainly on awarding licenses for radio.

Before 1988 radio in Ireland consisted of the PSB stations and a large number of Pirate (un-licensed) radio stations, which indicated the need for diversity of broadcasting and, also for local content and services. A philosophy of local ownership and content was the basis of early development in the market. Later, a balance was required between ensuring the local requirements, and allowing a certain amount of cross-regional ownership for economies of scale (Callanan, 2003). Before the second Broadcasting Act of 2001, the IRTC, when awarding contracts, took into account the effects on the market and on pluralism of their decisions based on the relevant sections of the Radio and Television Act 1988.[230] The stipulations required that they would prevent any person, or group of persons, from having control of, or substantial interests in, an undue number of sound broadcasting services, and any person, or group of persons, to have control of, or substantial interests in, an undue amount of communications media. The rules are that in any one sound broadcasting service contractor, a single interest could not exceed 46%. This ownership limit is restricted to 27% if that single interest is deemed to be a 'Relevant Person' or 'Media Operator'.[231]

The Broadcasting Act of 2001 changed the remit of, and renamed the IRTC as the Broadcasting Commission of Ireland (BCI). The Act was concerned with organising a system for the establishment of Digital Terrestrial Television (DTT) and allowed the new BCI to introduce new commercial television services (and also local and community television). The BCI changed the restrictions on any single investor from holding more than 15% of the complete system. A company may, if circumstances permitted, hold up 25% of the system, but this would have to be specifically justified to the Commission. Over 25% would be "unacceptable." In terms of cross media ownership and concentration the BCI reviews each application on a case-by-case basis. In determining concentration it uses the capital share/broadcasting license models in the context of the number of licenses and the limits on capital shares in a number of broadcasters. The audience share model is applied as a measure for determining the undue amount of communications media in a specified area.[233]

The PSB RTÉ has had an internal system of regulation (content). In December 2002 the Minister for Communications announced that he intends to create a new structure for regulation, and a new Broadcasting Authority (incorporating the BCI), which will regulate both public and private sector media. New legislation is expected in the near future and may include a new procedure for licensing.

1.4.2 Competition Policy and Mergers

The Competition Act of 2001 recognised the specific case of media companies within the regulation of competition. The Competition Authority is informed of any intended merger between media companies, and notifies the Minister. Mergers are assessed within the general criteria of distortion of competition. Specifically, for media mergers the Authority will also examine a.o. the extent to which ownership or control of media businesses in the State is spread amongst individuals and other undertakings; the extent to which the diversity of views in Irish society is reflected through the activities of the various media businesses in the State, and the share in the market in the State of any ''media business'' held by any of the undertakings involved in the media merger.[234] Decisions are taken in close co-operation with the Minister. No particular percentages are stated in the Act with respect to market shares. Cable operators and other transmission systems, but not the Internet, are included as 'media businesses.'

[230] Sections 6(2)(g) and (h) of the1988 Act
[231] "including broadcasters; cable operators; broadcast production companies; advertisement production companies; newspapers, magazines; advertising agencies; communications and telecommunications enterprises; political parties and public representatives; churches; and nationals from outside the European Union". Broadcasting Commission of Ireland(2000) Ownership & Control Policy Statement. Retrieved from: http://www.irtc.ie/ownpolicy.html
[232] ibid
[233] ibid
[234] Competition Act, 2002: Part 3 Mergers and Acquisitions: Source: http://www.irishstatutebook.ie/front.html

1.4.3 Cross Media Ownership and Foreign Ownership

There exist some cross-media ownership restrictions as noted above (section 1.4.) which limit what is decribed as a 'media operator'(including publishers, cable operators, production companies, etc.) from having more than 27% share in a broadcasting company.

Additionally, the BCI, takes into account the structure of the market when making licensing decisions (in relation to broadcasting, not press), and when arbitrating any change in the shareholding of independent broadcasting companies. Additionally, the Competition Authority, when examining media mergers (in cooperation with the BCI (regarding broadcasting) and with the Ministry) also takes into account any potential impact on the competitiveness of the market. However, the lack of specific legal restrictions in the past has allowed the development of some major players, notably Independent Newspapers (see 2.3). There are other examples of cross-ownership between the print, the audiovisual and the online media in Ireland. The main instances are the shareholdings in seven local commercial radio stations by some local/regional newspapers (CIT, 2003:184).

There are no legislative restrictions on foreign ownership of Irish newspapers and limited restrictions regarding Broadcast media. An applicant for a Broadcasting license must be from an EU member state (or have their place of residence or registered office within the EU). The details of major foreign interests in the Irish media are indicated under section 2. There are, however, significant regulations in relation to content which are enforced on all broadcasting company owners, whether national or external, by the BCI.

2. Main Players in the Media Landscape

Ireland's media landscape is influenced by historical and geographical relations with the United Kingdom, with an increasing penetration of the market by UK titles and interests (Dinan, 2001). British terrestrial television channels are available to, on average, 70% of the population, mainly through cable services. There are also a wide range of UK based newspapers available in Ireland. The domestic television channels retained in 2003 an audience share of 54.4% (45.1% on multi-channel platforms).

2.1 Radio

Radio is a more popular medium in Ireland than in most European countries with 88% of the population claiming to listen on a daily basis. From 2002 there were 43 licensed commercial radio stations, 1 national, 23 local private, 14 community and two special interest, with all local radio being private (CIT, 2003:186) and the national Public Service Broadcaster RTÉ running three public service radio stations. The one national commercial radio station, *Today FM*, is 100% owned by Scottish Radio Holdings (UK), who also have three regional press titles in Ireland. [235]

The three PSB stations have a combined average market share of 44%. The commercial channel has an average market share of 10%. Local radio is also very popular with the local stations having, on average, 44% of market share.[236] Ulster Television (UTV, owned partly by CanWest) owns three Republic of Ireland independent local radio contractors. The majority of local radio licenses are owned by local consortia usually consisting of a mixture of individuals, companies, community groups, local Government and religious groups. There is no indication of any concentration of, or major cross-regional, ownership in the local/regional radio sectors.[237]

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[235] Scottish Radio Holdings Annual report 2003: http://www.srhplc.com/prereleases/AnnualReport2003.htm
[236] Figures for 2002-2003 from the Broadcasting Commission of Ireland: Joint National Listenership Research. Retrieved from: http://www.bci.ie/listen_figures/listen.html
[237] Based on data from the Broadcasting Commission of Ireland.

Table IE 1 Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Total Market Share**	Regional Market Share (local region)
RTE	PSB	Radio 1, 2FM, Lyric FM	42%	
Scottish Radio Holdings (UK)	EMAP: 27%	Today FM FM 104	9%	FM 104
UTV	CanWest 29.9% %	Cork 96FM/ County Sound 103 FM/ Radio Cork Limerick's Live 95FM	n/a	51% (Cork)
Others	Other licenses are held individually by local consortia of individuals, companies etc.	22 Local/ community licenses I regional	41%	

* Ownership structure from information in company reports
**Market share, January-December 2003, BCI/JNLR http://www.bci.ie/listen_figures/listen.html

2.2 Television

The Public Service Broadcaster RTÉ provides two channels (and co-operates with the Irish language PSB TG4). Ireland's first domestic private channel, TV3 was launched in 1998. Currently CanWest and Granada Media Group each have a 45% stake in TV3[238] (other owners include venture Capitalists ACT and some Irish investors). CanWest also has a stake in Ulster TV part of the (UK) ITV network (and is a major cross-media enterprise in Canada incorporating regional press, publications and local television as well as production, distribution and Internet interests).[239]

The Granada Media Group is a major production company and owns seven ITV franchises in the UK (has merged with Carlton UK, resulting in the creation of ITV plc a single ITV company with the exception of 3 other franchises, see UK report). In 2002 the Public Service Broadcaster channels RTE and Network 2 retained the top position with an average audience share of 46% (combined) and TV3 had an average share of 13%.[240]

Table IE 2: Main Television Companies

Broadcasters	Ownership Structure	Main TV Stations	Total Market Share*
RTE TG4**	PSB PSB	RTE1, Network 2 TG4	38.1% 2.9%
TV3	CanWest (Canada) 45% Granada Plc (UK) 45% Consortium 10%	TV3	13.4%
UK based channels			
BBC	PSB UK	BBC1, BBC2	12.1%
UK commercial and other	(see UK)	UTV, C4, E4, Sky 1, Sky news, other	33.5%

*Market share based on Channel share figures 2003 AC Nielson, http://www.medialive.ie
** TG4 is a public service channel, not part of RTE, but RTE supplies some programming

[238] Granada Plc Annual Report and Accounts 2002: retrieved from:
http://www.granadamedia.com/cybersword/dotcom/section.asp?section=INVE&doc_id=2224
Canwest website: http://www.canwestglobal.com/television.html
[239] From Columbia Journalism Review: America's Premier Media Monitor. http://www.cjr.org/tools/owners/
[240] Television Business International Key Facts 2003. Published by IP Köln (p.155)

2.3 Press and Publishing

In Ireland there are four national dailies and two national evening newspapers, five national Sunday newspapers, around fifty regional and twelve local newspapers (and many free newspapers). One of the major daily papers is the *Irish Times*, owned by the Irish Times Trust.

The top selling daily newspapers and the two top selling Sunday papers are owned by Independent Newspapers (Ireland) Ltd, the leading newspaper publisher in Ireland, with the *Irish Independent*, *Sunday Independent*, *Evening Herald*, *Sunday World* and *The Star*, all market leaders in their segments. In addition to the five national titles, the Group publishes eleven local newspapers in counties Cork, Kerry, Dublin, Louth, Wexford and Wicklow.[241]

Scottish Radio Holdings (UK, see radio section 2.1) also have three regional press titles in Ireland. Thomas Crosbie Holdings Ltd, owner of the *Examiner*, has seven regional newspapers (and a small interest in the radio sector with 20% in a local station Red FM).

Table IE 3: Main Newspaper Publishing Companies

Publishing companies	Ownership Structure	Main Titles National Daily and Evening*	Market Share*	Main Titles National Sunday	Market Share**	Regional
Independent News and Media	Independent News and Media (Ireland)	Irish Independent, Evening Herald, Irish Daily Star	**48%**	Sunday Independent Sunday World Sunday Tribune (29.9%)	**45.9%** (6%)++	11 titles
Irish Times	Irish Times Trust	Irish Times	**18%**			
Thomas Crosbie Holdings Ltd		Examiner	7.8%	Sunday Business Post	4%	7 titles
Score Press	Scottish Radio Holdings					5 titles
UK based titles			*25%+*		***30%***	

* Based on circulation of Irish titles, jan-june 2003. From http://www.medialive.ie/
** Based on circulation of all Sunday, Irish and UK based, jan-june 2003. From http://www.medialive.ie/
+ Based on total daily circulation of Ireland **and UK** titles jan-june **2002**. from http://www.medialive.ie/
++ Market Share for title, not adjusted for company interest

2.4 Cable and Satellite operators

There are two main cable companies in Ireland. In 1999 the US company NTL (France Telecom have a 17% stake in NTL International) purchased Cablelink, the largest cable operator in the state.

Table IE 4: Cable and Satellite Companies

Companies	Ownership Structure	Subscription 2002*
Chorus (Cable and MMDS)	Liberty Media International (US) 50% Princes Holdings (Independent news and media) 50%+	227,000
NTL (Cable and MMDS)	NTL (100%)	369,800 59,600 (Digital subscribers)**
BskyB (Satellite)	News Corp (35%)	245,000

* Media Map 2003
** NTL Quarterly Results September 2003. http://www.ntl.com/locales/gb/en/investors/qreport s/2003-3.pdf
+ Liberty Media registered took over the Princes Holdings 50% of Chorus, April 2004

[241] Independent News Media company website. http://www.independentnewsmedia.com/globybe.htm

The other major company is CHORUS which is 40% owned by an Independent Newspapers subsidiary (Princes Holdings).[242] The rest of Chorus (and since April 2004, all 100%) is owned by Liberty Media Corporation who among other investments holds a 50% stake in Discovery Communications, owns Discovery Channels, shares in cable companies including 20% of Telewest Communications plc U.K., and has stakes in AOL Time Warner Inc. (4%), News Corporation (24%), Viacom (1%), Vivendi Universal (4%).[243]

In 1998 BskyB (part of News Corp) launched a Digital Satellite service, which had 245,000 subscribers by June 2002. The service carries all domestic public and private channels along with Sky services and British terrestrial channels. In August 2002 cable operators NTL and Chorus called for changes in legislation to provide a level playing field in subscription television as Sky (Satellite) is not subject to Irish VAT or to regulator price controls (CIT, 2003:190).

2.5 Share of Advertising revenue

The table below outlines the share of advertising revenue in the media sector.

Table IE5 Share of advertising revenue within the media sector 2003*

Media	**Market Share in approx.%**
National Newspapers	49%
Television	17%
Share per channel 2003 (Jan-July)**	**share of TV revenue in %**
RTE/ Network 2	*62%*
TV3	*34.74%*
TG4	*2.5%*
Regional Newspapers	12%
National Radio	5%

*Source: PriMetica Ltd 2004, from IAPI
** Source: PriMetica Ltd 2004, from IAPI

3. Conclusions

3.1 Freedom of the Media

Regarding the safety of journalists, the greatest threat currently is to investigative journalists dealing with the criminal underworld and suffering violent attacks or intimidation.

Currently, there is a debate over the establishment of a press council. In Ireland, unlike most European states there is no press council or commission dealing with press complaints. Some newspapers have internal ombudsmen, but the main way of dealing with a complaint is through the courts. The outcome of this is that a large number of libel cases occur with often significant awards going against the newspapers. In January 2003, the National Newspapers of Ireland (NNI) submitted a proposal to the government for the establishment of an independent Press Council and Press Ombudsman to be composed of editors, journalists and other prominent people within the Irish media who would sign up to a Code of Standards and Press Code, making complaints easier and cheaper than with libel actions.

However, the Legal Advisory Group is pushing for a statutory model consisting of Government appointees who would draw up their own Code of Standards and have complete power of the courts to enforce those codes. In November the World Association of Newspapers (WAN) called on the government to abandon its proposals as it inhibits press freedom and sets a poor example for democracy, and urged for an independent press council instead.[244] The Irish government will decide in 2004 on this issue. A joint document agreed by both journalists and newspaper managements was

[242] Liberty Media registered their intention to take over the Princes Holdings 50% of Chorus, with the Competition Authority, February 2004, as INI plan to divest their interests in the cable industry.
[243] Columbia Journalism Review: America's Premier Media Monitor. http://www.cjr.org/tools/owners/
[244] "The Irish media will not get a fair trial in January" by C. Donoghue. Dec. 2003. http://www.indymedia.ie/newswire.php?story_id=62692

presented to the Irish Government in April (2004) recommending a body which would be independent of both media and government.

3.3 Ownership and market concerns

As indicated above (table IE3), the share which Independent Newspapers has of the market for daily newspapers is 48%, while the share in the Sunday newspaper market is almost 46%, indicating a dominance in both markets. It should be noted however that even these markets could be further sub-divided between the tabloid and the quality titles. The Competition Authority have, on several occasions, investigated the situation but concluded that the Irish newspaper industry has sufficient editorial diversity and, thus, media pluralism is not threatened. Independent Newspapers have interests across newspaper and magazine publishing, digital media and outdoor advertising in the UK, France, Portugal, South Africa, Australia, and New Zealand. Within the industry there are concerns that the success of foreign companies is facilitated by higher levels of VAT on Irish companies and thus the distortion of a level playing field (cable, see above) and also the regulation of prices for subscription TV refers only to domestic companies (see cable and satellite, above). There are also concerns regarding the competition in the market from the UK based newspapers as the production costs of the UK papers for the Irish market have been relatively marginal, enabling them to engage in predatory pricing in the Irish market. Approximately 25 per cent of daily and 33 per cent of Sunday newspapers sold in Ireland are British.[245] The best selling UK papers in the Republic of Ireland are the News International tabloid titles: *The Sun* and *The News of the World*. Several British papers have Irish editions and others have Ireland sections.

Report Status: the gathering of data for this report was completed on March 1st 2004

[245] European Journalism Centre: Irish media landscape. Wolfgang Truetzschler

Italy

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Freedom of expression is enshrined in the Constitution of the Italian Republic of 27 December 1947.[246] Article 21 states that:

> *"Everyone has the right to freely express his own thoughts in speech, writing, and any other means of communication. The press cannot be subjected to any authorization or censorship. Seizure is permitted only by judicial order stating the reason and only for offences expressly determined by the press law or for violation of the obligation to identify the persons responsible for such offences.*
>
> *In cases of absolute urgency where immediate judicial intervention is impossible, periodicals may be seized by the judicial police, who must immediately and in no case later than 24 hours report the matter to the judiciary. If the measure is not validated by the judiciary within another 24 hours, it is considered revoked and has no effect. The law may, by general provision, order the disclosure of financial sources of periodical publications. Publications, performances, and other exhibits offensive to public morality are prohibited. Measures of prevention and repression against violations are provided by law".*

1.2 Freedom of Information

Access to administrative documents is regulated in Chapter V of Law No. 241/90,[247] which lays out the system of access. A Committee on Access to Administrative Documents was also created. The Decree No. 352/92[248] on rules governing the arrangements for the exercise and for cases of denial of the right to access to administrative documents, in implementation of Article 24.2 of the Law requires "a personal concrete interest to safeguard in legally relevant situations" and provides for specific procedural rules in cases of denial, and for appeals. The right of environmental groups and local councillors to demand information on behalf of those they represent is also covered by the wording of the Decree according to court rulings (Banisar, 2003).

1.3 Codes for journalists

The profession of journalism is based on the principles of freedom of information and of opinion, enshrined in the Italian Constitution and in Article 2 of the Law No. 69/63. This Article states that: "Freedom of information and criticism are unrestrainable rights of all journalists; limited only by respect of the rules of law and the rights of others. The respect of the substantial truth of the facts is their binding obligation. All news inaccuracies should be corrected/rectified. Journalists and publishers should also respect the professional secrecy of their information sources, when this is required by their fiduciary character, and promote collaboration between colleagues, cooperation between journalists and publishers, and trust between the press and the readers".

All Italian journalists sign the Code of Ethics of the Italian Federation of the Italian Press (Carta dei Doveri). The code requires (in brief) that journalists: respect and defend the right to information and therefore research and publish all information of public interest; place responsibility towards the public above all else; can never subordinate responsibility to other interests, particularly to the interests of the publisher, the government or other State organizations; cannot use economic or financial information for his own benefit or interfere with the state of the stock market; cannot accept benefits, favours or tasks that undermine his autonomy and professional credibility; can accept suggestions and instructions from the editorial hierarchy of his newspaper, as long as they are not against the professional law, the national Italian journalist's work contract (CNLG) and the Code of

[246] Last modification: 23 October 2002, available from: http://www.senato.it/funz/cost/home.htm and http://www.oefre.unibe.ch/law/icl/it00000_.html

[247] http://www.governo.it/Presidenza/DICA/documentazione_accesso/normativa/legge241_1990_eng.html

[248] http://www.governo.it/Presidenza/DICA/documentazione_accesso/normativa/dpr352_1992_eng.html

Ethics (Carta dei Doveri).[249] Journalists have also a duty: to respect human dignity and the right to privacy, the right to presumption of innocence, all principles enshrined in the Protocol's Agreement on Transparency of Information, in the UN Convention on the rights of the child and in the "Treviso Ethic Code" (Carta di Treviso); to respect the rights and dignity of disabled people.

1.4 Media Ownership Regulation

There are certain media specific antitrust rules in the Italian legislation. The national press market is subject to limits based on circulation figures: an owner cannot hold more than 20% of the overall circulation of dailies in the national market, or more than 50% share within a single region, or more than 50% share in an interregional market (Article 3, par. 1, Law No. 67/87). Original laws (after 1996) are available at the Italian Parliament website.[250]

Regarding broadcasting, Article 2 of law No. 249/97 forbids the establishment of a dominant position. The sector is subject to two limits: based on the number of licences; and on revenue shares. In essence a single person cannot hold more than 20% of nationwide analogue terrestrial television or radio networks, which is, according to the current national frequency plan a maximum of two channels (this limit is therefore variable and depends on the number of available frequencies).[251] The same applies to nationwide digital terrestrial television or radio programmes. As regards nationwide pay terrestrial television, only one licence can be held. Additionally, a person holding a license for terrestrial television or radio or an authorisation for television broadcasting via cable or satellite cannot accumulate more than 30% of the resources of the national terrestrial television sector, the national radio sector or the national cable and satellite television sector respectively.

There are no specific provisions regarding vertical media concentration. However, regarding cross media ownership, specific limits are set between television broadcasting and the press (Article 15, par. 1, Law No. 223/90[252] and Article 2, par. 8, lit d Law No. 249/97). A single publishing company holding more than 16% of the national circulation cannot hold any television licence. If the share is more than 8% of the national circulation, then it can hold only one television licence. If the share is less than 8% the company has the right to hold up to two licences. As for advertising concessionaires they may collect up to 30% of the total resources of terrestrial television, radio or the cable & satellite sector. This is limited to 20% of the total resources of radio and television for operators who have interests in the press sector (Article 2, par. 8, lit. e, law No. 249/97).

Specific provisions have been introduced in order to preserve pluralism, transparency and competition in the digital world as well.[253] According to the Law No. 66/2001[254] no broadcaster will be allowed more than 20% of the total number of channels. The same content provider cannot broadcast programmes both at national and local level. One third of the broadcasting capacity is reserved for local content providers. Holders of more than one authorisation, or those who hold at the same time an authorisation as content provider and a network operator licence, should keep separate accounts. In addition, during the experimental phase each operator holding more than one television licence should reserve at least 40% of the frequencies to other operators under fair, transparent and non discriminatory conditions. The public service broadcaster must be granted 1 multiplex for television programmes and 1 multiplex for radio programmes.

A new draft Law on Broadcasting (Gasparri Bill) introduces considerable changes to the existing media ownership rules. More specifically, the threshold of holding a 20% share of the frequencies that have been assigned according to the frequency plan is confirmed, but reference is made to the DTT

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[249] National Federation of the Italian Press Federazione Nazionale della Stampa Italiana, Istituto per la formazione al giornalismo – Bologna, ICFJ Web Site
[250] http://www.parlamento.it/parlam/leggi/elelemat.htm
[251] Article 2, par. 6 and 8, Law No. 249/97
[252] http://www.infoleges.it/service1/scheda.aspx?service=1&id=31327&UID=F7CC713F-113E-4661-8989-1165306E5B47
[253] The switch-off from analogue to digital terrestrial transmissions is planned for the 31 of December 2006
[254] http://www.parlamento.it/parlam/leggi/01066l.htm

frequency plan. The threshold based on economic revenues is reduced from 30% to 20%, but will be calculated on the basis of the integrated communications system (total revenues from all media markets).[255] Cross-ownership limitations between television and press will be abolished in 2008. New cross-ownership rules will restrict telecom operators which collect more than 40% of the revenues of the telecommunications services market of acquiring more than 10% of the revenues of the integrated communications system.

The Bill also provides for the progressive privatisation of RAI and a change in the composition of its Board of governors (number of members and nomination). The privatisation process of all three RAI channels should start by 31 January 2004 but no one will be able to hold more than 1% of the shares.
The Gasparri Bill was returned to the Parliament by the President of the Republic, Carlo Azeglio Ciampi on 15 December 200.[256] He pointed out that there was a risk of permitting the creation of dominant positions, and of not ensuring pluralism in compliance with the jurisprudence of the Constitutional Court.

1.5 Monitoring – Decisions

The Constitutional Court was a driving force behind adoption of audiovisual legislation aimed at promoting media diversity and pluralism. Firstly, the decisions of the Constitutional Court[257] declaring unconstitutional the state monopoly of broadcasting at national and local level in connection with the absence of a television frequency plan and a legal framework, led to the liberalisation of the radio and television sector and the emergence of a great number of local television and radio stations. Despite calls by the Constitutional Court to lay down rules for the organisation of broadcasting[258], it was only in 1990 that the first law No. 223/90 (Law Mammí) was adopted which in reality just legitimised the existing status quo.

In 1994 the Constitutional Court declared Article 15 paragraph 4 of the Law 223/90 unconstitutional, as the possibility of assigning three of the nine national frequencies reserved for private broadcasters to a single operator would result in a violation of the principle of external pluralism, derived from Article 21 of the Constitution. However, it failed to provide any practical effect from this declaration as it, at the same time, dismissed a complaint against the transitional regulation on that issue contained in the Decree No. 323/93. In 1997 the Broadcasting Law No. 249/97[259] reformed the audiovisual and telecommunications system taking into account media pluralism and introduced the Autorità per le garanzie nelle comunicazioni - Italian regulatory authority in the communications sector - (hereafter AGCOM). AGCOM is an independent authority, accountable to the Parliament and its functions and responsibilities in supervising and enforcing compliance with legislation extend from the telecommunications to the audiovisual and press-publishing sectors. It is thus called "the single regulator" or "the convergent regulator". AGCOM is composed of a President (appointed by government) and eight members/Commissioners (elected by Parliament) and is structured into two Commissions (one for networks and infrastructures and one for services and products).

The two main tasks assigned to AGCOM are to ensure equitable conditions for fair market competition (application of antitrust rules in the field of communications, inquiries on dominant positions, organisation of the Registry of Communication Operators) and to protect fundamental rights of all citizens (universal service, quality and distribution of services and products, political, social and economic pluralism in broadcasting).[260] In particular in the audiovisual sector, it should determine the existence of dominant positions and verify the correct application of antitrust rules.

[255] The Gasparri Bill introduces a new concept of the so-called integrated communications system as determined by technological developments and the convergence between traditional broadcasting and other sectors such as telecommunications, publishing and Internet.
[256] Since the Gasparri Bill was not passed, the Senate approved a Decree allowing Retequattro to continue terrestrial broadcasting. The lower house will consider the decree on 27 February 2004.
[257] Judgements of the Constitutional Court, No. 225/1974, No. 226/1974 and No. 202/1976
[258] Constitutional Court Judgements No. 148/1981 and No. 826/1988
[259](Maccanico Law) http://www.agcom.it/eng/l_249_97.htm
[260] by the Law No. 249/97

The first, complete television frequency plan was approved by AGCOM in October 1998. As a result, two television channels (namely Retequattro owned by Mediaset and Telepiù Nero owned by Group Canal Plus) exceeded the antitrust limits respectively for holding more than 20% of available frequencies and for holding more than one pay-TV terrestrial licence. However, the channels were allowed to continue transmitting on their assigned frequencies on the basis of an interim ministerial authorisation but only as a transitional measure, while awaiting the development of alternative technical means of transmission. In August 2001 AGCOM decided in compliance with the law No. 249/97 (Article 3, par.7)[261] that by December 31st 2003, Retequattro and Telepiù Nero should switch from analogue to digital transmission. By the same date Rai Tre should be advertising-free.[262] A year later on 20 November 2002, this provision of the law was declared partly unconstitutional by the Italian Constitutional Court.[263] However, the Court held that December 31st 2003 was a reasonable date for the expiry of the transitional period.

The correct application of the antitrust rule on the accumulation of economic resources and the abuse of a dominant position in the communications sector (Article 2 par. 8 lit a, law No. 249/97) is monitored by AGCOM. A regulation (no. 26/99) was adopted which enables AGCOM to enforce the provisions contained in the Law 249/97. Pursuant to these legal instruments, AGCOM opened, in December 1999, a preliminary investigation aiming at ascertaining the existence of a dominant position in the broadcasting sector. In its first decision (no. 365/00/CONS), AGCOM determined that the two main Italian broadcasters and their advertising agencies (namely RAI & Sipra and RTI & Publitalia) had exceeded the thresholds in 1997, but that their dominant positions on the market had been reached as a result of the companies natural growth without restricting competition or pluralism.

Nevertheless, AGCOM started an analysis of the distribution of economic resources in the broadcasting sector in the three-year period 1998-2000. The analysis concluded in AGCOM's decision (no. 13/03/CONS, January 2003) that RAI-Sipra and RTI-Publitalia, both exceeded the thresholds established in the law. This led to an investigation to verify the effective existence of prohibited dominant positions on the market, which might impair pluralism. The Decision no. 226/03/CONS in June 2003 confirmed that RAI, RTI and Publitalia were dominant on the market and warned them to avoid unlawful acts or behaviour. A new market analysis will be concluded by 30 April 2004 on the three-year period 2001-2003 and if the situation remains the same and the conclusions of the judgment of the Constitutional Court declaring the Communications Act partly unconstitutional are not respected, AGCOM may impose sanctions on the broadcasters concerned.

1.6 Competition Policy

General competition law and cartel-law regulations (Law No. 287/90) also apply to the media sector, under the Italian Competition authority (Autorità Garante della Concorrenza e del Mercato) which guarantees competitiveness and fair market conditions. The Competition Authority is required to request a non-binding opinion by AGCOM on the draft decisions related to agreements between undertakings, abuses of dominant position and mergers and acquisitions, concerning the communications market. AGCOM has a deadline of 30 days to express its opinion. After this time the measures are implemented.[264] Conversely, AGCOM is required to request from the Competition Authority a non-binding opinion on certain issues (e.g. definition of the operators with a significant market power, interconnection offer, etc.).

Pursuant to Article 22 of the Law no. 287/90, the Competition Authority presented to the Parliament and the Government in December 2002 a report on the new Bill on broadcasting. The Authority underlined the fact that the Italian broadcasting system was highly concentrated and had high entry

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[261] Article 3, paragraph 7 of the law No. 249/97 states that AGCOM, taking into account the development of the market for cable and satellite radio and television, will set a date by which channels that are only allowed to provide terrestrial analogue broadcasting as a transitional measure, should be transmitted exclusively by satellite or cable.
[262] Delibera no. 346/01/CONS of 6 August 2001, at: http://www.agcom.it/provv/d_346_01_CONS.htm
[263] Judgement of the Constitutional Court, No. 446/2002
[264] Article 1 paragraph 6 item c of Law No. 249/97

barriers, mostly regulatory and institutional ones, for potential new entrants. Hence in order to reform the broadcasting system and reduce its excessive degree of concentration, mechanisms for the allocation of frequencies should be introduced to prevent the continuation of the current de facto situation and to comply with the principles of objectiveness, transparency and non-discrimination.

Moreover, the Authority emphasised the need for effective implementation, by 31 December 2003, of the 20% antitrust limit of holding a maximum of 20% of available frequencies, in compliance with the Constitutional Court's ruling. Regarding the calculation of the antitrust rule on advertising limits, it would be advisable to adopt antitrust methods and criteria of analysis, such as those imposed by the Community regulatory framework. With regard to the abolishment of cross-ownership limitations between television and press, the Authority stressed that it might lead to a further decrease in the number of independent communications operators in Italy, thus reducing the degree of competition in the publishing sector.

2. Main Players in the Media Landscape

2.1 Radio

Radio consumption in Italy ranks second after television. 35 million people listen to the radio every day. The public broadcasting company, RAI, operates five radio channels, i.e. RADIOUNO, RADIODUE, RADIOTRE, Isoradio and Notturno Italiano (from 12am to 6 a.m.). RAI has a strong market share in the radio sector of almost 44%. Aside from RAI, there are also 14 national commercial networks and approximately 200 local radio stations.

Gruppo Editoriale Espresso has ownership interests in three radio channels with a total market share of 20.7%. The RCS Group's radio interests includes the AGR (news agency), CNRplus (syndication of local radios) and RIN - Radio Italia Network, the national radio station with the highest share of listeners in the youth market.

Table IT 1: Main Radio Companies

Companies	Ownership Structure*	Stations Market Share	Total Market Share in 2003**
RAI	Public service	RADIOUNO 20.09% RADIODUE 13.5% RADIOTRE 5.6% Isoradio 3.9% Notturno Italiano 0.5%	43.59%
Gruppo Editoriale L'Espresso	CIR Group (holding company of De Benedetti Group) 51.1% Finegil	Radio DeeJay 14.8% Radio Capital 4.6% m2o 1.3%	20.7%
RCS Media Group	Trust composed of 11 shareholders 44.79%	RIN Radio Italia	5.08%
Finelco Holding	President: Alberto Hazan Convergenza SCA 21%	RMC Radio Montecarlo 6.17% Radio 105 Network 9.19%	15.36%
Suraci Group	President: Lorenzo Suraci	RTL 102,5 HIT Radio	11.99%

* Ownership structure based on information from: respective company websites
** Market share based on audience figures from: AUDIRADIO

2.2 Television

While Italian television offers twelve national channels and ten to fifteen regional and local channels, the market is characterised by the duopoly between RAI and MEDIASET. Both operators together account for almost 90% of the total audience share and collect 75% of the sector's resources.[265] RAI is a public-owned company, governed by a Board appointed by the Chamber of Deputies and the Senate. It is financed from both license fee and advertising. Aside from broadcasting (three channels), RAI has interests through subsidiary companies in publishing, advertising, programme sales, the recording industry and in the satellite business through RAISAT consortium.

[265] AGCOM, Annual report, June 2003, available at: www.agcom.it

MEDIASET operates three commercial channels and is involved in advertising (Publitalia '80) and record production. It also holds a 25% stake in the Spanish television broadcaster Telecinco and its advertising company Publiespaña. The main shareholder of MEDIASET with 48.36% share is FININVEST, the company owned by Silvio Berlusconi, the current Italian prime minister and his family. No other individual or company owns more than 2.3%.

The channel, La 7 emerged as an attempt to establish a "third pole" of television in Italy. The old channel, owned by Cecchi Gori was composed of TMC and the music channel TMC2 which was later sold to MTV. The new name of the channel (La 7) reflects its 7th position after the other six national channels of RAI and MEDIASET. The channel is now owned by the Telecom Italia Group through its company Telecom Italia Media which was established following the spin-off of Seat Pagine Gialle. Telecom Italia Media has also interests in the Internet and professional publishing conducted through the Buffetti chain.

Table IT 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Market Share**
RAI	Public service	RAI 1, RAI 2, RAI 3	49.50%
Mediaset	Fininvest Group 51.0% Lehman Brothers International Europe 2.3%	Canale 5, Rete 4, Italia 1	41.30%
La Siete	Telecom Italia Group	La 7	1.29%
Others			7.92%

* Ownership structure based on information from: respective company websites
* *Market share based on audience figures (9 February 2004, 6 p.m.-8.30 p.m.) from: Auditel

2.3 Press and Publishing

Despite a wide selection of daily newspapers, readership in Italy remains quite low, with the leading twelve dailies having a collective circulation of less than 3.7 million (CIT, 2003:175). The most popular dailies are undoubtedly the sporting papers.

The Gruppo Editoriale L'Espresso[266] is one of the leading media groups in Italy and has interests in publishing (newspapers and magazines), radio, advertising (A. Manzoni & C. Spa), Internet and digital TV. The group owns the national daily *La Repubblica*, the weekly *L'espresso* (one of Italy's two major weekly news magazines), 15 regional newspapers and several magazines, 3 national radio channels, the Dee Jay TV satellite digital TV channel and the Internet provider Kataweb Spa.[267]

The RCS Media Group,[268] controlled by a trust (including FIAT, Mediobanca, Gemina, Gruppo Italmobiliare, Assicurazioni Generali, Pirelli, etc.) operates in publishing, radio (RCS Broadcast) and advertising (RCS Pubblicità). The group, through its company RCS Quotidiani, publishes the leading Italian dailies *Corriere della Sera* and *La Gazzetta dello Sport* and several magazines. *Corriere della Sera* also distributes the regional supplements *Corriere del Mezzogiorno* through partnerships with local operators, and Corriere Veneto. RCS Quotidiani also has interests in the Spanish market with an 89.1% holding in Unidad Editorial, publishing company of *El Mundo*.

The Fiat Group owns the daily *La Stampa* (the Fiat Group founded Editrice La Stampa to publish the Turin-based newspaper, La Stampa in 1926). Italiana Edizioni Spa (Itedi, founded 1980) absorbed all of Fiat's publishing and communication activities. The Company operates through Editrice La Stampa Spa and sells advertising space, through Publikompass Spa.

[266] http://www.gruppoespresso.it/
[267] platform for Gruppo Espresso's Internet and new media activities and projects
[268] http://www.rcsmediagroup.it/eng/

Table IT 3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles	Total Market Share 2002**
National daily papers			
RCS Editore Spa	RCS Media Group Voting and consultation trust comprising 11 major shareholders holds 44.79% of the group's ordinary share capital	Il Corriere della Sera La Gazzetta dello Sport	8.94 6.26
Grupo Editoriale L'Espresso	CIR Group (holding company of De Benedetti Group) 51.1% Finegil	La Repubblica Il Lunedi'della Repubblica	6.90 1.10
Editrice La Stampa Spa	Fiat group	La Stampa	5.39
Il Sole 24 Ore	Confindustria	Il Sole 24 Ore	5.23
Societa Europea di Edizioni Spa	Mondadori 41.67%	Il Giornale	3.32
Interregional papers North West			**Regional Market Share**
RCS Editore Spa	RCS Media Group (see above)	Il Corriere della Sera La Gazzetta dello Sport	18.59 13.03
Il Sole 24 Ore	Confindustria	Il Sole 24 Ore	10.88
Societa Europea di Edizioni Spa	Mondadori 41.67%	Il Giornale	6.90
Editrice La Stampa Spa	Fiat group	La Stampa	11.22
Interregional papers North East			**Regional Market Share**
Poligrafici Editoriale Spa	Monrif Holding	Il Resto de Carlino	21.41
Editoriale Il Gazzettino Spa		Il Gazzettino	15.17
Interregional papers Centre			**Regional Market Share**
Grupo Editoriale L'Espresso spa	CIR Group (see above) Finegil	La Repubblica Il Lunedi'della Repubblica	21.61 3.45
Il Messaggero Spa		Il Messaggero	11.14
Interregional papers South			**Regional Market Share**
Edi. Me. Edizioni Meridionali Spa		Il Mattino	14.35
Giornale di Sicilia Editoriale Poligrafica Spa		Giornale di Sicilia	9.22

* Ownership structure based on information from company websites
** Market share based on circulation figures from: AGCOM, Annual Report, 2003

Monrif, the financial holding company of the Monti-Riffeser family operates in a number of areas of the media sector. Though the publishing company Poligrafici Editoriale (59.6% stake) the group publishes three newspapers in Italy, namely *Il Resto del Carlino*, *La Nazione*, and *Il Giorno*, leaders in the local news segment. The three dailies are distributed together with QN Quotidiano Nazionale, (a national supplement which ranks third among national newspapers). In 2000, Poligrafici Editoriale acquired 100% of Press Alliance, the publishing company of the French newspaper *France Soir*. The company is also involved in the publishing of magazines, advertising (SPE Società Pubblicità Editoriale), printing and new media through Monrif Net,[269] and through a strategic interest in DADA, one of Italy's leading Internet providers. Caltagirone Editore S.p.A. founded in 1999, is the holding company that controls the following: *Il Messagero*, *Il Mattino*, *Leggo* (free national newspaper), Piemme advertising agency, and Caltanet (Internet portal). Main shareholders of Caltagirone Editore are the Caltagirone Family (36%) and the Caltagirone S.p.A. (25%). The Industrialists' Association (Confindustria) prints the best-selling financial newspaper, Il Sole 24 Ore.

In the magazine sector, Mondadori is the leading publishing company, (also one of the largest in Europe), with a claimed share of 40% of the sector. It has significant interests in the printing, new media and book publishing sectors and covers a wide range of publishing activities, from the creation of products to printing, marketing and distribution. The main shareholder is Fininvest with a 50.2% share.

[269] the group's Internet company that publishes the news portal http://www.quotidiano.it

2.4 Cable and Satellite operators

In contrast to the dominance of terrestrial transmission, cable television is almost absent in Italy due to the poor cable infrastructure. In satellite pay-TV services there is only one operator after the merger between the existing operators Telepiù (owned at that time by Vivendi Universal) and Stream (owned by Newscorp and Telecom Italia). Despite the fact that the merger created a near-monopoly in the Italian pay-TV market, the European Commission approved it subject to certain conditions in April 2003. Taking into account the financial difficulties of both operators and the specific characteristics of the Italian pay-TV market, the Commission concluded that "authorising the merger, subject to appropriate conditions, would be more beneficial to consumers than the disruption that would have been caused by the likely closure of Stream, the smaller and weaker of the two existing operators". However, the approval has been made subject to a number of conditions in order to ensure that the Italian pay-TV market remains open to competitors and specific monitoring competencies have been entrusted to AGCOM.[270] According to the decision, the Australian media group Newscorp (see also UK and Ireland reports) would acquire the Italian pay-TV company Telepiù which would then be merged with Stream. The new company is called Sky Italia and is owned by Murdoch's News Corporation with an 80.1% share and Telecom Italia with 19.9% share. It has approx. 2.2 million subscribers.

2.5 Advertising

The revenues from advertising on television (average 50%) are much higher in Italy than the European average (29%) (see Luverá 2003). Television absorbs half of the complete advertising investment in the mass media. RAI and MEDIASET together collect 75% of the total resources and the major private operator collects 50% of the television advertising resources. The average investment dropped in all media from 2001 to 2002 with the exception of television.

Table IT 4: Share of advertising revenue

Media	In million Euros in 2002
Press	2,917
National Press	1,764 (21%)
Periodicals	1,153
Television	4,159 (49.6%)
Radio	432
Outdoor	807
Cinema	68
Total	8,383

Source: AGCOM, Annual Report, June 2003 (FIEG, Upa, Nielsen)

3. Conclusions

3.1 Freedom of the Media

While it is frequently the case that large media corporations control a significant portion of the national news media in many European countries, the Italian system, however, presents an anomaly due to a unique combination of economic, political and media power in the hands of one man, the current Prime Minister, Silvio Berlusconi. This conflict of interest has led to critical reports and comments by different organisations: the OSCE, the Council of Europe and Reporters without Borders. In particular, the Committee on Culture, Science and Education of the Parliamentary Assembly of the Council of Europe expressed in March 2002 a critical opinion on the media situation in Italy. It stressed that the fact that the Italian Government was, directly or indirectly, in control of all national television channels raised serious concerns about the plurality and independence of the media. The proposed law resolving the conflict of interests,[271] is still awaiting the Senate's approval.

270 Commission clears merger between Stream and Telepiù subject to conditions, Press Release of the European Commission of 2 April 2003, IP/03/478, available at:
http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/478|0|RAPID&lg=ENDA-DE-EL-EN-ES-FI-FR-IT-NL-PT-SV

271 Disegno di legge N. 1206, Norme in materia di risoluzione dei conflitti di interessi

The law accepts that the management of a business enterprise is incompatible with public office but states that there is no conflict of interests if the company is run by an entrusted person, a third party in charge of managing the business interests.

It should be stated that very close links between politics, the economy and the media has always existed in Italy. However, even for Italian traditions the concentration of political and broadcasting power in a single person is unique and unprecedented constituting a threat to pluralism and diversity not so much for the press, but mostly to television which is highly concentrated. Italian press is free and diverse, expressing different views and opinions despite the increasing number of searches of newspaper offices and journalists' homes on the grounds of 'the fight against terrorism' (e.g. search of the homes and offices of columnists Guido Ruotolo of La Stampa, Mario Menghetti of Il Messagero, Claudia Fusani of La Repubblica).[272] The TV sector is the one raising serious concerns. The resignation of two members of the RAI's Board in November 2002 and the consequent fall of the entire Board, public comments criticising or accusing certain journalists of RAI by the prime minister, decisions by the management of RAI to take certain programmes off the air, i.e. 'Il Fatto" and "Sciuscià" or to temporarily suspend the satirical programme "Raiot" on RAI3, as well as decisions like the refusal to provide live coverage of the peace demonstration in Rome on 15 February 2003 raise serious concerns about the independence and credibility of the public service broadcaster and the editorial independence of journalists working for RAI.[273]

As long as this conflict of interests exists, any decisions regarding either RAI (such as appointing its board of governors and management) or changes in the existing media policies (e.g. the Decree proposed and currently under discussion which allows Retequattro to continue terrestrial broadcasting despite the ruling of the Constitutional Court), will continue to fall under the suspicion that they are made in favour of the Prime Minister's corporate interests.

3.2 Ownership and market concerns

Safeguarding and preserving diversity and media pluralism are always referred to as the main goals of the aforementioned broadcasting laws and regulations and media specific antitrust rules are to be found in the Law No. 249/97. However, full and correct implementation of these provisions is still missing thus making it impossible to assess their effectiveness.

The changes in the ownership and antitrust rules in the Gasparri Bill raise serious concerns regarding the promotion and protection of media diversity and pluralism. The abolition of the antitrust rules between the press and the television sector could in theory, be beneficial for publishing companies to invest in television thus creating a third or fourth pillar in the sector. In practice, due to the advertising revenues and the financial resources, it is more likely that television companies will be investing in the press sector. The change in the number of licences that one single person can hold due to the reference to the DTT frequency plan would allow Retequattro to continue broadcasting on terrestrial frequencies, although the constitutional court had insisted that Retequattro should become a satellite channel in January 2004 to comply with competition laws. In addition, the reduction of the threshold based on economic revenues from 30% to 20% is weakened by its calculation on the basis of the integrated communications system (total revenues from all media markets). This provision will most probably strengthen the position of television operators and further weaken the print media. Finally, the proposed changes for RAI raise concerns regarding the independence and functioning of the company. The Gasparri Bill was passed in May 2004. Investigations continue into the market situation of RAI and Mediaset as regards their dominant position in the television advertising market.

Report status: the gathering of data for this report was completed on March 2nd 2004
(Update July 2004)

[272] Reporters without Borders, Italy – Annual Report 2003
[273] Soria Blatman, A Media Conflict of Interest: Anomaly in Italy, Reporters sans frontières, April 2003

Latvia

1. Acts, Legislation, Regulation, Codes

1.3 Freedom of Expression

The Constitution of Latvia,[274] Article 100 states that:

> *Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views. Censorship is prohibited.*

Additionally, in the Law on the Press and other Forms of Mass Media (1990),[275] Article 1 refers specifically to the freedom of the press and the freedom of all individuals, undertakings and state institutions to express their opinions and receive information. The Article also prohibits the censorship of the media, and prohibits monopolisation of the media. Article 4 of the law prohibits 'interference with the activities of the mass media' by business or political interests. Chapter III, Article 15-16 of the law defines the relationships between founder, publisher and editors of mass media, regarding, for example, the independence of the editor.

1.4 Freedom of Information

The freedom of access to information is enshrined in the Constitution of Latvia, under Article 104. The Law on Freedom of Information was signed by the State President in November 1998. It guarantees public access to all information in "any technically feasible form" not specifically restricted by law. Government and state authorities must respond within 15 days.[276]

1.3 Codes for journalists and broadcasters

In Latvia, the codes of standards are not only part of a self-regulatory system: the rights and obligations of journalists are additionally outlined in Chapter IV of the Law on the Press and other Forms of Mass Media (1990). The Radio and Television Law 1995 (see 1.4) Chapter III outlines provisions for production of programmes (production values) and the right to reply.

The Code of Ethics of the Latvian Union of Journalists[277] states (in brief) that the mass media: should defend the freedom of speech and freedom of press; should not be influenced in any way that limits the free flow of information or debate on any issue of significance for society; have a duty to protect human rights; should provide society with true, verified, objective and clear information; have a responsibility for the information presented and its interpretation; should abstain from duties that are against his/ her convictions; must respect intellectual property and avoid plagiarism. As declared in the Press Law, the editor is responsible for the information presented on radio, TV or press. He/ she should secure the flow of free and proper information, as well as the free exchange of opinions; the editorial board should guard their integrity and act independently of the influence of any persons or groups. A journalist: has no right to reveal sources, unless demanded by the court; should respect the dignity of others; should never abuse the emotions and feelings of other people; should be critical in the choice of sources; must respect a person's private life, nationality, race, identity and religious belief. In publications: factual information must be clearly separated from commentary; advertisement must be separate from the author's material; pictures should be used in their original context; should not pre-judge court proceedings; provide apologies for incorrect information. Space must be provided for the right to reply. Material can only be published with approval from the author. Journalists must: respect democratic institutions and moral standards; stand up for human values such as peace,

[274] Constitution of Latvia 1998. http://www.oefre.unibe.ch/law/icl/lg00000_.html
[275] Law on the Press and other forms of Mass media 1990. Official English translation courtesy of the European Platform of Regulatory Authorities
[276] Law on Freedom of Information, Adopted 29 October 1998, Signed 6 November 1998. http://www.nobribes.org/Documents/Latvia_FOILaw.doc
[277] Adopted at the Conference of the Latvian Union of Journalists on 28 April 1992. http://www.uta.fi/ethicnet/latindex.html

democracy, human rights, self-determination; have respect for the national values of other nations and the history, culture, national symbols, independence and freedom of Latvia.

1.4 Media Ownership Regulation

The media is regulated in Latvia on the basis of the Law on the Press and other forms of Mass Media (1990), the Radio and Television Law (1995), and the Latvian Electronic Mass Media Act (1995). The National Broadcasting Council of Latvia (Nacionala Radio un Televizijas padome, NRTP), established in 1990, is responsible for broadcasting policy, licensing and the budget for state broadcasting interests (CIT: 2003:197). A separate body, the LVEI (Latvijas Valsts elektrosakuru inspekcija) allocates radio frequencies and licenses. The Department of Communications within the Ministry of Transport has overall responsibility for the technical aspects of radio communications and defines the rights, duties, and responsibilities of public and private operators in the telecommunications sector.

1.4.1 Audiovisual Media

Latvia's Radio and Television Law 1995 'determines the procedures for the formation, registration, operation and supervision of broadcasting organisations in the jurisdiction of the Republic of Latvia.'[278] The amendments to the law have largely involved the incorporation of the Television without Frontiers Directive of the European Union, in preparation for EU membership. The Latvian Radio and Television Act (1995) deals mainly with content issues in news, advertising, and programming, including, for example, rules for protection of minors and for foreign language programming.

Section eight of the Radio and Television Law 1995 deals with the Restriction of Concentration and Monopolisation of the Electronic Mass Media, and sets out some general principles regarding media ownership. Additionally, it stipulates that (section 8, para. 5): a natural person who is the sole founder of a broadcasting organisation, or whose investment in a broadcasting organisation ensures control of it, or the spouse of such a person, may not own more than 25 per cent of shares (capital shares) in other broadcasting organisations (text as amended in 1999). Moreover, no broadcasters (except public service broadcasters) are allowed to establish more than three broadcasting organisations.

It also specifically indicates the role certain actors may have in the establishment or control of broadcasting organisations, including: political parties or companies established by political parties, may not establish broadcasting organisations, where the financing of the party ensures control of the broadcasting organisation; a person holding elected office in a political party, who is a founder or shareholder of a broadcasting organisation, may not have voting rights in the organisation.[279]

1.4.2 Competition Policy and Mergers

Under competition law, regulated by the Competition Authority[280] there are no specific provisions regarding the media. However, the law prohibits any market participant to abuse a dominant position in the relevant market. A dominant position is achieved when one or more market participants take over at least 40% of the market share. The Advertising Law of 1999 regulates the nature of advertising, the protection of rights and interests of individuals and the public, and also the promotion of competition. Regarding the latter the focus is on the prevention of both misleading and comparative advertising.

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[278] Amended 1996, 97, 98, 99, 2001, 2003. English text by the Tulkošanas un terminologijas centrs (Translation and Terminology Centre). Document courtesy of the European Platform of Regulatory Authorities: www.epra.org

[279] Radio and Television Law 1995 (amended 1996, 97, 98, 99, 2001, 2003) Section 8, paragraphs 6-7.

[280] http://www.competition.lv/Alt/ENG/EFS.htm

1.4.3 Cross Media Ownership and Foreign Ownership

There are no limitations on cross-media ownership in Latvia. The Law On Foreign Investment (November 1991) restricted foreign ownership of the Latvian mass media to a maximum of 20%. This was amended by parliament to 49% in 1996 and adopted by the Radio and Television Law (Dupuis, 2003: 14). However, on 14th October 1999 the Parliament again amended this provision of the Radio and Television Law. Therefore at present there are no restrictions on foreign ownership rights.

2. Main Players in the Media Landscape

Latvia's media space, while having gone through a process of transformation similar to other Eastern European countries,[281] is additionally influenced by two factors: Latvia is a relatively small country; and Latvia represents a space of two ethnic and linguistic groups, while a third of the population are ethnic Russians, the majority of the population speaks Russian. With the country's independence there is a momentum (as in many other former soviet states) to protect the national language. Hence the media landscape in Latvia has been required to develop these two linguistic markets within a small economy. There is also a good deal of cross-border reception of Russian and other Baltic state media (see also reports on Estonia and Lithuania).

2.1 Radio

The Public service broadcaster has four stations broadcast at the national level: two general, one cultural/educational, and the fourth providing programming and entertainment for minority groups (including Russian, Belarussian, Ukrainian, Polish, Lithuanian). There are two commercial national radio stations: *Radio SWH* owned 50% by LNT (a consortium of three Latvian companies, see also television) and *Star FM* owned by the Swedish Modern Times Group (MTG, a subsidiary of the Kinnevik Group, see also television). The MTG are a major player in Swedish regional and local radio and Swedish television (see Swedish report) and the company describes itself as the 'largest commercial TV and radio broadcaster in the Nordic and Baltic regions.'[282]

Table LV 1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Market Share 2000**	Media Reach 2003-2004 winter***
Latvijas Radio	PSB	2 general channels 1 cultural/educational 1 minority	31.5%	50%
LNT	3 Latvian companies	Radio SWH (50%) Radio SWH (Russian version)	10%	18% 12%
Star FM	MTG	Star FM	4.2%	14%
		European Hit Radio		12%

* Information from the Media Map 2003, and company websites.
** Baltic Media Facts 2001 (quoted in Dupuis, 2003)
*** Data from Media House: Latvian Media Index, source TNS Gallup diary method

2.2 Television

The Public Service Broadcaster has two national channels (LTV1 and LTV2), with the second having about 20% of its programming aimed at minority groups. Its share of the audience in 2002 was 19%. The commercial channel LNT (*Latvijas Neatkariga Televizija*) has an audience share of 27% and is the most popular channel. It belongs to a consortium of Latvian private shareholders and the Polish company Polsat. The second commercial channel TV3 is owned by the Modern Times Group (see 2.1) and has a 12% audience share (MTG now also has 100% ownership of TV3 in Estonia and

[281] For greater detail of historical development re. privatisation, de-regulation and background to current ownership structure, see Nagla & Kehre (2004).
[282] Modern Times Group MTG AB Financial results for the fourth quarter and full year ended 31 December 2003February 2004. Retrieved from http://www.waymaker.net/bitonline/2004/02/10/20040220BIT20570/wkr0006.pdf

Lithuania). While the TV3 channels are Swedish owned, they are registered in, and broadcast from the UK.

There are twenty-five local television channels, which operate in small transmission areas and broadcast for just a few hours a day.[283] The Analogue Broadcasting system is provided by the Latvia State Radio and Television Centre (LVRTC).

Table LV 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share 2001-2002**	Daily Reach Feb 2004***
LNT[284]	Polsat: 60% Janis Azis: 14% Baltic Media Holdings B.V.: 26%	LNT	27% *	46%
Latvijas Televizija (LTV)	Public Service state subsidy. The campaign for license fee not successful yet.	LTV1 (Latvian) LTV2 (minority, 20% Russian)	15% 4%	36% 24% (LTV7)
TV3	MTG (100%) Sweden		12%*	40%
Foreign ORT			8%	
Other			31%	

* info from Media Map 2003, p199. Nagla & Kehre (2004).
**Audience share from Media Map 2003 quoting Baltic Media Facts
*** Data from Media House: Latvian Media Index, source TNS Gallup TVM method

2.3 Press and Publishing

The Latvian press industry consists of several markets: national daily; national evening, the regional press, and weekly publications comprising a total of approximately 140 publications and having both Latvian and Russian language titles.[285]

The main players in the Latvian language press are the publishing houses Diena AS and Preses Nam, while the main publishers in Russian are Petits and Fenster. The best selling daily newspaper (previously published three times per week) is *Lauku Aivize* published by A/S Lauku Avize. The second best-selling Daily newspaper is *Diena* published Diena AS, a company in which the Swedish Bonnier Group has an 83.5% share. Bonnier also publish the business newspaper *Dienas Bizness* and ten regional newspapers.

Preses Nams (owned 92.2% by the Latvian Ventspils Nafta Stock company who are involved in shipping, oil, real estate and publishing)[286] publishes the three daily papers *Neatkariga Rita Aviz, Rigas Balss* and *Vakara Zinas*. Since merging with printing group Jana Seta in 2000, the company is now the largest printing and publishing company in the Baltic States.[287]

The Petits Publishing house (owned by Aleksey Sheinen), the largest Russian language publisher in the Baltics, publishes the daily paper *Chas*, the free paper *Rigas Santims*, and a range of magazines, and also owns the Petits Advertising Agency.[288] The other Russian language publishing house, Fenster (owned by Andrey Kozolv) publishes *Latvia Santims* (published 3 times a week) and the weekly *7 Secretov*, and several magazines.

There is no independent circulation audit body in Latvia. Table LV3 outlines the data available for circulation and also data from Readership surveys.

[283] European Journalism Centre: European Media Landscape: Latvia. http://www.ejc.nl/jr/emland/latvia.html
[284] According to Nagla & Kehre (2004) the shares from Bete Ltd passed to Baltic Media Holdings (BMH). There is some speculation that BMH represent the interests of Newscorp.
[285] European Journalism Centre: Latvian media landscape
[286] Company Report 2002: http://www.vot.lv/eng/doc/fin_parskats2002.pdf
[287] see company web site: http://www.presesnams.lv/english/
[288] see company website: http://www.petits.lv/en/news/index.html

Table LV 3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles Daily	Circulation 2002**	Reach 2003-4 winter***	Titles weekly	Circulation 2002**	Reach 2003-4 winter***
AS Diena	Bonnier Group 83.5% since 2003[289]	Diena Dienas Bizness	60,000 12,000	25.3%			
JSC Preses Nams	Ventspils Nafta 92.2% (Latvian State 38.6% of Ventspils Nafta)	Neatkariga Rita Avize Rigas Balss Vakara Zinas	39,000 21,000 13,000	11.6%	Subbota		19.5%
AS Lauku Aivize	Viesturs Serdans	Lauku Aivize	73,000	20.4%			
SIA Belkons un partneri		Telegraf	13,000				
Russian Language Publishers							
SIA IN Petits	Aleksey Sheinen	Chas	20,000	*13%*	Riga Santims (free)	220,000	20.8%
SIA Fenster IN	Andrey Kozolv	Vesti Segodna	28,000	16.8%	Latvia Santims 7 Secretov	180,000 20,000	

*.Information from company websites; World Press Trends 2003; Nagla & Kehre (2004)
** Circulation figures from the Media Map 2003; World Press Trends 2003
*** Data from Media House: Latvian Media Index, source TNS Gallup National Reader Survey (top ten)

2.4 Cable and Satellite operators

While there are approximately 34 cable operators in Latvia, there are only three major players. The largest of these is Baltcom TV (formerly a subsidiary of Metromedia International, USA), which now belongs to the Latvian Company SIA Alina.[290] The second company Telia MTC (a subsidiary of a Swedish company, Telia International) and the third, Livas are considered the next major players in the cable market. All three offer high speed Internet access. There exist a further 31 small cable operators providing services at the local level.

Table LV 4: Main Cable and Satellite Companies

Company	Ownership Structure*	Subscribers 2003**
Baltcom TV	SIA Alina	99 595
Telia MTC	Subsidiary of Telia International Sweden	56 000
Livas		6 600
31 other smaller operators		

* Media Map 2003, p199
** Data courtesy of the National Broadcasting Council of Latvia, based on company information

289 Annual Report 2003 http://www.bonnier.com/content/1/c4/35/85/bokslut2003_eng.pdf
290 Metromedia International Financial Report 3rd quarter September 2003. Retrieved from http://media.corporate-ir.net/media_files/OOTC/mtrm.ob/reports/latest10q.pdf

2.5 Advertising

The table below outlines the share of advertising revenue in the media sector.

Table LV 5: Share of advertising revenue within the media sector 2003*

Media	Market Share of advertising in 2003 %
Newspapers	31%
Magazines	15%
Television	33%
Radio	12%
Outdoor	6%
Internet	2%
Cinema	1%

*Source: Media House 2004

3. Conclusions

3.1 Freedom of the Media

According to the EFJ report the 'press and the broadcast media in Latvia generally operate freely, with few legal restrictions on their work and a wide range of political viewpoints are represented in more than 200 newspapers' (EFJ 2003: 39). The report authors express concern, however, that the country's legal framework and implementation of laws does not guarantee an independent Public Service Broadcasting system. Organisations such as the Union of Journalists are considered to have a weak position, employees seldom have collective agreements, and owners can exert a strong influence on content (which often occurs due to their political and economic links) (Nagla & Kehre 2004).

Previously, a major issue of contention regarding media freedom in Latvia concerned the existence of two language markets for the mass media. While almost 40% of the population are Russian speakers, the Latvian language has (since Independence) been given prominence (due to the historical relationship with Russia and the USSR) regarding protection and status. The previous regulation had set a limit on the broadcasting of foreign language programming to 25% within a day. This was claimed to be in breach of the Council of Europe's Framework Convention for the Protection of Minority Rights.[291] However, due to a Constitutional Court decision on 6 June 2003 abolishing this limit, the Law on Radio and Television was again amended in 2003 to remove this limit on foreign language programming.[292]

3.2 Ownership and market concerns

The local (Latvian) commercial TV stations have expressed concerns regarding the UK registered (Swedish owned) Modern Times Group's station 3+, which is targeted specifically at the Baltic states and includes local advertising spots. Similarly the local Riga radio station "Eiropas Plus", essentially rebroadcasts the Russian channel "Europa Plus", also with local advertising. The local stations are concerned because their costs for producing programming are far higher than that of the imports from the (much larger) Russian market. This issue has long been a concern, particularly for smaller countries receiving channels from larger (linguistically linked) neighbours, whether regarding revenue loss from the advertising market, or concerning a different standard of regulation regarding content of advertising. Regarding the Modern Times Group, the channels, being based in the UK, do not always comply with Swedish law (also Norway and Denmark) and may also impact on the share of market revenue from advertising in Sweden.

Report status: the gathering of data for this report was completed on April 10th 2004 (update July 2004)

[291] 2002 world press freedom review IPI
[292] IRIS Legal Observations of the European Audiovisual Observatory. IRIS 2003-7:11/22

Lithuania

1. Acts, Legislation, Regulation, Codes

1.5 Freedom of Expression

The freedom of expression is enshrined in Article 25 of the Lithuanian Constitution[293], which states:

> *Art. 25. 1) Individuals shall have the right to have their own convictions and freely express them.2) Individuals must not be hindered from seeking, obtaining, or disseminating information or ideas. 3) Freedom to express convictions, as well as to obtain and disseminate information, may not be restricted in any way other than as established by law, when it is necessary for the safeguard of the health, honour and dignity, private life, or morals of a person, or for the protection of constitutional order. 4) Freedom to express convictions or impart information shall be incompatible with criminal actions -- the instigation of national, racial, religious, or social hatred, violence, or discrimination, the dissemination of slander, or misinformation.5) Citizens shall have the right to obtain any available information which concerns them from State agencies in the manner established by law.*

In addition, Article 44 of the Law on Provision of Public Information prohibits censorship of the media.

1.6 Freedom of Information

Article 25(5) of the Constitution (above) enshrines the citizens' right to obtain information from state agencies. State and local authorities must provide the information under the Law on the Right to Obtain Information from State and Local Government Institutions enacted in January 2000

1.3 Codes for journalists and broadcasters

The Code of Ethics of the Lithuanian Union of Journalists [294] states (in brief): that publishers and journalists not consider information to be merchandise; that to receive and disseminate information is one of the major freedoms of the individual; and that a journalist shall propagate true and accurate news as well as a full range of opinions. Journalists should ensure that an opinion should be presented honestly and fairly, without any distortion of facts or data; and news and opinions should be clearly separated. Information that is published should not be based on rumour and photographs and images must not be manipulated or distorted. The mass media shall correct the mistakes and inaccuracies and provide a right of reply for subjects of news or television programs.

Journalists: should respect and represent a diversity of opinion; access sources in a critical way; and correctly identify themselves and their intentions when looking for information. Information shall be gathered in ethical and lawful ways and sources should be protected where requested. Journalists should respect individuals especially those in distress; the journalist and publisher shall not violate human rights and dignity; shall not humiliate or mock an individual's family name, race, nationality, religious convictions, age, sex or physical deficiencies even where an individual has committed a crime. Journalists must respect the privacy of individuals, and publish information only when in the public interest. She/He should not interfere with the process of the courts. Care should be taken in the reporting of catastrophes, accidents or violence, of suicides, or of the private information or correspondence of individuals. The journalist shall show particular respect to the rights of the children and adults with physical or mental incapacity.

Journalists are additionally obliged to honour the independence of journalism; not accept bribes or use information for their personal benefit. People have the right to know the owner of the mass media and

[293] Lithuanian Constitution available at: http://www.uta.edu/pols/psees/LITHCON.htm

[294] Adopted by the Lithuanian Union of Journalists, the Lithuanian Association of Journalists, the Association of Publishers of Periodicals, the Lithuanian Radio and Television Association, the Lithuanian Radio and Television, and the Lithuanian Centre of Journalism on 25 March 1996. Available: http://www.uta.fi/ethicnet/litindex.html

his/her economic interests. Journalists must be free to refuse to perform work where it contradicts national legislation, the ethics of journalist and his/her personal convictions. Journalists must respect other professional colleagues and avoid plagiarism. This self-regulatory system is overseen by the Ethics Commission of journalists and publishers who must publish any decisions they make. The Law on Provision of Public Information (see 1.4.1) also outlines the rights and responsibilities of journalists.

1.4 Media Ownership Regulation

The media in Lithuania is regulated by several organisations. The Lithuanian Radio and Television Council (LRT Council) oversees the LRT (the Public Service Broadcaster). The Lithuanian Radio and Television Commission (LRTK) is the regulator for commercial broadcasting, cable television and MMDs operators.

1.4.1 Audiovisual Media

The Lithuanian Law on Provision of Information to the Public (1996)[295] deals with aspects of ownership of the media. Producers and disseminators of public information can be (article 23, par.2) citizens of the Republic of Lithuania and foreign states and all types of enterprises and organisations. They must be established in or have established an enterprise branch, in the Republic of Lithuania. Certain organisations are prohibited from owning broadcasting organisations including political parties or political organisations, State institutions (except scientific and teaching institutions) local governments and banks (article 23, par. 5 and 6).

There are no provisions limiting concentration of the media, but there are certain provisions requiring transparency of ownership of the media. Article 24 of the law requires that producers and disseminators of public information (not including those licensed by the LRTK) submit to a government institution annually data regarding shareholders or co- owners of the enterprise owners who have the right of ownership or administer at least 10 percent of all the shares or assets. Members of the government, parliament and other state institutions must declare any interests they have in the media sector.

The Radio and Television Commission of Lithuania must be informed of the intention to sell or transfer at least 10 percent of shares in the company/outlet. If the proposed sale is of more that 10% of the shares, a written consent from the Radio and Television Commission of Lithuania regarding the sale or other transfer of the aforementioned shares, shall be required, prior to the sale or other transfer of shares taking place. This requirement shall apply also where the sale of assets implies that control of a broadcaster or operator shall pass to another person. (article 23, par.3).

There are no provisions within media legislation regarding cross media ownership. Foreign owners operate through Lithuanian registered companies or holding companies.

Article 29 of the law addresses the issue of fair competition in the media. It states that State and local government institutions, a well as other enterprises, institutions and organisations or natural persons, may not monopolise mass media (par 1). The state is also required to create equal legal and economic opportunities for honest competition in the media; to supervise and establish a regulatory system to ensure that no single person would occupy a monopoly position or abuse the occupied dominant position among public information producers or disseminators or within a particular market sector. A dominant position in the sphere of provision of information to the public shall be determined based upon the Law of Competition.

[295] As amended 2000, available: http://www.rtk.lt/downloads/Law.doc

1.4.2 Competition Policy and Mergers

Within Competition Law there are no specific provisions for the media sector. According to Article 10 of The Law on Competition[296], the Competition Council of Lithuania must be notified of a merger when the combined aggregate income of the companies involved (using income from the previous year) exceeds LTL 30 million (8.9 m euros), and when the total income of at least two of the undertakings is more than LTL 5 m (1.45m euros). Article 3 (par 11) of the law defines a dominant position as being a market share of 40% for one undertaking. Where three or less undertakings jointly have 70% or more of the market, each will be considered to enjoy a dominant position.

2. Main Players in the Media Landscape

The Lithuanian population includes several minority groups of Russians, Polish, Belarusian (a total of about 20%). Unlike the situation in Latvia (see country report), the media sector is not composed of two language groups (in Latvia the Russian population is much larger). The various minority groups have apparently a range of own language publications, some state subsidised and some privately owned. The Public Service Broadcaster provides daily and weekly television and radio programmes in Russian, Polish, and Belarussian (Nugaraite 2000). Additionally, Russian channels are received over satellite and consumed by much of the Russian speaking population. The advertising market in Lithuania has experienced some recessions (as in most other countries) that are particularly linked to the economy of Lithuania's major neighbour, Russia. Hence there is strong competition for advertising revenue between media outlets

2.1 Radio

The PSB LRTV operates two national radio stations and there are an additional 45 commercial radio stations. The PSB station LR1 is the most popular nationwide station. The main commercial groups include the M-1 stations, UAB Radiocentras and Pukas. All companies are, according to their registration, locally owned. M-1 operates two stations at the national level and has some ownership interest in several regional channels. UAB Radiocentras ownes the two stations Radiocentras and RC2, and they have a 50% share in Russkojie Radio Baltija (which is the most popular station within the Capital Vilnius with a 24% audience share). Pukas operates two national stations.[297]

Table LT 1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Market Share 2003**	Regional radio
Lithuanian Radio	PSB	LR1 LR2	29.4%	
M-1	Ramune Grušnyte	M-1 M-1 Plius	13.9%	Interest in three local channels
UAB Radiocentras	Achemos Grupe 79.3% G. Babravicius 13.1% M. Pleskevicius 7.6%	Radiocentras RC2	12%	50% share in Russkojie Radio Baltija
Pukas	Kestutis Pukas	Pukas Pukas 2	10.9%	
Others			33.8%	

* Radio and Television Commission Lithuania (2004)
** Radio and Television Commission Lithuania (2004), source TNS Gallup 2004

2.2 Television

Lithuania has 28 commercial broadcasters, the majority of which are local or regional. The Public Service Broadcaster LRTV has two channels and a market share of about 12%. The two strongest

[296] Law on Competition 1999. Available from: http://www.konkuren.lt/english/merger/legislation.htm
[297] Radio and Television Commission Lithuania (2004); Primetica Limited (2004).

channels are the commercial stations LNK and TV3. A fourth commercial channel TV4 has around 10% market share.

The most popular channel LNK was previously owned by the Swedish Group Bonnier, who sold to MG Baltic Media in 2003. LNK (in 2003) had over 28% of the audience share. TV3 is owned by the Modern Times Group (Sweden) who also own Tango TV (Vilnius and via cable) and have a combined audience share of 26.5%. The Modern Times Group (MTG) are also major players in broadcasting in Hungary, Latvia and Sweden (see country reports). Polsat the Polish television company (see Polish report) previously held a majority of the shares of TV4 (51%). Due to the financial difficulties of Polsat, a majority of shares (74.31%) were sold to Polaris Finance B.V. (a Dutch registered company). Polsat retained 24.88%.[298]

The Public Service Broadcaster LRTV receives 90% of financing from the state and the rest in advertising revenue. The broadcaster has had ongoing financial problems (PriMetrica 2004). Attempts at introducing a license fee have not yet been pushed through by successive governments, while the commercial broadcasters argue that the Public Service channels should not have a share of the advertising market.

Table LT 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share 2003**
UAB LNK	MG Baltic media 85% Amber Trust SCA (Equity group USA) 15%	LNK	28.3%
TV3	MTG 100% Sweden.	TV3 25% Tango TV 1.5%	26.5%
Lithuanian Television (LRTV)	Public Service	LTV 11.8% LTV2 0.4%	12.2%
Baltijos TV	Polaris Finance B.V. 74.31% (Netherlands) Polsat Baltic SIA 24.88% (Poland)	TV4	10.7%
Others			22.1%

* Radio and Television Commission Lithuania (2004)
** Radio and Television Commission Lithuania (2004), source TNS Gallup 2004

2.3 Press and Publishing [299]

The Lithuanian publishing market, unlike in many other East and Central East European countries has attracted far less foreign interest and investment. Most of the major national and regional newspapers are owned by Lithuanian companies. Foreign investment has focused more on the broadcasting sector. The top selling quality daily newspaper at the national level is *Lietuvos Ryta*, is owned by G. Vainauskas, also editor-in-chief, who as interests in printing, a TV magazine, a basketball team and other non-media related businesses (OSCE, 2003). *Respuklik*a (with a weekly Russian language version) is the second best selling newspaper. It is owned by Mr. Tomkus, who has a printing and publishes TV magazines. The company also owns the best selling tabloid *Vakaro Zinios* (OSCE, 2003). The best selling regional newspaper, *Kauno diena*, is owned by the Norwegian based Orkla Press (see also reports on Poland and Sweden). Aside from this there is not much foreign interest in the Lithuanian press sector. There are some foreign interests in the magazine sector where Schibsted (Norway) has recently purchased 67% of the shares in Lithuania's largest magazine publisher Zurnalu Leidybos Grupe (ZLG). [300]

[298] Radio and Television Commission (2004); PriMetrica Limited (2004); and Initiative Via website: http://www.initiative-via.com/
[299] Information from EFJ (2003); PriMetrica (2004); WAN (2003); Company wesites
[300] Schibsted annual report: http://www.schibsted.no/en/annualreports/2003/newspaper/

Table LT3: Main publishers of newspapers

Publishing companies	Ownership Structure*	Main Titles Daily	Circulation 2002**	Coverage Dec 2001-Nov 2002***	Weekly	Regional/ local press
Lietuvos Rytas	G. Vainauskas local shareholders	Lietuvos Rytas	68,000	24.6%		
Respublikos leidiniai	Local shareholders Mr. Tomkus	Respublika Respublika (Russian edition)	44,000 22,000	7.4%		
Naujasis aitvaras	Local shareholders Mr. Tomkus	Vakaro žinios	60,000	5.9%		
Lietuvos žinios		Lietuvos žinios	21,000	6%		
Šiauliu kraštas		Šiauliu kraštas	17,000	3.8%		
Dzienniki Kraje Baltyckie	Orkla Press Norway			*4.4%*		Kauno diena 40 000.

* Ownership structure from WAN (2003) and from OSCE (2003).
**There is no independent circulation audit body. information from publishers cited in WAN (2003).
*** Percentage of people claiming to have read one issue. Source TNS Gallup in PriMetrica (2004).

2.4 Cable and Satellite operators

In Lithuania, according to recent figures, 38.8% of the households are subscribed to cable or satellite television.[301] The cable industry remains very fragmented with 46 cable and 3 MMDS operators belonging to the Lithuanian Cable TV Association (LKTA), serving 207,000 subscribers, and a further 8 cable operators belonging to the Lithuanian Telecommunications Operators Association (LTOA) and serving 88, 000 customers (PriMetrica 2004).

Table LT4: Cable and Satellite companies*

Cable Companies	Ownership Structure**	Market Share
Balticum TV	5 local shareholders	13.5%
Vinita	INIT Corporation Raimundos Živatkauskas	19%
C-gates	Telco Tele2 Sweden	5%
51 smaller companies		

*Information for the Media map 2004
** Radio and Television Commission of Lithuania (2004)

3. Conclusions

3.1 Freedom of the Media

According to a recent OSCE report (2003) elements of Lithuanian journalism does not correctly and clearly separate editorial content and paid advertising. Journalists also claim that frequently the owner is also the editor-in-chief, a situation that does not always allow for editorial freedom. Few press outlets have collective agreements with staff, one exception being those working for Orkla media (see also Polish report). The employment status of journalists is also problematic with most being paid through freelance contracts rather than salaries (SEENPM/ Peace Institute, 2004).

3.2 Ownership and market concerns

There are no specific legal provisions that limit media ownership or cross media ownership in Lithuania. Similar to Latvia, there is no independent circulation audit organisation, making it difficult

[301] Radio and Television commission of Lithuania 2004.

to assess the true market shares of press outlets. The OSCE report (mentioned above) also refers to the provisions requiring transparency of ownership (see 1.4.1). Although the shares that companies and individuals have in companies should be registered and made public, this is not always carried out by many of the media outlets. For the broadcasting sector the Radio and Television Commission of Lithuania produce regular reports with information on licensed broadcasters, their registered owners and also recent data on audience shares.

According to recent reports the most likely future development, given the size of the economy and limited advertising revenue, will be more consolidation with larger companies buying out smaller news outlets (SEENPM/ Peace Institute, 2004).

Report status: the gathering of data for this report was completed on May20th 2004 (Update July 2004)

Luxembourg

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The Grand-Duchy of Luxembourg guarantees the freedom of expression to its citizens by virtue of Section 24 of the constitution, stating that:

> *"Section 24. Freedom of speech in all matters and freedom of the press is guaranteed, subject to the repression of offenses committed in the exercise of these freedoms. No censorship may ever be introduced. Security may not be demanded of writers, publishers, or printers. Stamp duty on native journals and periodicals is hereby abolished. No publisher, printer, or distributor may be prosecuted if the author is known, if he is a Luxembourger, and resident in the Grand Duchy."*[302]

1.2 Freedom of Information

Luxembourg has not yet created a legal basis for general public access to documents of government and state institutions and is one of a few EU countries, including Germany, without such legislation, although its enactment has been expected for some time now.[303]

With the newly revised Luxembourgian press law,[304] however, a first step towards implementing the freedom of information as a principle within the national legal order has been taken. Addressing the special socio-political position occupied by journalists, the law holds in Section 6 Subsection 1 that "the liberty of expression [in the mass media] entails the right to receive and seek out information, the right to decide to communicate such information to the public through freely chosen means, as well as to comment on and critically assess them." This provision focuses on the importance of journalistic communication as a factor in the shaping public belief systems, and therefore guarantees journalists the right to actively request information from sources as necessary. While the law alone cannot guarantee that such requests are dealt with, it does define a legal barrier to arbitrary restrictions of this right: journalists should have a right to an answer to their requests just as much as to gain access to government archives where reasons of appropriate severity (e.g. the national interest) do not justify an exception from the rule.

1.3 Code of conduct for Journalists

The ethical code of the Luxembourgian press[305], which also applies to the electronic media,[306] obliges journalists to generally respect the values of truth, of differing opinions, of human dignity, and of the sanctity of private life in their work. They seek to respect these values by (i) publishing reliable information only and observing the standard of professional secrecy which includes the right to protect one's sources; (ii) honoring good journalistic practice by abstaining from any type of plagiarism, slander, defamation or discrimination on grounds of race, ethnicity, religion or ideology; (iii) abstaining from exaggerated presentations of the facts as well as any type of reporting that is prone to promote violent behavior, criminal offences and cruelty; (iv) refusing bribes as well as the use of professional influence towards ends other than the goal of informing and shaping public opinion, (vi) respecting authors' rights as they are defined by relevant legislation.

Any physical or legal person may ask the Press Council to determine whether or not a breach of the professional ethics, as laid out in the code, has occurred. The Council can also initiate an investigation on its own where it deems such action to be necessary. If the complaint is admissible by the Council, the Commission of mediation and complaints (*Commission de médiation et de plainte*) will requested assess the case, leading to an opinion, and to attempt at mediation between the parties. Where the

[302] French version:http://www.legilux.lu/leg/textescoordonnes/recueils/constitution_droits_de_lhomme/CONST1_2003.pdf

[303] See the article by Marc Gerges on the subject of reforming Luxembourgian press law dated 30 March 2001, http://www.land.lu/html/dossiers/dossier_medias/nlle_loi_300301.html.

[304] *Loi du 13 mai 2004 sur la liberté d'expression dans les médias* [Law of 13 May 2004 on the Freedom of Expression in the Media], available from: http://www.gouvernement.lu/dossiers/medias_soc_information/loi_media/projet.pdf.

[305] Available from : http://www.press.lu/datas/info_code.html [in French only].

[306] Cf. Règlement d'ordre intérieur du conseil de presse, Section 11 : http://www.press.lu/datas/info_ordre.html.

Commission decides a journalist has broken the code, it may issue a reprimand, or suspend or revoke a journalist's license; it may also choose to publicise its decision. Where an individual seeks redress through the courts, any investigation by the Press Council is delayed until the court pronounces a ruling. With the enactment of the new Law on the Freedom of Expression in the Media of 13 May 2004, Sections 25 Subsection 2, Section 28 and Section 36 endow the new Press Council, to be constituted according to Section 25 Subsection 1, with far-reaching competences both to regulate proceedings before it and to issue a new ethical code. It is at this point unclear whether these provisions will be used by the Council to ensure the continuity of the current system or to change it.

1.4 Media Ownership Regulation

Competence for the regulation of media enterprises and their activities is spread among a number of different authorities in Luxembourg. Firstly, as the part of government responsible for general economic and competition policy, the Ministry of Economics plays an important role as facilitator of functional markets in the media industry. It is the task of the Ministry of Culture, on the other hand, to aid media production through the operation of the National Audiovisual Centre (protection of audiovisual heritage) and the National Audiovisual Fund (aid to contemporary production). Beyond this supportive function , the Ministry's impact on the formulation of media policy and regulation is rather limited, as the main responsibility for this part of government policy is vested with the prime minister,[307] who is assisted in this capacity by the Media and Communications Service, a special branch of the Ministry of State.

The Media and Communications Service serves a number of commissions who perform functions ranging from advising government policy makers to implementing the principles of media regulation as defined in the pertinent legislation. The legal basis for their activities is the law of 27 July 1991 on electronic media,[308] which also outlines the composition of these bodies. The Independent Broadcasting Commission (*Commission Indépendante de la Radiodiffusion*) has the widest competence and its primary task is the authorisation of channels with low power transmitters and radio networks. It also advises the government regarding all other authorisation decisions related to broadcasting operations. The IBC has a structurally important position, controlling market access for local radio stations and transmission networks and shaping government decisions on national authorisations. It is the ability to issue binding decisions of its own which sets its apart from the two other commissions active in the realm of media policy. The National Program Council (*Conseil National des Programmes*) has a more advisory function, drawing up opinions or position papers on various media related topics (based on a request from the Minister or acting on its own initiative), and the Advisory Media Commission (*Commission Consultative des Médias*) fulfills a monitoring function to ensure broadcasters' compliance with program content regulations. While the Council operates independent of government, it has no decision making power and cannot issue sanctions.

While the current regulatory regime grants a variety of stakeholders a say in the drawing up of media policy,[309] in reality, it provides just one minor restriction on media ownership. Section 18, Subsection 2 of the Law on Electronic Media of 27 July 1991 stipulates that "no legal or physical person may own parts in more than one limited liability company having been granted the allowance to distribute a program via a radio transmission network, nor may he or she hold more than a 25% share of such a society or of its voting rights, including indirect participations." The effort to prevent ownership concentration in the radio broadcasting market implicit in this provision has to be seen in the context of there being a limited range of broadcasting frequencies available for radio transmissions as well as the small market volume. While the Luxembourgian television market simply cannot support a

[307] The delegate Minister of Communications on the other hand is responsible for issues of telecommunications, postal services and data protection.
[308] *Loi du 27 juillet 1991 sur les médias électroniques* [Law of 27 July 1991 on the Electronic Media, as amended by the law of 2 April 2001]: http://www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/2001/a0880108.pdf.
[309] While the Advisory Media Commission brings together media professionals representing companies, professional associations and trade union organizations of the media sector, the National Program Council represents a variety of societal interests and the IBC is organized as an expert committee.

national competitor to RTL, there is room for more than one economically viable radio network (see Section 2.1 below), and thus the prevention of any one operator exercising a controlling influence over more than one of these networks is a necessary condition to safeguard competition.

To reinforce the separation of interests in the sphere of the media, the new Law on the Freedom of Expression in the Media has introduced a provision that prescribes the publishing of certain information on the identityof shareholders whose influence exceeds 25 percent of capital shares.[310] Where two or more legal entities have control of a publication, both the name, surname, country of residence and the profession of those persons controlling these legal entities have to be made known to the public, when they hold more than 25 percent of shares therein, are members of their administration or board of governors or if they are involved in the daily management of these legal entities. Where a person thus identified also is a member of the administration or the board of governors of another legal entity owning or editing another publication, or holds, directly or indirectly, a share of more than 25 percent of stocks in another publication, the title of this publication, the registered name of the company publishing it as well as its legal form, objective and place of establishment have to be made known as well. Although the publication requirement does not apply to companies licensed according to the Law on Electronic Media of 1991, these are still obliged to hold the relevant information at the disposal of the public so as to ensure a certain amount of transparency.[311]

1.4.1 Audiovisual Media

The formal liberalisation of the national broadcasting markets in the context of transposing the requirements of the TWF Directive into national law this did not change the audiovisual landscape in any significant manner. While the Law on Electronic Media opened up the possibility of licensing broadcasters other than the incumbent "Compagnie Luxembourgeoise de Télédiffusion" (CLT), which later became part of RTL, the renewal of its license in April 1995 actually meant a perpetuation of its dominant position in the broadcasting industry. Until 2010, the company has agreed to take on certain public service obligations in the fields of television and radio broadcasting in return for far-reaching concessions from the Luxembourgian government.

The government has agreed not to grant licenses to third parties if they could impede upon the activities of the group, and if they do not provide significant economic and social gains for the country in general. While RTL has been obliged since 1993 to share one of the two available national radio broadcasting frequencies with the publicly funded RSC channel, and a number of smaller radio networks, and some local TV stations have been licensed, these measures have have not altered the overall balance in the markets. This stability of the audiovisual markets, also applies to the regulatory and institutional framework:, excepting minor amendments to the Law on Electronic Media.

1.4.2 Competition Policy and Mergers

Competition law does not have any special media-specific clauses. Indeed, when compared to the legislation of other Member States, the Competition Act in its current form[312] is rather basic: in particular, the law does not grant any effective protection against the abuse of a dominant position by market actors,[313] nor does it provide any safeguards against excessive concentrations. Where

[310] Section 76.
[311] Op.cit., Section 77; equally exempt from the publication requirement are minor publications which go to serve the needs of the business community or facilitate social relations in general, such as formulas, labels, price lists, ballots and business cards (Section 78).
[312] *Version consolidée de la loi du 17 juin 1970 concernant les pratiques commerciales restrictives, telle que modifiée par la loi du 20 avril 1989* [Consolidated version of the Law of 17 June 1970 against Restraints of Competition, as amended by the law of 20 April 1989], available from:
http://www.eco.public.lu/documentation/legislation/lois/1970/06/17_pratiques_commerciales/loimodi17061970.pdf.
[313] While the law readily employs the term (see Section 1 of the consolidated version), it does not define it, and therefore offers no criteria by which to assess when such a position is actually in place.

regulations to this effect do exist, they have been integrated into sector-specific regulatory schemes, e.g. in the fields of telecommunications and energy supply.

Following recommendations from the European Commission to that effect, the Luxembourgian government has drawn up a draft for a new Competition Act[314] which is to bring the legislation up to Community standard. While this effort at modernising the competition law regime will clearly contribute to increased legal certainty with regard to possible abusive behavior by dominant market actors, no limitations on mergers other than those flowing from Community legislation will be introduced. Small-scale concentrations of media enterprises at and below the national level will thus remain possible, subject only to the sector-specific provisions of the Law on Electronic Media described in Section 1.4 above.

1.4.3 Cross Media Ownership and Foreign Ownership

Under present legislation, there are neither limits to cross-media ownership nor to foreign ownership. Judging from the proposal for a new Competition Act that was submitted to parliament in late 2003, this situation will not change with the entering into force of a new law.

This situation has led to (see Sections 2.1 et seq.) some publishing houses extending their influence beyond the written press into the audiovisual field, whereas there is no such participation of significant broadcasting enterprises in the press sector. While foreign broadcasters play an important role, especially in television, their influence has been one in terms of market, not ownership shares, thereby demonstrating the considerable effect that cross border broadcasts from neighbouring countries can have in small multi-linguistic societies.[315] The high degree of openness characteristic of Luxembourg's economy is thus also reflected in the broadcasting market.

2. Main Players in the Media Landscape

The key to understanding the Luxembourgian media landscape is a combination of the country's demographics and geography on the one hand, and the import of two major media companies on the other hand. Being located between Germany, Belgium and France, Luxembourg is subject to a high degree of penetration of foreign broadcasting networks which compete for the attention of a small, but linguistically highly diversified populace. At the same time, the different sectors of the media industry are, especially when considering the role of domestic companies in the respective markets only, split between two groups, namely RTL in the television and the Imprimerie Saint Paul in the publishing field. Both groups are present in the radio sector, and while taken together they control two thirds of the market, RTL is clearly the dominant one with a market share of 54.5 percent.

2.1 Radio

The radio sector in Luxembourg is shaped first and foremost by the national giant RTL. Of the almost 70% of Luxembourgers who listen to the radio each day, an average of no less than 54.5% tune in to RTL Radio Lëtzebuerg. This makes the service more than four times as popular as both the channels operated by the country's second largest radio group, the Imprimerie Saint Paul which is owned by the Archbishopric of Luxembourg. The group, who is also a remarkable force in print publishing (see Section 2.3 below), offers generalist programming (*DNR*) as well as a specialist interest channel (*Radio Latina*) which caters to the notable Latin minority of Spanish and Portuguese descent.[316]
In the commercial segment of the radio market, it competes primarily with Luxradio s.à.r.l. who manages the Eldoradio network focusing on hit music for the younger audiences. At the non-

[314] *Projet de loi relative à la concurrence (Dépôt: le 31.10.2003)* [Draft legislative proposal for a new Competition Act, 31 October 2003]: http://www.eco.public.lu/documentation/legislation/projets_de_loi/2003/10/31_Concurrence.pdf.
[315] A special case is the importance of the international edition of the Portuguese public service TV channel RTPi that reaches around 4.5% percent of viewers on a daily basis (2003).
[316] According to the channel's own figures, it has a potential target audience of around 150,000 persons, including Portuguese-, Spanish-, Italian- and French-speaking listeners. Following official statistics, the country's biggest minority is that of Portuguese descent, accounting for an estimated 13.1% of the population.

commercial end of the market, the publicly financed RSC 100,7 channel is devoted to offering a bouquet of culturally oriented radio services to all Luxembourg residents, whilst seventeen local radio stations serve narrowly delimited local constituencies.[317] Given the neighbouring markets of Belgium, Germany and France, foreign radio broadcasters capture a significant part of domestic listeners, reaching almost 22% of listeners in 2003.

Table LUX1: Main Radio Companies

Companies	Ownership Structure	Main Radio Stations	Total Market Share 2003*
RTL	RTL	RTL Radio Lëtzebuerg	54.5%
Imprimerie Saint Paul	Archbishopric of Luxembourg	DNR, Radio Latina	12.2%
Luxradio s.à.r.l.	Luxradio s.à.r.l. (66%) RTL (33%)	Eldoradio	4.9%
PSB	Public undertaking	RSC 100,7	2.8%
Local stations	Various		3.3%
Various foreign	Various		21.9%

* Market shares calculated based on data reported in ILReS 2003, adjusted for amount of shares held in station.

2.2 Television

While domestic broadcasters, despite competition from abroad, easily control the majority of the audience in the radio market, this does not hold true for the television sector, where all but 12% of average daily viewing time is accounted for by foreign channels.[318] These 12 percent are attributable to RTL Télé Lëtzebuerg, the local branch of the RTL family, the mostly Bertelsmann controlled radio and TV operator. This group through the addition of their German channels, which are broadcast in Luxembourg, is the most important broadcasting group operating in the Grand Duchy with an average audience share of 28.2 percent in 2003.[319]

Table LUX2: Main Television Companies

Major Groups	Ownership Structure		Main TV Stations	Total Market Share 2003*
RTL Group	Bertelsmann AG BW TV und Film Verwaltungs GmbH various	52% 37% 10%	RTL Télé Lëtzebuerg, RTL, RTL II, RTL TVi	25.5%
ProSieben Sat.1 Media AG	German Media Partners Kirch Media GmbH & Co. KG Axel Springer AG Various	36% 17% 12% 36%	Pro 7, SAT 1	12.0%
TF1	Bouygues Société Générale	41.3% 1.5%	TF1, Eurosport	10.7%
M6 Group	RTL Group Suez	48.4% 5%	M6	5.2%
Viacom	Viacom Inc.	100%	MTV	1.6%
Foreign PSBs	Various			25.9%

* Market share calculated on basis of average annual viewing share data from ILReS TV 2003, adjusted for the amount of shares held in station.

[317] Due to restrictions on the transmission power of the transmitters that these stations are allowed to employ, their outreach is limited to a territory of no more than 5 kms in diameter.
[318] Still RTL Télé Lëtzebuerg in line with its function as a public service broadcaster commands around 50 percent of viewers during prime time.
[319] This figure even rises to 28.0 percent if one considers the share held by RTL in the French M6 group.

Its particularly strong position in the market clearly is not only a result of the historical ties that link the company like no other to the Luxembourgian audiovisual market, but also due to its ability to provide programming in all three official languages through its outlets in Luxembourg and the surrounding markets – all of its competitors target one linguistic constituency only and therefore have a potentially more limited outreach. French-language groups TF1, the privatised public service broadcaster now largely controlled by building sector company Bouygues, and the youth channel M6 (owned 48.4% by the RTL group) attract 10.7 and 5.2 percent of viewers respectively. The channels of the German ProSieben Sat.1 Media AG reach 12 percent of spectators on a given day.

Foreign public service broadcasters are also popular in Luxembourg, with an accumulated audience share average of 25.9 percent. Notable among these is the international edition of Portuguese public service channel RTP which attracts almost five percent of viewers daily.

2.3 Press and Publishing

Similar to the television industry, the newspaper business is divided along linguistic lines, with each of the main publishing houses producing both a French and a German language daily. Together, the Imprimerie Saint-Paul (ISP), owned by the Archbishopric of Luxembourg, and Editpress Luxembourg, owned by the social-democratic trade unions OGB-L and FNCTT-FEL, control 90.9 % of the country's daily newspaper market. ISP enjoys a clear market leadership position thanks to the high circulation of its daily *Luxemburger Wort* that accounts for 58.7 percent of average circulation.

Table LUX3: Main Publishing Companies

Publishing companies	Ownership Structure	Main Titles	Total Market Share 2002*
Saint-Paul Luxembourg S.A.	Archbishopric of Luxembourg	Luxemburger Wort, La Voix du Luxembourg	65.6%
Editpress Luxembourg S.A.	OGB-L and FNCTT-FEL	Tageblatt, Le Quotidien	25.3%
Kommunistische Partei Luxemburgs	Kommunistische Partei Luxemburgs	Zeitung vum Lëtzebuerger Vollek	5.6%
Editions Lëtzebuerger Journal S.A.	Liberal Democratic Party	Editions Lëtzebuerger Journal S.A.	3.5%

* Market share based on certified circulation figures from: www.cim.be and company data.

The two minor German-language newspapers *Zeitung vum Lëtzebuerger Vollek* and *Letzeburger Journal* exhibit a trait characteristic of the Luxembourgian press market, namely the importance of confessional and political groupings as publishers: while the former is owned by the Communist Party, the later belongs to the Liberal Democratic Party.

2.4 Cable and Satellite operators

Due to the early interest in satellite technology, Luxembourg is home to one of the major European satellite operators, SES Astra, a regional subsidiary of the leading satellite operator world-wide, SES Global.

Table LUX4: Main Cable Companies

Cable Companies	Ownership Structure	Total Market Share*
Eltrona	Eltrona (66%) P&T Luxembourg (34%)	35.0%
Coditel	Altice One	25.0%
Siemens	Siemens	20.0%

* Market share calculations based on company data, ILR estimates and own calculations.

In the cable business, the market is divided between three main operators, the biggest of them being domestic champion Eltrona in which the old state monopolist P&T Luxembourg holds 34% of shares after buying out CLT-UFA (RTL) in 1999. The other two are both foreign owned, Siemens being a subsidiary of the German group of the same name, while Coditel belongs to the French Altice One Group.

3. Conclusions

3.1 Freedom of the Media

As mentioned above, the Luxembourgian parliament adopted a new law on the freedom of expression in the media on 13 May 2004. While this has been generally welcomed as a move towards providing increased legal certainty in a number of important areas not or insufficiently covered by the preceding press law dating back to 1869[320] – including the protection of sources and the introduction of special data protection provisions for journalistic work – , the law has also been perceived to create new problems as the result of the revocation of the law of 20 December 1979 regulating the usage of the term "journalist" as a professional title.[321] The Press Council has criticized this move as introducing fragmentation among a hitherto unified journalist body, ultimately endangering the adherence to a shared deontological code by all journalists across different media.[322]

3.2 Ownership and market concerns

As shown in the preceding sections, the Luxembourgian media landscape is largely dominated by two major players, namely the Saint-Paul group and RTL, who hold clearly dominant positions in the newspaper and radio broadcasting markets respectively, whilst RTL's position in the television market is challenged only by foreign broadcasts. Both companies are active in multiple related markets simultaneously, ISP being engaged in press, print publishing, internet services and radio broadcasting: The RTL group is part of the larger media conglomerate of Bertelsmann, with interests in broadcasting operations, traditional book publishing, and new digital content development.

The high degrees of concentration currently observable in the radio and newspaper industry are unlikely to vanish even with the introduction of a new Competition Act and the parallel development of a new institutional structure, since neither of those can restore effective competition to these markets. The law does not foresee any thresholds for market concentration, and those of EC competition law most likely will not be invoked regarding the Luxembourgian market only: Protection can stem only from the prohibition against the abuse of a dominant market position. For this clause to be invoked, however, requires a behavioral component as well – a high market share, irrespective of its size in absolute terms, alone does not indicate abusive behavior. At the same time, divestiture does not seem to be a viable instrument to foster increased competition, given Luxembourg's historically rather interventionist approach to the media sector. Any changes to the status quo may derive from a combination of the renegotiation of RTL's "public service monopoly" prior to 2010 and increased efficiency in spectrum usage allowing cheaper access for interested competitors.

Report status: the gathering of data for this report was completed on May 21st 2004

[320] *Loi du 20 juillet 1869 sur la presse et les délits commis par divers moyens de publication* [Law of 20 July 1869 on the Press and the Offences committed by various Means of Publication], available from: http://www.etat.lu/legilux/DOCUMENTS_PDF/CODES/CODE_ADMINISTRATIF/Vol.2/PRESSE-2001-ll.pdf.

[321] *Loi du 20 décembre 1979 relative à la reconnaissance et à la protection du titre professionnel de journaliste - modifiée par la loi du 3 août 1998 sur la promotion de la presse écrite* [Law of 20 December 1979 on the Recognition and the Protection of the Professional Title « Journalist », as amended by the law of 3 August 1998), available from : http://www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/1998/a0812309.pdf. Chapter 15, Section 99 of the Law on the Freedom of Expression in the Media of 13 May 2004 foresees the abolishment of said law.

[322] See the Press Council's press release on the issue of 18 July 2003, available from: http://www.press.lu/pdf/communique21_07_03.doc

Malta

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Freedom of expression, which is enshrined in article 41, sub-article (1) of the Constitution of Malta, provides as follows:-

> *Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.* [323]

Article 41, sub-articles (2) to (5), lists restrictions on freedom of expression and, on freedom of establishment of media enterprises. Limitations may occur due to: the interests of defence, public safety, public order, public morality or decency, or public health; or for the purpose of protecting the reputations, rights and freedoms of other persons, or the privacy of people involved in legal proceedings, or preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, protecting the privileges of Parliament, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or the publication of information that impedes the work of public officials. Anyone of age and resident in Malta may edit or print a newspaper or journal, and any person who is the editor or printer of any such newspaper or journal must inform the appropriate authority and provide evidence of age, identity and place of residence. The police may seize any edition of a newspaper in the context of a criminal offence but must, within twenty-four hours of the seizure, inform the competent court of the action. If the court is not satisfied that there are grounds for prosecution the material should be returned to publisher. The freedom of expression is additionally referred to within the context of media pluralism in the Broadcasting Act of 1991 (see section 1.5).

1.2 Freedom of Information

The concept of freedom of information is referred to in the Article 41 of the Constitution (above), and also in Article 10 of the First Schedule to the European Convention Act, which incorporates the European Convention on Human Rights and Fundamental Freedoms into Maltese law (Aquilina, 2003). There is, to date, no specific legislation that directly incorporates freedom of information into Maltese law, or provides for a system of access to official documents. Certain rights do exist within the law regarding access to documents, which are at least 30 years old (no longer part of the administrative process) through the National Archives of Malta,[324] possible only since June 1990. Aquilina (2003) further points out that article 47 of the Press Act[325] requires that a procedure be established for access to information for journalists, with certain exceptions regarding the use or nature of this information. Aside from this access for the press, no law exists concerning citizens' right to seek and access information from government or authorities apart from certain specific sectoral spheres of the law such as in environmental law.

1.3 Codes for journalists and broadcasters

The Code of Ethics of the Institute of Maltese Journalists (IMJ), and Institute of Broadcasters, requires (in brief) that journalists: ensure that information given is correct, well sourced, balanced and fair, and obtained without deceit; respect the confidentiality of the source of information, when requested; always verify facts, acknowledge mistakes and correct them immediately; clearly distinguish between news and opinion; refrain from suppressing information for personal interests or

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[323] Available from the website of the Broadcasting Authority of Malta: http://www.ba-malta.org/

[324] Chapter 339 of the Laws of Malta: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_6/chapt248.pdf

[325] Chapter 248 of the Laws of Malta:: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_6/chapt248.pdf

under pressure from personal, commercial or other interests, which could undermine the general public interest. Plagiarism, malicious distortion of facts, slander, and the publication of libellous, false or baseless allegations, acceptance of bribery in money or other form in order to give or withhold information, should all be considered as grave offences against the profession of journalism and a betrayal of public trust in the profession. Journalists must respect the right of all citizens to a fair trial in court, and the dignity, privacy and health of persons in the news; should be the defence shield of all fundamental human rights; must avoid facilitating discrimination based on sex, race, religion or differences of political opinion; and should always defend freedom of expression and of fair comment. Journalists must observe this Code, condemn its infringement and promote its observance by all journalists. The Code establishes the need for the appointment of an Ethics Council to regulate and decide on infringement thereof. The Press Ethics Commission established in 1999, is a self-regulatory body that deals with complaints regarding the practice of journalism. Issues relating to journalistic/ editorial responsibilities and freedoms are also dealt with in the Press Act.

1.4 Media Ownership Regulation

The media in Malta is mainly regulated through the Press Act and the Broadcasting Act.[326] According to the Press Act, the right to edit a newspaper or be employed as editor of a broadcasting organisation is limited to residents of Malta, over the age of eighteen years (editors must register with the Registrar showing proof of age, identity and residence).[327] The Malta Broadcasting Authority has the responsibility for licensing and monitoring the broadcasting industry, and for enforcing ownership limits in the broadcasting sector in Malta. Additionally, when issuing broadcasting licences, the Broadcasting Authority is guided by considerations such the principles of freedom of expression and pluralism, the provision of a diversity of public and private stations, and the service of a wide range of audience programming interests.[328] In the press sector the Registrar has the power to demand and obtain information regarding the ownership of a newspaper published in Malta or of a company or other association of persons that is or at any time was, directly or indirectly, the owner of such a newspaper or with regard to the transfer of shares or control of any such company.[329]

Regarding media pluralism, a white paper was published in 1990: "Broadcasting: A Commitment to Pluralism" which led to the Broadcasting Act of 1991. According to Borg (2003) the white paper laid out several principles, which were to underlie the development of a plural media system, and were then incorporated in the broadcasting act. These principles included: to the freedom of expression; the independence of Public Service Broadcasting; the development of new services and platforms; diversity of programmes; and the prevention of anti-competitive practices.

Regarding cross-media ownership the Broadcasting Act 1991 specified that a licensee could only obtain either a TV or a radio licence. This was amended in 1993 to allow a licensee to hold one TV and one radio licence. A further amendment in 2000 (which dealt with particular aspects of the Television Without Frontiers Directive concerning 'teleshopping' and 'must carry' rules for cable operators) further relaxed media ownership rules, allowing a single company to additionally own a teleshopping channel.[330] Ownership of the media is hence limited on the basis of the number of stations, not including public service broadcasters, which exist in the broadcasting landscape. The Government may own, control or be editorially responsible for any number of broadcasting services. There are also no limits on political bodies and religious bodies owning or participating in broadcasting companies. As outlined in section two, the main political parties and the Roman Catholic Apostolic Church are involved in both broadcasting and publishing. There are no provisions in any of the laws preventing cross ownership of broadcasting and publishing outlets. General competition policy applies regarding mergers and acquisitions as outlined in the Companies Act.[331] A system of

[326] Chapter 350 of the Laws of Malta: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_9/chapt350.pdf
[327] Press Act, articles 34-35 and 42.
[328] Broadcasting Act, article 11(1).
[329] Press Act, article 51(2).
[330] Broadcasting Act, article 10(6)(a).
[331] Chapter 386 of the Laws of Malta: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_11/chapt386.pdf

co-operation exists between the Ministries and the Broadcasting Authority, with the Registrar requiring that the ownership status of companies is transparent.

There are certain restrictions on foreign ownership of the media. Only companies registered in Malta may apply for a broadcasting licence. A foreign company may have shares in an outlet provided that the majority of the company's voting shares are controlled by citizens of Malta normally resident in Malta.[332] Through amendments made to the Broadcasting Act in 2000, it is possible for foreigners to own broadcasting media licenced in Malta if there is any obligation assumed by Malta including either an obligation of national treatment in respect of foreign nationals – as will be the position of Malta via-a'-vis European Union nationals with effect from 1st May 2004, Malta's accession to the Union – and in respect of a clause of reciprocity in any convention applicable to control or ownership of broadcasting media.[333]

2 Main Players in the Media Landscape

The Maltese media landscape is particular in that many media outlets are owned by either political parties or the church. There is a dual system covering English and Maltese language press outlets and the population also receives and uses a good deal of the neighbouring Italian media, particularly television. The development of a dual language media system is due to former status of the country as a British colony, while the reception of media from the larger neighbouring Italy is similar to the experiences in small countries such as Latvia and Ireland (see country reports). The fact that the political parties and other institutions own a great deal of the media system developed because of the influence of the state media during the 1980s.[334]

2.1 Radio

Table MT1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Market Share 2003**	Regional/ community
Super One Radio	Malta Labour Party	Super One Radio	22%	
PBS Ltd	Public Service Broadcasting Limited	Radju Malta FM Bronja (niche)	13.6% 0.7%	
Radio 101	Nationalist Party	Radio 101	11.1%	
RTK	Catholic Church	RTK	10.7%	
Bay	Consortium	Bay (music)	9.8%	
Capital	The Green Party Alternattiva Demokratika	Capital	5.8%	
		Others	27.49%	
Religious Broadcasters	Dominican Order Gozo parishes Charismatic Movement			2 stations 9 stations 1 station

* From the Malta Media Landscape, European Journalism Centre website: www.ejc.nl. And also from company websites.
** Market share fourth quarter 2003, from the Broadcasting Authority of Malta.

All of the main political parties own a radio station in Malta. The Malta Labour Party owns Super One Radio, currently the most popular in terms of listenership. The Nationalist Party owns Radio 101 with an 11% share of the audience, and the Green Party Alternattiva Demokratika own Capital Radio with a 5% share of the audience. The Public Service Radio channels Radju Malta and FM Bronja have a combined audience share of 20.6%. The Catholic Church owns one national radio station RTK which

[332] Broadcasting Act, article 10.
[333] Ibid., article 10(5).
[334] Pluralism and Politics on the air waves. Editorial Malta Today July 6 2003. retrieved from: http://www.maltatoday.com.mt/2003/07/06/editorial.html

has a10.7% audience share. Other church organisations, including the Dominican Order, various parishes in Gozo and the Charismatic Movement own, between them, twelve of the twenty -five community radio stations.[335]

2.2 Television

A similar pattern of ownership exists for the television sector. The Public Service Broadcaster has, with TVM, a relatively strong audience share of (Prime Time) 33.2%. The figures in table MT2 below indicate the audience share for different times of the day which shows that the Public Service Broadcaster also has the dominant audience during morning viewing.

Table MT2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Market Share 1900-2400 Prime Time **	Market Share 1200-1900	Market Share 0600-1200
PBS Ltd	Public Service Broadcasting	TVM	33.2%	15.8%	49.4%
Super 1 TV	Malta Labour Party	Super 1TV	25.3%	27.3%	10.4%
Mediaset	Mediaset (Italy)	Mediaset	13.4%	20.3%	9.5%
NET TV	Nationalist Party	NET	12.3%	8.9%	9.2%
		Satellite stations	9%	16%	10%
RAI	PSB Italy	RAI	4.8%	6.6%	3.0%
		others	2.2%	5.1%	8.6%

* From the Malta Media Landscape, European Journalism Centre website: www.ejc.nl.
** Market share fourth quarter 2003, from the Broadcasting Authority of Malta. The data shows three time bands of which we consider the first to be prime time viewing.

The Malta Labour party owns the popular Super1 TV, which during prime time is the second most popular channel with an audience share of 25.3%. The third player in terms of market share (and more particularly for daytime television) is the Italian Mediaset channel (see Italian report), which has an audience share of 13.4% during primetime.

Additionally, the Italian Public Service Broadcaster RAI has an audience share of 4.8%. The Nationalist Party owns the NET TV channel, which has an audience share of 12.3%. According to Borg (2003) the Catholic Church does not own any television channels but owns a production company that produces religious programmes for various channels.

2.3 Press and Publishing

In the press sector there are two language markets, English and Maltese. The English language publications are stronger and more widely read. Circulation figures for the press in Malta are not available so the table below lists the main companies in both language groups. The most popular and established newspapers are those published by Allied Newspapers Ltd. i.e. *The Times* and *The Sunday Times*, which were originally published by the Constitutional Party (no longer in existence). They are now managed by a Foundation, and hence 'neither owned by purely commercial interests nor are they part of one of the main institutions on the Island.'[336] Another player in the English language publishing market is Standard Publications Ltd who publish *The Malta Independent*, *The Malta Independent on Sunday* and *The Malta Business Weekly*. The third main publisher in English is

[335] Information from the 2003 Malta Media Landscape of the European Journalism Centre: www.ejc.nl. Market shares from the Broadcasting Authority of Malta

[336] Information from the 2003 Malta Media Landscape of the European Journalism Centre: www.ejc.nl.

Network Publications Ltd. (privately owned), who publish *Malta Today* and *The Business Times* (the company previously had two other titles which closed down). In the Maltese publishing market, the main titles are those published by the Union Press Co. Ltd (owned by the General Workers Union). They publish a daily paper, *L-orizzont* (The Horizon) and a Sunday paper, *It-Torca* (The Torch). The Malta Labour Party (see also radio and television) publishes the Sunday paper *KullHadd* (Every Sunday). The Nationalist Party publishes the daily *In-Nazzjon* (The Nation) and the Sunday, *Il-Mument* (The Moment).

Table MT3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles Daily	Titles Sunday	Weekly
English Publishing				
Allied Newspapers Ltd	Owned by a Foundation	The Times	The Sunday Times	
Standard Publications Ltd		The Malta Independent	The Malta Independent on Sunday	The Malta Business Weekly
Network Publications Ltd	John Formosa	Malta Today		The Business Times
Maltese Publishing				
Union Press Co. Ltd.	General Workers Union	L-orizzont	It-Torca	
Malta Labour Party	Malta Labour Party		KullHadd	
Nationalist Party	Nationalist Party	In-Nazzjon	Il-Mument	

* From the Malta Media Landscape of the European Journalism Centre. Circulation figures for the press in Malta are not available so the table merely lists the companies involved in publishing.

2.4 Cable and Satellite operators

The only cable company in Malta is Melita Cable which in 1991, was awarded an exclusive 15 year Licence to provide a cable television service to Malta and Gozo. It currently has 93,000 subscribers and provides over 56 different channels with programmes including news, documentaries, entertainment, movies, sporting events and educational programs.[337]

3. Conclusions

The media landscape in Malta reflects both the small size of the market (with a population of 400,420) and the various linguistic traditions (due to historical and geographic links) that have led to a development of both Maltese and English language media, and a high level of use of Italian media. There exist no major concerns regarding media freedom in Malta, with the only outstanding issue being the full implementation of the right to freedom of information for the citizen.

A recent report (Broadcasting Authority of Malta, 2002) raised some concerns about the reality of broadcasting pluralism in Malta particularly concerning the strong involvement of political groups in local broadcasting. Respondents to a survey commented on excessive political coverage and political bias, claiming that not enough coverage was given to non-political local and international events. Additionally, there is some concern regarding the strength and independence of the Public Service Broadcaster.

Report status: the gathering of data for this report was completed on April 19th 2004

[337] Information from company website: http://www.melitacable.com/aboutmelita.asp?m=1&mid=1&pos=18

Netherlands

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The freedom of expression is enshrined in the Dutch Constitution[338], Article 7:

> *(1) No one shall require prior permission to publish thoughts or opinions through the press, without prejudice to the responsibility of every person under the law.*
> *(2) Rules concerning radio and television shall be laid down by Act of Parliament. There shall be no prior supervision of the content of a radio or television broadcast.*
> *(3) No one shall be required to submit thoughts or opinions for prior approval in order to disseminate them by means other than those mentioned in the preceding paragraphs, without prejudice to the responsibility of every person under the law. The holding of performances open to persons younger than sixteen years of age may be regulated by Act of Parliament in order to protect good morals. (4) The preceding paragraphs do not apply to commercial advertising.*

1.2 Freedom of Information

The transparency of information has been an issue of concern in the Netherlands since the 1795 Declaration of Rights of Man, which stated: *"everyone has the right to concur in requiring, from each functionary of public administration, an account and justification on his conduct."* (in Banisar, 2003). Article 110 of the Dutch Constitution states: *"In the exercise of their duties government bodies shall observe the right of public access to information in accordance with rules to be prescribed by Act of Parliament."*

The Freedom of information legislation was first adopted in 1978 and replaced by the Government Information (Public Access) Act (WOB) in 1991.[339] The act regulates how individuals can demand information on administrative matters contained in documents held by public authorities or companies carrying out work for a public authority. The authority in question has two weeks to respond.

1.3 Codes for journalists and broadcasters

Dutch journalists agree to the Declaration of Principles on the conduct of Journalists as adopted by the International Federation of Journalists 1954.[340] The Declaration states (in brief) that journalists: respect the truth; defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism; report only in accordance with facts of which he/ she knows the origin and not suppress essential information or falsify documents; use only fair methods to obtain news, photographs and documents; rectify any harmfully inaccurate published information; observe professional secrecy regarding the source of information obtained in confidence; be aware of the danger of discrimination, and shall avoid facilitating such discrimination based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national or social origins; regard plagiarism, malicious misrepresentation, calumny, slander, libel, unfounded accusations, acceptance of bribes as grave professional offences. Dutch publishers, newspapers editors and the union of journalists also commit themselves to editorial statutes which are intended to guarantee complete editorial freedom for each individual newspaper.

The Press Council in the Netherlands (*Raad voor de Journalistiek*)[341], established in 1948, is charged with the examination of complaints against violations of good journalistic practice (always in regard to a specific publication or a specific series of articles) and has no possibilities other than to give an opinion regarding complaints. This opinion is published in the professional magazine for journalists

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[338] Constitution of the Netherlands: http://www.minbzk.nl/contents/pages/00012485/grondwet_UK_6-02.pdf
[339] Act of 31 October 1991 http://www.minbzk.nl/contents/pages/00012478/public_access_government_info_10-91.pdf.
[340] Amended 1986. Retrieved from: http://www.uta.fi/ethicnet/nether.html
[341] http://www.rvdj.nl/

and also sent to the national news agency (ANP) and to the media. However, the maintaining of the standard of good taste or general complaints against the press cannot be treated by the Council. Its competence also includes television and radio programs in so far as journalistic practice is concerned. Since 1993 the Council can also mediate between complainant and journalist and can also give a statement of opinion about a case of principal interest. This has already happened twice: about the use of stolen information by journalists (1995) and about the use of hidden cameras and microphones (1996).

1.4 Media Ownership Regulation

There are only a few specific rules and regulations regarding media ownership in the Netherlands. With regard to radio, Article 82f of the Media Act states that only one FM frequency or combination of FM frequencies shall be used to transmit the radio programme services of one and the same organisation. For the purposes of this article, two or more companies shall be regarded as one company if:

> "***a***. *a company has such direct or indirect control or influence over one or more other establishments that it can determine their policies to a large extent, or has considerable influence on policy content;* ***or b***. *a natural person or group of natural persons has such direct or indirect control or influence over two or more other companies that the said person or group of persons can determine their policies to a large extent, or have considerable influence on policy content.*"[342]

Departures from these are possible by, or pursuant to, an Order in Council if this is deemed desirable in connection with an efficient use of frequency space (Article 82f, par. 3). Furthermore, the Minister of Education, Culture and Science may also determine that more frequency space than one FM frequency or combination of FM frequencies may be used to transmit radio programme services of one and the same company (Article 53c, par. 2).

Cross-ownership restrictions exist only between broadcasting and newspapers. According to Articles 71b and 71c of the Media Act, the Commissariaat voor de Media – CvdM (Netherlands Media Authority) will refuse or withdraw permission for commercial broadcasting if: the broadcasting organisation, or one or more of the legal persons or companies with which it forms a group, jointly or individually have a share of twenty-five percent or more on the market for daily newspapers; or if a legal person, or one or more of the legal persons or companies with which it forms a group, are jointly or individually in a position either to exercise more than one third of the voting rights in the general meeting of shareholders of the applicant, or to appoint or dismiss more than one third of the applicant's directors or members of the supervisory board. No licence will be granted in the case where a commercial broadcasting organisation, or one or more legal persons or companies with which it forms a group, jointly or individually have a share of more than fifty percent of the market for daily newspapers or non-daily newspapers in the area to be served by the programme service of the commercial broadcasting organisation in question, unless that same area is also served by another regional or local broadcasting organisation and this guarantees a plural and diverse news provision in that area.

1.4.1 Monitoring – Authorities

In April 1999 the Media Concentration Committee examined the need for additional regulations with respect to concentration in the Dutch media sector and concluded that the existing regulations were sufficient to combat the adverse effects resulting from concentrations in the media sector. However, it recommended monitoring of media developments by an independent body. The Dutch Government commissioned this task, which became permanent in April 2003, to the Commissariaat voor de Media. Hence, the *Commissariaat* set up the monitoring system in May 2001 and produced the first report in March 2002. The second report was presented in May 2003.[343] The main objectives of the Dutch

[342] Article 53c, par.1 of the Media Decree
[343] Both reports are available on the website of the Commissariaat: http://www.cvdm.nl/

monitoring system are to supply information on concentration developments, provide insight into sector data and make statements with the goal of recognising any trends and developments at an early stage that (may) threaten the plurality and the independence of public information supply. Based on these findings, an evaluation is made regarding the need for new regulations or intervention powers for the CvdM. Monitoring covers the whole media value chain, as all media have an influence on the information supply, as well as on the information production process. The indicators applied are ownership, editorial, horizontal, vertical and diagonal concentration, diversity, plurality, independence (editorial statute, originality), autonomy and accessibility (availability, affordability).

A website entitled "Media Monitor"[344] was also launched by the Commissariaat providing an overview of concentration in the markets for television, radio, newspapers and magazines. Concentration data are available for each of the different stages of the production process and for the advertising markets associated with each medium.

1.4.2 Competition Policy and Mergers - Cases

Since 1998, the Netherlands Competition Authority (*Nederlandse Mededingingsautoriteit* – NMa)[345] is responsible for implementing the Competition Act. Proposed mergers or acquisitions should be notified to the NMa, which takes a decision, essentially within four weeks, as to whether the merger/acquisition in question should be licensed. Concentration supervision applies only to ownership changes in which the combined turnover achieved for the previous calendar year by the undertakings involved exceeded 113,450,000 Euro, with at least two of the parties involved having realised at least 30,000,000 Euro in the Netherlands (Article 29 of the Competition Act). There are no legal limits on the market share. The NMa will have to investigate if there is an abuse of a dominant position on the relevant market and this depends on the behaviour of the parties.

In March 2000, the NMa set conditions for the approval of the acquisition of the VNU's regional dailies by Wegener. In order to prevent Wegener holding a dominant position in Gelderland and to guarantee competition in the region, Wegener was required to sell the daily papers De Limburger and Arnhemse Courant. Wegener filed an appeal against the decision and the Court of Rotterdam granted the appeal in part. The outcome was that Wegener sold De Limburger to De Telegraaf group. In December 2001, after an appeal to the Trade and Industry Appeals Tribunal, the ruling was overturned implying that Wegener had still to fulfil the conditions set by NMa in the first place. In 2002, the NMa stipulated new requirements, namely that the regional editions of De Gelderlander must be maintained and Wegener must support new entrants.[346]

Besides the Competition Authority and the CvdM, the Independent Postal and Telecommunications Authority-OPTA is also involved in matters of cross ownership in the media. The OPTA lays down the main preconditions for competition in the telecommunications market and is in charge of monitoring the compliance of the new Telecommunications Act. Under this Act, which came into effect on 15 December 1998, tasks were assigned to OPTA with respect to the supervision of broadcasting networks, particularly with regard to the settlement of disputes between cable operators and programme providers. OPTA has also been given a supervisory role with respect to conditional access systems (decoder boxes).

There is a close operation between the three authorities in overlapping cases/situations. Discussions have taken place between NMa, the Commissariaat and OPTA on problems regarding access to cable. Meetings were also held in 1998 between NMa and OPTA regarding conditional access. Finally, OPTA consulted with the NMa on the application of general rules of competition in drawing up OPTA's first consultation document 'Significant Market Power'.

344 http://www.mediamonitor.nl
345 http://www.nmanet.nl/en/Over_de_NMa/default.asp
346 http://www.nmanet.nl/en/nieuws_en_publicaties/persberichten/02-60.asp

2. Main Players in the Media Landscape

2.1 Radio

The public service broadcaster NOS operates five radio stations and one thematic station. The composition of the five channels is the responsibility of station supervisors. Aside from the NOS, there are also 21 private radio stations. National public service radio channels account for 31.1% of the market share while the regional public service has 14.8%, a combined share of almost half the audience (45.9%). The other half is divided between the national and regional commercial channels. Regional commercial channels united in CRN Commercial Radio Nederland have a 2.9% share of the market. In September 2003, the Holding Company, Veronica decided to take part in Sky Radio ltd. for 3.5% (where News Corporation is the main shareholder). Sky has obtained approval to change the name of its new Sky Golden Oldies radio station "Radio 103FM" into Radio Veronica, thus ensuring that the famous brand Radio Veronica survives.

Table NL1: Main Radio Companies

Companies	Ownership Structure*	Main Radio Stations		Total Market Share 2002**
Publieke Omroep (NOS)	Public service	Radio 1 Radio 2 3FM Radio 4 747 AM	8.6% 10.4% 9.7% 1.5% 0.9%	31.1%
Sky Radio Ltd.	News Corporation	Sky Radio		13.2%
Vrije Radio Omroep Nederland		Radio 538		9.9%
Wegener	NV Holdingmaatschappij De Telegraaf Van der Loeff Beheer	Radio 10 FM		7.4%
Talpa Beheer	John de Mol	Noordzee FM		4.3%
RTL-de Holland Media Groep	RTL Group	Yorin FM		3.6%

* Ownership structure based on information from company websites
** Market share based on audience figures from: CvdM, Report on Media Concentration in 2002

2.2 Television

The television sector is dominated by the activities of three strong suppliers. The public service broadcaster together with the biggest commercial operators HMG and SBS jointly control 85% of the market. NOS is the umbrella organisation responsible for the coordination of national public broadcasting in the Netherlands. It consists of eight independent, non-profit broadcasting organisations, which represent major groups in Dutch society. Members of NOS share three nation-wide TV and five radio channels.

The national commercial broadcasters in the Netherlands are part of large international corporations. The RTL-de Holland Media Groep holds three commercial broadcasting licenses, which are used for providing the channels RTL4, RTL5 and Yorin – The Movement. The media group Bertelsmann has 53.1%, BWTV 37.3% and the public 9.6% of the share capital of the RTL Group. The company is also involved in radio (Yorin FM) and new media (RTL iMedia) and controls its own advertising sales organisation (IPN SA) and a separate branch for the Internet (IP iMedia).

SBS Broadcasting B.V. operates the channels SBS6, NET5 and Veronica. The third channel of SBS called V8 became the new Veronica TV channel on the 20 of September 2003, after certain media assets of Veronica Holding (Veronica Uitgeverij, Veronica Litho and Veronica Digitaal) became part of SBS Broadcasting BV. In addition, SBS Broadcasting BV acquired the company that publishes the weekly television and radio guide Veronica Magazine, which is the largest weekly publication in the Netherlands, with a circulation of approximately 1.1 million. As a result of this transaction, Veronica Holding BV was issued a 10% equity interest in SBS Broadcasting BV. SBS Broadcasting B.V. owns the production company, SBS Productions BV and is also involved in new media.

Table NL2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share 2002**
NOS	Public service	Nederland 1 12.4 Nederland 2 17.0 Nederland 3 8.2	37.6%
RTL-de Holland Media Groep	RTL Group: Bertelsmann 53.1% BWTV 37.3% Public 9.6%	RTL 4 17.1 RTL 5 4.8 Yorin 5.5	27.4%
SBS Broadcasting BV	SBS Broadcasting SA 63% De Telegraaf 27% Vereniging Veronica 10%	SBS 6 10.5 Net 5 5.3 V8 (now Veronica) 3.8	19.6%
MTV-Europe	Viacom	TMF 0.3 MTVNL 0.5	0.8%

*Ownership structure based on information from: websites
**Market share based on audience figures from: CvdM, Report on Media Concentration in 2002

2.3 Press and Publishing

As is the case with television, the daily paper sector is dominated by the activities of three strong suppliers. During the last few years, plurality has decreased in the newspaper market as the number of daily paper publishers decreased. The principle of 'three is the rule' should apply where the three major publishers jointly control 90% of the market. The national daily market has two equally strong enterprises, PCM Uitgevers with a market share of 54.5% and the Holding De Telegraaf with 40.6%. At the regional level, one single publisher determines the offer in many parts of the country. The Koninklijke Wegener NV group with 52.2% of all regional dailies holds the strongest position on the regional market. It should be noted that between 80% and 90% of all daily newspaper sales in the Netherlands are via subscription.

Alongside activities in the area of regional and national dailies, door-to-door papers and magazines, the publishing group De Telegraaf has also interests in broadcasting companies. The group has 27% of the shares in SBS. In addition, De Telegraaf operates together with UPC in Media Groep West and has a 23.9% stake in the Wegener newspaper and magazine group.

PCM is primarily active as a publisher of daily newspapers, free newspapers, general and educational books. PCM Publishers is the result of a merger between three organisations: Perscombinatie, Meulenhoff & Co and Nederlandse Dagbladunie. The holders of the ordinary shares are Foundation Democracy and Media, De Volkskrant Foundation and the Foundation for the Promotion of the Christian Press in the Netherlands. The cumulative preference shares are held by a number of financial institutions. PCM Publishers are also involved in multimedia activities.

Koninklijke Wegener NV is the largest publisher of regional newspapers and free door-to-door papers in the Netherlands (a major player in Western Europe in the direct marketing area, publishes specialised magazines and provides graphics products and services. has interests in digital publishing, the Internet and in other media companies in different areas (e.g. commercial regional radio, newspaper distribution and delivery, press agency etc.). In many provinces there is only one publisher dominating the market (from 85 to 99% of the market). Even in the province of Utrecht where four publishers supply regional titles, the market is highly concentrated due to Wegener's dominant position. In four towns there is no competition on the regional market. However, the provinces of North Holland, South Holland and Flevoland have several publishers operating their regional markets.

Table NL3: Main Publishing Companies

Main companies	Ownership Structure*	Main Titles/ Market Share 2002	Total 2002**
NV Holdingmaatschappij De Telegraaf Holding	More than 15% - Exploitatiemaatschappij - Puijenbroek More than 5% - Fortis Utrecht N.V. - Mutual Series Fund Inc. - Tweedy, Browne Fund Inc.	De Telegraaf 18.3% Haarlems Dagblad/Leidsch Dagblad/De Gooi-en Eemlander 3.1% Limburgse Dagblad en Dagblad De Limburger 5.6% Noordhollands Dagblad 3.6%	30.7%
PCM uitgevers NV	Foundation Democracy and Media 57.4% De Volkskrant Foundation 5.8% Foundation for the Promotion of the Christian Press 1.8% Nationale-Nederlanden 22% Aegon Custody 7% NIB Custody 6%	Algemeen Dagblad 7.5% De Dordtenaar 0.8% de Volkskrant 7.8% Het Parool 2.1% NRC Handelsblad 6.3% Rijn en Gouwe 0.8% Rotterdams Dagblad 2.4% Trouw 2.9%	30.6%
Koninklijke Wegener NV	More than 15% - NV Holdingmaatschappij De Telegraaf - Van der Loeff Beheer More than 5% - Fortis Utrecht N.V. - Tweedy, Browne Fund Inc. - Fidelity Investments - Delta Lloyd	BN/DeStem 3.4% Brabants Dagblad 3.7% De Gelderlander 4.5% De Twentsche Courant Tubantia 3.3% Eindhovens Dagblad 2.9% Goudse Courant 0.3% Haagsche Courant 2.6% IJssel Dagbladen Combinatie 3.6% Provinciale Zeeuwse Courant 1.5% Others 2.8%	28.7%
Noordelijke Dagblad Combinatie BV	Friese Pers Beheer 50% Hazewinkel Pers Holding 50%	Dagblad van het Noorden 4.3% Leeuwarder Courant 2.7%	7%
Reformatorisch Dagblad BV		Reformatorisch Dagblad	1.4%
Nederlands Dagblad BV		Nederlands Dagblad	0.8%

* Market share based on circulation figures from: CvdM, Report on Media Concentration in 2002
** Ownership structure based on information from: CvdM and company data

Table NL 4: Concentration of the market of national dailies in 2002

Publishing companies	Market share in %
PCM Uitgevers NV	54.5
NV Holdingmaatschappij De Telegraaf	40.6
Reformatorisch Dagblad BV	3.1
Nederlands Dagblad BV	1.8

Source: CvdM, Report on Media Concentration in 2002

Table NL 5: Concentration of regional dailies in geographical areas in 2002

	Friesch Dagblad	NDC	PCM	De Telegraaf	Wegener	BDU
Groningen	0.7%	99.2%				
Friesland	15.4%	84.5%				
Drenthe	0.2%	98.5%			1.2%	
Overijssel		0.3%			99.6%	
Gelderland					96%	3.8%
Utrecht			6.1%	4.5%	89.1%	0.3%
North Holland		25.7%	74.3%			1.6%
South Holland		49.6%	12.6%	37.8%		2.5%
Zeeland			0.1%		99.9%	
Northe Brabant		0.1%		99.9%		1%
Limburg				98.4%	1.6%	
Flevoland	2.1%	5.3%	15.5%	23.1%	54%	
Amsterdam			100%			
Den Haag			0.2%		99.8%	
Rotterdam			99%		1%	
Utrecht			0.5%		99.5%	

Source: CvdM, Report on Media Concentration in 2002

Table NL 6: Concentration of the market of regional dailies in 2002

Publishing companies	Market share in %
Wegener NV	52.2
NV Holdingmaatschappij De Telegraaf	22.6
Noordelijke Dagblad Combinatie	12.8
PCM uitgevers NV	11
Friesch Dagblad Holding BV	0.9
Kon. BDU Uitgeverij	0.5

Source: CvdM, Report on Media Concentration in 2002

2.4 Cable and Satellite operators

The Netherlands has the highest penetration of cable TV services in Europe and one of the highest in the world. Cable is the dominant infrastructure for carrying television programmes with a market share of 93.4% of Dutch households. The market share for satellite is 7.3%.[347] After the privatisation and liberalisation of the cable market, the number of cable operators has decreased considerably through mergers and takeovers. Currently, there are three major cable operators (UPC, Essent and Casema), who jointly operate 84% of household connections. Aside from these three, there are around twenty small local or regional cable operators.

After the takeover of the parent company United Global Com (UGC), UPC is now part of the American media group Liberty Media. Liberty Media[348] has interests in various fields (video programming, cable and telephony, broadband distribution, satellite communication services, technology, Internet/interactive television) and is shareholder in a large number of media enterprises (e.g. 17% of News Corporation, 50% of Discovery Communications).

Cable operators are legally bound to carry seven television and nine radio channels. These *must carry* channels - the Dutch and Belgian/Flanders public broadcasting channels – are part of the so called "basic package" of 15 television and 25 radio programmes that should be transmitted to the public. There are Programme councils who advise on the composition of this package, and must represent the viewers and their preferences. The CvdM can be requested by a programme council or programme provider to intervene in conflicts and evaluate serious reasons for which the cable operator wants to deviate from the advice on the basis package. Furthermore a programme provider whose programme is not included in the advice can ask the CvdM to evaluate the advice of the programme council.

In the field of pay-TV satellite services, the main provider is Canal + Netherlands, a firm owned by Vivendi Universal. In March 2000 Canal + launched a digital package, and by the end of June of 2001 this digital service had 125,000 subscribers.

Table NL 7: Cable and Satellite Companies

Company	Ownership Structure*	Total Market Share**
UPC Nederland N.V.	United Global Com (Liberty Media has shares of 78%)	37.7%
Essent Kabelcom	Essent NV (formed by the merger of NV EDON group and PNEM-MEGA Group)	26.7%
Casema	Carlyle Group, Providence Equity Partners and GMT	21.5%
Multikabel		4.8%
Zekatel Basisdiensten		2.4%
Canal+ Digital Satelite		125,000 subscribers

* Ownership structure based on information from: CvdM, Company data

**Market share based on subscription figures from: CvdM, Report on Media Concentration in 2002

[347] Intomart Research October 2002

[348] www.libertymedia.com

3. Conclusions

3.1 Freedom of the Media

Although the press market is highly concentrated, diversity of the printed media implying a wide choice for the consumer has so far not being threatened by this development. The editorial statute to which Dutch publishers, newspapers editors and the union of journalists have committed themselves guarantees complete editorial freedom for each individual newspaper.

According to the International Press Freedom Institute, there are no serious violations of press freedom in the Netherlands. Therefore certain decisions, like that of the Amsterdam Court of Justice in 2000 detaining the journalist Koen Voskuil for refusing to reveal his source, gain international attention and generate criticism by the public as well as by international press freedom organisations.[349] However, such cases are rare.

Developments which are regarded as negative trends tend to be mainly of an economic nature.[350] So far, attempts to reduce VAT on newspapers to zero percent have been rejected by the government, while postal tariffs for subscribers outside the circulation area will no longer be subsidized. (In both cases it has been argued by the publishers that newspapers are not purely commercial objects but also serve the common interest of freedom of expression).

3.2 Ownership and market concerns

To prevent further concentration within the daily paper press and foster the existence and development of strong independent regional daily papers in addition to the national ones, the CvdM proposes both a legal maximum market share (maximum share of the joint national and regional markets of 33% or 1/3) and incentive measures for a temporary support of the daily papers (e.g. through the Netherlands Press Fund). The Press Fund could also be asked to examine alternative forms of distribution or proposals like the VAT-zero-rate suggested by the Netherlands Union of Journalists.[351]

With regard to the television sector, the Commissariaat recommends amending the legislation so as to include a maximum viewers market share of 30% in order to prevent a "re-concentration" of the market and hence to guarantee that there are at least three parties operating. Furthermore, the Commissariaat advocates more attention to programming independence. Cross ownership restrictions could be loosened concerning the Internet due to the potential benefits for content of co operation between different media, combined however with a restriction of the market share in another medium (i.e. maximum market share of 30% on daily newspapers and market share of 10% on radio or television market).

Report status: the gathering of data for this report was completed on March 2nd 2004

[349] The journalist was released shortly after Europe-wide protests.
[350] 2000 World Press Freedom Review
[351] See reports of the Commissariaat on Media Concentration in 2001 and 2002

Poland

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The freedom of expression and freedom of the press are protected in the Constitution of the Republic of Poland 1997 which states:

> *Article 14: The Republic of Poland shall ensure freedom of the press and other means of social communication.*
> *Article 54: 1. The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone. 2. Preventive censorship of the means of social communication and the licensing of the press shall be forbidden. Statutes may require the receipt of a permit for the operation of a radio or television station.*[352]

The Press Law of 1984 (see 1.4.1) reiterates the commitment to freedom of the press and freedom of the media. However, there is a restriction of internal freedom of the press in article 10 of law, which stipulates that a journalist 'should follow general editorial policy as described in a statute or internal regulations of an editorial office in which the journalist works.' A Penal Code was adopted in 1997 and entered into force in September 1998, which has a direct impact on media freedom (see discussion under section 3.1). The Penal code states:

> *Article 135, § 2. Whoever publicly insults the President of Republic of Poland, shall be subject to the penalty of deprivation of liberty for up to 3 years.*
> *Article 226, § 1. Whoever insults a public functionary or a person called upon to assist him in the course of, or in connection with his performance of official duties, shall be subject to the penalty of fine, limitation of liberty, of deprivation of liberty for up to 1 year.*
> *Article 226§ 3. Whoever publicly insults or abases a constitutional body of Republic of Poland, shall be subject to the penalty of fine, limitation of liberty, or deprivation of liberty for up to 2 years.*

1.2 Freedom of Information

Article 61 of the Constitution provides for the right to information on the activities of organs of public authority as well as persons discharging public functions and mandates (and bodies/organisations who perform the duties of public authorities and manage communal assets or property of the State Treasury). Limitations of these rights may be imposed by statute solely to protect the freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State.[353] The Article stipulated that the Parliament enact a law setting out this right and the Law on Access to Public Information was approved in September 2001 and went into effect in January 2002.[354]

1.3 Codes for journalists and broadcasters

The Polish Journalists Association and Association of Journalists of the Republic of Poland have established a Code Of Ethics.[355] The code obliges journalists (in brief): to seek the truth, avoid manipulation and to rectify inaccuracies; to keep and to preserve professional secrets and protect sources; to protect privacy except relevant to the public interest; not to prejudice a defendant in court by prior judgement; avoid propagating war, violence, or encouraging discrimination on grounds of religion, nationality, cultural identity etc.; not to propagate pornography; not to accept bribes for publishing or not publishing material; protect copyright, avoid plagiarism; avoid professional disloyalty.

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352 http://www.sejm.gov.pl/english/konstytucja/kon1.htm
353 http://www.sejm.gov.pl/english/konstytucja/kon1.htm
354 Law on Access to Public Information. 6 September 2001 Journal of Laws No 112, item 1198. http://www.ijnet.org/FE_Article/MEdiaLaw.asp?CID=25272&UILang=1&CIdLang=1
355 http://www.presswise.org.uk/display_page.php?id=252

The Press Law 1984 (see also 1.4.1), in relation to journalism standards, regulates the protection of journalistic sources, and grants news sources absolute protection, except for the cases which involve national security etc., and editors are obliged to publish the corrections of untrue or inaccurate information. An additional Media Ethics Charter (adopted on 29 March 1995 in Warsaw by associations and unions of Polish journalists, publishers and public and private broadcasters) outlines the protection of the following principles: truth; objectivity; separation of information and commentary; honesty; respect and tolerance; quality; freedom and responsibility.[356]

A Media Ethic Council was established in 1996. The original idea was to create an authority with similar powers to the National Broadcasting Council (see 1.4) but this was opposed by various journalists/editors groups. The Council has the power to make announcements and statements regarding media ethics. Their role is to make sure that journalists follow the rules set out in the Media Ethic Code, and they are authorized to make announcements and statements, but do not have any right to authorise sanctions according to law.[357]

1.4 Media Ownership Regulation

The National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji, hereafter KRRiTV) was established under articles 213-215 of the Constitution of Poland, and charged with formulating broadcasting policy and licensing, and the overall protection of free speech, independence of broadcasters, audience interests and the protection of a plural broadcasting system. The Office for Telecommunications and Post Regulation (URTiP) has the competence to allocate broadcasting frequencies. The regulation of the media in Poland is based on the Press Law (1984), the Broadcasting Act (1992), Telecommunication Law (2000) and Act on Competition and Consumer Protection (2000).

1.4.1 The Press

The Press Law of 1984[358] refers not only to newspapers but also any regular publication which is produced not less than once a year, including dailies, magazines, press agencies, radio and television programmes, movie chronicles and all mass media disseminating periodic publications through print, broadcasting or other technical means. All periodicals and newspapers must be registered and registration includes providing the personal data of the editor-in-chief, the name and address of the publisher and frequency of publication. The law has no limitations regarding foreign ownership (by companies or individuals) of shares in domestic newspapers or magazines. It requires that, in principle, the editor-in-chief should have Polish citizenship.[359]

1.4.2 Audiovisual Media

The audiovisual media is regulated under the Broadcasting Act 1992[360] most recently amended in 2004. The original Act formally established and outlined the remit of the National Broadcasting Council (KRRiT), which has competence to award broadcasting licences. While print press media outlets need to be registered by courts, broadcasters need to meet certain criteria to obtain broadcasting licences. The Broadcasting Act also regulates media ownership, the procedure for granting of licences, and outlines a set of journalistic standards. According to the Broadcasting Act, broadcasters (both private and public) are required to respect Christian system of values. There are no such requirements included in the Press Law. Finally, one should also mention indirect subsidies – social broadcasters as defined by the Broadcasting Act are not obliged to pay licence fees. Polish

[356] http://www.presswise.org.uk/display_page.php?id=560
[357] http://www.jmk.su.se/global03/project/ethics/poland/pol2.htm
[358] (amended: 1988, 1989, 1990, 1991) available in English http://www.krrit.gov.pl/stronykrrit%5Cenglish.htm .
[359] Media in Poland Overview. Press Research Centre. http://www.obp.pl
[360] (amended: 1995, 2000, 2001) available in English http://www.krrit.gov.pl/stronykrrit%5Cenglish.htm

media policy is an ongoing and important issue of discussion with relation to both EU policy and ownership issues.[361]

Under the Broadcasting Act 'a Broadcasting licence shall not be awarded if transmission of a programme service by the applicant could result in achievement, by the applicant of a dominant position in mass communications in the given area.'[362] Any changes in the ownership structure of the licence-granted entities (also in the case of Polish only share-holders) must be accepted by the National Broadcasting Council (KRRiT).

The Act has been amended several times to incorporate both the European Convention on Transfrontier Television and the EU Television without Frontiers Directive. As the last amendment did not fully comply with the TVWF Directive a new Broadcasting Act is needed (also intended to deal with other issues such as the development of Digital Television), the process of which, has being going on for several years. In January 2002, the KRRiT proposed a draft amendment to the Act, for consultation. In line with the TVWF Directive it proposed changes regarding the amount of share capital that can be held by foreign shareholders. A new rule was proposed banning simultaneous ownership of national television and national radio stations. Later in the year the Ministry of Culture also proposed disqualifications on the holding of broadcasting licences for publishers of national dailies. Press companies would not be allowed to own shares in television operators, while restrictions relating to local and regional radio broadcasting licences were also planned.[364] While the government claimed that the proposals would prevent the creation of media monopolies, the private media sector argued that these provisions would limit the development of electronic private media and would make national companies less competitive than foreign media investors entering on Polish market.[365]

There was a great deal of criticism and debate regarding the provisions whereas, for example, an earlier draft had disqualified from holding broadcasting licenses the publishers of national dailies *orperiodicals*. The additional phrase 'or periodicals' disappeared from the text implying that publishers of magazines would not be restricted from entering broadcasting sector (see Klimkiewicz 2004 for more details).

A further issue in relation to the Draft Bill, was a political scandal which erupted in 2003. An intermediary for the Prime Minister attempted to persuade a publisher to pay a bribe to change the amendments regarding media ownership. The publishing company Agora (see section 2.3) which owns the top selling daily newspaper and local radio stations was asked to pay a bribe for "lobbying" to achieve a more favourable media law allowing the publisher to acquire a private television station.'[366] This occurred during a meeting between the newspaper's editor and the intermediary Lee Rywin, a well-known television executive and film producer. On 10 January 2003, the Sejm (the Polish Parliament) set up a commission to investigate these allegations.[367] The entire case illustrated the influence of political and economic interests when it came to regulating market structure. The Prime Minister and his government subsequently resigned in May after the EU accession was complete.

While the new Broadcasting Act which came into effect in May 2004 finalised articles related to the TVWF directive and the changes regarding foreign ownership, the provisions (from the previous Drafts in 2002) relating to media concentration and cross media ownership were removed. Foreign ownership limits changed in the new amended Act. Due to membership of the EU it was necessary to remove any limits (33%) of ownership for natural and legal persons from the European Union. The

[361] See also: Jakubowicz, K, Bodhan, J and Kowalski, T(Eds) (2003): Green Paper: Premises for the New Law on Electronic Media and Amendments to other Legislation. A Paper prepared under the PHARE project.
[362] Broadcasting Act, Article 36, paragraph 2.2
[363] National Broadcasting Council information. Retrieved from EAO, Merlin Database. http://merlin.obs.coe.int
[364] Article 36. paragraph 3. Draft Broadcasting Act of 27 March 2002
[365] Information releases available from EAO, Merlin Database. http://merlin.obs.coe.int
[366] IRIS Legal Observations of the European Audiovisual Observatory.IRIS 2003-4:11/23
[367] Warsaw Voice February 11th 2004 http://www.warsawvoice.pl/view/4749

law then increased the current limits from 33% to 49%, in relation to foreign ownership from outside the EU.[368]

1.4.3 Competition Policy and Mergers

There are no specific provisions for the media within competition law. While the Broadcasting Act stipulates that a license will not be awareded if the applicant would then 'achieve a dominant position in mass communications in the given area', it provides no thresholds for measuring this dominance (as outlined above). They are hence, the same as for other industries, as outlined by the Act on Competition and Consumer Protection, which defines a dominant position as being a share of more than 40% of the market.

2. Main Players in the Media Landscape

2.1 Radio

The Public Service Radio is Polskie Radio, which has four national stations (with a share of the market in 2002 of 23.4%), one international and 17 regional stations. The main competition on the national level comes from *RFM* and *Radiozet*. The market shares for radio (outlined in the table below) are based on data from 2002, but according to more recent data the two commercial channels *RFM* and *Radiozet* have overtaken the PSB PR1 channel in terms of audience share.[369]

Table PL1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations	Total Market Share National 2003-2004**	Regional radio
RMF	Krakow Foundation of Social Communication	RMF FM	24.06%	17 regional stations 5,7%**
Polskie Radio	PSB	PR 1: 15.53% PR2: .58% PR3: 5.25% Radio Bis: .24% I international	21.6%	
Eurozet	Lagardère Active Radio International[370] (F) 40% Woyciechowski Family: 46% Kanoko (Advent International US/UK): 9% Manaco: 5%	Radio Zet. Radiostacja	21.58% 0.73%	
Agora[371]	Agora Holding SP: 20% Employees: 25% Cox Enterprises US 10% Public shares: 44%	Radio Tok FM	0.38%	28 regional stations Market share 12.2% 2003***
Eurocast	Owned by consortium of five German Radio companies[372]	RadioWaWa	0.72%	inter-regional
	GWR Radio Plc (UK)			inter-regional
	Dioceses of Roman Catholic Church in Poland	Radio Plus		

* From company websites; from Klimkiewicz (2004)
**Source Radio Track 2003-2004.[373]
*** Source: SMG/KRC Radio Track 2003, January-September 2003 (Agora company website)

[368] National Broadcasting Council information. Retrieved from EAO, Merlin Database. http://merlin.obs.coe.int
[369] Radio Conference Poland website. http://www.radioconference.pl/index03.php?detail=rcp03hom.php
[370] http://www.lagardere.com/us/presence_monde/resultat.cfm
[371] http://www.agora.pl/agora_eng/0,0.html
[372] Hit Radio FFH, radio SAW, 94,3 r.s.2, Radio PSR and R.SH
[373] http://mediamagazyn.w.interia.pl/badania.htm

In the Radio sector only two large private radio broadcasters are completely Polish in their ownership structure: the national radio RMF FM (co-operating with several local stations) and *Radio Eska*, a network of the multimedia holding ZPR SA (ZPR owns 24 local radio stations).[374] *Radiozet* is owned by Eurozet (who also owns *Radiostacja*). *Eurozet* is jointly owned by the original founder of the radio service, Mr Woyciechowski whose family now (since his death) have 46% share in the company, and the French group Lagardère Active Radio International (40%) and other investors (see table PL1).

Agora SA (see also under press section 2.3) is a major player in the regional radio sector with 28 radio stations and a market share (audience share) of 12.2%. Agora SA is owned by Agora Holdings SP (20%), employees (individual shares 25%), Cox Poland (10%) and public stock offering (44%). Cox Poland has minority shares only and the company was invited to invest by Polish journalists (who are in fact majority owners) at the beginning of the 1990s when Cox investment helped to modernise publishing technology. The company describes it self as being: 'the leading player in the Polish local radio market, both in terms of advertising revenue and audience share.'[376] Agora owns one of the best selling newspapers, 14 magazines, 4 free weeklies, one free daily, supra-regional news talk radio, internet portal and announcement service and advertising agency.

According to the Press Research Centre most non-religious radio broadcasters of national (or regional, linked into networks) transmission range have foreign partners. This includes the French company, Lagardère, mentioned above, the involvement of a German company Eurocast (which 'was founded as an investment and management vehicle for broadcasters, by broadcasters.' Its shareholders are a consortium of the leading private radio companies in Germany)[377] who owns *Radiowawa* a minor player in terms of share. The UK Radio company GWR Radio Plc owns *Radio tok*. These last two stations and *Radiostacja* are inter-regional stations, broadcasting in several cities.

2.2 Television

The Public Service Broadcaster Telewizja Polska (TVP) with a strong audience share of 54% has 2 terrestrial channels (TVP1 and TVP2) a regional network (12 channels), an information channel and an International channel TV Polonia.

The main competition comes from Polsat and TVN, who have respective shares of 16.21% and 16.37% of the national audience. TVN is owned by ITI Holdings, a Polish holding company, (subsidiary of Luxembourg based company ITI International). It describes itself as 'Poland's leading media and entertainment group. It is active in television broadcasting and production, multiplex cinema operations, home video and theatrical distribution, theatrical production, special events organisation and new media.'[378] It broadcasts TVN TVN Siedem , TVN 24, TVN Meteo, TVN Turbo and the group also owns Onet.pl, the largest and most frequently visited internet portal in Poland.

Polsat received a terrestrial license in 1994 and is owned by Zygmunt Solorz, a rare example of an Eastern European media mogul. Polsat 2 (satellite station) was launched in July 1997, and Polsat's digital platform in November '99. Polsat has interests in the Baltic countries, with shares in Latvian and Lithuanian TV stations.[379] It was the suspected interest in Polsat on the part of Agora Media that sparked the controversy (described in section 1.4.2) over the Draft Broadcasting Act.

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[374] Press Research Centre. http://www.obp.pl/03-raport/2001/ownership_rtv.htm
[375] No mention of Agora can be found on Cox Enterprises website.
[376] From Agora Website information
[377] Eurocast website: http://www.eurocast.de/f_shares_en.html
[378] http://www.itiholdings.com/_fl/index.htm
[379] http://www.videoageinternational.com/2000/articles/FebMar/polsat.htm

Table PL2: Main Television Companies

Broadcasters	Ownership Structure	Main TV Stations	Total Market Share 2003*	Advertising revenue 2003**
Telewizja Polska (TVP)	Public Service Broadcaster license fee covers 29.2 %[380]	TVP1, TVP2 TVP Regional TV Polonia +	54%	46.76%
Polsat	Zygmunt Solorz Polskie Media Company	Polsat Polsat 2+ TV4: 3.03% TV puls	19.24% .28%	27.83%
TVN	ITI Holdings Luxembourg	TVN TVN7++	16.37%	22.35%

* Third Quarter of 2003. From AGB Polska. http://www.agb.com.pl
** Third Quarter 2003. Weekly Advertising share per channel. From AGB Polska. http://www.agb.com.pl
+ Satellite channels also available on cable
++Previously RTL7, taken over by TVN in March 2002

2.3 Press and Publishing

As pointed out earlier, (section 1.4.1), there have been no restrictions on foreign ownership in the press and publishing market of Poland. Hence, there was a major influx of foreign capital and foreign interest into this market from the beginning of the transition liberalising the markets, notably also in the magazine sector (major players in this sector are Axel Springer, Bauer, Gruner + Jahr).

Table PL3: Main Publishers of newspapers

Publisher	Shareholders+	Daily Titles	Circulation Daily 2002*	Share of daily market**	Circulation regional press 2002 **	Market share of top 31 regional titles
Agora SA	Agora Holding SP: 20% Employees: 25% Cox Enterprises US: 10% Public shares: 44%	Gazeta Wyborcza	**420,699**	17%		
Media Express	ZPR and Bonnier, See my report on Poland	Super Express	**299,495**	**14%**		
Presspublica	Orkla Press Norway: 51% Polish state: 49%	Rzeczpospolita	**188,265**	7%	12 titles 410,400	**32.4%**
Axel Springer Verlag		FAKT	(536,000)++			
Polskapresse	Passauer Neue Presse (PNP) (Verlagsgruppe Passau)				10 titles 554,500	**43.7%**
Fibak Investment Group	Passauer Neue Presse (PNP)	Gazeta Poznaska	71,253			
		Gazeta Prawna	66, 963			
Marquard Sport Media	Marquard Media AG Switzerland	Dziennek Sportowy (Daily Sport)	89,188			

*Circulation Audit Unit (ZKDP). http://www.zkdp.pl/wk_2002.htm. Plus self declared figures from Nasz Dziennik. Quoted at the Press Research Centre website: http://www.obp.pl/03-raport/2002/table5.htm
**According to *Polish media landscape*: European Journalism centre. www.ejc.nl
***Based on figures from Press Circulation Audit Unit (ZKDP). http://www.zkdp.pl/wk_2002.htm
+ Shareholder information from EFJ (2002) and company reports.
++ Figures December 2003

[380] European Audiovisual data base IRIS Merlin:

The traditionally best selling national newspaper *Gazeta Wyborcza* is owned by Agora media (who also have major interests in the radio sector see 2.1), and are partly owned by the US based Cox Enterprises. The Norwegian company Orkla SA[381] owns Orkla media. Orkla press has an interest in Presspublica (51%) publisher of the fourth top-selling daily *Rzeczpospolita*, and also has 12 regional newspapers.

The regional and local press are estimated to amount to between 1,500 and 2,500 publications with around 40% published by local governments, 24% privately owned, and 10% community, religious or company papers.[383] The German Passauer Neue Presse (PNP) is the largest regional publisher (in terms of circulation). It is clear, from table PL3, that taking the market share held by the top 31 regional press titles that two companies: Orkla from Norway and Passauer Neue Presse from Germany through Polskapresse (who also publish three TV magazines with total sales of 2.6m) hold over 75% of this readership between them.

The most recent development in the Polish press market was the introduction by Axel Springer Verlag, in October 2003, of a new tabloid newspaper, *Fakt*, a 'sister' paper of the top selling German tabloid *Bild*. According to the World Association of Newspapers, *Fakt* outsold *Gazeta Wyborcza* in December to become the country's top-selling newspaper with a circulation of over 536,000, compared to 433,000 for Gazeta Wyborcza.[384]

The magazine sector is dominated by foreign companies: the German companies Wydawnictwo H.Bauer (subsidiary of Bauer), Gruner & Jahr, and Axel Springer, and also Edipresse (Swiss) and Hachette Fillipacchi (French). The Polish company Agora is also a major player in the magazine sector with 14 titles.

2.4 Cable and Satellite operators

According to the Media Map Yearbook (CIT, 2003:256) Poland is the largest cable market in Central Europe. Due to the costs of developing new infrastructure the market has consolidated recently and the four main companies UPC TK, Telewizja Kablowa Vectra, Astor City, and Multimedia Polska dominate the industry.

Table PL4: Main Cable and Satellite Companies

Companies	Ownership Structure**	Subscriptions 2003* (000s)
UPC TK	United Pan-Europe Communications (through UPC Polska). Liberty Media Corporation (USA) is the majority shareholder in UPC (74%)	1,000
Telewizja Kablowa Vectra	na	400
Astor City Autocom ZTP	Hicks Muse Consortium (USA) 100% Hicks Muse, Argus Capital and AIG Emerging Europe Infrastructure Fund	380
Multimedia Polska	Emerging Ventures Limited (EVL) (100%)+	360
TOYA		150
Telewizja Kablowa Poznan		130
DAMI		110

* Data from EBC 2003: http://www.ebc2003.com/sowa.pdf
** Ownership from company websites
+ Announced plans in September 2003 to sell to Hicks Muse Consortium

381 Involved in industry, chemicals, food, investments
382 OSCE report
383 European Journalism Centre: Media Landscape Poland: http://www.ejc.nl/jr/emland/poland.html
384 Press Release WAN March 25th 2004.

UPC Telewizja Kablowa (UPC TK) is the largest operator in the country serving Warsaw and other cities. It is owned by the Amsterdam based United Pan-Europe Communications (through the subsidiary UPC Polska).[385] The US based Hicks Muse Consortium owns the third largest company Astor City and may possibly purchase the fourth largest company Multimedia Polska.[386]

2.5 Advertising revenue

The table below outlines the share of advertiaing reveune within media sector and between television stations.

Table PL 5: Share of advertising revenue within the media sector 2002*

Media	**Market Share in approx.%**
Television	50%
Share per channel 2002	**share of TV revenue in %**
TVP1	*26.7%*
TVP2	*14.6%*
Polsat	*27.5%*
TVN	*22.0%*
TV4	*3.6%*
Others	*5.6%*
Newspapers and Magazines	37%
Radio	8%
Outdoor/ Internet	5%

**Source: Primetrica (2004) quoting Taylor Nelson Sofres OBOP

3. Conclusions

3.1 Freedom of the Media

As noted above (section 1.1), the Penal Code presents a deterrent to 'freedom of expression' in Poland. According to the Press Freedom Monitoring Centre (CMWP) the articles "threaten the proper fulfilment of the principle of freedom of the press" and also that "the ban on 'insult' is potentially more dangerous to freedom of the press than bans on defamation," since it is more straightforward to define defamation. The Code is the legacy of the previous Penal Code used under the Communist system.[387] There are several current examples of defamation cases against journalists in Poland, where for example, concern has been expressed over the recent (March 2004) libel conviction of a journalist to a three month prison sentence.[388]

3.2 Ownership and market concerns

The European Federation of Journalists in their report on foreign ownership of the media in Eastern Europe express concerns regarding the situation in Poland. They estimate that foreign investment in the print media is involved in up to 40% of the sector, and that this poses problems for journalistic freedoms with foreign publishers creating less favourable working conditions than for their employees in the home companies. They also pay low wages and hence discourage professionalism. They also quote the many arguments for the need for foreign investment in the media, which prevailed at the beginning of the opening of the markets. Such capital was not available in Poland.

Additionally, it is felt that foreign owners are less likely to have a political stake in the country and therefore provide an easier climate for editorial freedom (EFJ, 2003:47-48). The EFJ feels the balance lies on the side of threats to pluralism through consolidation (preventing access of new actors), through streamlining of content as individual companies consolidate, particularly in the regional market, and the undermining of professionalism through inferior working conditions. It should however be noted that several foreign companies operating in Poland, namely the Norwegian Orkla-

[385] http://www.unitedglobal.com/euFmain.cfm
[386] http://www.templetonthorp.com/fr/report56
[387] CMWP website http://www.freepress.org.pl/english/lvm.pdf . See also IFEX for summary of CMWP statement under Poland section: http://www.ifex.org
[388] Reporters Without Borders: http://www.rsf.org/article.php3?id_article=9424

group and the Springer-Verlag Group 'have voluntarily introduced internal rules to protect their writing staff from outside pressure and to separate managerial and editorial responsibilities' (OSCE, 2003:47).

The controversy and debate over the media concentration and cross ownership rules in the original Draft Broadcasting Bill have eventually led to these provisions being removed. Hence, the Polish system has no framework for limiting these tendencies.

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Portugal

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The Freedom of Expression is enshrined in the Constitution of the Portuguese Republic 1997 (Fourth Revision)[389] under article 37 which states that:

> *1. Everyone has the right to express and publicise his or her thoughts freely, by words, images or other means, and the right to impart, obtain and receive information without hindrance or discrimination. 2. The exercise of these rights shall not be prevented or restricted by any kind or form of censorship. 3. Offences committed in the exercise of these rights are punishable under the general principles of criminal law or of the law relating to regulatory offences; jurisdiction to try them lies, respectively, with the courts of law or an independent administrative body, in accordance with the law. 4. The rights to reply and to make corrections, and the right to compensation for loss suffered, shall be equally and effectively guaranteed to all individuals and corporate persons.*

Additionally the freedom of the press and mass media is guaranteed under article 38 of the constitution:

> *1. Freedom of the press is guaranteed. 2. Freedom of the press comprises: a. The freedom of expression and creativity for journalists and collaborators and, as a function of the journalist, the giving of editorial direction to the relevant mass media, except where the latter are doctrinal or denominational in character; b. The right of journalists to have access to information sources, to protection of their professional independence and confidentiality, and to elect editorial councils, in accordance with the law; c. The right to found newspapers and other publications, without prior administrative authorisation, deposit or qualifications. 3. The law shall require, in general terms, the disclosure of the ownership, and the means of financing, of the mass media. 4. The State shall guarantee the freedom and independence of the mass media from political and economic powers; it shall impose the principle of speciality upon companies that own general information media; it shall treat and support those companies in a non-discriminatory manner and shall prevent their concentration, in particular through multiple or inter-locking financial interests. 5. The state shall guarantee the existence and operation of a public radio and television service. 6. The mass media in the public sector shall be so structured and operated as to be independent of the Government, the Public Service and other public bodies, and to guarantee opportunities for the expression of, and challenge to, different lines of opinion. 7. Radio and television stations shall operate only under a licence granted for the purpose after a public competition, in accordance with the law.*

Chapter 1, Articles 1-4 of the Press Law (1999) additionally guarantees the freedom of the Press with similar provisions to article 38 of the Constitution.[390] Article 39 of the Constitution establishes a High Authority for the mass media which: 'shall guarantee the right to information, the freedom of the press, the independence of the mass media from political and economic powers, opportunities for expression of, and challenges to, different lines of opinion, and the exercise of the right to broadcasting time, the right of reply and the right of political argument[391] (see also section 1.4).

1.2 Freedom of Information

The Constitution has also included provisions of a right of access to information since 1976. Article 268 of the 1989 Constitution states:

[389] Text according to Constitutional law no. 1/97 of 20 September available under:.http://www.parlamento.pt/ingles/con_leg_ing/ In French: http://www.aacs.pt/francais/legislacao/crp.htm
[390] Lei n.º 2/99 de 13 de Janeiro Aprova a Lei de Imprensa
[391] http://www.parlamento.pt/ingles/cons_leg/crp_ing/

> *1. Citizens are entitled to be informed by the Public Service, when they so require, about the progress of proceedings in which they are directly interested and to know the final decisions that are taken with respect to them. 2. Citizens shall also enjoy the right to have access to administrative records and files, subject to the legal provisions with respect to internal and external security, investigation of crime and personal privacy. 3. Administrative action shall be notified to interested parties in the manner prescribed by law; it shall be based on stated and accessible substantial grounds when it affects legally protected rights or interests. 4. Interested parties are guaranteed effective protection of the courts for their legally protected rights or interests, including recognition of these rights or interests, challenging any administrative action, regardless of its form, that affects these, enforcing administrative acts that are legally due and adopting appropriate protective measures. 5. Citizens are also entitled to object against administrative regulations that have external validity and that are damaging to their legally protected rights or interests. 6. For the purposes of paragraphs 1 and 2, the law shall fix the maximum period within which the Public Service must respond.*

The Law of Access to Administrative Documents (LADA) was passed in 1993. This allows citizens to make written requests for access to administrative documents (of any type) held by state authorities, public institutions, and local authorities (a total of 337 organisations) The authorities must respond no later than 10 days after receiving a request.[392]

1.3 Codes for journalists and broadcasters

The Code Of Ethics, adopted by the Portuguese Syndicate of Journalists in 1993 states that:
1. Journalists have a duty to report the facts with accuracy and in an exact manner, and to interpret them honestly. Facts are checked by discussion with all parties involved in the case;
2. Journalists should fight censorship and sensationalism and consider accusations without proof, and plagiarism as serious professional errors;
3. Journalists have to fight against restrictions in access to information sources, and against attempts to limit the freedom of expression and the right to inform. It is the obligation of the journalist to make known such restrictions to those rights;
4. Journalists must use honest means to obtaining information, pictures or documents, and avoid abusing anyone's good faith. Identifying oneself as a journalist is a rule, the breaking of which is permissible only on the grounds of an unquestionable public interest;
5. Journalists must carry responsibility for all their work and professional acts, and correct any information proved to be false or inexact. The journalist has to refuse to perform acts/ behaviour that violate his/ her conscience;
6. Identification of sources is an essential criteria for the journalist. The journalist must not reveal, not even in court, his/her confidential sources except where they have provided false information. Opinions shall always be attributed – and separated from fact;
7. Journalists must respect the presumption of innocence until a court case is finished. The journalist must not identify, directly or indirectly, the victims of sexual crimes or juvenile criminals, nor must he/ she humiliate people or disturb their pain;
8. Journalists must not treat people in a discriminatory way, based on their colour, race, nationality or sex;
9. Journalists must respect the private life of the citizen except when the public interest demands the revelation or when the behaviour of the person in question is contradictory to the values and principles of society;
10.Journalists must reject demands, functions, and benefits that could question his/ her independent status and professional integrity. The journalist must not use his professional status in order to gain personal benefit.[393] Portugal has had no Press Council since 1990.

[392] Lei nº 65/93, de 26 de Agosto, com as alterações constantes da Lei nº 8/95, de 29 de Março e pela Lei nº94/99, de 16 de Julho http://www.cada.pt/PAGINAS/ladaing.html
[393] Source: the Press Wise Trust

1.4 Media Ownership Regulation

The media regulatory authority, the High Authority for Social Communication (Alta Autoridade para a Comunicação Social, AACS)[394], is responsible for licensing and regulating terrestrial broadcasting. The members are nominated by government (1), parliament (5), and public interest groups (5). Article 3 of the law outlines the responsibilities of the authority regarding protection of the right to information, the freedom of the press, the independence of the mass media from political and economic powers, opportunities etc. (as outlined in article 39 of the Constitution, see section 1.2). The Autoridade Nacional de Comunicações (Anacom) regulates telecommunications markets, and is also responsible for DTT licensing and cable television lincensing.

The main relevant legislation is the Press Law (1999)[395] and the Television Law (2003). According to the Press Law there are no limitations of ownership of publications: they can be owned by any individual or group.[396] Article 16 of the law applies to the transparency of ownership of publications. Publishing companies are obliged to inform the High Authority for Social Communication (Alta Autoridade para a Comunicação Social, AACS) annually of the details regarding shareholders in the company. Additionally publishing companies must publish annually in their best selling newspaper, the details of annual accounts and shareholder interests (article 16, 3).

1.4.1 Audiovisual Media

The Television Law of 2003[397] under article four refers to competition and concentration in the sector. The general regime for competition policy regarding abuse of a dominant position, and the merger of companies also applies to the media sector. The only restriction on ownership within the television sector is that a single entity or company can not control more than one commercial terrestrial channel. Regarding radio the licensing system limits enterprise to having an interest in a maximum of five radio stations. No one may own more than 25 per cent of the equity capital of local radio stations in the same area of coverage.[398]

1.4.2 Competition Policy and Mergers

A new Competition Authority has recently been created in Portugal in January 2003.[399] The authority replaces the previous Competition Council and the Directorate General of Competition and Trade, as an independent and financially autonomous institution.[400] As noted above, the general competition regime applies to the media sector.

Within the more recent competition legislation, Law No. 18/2003 of 11 June[401], reference is made to concentration and mergers within the media sector. According to Article 57[402], the Competition Authority works in co-operation with the AACS. When deciding on concentrations and mergers within the media sector, the Competition Authority decisions are subject to a binding prior opinion of the AACS, who assess the impact of such a merger on the freedom of expression and the diversity of opinion. The Portuguese media sector has however evolved less through a merging of companies, but rather a growth of four specific companies who have developed interests in various sectors as they have opened up to commercial interests.

[394] Lei da Alta Autoridade para a Comunicação Social/ Lei n.º 43/98 - de 6 de Agosto. The law was amended twice in 2002: Lei nº 8/2002, de 11 de Fevereiro and Lei n.º 18-A/2002de 18 de Julho. Website of the AACS: http://www.aacs.pt
[395] Lei n.º 2/99 de 13 de Janeiro Aprova a Lei de Imprensa
[396] Lei n.º 2/99 de 13 de Janeiro Aprova a Lei de Imprensa, Article 6.
[397] Lei n.º 32/2003, de 22 de Agosto)
[398] Brantner, C. and W.R. Langenbucher (2003)
[399] Decree-Law 10-2003 of January 18, 2003
[400] http://www.autoridadedaconcorrencia.pt/index.aspx
[401] Law No. 18/2003of 11 June APPROVING THE LEGAL FRAMEWORK FOR COMPETITION
[402] CHAPTER VII: Final and transitional provisions, which amends Article 4(4) of the Law No. 2/99 of 13 January

1.4.3 Cross Media Ownership and Foreign Ownership

There are no restrictions on cross media ownership within the Portuguese legal framework. This has led to the emergence of four major companies which each have interests across a range of media sectors (see section 2 for details). There are also no restrictions on foreign ownership of the media.

2. Main Players in the Media Landscape

The Portuguese media landscape made a transition from state owned media, to independent media after the end of the dictatorship in 1974. Since then the media industry has consolidated into four main players, who, given the fact that there are no restrictions in cross media ownership, each are active across a range of sectors including telecommunications, broadcasting, press and publishing, production, distribution, advertising and new media. The companies are PT/Lusomundo, Impresa, Grupo Media Capital and Impala (publishing). The remainder of the media sector is mainly owned by the Public Service Broadcasters, and by the Catholic Church.

2.1 Radio

One of the major players in the radio sector is the Catholic Church, which has three national channels (a total of almost 40% of the national audience) and approximately 60 regional radio stations.

Table PT 1: Main Radio Companies

Companies/ channels	Ownership Structure*	Main Radio Stations market share	Total Market Share **	Regional radio
Grupo Renasçenca	Catholic Church	RFM 22.4% R. Renasçenca: 15.8% Mega FM: 1.6%	39.8%	8 regional studios 60 stations
Grupo Media Capital Rádio	**Grupo Media Capital** Vertix SPGS SA:22.18% Hicks Consortium: 11.55% Others : 11% Public: 58.16%	R. Comercial: 10.4% RCP: 6.7% Cicade FM: 4.3% Best Rock FM: 2.3%	24.4%	
Grupo RDP	Public Service	Antena 1: 4.3% Antena 2: .6% Antena 3: 5%	10.2%	7 regional stations
TSF Press	PT/ Lusomundo (100% subsidiary of Portugal Telecom)	TSF Press	6%	
Others			17.8%	

*Source: Company websites and Media Map 2003
** First Trimester 2004, Source: Marktest Portugal
+ Company estimates 2003

The strongest commercial player is Grupo Media Capital with 4 national channels (almost 25% national audience share). Media Capital has interests across all media sectors including press and publishing: *Diário Económico* and two dozen specialised magazines and newspapers. It owns the second commercial channel TVI, four national radio stations, and is active in Internet technologies and service provision.[403] The company has its own television production company. Media Capital additionally has its own transmission network for television (RETI), has a company managing cultural and music events, a cinema and video distribution company (cooperating with Fox, Miramax), organises trade fairs, and has a 20% stake in a Portuguese football team (União de Leiria). Media Capital floated shares (58.16%) on the stock market in March 2004. The rest (41.84%) is divided between the original nine shareholders with Vertix SPGS SA (22.18%) and the Hicks Consortium (11.55%) remaining the largest shareholders.[404] The Public Service Broadcaster, Grupo RPD has three national channels (10% audience share) and seven regional stations. Other actors include PT/Lusomundo with the information channel TSF Press.

[403] European Journalism Centre: Portuguese Media Landscape
[404] http://www.mediacapital.com/noticia2.php?version=1&id=329460

2.2 Television

The free-to-air television market consists of two important commercial channels SIC (29.4%) and TV1 (28.2%) competing with the main PBS channel RTP1 (25.6%). The Public Service Broadcaster RTP has two terrestrial channels, one general RTP1 and the second intended for minority groups and cultural programming. It also broadcasts RTPInternacional, RTP-Madeira, RTP-Azores and RTP-Africa. As the PSB struggled to compete with commercial channels after 1992, an overhaul of its programming from 2001 appears to have improved audience share. However, the channel has has continuous financial difficulties, particularly since the removal of the License fee in 1992, with the banning of advertising on RTP2 and the restriction of advertising on RTP1. The broadcaster is almost completely funded by government (CIT, 2003).

SIC, with the largest audience share is owned by Impresa who also has the channels: SIC, SIC Gold, SIC Radical, SIC Mulher and SIC Internacional (cable channels, to be part of the DTT package). The current audience share of SIC (29.4%) is a drop from its peak in 1997 of over 50%. Impresa is a multimedia company that evolved from the company set up by the former prime-minister Francisco Pinto Balsemão in 1972. Originally a publishing company Sojornal, publishing the daily *Expresso*, the group now has interests across most media sectors including newspapers, magazines, television and distribution.[405] The *Expresso* is now the best selling weekly informational newspaper. The group is also active in the free press sector and cooperates with the Belgian group Roulart. Other activities in the media sector include Internet technologies, publications printing and distribution.[406]

Table PT 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share**	Share of TV Advertising revenue 2003+
SIC Sociedade Independente de Communicação	Impresa 51% Public shares: 36 % TV Globo International, Brazil	SIC	29.4%	52.7%,
RTP Radiotelevisao Portuguesa	Public Service	RTP1: 25.6% RTP2: 4.1%	29.7%	
Televisao Independente TV1	**Grupo Media Capital** Vertix SPGS SA**:** 22.18**%** Hicks Consortium: 11.55% Others : 8.11% Public: 58.16%	TV1	28.2%	41%

* Company reports
**Audience share May 2004 . Source: Marktest Portugal http://www.marktest.pt/
+ Company estimates 2003

The Grupo Media Capital (see section 2.1) has one commercial television channel TV1. It also has its own television production company and transmission network. The second commercial television channel license was originally given to the Catholic Church, which implied the church's role in the media sector was previously very similar to that in Malta (see Malta report). However, due to the economic difficulties of running a television station, the channel was sold in 1998, and later resold to Grupo Media Capital.

The Digital Terrestrial Television platform will be run by the public service broadcaster RTP and the commercial channel SIC, in co-operation with other financial backing.

2.3 Press and Publishing

The level of newspaper readership in Portugal is one of the lowest in Europe, with one of the reasons frequently cited that there is a higher level of illiteracy in the population than in other countries (Media Map 2003: 271).

[405] Homepage for annual reports of Impresa: http://www.impresa.pt/
[406] European Journalism Centre: Portuguese Media Landscape

With two of the strongest daily newspapers (owned through its subsidiaries), Portugal Telecom the country's telecommunications provider is also one of the more important players in the newspaper sector. PT/ Lusomundo is a subsidiary of PT (Portugal Telecom), a huge integrated provider of telecommunications services and multi-media. Portugal Telecom is also strongly active in Brazil in the telecommunications sector. The company is involved in the press and publishing sector with newspapers (*Jornal de Notícias, Diário de Notícias*) and a range of other newspaper and magazines. The company also has one radio channel (see 2.1). The group is also involved in cinema theatres, film and video distribution, is the top player in the cable television market (see 2.4), and has major stakes in the Internet (information as well as other services), and in mobile phones.[407]

Table PT 3: Main newspaper publishing companies

Publisher*	Ownership*	Daily Titles	Share of market**	Circulation 2003***	Weekly papers	Circulation 2003***	Regional titles
Jornalgeste	PT/Lusomundo	Jornal de Notícias Diário de Notícias	10.9% 4.0%	105,242 50,794			
Presslivre	Grupo Cofino	Correio da Manhã	10.4%	114,643			
Público	Comunicação Social, S. A.	Público	5.1%	56,239			
Sojournal	Impresa: 100%				Expresso A Capital	138, 109 7,3144	
Publicaçoes Prodiario		24 Horas	3%	50,824	Tal & Qual	30,424	
Publicaçoes Periodicas					Independente	16,622	
Catholic Church	Catholic Church						600 small newspapers /magazines

*Information from company websites, EJC Portugal Media Landscape and from the Media Map 2003
**Data from Marktest Portugal. Ist quarter 2004
***From the Instituto da Comunicação Social - ICS. Source APCT (Associação Portuguesa para o Controlo de Tiragem e Circulação): http://www.apct.pt/cgi-bin/sthm_1.asp

The Grupo Cofino owns the popular daily paper *Correio da Manhã*, and is active in publishing (press and magazines). The group has shared ownership of the press distribution company VASP with Impresa and PT Multimedia.[408] The fourth major group in the Portuguese media sector, Impala, is focused more in the publishing, particularly magazine sector with more than two dozen popular and feminine magazines, and also Internet services. Like PT Lusomundo, it is active internationally with businesses in Brazil and Spain.
The Catholic Church is also an important player particularly in the local press sector with over six hundred small newspapers and magazines.

2.4 Cable and Satellite operators

The main player in the cable television sector is TV Cabo owned by Portugal Telecom through PT Multimedia. TV Cabo also provides the only satellite pay TV service in Portugal (256 subscribers by the end of 2002). The company has nine of the 18 regional franchises. The second main player in the sector is Cabovisão, a Canadian owned company with six regional franchises. The company offers cable television, broadband Internet and telephone services over its network.[409] There are four other cable service providers operating in the market but according to recent data (Media Map 2003), there are a total of 1.2m subscribers to cable television. This implies that TV Cabo and Cabovisão have about 96% of the market between them, with TV Cabo having about 81% of subscribers.

[407] European Journalism Centre: Portuguese Media Landscape
[408] Website of Grupo Cofina: http://www.cofina.pt/mapa.asp
[409] The Media Map 2003 CIT publications 269-270

Table PT 4: Main Cable and Satellite Companies

Company	Ownership Structure*	Franchises	Subscribers 2002
TV Cabo	PT Multimedia (Portugal Telecom)	9 regional franchises	974,000
Cabovisão	Cable Satisfaction International Canada (100%)	6 regional franchises	185,000
Pluricanal		3 regional franchises	

* Media Map 2003 and company websites

2.4 Advertising revenue

Table PT 5 outlines the share of advertising revenue. In 1997 the government removed advertising on the second public service channel and restricted advertising on the first to 7.5 minutes per hour.[410] The commercial channels were strongly involved in lobbying for this change and given their estimated share of advertising revenue (see table PT2), it could be assumed that the PSB now have a share of around 6% of television advertising revenue.

Table PT 5: Share of advertising revenue within the media sector 2002*

Media	In 000s Euros	Market Share in %
Television	1,419,420	65.7%
Radio	127,335	5.8%
Press	413,526	19.1%
Outdoor	191,081	8.8%
Cinema	6,918	.32%
Total	2,158,280	

*Source: Associação Portuguesa de Anunciantes APAN http://www.apan.pt/estatisticas.php?ID=1

3. Conclusions

3.1 Freedom of the Media

The Portuguese media market can be considered to be a highly reformed but very unregulated market. The transition from a dictatorship to a democracy brought about the development of media outlets set up by individuals, families, political figures and the Catholic Church. While this drive towards pluralism of opinion in the media is reflected in the constitution of Portugal (article 38) with a very detailed outline of press and media freedom, there is little legislation to support an ongoing free and plural media system.

The press sector is considered to be free and diverse. While the level of readership of newspapers is one of the lowest in Europe, there is quite a large regional press sector, the main actor being however, the Catholic Church. There are ongoing concerns for the stability of the Public Service Broadcaster, who both in terms of audience share, and of financing is lagging behind the two commercial players. Media experts in Portugal state that the role of public service broadcasting and its financing is an issue which needs to be addressed in the very near future. As pointed out above (2.2), the role of the PSB in the digital environment had been made more secure through its joint management of the DTT platform.

3.2 Ownership and market concerns

The Portuguese media system developed from family owned businesses to media conglomerates during the last twenty years. As indicated in section two, there are really just four main players in the market, who operate across all sectors. Again, as pointed out above, despite the detailed article of the constitution (38) which guarantees among other things the independence of the media from political

[410] The Media Map 2003 CIT publications p268

and economic powers, the prevention of media concentration, and the operation of public service broadcasting, the implementation of legislation to support these principles has never really occurred.

Such a lack of instruments was most apparent during the period of the take over of Lusomundo by Portugal Telecom in 2001. While the AACS, in giving its opinion on the acquisition, expressed concern regarding the implications for concentration in the market, and regarding the 'editorial integrity' of the publishing group, it had no legal instruments upon which to press for a rejection of the bid.[411]

One aspect of the constitutional article on media freedom which has been developed in law concerns the transparency of ownership which is dealt with in the Press Law (1997) requiring media companies to annually inform the AACS of the ownership structure, and any changes in the ownership structure. This at least allows the regulator to monitor the market where it has no legislative framework to prevent concentration of ownership.

Other problems regarding the development of media relate to a type of commercialisation which has diminished the quality of the media, including the high popularity of magazines rather than newspapers, the diminishing of the importance of daily and weekly informational press, the importance of entertainment, and the impact that the business oriented approach has on professional journalism (Correia, 2001)

A new Competition Authority was established during 2003 in Portugal and a new Media Authority should be in place at 2004. This may improve the cooperation between and effectivity of these authorities in the media field.

Report status: the gathering of data for this report was completed on July 13th 2004

[411] Helena Sousa (2001): Lack of Legislation on Media Concentration. Published in IRIS 2001-3:15/22 European Audiovisual Observatory Merlin Database

Slovak Republic

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Within the Constitution of the Slovak Republic[412] Article 26 (§§1 – 4) states that:

> *(1) Freedom of expression and the right to information shall be guaranteed. (2) Every person has the right to express his or her opinion in words, writing, print, images and any other means, and also to seek, receive and disseminate ideas and information both nationally and internationally. No approval process shall be required for publication of the press. Radio and television companies may be required to seek permission from governmental authorities to set up private businesses. Further detail shall be provided by law. (3) Censorship shall be prohibited. (4) Freedom of expression and the right to receive and disseminate information may be lawfully limited only where, in a democratic society, it is necessary to protect rights and freedoms of others, state security, law and order, health and morality.*

1.2 Freedom of Information

The right to freedom of information is enshrined in Article 26 (1) of the Constitution, which states that:

> *Freedom of expression and the right to information shall be guaranteed.*

Moreover, Article 26 (§§ 4 and 5) provide that:

> *Freedom of expression and the right to receive and disseminate information may be lawfully limited only where, in a democratic society, it is necessary to protect rights and freedoms of others, state security, law and order, health and morality. Governmental authorities and public administration shall be obligated to provide reasonable access to the information in the official language of their work and activities. The terms and procedures of the execution thereof shall be specified by law.*

These constitutional provisions are specified in the Act No. 211/2000 Coll. on Freedom of Information. According to Banisar (2003) the Act sets out broad rules on disclosure of information held by the government. There are limitations on information that is classified, that is a trade secret, that would violate privacy, or was obtained "from a person not required by law to provide information, who upon notification of the Obligee instructed the Obligee in writing not to disclose information," or that "concerns the decision-making power of the courts and law enforcement bodies." Appeals are made to higher agencies and can be reviewed by a court.

1.3 Codes for journalists

A Code Of Ethics[413] has been approved by the Parliament of the Slovak Syndicate of Journalists[414] on 19 October 1990. The members of the Slovak Syndicate of Journalists are obliged to follow The Code of Journalistic Ethics. The code states (*inter alia*) that: journalists are obliged to provide the public with true, precise, verified, complete and professional information. This includes not publishing untrue, half-true, speculative or incomplete information and the acceptance of the right to correction. Accusation without proof, misuse of trust, the use of information for a personal or group benefit may not take place. Journalists are responsible for everything they publish. Journalists have to respect the private life of other persons unless these persons act against the law or cause public offence. Unless he or she is exempted from his duty by the informant or by the court, a journalist is obliged to keep his information sources secret. Journalists have the right to refuse any pressure on them to act against their convictions. Journalists have to avoid plagiarism. Journalists have to respect the constitutional

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[412] Constitution of the Slovak Republic , http://www.government.gov.sk/VLADA/USTAVA/en_vlada_ustava.shtml German Version: http://www.verfassungen.de/sk/verf92.htm
[413] http://www.ssn.sk/ethic.htm
[414] http://www.ssn.sk/

order of the state, its democratic institutions, the valid law and generally accepted moral principles of society.

In April 2002 the Slovak Syndicate of Journalists and Association of Publishers of Periodical Press established the Press Council of the Slovak Republic as a self-regulatory body. The Press Council monitors the adherence the Ethics Code, which it adopted from the Slovak Syndicate of Journalists without any modifications. However, its rulings are not published or discussed by local media and the impact of the Council on the ethical behaviour of Slovak journalists and media is called into question.[415]

1.4 Media Ownership Regulation

In Slovakia, the Council for Broadcasting and Retransmission issues broadcasting licences. The Act on Broadcasting and Retransmission (adopted by the Parliament in 2000) includes rather detailed provisions on media concentration that have to be applied by the Council when granting or revoking a licence. These provisions state that:

Any legal entity or natural person can only be linked with one nationwide broadcaster (TV or radio, see § 42). According to § 3 lit. such a "link" or "property connection" is established when a persons holds at least a 25% share of the issued capital of a second person, or a 25% share of the overall voting rights in the company.

The law also restricts cross-ownership between radio and TV broadcasters and between broadcasters (TV or radio) and a publisher of a nation-wide press publication (§ 43). Furthermore, a publisher of periodicals that appear at least five times a week and are distributed in at least half of the territory of the Slovak Republic must not be a licensed broadcaster for multi-regional or nationwide broadcasting services at the same time. However, links of an individual (or legal entity) to other regional or local broadcasters are allowed if all of the broadcasters with whom this person is connected through capital can be received by a maximum of 50% of the total population. The same threshold applies to broadcasting networks. The Council is empowered to request documents and data necessary to asses whether these conditions are met.
There are no restrictions on foreign ownership laid down in the Act on Broadcasting and Retransmission.

The Press Law does not contain further anti-concentration or ownership transparency rules for the press sector (whereas the broadcasting act itself refers to ownership of newspapers as an aspect to be considered when granting a TV licence). However, under the Press Law publishers are obliged to register with the Ministry of Culture and provide some basic information (address, name of editor in chief etc.) but not on matters of ownership.

1.5 Competition Policy

The Antimonopoly Office[416] monitors compliance with the Act on Protection of Competition. The law does not include specific provisions on the media sector (however, the Act on Broadcasting and Retransmission does, as shown above). Therefore, the Antimonopoly office does not consider issues of media pluralism or diversity when it examines mergers of media undertakings, but only applies the general competition rules on merger control and the abuse of a dominant position. According to the Act, a "dominant market position" includes companies "not exposed to substantial competition or companies whose market power allows them to act independently." The abolishment of the former threshold of a 40% market share resulted in a large margin of discretion for the Antimonopoly Office. Mergers are subject to approval by the Antimonopoly Office if (i) the combined annual turnover of the respective parties exceeds SKK 500 million and the individual turnover of each or at least two of the parties exceeds SSK 150 million provided such concentration may restrict economic competition

[415] The Slovak Media Landscape, European Journalism Association, Website: www.ejc.nl; Šipoš (2004:459)
[416] http://www.antimon.gov.sk/eng/

or (ii) the combined market share of the parties exceeds 25% of the common share of goods and services in the Slovak Republic.

2. Main Players in the Media Landscape

Notwithstanding the anti-concentration rules and restrictions to cross-ownership outlined above, the Slovakian media market turns out to be fairly concentrated with some media companies having interests in several media sectors. Apparently, the strongest player on the market is the Markíza Media Group, which runs the most successful TV channel TV Markíza. Markíza is partly owned by the company Central European Media Enterprise (CME), which also has interests in the Czech Republic, Slovenia, Romania, and Ukraine. The rest of the shares belong to three local investors and the company Media Invest (see Table SK 2 for more details). An ongoing issue of concern is the relationship between Markíza and its former co-founder and co-owner Pavel Rusko, the current Minister for Economics of the Slovak Republic (see 3.1). Cross-ownership activities of the group as a whole – taking into account its indirect personal and capital ties – are cited to include *Markíza TV*, the lifestyle weekly *Markíza*, the daily broadsheet *Národna obroda* and the radio station *Radio Okey*. However, the wording of the cross-ownership provisions are not sufficient to prevent Markíza's strategy of having interests in several media sectors (Šipoš 2004:454). Ivan Kmotrík is another major player on the media market, holding a 50% share (via Grafobal Group) of the second commercial TV channel *TV Joj*. Furthermore, Kmotrík owns the largest newspaper distributor and retailer Mediaprint-Kapa Pressegrosso JSC, four big printing houses, a book publisher (SPN-Mladé letá) and the largest Slovak advertising agency, EURO RSCG Artmedia. Due to the investment of the German Verlagsgruppe Passau, Petit Press has become one of the most important publishing companies in the Slovak Republic. Among its publications is the important daily *SME* and, furthermore, Petit Press is the strongest player on the regional press market. The Swiss Ringier Group owns the best-selling daily (tabloid) newspaper *Nový Cas* and a range of lifestyle magazines.

2.1 Radio

Unlike in the TV sector, Public Service channels dominate the radio market. The offer of the Public Service Broadcaster Slovenský Rozlas (Sro) comprises five different channels. However, there are severe financial problems due to insufficient funding by licence fees, which the Parliament has refused to raise for several years. Hence, the additional funding by governmental subsidies is regarded as being rather problematic with regard to the broadcaster's independence from the government.[417]

Table SK 1: Main Radio Companies

Companies	Ownership Structure*	Stations Market Share	Total Market Share 2003**
Slovenský rozhlas (Sro)	Public Service Broadcaster	Radio Slovensko 29,4% Radio Devin 3,8 % Rock FM Radio 10,5% Radio Patria Radio Regina 4,8%	48,5% + Radio Patria (no figures available)
D.Expres., JSC	European Bank for Reconstruction and Development 26% Václav Mika 8% Dušan Budzák 5% Robet Bartoš 5% EFM ltd. (Cyprus) Framlington (Jersey)	Expres	13,7%
Okey Rádio. JSC	Michal Arpáš Lubomír Messinger Drukos, JSC Marián Paksi	Okey	10%
Radio, JSC	Patrol ltd. (Štefan Gvoth), Bratislava Societe d'expliotation radio CHIC, (France)	Fun	8,1%

* Ownership structure based on information from: Šipoš 2004:452
** Market share based on audience figures from: Internationales Handbuch Medien 2004/2005 quoting: AISA Slovakia and Median Prague

[417] Internationales Handbuch Medien 2004/2005, p. 626

In 2002 there were 25 private radio stations (7 multi-regional, 10 regional, and 7 broadcasting on a local level). While the regional radio stations often face financial problems, the stronger multi-regional stations try to establish networks with stations on the regional and local level. The most successful multi-regional commercial channel is Radio Expres (13,7%), which is partly owned by the European Bank for Reconstruction and Development and has among its shareholders several other institutional investors. Two other private competitors on the radio market are the locally owned station Okey (10%) and Fun (8,1). Fun Radio was the first commercial radio broadcaster in the Slovak Republic and is partly owned by the French media group Societe d'exploitation radio CHIC.

2.2 Television

The Public service Broadcaster SVT offers two channels SVT1 and SVT2 that jointly reach an audience share of 34%. While SVT1 provides a typical PSB generalist programme, SVT 2 focuses on sports, documentaries and other minority programmes. SVT faces a serious financial crisis - some authors even state the Broadcaster is on the edge of an economic collapse.[418] The former management has been replaced in January 2003 and the new director, the former director of the private channel TV Joj, Richard Rybnicek, announced radical reforms including staff cuts from 2000 to approximately 800. In terms of audience shares, the PSB channels are outranked by far by Markíza TV, the first commercial channel founded in 1996, which could reach astonishing audience shares already shortly after it was launched (67% in mid-2003) and accounts for a remarkably high share of the TV advertising revenues (84,9%). The ownership is divided between the company Central European Media Enterprise (CME), three local investors and the company Media Invest.
In 2002 a new player, TV Joj, appeared on the scene, which replaced a network of 30 local TV stations (TV Global). Finally, TA3 is a 17-hour news channel (comparable with news channels like CNN or BBC World) with its majority stake (90%) hold by the investment and financial group J&T that also interests in the Czech television market (TV channel *Prima*). TA3 is distributed only via cable and satellite. The launch of Digital Terrestrial Television in the Slovak Republic is envisaged for the summer 2004.[419]

Table SK 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Reach May-August 2003**
STV	Public Service Broadcaster	STV1 28% STV2 6%	34%
Markíza-Slovakia, ltd.	CME Media Enterprises (Netherlands) 34% A.R.J., JSC (Milan Filo 51%, František Vizváry 34%, Ján Kovácik 15%)50% Media Invest, ltd 16%	Markíza TV	67%
MAC TV, ltd.	Grafobal Group, JSC (Ivan Kmotrík) 50% Ceská Producní Invest, JSC, Prague, (PPF) 47,5% Vladimír Komár 2,5%	JOJ TV	20%
C.E.N.., ltd.	J&T 90%	TA3	4%

* Ownership structure based on information from: Šipoš 2004:452
* *Market share based on audience figures from: Šipoš 2004:452 quoting Median Sk poll

2.3 Press and Publishing

The best-selling paper in Slovakia is the tabloid Nový Cas which is now fully owned by the Swiss company Ringier. All attempts to establish a concurring nationwide tabloid have failed so far. After the collapse of the communist government the most important organ of that time, Pravda, was sold to its journalists in 1990. The present owner is a group of investors called Harvard investment funds.

[418] Internationales Handbuch Medien 2004/2005, p. 630
[419] more details are provided by the Report of the EPRA Digital Terrestrial Television Working Group, available at: http://www.epra.org/content/english/press/papers/AGCOM_DTTWG_finalreport.pdf

Among the three best-selling newspapers the Pravda is the only one without a foreign partner. A third competitor on the market for national daily newspapers is SME published by Petit Press with the German Verlagsgruppe Passau and the PSIS privatisation fund both owning a 50% share. The top – selling news weekly is the locally owned Plus 7 dni. The regional weeklies still play an important role on the Slovakian press market, the majority of them today are owned by Petit Press. On the magazine market also the Swiss media group Ringer is present with some titles.

Table SK 3: Main Publishing Companies

Publishing companies	Ownership Structure*	Main Titles	Total Market Share 3rd quarter 2003**
Daily Newspapers			
Vydavatelstvo Casopisov A Novín, ltd.	Ringier (Switzerland)	Nový Cas	157.957
Petit Press, JSC	PSIS (Peter Vajda) 50% Verlagsgruppe Passau 50%	SME	74.049
Perex, JSC	Harvard investment funds	Pravda	72.841
Weekly newspapers or weekly magazines			**Reach 2003*** **
Spolocnost 7 Plus, ltd.	Jozef Dukes, Karol Bustin, Štefan Šimák (each a third)	Plus 7 DNÍ	19,8
		Markíza	14,1
	Ringier (Sw itzerland)	Život	8,3
		Slovenka	8,3
	Ringier (Switzerland)	Eurotelevízia	7,5
		Katolíke noviny	5,7
		Pardon	4,4
		TV Komplet	2,6
		Vasárnap	2,2
		International Express	2,2

* Ownership structure based on information from: Šipoš (2004:452); European Journalism Centre. The Slovak media landscape. Andrej Školkay
** Market share based on circulation figures from: Šipoš (2004:452) quoting Audit Bureau of Circulation, figures available at: http://www.sme.sk/abc/abc.asp
*** Figures from: Internationales Medienhandbuch 2004/2005, p. 623, quoting AISA Slovakia, and Median Prague

2.4 Cable and Satellite operators

120 cable operators were registered in Slovakia in 2002 next to range of providers of television services by other means of transmission like MMDS or MVDS. These operators jointly provide 45% of all households with TV programmes. In general, their offers comprise German commercial and PSB channels as well as channels from the neighbouring countries Czech Republic (CT1, CT2, Prima TV), Hungary (MTV1, MTV2, Duna TV) and Austria (ORF1 and ORF2) and international channels like Euronews, Eurosport, Arte, CNN, MTV, Sky News and BBC World.[420]

2.5 Advertising

The table below outlines the share of advertising revenue in the media sector.

Table SK 4: Share of advertising revenue

Media	GROSS in % in 2003	NET in % in 2003
Press	18,4%	33,1%
Television	70,8%	47,2%
Share per channel 2003 of TV revenue (GROSS) TV Markíza 84,9% STV1 10,5% TV Joj 2,0% SVT2 1,3% TA3 1,2%		
Radio	6,8%	9,9%
Outdoor	3,9%	9,7%
Cinema	0,1%	-
Total (in million Euro)	308.58	108.43

Source: Television 2003, International Key Facts, p. 416

[420] Internationales Medienhandbuch 2004/2005, p. 632

3. Conclusions

3.1 Freedom of the Media

The amendment of the law on defamation (abolishment of prison terms for press offences) in 2002 and modifications of other laws in preparation for joining the European Union were regarded as important steps towards more press freedom.[421]

However, a scandal occurred in 2003 when it was discovered that the editorial offices of the daily newspaper SME had been wiretapped by the Slovak Intelligence Service (SIS) without a court order. Several conversations between journalists and the current Minister for Economics, Pavel Rusko, had been recorded. The scandal resulted in the suspension of several members of SIS staff and the launch of an investigation.[422]

Another critical issue relating to the current Minister of Economy, Pavel Rusko, is the biassed coverage of Markíza TV of his person and his political party ANO. As mentioned above (see section 2) Rusko had a stake in Markíza, which he sold to František Vizváry before he entered the political stage. Vizváry in turn became his advisor at the Ministry. In the election year 2002 this questionable relations between politics and the media led to the imposition of several fines on Markíza by the Broadcasting Council, mostly for undue preference for Pavel Rusko and his party in news coverage (Šipoš 2004:454).[423]

Furthermore, an increasing degree of sensationalism in the press raises concerns. Not only the largest tabloid Nový cas but also quality papers like Pravda and SME revert to sensationalistic reporting and gossip in order to attract more readers.[424] Insufficient funding for the education of journalists is cited as an additional reason for the decreasing quality in the press.[425] However, the majority of the national newspapers still provide serious information to a readership that also wants to be informed on the backgrounds of current-events.

3.2 Ownership and market concerns

As shown in the case of Markíza, the anti-concentration provisions in the Act on Broadcasting and Retransmission are not capable of preventing the emergence of cross-ownership media undertakings. As reasons for this unsatisfactory situation the Ministry of Culture cites first of all that the respective provisions impose an obligation to provide information on ownership only to the respective broadcasting company – the undertakings behind the broadcaster, however, do not fall under the scope of these rules. Therefore, the main difficulty is to require sufficient evidence to start an administrative action. Insufficient cooperation among regulatory authorities within the European Union, different national standards and inadequate exercises of the competences of the relevant authorities would furthermore contribute to the aggravation of the problem.[426]

Due to their severe financial and structural crisis (as outlined above) the Public Service Broadcasters are currently not capable to act as a counterbalance towards the strong position of TV Markíza. It remains to be seen whether the new management and the announced measures will be able to change the current situation.

Report status: the gathering of data for this report was completed on July 27th 2004

[421] Reporters Without Borders: http://www.rsf.org/article.php3?id_article=10183
[422] ibid and International Press Institute: 2003 World Press Freedom Review (Slovakia): http://www.freemedia.at/wpfr/Europe/slovakia.htm
[423] see also: Internationales Medienhandbuch 2004/2005, p. 630
[424] ibid, p. 621
[425] ibid and International Press Institute: 2003 World Press Freedom Review (Slovakia): http://www.freemedia.at/wpfr/Europe/slovakia.htm
[426] Representative of Ministry of Culture: http://www.mirovni-institut.si/media_ownership/conference/pdf/Mistrikova.pdf

Slovenia

1. Acts, Legislation, Regulation, Codes

1.7 Freedom of Expression

The Freedom of Expression is enshrined in the Constitution of the Republic of Slovenia (1991)[427] under Article 39, which states:

> *(1) Freedom of expression of thought, freedom of speech and public appearance, of the press and other forms of public communication and expression shall be guaranteed. Everyone may freely collect, receive and disseminate information and opinions. (2) Except in such cases as are provided by law, everyone has the right to obtain information of a public nature in which he has a well founded legal interest under law.*

The Mass Media Act of 2001 also guarantees the freedom of expression of the media, diversity of opinion, and refers to the independence and responsibilities of journalists and media professionals under Article 6[428]:

> *Mass media activities shall be based on freedom of expression, the inviolability and protection of human personality and dignity, the free flow of information, media openness to different opinions and beliefs and to diverse content, the autonomy of editorial personnel, journalists and other authors/creators in creating programming in accordance with programme concepts and professional codes of behaviour, and the personal responsibility of journalists, other authors/creators of pieces and editorial personnel for the consequences of their work.*

1.8 Freedom of Information

Within the Constitution, Article 38 deals with the right to privacy of data and Article 38 (3) outlines the right of citizens to access to personal data related to him/herself. As outlined above regarding Article 39, paragraph three refers to the right to access information of a public nature. This right was legislated through the 2003 Act on Access to Information of Public Character was adopted in February 2003.[429] The Act states that everyone has a has a right to information of a public nature held by state bodies, local government agencies, public agencies, public contractors and other entities of public law. These organisations must respond to requests within 20 days. In addition, Article 45 of the Mass Media Act of 2001 outlines the provisions for access to public information on the part of journalists and the media in fulfilling their role to accurately inform the citizen.

1.9 Codes for journalists and broadcasters

A Code of Ethics, was adopted by the Association and the Union of Journalists in Slovenia,[430] which states (in brief) that journalists: should always defend the principles of free gathering, disseminating and transmitting information, as well as the right to express opinions; are obliged to present a comprehensive account of events and report in an accurate and conscientious manner; should test the accuracy of information and avoid mistakes, which should be admitted and corrected. When publishing information involving serious allegations, the journalist should try to receive a response from those affected. Unconfirmed information or speculation should be clearly identified. The journalist should identify the source whenever feasible, unless anonymity is required. Journalists should: avoid paying for information and be wary of sources expecting money or any special privilege in exchange for information; not conceal essential information or falsify documents. Images, announcements, titles and subtitles should not misrepresent the content. Plagiarism is impermissible.

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427 Constitution of the Republic of Slovenia (1991)- Ljubljana : Uradni list Republike Slovenije, 2001. Available in English: http://www.oefre.unibe.ch/law/icl/si00000_.html

428 Mass Media Act 2001 (Zakon o medijih; ZMed) Section 1 Introductory Provisions: subject of the law. Source Slovenian Government website: http://www.dz-rs.si/

429 Act on Access to Information of Public Character. February 2003. Source: http://www.privacyinternational.org/countries/slovenia/foia-2003.doc

430 Adopted in Izola, 10 October 2002. Source The Presswise Trust: http://www.presswise.org.uk/display_page.php?id=453

The journalist should: use honest methods of gathering information; always should distinguish news from commentary. Journalistic and advertising texts should be clearly and unambiguously distinguished from journalistic texts. The journalist should refuse gifts, favours and fees, and shun free travel, special treatment, secondary employment, political involvement, public office and service in community organizations if this might diminish his/her credibility or that of the journalistic community. The journalist should not take private advantage of financial information. With regard to general ethics journalists should respect the individual's right to privacy and avoid sensationalistic and unjustified disclosure unless there is an overriding public interest. Reporting on judicial matters, the journalist should take into consideration that no one is guilty until legally proved. The journalist should be tactful when gathering and reporting information, publishing photographs and transmitting statements on children and minors, those affected by misfortune or family tragedy, the physically or mentally disabled and others having severe handicaps or illnesses. The journalist should avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance and social status. Discrimination based on sex, ethnicity, religion, social or national origins, insults about religious feelings and customs and incitement of conflicts between nationalities are impermissible. Regarding the rights and responsibilities of journalists, the journalist has the right to refuse any job, which conflicts this code or his/her convictions. No one is allowed to alter or revise the content of the journalist's report or other piece of work without his/her consent. Should the journalist be invited to the Journalists' Ethics council session, he/she is obliged to attend it and to abide by its judgements. The journalist is obliged to abide by the same standards to which he/she holds others.

1.4 Media Ownership Regulation

The Republic of Slovenia, in preparation for EU membership, introduced further media legislation through the Mass Media Act of 2001. Like the other new member states this act incorporates the EU *acquis communitaire* in the filed of audiovisual policy (Television Without Frontiers Directive). The act also deals with aspects of journalism rights and responsibilities. However, in contrast to many of the new member states (and several older member states) the legislation also contains specific provisions for the protection of media plurality and diversity (Article 56) and the restriction of concentration of media ownership (Article 58). The main authorities in the area of media regulation are the Ministry of Culture, the Slovenian Broadcasting Council,[431] which is integrated into the Agency for Telecommunications, Broadcasting and Post. The role and remit of the Broadcasting Council includes policy development on programming and licensing, the allocation of licenses and frequencies to broadcasters, and providing opinions on the restriction of concentration in the sector.

The previous media legislation (Mass Media Act 1994) had a 33% limit of capital share for individuals and companies, in individual mass media outlets. This restriction was removed in the Mass Media Act of 2001. Horizontal ownership of the media is restricted under Section 9 of the Mass Media Act (Article 56). The law restricts the involvement of publishers, broadcasters or individuals (or connected persons) who already have an interest of at least 20% (ownership or voting rights) in a daily information newspaper, or a television station or a radio station, from having no more than 20% (ownership or voting rights) in a second such enterprise (see 1.4.2 below for more detail on cross media ownership).

Article 57 of the act outlines in detail the definition of 'connected persons' implying persons connected through management, capital or business policy that may be able to exert an influence on decision-making regarding business or content policy. Additionally, this definition includes relatives, family members, family of spouse etc. according to their interest in the company. The definition also includes members of the Board of Directors or the supervisory board of such a company. In restricting concentration the law sets up a system whereby the acquisition of more than 20% (ownership or voting rights) in either a publisher of a daily information publication, or in a radio or television company requires the prior approval of the relevant ministry. The ministry will consult the Agency for

[431] http://www.gov.si/srd/eng/index.html

Telecommunications, Broadcasting and Post (mentioned above), who in turn will seek the opinion of the Broadcasting Council as outlined above (Article 58).

The article outlines the conditions under which approval of the acquisition of ownership may be rejected and these provisions seek to prevent (a) the creation of a dominant position in the advertising market (a share of revenue of over 30%) of the radio or television sector; or (b) the creation of a dominant position within the audiovisual sector whereby the applicant through these shares (or in combination with other interests) would have a coverage of more than 40% of the national audiovisual space (the area covered by all radio and television stations); or (c) if by acquiring a stake in the publisher of a daily information publication the applicant through this stake (or a combination or other interests) would then have a dominant position in the press market i.e. over 40% of the circulation share for the entire market of daily information publications (Article 58, paragraph 3).

Regarding transparency of ownership, Article 12 of the Mass Media Act outlines the system of registration of mass media companies, their ownership structures and sources of financing etc. This information must be provided annually, and additionally any major changes to the information, particularly the ownership structure, most be notified to the registry.

1.4.1 Competition Policy and Mergers

Slovenian competition policy has no specific provisions relating to the media sector. The current legislation, the Prevention of the Restriction of Competition Act (1999),[432] with subsequent decrees, provides detailed provisions on the definition of a dominant position, and the process for examining concentrations of firms. Article 10 defines a dominant position in a market as being where one firm has a 40% share in the market, or where two or more firms have an aggregate share of the market of more than a 60% threshold and if no significant competition exists between them. The Competition Protection Office (CPO) has additionally created a database which aids the monitoring and analysis of specific markets, which in turn aids the role of the CPO in the development of legislation: "the prime reason of which is introducing competition into specific sectors such as telecommunications, traffic, energy and media."[433] The CPO also appraised the merger of the two commercial television companies Pro Plus and Kanal A in 2002 (see section 2.2), and after an analysis into the market decided that the merger would not 'threaten efficient competition.'[434] The two channels currently have a market share (audience) of almost 40% (39.7%) implying Pro Plus now occupies a dominant position. Additionally, the company's share of the advertising revenue for the television sector (2002) amounts to approximately 76% (based on figures in table SI 5), which according to the Mass Media Act (Article 58, paragraph 3) creates a dominant position in the advertising market. The Prevention of the Restriction of Competition Act (1999) allows for some exceptions regarding the evaluation of mergers, which concerns the interests in media businesses acquired by investment companies. Hrvatin and Kucic (2004) point to the problems in the harmonisation of the two pieces of legislation (competition and media).

1.4.2 Cross Media Ownership and Foreign Ownership

Regarding cross media ownership the Mass Media Act (2001) outlines the following restrictions: A publisher of a daily informative newspaper or a single legal or natural person or group of connected persons that holds an ownership stake of more than 20% or a share in the management or voting rights or more than 20% in the capital or assets of such a publisher may not also be the publisher or a co-founder of a radio or television station and may not perform radio or television activities.

Likewise, a broadcasting company of a radio or television station or a single legal or natural person or group of connected persons that holds an ownership stake of more than 20% or a share in the

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[432] The Restriction Of Competition Act. Available: http://www.sigov.si/uvk/ang/2legal/1basis.html
[433] Competition Protection Office Annual Report 2000 P4: http://www.sigov.si/uvk/ang/5rest/slike/rep2000.pdf
[434] Ibid P15

management or voting rights of more than 20% in the capital or assets of such a publisher may not also be the publisher or a co-founder of the publisher of a daily informative printed medium.

For publishers or legal or natural persons as outlined above who already have an ownership or voting right of 20% in one media outlet may not may hold an ownership stake of more than 20%, or a share in the management or voting rights of more than 20%, in the assets of any other publisher or broadcasting organisation.

Under Article 59 individuals, companies and publishers are prevented from being active in both the television and radio sectors (exceptions may occur through the licensing system as outlined under articles 105- 106).

Restrictions also apply regarding activity in both the advertising and broadcasting sectors (article 60). An organisation or individual with more than 10% interest (voting or management rights) in an advertising agency may not be the publisher or founder of a radio or television station and is limited to a 20% share (management or voting rights) in a broadcasting organisation.

There are also restrictions regarding activity between telecommunications activities and radio and television activities (Article 61) wherein an operator that provides telecommunications services (which includes, as described in article 111, the provision of terrestrial networks, satellite, or cable distribution or cable communications systems used for disseminating programming) may not be the publisher of a radio or television station, and may not disseminate programming or advertising, unless they have qualified for a license to do so (under article 105).

There are no particular limitations on the involvement of foreign nationals in the mass media of Slovenia. The previous media legislation (Mass Media Act 1994) had a 33% limit of capital share for individuals and companies, which also applied to foreigners. This restriction was removed in the Mass Media Act of 2001.

2. Main Players in the Media Landscape

2.1 Radio

The Public Service Broadcaster, RTV is an important player in the radio market with three national channels: Program A, Program Ars and Val 202, and the Radio Slovenija International, and four regional stations. There are two national commercial radio stations. One is the *Radio Ognjišce,* a Catholic Church radio station which claims to have 200.000-250.000 regular listeners and to be the third most popular station.[435]

The other company, RGL, is run by the company SET in which the Solamon Group have controlling interest. The Group also have two regional stations and are involved in the publishing industry (see 2.3). In contrast to the development of commercial radio in some other European countries (where legislation and a system based on plurality of ownership was in place before the issue of licenses), the licensing of radio channels was largely over by the time the Broadcasting Council had been fully established. According to Hrvatin and Kucic (2004) this has had several consequences; one being that many local radio licenses were issued to people on the basis of 'personal relations' rather than based on a system of licensing criteria. A further consequence was that the broadcasters who were later licensed by the Broadcasting Council, ended up joining the rapidly developing networks that were building up between stations (in order to share resources due partly to the high number of stations). Of these only one, the INFONET network has shared ownership links. All the networks co-operate regarding advertising, news, or programming, or sometimes all three.

[435] http://radio.ognjisce.si/predstavitev.php#ang

Table SI 1: Main Radio Companies

Companies/ channels	Ownership Structure*	National Radio Stations	Market Share ** Reach	Regional radio
Radio Slovenija	Public Service Broadcaster	Program A Program Ars Val 202 Radio Slovenija International	196,000 n/ 300,000 22,000	4 stations
Ognjišce Publishing Association	Catholic Church	Radio Ognjišce	51,000	
SET	Solamon Group:68.56% Solamon 2000: 9.74%	RGL	39,000	2 stations
Infonet				23 stations
Others	Around 40 other regional stations who co-operate through 5 different networks			40 stations

* Media Map 2003; Hrvatin and Kucic (2004); and company websites
** According to Reichl und Partner Research citing: AGB Media and MediaSkop 2002[436]. And company websites

2.2 Television

The Public Service channels SLO 1 and SLO 2 have a combined audience share of almost 40%. They also broadcast a third regional channel TV Koper Capodistria which provides programming in Slovenian and Italian and targets the Slovenian minority in Italy, and the Italian minority in Slovenia

Table SI 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations market Share	Total Market Share 2003**	Share of TV Advertising revenue 2002+
Pro Plus	Central European Media Enterprises USA 97% Local Partner 3%	Pop TV: 29.5% Kanal A: 10.2%	39.7%	76%
RTV Slovenija	Public Service	TV Slovenija 1: 24.5% TV Slovenija 2: 10.2% TV Koper Capodistria	34.7%	15.5%
TV3	Ivan Caleta: 75% Krekova Družba D.D/ Mladinska knjiga: 25%	TV3: 2%	2%	8.5%
Foreign Channels	German, Austrian, Croatian, and Italian television		22% (approx)	

*Ownership structure: Company web sites; EFJ (2003); Hrvatin and Kucic (2004);
**Audience share 2003. Company Data CME: http://www.cetv-net.com/website.asp?article=14
\+ Source: Median IRM. Quoted in IP (2003)

In many of the countries examined in this study it has been common to find three major channels (one public service) and two commercial competing for audience share. Such is the case also in Slovenia with the unusual situation that the same company, Pro Plus, owns the two bigger commercial channels, Pop TV and Kanal A. Pro Plus is 97% controlled by the Central European Media Enterprises (CETV) with 3% ownership held by a local partner. The CETV are also active in the Slovak Republic, Romania and the Ukraine. The company is registered in Bermuda and has its headquarters in London.

The third commercial channel TV3 was originally owned by the Catholic Church, which due to the financial difficulties of running the station, sold it in 2003 to a group of Croatian investors, a fate similar to the Catholic Church television station in Portugal TV1 (sold to one of the major media groups in 1998). The current owners also have television interests in Croatia (TV Nov@), and in Bosnia (OBN).[437] About 20% of the audience share goes to foreign channels received in Slovenia

[436] http://www.reichlundpartner.com/dcat/docudb/65/import40a1f010ed7b0.pdf
[437] "TV3 in Croatian Hands". Slovenia News February 18th 2003. http://slonews.sta.si/index.php?id=664&s=28

which includes German (ARD, DSF, Pro7, Sat1, Super RTL, Viva, Vox and ZDF), Austrian (ORF 1 and 2), Croatian (HTV1, 2 and 3) and Italian (Rai, I and 2).

2.3 Press and Publishing

Although the press in Slovenia went through a process of de-nationalisation and privatisation in the early 1990s, many media outlets in Slovenia still have the state as direct and indirect shareholders.[438] Early privatisation transferred ownership to the staff, many of whom sold these assets quite quickly. Shares in media outlets were bought by certain national funds, some of which remain shareholders of different publishing companies.

Table SI 3 Main publishers of daily newspapers

Publisher*	Ownership*	Daily Titles	Circulation 2003*	Net Reach in %**	Weekly/ Sunday Titles
Delo D.D.	Pivovarna Laško D.D: 25% Slovenska Odškodninska Družba D.D. (Indemnity Fund): 11.7% ID Maxima D.D.: 11.1% Kapitalska Družba D.D: (Pension and Disability Fund): 7.5% Infond ID D:D:: 11.1%	Slovenske Novice Delo	107,000 90,000	18.9% 13.4%	
Dnevnik D.D.	DZS D.D. 51% Styria Verlag (Austria): 25.7% Kapitalska Družba D:D: (Pension and Disability Fund): 10.1% CZP Vecer D.D: 6.5% Mobittel D.D.: 2.7%	Dnevnik	66,000	8.7%	Nedeljski Dnevnik 172,000
Vecer D.D	Infond Holding D.D: 36.3% Laykam Hoce (Austria): 26.7% Infond ID D: D:: 15.0% Slovenska Odškodninska Družba D.D. (Indemnity Fund) 10.0%	Vecer		10.4%	
Solamon Group	Solamon Group Three local companies	Ekipa (Sport)		2.6%	Mag 17,000
Mladina D:D:	4 employees/ editors: 33.83% Delo TCR: 7.53% Factor Leasing: 18.77%				Mladina 19,300

* Ownership Structure: Source Hrvatin and Kucic (2004)
**Reichl und Partner Research, quoting Mediaskop 2002

Delo D.D. is the publishing company producing the two best selling newspapers in Slovenia. The *Slovenske Novice* is a popular tabloid format while the *Delo* is a national quality daily informational newspaper. Delo D.D. is also involved printing, advertising and distribution. The company's overall share of advertising revenue in the print sector is estimated at 70%.[440] The main shareholders are a brewery (Pivovarna Laško D.D 25%) the Slovenian Indemnity Fund (11.7%), Slovenian Pension and Disability Fund (7.5) and various investment companies and banks. At this point there is very little employee ownership of the publisher (Hrvatin and Kucic, 2004).

The main shareholders of the publisher Dnevnik D.D. are the book publishing company DZS. D.D. (51%) and the Styria Verlag (25%), part of the Austrian Styria Medien AG (which is owned by a catholic foundation). Other shareholders include the Pension and Disability Fund, a mobile telephone company and the publishing company CZP Vecer D.D. The third main company, which publishes *Vecer,* is Vecer D.D, which asdie from the interests of State fund companies also has an Austrian company, Laykam Hoce, as a major shareholder. Table SI 3 indicates some of the ownership relationships between the three main publishing companies who have some common shareholders, and additionally have interests in each other.

[438] see Hrvatin and Kucic (2004) for a detailed background to these developments.
[439] Media Map 2003: p320
[440] Media Map 2003: p320

2.4 Cable and Satellite operators

In Slovenia cable penetration reaches about 57%, one of the highest of the new member states. The cable television industry is not based on a licensing system and there are around 80 companies providing cable services many of whom are municipal networks. In the last couple of years there has been an increasing merging of many operators who have started modernising the network and introducing new services, particularly the Internet and pay TV programmes. The biggest operators are Telekabel (through the merger of Link, Sistel and Skyline), Telemach (6 cable operators and other companies) and G-Kabel (Astra Telekom, Gorenjski Kabel and Telesat). Recent subscription data was not available.

2.5 Advertising revenue

The table below outlines the share of advertising revenue between media sectors (and also between television channels).

Table SI 5: Share of net advertising revenue within the media sector 2002*

Media	**Market Share in approx.%**
National Newspapers	21.2%
Television	43.3%
Share per channel 2002 of TV revenue	
Pop TV	*53.6%*
Kanal A	*22.4%*
TV3	*8.5%*
SLO 1	*12.9%*
SLO 2	*2.6%*
Magazines	20.6%
Radio	7%
Outdoor	6.7%
Cinema	0.5%

**Source: Median IRM. Quoted in IP (2003)

3. Conclusions

3.1 Freedom of the Media

The press in Slovenia is considered to be free although there remain problems with the legal framework for journalism. Libel is a criminal offence and the civil code prohibits insulting government officials. In April 2003 the staff at Radio-Televizija Slovenija (RTVS) threatened to strike over what they described as 'managerial censorship' which led to the resignation of the news director (Freedom House, 2003). Local NGOs point to the ownership of many outlets by business interests who use the outlets purely to further political and economic interests.

Journalists in the course of their work, particularly where that involves investigative journalism into corruption, are not always guaranteed safety from intimidation and violence.[441] A combination of bad working conditions, low salaries, freelance situations, and a not so high interest in further education, further inhibits the development of investigative journalism.

3.4 Ownership and market concerns

Although there are quite detailed media ownership restrictions in Slovenian legislation, these were largely introduced after the market had taken shape after privatisation. For example, in the free to air television sector the Pro Plus company not only has a 40% share of the TV audience with its two commercial channels, but also a 76% share of television advertising revenue. The law now restricts horizontal media concentration where one company could not own (have more than 20% in the

[441] Such as the case of Miro Petek attacked in 2001.

second of) two broadcasting channels, and provides restrictions where one company could not have more than a 30% share of the total advertising revenue in the television sector.

Additionally, most of the media companies in Slovenia have developed links: they have common shareholders and often hold small shares in each others' companies, while the state still has high levels of investent in the media through funds and investment companies.

Hrvatin and Kucic (2004) lament the irony of the Slovenian situation. While other East and Central European countries sold off their their media assets to foreign owners at the beginning of the transition period (1990-1992), Slovenia has over the past ten years privatised, imposed restrictions on media ownership, and pass two media acts. The end result, however, has been a concentration of media ownership in the hands of important business people and the state.

Report status: the gathering of data for this report was completed on July 27th 2004

Spain

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

Freedom of expression is enshrined in the Spanish Constitution. Article 20 states[442]:

> *(1) The following rights are recognised and protected: a) the right to freely express and disseminate thoughts, ideas and opinions by word, in writing or by any other means of communication; b) the right to literary, artistic, scientific, and technical production and creation; c) the right to academic freedom; d) the right to freely communicate or receive truthful information by any means of dissemination. The law shall regulate the right to the protection of the clause on conscience and professional secrecy in the exercise of these freedoms.*
> *(2) The exercise of these rights cannot be restricted by any form of prior censorship.*
> *(3) The law shall regulate the organisation and parliamentary control of the social communications media owned by the State or any public entity and shall guarantee access to those media by the main social and political groups, respecting the pluralism of society and the various languages of Spain.*
> *(4) These liberties are limited by respect for the rights recognised in this Title, by the legal provisions implementing it, and especially, by the right to honour, to privacy, to personal reputation, and to the protection of youth and childhood.*
> *(5) The confiscation of publications, recordings, or other information media may only be carried out by means of a court order.*

1.2 Freedom of Information

Article 105 of the Constitution states:

> *The law shall regulate…b) access of citizens to the administrative files and records except where they may affect the security and defence of the State, the investigation of crimes, and the privacy of individuals.*

The Law on Rules for Public Administration (1992) contains concrete provisions on access to administrative records and documents by Spanish citizens and rules for access to administrative proceedings. The documents must be part of a file which has been completed and the authorities should respond in three months.[443] However, access to documents can be denied in relation to public interest or third party interests; or if the documents refer to government actions based on constitutional competencies, national defence or national security, investigations, business or industrial secrecy or monetary policy. There are also restrictions for information protected by other laws including classified information, health information, statistics, the civil and central penal registry, and historical archives. Documents that contain personal information can be accessed only by the persons named in the documents. Denials can be appealed. The Ombudsman[444] can also review cases of failure to comply with the law.

1.3 Codes for journalists

Journalists belonging to the Federation of Press Associations of Spain (Federación de Asociaciones de la Prensa de España - FAPE) commit themselves to maintain binding ethical principles when exercising their profession, which are enshrined in the Code of Ethics.[445]

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[442] http://www.tribunalconstitucional.es/CONSTITUCION.htm; http://www.spainemb.org/information/constitucionin.htm
[443] Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común http://www.setsi.mcyt.es/legisla/adminis/ley30_92_rjap_pac/indice.htm
[444] http://www.defensordelpueblo.es/
[445] Source: Databank for European Codes of Journalism Ethics - EthicNet www.uta.fi/ethicnet/

Journalists: shall always act keeping in mind the principles of professionalism and ethics in this Code; respect the truth and defend the principle of the freedom to investigate and honestly disseminate information; do not falsify documents and do not publish information which is false, misleading or distorted; are obliged to correct errors as quickly as possible; should respect the principle that a person is presumed innocent until proved otherwise; respect the right of individuals to privacy, in particular with regard to minors, weaker members of society or victims of discrimination. Journalists are guaranteed the right to professional secrecy; are obliged to guarantee confidentiality of sources of information; cannot accept, directly or indirectly, payments or rewards from a third party to promote, direct, or publish information or opinions of any kind; shall never take advantage of the information they receive as a consequence of their profession; cannot simultaneously be involved in advertising or activities related to social communication work.

Journalists must protect for themselves and for their colleagues: the obligation and right to oppose any evident intention to monopolize information, which might hinder political and social pluralism; the obligation and right to participate in business matters of the enterprise in order to guarantee his/her freedom of information in a way which is compatible with the rights of media freedom; the right to invoke the clause of conscience, when the media on which he/she depends takes on a moral attitude which harms his/her professional dignity or which substantially modifies the editorial policy.

1.4 Media Ownership Regulation

According to Article 149 par. 1 n. 27 of the Spanish Constitution, responsibility for the regulation of the audiovisual sector is shared by the State and the *Comunidades Autónomas* (Autonomous Communities). The State has the competence to approve the basic legislation for press, radio, television and any other media, without prejudice to the powers of the Autonomous Communities to implement and enforce this basic legislation.

At national level, nearly all competences regarding the audiovisual media and competences to enforce most of the provisions related to Spanish media law still belong to the Government and specifically to the *Ministerio de Ciencia y Tecnología* (Ministry of Science and Technology). The only existing national regulatory authority with responsibilities in the audiovisual sector is the Telecommunications Market Commission (*Comisión del Mercado de las Telecomunicaciones - CMT*), which mainly deals with free competition in the audiovisual sector and with the enforcement of Spanish legislation implementing the EC Directive 95/47. To date, there is no national regulatory authority dealing with audiovisual content in Spain. The Autonomous Community of Catalonia and the Autonomous Community of Navarra are the only communities with independent audiovisual authorities.[446]

The rules on horizontal media concentration relate to the means of distribution, thus resulting in different rules for terrestrial, satellite, and cable television. Analogue and digital television are not treated in the same way either. Specific ownership restrictions are also imposed upon local terrestrial broadcasters.

However, there are no specific restrictions/rules targeting either vertical media concentration, with minor exceptions in some cases (e.g. with regard to the provision of conditional access services for digital TV), or diagonal media concentration. Therefore, as long as general competition law and the limits to horizontal concentration in the media sector are respected, it is possible for a company to simultaneously own or control an unlimited number of national and regional newspapers, radio networks, satellite or regional DTT services.

Terrestrial TV is still the most important market in Spain. Ownership rules changed recently (December 2003) resulting in the abolishment of the limit of holding only up to 49% of the share capital of a license-holder. The modified Article 19 of the Act 10/1988 (Private TV Act)[447] states that physical or legal persons that hold, directly or indirectly, 5% or more of the share capital or of the

[446] *Consell de l'Audiovisual de Catalunya* (CAC) and *Consejo Audiovisual de Navarra* respectively
[447] Ley 10/1998, de Televisión Privada, [Private TV Act] - http://www.setsi.mcyt.es/legisla/radio_tv/ley10_88.htm

voting rights of a license-holder cannot have a significant participation in any other company within the same coverage area. Physical or legal persons that hold, directly or indirectly, 5% or more of the share capital or of the voting rights of a national license-holder, cannot have a significant participation in a regional or local license-holder, if the population covered in each one of them exceeds 25% of the national total. Likewise, physical or legal persons that hold, directly or indirectly, 5% of the capital or of the voting rights of a regional license-holder (autonomous communities) cannot have a significant participation in any other local company with the same coverage, if the population covered exceeds 25% of the regional total.

Where an individual has a significant part of the share capital or the voting rights of a national, regional or local license-holder, he cannot have a significant interest in national, regional or local license-holders whose programmes can be simultaneously received in the same area. Article 19 provides detailed criteria for the definition of significant participation, i.e. holding, directly or indirectly, 5% or more of the share capital or of the voting rights of a license-holder.

Information on the license holders and all relevant transactions affecting them are recorded in the National Special Registry for Private Terrestrial Television Broadcasters within the *Comisión del Mercado de las Telecomunicaciones - CMT*. Whenever there are changes resulting in non-compliance with the provisions of Article 19 this should be communicated within a month to the *Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información* within the *Ministerio de Ciencia y Tecnología* (State Department for Telecommunications and for the Information Society – SETSI) or to the competent autonomous community (Article 21bis).

Local terrestrial television is regulated in the Act 41/1995.[448] According to this Act (as amended in 2002), local terrestrial television shall be broadcast only by means of digital technology. The Government will thus approve a technical Plan on Local Terrestrial Television where the multiplexes for the cities or groups of cities that meet certain population thresholds will be determined. These will be permitted to have local digital terrestrial television stations. After the approval of this Technical Plan, the Autonomous Communities should award the relevant concessions. In December 2003, the Act was amended again to allow companies with a concession for providing local terrestrial TV services to broadcast in an analogue mode for a period of two years (starting January 2004). The Government can modify the time framework taking into account the enrolment of digital terrestrial television in Spain.[449] According to Article 7 of the aforementioned Act local terrestrial TV license-holders cannot create a network or enter into networking agreements with other license-holders. They may do so only after the authorisation of the Autonomous Community.[450]

In the radio sector, an individual or legal entity cannot hold more than one AM licence and more than two FM licences in an overlapping area, under the condition that pluralism and diversity are being guaranteed in that area.[451] In addition one company cannot hold a majority share in more than one radio station broadcasting in the same area. The ownership restrictions with regard to cable services no longer apply since the Cable Telecommunications Act of 1995 was abolished by the new Telecommunications Law 32/2003.[452] The market is now fully liberalised.
There are certain provisions restricting foreign ownership. The Local Terrestrial TV Act 41/1995 (art. 13) states that non-EU nationals cannot hold, directly or indirectly, more than 25% of the share capital of a license-holder. The same applies for AM or FM licences unless reciprocal arrangements apply (Law 31/1987).

[448] Ley 41/1995, de televisión local por ondas; http://www.setsi.mcyt.es/legisla/radio_tv/ley41_95/titulo1.htm#a1
[449] Ley 62/2003 de Medidas fiscales, administrativas y del orden social
[450] If the networking agreement relates to more than one Autonomous Communities, the authorisation is given by the State.
[451] Ley 31/1987, de 18 diciembre, de Ordenación de las Telecomunicaciones
[452] http://www.setsi.mcyt.es/legisla/cable/ley42_95.htm

1.4.2 Competition Policy – Mergers

The Spanish Government, namely the *Ministerio de Economía* (Ministry for Economic Affairs) has the power to approve or prohibit a proposed merger. Since 1999, the *Servicio de Defensa de la Competencia* (Protection of Competition Unit, SDC) of the Ministry for Economic Affairs should be notified regarding intended mergers, when certain thresholds are reached. The Competition Act 16/1989 as last amended[453] lays down a system for flexible control of the agreements that limit or distort competition on the domestic market. It also establishes a system to control mergers or acquisitions that may, given the importance or impact, alter the structure of the national market to the detriment of the public interest. The application of the Act is entrusted to the following administrative bodies: The Competition Court (*Tribunal de Defensa de la Competencia*), which decides in cases of anticompetitive agreements (cartels) and provides non-binding opinions in merger cases, and the Competition Service (*Servicio de Defensa de la Competencia*), which is in charge of guiding the proceedings. The latter is part of the Ministry for Economic Affairs. Special provisions in the Act provide for the intervention of the Autonomous Communities and the Council of Consumer Associations where necessary. However, despite this process, the final decision lies with the Government and not with an autonomous and independent competition authority.

In May 2002 the two digital satellite pay-TV platforms, Canal Satélite Digital and Via Digital, announced their decision to merge. Upon the request of the Spanish Government, the European Commission referred the case to the Spanish authorities, given the national scope of the markets affected by this operation.[454] Concerns were raised that the merger could strengthen the dominant position of Sogecable in the pay-TV market, and lead to a vertical integration due to the support by the two biggest multimedia groups, Prisa and Telefónica, which are very active in neighbouring markets, such as free-to-air TV, and the acquisition of TV rights for sport events and films. However, in November 2002, the Spanish Government, noting the advice of the TDC, approved the merger after imposing a list of 34 prior conditions. The company resulting from the merger will be controlled by Canal Plus (a subsidiary of Vivendi Universal), Prisa, and Telefónica.

In principle, the conditions imposed upon the parties shall apply for a period of five years. The *Servicio de Defensa de la Competencia* of the Ministry for Economy will oversee the implementation of the Decision, while the *Comisión del Mercado de las Telecomunicaciones* will publish annual reports on the compliance of these conditions by the merged company, and will have responsibility for solving conflicts that may arise between the new Sogecable and third parties. The parties to the merger must also comply with sector-specific media ownership limits. According to Article 19 of the Act 10/1988, Telefónica will now have holdings in two national terrestrial television concessionaires, i.e. Sogecable and Antena 3 TV, so it will have to divest itself of one of these stakes within a year. On 29 January 2003, the parties agreed to complete the proposed transaction and submitted their action plan to the *Servicio de Defensa de la Competencia* as requested.

2. Main Players in the Media Landscape

2.1 Radio

Radio consumption in Spain ranks second after television, in particular among young people. The public broadcasting company RTVE operates through Radio Nacional de España (RNE) five national radio stations and more than 400 local stations.[455] In addition, most regions have their own radio networks, such as Catalunya Radio. Furthermore, there are hundreds of local public radio stations (called radios municipales).

La Sociedad de Servicios Radiofónicos Unión Radio (Unión Radio) is responsible for managing the majority of the nation's commercial radio stations. Unión Radio encompasses 423 radio stations, of which 140 belong to SER, 81 to Antena 3 Radio and 202 to independent firms that are temporarily

[453] http://www.mineco.es/dgdc/sdc/legislacion_16_89_(inglés)2.htm
[454] According to Article 9.2 of the EC Merger Regulation
[455] The Media Map Yearbook 2003 CIT publications Limited UK (p. 328)

linked to the company through programming agreements. The company is owned by Grupo Prisa 80% and Grupo Godó 20%. The stations managed by Unión Radio are arranged in six different programming plans: the Cadena SER convencional (general content), and the music radios: 40 Principales, Cadena Dial, M80 Radio, Máxima FM and Radio Olé. For several years, it has been the leading network in terms of audience in all time slots.[456]

Onda Cero, the second most popular commercial station (general, music and sports), formerly owned by the Spanish telecommunications company, Telefónica belongs now to the Planeta/De Agostini group. The third main commercial network is COPE, which broadcasts general and thematic radio, and is owned by the Catholic Church.

Table ES 1: Main Radio Companies

Companies	Ownership Structure*	General Radio Stations	Market Share of general radio stations **
RNE	Public service	Radio 1	No data for 2003
Unión Radio	Prisa 80% Grupo Godó 20%	SER	39.8%
Antena 3 Group	Planeta/De Agostini	Onda Cero	16.9%
COPE	Spanish Catholic Church	COPE	12.3%

*Ownership structure based on information from: company data
**Market share based on audience figures from: AIMC/EGM for the period February-November 2003

2.2 Television

Television is the most popular medium with over 90% of the population watching TV daily (on average for three hours). The public service broadcaster Radiotelevisión Española (RTVE) operates two national terrestrial channels (TVE 1 and La 2). In addition, there are a large number of regional public service channels that are operated by the Autonomous Communities. These channels were introduced in 1983 after the adoption of the Third TV Channel Act (Act 43/1983).[457]

The main national terrestrial private channels are Telecinco and Antena 3. The Italian holding company Mediaset is the main shareholder in Telecinco (holding 52% of the capital share). The company is active in advertising (Publiespaña) and in an audiovisual news agency (Atlas). The group also has interests in the mobile communications company GSMBox and in the Internet portal Jumpy.
Antena 3 Group is involved in radio (Onda Cero Radio), advertising, radio broadcasting services, audiovisual production (Antena 3 Temática, Antena 3 Producciones), TV home shopping, and the Internet. Canal+ España is the pay-TV channel operated by Sogecable (see also section 2.4).

Table ES 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share**
Radio Television Española - RTVE	Public service	TVE 1 24.6% La 2 5.7%	30.3%
Grupo Telecinco	Mediaset: 52% Vocento: 13% Ice Finance: 10% Dresdner Bank: 25%	Telecinco	23.5%
Antena 3 Group	Kort Geding SL (Planeta/De Agostini): 33.52% RTL Group: 17.27% Macame – SCH: 10%	Antena 3	22%
Sogecable	Groupo Prisa: 16.83% Telefónica: 16.38% Groupe Canal+ : 16.38%	Canal+	3%

*Ownership structure based on information from: company data, respective websites
**Market share based on audience figures from: AIMC/EGM for the period February-November 2003

[456] AIMC/EGM; Grupo Prisa; http://www.prisa.es/especiales/memoria2003/unidades_radio.html
[457] Ley 46/1983, de 26 diciembre, reguladora del Tercer Canal de Televisión

2.3 Press and Publishing

Newspaper readership in Spain is quite low compared to other European countries. Although there were 132 dailies in 2002, the readership is declining every year, in particular among young people.[458] The main national daily newspapers are *El País* (Grupo Prisa), *El Mundo* (Unidad Editorial) and *ABC* (Vocento). Regional dailies are the main players in most autonomous communities, e.g. *La Vanguardia* and *El Periódico* in Catalonia, *El Correo* in the Basque Country and *La Voz de Galicia* in Galicia.

Table ES 3: Main publishers of daily newspapers, national and regional

Publishing companies	Ownership Structure*	Main Titles	Market Share	Total Market Share in 2003**
Grupo Prisa	Family Polanco	El Pais Cinco Dias As El Correo de Andalucia El dia de Valladolid Jaen Odiel Información	11% 0.6% 4.4% 0.4% 0.1% 0.2% 0.1%	16.8%
Vocento	President: Santiago de Ybarra y Churruca	ABC El Correo El Diario Vasco El Diario Montañés La Rioja Ideal La Verdad Hoy Sur El Norte de Castilla El Comercio Las Provincias	6.6% 3.3% 2.3% 1% 0.4% 0.9% 1% 0.7% 1% 1% 0.6% 1%	19.8%
Unidad Editorial	RCS (Italy) 89%	El Mundo	7.5%	7.5%
Recolétos	Pearson 78.93%	Marca Expansión	9.6% 1.2%	10.8%
Grupo Godó	Family Godó	La Vanguardia Mundo Deportivo	5% 2.6%	7.6%
Grupo Zeta	Founding: Antonio Asensio Pizarro President: Francisco Matosas	El Periódico de Catalunya Sport El Periódico de Aragón La Voz de Asturias El Periódico de Gijón Córdoba El Periódico Extremadura El Adelanto de Salamanca Mediterráneo	4.2% 2.7% 0.4% 0.3% 0.4% 0.2% 0.1% 0.3%	8.6%
Prensa Ibérica	Grupo Moll	Diari de Girona Diario de Ibiza Diario de Mallorca Información Levante – EMV Faro de Vigo La nueva España La opinión a Coruña La opinión de Málaga La opinión de Murcia La opinión de Tenerife La opinión de Zamora La Provincia	0.2% 0.2% 0.6% 0.9% 1.2% 1% 1.5% 0.1% 0.3% 0.3% 0.2% 0.2% 0.9%	7.6%

* Market share based on circulation figures from: Oficina de Justificación de la Difusión, OJD, www.ojd.es
** Ownership structure based on information from information from company websites

The Grupo Prisa publishes the best selling national daily *El País*, the financial daily *Cinco Días* and the sports daily As. It is active in specialist, regional and periodical publications (GMI - Grupo de Medios Impresos), magazines, radio (Unión Radio), national television (Canal Plus, Digital+,

[458] Aede, *Libro blanco de la prensa diaria* en 2002

Sogecable), local television (PRETESA, Localia[459], the group of local television channels belonging to Prisa), advertising (GDM), and Internet (Prisacom, portal plus.es). The group holds 75% in Espacio Editorial Andaluza Holding and 32% in the daily La Voz de Almería. It also has, through GMI, a majority shareholding in Gestión de Medios de Prensa (GMP), a supplier of contents for the local and regional press. Subsidiary companies of PRISA International are currently present in eight countries: Chile, Colombia, Costa Rica, Mexico, Panama, France, the U.S., and Bolivia, and operate in the radio, print media, and television sectors.

Vocento is the new name of the Grupo Correo Prensa Española (since May 2003) resulting from the merger between the two groups that started end of 2001. It publishes the national daily *ABC* and 11 regional papers, and has a significant presence in other areas of communication, including television (13% in Telecinco), local television (e.g. in the Basque country), radio (minority shareholding in Cadena COPE), digital media, new technologies, distribution, film and TV production companies and Internet (51% in Ozú www.ozu.es portal). Vocento has a 60% stake in Taller de Editores, S.A. (TESA)[460], a company that publishes, together with various regional dailies, several weekly supplements. Its news agency Colpisa provides content for both its own newspapers and third parties. Through Telecinco, it also has shares in the audiovisual news agency Atlas and in Estudios Picasso, a production house for fiction series.

Unidad Editorial (UNEDISA), majority owned by RCS, is a multimedia group made up of 42 holding companies (in the press, radio, television, Internet and telecommunications fields). It publishes the second best selling national daily newspaper, *El Mundo* and has interests in cultural magazines, radio (Onda Cero Radio), television (El Mundo TV, VEO TV consortium), production (Canal Mundo Producciones Audiovisuales) and online services. It also holds a nation-wide digital radio (DAB) license.

Grupo Recoletos is a multimedia company active in certain areas (sports, finance, etc.) across all media platforms (press, broadcasting, Internet). It publishes the sports daily paper *Marca* and the financial daily *Expansión* and specialised magazines. It is active in radio (Radio Marca Digital, Radio Marca Madrid), television (Expansion TV and 25% in Veo Televisión which holds a DTT licence).

Grupo Zeta[461] publishes eleven general daily newspapers (e.g. *El Periódico de Catalunya*), two sports newspapers (e.g. *Sport*), more than 80 local and specialised free papers, and 15 magazines (Interviú and Tiempo). It has interests in radio by participating in station Zeta Flaix and in local television with Onda Mezquita. It is also active in books, multimedia and advertising (Zeta Gestión de Medios).

Grupo Godó is an independent corporation with a family structure that is active in the fields of daily press (*La Vanguardia, Mundo Deportivo*), magazines, digital publications, radio, television (Citytv), advertising (Publipress), audiovisual production (GDA Pro), multimedia services, Internet portals, distribution and subscriber home-delivery services. It holds shares in audiovisual companies (93% in Catalunya Comunicació, 100% Radiocat XXI, 95% in Tvcat). Additionally, the Group holds a digital radio license and 20% stake in Unión Radio.

Prensa Ibérica Editorial publishes thirteen general daily newspapers (e.g. *La nueva España*), a daily paper in German targeting the German population in Mallorca (*Mallorca Zeitung*) and books (Alba Editorial). It also participates in cable operators.

[459] Since June 2002, the companies Fingalicia and Agrupación Radiofónica (four regional radio companies) became new shareholders in Localia by acquiring 14% of the company Pretesa. In 2003, Marco Polo Investments acquired 11% of Localia.
[460] TESA also includes the company *Taller de Ediciones Corporativas, S.L.* (TECORP) whose main activity is publishing on demand.
[461] http://www.grupozeta.es/memoria/default1.htm

2.4 Cable and Satellite operators

After the opening of the cable market to other companies on the basis of the Cable Telecommunications Act of 1995, many cable operators emerged. In the following years consolidation of the market followed. The cable market is developing fast. The two largest operators offering cable TV services are Grupo Auna and ONO. Auna group is an integrated telecommunications operator that offers a wide range of telecommunications services using its own infrastructures. These services include wireless communications, cable television, wireline telephony and broadband Internet access.
Cableuropa is a Spanish cable television and telecommunications operator and, together with its subsidiaries, is known as the ONO Group. It offers telecommunications, cable television and high-speed Internet services.

Table ES 4: Main Cable and Satellite Companies

Cable and Satellite Companies	Ownership Structure	Subscribers - 3rd quarter of 2003
Auna group	Endesa Santander Central Hispano Unión Fenosa Spanish savings banks	684,000
ONO Group	Bank of America Caisse de dépôt et placement du Quebec General Electric Grupo Ferrovial Grupo Multitel Santander Central Hispano VAL Telecomunicaciones	347,000
Sogecable	Groupo Prisa 16.83% Telefónica 16.38% Groupe Canal+ 16.38%	2.5 million

* Subscription figures from: TV International
** Ownership structure based on information from: company data

As for satellite pay-TV services, there is only one operator after the merger between Canal Satélite Digital and Via Digital. The new platform Digital+, launched in July 2003, expects to have 3 million subscribers before the end of 2005. The group Sogecable is active in all segments of pay television, including the purchase and management of audiovisual and cinematographic rights, channel production and distribution (thematic channels), Internet, subscriber marketing and management, and cinema production, distribution and screening (Sogecine).

3. Conclusions

3.1 Freedom of the Media

The most serious problem in Spain is the threat of, or actual, violence towards many journalists, in particular those working in the Basque region. The majority of these attacks are planned and carried out by the separatist Basque group, ETA. Every year there are numerous bomb attacks against media outlets as well as individual reporters. In the same framework, last year was also marked by the debate over the closure of *Euskaldunon Egunkaria*, the daily newspaper in the Basque language. The paper was closed on 20 February 2003 on the order of the courts that claimed it had links with ETA, leading to protests by tens of thousands of people, including three ministers from the Basque regional government.[462]

There are also serious concerns regarding the Public Service Broadcaster. TVE has been criticised in the past for being too close to the government. In 2003 it failed to report large labour demonstrations and played down marches against the Iraq invasion that was supported by the former government of Jose Maria Aznar. The Parliamentary Assembly of the Council of Europe also stated that "Manipulation of information under political influence led to the unprecedented sentencing of TVE

[462] 2003 World Press Freedom Review

for its coverage of the general strike in Spain in June 2002".[463] It should be mentioned that the Director General of RTVE is appointed by the Government.[464] Similar problems can also be reported regarding the public service broadcasters of the Autonomous Communities.

At the beginning of 2004, many journalists and other TV employees at TVE started procedures for setting up an independent Advisory Council (known as the Anti-manipulation Council) in order to combat the growing manipulation that is undermining the credibility of the public station and its employees. After its victory, the new Socialist government announced its intention to introduce reforms to TVE aiming at guaranteeing citizens' right to receive truthful information. Changes are expected to start as soon as an interim director of TVE is appointed. The model proposed by a panel of experts will be a guideline for all autonomous television networks where the Socialists have a ruling majority.[465]

3.3 Ownership and market concerns

Regarding ownership of the various media, concerns are raised mainly due to the lack of specific provisions restricting diagonal concentration and to the absence of an independent regulatory authority at national level. As mentioned above, companies can have interests in all communication areas thus resulting in consolidation of media groups, which could endanger pluralism and diversity across all media platforms. Furthermore, as already mentioned in section 1.4, nearly all powers to enforce most of the provisions related to Spanish media law at national level, including the approval of mergers in the media sector, still belong to the Government. Efforts to introduce rules on media concentration or to create an independent regulator at national level have not been successful so far.
As a general point, it should be mentioned that the amount of separate legal texts regulating the various means of communication does not contribute to the creation of a safe and clear legal environment. Furthermore, the tradition of amending a number of different Acts at the end of each year with the so-called Special Measures Act (*Ley de Medidas fiscales, administrativas y del orden social*) does not favour transparency and sufficient debate on the issues to be amended.[466] Consolidation of the acts would be a desirable step in that direction.

Report status: the gathering of data for this report was completed on April 14th 2004

[463] Recommendation 1641 (2004) on public service broadcasting
[464] The post of the Director General is the most powerful one in RTVE's organisational chart, as he is responsible for the actual government and management of the company (Articles 10, 11, 12 of the Law 4/1980 of 4 January 1980)
[465] European Journalism Centre, Media News, 18.03.04
[466] The Special Measures Act is usually presented together with the Budget Bill, and both Bills are usually approved before the end of the year; see IRIS 2004-2

Sweden

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

In contrast to other countries, the kingdom of Sweden does not have one unified constitutional text to refer to regarding freedom of expression provisions under Swedish constitutional law. Freedom of expression is enshrined in three different documents, all recognized as "fundamental laws" that make up parts of the Swedish constitution. The Instrument of Government (*Regeringsformen*, re. both the government's powers and the fundamental freedoms accorded to citizens) stipulates:

> *"Chapter 2. Fundamental rights and freedoms*
> *Art. 1. Every citizen shall be guaranteed the following rights and freedoms in his relations with the public institutions:*
> *1.freedom of expression: that is, the freedom to communicate information and express ideas, opinions and sentiments, whether orally, pictorially, in writing, or in any other way; […]*
> *The provisions of the Freedom of the Press Act and the Fundamental Law on Freedom of Expression shall apply concerning the freedom of the press and the corresponding freedom of expression on sound radio, television and certain like transmissions and films, videograms, sound recordings and other technical recordings."*[467]

Hence, it refers to the other legal instruments concerning the freedom of expression at the constitutional level. The Fundamental Law on Freedom of Expression broadens the extent to which communications are covered by the freedom of expression to a perspective that includes the usage of technological devices as a means of increasing the number of actual and potential recipients. In other words, it extends the individual fundamental freedom into a shared public space with other citizens and thus goes beyond the interaction between the citizen and the government that is dealt with by the Instrument of Government. The law holds that:

> *"Chapter 1. Basic provisions*
> *Art. 1. Every Swedish citizen shall be guaranteed the right under this Fundamental Law, vis-à-vis the public institutions, publicly to express his ideas, opinions and sentiments on sound radio, television and certain like transmissions, films, videograms, sound recordings and other technical recordings, and in general communicate information on any subject whatsoever. The purpose of freedom of expression under this Fundamental Law is to secure the free exchange of opinion, free and comprehensive information, and freedom of artistic creation. No restriction of this freedom shall be permitted other than such as follows from this Fundamental Law."*[468]

The Freedom of the Press Act defines a similar set of rights with regard to the printed press:

> *"Chapter 1. On the freedom of the press*
> *Art. 1. The freedom of the press is understood to mean the right of every Swedish citizen to publish written matter without prior hindrance by a public authority or other public body and not to be prosecuted thereafter on grounds of its content other than before a lawful court, or punished therefore other than because the content contravenes an express provision of law, enacted to preserve public order without suppressing information to the public.*
> *In accordance with the principles set out in paragraph one concerning freedom of the press for all, and to secure the free exchange of opinion and availability of comprehensive information, every Swedish citizen shall be free, subject to the rules contained in this Act for the protection of private rights and public safety, to express his ideas and opinions in print, to publish official documents and to communicate information and intelligence on any subject whatsoever."*[469]

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[467] *Kungörelse (1974:152) om beslutad ny regeringsform*: http://www.riksdagen.se/english/work/fundamental/government/
[468] *Yttrandefrihetsgrundlag* retrieved from http://www.riksdagen.se/english/work/fundamental/expression/
[469] An English language version is available from http://www.riksdagen.se/english/work/fundamental/press/.

1.2 Freedom of Information

The freedom of information, understood as citizens' access to the documents of public authorities, has been enshrined in Swedish law since the Freedom of the Press Ordinance of 1766, making Sweden the country with the longest tradition of public access to government documents worldwide. Today, the relevant provisions are contained in the second chapter of the Freedom of the Press Act of 1949, which states:

> *"Chapter 2. On the public nature of official documents*
> *Art. 1. To encourage the free exchange of opinion and availability of comprehensive information, every Swedish citizen shall be entitled to have free access to official documents."*[470]

According to Article 2 of the same chapter, restrictions on this right may be imposed due to considerations of public security and international relations, important institutional interests or goals of economic policy, the prevention or prosecution of crime, the protection of individuals, animals or plant species.

1.3 Code of conduct for Journalists

In Sweden, a common code of ethics pertaining to press, radio and television was last amended in 2001 by the Press Cooperation Committee (*Pressens Samarbetsnämnd*).[471] Its members have also defined the Charter of the Press Council and the Standing Instructions for the Press Ombudsman, and contribute to the financing of these two institutions.

The code of ethics[472] sets out six major principles that are to serve a guiding function for all journalistic activity. It states (in brief) that journalists shall: provide accurate news, respect standards of accuracy and objectivity, and separate fact from commentary; grant a right of reply and ensure appropriate publication of rebuttals, and rulings of the Swedish Press Council; respect individual privacy, assess the public interest against the harmful effects of publicity; exercise care in the use of pictures, particularly avoiding deceptive effects; provide a balanced presentation of issues, avoiding one-sided coverage or premature judgments of pending investigations; be cautious in publishing names, or photographs where this is not a strict necessity. Although these principles have been agreed as standards for journalists working in the press as well as in radio and television, their implementation is only monitored regarding the press by the Swedish Press Council and the Press Ombudsman.[473]

1.4 Media Ownership Regulation

The Swedish approach to media ownership regulation is a very liberal one, which has been shaped by the early legislative acknowledgement of the freedom of the press, and the subsequent steps to enshrine the freedom of expression more generally in the constitutional foundations of the Swedish state as illustrated above. Policy in general places a premium on unrestricted access to the media business, following the provisions of the Freedom of the Press Act and the Fundamental Law on Freedom of Expression, which both stipulate the unfettered right of every Swedish citizen to engage in public discourse by means of printing or broadcasting technology.[474] The scope of these provisions is considered by some commentators to almost hinder the application of competition rules to the media, as they might imply an undue restriction of the freedom of expression, and the freedom of establishment that constitutes its precondition. A necessary limitation of access to broadcasting activities has been accepted only as a result of the scarcity of spectrum resources, which has led to the embedding of a licensing regime in the Radio and Television Act (see 1.4.1).

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[470] Ibid.

[471] A joint organization of the Newspapers Publishers Association, the Magazine Publishers Association, the Union of Journalists and The National Press Club

[472] An English language version is available from http://www.po-pon.org/Article.jsp?article=1905&avd=english.

[473] Pressens Opinionsnämnd, Allmänhetens Pressombudsman

[474] The Freedom of the Press Act, Chapter 4, Section 1, cf. http://www.riksdagen.se/english/work/fundamental/press/
The Fundamental Law on Freedom of Expression: http://www.riksdagen.se/english/work/fundamental/expression/

Based on the goal of maximising the freedom of expression (limited only by objectives conforming to a democratic society),[475] and to accommodate the media landscape, the regulatory framework is defined and enforced by a mixture of government agencies and professional organizations. The latter, have established a common frame of reference with regard to journalism standards, and the government organises the policy framework through the Ministry of Cultural Affairs (*Kulturdepartementet*), responsible for the media, and the Ministry of Industry, Employment and Communications (*Näringsdepartementet*), responsible for issues of competition policy and radio and telecommunications.

The supervisory structure in the broadcasting sector comprises, aside from the Swedish Broadcasting Commission (*Granskningsnämnden för radio och TV*), the Radio and Television Authority (*Radio-och TV-verket*): the former is responsible for the monitoring of certain aspects of broadcasting content, whereas the latter oversees the implementation of certain rules pertaining to the licensing of radio and television operators as laid out in the Swedish Radio and Television Act of 1996. [476] Pursuant to Chapter 2, Section 2 of the Act, the Authority is responsible for the granting of licences to community and local radio, whereas broadcasting activities at the national level for both television and sound radio broadcasting have to be licensed by the government.

In taking decisions on the granting of local and community broadcasting licences, the Radio and Television Authority has to observe a number of factors relating to the issue of ownership as well: no licences for community radio must be accorded to persons who already hold a local or digital sound broadcasting licence, and no person may hold more than one local radio broadcasting licence in any given transmission area. In this way, the legislator has tried to establish a clear division between commercially motivated operators of local radio stations and the functioning of community radios as the voices of local civic society. The Authority also takes into account additional criteria when deciding applications for local radio broadcasting licences, including, *inter alia*, issues of cross-media ownership and decisive influence deriving from ownership shares. In order to preserve an environment conducive to diversity of opinion, the Authority has the possibility of granting a licence subject to conditions that impose on the licensee a certain ownership structure with the goal of preventing sudden changes in the control structure of the operator.[477] Additionally, narrow restrictions on the transferral of local radio broadcasting licences, prohibits exchange of licences between companies, which raises concern re. media pluralism in a given transmission area.

1.4.1 Audiovisual Media

Deregulation of the broadcasting industry in Sweden has happened relatively recently. Swedish media policy has continuously remained committed to avoiding excessive commercialisation, and policy has focused on a strong public service broadcaster to provide for a wide variety of services, supplemented by a range of commercial offerings.

The Swedish parliament opened the market in 1979 by offering private radio broadcasters the possibility of applying for a broadcasting license. Any licenses were intended to serve their local constituencies rather than to generate profits (i.e. community radios with strict limitations imposed on their broadcasting power).

Regarding television broadcasting, the establishment of a domestic alternative to public service channels *Sveriges Television 1* and *2* began in the mid-1980s when the first European television channels became available by satellite. The first example of such a TV channel was *TV3*, which since 1987 was being broadcast from the UK, yet targeted at the Swedish market, and the first broadcaster to break the public service monopoly held by Sveriges Television, followed in 1989 by *Kanal 5*'s

[475] Instrument of Government:http://www.riksdagen.se/english/work/fundamental/government/index.asp.
[476] Radio and Television Act of 19 July 1996 (SFS 1996:844), as last amended by Amending Act of 25 July 2003 (SFS 2003:394).
[477] For an example of how the same reasoning has been applied by the national government, see Section 16 of national broadcaster TV4's broadcasting licence.

forerunner *Nordic Channel (TV5 Nordic)* who also broadcast from the United Kingdom. In November 1991, the discussions eventually led the Swedish parliament to grant a third terrestrial television broadcasting license to Nordisk Television, which began broadcasting as *TV4* in March 1992.[478]

The Local Radio Act of 25 February 1993 (*Lokalradiolag*) established the system for commercial radio.[479] To limit commercialisation and concentration, the law introduced restrictions on ownership (one license per licensee), cross-ownership (newspapers were not to be granted a local broadcasting license) and the share of broadcasting time devoted to commercials. While the majority of radio broadcasting licenses still in operation today were granted according to the rules of this licensing regime, a form of concentrated ownership developed through network structures (see section 2.1 below).

In 1996, the legislator replaced the Radio Act of 1966 with the Radio- and Television Act of 19 July 1996 (*Radio- och TV-lag*) as the central regulatory framework. In addition to the Radio Act, it repealed five other pieces of relevant legislation (including the Community Radio Act of 1982, the Cable Transmissions Act of 1991 and the Act concerning Satellite Transmissions of Television Programmes of 1992) in an effort to create a streamlined and integrated regulatory framework for audiovisual activities. In 2001 the last major amendment to the regulatory regime in the audiovisual sector was the abolishment of the Local Radio Act: the previous auctioning regime for the awarding of local radio licenses was repealed, and the ownership restrictions described above were relaxed, so that any natural or legal person was now allowed to hold multiple broadcasting licenses at the local level as long as these were not concentrated within one given transmission area. Furthermore, the absolute prohibition against newspaper ownership of local radio stations that had been part of the Local Radio Act has now been reduced to one among several parameters to be considered as part of the licensing procedure and cannot as such justify a rejection of the applicant.

1.4.2 Competition Policy and Mergers

Swedish policy-makers throughout the last decade have regularly returned to the question of how competition in the media markets affects diversity of opinion, and several expert committees have dealt with these questions, the latest of which delivered its report in 1999. No steps have been taken to amend the Swedish competition law regime to take into account the particular characteristics of media markets. Under the current Swedish Competition Act (*Konkurrenslagen*, 1993), there are no special criteria for media concentrations so that mergers involving one or more media enterprises will be assessed using the same thresholds as stipulated for concentrations between other enterprises as they are laid out in Section 34 et seq. of the Competition Act.[480]

1.4.3 Cross Media Ownership and Foreign Ownership

Swedish media legislation has no limitations on foreign ownership, concerning broadcasting or the press industry. However, the extensive protection of the freedom of expression that the constitution affords Swedish citizens is not automatically extended to foreign residents as well. Indeed, both the Instrument of Government in Section 22, and the Fundamental Law on Freedom of Expression in Chapter 11, Section 1, Paragraph 3, stipulate that the freedom of expression as laid down in the respective documents shall only be granted to foreign nationals to the extent that an act of law has not stated otherwise, i.e. introduced specific restrictions on these fundamental freedoms that apply exclusively to nationals of a foreign country. The restrictions on cross-media ownership in Swedish media law arise from the licensing requirements set out in section 1.4 above. As a general rule, there must be no forms of cross-ownership between holders of a community radio broadcasting licence and operators of a local commercial radio station. Moreover, the Swedish Radio and Television Authority may decide that cross-ownership issues may prevent an applicant from being granted a commercial broadcasting licence at the local level.

[478] The programme had previously been transmitted via the TELE-X satellite since 1990.
[479] SFS 1993:120.
[480] Cf. the Swedish Competition Act , available from http://www.kkv.se/eng/competition/competition_act_fulltext.shtm.

2. Main Players in the Media Landscape

2.1 Radio

Radio is the most popular medium in Sweden accounting for approximately 35% of individual media consumption on average. Commercial radio broadcasting has existed in Sweden for little more than a decade (since 1993). The only national licences for radio broadcasting are held by the national public service broadcaster Sveriges Radio (*SR* and *UR*). Commercial radio operates only at the local level, and is thus referred to as PLR, or "private local radio," and they do not compete with the PSB Radio at the national level.[481]

Table SE1: Main Radio Companies

Major Networks	Ownership Structure*	Radio Stations	Total Market Share**
Sveriges Radio AB	PSB	SR/P1, SR/P2, SR/P3, SR/P4	64%
RIX	Modern Times Group Radio Svensk Radioutveckling (SRU)	25 regional stations	10%
FM Mix	Bonnier	16 regional stations	7%
NRJ	Cedska AB 51% NRJ S.A. 49%	21 regional stations	7%
Fria Media	Foundation Fria Medias Moder	13 regional stations	5%
Radio City	**SBS Broadcasting** UnitedGlobalCom Europe B.V. 21.0% Janus Capital Corporation 7.3% EnTrust Capital Inc 7.2% CanWest Global Communications Corp 7.1% Capital Research and Management 6.7% Reed Conner & Birdwell Investments 6.6% SMALLCAP World Fund Inc 6.2% State Farm Insurance Companies 5.5%	3 regional stations	na

*Ownership structure from company websites
**Market shares for 4th quarter 2002 from NORDICOM (2003) *The Nordic Media Market*, Gothenburg: NORDICOM.

Many operators have chosen the alternative route of establishing radio networks that cover the whole country or regions. As the market developed four major commercial networks emerged. Three of these networks, namely *RIX, FM Mix* and *Fria Media* are owned by Swedish media groups who are also active in other branches of the media industry, while the fourth one, *NRJ*, is controlled by the French NRJ group in cooperation with Swedish Cedska AB. Together, these networks have more than 90% of commercial broadcasting time, which amounted to 29% of total listening time in 2002 (almost two thirds of audience share goes to the public service Sveriges Radio).

The market has remained stable but a recent deal struck between Bonnier's radio division and SBS Broadcasting (a US owned Luxembourg based company owner of Radio City stations, in Gothenburg, Stockholm and Malmö) may strengthen competition among the remaining networks in the market. The agreement, which was approved by the Swedish Competition Authority on 23 September 2003, and by the Radio and TV Authority, will lead to a reorganization of the radio assets owned by the two groups under the name of SBS Radio AB (the controlling stake will be held by SBS Broadcasting (51%), and the rest by Bonnier).

2.2 Television

Television viewing is almost as popular as radio, drawing 73% of the Swedish population daily in 2003. The television market in Sweden has been characterized by a substantial degree of stability

[481] These commercially oriented radio broadcasters are complemented by community broadcasters, which can be operated only by not-for-profit organizations; currently, there exist about 1,300 broadcasters of this kind

during the past decade. Aside from channels provided by Sveriges Television (PSB), the first three established commercial channels still control the largest shares of the TV viewing time.

Table SE2: Main Television Companies

Major Groups	Ownership Structure*	Main TV Stations	Total Market Share*
SVT (Sveriges Television)	PSB	SVT1, SVT2	40%
TV4 AB	Alma Media 23% (Bonnier) MTV Oy 23% Bonnier AB 22% Chase Manhattan Bank 8% MTG Broadcasting 15% Fidelity and Bokförlaget Natur och Kultur 6% Various 3%	TV4	25%
Viasat	**Modern Times Group** Invik 9.3% Kinnevik 7.5% SEB 6.8% Emesco 5% 4th AP-Fund 4.9% Robur 4.2% Handelsbanken 3.6% Banker's Trust 3.4% 2nd AP-Fund 3% State Street Bank and Trust Co 2.5% Various 49.8%	TV3	10%
Kanal 5 AB	**SBS Broadcasting** UnitedGlobalCom Europe B.V. 21.0% Janus Capital Corporation 7.3% EnTrust Capital Inc 7.2% CanWest Global Communications Corp 7.1% Capital Research and Management 6.7% Reed Conner & Birdwell Investments 6.6% SMALLCAP World Fund Inc 6.2% State Farm Insurance Companies 5.5%	Kanal 5	8%

*Ownership structure from company websites
**Market share data for the year 2003 from: www.mms.se

Stockholm-based *TV4* is the most successful of the commercial channels, attracting on average 25% of viewers. *TV4* is owned by a conglomerate of media companies and financial investors including the two largest Swedish media groups, MTG and Bonnier (who has the largest ownership stake through 33% interest in Finnish Alma Media in addition to its 22% direct stake). MTG (owned by a majority of financial investors) controls the second most popular commercial channel, *TV3*, via its Viasat group, that also produces other broadcasting channels targeting the Swedish market (e.g. TV 1000, TV8, ZTV), and has television interests internationally (Baltics, Scandinavia, Eastern Europe).

The third most popular commercial channel in Sweden is *Kanal 5*, which, like its competitor *TV3*, is based in the United Kingdom. It is a 100% subsidiary of the American holding company SBS Broadcasting which is owned by a group of financial investors and insurance companies.

2.3 Press and Publishing

Sweden's newspaper industry is equally balanced between newspapers produced in the Swedish capital of Stockholm and regional newspapers. Consumption of newspapers is particularly high in Sweden with 88% of the population reading a newspaper on a daily basis. Of the top five press groups in the Swedish newspaper market, four are in the hands of Swedish (newspaper) families, while the last one is the Norwegian Schibsted group (owned by former chairman of the board Tinius Nagell-Erichsen and a range of investment funds). Schibsted is involved in Sweden's largest newspaper, the tabloid *Aftonbladet*, and although the majority of capital shares (50.1 %) is held by the Swedish labour movement, the Norwegian company has full control of management decisions; this is also true of the fifth-largest national daily *Svenska Dagbladet* in which Schibsted owns 99% of the shares.

Table SE3: Main Publishing Companies

Group	Ownership Structure (capital shares)	Titles	Market Share 2002 **
Bonnier AB	Albert Bonnier AB (owned by over 60 members of the Bonnier family)	Dagens Nyheter Expressen+ Sydsvenska Dagbladet Snällposten Dagens Industri Kristianstadsbladet Ystads Allehanda Trelleborgs Allehanda	25.6%
Schibsted ASA	Tinius Nagell-Erichsen 26.1% Fidelity 10.4% Folketrygdfondet 8.2% Marathon Asset Management 5.6% Boston Safe Deposit 5.2% JP Morgan Chase Bank 4.7% Orkla ASA 3.3% State Street Bank 2.5% JP Morgan - Omnibus account 1.5% Vital Forsikring 1.3% Various 31.3%	Aftonbladet (49.9%) Svenska Dagbladet (99%)	10.0%
Tidnings AB Stampen (GP)	Peter Hjörne & family 65% Marika Cobbold family 14% Sven Nordgrén 14% Various 7%	Göteborgs-Posten Nerikes Allehanda (25%) Hallandsposten, Länstidningen (9.9%) Bohusläningen (48%) Strömstads Tidning, N. Bohuslaan (48%)	7.2%
Nya Wermlands-Tidningen ("NWT-koncernen")	Familjen Ander and Anne-Marie och Gustaf Anders stiftelse för Mediaforskning	Helsingborgs Dagblad (50%) and 11 regional titles (100%)	4.8%
Herenco AB / Hallpressen AB	Hamrin Family	10 regional titles (100%)	3.4%

*Ownership structure from company websites
** Market share based on circulation figures from: www.ts.se for the year 2002, adjusted for amount of shares held in title.
+ Edition Stockholm/Mälardalen, Edition Riks, GT och Kvällsposten.

Participation in these two national dailies leaves the Norwegian group second only to Sweden's most popular press group Bonnier which – in addition to its dominant position in the press market – is also present in both the radio (*Mix Megapol*, *Lugna Favourites*) and the television (*TV4*) broadcasting fields. With the publication of *Dagens Nyheter*, *Expressen*, *Sydsvenska Dagbladet Snällposten* and *Dagens Industri*, Bonnier controls four of the seven best-selling newspapers in Sweden, covering both the tabloid, regular and financial daily newspaper markets, giving the company a unique standing in the Swedish market with more than 25% of daily circulation. In total, the group holds a market share slightly larger than the combined share of its four closest commercial competitors. With the exception of Norwegian company Schibsted mentioned above, all of these are active at the regional level, the most prominent being Tidningsaktiebolaget Stampen, owned by the Hjörne family, which produces *Göteborgs-Posten*, the fourth largest daily newspaper published in Sweden.

2.4 Cable and Satellite operators

The Swedish cable market is highly concentrated despite there being approximately seventy companies involved in the market. Of these, the largest four control more than 90% of the market, with the largest one, *com hem ab*, accounting for slightly more than 50%. In April 2003, *com hem ab* was sold by TeliaSonera to the Swedish private equity house EQT Partners. Number two in the cable industry is the *TelenorVision/Sweden On Line* group owned by Norwegian phone company Telenor with close to 20% of connected cable households, followed by *Kabelvision*'s 12.4 % market share that is owned by the Swedish telecom company Tele2 AB (20% of shares in Tele2 AB held by Kinnevik, also involved in Swedish media group MTG).

The recently announced merger between Kinnevik and Invik,[482] the largest shareholder of MTG, might well lead to an increased integration of services between *Kabelvision* and MTG. The only non-

[482] press release February 16, 2004: http://www.kinnevik.se/images/textFile/Pressrelease%20Merger%20Kinnevik.pdf

Scandinavian owner among the top four cable operators in Sweden is UPC Sweden which forms part of the American UnitedGlobalCom, Inc. group which is also the majority shareholder in SBS Broadcasting. In the cable industry, its local subsidiary holds 10% of the market. Future consolidation in the market may arise if an announced merger of the activities of *TelenorVision/Sweden On Line* and *Canal Digital* would be carried through which would strengthen vertical integration between cable operators and digital content providers.

Table SE4: Cable and Satellite Companies

Companies	Ownership Structure*	Total Market Share 2002 **
Cable companies		
com hem ab	EQT	50.6%
Telenor Vision/SOL	Telenor	19.4%
Kabelvision	Tele2 AB	12.4%
UPC Sverige AB	UPC	10.1%
Satellite Companies		
Nordic Satellite AB	SES Global 75% Swedish Space Corporation 25%	na

*Ownership structure from company websites
** Market share calculations based on company data.

3. Conclusions

3.1 Freedom of the Media

Due to newspaper reports revealing that right-wing extremists have developed databases with personal information on their political enemies, the Swedish government launched an initiative in 2001 that was aimed at making access to the passport register (*Passregistret*) more difficult. The rationale was to prevent right-wing groups from building their registers with materials (esp. pictures/photos) that they could access due to the transparency of Swedish administrative law. In February 2004, the legislative proposal was passed on to the legislative council (*Lagrådet*) which in its meeting on February 13 raised no objections, so that the changes in legislation might enter into force around July 2004. The proposal has been met with strong criticism by civic activists and journalists alike, as the key mechanism that allows the blocking of individual information from the passport register (*Passregistret*) for persons feeling threatened by e.g. extremist groups, will also extend to the members of these groups themselves. Furthermore, the proposed amendment is less radical than suggested as the old legislation already contained such a protective clause. Essentially, the adoption of this piece of legislation implies that investigative journalism will become more difficult as the transparency principle is replaced by a precautionary principle that allows the release of information only when no harmful effects are to be expected for the individual or his or her relatives.
After several death threats and attacks on journalists investigating the illegal activities of neo-nazi groups in the second half of 2002,[483] two defendants are on trial for making these threats on journalists because of their reporting activities. No judgments have been rendered in these cases so far.

[483] Journalists who investigate extreme right-wing groups are regularly threatened and even physically attacked by neo-Nazi militants. Source: Reporters Without Frontiers, http://www.rsf.org/country-53.php3?id_mot=586&Valider=OK

3.2 Ownership and market concerns

As illustrated in section 2 of this report, the Swedish media industry is characterized by a fairly high-degree of cross-media ownership, interlocking ownership structures between major players in the audiovisual field and cooperation agreements between the press and broadcasting industry where companies in both sectors are controlled by the same group. Given this environment, the Swedish Minister of Cultural Affairs proposed last year a new investigation into the special conditions prevailing in the press markets in order to identify and analyse patterns of structural change, cooperation agreements among regional market leaders and their largest competitors and the impact on press diversity: on the possibilities of successful market entry, including electronically distributed newspapers and newspapers targeted at minority groups and immigrants. Critics have drawn attention to the fact that a study of the newspaper industry in isolation from other media simply would not be adequate under current market conditions. Additionally, an investigation into the special situation in the press industry might well be merited due to the increasing trend towards tabloidization.

Report status: the gathering of data for this report was completed on February 26th 2004

United Kingdom

1. Acts, Legislation, Regulation, Codes

1.1 Freedom of Expression

The 'freedom of expression' only recently entered legislative force in the UK and is protected under the Human Rights Act 1998, which implemented the European Convention on Human Rights:

> *1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*[484]

1.2 Freedom of Information

The Freedom of Information Act 2000[485] was adopted after many years of campaigning. It establishes a general right of access to all types of recorded information held by public authorities (up to 100,000 bodies), subject to exemptions from that right set out in the Act. These access rights are expected to come into force on 1 January 2005. The Act also places a duty on public authorities to adopt and maintain a publication scheme and gives any person a general right of access to information. State authorities are required to respond within 20 working days.[486]

1.10 Codes for journalists and broadcasters

Code Of Ethics: British National Union of Journalists Adopted on 29 June 1994 (NUJ)[487]

The code states (in brief) that journalists: have a duty to maintain the highest professional and ethical standards; shall defend the principle of the freedom of the press and other media; eliminate distortion, news suppression and censorship; ensure that the information he/she disseminates is fair and accurate; shall rectify promptly any harmful inaccuracies; shall obtain information, photographs and illustrations only by straightforward means; shall do nothing which entails intrusion into private grief and distress; shall protect confidential sources of information; shall not accept bribes; shall not lend himself/herself to the distortion or suppression of the truth because of advertising or other considerations; shall neither originate nor process material which encourages discrimination; shall not take private advantage of information gained in the course of his/her duties, before the information is public knowledge: shall not by way of statement, voice or appearance endorse by advertisement any commercial produce or service save for the promotion of his/her own work.

Code Of Ethics: British Press Complaints Commission

The code of practice states (in brief) that all members of the press have a duty to: maintain the highest professional and ethical standards in relation to accuracy, opportunity to reply, privacy; avoid harassment, intrusion into grief or shock; protect children and children in sex cases, victims of assault; not use listening devices; respect privacy in hospitals; avoid misrepresentation, discrimination; regarding financial journalism, not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others; protect

[484] Human Rights Act 1998 Chapter 42 ARTICLE 10:
[485] http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm
[486] Freedom of Information Act 2000 http://www.cfoi.org.uk/foiact2000.html.
[487] National Union of Journalists:http://www.gn.apc.org/media/nuj.html

confidential sources; not make witness payments in criminal trials, or other payments to criminals. There may be exceptions to certain clauses regarding the public interest.[488]

The code is implemented through a system of self-regulation overseen by the Press Complaints Commission. The Department (Ministry) of Culture, Media and Sport (DCMS) monitors the process of self-regulation and may recommend improvements to the system. Additionally, the British Broadcasting Corporation (BBC), *The Guardian* and several other media outlets have some form of self-regulation through guidelines, codes of conduct for their journalists, or an Ombudsman (see 3.1 regarding recent developments in this area).

1.4 Media Ownership Regulation

The relevant government departments involved in the regulation of the media are the Department of Trade and Industry (DTI) and the Department of Culture, Media and Sport (DCMS). Following a wide consultation, the UK government proposed a controversial white paper in 2000 regarding the future regulation of all activities concerning the communication industries.[489] The main outcome of the changes in regulation impacts on media ownership rules (see below). Under the Communications Act in 2003, a new body, OFCOM, has been formed which will regulate both structural (market and technical) and content issues regarding the media.[490] The authority brings together the former Independent Television Commission, The Radio Authority, the Radio communications Agency, the Broadcasting Standards Commission, and also incorporates telecommunications and wireless communications services.

Regarding mergers and acquisitions the Competition Commission is an independent public body established by the Competition Act of 1998, which conducts in-depth inquiries into mergers, markets and the regulation of the major regulated industries at the request of the Office of Fair Trading (OFT) or other authorities such as the Secretary of State (DCMS), or by the regulators relating to other industries. The Commission has no power to conduct inquiries on its own initiative.[491] The section below outlines how these authorities, together with the Secretary of State, will regulate media ownership under the new regime.

1.4.1 Audiovisual Media

The Communications Act of 2003 has changed the nature of ownership restrictions in the UK, relaxing restrictions in all sectors. The market is defined in terms of audience share. In relation to television broadcasting the previous basic threshold for interests in the broadcasting sector was 15% of the total market share, measured in terms of audience time. Any media operator who had this audience share would be limited regarding new licenses. This upper limit has been removed. The rule preventing the joint ownership of the two ITV (C3) London franchises has been removed, which has facilitated the merging of the two main owners of the ITV franchises (see 2.2). The rule preventing ownership of both an ITV company (a franchise from the network) and Channel 5 has been removed.[492]

Previously a system was in place to prevent ownership of more than one national analogue commercial radio station. This restriction has been removed. The restriction preventing any one entity owning stations which combined exceed 15 percent of audience share has been removed. There remain some restrictions regarding the granting of licenses, including whether the company seeking a license: runs a national newspaper (and its national market share); controls a regional newspaper in the same region; holds an ITV (C3) licence in the same region.[493] The objectives regarding local

[488] http://www.pcc.org.uk/cop/cop.asp Ratified 1st December 1999, and amended several times since
[489] For a history and analysis of policy development up to the new Communications Act see: Doyle, G (2003): *Media Ownership: the economics and politics of concentration in the UK and European media*. London: Sage
[490] Communications Act 2003. Part 1. http://www.hmso.gov.uk/acts/acts2003/20030021.htm
[491] http://www.competition-commission.org.uk/our_role/what_is_cc/index.htm
[492] Communications Act 2003. Part 3. Chapter 2. Regulatory Structure For Independent Television Services
[493] Communications Act 2003. Part 3. Chapter 3. Regulatory Structure For Independent Radio Services

Radio are 'to ensure a plurality of sources of news and information' by ensuring that in every area where there is a reasonable range of services (in practise three or more), there will be at least two local radio operators in addition to the BBC'.[494]

1.4.2 Competition Policy and Mergers

Media concentration in the press sector is dealt with under the mergers legislation of the Enterprise Act 2002,[495] and the new provisions of the Communications Act 2003.[496] Previously, newspaper concentrations were subject to a particular regime of intervention. Where a newspaper owner had a circulation of over 500,000 copies, any merger or acquisition would be subject to the 'public interest test' (see 1.4.4). Under the new rules this circulation threshold no longer applies. The merger could initially be examined by the Office of Fair Trade (through the Competition Commission) regarding competition, and the Secretary of State may decide whether to intervene, on a case-by-case basis in relation to public interest.

1.4.3 Cross Media Ownership and Foreign Ownership

The previous laws on cross media ownership prevented a newspaper owner with a market share of 20% from holding national terrestrial licenses (Channel 3 or 5 licenses). This restriction has been removed in relation to Channel 5. There still remains a restriction on a newspaper owner with 20% national market share owning or having more than a 20% share in an ITV franchise. However, in the case where a newspapers owner applies for the Channel 5 license the Secretary of State may intervene where there is a concern about pluralism. Hence the broadcasting industry is also now subject to a 'public interest test' (see 1.4.4). The owner of an ITV license (in a particular region) may not own more than 20% of the newspaper market in the same region. Relating to the Radio ownership rules: the licensing of radio should ensure that in each region there are at least two local/regional commercial media 'voices' (in TV, press and radio), as well as Public Service Broadcasting.

The previous restriction on ownership of UK television and radio companies by companies outside the European Economic Area (EEA) has been removed.

The overall effect of the change in laws is to lessen intervention in media mergers and cross media ownership unless there is a concern regarding the effect on pluralism, as the use of specific measures of market shares, which previously implied an automatic intervention, has been reduced.

1.4.4 The 'Public Interest Test'

The "Public Interest test", is a tool used in the assessment of media mergers in the newspaper industry. The Communications Act 2003 extended this test to broadcasting mergers and also to cross media acquisitions.[497] The extension of the test was due to a last minute compromise between the Government and the House of Lords (second chamber) during the debates on the Communications Bill. Certain members of the House were concerned about the changes in media rules, particularly cross-media (see 1.4.3), and specifically those regarding the commercial Channel 5.[498] The test requires that regulators examine the balance between the economic benefit of a merger or acquisition, with the effects on pluralism, diversity and competition. This includes the concerns that a change of ownership or interest in newspapers will not: effect accuracy of news, the free expression of opinion, and the overall plurality of views and opinions in the market. Regarding broadcasting the concern is that there is: a plurality of persons controlling media enterprises within the national or regional

[494] Joint Committee on Draft Communications Bill. Report July 2002. Ch. 3 (VI) Radio Ownership and Regional Cross-Media Ownership. http://www.parliament.the-stationery-office.co.uk/pa/jt200102/jtselect/jtcom/169/16901.htm
[495] Enterprise Act 2002. http://www.legislation.hmso.gov.uk/acts/acts2002/20020040.htm
[496] Communications Act 2003. Chapter 2: Media Mergers. http://www.hmso.gov.uk/acts/acts2003/20030021.htm
[497] Communications Act 2003. Chapter 5. http://www.hmso.gov.uk/acts/acts2003/20030021.htm.
[498] There was concern that these changes were orchestrated to allow, for example, News Corporation (see 2.4) to buy the license for Channel 5. As the Bill was going through the House of Lords a cross-party group in the House of Lords, led by Lord Puttnam, forced the government to accept that major mergers and acquisitions in the broadcast sector should undergo a public interest "plurality test" http://media.guardian.co.uk/top100_2003/story/0,13483,990288,00.html

markets; a wide variety of broadcasting available which caters for a variety of tastes and interests; a commitment to values such as accuracy, fairness, privacy, and the prevention of offence and harm.

Ofcom is now responsible for applying the test (on behalf of the Secretary of State) through assessment of the potential impact of any merger or acquisition, using information from the companies involved and from other sources. Ofcom are currently (February 2004) carrying out a consultation with industry and other interest groups regarding the future implementation of this test. [499]

2 Main Players in the Media Landscape

2.1 Radio

The BBC, with 5 national radio licenses and over 44 local or regional stations, has an overall audience share of the entire radio market of 52.9%, while the entire spectrum of commercial services have a share of 46%.[500] (The BBC World Service broadcasts news around the world in 43 languages and the BBC has also launched 5 digital radio channels). There are three national commercial radio stations: Talk Radio, Virgin Radio and Classic FM, each with a small share of the market. The main players in commercial radio are GWR, Capital Radio Plc, Emap and SMG.

Table GB 1: Main Radio Companies

Companies/ channels	Ownership Structure	Main Radio Stations	Total Market Share 2003*	Commercial Market Share 2002**
BBC	PSB	BBC1, BBC2, BBC3, BBC4, 5 Live 38 Regional stations	42% 10.9%	
GWR Group+		I national 31 regional stations	4.3%	26%
Capital Radio		22 regional stations		17%
Scottish Radio Holdings (SRH)	Emap 27%	2 stations 21 stations		8%
Emap		25 stations		13%
Chrysalis				11%

* Market share to end 2003. RAJAR. http://www.rajar.co.uk
** Market share Rajar 2002 and company data. RAJAR and company websites
+ The Capital Radio Group and GWR Radio look likely (July 2004) to be attempting a merger similar to the Granada-Carlton merger in television[501]

2.2 Television

There are four national terrestrial Broadcasters. The Public Service Broadcaster, BBC, has 2 national channels (with several regional versions) and an audience share of almost 38%. The BBC also has a range of free digital channels (broadcast on *freeview*) including BBC3, a youth channel, BBC 4 (news and culture), BBC News 24, BBC Parliament, CBBC (for children). The principle source of income for the BBC is the license fee (in 2002, this provided 76.5% of revenue). The BBC has no advertising revenue but earns additional income through distribution of television programmes, publishing, videos etc. (BBC Worldwide).

The ITV network consists of 15 regional licenses and one breakfast television license. The network has an audience share of almost 55%. Eleven of these licences are now owned by one company, ITV Plc, following the merger of Carlton and Granada. The new ITV Plc was floated on the stock

[499] http://www.ofcom.org.uk/consultations/current/pi_test/pitest.pdf?a=87101
[500] http://www.rajar.co.uk/INDEX2.CFM?menuid=9
[501] Dixon, G (2004): Radio giants Capital and GWR make waves with merger talk. Scotland on Sunday July 18th 2004.

exchange on February 2nd 2004.[502] The merger was made possible by changes in the media ownership laws mentioned above (1.4.2): rules restricting mergers of ITV companies were removed, specifically regarding the ownership of two London franchises. The minister claimed that the logic behind allowing the development of a large ITV company was that "a stronger ITV will be better able to invest in and provide programming of high quality, including regional programmes. Broadcasting as a whole will benefit".[503]

The remaining franchises include two Scottish licences owned by the Scottish Media Group (SMG), and Ulster TV, GMTV (Breakfast Television, which Carlton and Granada share with Disney and SMG) and Channel TV (Channel Islands). The other channels of importance are Channel 4 (publicly owned) which was set up as a channel to provide alternative and minority programming. Channel 5 (majority owned by the pan-European media company RTL) is the newest arrival on the terrestrial television network. Due to the changes in ownership rules, it is now possible for a newspaper publisher with a market share of 20% to buy the Channel 5 license.

Table GB 2: Main Television Companies

Broadcasters	Ownership Structure*	Main TV Stations	Total Market Share** 2002-2003	Share of TV Advertising revenue 2002+
BBC	Public Service Broadcaster License fee	BBC1, BBC2, (+ 6 smaller)	37.8%	
ITV Network	Divided into 15 franchises		24%	54.89%
ITV Plc	Granada-Carlton Merger	11 channels	19.6%	
SMG	SMG	Scottish, Grampian	2.1%	
UTV	Canwest: 29.9%	UTV	.6%	
GMTV	Carlton, Granada, Disney, SMG	GMTV	1.6%	
Channel 4	Public Ownership	Channel 4 (and E4)	10%	19.8%
Channel 5	RTL : 66% United Business Media 35%		7%	7%
Others		Niche channels	21.2%	18.31%

*Ownership structure from company websites
** From audience shares 2002-2003 ITC. http://www.ofcom.org.uk/static/archive/itc/index.htm
+ Source ITC: The UK Television Market: an Overview. September 2003. http://www.ofcom.org.uk/research/?a=87101

2.3 Cable and Satellite operators

The cable industry is not so well developed in the UK as in some other member states. The two main cable companies are: Telewest, owned by Liberty Media (25%)[504] and IDT (22%),[505] and NTL (subsidiary of NTL International). For subscription television, satellite television has been more successful with BSkyB claiming 7.2 million subscribers up to the end of 2003.[506]

502 C. Tryhorn: 'Finally, ITV plc is born' Guardian 2/2/04 retrieved from: http://media.guardian.co.uk/
503 Department of Trade and Industry Statement. 7.10.2003. http://media.guardian.co.uk/city/story/0,7497,1057758,00.html
504 http://www.telewest.co.uk/ourcompany/about_us_corporate_profile.html
Liberty Media has an 11% stake in IDT http://www.libertymedia.com/investor_relations/default.htm
505 http://www.cjr.org/tools/owners/libertymedia.asp
506 BskyB corporate website. http://media.corporate-ir.net/media_files/lse/bsy.uk/interim03pres.pdf

Table GB 3: Cable and Satellite: Pay Television

Companies	Ownership Structure*	Subscription 2002**
NTL	NTL (100%)	2.109million 1.29m (Digital)**
Telewest	Liberty Media International (US) 25% IDT 22%	1.329million
BskyB (Satellite)	News Corp (35%)	6.1 million

* Media Map 2003. CIT Publications Ltd
** To Sept 2003. NTL web site: http://www.ntl.com/locales/gb/en/investors/companyinfo/cabletv.asp

2.4 Press and Publishing

The UK press market consists of Daily and Sunday national newspapers and also a large market of regional, local and free publications. Four groups dominate the daily national press: News International Newspapers (32.3%), Associated Newspapers (20%), Trinity Mirror (15.2%), and Express Newspapers (13.8%). The same four companies have the best-selling Sunday papers. Two of the companies (through parent or subsidiary companies) also have a major share of the regional press market: Daily Mail and General Trust (23.5%) and Trinity Mirror (24%). News International Newspapers is part of Rupert Murdoch's News Corp media empire and includes the best-selling *The Sun* newspaper and the *Times* titles.

Table GB 4: Main publishers of daily newspapers in the UK

Publisher	Parent company	Ownership Structure *	Daily Titles	Market Share Daily**
News International Newspapers	News Corp Ltd		The Times The Sun	**32.3%**
Associated Newspapers Ltd	Daily Mail & General Trust	Rothermere Continuation Limited: 63.1% Codan Trust Company Ltd/ Codan Trustees (BVI) Ltd, 25.8%.	The Daily Mail	**20%**
Trinity Mirror (MGN)	Trinity Mirror	Capital Group 10.52% Barclays Global Investors 9.08% Fidelity Investments 7.57% Standard Life Investments 5.52% Tweedy Browne 5.42% Baillie Gifford & Co 4% Legal & General Inv. Mgt 3.75% State Street Global Advisors 2.56% ISIS Asset Mgt (London) 2.35% Investors Bank & Trust (Cust) 2.34%	Daily Mirror	**15.2%**
Express Newspapers Ltd	Northern and Shell Group	Richard Desmond	Daily Express Daily Star	**13.8%**
Telegraph Group Limited	Hollinger International+	Hollinger Inc Canada	Daily Telegraph+	7.6%
Scottish Daily Record and Sunday Mail Ltd	Trinity Mirror	See above	Daily Record	4.1%
Guardian Newspapers Ltd	Scott Trust		The Guardian	3.1%
Financial Times Ltd	Pearson		Financial Times	1.1%
Independent Newspapers (UK)	Independent News & Media		The Independent	1.75%
Scotsman Publications	Barclay Bros+		The Scotsman	.5%
Newsquest	Herald			

* Information from company websites
**Market share based on circulation figures from Nov-Dec 2003 (not including Republic of Ireland) from Audit Bureau of Circulation data. http://www.abc.org.uk.
+Barclay Brothers and other groups bidding to take over Holinger (February 2004).

News Corporation describes itself as a "diversified international media and entertainment company with operations in eight industry segments: filmed entertainment; television; cable network programming; direct broadcast satellite television; magazines and inserts; newspapers; book publishing; and other. The activities of News Corporation are conducted principally in the United

States, Continental Europe, the United Kingdom, Australia, Asia and the Pacific Basin."[507] The company's interests in the UK aside from publishing, include Sky television and the BskyB digital satellite platform. Newscorp is also aactive in media markets in Ireland, Italy and the Netherlands. Founded by Australian Rupert Murdoch the company is based in Australia but plans to re-incorporate in the US where Murdoch now has citizenship.

The Daily Mail & General Trust in it's own words 'is one of the largest and most successful media companies in the UK and has interests around the world in national and regional newspapers, television, radio, exhibitions and information publishing.[508] Through Associated Newspapers Ltd on the national and Sunday markets, and Northclife newspapers on the regional level DMGT is a major player in all three markets. and DMGT also has interests in the radio sector in the UK.

Trinity Mirror is perhaps the UK's biggest newspaper publisher, with around 250 publications: national and regional press. The company is also involved in magazine publishing, new media and exhibitions.

Table GB 5: Main publishers of Sunday and regional newspapers in the UK

Publisher	Sunday Titles	Market Share Sunday**	Parent company	Ownership Structure*	Market share regional press. ++
News International Newspapers	The Sunday Times News of the World	**36.3%**	News Corp Ltd		
Associated Newspapers Ltd	Mail on Sunday	**17.3%**	Daily Mail & General Trust	See Table GB 5	Northcliffe **23.5%**
Trinity Mirror (MGN)	Sunday Mirror The People	**18.8%**	Trinity Mirror	See Table GB 5	**24%**
Express Newspapers Ltd	Sunday Express Star on Sunday	9.4%	Northern and Shell Group		
Telegraph Group Limited	Sunday Telegraph	5.2%	Hollinger*		
Scottish Daily Record and Sunday Mail Ltd	Sunday Mail	4.6%	Trinity Mirror		**(24%)**
Guardian Newspapers Ltd	The Observer	3%	Scott Trust		3.9%
Independent Newspapers (UK)	Independent on Sunday	1.3%	Independent News & Media		23 titles
Scotsman Publications	Scotland on Sunday	.6%	Barclay Bros*		
The Business	The Business	1.62%	Barclay Bros		

* Information from company websites
**Market share based on circulation figures from Nov-Dec 2003 (not including Republic of Ireland) from Audit Bureau of Circulation data. http://www.abc.org.uk.
++ Market share based on circulation figures Nov-Dec 2003 from Audit Bureau of Circulation data, and company reports

The Express Group who publishes the well known Daily Express and the tabloid the Daily Star, was taken over by the Northern and Shell Group who are publishers of magazines including OK magazine (and also pornographic titles) in 2000.

3. Conclusions

3.1 Freedom of the Media

The British media is currently (February 2004) digesting and assessing the implications of the recent Hutton Report, the investigation of the circumstances surrounding the death of scientist and Government advisor, David Kelly.[509] The inquiry set out to question the roles played by the

[507] http://www.newscorp.com/investor/index.html
[508] http://www.dmgt.co.uk/aboutdmgt/
[509] Dr. Kelly was an advisor to the experts drafting the Dossier on Iraq's 'weapons of mass destruction' which formed the basis of the decision-making regarding going to war with Iraq. The report of a BBC journalist concerning this Dossier (following conversations with Dr Kelly) alleged that the evidence in the Dossier had been "sexed-up", i.e. the claim that Iraq could deploy weapons of mass destruction within 45 minutes was added under the instructions of advisors to the Prime Minister. The resulting 'war' between the government and the BBC, resulted in Dr Kelly taking his own life.

Intelligence services, government, government advisors, BBC journalists and the BBC governance structure in these events. The Hutton report concluded that the UK Government had neither used 'false or unreliable' intelligence in the report, nor revealed the name of the scientist involved in a 'dishonourable or underhand' way.[510] On the other hand the inquiry concluded that the BBC governors had failed to properly investigate the claims made by their reporter. This led to the resignation of the Director General and the Chairman of the Board of Governors.[511] Much debate is taking place regarding the conclusions of the report, the findings, its legality, the future governance of journalism standards in the BBC, independence of the BBC, and of the possible implications for the practice of investigative journalism.[512]

A separate, but connected, future development is the current Department for Culture, Media and Sport (DCMS) detailed Review of the BBC's Charter and Agreement (which expires in 2006). While this process pre-dates the Hutton Report the speculation regarding its outcome has been heightened by the Hutton inquiry.[513]

3.2 Ownership and market developments

It will take some time before the new ownership rules and the new regulatory regime can be fully assessed in terms of impact on competition within the UK media. For example, the way in which a 'public interest test' regarding media mergers will be implemented is still in the process of consultation. However, as noted above (2.2) the creation of one ITV company through the merger of Carlton and Granada has already taken place. The proposed takeover bid of the Hollinger Group by the Barclay Brothers was expected to be the first case to test Ofcom's application of the 'public interest test' however the case has not been referred, as the overall market share involved was not considered significant. The proposed sale to Barclay Brothers has been blocked and the next main contender for the Hollinger Group is the Daily Mail and General Trust group, whose market shares (see table 4) may provoke intervention.

Report status: the gathering of data for this report was completed on March 1st[h] 2004 (Update July 2004)

[510] Hutton report: Chapter 12, 467, (1) and (4). http://www.the-hutton-inquiry.org.uk
[511] Hutton report: Chapter 12, 467, (3). http://www.the-hutton-inquiry.org.uk
[512] See also discussions and commentary at: http://media.guardian.co.uk/huttoninquiry/
[513] Most recently the policy proposals from the opposition Conservative Party may raise concern regarding the future of the BBC. The controversial proposals include the idea to abolish the licence fee and create a two-tier television system, with

Part III: Conclusions and Recommendations

The following conclusions and recommendations are based on the findings of the investigation into the systems in the European Union member states (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom). The conclusions here are supplemented by, and frequently make reference to research findings, declarations and recommendations published/adopted by a range of international organisations and bodies.

1. Freedom of the Media, freedom of expression, and freedom of information

1.1 Freedom of Expression

The Freedom of expression is legally protected in each of the EU member states. In some European countries this freedom dates back to the 18^{th} or 19^{th} century (the first Freedom of the Press Act in 1766 in Sweden, the Declaration of Human Rights of 1789 in France, in the Austrian Constitution 1867). In most cases the other countries have incorporated this freedom as part of the general 'freedoms' associated with citizens' rights in national constitutions. In the case of the UK, it is enshrined through the Human Rights Act of 1998, where, in incorporating the European Charter of Human Rights into national legislation, the UK was the last country to legislate this.

In all cases, the 'freedom of expression' constitutes a similar right regarding the freedom to have and express opinions, and each is either indirectly or directly, or through case law (France, Germany, Italy) related to the role of the media in disseminating information and providing the citizen with this range of opinions. Several legislative systems have additionally specific Acts/ Laws relating to freedom of expression, or freedom of the press, or freedom of the media, (Austria, Sweden, Finland, Italy, Luxembourg) or additional or extended constitutional articles relating to media freedom (Belgium, Portugal, Greece, Hungary, Slovakia), or further reference to media freedom within the context of media legislation (Estonia, Latvia, Lithuania, Poland, Slovenia).

Additionally, in all cases there is usually a caveat regarding public or national interest, which allows authorities some leeway regarding the way in which information is reported. These systems can only be judged in practice, i.e. as the result of judicial decisions, or self-regulatory processes that decide on whether the media have reported an issue in an appropriate way, or through information provided by media professionals regarding their freedom. In reality there will always be some level of political involvement in the expression of opinion, either through the provision of information, statements to the media, or through the blocking or adjusting of certain reports, documentaries etc.

The Italian Constitutional article on 'freedom of expression' is more explicit regarding the powers which the state may have to block freedom of expression in the public interest: it states the right for the police to seize periodicals in a state of 'absolute urgency.' A similar clause exists in the constitution of Italy's neighbour, Malta. The Polish Penal Code regarding penalties for insulting the President (and other government or state representatives) is considered a deterrent to 'freedom of expression' in Poland.

The right to freedom of expression is frequently used as an argument against media ownership restrictions as this is seen as a limitation of an individual right to establish a media outlet and publish or broadcast news, opinion etc. Despite the frequent use of this argument, the regulation of media ownership, with the intent of protecting pluralism, can be seen as creating an environment in which as wide as possible *a range of opinions* can be expressed.

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some services based on subscription: "Tories propose two-tier BBC". Media Guardian Online, February 24, 2004. retrieved from: http://media.guardian.co.uk/broadcast/story/0,7493,1155005,00.html

1.2 Freedom of Information

In order for the media to carry out its function as the fourth estate, and in order for the citizen to be fully informed regarding the democratic process, a 'freedom of information' system is also required in a democratic system. It should be noted that in some countries such a system has only recently been implemented, or is not yet in place. In some cases the impetus for developing such a system stems from the European Charter of Human Rights. While the constitutions of the 'new' democracies already incorporated this freedom at the outset of transition to democracy, leading to Parliamentary Acts to set out how the system will function (Estonia 2000, Czech Republic 2000, Hungary 1992, Latvia 1998, Lithuania 2000, Poland 2001, Slovakia 2000, Slovenia 2003), some of the older EU member states have taken longer to put the system in place. In the case of Hungary, the act combines freedom of information, with legislation on the protection of personal data. The UK Act of 2000 will have a system in place by 2005. In Germany, while several of the Länder have a system for access to information, there is still no federal system which applies to central government or no system which is implemented equally throughout the states. There is no system of general access to documents in Luxembourg, but a new Press Law (2004) has legislated access for journalists. There is currently no system in place regarding access to information and documents relating to government and authorities in Malta, although in the context of certain policy areas such as the Environment, access to documents has been made available. This tradition is oldest where transparency of information was addressed in the 1795 Declaration of the Rights of Man in the Netherlands, and in the Freedom of the Press Ordinance of 1766 in Sweden.

In Ireland, the Freedom of Information (Amendment) Act (July 2003) introduced financial charges for access to information/ documents etc. that has been criticised by many as undermining openness and transparency. In France, there is a long list of documents that are excluded from the definition of administrative documents hence not covered by the right to access by all persons to administrative documents held by public bodies. Furthermore, there are mandatory exemptions for documents that, for example, would harm the secrecy of the proceedings of the government; national defence secrecy; the conduct of France's foreign policy; the State's security, public safety and security of individuals. Similar caveats exist in the legislation of all the Freedom of Information Acts which allow certain restrictions on the release of documents on the grounds of national security, public safety etc.

Based on the systems applied the EU member states, it is clear that even when the right to information and right to access public documents are enshrined in the legislation, effective implementation may not be the case due to exemptions (obligatory or mandatory), restrictive clauses (e.g. as in Italy where "a personal concrete interest" is required) or due to financial charges. Further research into the workings of each system would be required in order to make any definite judgement of the system. More detailed information and reports on the functioning of these systems are available from organisations such as the International Freedom of Expression Exchange (see Annex 1) or from the work of Banisar (2003).

1.3 Practice of journalism and Editorial Independence

The freedoms outlined above are a basic premise for the free functioning of the media. Without a legislative base on which to support their actions, or with which to challenge any obstruction to their work, journalists may be rendered powerless. As pointed out above, several countries have explicit freedom of the press, or freedom of the media legislative frameworks (through constitution articles or Parliamentary Acts). The freedom of the media is additionally confined to an ethical system of behaviour by the self-regulatory models in each country (see national reports). While legislative and regulatory systems, and codes of practice are in place, the actual practice of media freedom, and the levels of professional ethics, can only be judged by the reality of every day working experiences.

Regarding the media's role in the democratic process, the relationship between media and politics is far more complicated than what can simply be described with reference to the legislative system. Government, politicians, authorities, companies (and indeed celebrities) need the media in order to publicise policies, explain policies, gain support for their parties (or sell their products). The media also needs the co-operation of these groups in order to receive information, and to write stories.

In each country a system will have developed over time regarding how this process of information exchange works in both formal and informal ways. Gandy (1982) described this as a relationship of reciprocal exchange wherein the journalist has access to reliable, usable information and the politicians have controlled access to their target audiences. The formal approach involves press conferences and press briefings where the official statement of government, ministry or political party is presented to the public. A more controlled approach is the process of embedded reporting during times of war, designed to control information flow. The informal processes may involve information being given to one outlet over the others (scoops), or 'off-the-record' information from actors. The development of 'spin-doctor' tactics by political actors and the sophistication of public relation activities of both authorities and commercial companies make this process even less transparent.

Furthermore, it is also necessary to have a system in place, which oversees the way in which the media and particularly journalists perform in relation to reporting news. In most cases this takes place under a self-regulatory model. While international organisations (IFJ, EFJ) have explicit codes of ethics and standards, so do the journalism unions at the national level. These codes relate to standards in accuracy, fairness, honesty, respect for privacy, and also the obligation to uphold the high standards of the profession by avoiding plagiarism, defamation or the acceptance of bribes. Many outlets also have individual editorial policies, systems for standards, codes of ethics etc. In general a system is in place where an independent body oversees the operation of self-regulation such as, for example, the German Press Council, the Maltese Press Ethics Commission, the Polish Media Ethics Commission, the UK Press Complaints Commission, which will adjudicate between a media outlet/ journalist and the subject of a report whether that be an authority, company or individual.

Such a system is expected to take the place of the more expensive route of going to court over issue of libel, defamation or the publication of false or private information, which often proves expensive for media outlets. In many cases (particularly) regarding tabloids and the coverage of celebrities, the cost of payment in cases may be minimal in comparison to revenue earned from newspaper sales based on the stories. In this case there should be distinctions between the behaviour of newspapers covering celebrity news and newspapers dealing with public interest issues. However, the distinctions between the two still need to consider the rights of all subjects of news whether celebrity or politician, and balance this with the need for public knowledge of an issue. As such this process is constantly being developed through case law.

The importance of an independent body such as a press council implies that both sides of the argument will have their case equally considered. Ireland, unlike other European states, has no Press Council and there is concern within the journalism community regarding plans to establish statutory, rather than independent Press Council, whose members would be appointed by government, and hence they question the independence of such a body. Negotiations and discussions regarding this issue are, at the time of writing, still under way.

While the Codes of Ethics are intended to regulate the professional standards of journalists, they do not guarantee editorial freedom. Ways in which editorial independence can be strengthened include the Dutch example of Editorial Statutes, which are established within media outlets with the intention of providing journalists protection from interference in content and editorial decisions. Most Public Service Broadcasters additionally have editorial policies and codes establishing the obligations and freedoms of journalists. In the context of Central Eastern Europe several foreign companies such as 'the Norwegian Orkla-group, the Essen/Germany based WAZ-Mediengruppe or the Axel Springer-Verlag Group have voluntarily introduced internal rules to protect their writing staff from outside pressure and to separate managerial and editorial responsibilities' (OSCE, 2003:47).

While in many countries, there may be implicit interference in editorial freedom, in Poland there is a restriction of internal freedom of the press within article 10 of the Press law, which stipulates that a journalist must obey and follow the general principles of his/her publisher.

1.4 The status of media freedom

On the basis of the information presented in this report, several conclusions can be made on the general status of media freedom and some common problems or concerns can be identified.

The 'war on terrorism', the fight against crime and the fight against right wing extremism can pose problems for the practice of investigative journalism. In Germany concern has been expressed regarding a Constitutional Court judgement that the surveillance by authorities of journalism communications (particularly telecommunications) did not constitute a breach of constitutional liberties. Surveillance could be allowed on a case-by-case basis depending on the seriousness of a crime under investigation, balancing the freedom of the press against the efforts to fight crime. Additionally, a legislative proposal was introduced by the *Bundesrat* (September 2003) regarding unauthorised publication of photographs, which could impose prison sentences of up to two years or equivalent fines. The current proposal uses vague terminology and lacks any limitations on sanctions for the purposes of reporting, and hence compromises investigative journalism.

In Ireland, Slovenia and Sweden there have been some incidents of journalists being under threat of violent attack or intimidation when investigating the criminal underworld, or neo-nazis, while in Spain, and particularly in the Basque region, this threat comes from terrorist groups (terrorist groups also pose problems in Greece).

In France, concerns are raised over the outdated defamation legislation, frequent challenges to the principle of confidentiality of sources, and the repeated abusive detention of journalists by police. In 2002 there were several press freedom violations (e.g. destruction of the print-run of a new free daily by the Unions, and journalists under pressure from the police). A similar situation regarding defamation cases (or the Penal Code) persists in Poland, where journalists often face prison sentences on the grounds of insult or defamation.

The Italian broadcasting system, (as outlined in the country report) presents an anomaly due to a unique combination of economic, political and media power in the hands of one man, the current premier Minister, Silvio Berlusconi. The Committee on Culture, Science and Education of the Parliamentary Assembly of the Council of Europe stressed that the fact that the Italian Government was, directly or indirectly, in control of all national television channels raised serious concerns about the plurality and independence of the media. However, the Italian press is considered to be free and diverse, expressing different views and opinions despite the increasing number of searches of newspaper offices and journalists' homes on the grounds of ' the fight against terrorism.'

Recent events (outlined in Italian report), and the future development of RAI, raise concerns about its independence and credibility, and the editorial independence of journalists working for RAI (Blatman, 2003). As long as the 'conflict of interests' exists, any decisions regarding either RAI or changes in the existing media policies (e.g. the Decree proposed and currently under discussion which allows Retequattro to continue terrestrial broadcasting despite the ruling of the Constitutional Court), will continue to fall under the suspicion that they are made in favour of the Prime Minister's corporate interests.

The status and independence of Public Service Broadcasters is in no way secured in many of the countries in the EU. In Spain, employees of the PSB TVE, set up their own Independent Advisory Council (known as the Anti-manipulation Council) in response to what was described as political pressure on the broadcaster from the previous Government and allegations that the broadcaster is 'too close to the government' (see country report). Such lack of independence is frequently linked to the issue of funding for public service broadcasters, and it would appear that where money comes directly from tax revenue rather than through license fees paid directly by the public, the situation can be more critical. Public service broadcasters are then dependent on government decisions regarding their funding. The commercialisation of the media with the opening of the market to commercial players has of course, played a major role in this crisis. While many PSBs have access to advertising revenue this places them in direct competition with commercial broadcasters regarding audience rating, thus encouraging a commercialisation of content on PSBs. Such financial pressures, linked with government pressure, are also impacting on the PSB in Hungary (see country report).

The status of PSBs, their remit and role within the media landscape, and also their independence, needs to be ensured through the legislative framework upon which their activities are based. In the Spanish case, the new socialist government has promised to introduce certain reforms to the PSB TVE (see country report). In Latvia and Hungary, (and to a lesser extent in Malta) media experts and media professionals frequently express concerns that the legislation and the implementation of laws are not strong enough to secure the status and independence of public service broadcasting.

The review of the Charter and remit of the BBC in the United Kingdom will undoubtedly (and indeed has already) spark debate and discussion on the role and status of Public Service Broadcasting. Given the fact that the British model strongly influenced the development of public service broadcasting in the Scandinavian countries and in Germany, and is looked at as providing a benchmark for those wishing to protect or develop PSB in Central and Eastern Europe and in the NIS, these discussions and any decisions may well have an impact well beyond the UK. The first part of the consultation is now complete with a report on the terrestrial TV channels, and addresses the issue of maintaining and strengthening the quality of public service broadcasting in the developing digital environment, and a summary of responses to this is also available.[514]

From a financial perspective, the media, particularly the press industry, has been confronted with an economic crisis in the past few years. Part of the problem is the competition with online media, particularly regarding advertising, which in turn makes it logical for newspapers to have an online presence. In Germany, for example, it is claimed that the FAZ lost between 40-50% of its advertising revenue (for jobs, cars, apartments etc.), which moved to Internet websites (Stock, 2003). These economic pressures can however, also impact on media freedom and the practice of journalism. In the Netherlands publishers are concerned that no attempt has been made to cut out VAT on newspapers, and also that postal tariffs for subscribers outside the circulation area will not longer be subsidised. They claim these are not just market issues but also impact on the common interest of freedom of expression. In Ireland the British newspapers in the market have a competitive advantage due to lower marginal production costs.

A representative of the German union ver.di (in a recent OSCE report) claimed that the economic pressures on the media, particularly in the current German crisis, are a threat to journalism. Publishers are lobbying for a relaxation of laws in order to consolidate, they are cutting back on staff and administration which impacts on quality, and they are focusing attention on East European markets where they hope for a higher return on capital than is possible in the national market (OSCE, 2003:99). Regarding these markets, for example, Hungary and Poland, the EFJ expresses concern regarding foreign publishers creating less favourable working conditions than in their home companies, paying low wages and hence discouraging professionalism. According to the same OSCE report less than half of journalists in the UK have works councils, and they point to the dismantling of the unions under Thatcher (in which Murdoch's News International also played an important role in the publishing sector).

There are a wide range of resources available through international organisations who continually monitor and support media freedom throughout Europe where further information and updates on these issues can be accessed: the Council of Europe, Media Division; the Organisation for Security

[514] Report available online from: http://www.ofcom.org.uk/codes_guidelines/broadcasting/tv/psb_review/
Summary: http://www.ofcom.org.uk/consultations/post/psb/psb_resp_summary.pdf

and Co-operation in Europe; the European Federation of Journalists; the International Federation of Journalists; the International Freedom of Expression Exchange; the International Press Institute and Reporters Without Frontiers among others (details of Internet links are listed under Annex 1).

2. Media Ownership Regulation

The member states of the European Union present different systems for addressing the issue of media concentration and the protection of pluralism. These systems have evolved within different media landscapes and political cultures. The German market, for example, is regulated at both the federal and the State level due to the federal structure of the country, and in Spain, the federal system also gives rise to a sharing of competences between central government and the Autonomous Communities regarding the audiovisual system. In the Belgian federal system competition policy and regulation are at the federal level but both broadcasting and the press fall within the remit of the so-called communities that represent Belgium's three linguistic groups, i.e. the French-speaking, the Flemish-speaking and the German-speaking part of the population.

Additionally media legislation has evolved at a different pace in the various regions of the European Union. As Karol Jakubowicz points out: 'in Central and Eastern Europe, we are telescoping decades and in fact centuries of change into a few short years.'[515]

Regarding competition policy, specific procedures for the media as regards mergers and acquisitions apply only in Austria, Germany, Ireland, Spain and the United Kingdom, where the Ministers responsible may request a special intervention on the grounds of pluralism, or the merger/acquisition requires the approval of the minister (Germany). In other countries general competition rules and criteria apply. However, in most of these countries (e.g. France, Hungary, Lithuania, Italy, Sweden, and the Netherlands) there is co-operation between the Competition Authority and the Broadcasting Regulatory Authorities in mergers, acquisitions and other concentration cases concerning the communications market (for details of the respective systems see the country reports). Within Hungarian media law reference is made to competition policy whereby decisions made by the Competition Authority must be in line with the ownership restrictions laid out in the media law.

2.1 Press Ownership Regulation

The press sector can be considered in most cases to have been treated in a relatively liberal way with few ownership limits and few restrictions on foreign ownership. There are some exceptions: in France, an individual or legal entity cannot run or control daily publications dealing with political or general news that have a total circulation of more than 30% of the market of that type. This provision applies only to daily papers. In Italy, the national press market is subject to limits based on circulation figures: an owner cannot hold more than 20% of the overall circulation of dailies in the national market, or more than 50% share within a single region, or more than 50% share in an interregional market. In Greece limits are set out regarding the types of newspapers that any one company may publish, for example just two informational daily papers.

This liberalism reflects the freedom of the press in terms of the right to establish a media enterprise as particularly noted in relation to Germany and Sweden. Within competition policy, there are of course restrictions regarding mergers as mentioned above, which in some cases address the issue of preserving pluralism (Austria, Ireland, Germany, Spain, United Kingdom). The ownership of the press is additionally regulated in relation to other media sectors (see cross media ownership regulation section 2.3 below) and in relation to foreign ownership (see section 2.4 below).

[515] Jakubowicz, K (Forthcoming): We Need an EU with a Heart, a Social Conscience and Courage. Introduction in *Trends in Communication.* Vol. 12 issue 4 (Spring 2005).

2.2 Broadcasting Ownership Regulation

Again different systems for regulation of ownership in the broadcasting field have developed and emerged in the EU member states within this study.
In Austria ownership changes must be notified to the relevant authority. There are limitations on licenses and market share: a person can only hold multiple radio or analogue terrestrial TV licenses when the transmission areas served by the respective licenses do not overlap; this restriction also applies where the person itself is not the holder of the license, but exercises significant influence over its application by way of a shareholding of more than 25 percent of capital shares or voting rights. For analogue terrestrial television, this means that a media owner will forfeit eligibility for a national broadcasting license, where he achieves a market share of more than 30 percent in terrestrial radio broadcasting, or the daily press, or the weekly press, or services more than 30 percent of the population by way of his cable services. At the regional level, a broadcasting license cannot be awarded where an applicant meets more than one of these criteria in the transmission area that is to be serviced by the TV broadcasting operation.

In France, detailed rules apply. The ownership of television broadcasting (analogue terrestrial) companies is subject to three limits: based on capital share (49% of the capital or the voting rights), the number of licences (together with audience share), and participation in more companies in the same sector. If a single person holds more than 15% of the capital share of one nationwide analogue terrestrial broadcaster, his participation in a second should be less than 15%. If one person owns more than 5% of the capital shares of two broadcasting companies, his share in a third cannot be more than 5%. At the regional level the limitations are: capital share (50% of the capital or the voting rights), the number of licences (together with audience share), and participation in more companies in the same sector. Audience share thresholds are used in the field of radio. An individual or legal entity can own several networks, or several services, as long as the total population of the areas in which they broadcast does not exceed 150,000,000 inhabitants.

In the French-speaking part of Belgium, media pluralism is protected through the licensing system where the broadcasting authority considers whether an applicant occupies a dominant position: more than 24% of the capital in two radio or two TV companies; or if the amount of a system controlled by one person accounts for more than 20% of the audience in either the television or radio market.

In the Dutch speaking community the licensing system is also used to limit concentration: no legal entity may operate more than one community wide, regional or local radio broadcaster, and there is a prohibition against any type of linkage, directly or indirectly, between radio operators at the community wide and regional levels. Co-operation between broadcasters must not affect the diversity of programming. A similar restriction applies to the cooperation between Flemish television broadcasters but there are no limitations to the number of TV broadcasting licenses that can be held by one person.

In Germany, legislation at the Federal and State levels works on the principle of preventing media enterprises from exercising a 'dominant opinion-forming power.' A media operator will be considered to have a 'dominant opinion-forming power' if he/she holds 30%, or more, of the national market in a given year, or if a market share of 25% is attained and the company holds a dominant position in a media-related market (using audience share).

In Greece a joint stock company can have only one license for a television station and/or one license for a radio station. An individual can participate in only one company and with only up to 25% of its capital (with a 40% limit for the pay-per-view broadcasting media).

The legislation in Hungary limits the ownership of a broadcasting enterprise by one company to a maximum of forty-nine percent of the voting rights. There are limitations on the types of organisations: for example the voting shares in a limited company performing national and regional broadcasting may not be held by a foundation. Aside from specialized broadcasters, (and non-profit broadcasters) broadcasters holding a controlling share in one company may not acquire a controlling share in another enterprise performing broadcasting or broadcast transfer (distribution). There are also restrictions at the regional level concerning the extent of involvement a company can have in the market. Regarding cable, any single cable operator is prevented from controlling more than 1/6 of the cable market (see country report for more details).

Ireland has a limit on the level of ownership for a single interest (individual or company) in a broadcasting outlet of 46%, and this limit drops to 27% if the interest in question is a 'Media Operator,' a definition which includes publishers, cable operators etc. (see country report).

In Italy, the establishment of a dominant position is forbidden. The broadcasting sector is subject to two limits: based on the number of licences, and on revenue shares. A single person cannot hold more than 20% of nationwide analogue terrestrial television or radio networks, which is, according to the current national frequency plan a maximum of two channels (depending on the number of available frequencies). The same applies to nationwide digital terrestrial television or radio programmes. As regards nationwide pay terrestrial television, only one licence can be held. Additionally, a person holding a license for terrestrial television or radio or an authorisation for television broadcasting via cable or satellite cannot accumulate more than 30% of the resources of the national terrestrial television sector, the national radio sector or the national cable and satellite television sector respectively. However, a new draft Law on Broadcasting (the Gasparri Bill) introduces considerable changes on the existing media ownership rules (for more details see the country report).

In the Latvian case, where a single interest (individual or company) controls one broadcasting outlet they are limited to a total of 25% of voting shares in a second broadcasting outlet. There are additionally limitations on the type of organisations who can establish or control a broadcasting outlet such as political parties or companies established by political parties. No broadcasters (except public service broadcasters) are allowed to establish more than three broadcasting organisations.

Restrictions in Malta relate more specifically to cross media ownership (see 2.4), and as apparent from the report on Malta, there are no restrictions on ownership of a media enterprise by organisations such as political parties or the church.

While the media law in Lithuania forbids the monopolisation of mass media there are no specific provisions or thresholds limiting concentration of the media. There are certain provisions requiring transparency of ownership of the media: producers and disseminators of public information must provide data regarding shareholders/ owners and the broadcasting authority must be informed of the intention to sell or transfer at least 10 percent of shares of the company. If the proposed sale is of more that 10% of the shares, or involves a complete transfer of ownership a written consent is required from the broadcasting authority.

Similarly in Luxembourg, there are few restrictions but some efforts at improving transparency. Luxembourg's media law provides one limit to radio ownership whereby a physical or legal person may not have interests in more than one limited company that is licensed to broadcast a radio programme, nor hold more than a 25% shares or 25% voting rights.

Certain provisions exist in the law in Luxembourg regarding transparency of information. The new Law on the Freedom of Expression in the Media in requires the publication of certain information including that of the identity of shareholders whose influence exceeds 25 percent of capital shares. This requirement does not apply to companies licensed according to the Law on Electronic Media of 1991. They are however obliged to have the relevant information at the disposal of the public.

In the Netherlands, limitations exist in the radio sector, where only one FM frequency or combination of FM frequencies can be used to transmit the radio programme services of one and the same organisation. According to the Broadcasting Act in Poland 'a Broadcasting licence shall not be awarded if transmission of a programme service by the applicant could result in achievement, by the

applicant of a dominant position in mass communications in the given area.' However, no particular thresholds apply regarding the definition of a 'dominant position.'
In Portugal a single entity or company can not control more than one commercial terrestrial channel. Regarding radio the licensing system limits enterprise to having an interest in a maximum of five radio stations. No one may own more than 25 per cent of the equity capital of local radio stations in the same area of coverage.[516]

In Cyprus regarding national radio and TV stations and local TV stations, no shareholder can hold/control more than 25% of the total share capital of the company. Regarding local radio stations, no shareholder can control more than 40% of the share capital of the company. The total of the company shares that belong to people who are relatives up to second grade or are husbands/wives cannot be higher than 25% of the total share capital of the company. For a local radio station the limit is again 40%.

The Slovakian system limits any legal entity or natural person to participation in only one nationwide broadcaster (TV or radio). Such a link is established when a person holds at least a 25% share of the issued capital of a second person, or a 25% share of the overall voting rights in the company.

In Slovenia there is a limit for sectors whereby publishers, broadcasters or individuals who already have an interest of at least 20% (ownership or voting rights) in a daily information newspaper, or a television station or a radio station, from having no more than 20% (ownership or voting rights) in a second such enterprise.

In Spain the broadcasting sector is regulated according to the means of distribution, with different rules applying to terrestrial, satellite and cable television. Recent changes were made in the legislation (2003), which abolished the limit of one entity holding more than 49% of the capital share of a terrestrial broadcasting license holder. Legal persons or entities with more than 5% share capital or voting rights in one company cannot have up to 5% in another. A similar rule applies for regional broadcasting with some exceptions (see country report). In the radio sector an individual or legal entity cannot hold more than one AM license and more than two FM licenses in an overlapping area.

In Sweden, although there are no explicit ownership restrictions/market thresholds in the legislation, a number of factors relating to the issue of ownership should be taken into account regarding the granting of local and community broadcasting licences by the Radio and Television Authority. There are on cross-ownership in the radio sector (there must be no forms of cross-ownership between holders of a community radio broadcasting licence and operators of a local commercial radio station).

In many cases the licensing systems as controlled by broadcasting authorities could be assumed to deliver a certain level of pluralism (for example, in the case of local radio in Ireland).

2.3 Cross media ownership Regulation

Most countries have some restrictions on cross-media ownership. However, there is a variety in the amount of rules, the sectors covered, and in the indicators or thresholds used to monitor and control media concentration.

In Austria the issue of cross-media ownership is addressed in two ways. Competition law looks at possible negative repercussions on media pluralism arising from cross-media ownership by way of its broad understanding of media concentrations, which allows for the taking into consideration of upstream and downstream markets as well as cross-sectorial activities. Secondly the licensing regime for terrestrial television broadcasting operators explicitly excludes a number of possible ownership scenarios in order to prevent possible threats to media pluralism that might arise from cross-media ownership at the national level or in a more narrowly delimited geographical area (cf. Section 1.4).

516 Brantner, C. and W.R. Langenbucher (2003)

Sector-specific audiovisual legislation also contains certain limitations on foreign media ownership in the broadcasting field.
In France, cross-media ownership is regulated both at national and regional levels. The so-called “two out of four rule” applies, i.e. operators are not allowed to hold interests in more than two of the following four sectors: terrestrial television (analogue or digital), cable, radio or press, and whenever an operator is active in two of these sectors, certain thresholds must be respected (for more details see the country report).

In Greece a ‘two out of three’ rule exists, similar to, but less restrictive than, the French rule (two out of four). A single company or individual cannot participate in more than two media categories (television, radio, and newspapers).

Cyprus has several cross media ownership restrictions. No license for television or radio station to be granted to a company, the shareholders of which have or control in any way: (i) more than 5% of the share capital in a publisher company, newspaper or magazine; (ii) more than 5% in national radio or television station. For the purposes of this article, in the proportion of the shares that one person holds are also included the shares that their relatives up to second grade or their husbands/wives hold.

The Hungarian legislation uses capital shares as the basis for restricting cross media ownership. A company with a controlling share in a national newspaper cannot acquire a controlling share in a national broadcast organisation (and vice versa). At the regional level there are similar limitations regarding controlling share of regional papers and a regional broadcaster in the same area. Within telecommunications legislation, there are restrictions on companies providing telephony services from having a controlling share in a cable company.

The Irish legislation limits ownership shares in a broadcasting organisation to 46%. When a company or individual is described as a ‘media operator’ which includes: broadcasters; cable operators; broadcast production companies; advertisement production companies; newspapers, magazines; advertising agencies; communications and telecommunications enterprises; political parties and public representatives; churches; and nationals from outside the European Union, the limit is restricted to 27%. This provides some limitation on the extent of cross media ownership.

The Italian legislation creates limitations based on the revenue from the advertising market. It stipulates that advertising concessionaires may collect up to 30% of the total resources of terrestrial television, radio or the cable & satellite sector. This is limited to 20% of the total resources of radio and television for operators who have interests in the press sector. It also provides for specific limits between television broadcasting and the press. A publishing company with more than 16% of national circulation cannot hold a TV licence. With more than 8%, it can hold one licence. With less than 8%, it can hold up to two licences.

The UK system is based on market shares, and company shares. The new system (since 2003) stipulates that a newspaper owner with 20% national share of the market cannot hold or have more than 20% of an ITV license, but now they may bid for the Channel 5 license (any such bid would be subject to the public interest test, see UK report). ’Additionally, an owner of an ITV license may not own more than 20% of a newspaper in same region. Regarding radio ownership, a license may not be granted where a regional newspaper is owned in same region, or where a publisher has a national newspaper with a large market share. Also, a radio license may not be granted where an ITV license is held by the applicant in the same region. Regional Radio is licensed under the “three voices rule” for regional media, where ideally there should be two independent voices aside from Public Service Broadcasting.
Sweden has no policy on cross-media ownership aside from a desire that ‘no concentration of ownership will occur within a region.

The Dutch legislation combines market share and voting shares in cross media ownership restriction. A license for commercial broadcasting will not be approved if: the broadcasting organisation, or one or more of the legal persons or companies with which it forms a group, jointly or individually have a share of twenty-five percent or more on the market for daily newspapers; or if the organisation (or other as described above) are jointly or individually in a position either to exercise more than one third of the voting rights in the general meeting of shareholders of the applicant, or to appoint or dismiss more than one third of the applicant's directors or members of the supervisory board. The limit at the regional level is 50% market share unless that same area is also served by another regional or local broadcasting organisation and this guarantees a plural and diverse news provision in that area.

The Slovakian law restricts cross-ownership between radio and TV broadcasters and between broadcasters (TV or radio) with a publisher of nation-wide press publication. Publishers of periodicals are also restricted regarding broadcasting in multi-regional or nationwide services.

The legislative framework in Slovenia has detailed cross media ownership restrictions. A publisher of a daily informative newspaper with an ownership or voting stake of more than 20% may not perform radio or television activities. Likewise, a broadcasting company of a radio or television station with ownership or voting stake of more than 20% may not also be the publisher of a daily informative printed medium. Companies and publishers are prevented from being active in both the television and radio sectors (with some exceptions through the licensing system). Restrictions also apply regarding activity in both the advertising and broadcasting sectors. There are also restrictions regarding activity between telecommunications activities and radio and television activities. (See country report for more detail).

In Poland, the regulation has a requirement to prevent ‘a dominant position in mass communications in a given region’ but there are no specific thresholds governing this. The requirement is dealt with by the Broadcasting regulator when issuing licenses, on a case-by-case basis. A set of criteria for cross-media ownership was included in the controversial March 2002 edition of the Draft Broadcasting Act but they have since been removed.

In Malta legal entities, individuals and companies may own hold TV license and one radio license and one teleshopping channel (since 2000). No limitations are mentioned with regard to the press.

In Germany, cross media ownership is only addressed at the regional level. The audience share approach is used in limiting the levels of ownership within and across sectors. A company will be held to exercise dominant opinion-forming power, either if the channels attributable to it reach an average market share of more than 30 percent of the national market in a given year, or if a market share of 25 percent is attained and the company holds a dominant position in a media-related market. The notion of such a media-related market introduces the possibility of considering other media assets owned by the company, including those in press and advertising. Moreover, the federal states have introduced restrictions on cross-media ownership into their media laws in order to prevent the emergence of dominant opinion-forming power across sectors, primarily at the local level.

There are no definite limitations on cross media ownership in Belgium, Denmark, Estonia, Finland, Latvia, Luxembourg or Lithuania, Portugal, Spain. In some cases the licensing procedure examines the position of the applicant in the market. For example, in Estonia a broadcasting license may be refused if a company already owns a broadcasting company and a newspaper.

2.4 Foreign ownership of the media

With regard to foreign ownership there are certain restrictions in many of the countries, although in several these have recently been reduced or removed. French legislation limits foreign (non-EU) ownership to a share of 20% of the capital of companies, which hold a terrestrial radio or television broadcasting licence in the French language. In addition, foreign (non-EU) investment in press is limited to a share of 20% of the capital of a daily paper.

In Austria where a broadcaster is organised as either a partnership, limited liability company or a cooperative society, no more than 49 percent of shares can be foreign-owned.

Although in Belgium there are certain restrictions on the possibilities for cooperation between radio and television broadcasting operators at the regional level in the Dutch-speaking community, the legal framework here does not contain any prohibitions against cross media or foreign ownership. In the French-speaking community no restrictions exist.

In Greece non-EU foreigners participation in the shareholding of limited companies with a license to broadcast free to air television or limited companies with a license to broadcast free to air radio should not exceed 25% of the total capital. In Cyprus non-EU foreigners can obtain not more than 5% of the shares (total share capital) of a company.

In Poland the new law removed limits for EU companies and individuals and raised the limit for other foreigners (non-EU) to 49%. In Latvia foreign ownership restrictions have been removed.
In Hungary, the law stipulates that a minimum of 26% of the shares of a broadcasting company must be owned by Hungarian citizens and residents (implying that up to 74% can be foreign owned). Within the Board of Directors of a broadcasting company the majority of the members (in the case of non-profit broadcasters, the majority of managing directors) shall be Hungarian citizens residing in Hungary. Only companies registered in Malta may apply for a broadcasting license. A foreign company may have shares in a broadcasting outlet provided that the majority of shares are held by citizens in Malta, normally resident in Malta.

The previous restriction on ownership of the media by individuals outside of the European Economic Area has in the UK been removed in recent legislation (see country report). In Ireland, an applicant for a Broadcasting license must be from an EU member state (or have their place of residence or registered office within the EU).

In all cases the new member states have had to remove restrictions on nationals from EU member states regarding ownership, and in the case of all countries foreign ownership may be affected by reciprocal agreements with third countries. There are no restrictions on foreign ownership within the Estonian, Finnish, German, Slovakian, Slovenian, Swedish, Dutch and Italian, Latvian and the UK regulatory frameworks.

2.5 Overview

- As outlined above, the approach to controlling media concentration and ensuring media pluralism varies widely between the countries.

- In certain countries: Austria, Germany, Ireland and the UK, competition policy includes media specific rules. In other countries various levels of co-operation takes place between broadcasting and competition authorities. In Spain a flexible approach is taken to thresholds where mergers impact on public interest.

- A variety of measures are used to assess a companies influence on the market, and to limit the influence of companies: circulation and audience share, number of licenses, capital shares, voting shares, advertising revenue, or involvement in a certain number of media sectors.

- Given these differences it is difficult to propose any kind of harmonisation of rules between the EU member states. The systems have developed alongside and partly in response to the national markets, which in each country have specific characteristics.

- In several countries, while there may be general legal statements prohibiting monopolisation of the media, or the creation of a dominant position, there are no/few provisions to limit ownership: Denmark, Finland, Lithuania, Poland, Portugal, Sweden It is apparent that some of these systems are lacking in definition regarding thresholds, outside of general competition law.

- Ownership of the press is limited through market share in Italy and France, and through types of publications in Greece. In Austria, Ireland, the UK and Germany press mergers are dealt with under media specific rules. Aside form this, the press is treated by and large in a liberal way.

- Cross media ownership restrictions do not exist in Spain, Belgium, Latvia, Luxembourg, Lithuania, Portugal or Sweden.

- Foreign ownership rules regarding EU countries have been removed by the new member states in line with EU membership. There are now no limitations on foreign ownership (including non-EU) in Germany, Sweden, the Netherlands, Italy and Latvia, and the UK regulatory frameworks.

- There is a desire on the part of industry to relax ownership rules in France and Hungary with regard to cable television.

Table 1: Regulation of Media Ownership

	Austria	Belgium	Czech Republic	Cyprus	Denmark
Competition Policy	Media specific provisions and thresholds	General competition rules	General competition rules	General competition rules	General competition rules
Press					
Ownership restrictions	No restrictions	No restrictions	No restrictions		No restrictions
Foreign ownership		No restrictions	No restrictions	5% limit for non-EU	No restrictions
Television					
Ownership restrictions	Licensing regime examines ownership structure Owner/ controller /or share holder (of more than 25%) of company can have only one radio or terrestrial TV license in same region. Can have multiple licenses when areas do not overlap	**Walloon**: Licensing notes dominant position: over 24% capital in two radio or two TV companies; or more than 20% of the audience in either the television or radio market. **Flanders:** Limit on number of licenses	Only one license for nation-wide analogue terrestrial television broadcasting. Nation-wide television broadcasters may not have any ownership interest in other nation-wide television broadcaster On the local level, audience reach limit of 70 % of the population	25% capital share limit for each shareholder in national broadcasting 40% capital share limit for each shareholder in local broadcasting	No restrictions No thresholds Licensing procedure may note structure of market re. ownership
Foreign ownership	49% limit of ownership share for non-EEA members	No restrictions	No restrictions	5% limit for non-EU	No restrictions
Radio					
Ownership restrictions	Licensing regime examines ownership structure Owner/ controller /or share holder (of more than 25%) of company can have only one radio or terrestrial TV license in same region. Can have multiple licenses when areas do not overlap	**Walloon**: Licensing notes dominant position: over 24% capital in two radio or two TV companies; or more than 20% of the audience in either the television or radio market. **Flanders:** Limit on number. of licenses	Only one licence for nation-wide analogue terrestrial radio broadcasting. Nation-wide radiobroadcasters may not have any ownership interest in other nation-wide radio broadcaster On the local level, audience reach limit of 70 % of the population	25% capital share limit for each shareholder in national broadcasting 40% capital share limit for each shareholder in local broadcasting	No restrictions No thresholds Licensing procedure may note structure of market re. ownership
Foreign ownership	49% limit of ownership share for non-EEA members	No restrictions	No restrictions	5% limit for non-EU	No restrictions
Cross media ownership	Broadcasting license refused if applicant has : more than 30 per cent of nationwide market for terrestrial radio, or daily press or weekly press, or cable network. At the regional level application for terrestrial TV license refused where more than one of the 30% restrictions apply (in same regional market)	**Flanders:** Some restrictions on cooperation between radio and television broadcasting operators at the regional level	No restrictions	No radio licence where applicant controls: (i) over 5% share capital in a publishing company, (ii) or over 5% in national television station. No television licence where applicant controls: (i) over 5% of the share capital in a publishing company, (ii) or over 5% in national radio station.	No restrictions

Table 2: Regulation of Media Ownership (continued)

	Estonia	Finland	France	Germany	Greece
Competition Policy	General competition rules	General competition rules	General competition rules	Media specific Intervention in mergers re. Pluralism at discretion of ministry	General competition rules
Press					
Ownership restrictions		No restrictions	30% limit on market share	No restrictions	Limitations on types of publications a company may have an interest in: daily, weekly and Sunday press.
Foreign ownership	No restrictions	No restrictions	Non-EU investment is limited to a share of 20% of the capital of a daily paper	No restrictions	Non-EU investment is limited to a share of 25% of the capital of a daily paper
Television					
Ownership restrictions		No restrictions	Subject to three limits: based on capital share, number of licences (together with audience share), and participation in more companies in the same sector	Audience share: prevent exercise of dominant opinion-forming power: 30%, or more, of the national market in a given year, or if a market share of 25% is attained and the company holds a dominant position in a media-related market.	Physical or legal person can participate in only one company and with only up to 25% of its capital 40% for the pay-per-view broadcasting media. A joint stock company can have only one license for a television station and/or one license for a radio station.
Foreign ownership	No restrictions	No restrictions	Non-EU: 20% limit for terrestrial broadcasting in the French language	No restrictions	Non-EU investment is limited to a share of 25% of the capital of a free to air broadcaster
Radio					
Ownership restrictions			Audience share thresholds An individual or legal entity can own several networks, or services, as long as the total population of the areas covered does not exceed 150,000,000 inhabitants	Audience share: prevent exercise of dominant opinion-forming power (see above)	Physical or legal person can participate in only one company and with only up to 25% of its capital. A joint stock company can have only one license for a television station and/or one license for a radio station.
Foreign ownership	No restrictions		Non-EU: 20% limit for terrestrial broadcasting in the French language	No restrictions	Non-EU investment is limited to a share of 25% of the capital of a free to air broadcaster
Cross media ownership	Restrictions between press and broadcasting	No restrictions	At national and regional levels: "two out of four rule" applies	No press owner with dominant position in same region may hold licence	A 'two out of three' rule exists

Table 3: Regulation of Media Ownership (continued)

	Hungary	Ireland	Italy	Latvia	Lithuania
Competition Policy	Competition policy must note ownership restrictions laid out in the media law	Media specific Intervention in mergers re. Pluralism at discretion of ministry	General competition rules	General competition rules	General competition rules
Press					
Ownership restrictions	No restrictions	No restrictions	A company cannot have more than 20% circulation of dailies in the national market, or more than 50% share within a single region, or more than 50% share in an interregional market	No restrictions	No restrictions
Foreign ownership	No restrictions	No restrictions	No restrictions under reciprocity conditions	Non-EU ownership of a mass media outlet is restricted to 49%.	No restrictions
Television					
Ownership restrictions	Ownership of a broadcasting enterprise by one company limited to maximum of 49% of the voting rights	Viewer/ audience share National Limit on control of system up to 25% Regional ownership Limit on single interest in outlet 46% Or 27% if interest is 'Media Operator'	Subject to two limits: based on the number of licences; and on revenue shares	the sole founder or controller of a broadcasting organisation, may not own more than 25 per cent of shares (capital shares) in another broadcaster	No restrictions
Foreign ownership	a minimum of 26% of the shares of a broadcasting company must be owned by Hungarian citizens and residents	EU only, or EU based with limits as above re. Single interest	No restrictions under reciprocity conditions	Non-EU ownership of a mass media outlet is restricted to 49%.	No restrictions
Radio					
Ownership restrictions	Ownership of a broadcasting enterprise by one company limited to maximum of 49% of the voting rights	Listener share Limit on control of system up to 25% (must be justified) Limit on single interest in outlet 46% Or 27% if interest is 'Media Operator'	Subject to two limits: based on the number of licences; and on revenue shares	the founder/ controller of a broadcasting organisation, may not own more than 25 per cent of shares (capital shares) in another broadcaster	No restrictions
Foreign ownership	a minimum of 26% of the shares of a broadcasting company must be owned by Hungarian citizens and residents	EU only, or EU based with limits as above re. Single interest	No restrictions under reciprocity conditions	Non-EU ownership of a mass media outlet is restricted to 49%.	No restrictions
Cross media ownership	Company with controlling share in a national newspaper cannot acquire a controlling share in a national broadcaster (and vice versa). Regional media has similar limits.	Limit on single interest in outlet 27% if interest is 'Media Operator' Broadcasting: Licensing procedure takes note of market structure.	A publishing company with more than 16% of national circulation cannot hold a TV license. More than 8%, one license. Less than 8%, up to two licenses. Restrictions for advertising concessionaires	No restrictions	No restrictions

Table 4: Regulation of Media Ownership (continued)

	Luxembourg	Malta	The Netherlands	Poland	Portugal
Competition Policy	General competition rules	General competition rules	General competition rules	General competition rules	General competition rules
Press					
Ownership restrictions	No restrictions	No restrictions	No restrictions	Circulation	No restrictions
Foreign ownership	No restrictions	No restrictions	No restrictions	No restrictions	No restrictions
Television					
Ownership restrictions	No restrictions	Malta registered companies Majority of voting shares controlled by resident citizens	No restrictions	No restrictions	No company can control more than one commercial terrestrial television channel
Foreign ownership	No restrictions	Only Malta registered companies may apply for a broadcasting license. Majority of voting shares should be controlled by resident citizens	No restrictions	Non-EU ownership of a broadcast outlet is restricted to 49%.)	No restrictions
Radio					
Ownership restrictions	A physical or legal person may not have interests in more than one limited company that is licensed to broadcast a radio program, nor hold more than a 25% shares or 25% voting rights.	Malta registered companies. Majority of voting shares controlled by resident citizens	Only one FM frequency or combination of FM frequencies shall be used to transmit the radio programme services of one and the same organisation.	Audience (no common measurement)	No restrictions
Foreign ownership	No restrictions		No restrictions	Non-EU ownership of a broadcast outlet is restricted to 49%.	No restrictions
Cross media ownership	No restrictions	A licensee can only obtain up to one TV licence and one radio licence, and one 'teleshopping' channel No restrictions between publishing and broadcasting industries	Cross-ownership restrictions between broadcasting and newspapers at national and regional level	No dominant position in mass communications in a given area	No restrictions

Table 5: Regulation of Media Ownership (continued)

	Slovakia	Slovenia	Spain	Sweden	United Kingdom
Competition Policy	General competition rules	General competition rules	Competition rules flexible in relation to mergers affecting public interest	General competition rules	Merger intervention re. pluralism at discretion of ministry 'public interest test'
Press					
Ownership restrictions	No restrictions	Those with 20% interest in mass media outlet can have no more than 20% interest in a second.	Re. competition policy only (above)	No restrictions	Re. competition policy only (above)
Foreign ownership	No restrictions	No restrictions	No restrictions	No restrictions	No restrictions
Television					
Ownership restrictions	Any legal entity or natural person can only be linked with one national TV broadcaster (a 25% share)	Those with 20% interest in mass media outlet can have no more than 20% interest in a second.	Restrictions for holder of 5% share capital or voting rights of a license-holder (national or regional) to have up to 5% in other company serving same area.	No restrictions	No restrictions
Foreign ownership	No restrictions	No restrictions	non-EU nationals cannot hold, directly or indirectly, more than 25% of the share capital of a license-holder	No restrictions	Restrictions removed
Radio					
Ownership restrictions	Any legal entity or natural person can only be linked w ith one national radio (a 25% share)	Those with 20% interest in mass media outlet can have no more than 20% interest in a second.	Only one AM licence and only two FM licences in an overlapping area, in order to ensure pluralism	Certain rules in the licensing of radio No concentration of ownership within a region	Listenership No Threshold "three voices rule" for regional media
Foreign ownership	No restrictions	No restrictions	non-EU nationals cannot hold, directly or indirectly, more than 25% of the share capital of a license-holder	No restrictions	No restrictions
Cross media ownership	Restricts cross-ownership between radio and TV broadcasters and between broadcasters and publisher of nation-wide press Publisher of periodicals must not be a licensed broadcaster for multi-regional or nationwide broadcasting services at the same time.	A publisher with more than 20% stake may not also be owner/ co-founder of a broadcaster. A broadcasting company with more than 20% stake may not also be owner/ co-founder of daily newspaper Restrictions between advertising and broadcasting sectors Restrictions between telecommunications and broadcasting sectors	No restrictions	No forms of cross-ownership between holders of a community radio broadcasting license and operators of a local commercial radio station	Owner of ITV license may not own more than 20% of newspaper in same region Newspaper owner with 20% national share cannot hold or have more than 20% of an ITV license Restrictions in Radio license considered where applicant has: ITV license in same region. Or Regional newspaper in same region. Or National newspaper with large market share

3. An overview of the media landscapes

The media landscapes in the countries of the European Union have in many cases developed over several decades, with the de-regulation of the broadcasting industry bringing about major changes in this market during the 1990s. The broadcasting industry has historically been characterised by monopolistic or duopolistic systems due initially to the scarcity of spectrum, and also the monopolies of Public Service Broadcasting, or State Broadcasters. For many of the new EU member states development occurred rapidly after the transition to new democracies, with often a large influx of foreign capital into these markets. As such it should be noted that while many regulatory systems were put in place *before* market developments (such as the regulatory structure prepared before the launch of commercial broadcasting in, for example, Ireland or Sweden), in other countries the systems are often attempting to deal with *a given status quo* in the market (Poland, Italy).

3.1 Small markets in the European Union

Markets in the European Union member states are extremely diverse in terms of size ranging from 80 million citizens in Germany to just 380,000 citizens in Malta. This difference in market sizes has implications for the shape of the media landscape, and also for any approach to preserving pluralism within the markets. Tables 6 and 7 outline the market situation in Slovakia, Denmark, Finland, Ireland, Lithuania, Latvia, Slovenia, Estonia, Cyprus, Luxembourg and Malta. Even within this group the population and market size varies widely, with, for example, that of Ireland being ten times greater than that of Malta.

These eleven countries also have different historical experiences and very different geographical locations. However, the historical experiences of many of them have impacted on the linguistic traditions as reflected in the media landscapes. Ireland, Cyprus and Malta having been under British rule have English as one of their official languages. In the Maltese case a separate and more profitable English language press sector has developed. In Ireland, UK based channels have between 25-40% of audience share, while in the press sector UK based press outlets have at least a 25% market share. The experience of the Baltic countries has led to significant sections of the population (particularly in Estonia) being ethnic Russians. In Estonia and Latvia there are two separate language markets for the press in order to accommodate this, while in all the Baltic states many newspapers produce extra Russian language editions. Such fragmentation of the markets has economic consequences regarding audience size and the value of advertising.

Geographically, several of these states have a large neighbour whose transfrontier broadcasting is compatible with the languages of the citizens. In Luxembourg where the citizens have a multi-lingual state, television channels of German and French origin have almost 42% of the audience share, with the only national channel having around 12%. The Russian channel ORT (satellite distribution) is very popular among the Russian populations of the Baltic States. Local broadcasters do not have the revenues and economies of scale in order to create quality programmes, comparable to ORT for this sector of the population. The Irish example has already been outlined above. In Malta the proximity to Italy (and Italian language skills of the citizens) imply that Mediaset is the third player in the market with a 13% audience share, while the Italian Public Service Broadcaster RAI has around 5%. Greek media is naturally consumed in the Greek part of Cyprus, while several of the national channels are local versions of Greek TV stations. In the Slovenian case, the language links with the other post-Yugoslavian states provides a potential for cross-national media reception and consumption. The television audience of Slovenia also views German, Austrian, Croatian and Italian television (total 22% market share).

Again, the fragmentation of the market may have growing implications for advertising revenues, an example of which is the insertion of local advertising spots by Sky television for the Irish market. A similar problem exists in the Baltic States with the broadcasting (satellite) of channels from the Swedish registered (UK based) Modern Times Group (which also owns the strongest channel in Estonia, the second strongest channel in Lithuania, and the third strongest in Latvia). It could be argued that these smaller economies may not be able to support a public service channel and two

TABLE 6: MEDIA MARKETS IN SMALL EUROPEAN UNION STATES

	RADIO		TELEVISION			PRESS	
Country Population	**Main companies**	**Foreign owners market share**	**National channels top Companies**	**Foreign owners market share**	**Market share foreign based-channels**	**Daily Press Top Companies**	**Foreign owned national press**
1-3m							
Latvia 2.3m	Latvijas Radio (PSB): 32% LNT: 10% MTG: 4.2%	MTG: 4.2%	LNT: 27% LTV (PSB): 19% MTG: 12%	MTG: 12% Polsat: n/a	ORT: 8%	AS Diena: 72,000 JSC Preses Nams: 73,000 AS Lauku Aivize: 73,000 SIA IN Petits: 20,000 SIA Fenster IN: 28,000	Bonnier Group Circulation: 60,120*
Slovenia 1.93m	Radio Slovenija (PSB) SET Infonet Catholic Church		Pro Plus: 39.7% RTV (PSB): 34.7%	Central European Media Enterprises USA 39.7%	Various: 22%	***Reach*** Delo D.D.: 32.3% Dnevnik D.D.: 8.7% Vecer D.D: 10.4%	
Estonia 1.4m	Eesti Raadio (PSB): 38% Trio LSL: 24% Sky Media: 15%	Metromedia International (USA): 24%	TV3 24.2% Kanal 2: 19.7% Eesti Televisioon (ETV) Public Service: 18.2%	MTG: 24.2% Schibsted: 19.7%	Share of Russian Speaking population PBK Russia: 25.9% Rossija RTR Planeta: 14%	Ekspress Group, 145,700 Eesti Media 135,800	Schibsted 135,800
1m or less							
Cyprus 0.77m	PSB Private (various)		Sigma: 26.3% Antenna TV S.A.: 22% CyBC (PSB): 17.2% Mega 15.1%	Antenna TV S.A.: 22% Mega 15.1%	ERT (PSB) Greece: 3.2%	Phileleftheros Ltd: 25,000 Arktinos Publications Ltd: 4,500 Dias Ltd: 6,500 Tilegraphos Ltd: 4,500 Alithia Ltd, 5,000	
Luxembourg 0.45m	RTL: 54.5% ISP: 12% Luxradio s.à.r.l: 5%	RTL Group: 54.5%	RTL Luxembourg: 12%	RTL Group Share 12%	RTL German: 13.5% Pro7 /Sat1: 12% TF1: 10.7% M6: 5.2% RTPi: 4.1%	ISP Luxembourg: 65.6% Editpress: 25%	
Malta 0.38m	Labour Party: 22% PBS Ltd: 21% Nationalist Party: 11% Catholic Church: 11%		PBS Ltd: 33% Labour Party: 25% Nationalist Party: 12.3%		Mediaset: 13% RAI: 4.8%	Allied Newspapers Standard Publications Ltd Union Press Co. Ltd Labour Party	

*Shares in market adjusted for shares in channel or newspaper

commercial channels and that the reception of further foreign commercial broadcasting may add to the diversity of programming available, though not necessarily in terms of pluralism in the area of political opinion. A further concern is the potential loss of revenue (advertising etc) of local broadcasters to the foreign channels. According to a recent study (2004) prepared by the European Audiovisual Observatory for the Irish presidency of the EU, it is currently difficult to assess this potential impact due to a lack of data.

In the case of Luxembourg there is no Public Service Broadcaster but RTL Luxembourg (the only national channel) has certain Public Service obligations, which remain in place until 2010. The Public service broadcasters of the other states are quite strong in the radio sector. In Latvia the PSB radio channels have a market share of about 30%, and in Estonia public service radio has a share of 45.6%. In Lithuania there are three strong commercial competitors: M-1, UAB Radiocentras, and Pukas, all of which appear to be locally owned. Public Service Radio is also dominant in Slovakia (48,5%). In the small Nordic states public service radio is even stronger with high shares in Denmark (64.9%), and in Finland (50%). In Denmark, Ireland, Finland and Malta the PSB television channels have larger audiences than commercial TV. In Lithuania and Estonia the PSB takes second place, and in Latvia the PSB is a weak third after the two strong commercial players. The Slovenian Public Service Broadcast channels also hold a relatively strong position in the market, after the main commercial channel.

Regarding foreign ownership, the commercial television channels in Estonia, Ireland, Latvia, Lithuania and Luxembourg are foreign owned (majority shares), perhaps implying again that the national markets required foreign investment to develop. Similar to Estonia, Latvia and Lithuania, this has happened in most of the former Soviet states, however in these Baltic countries far less foreign capital has been invested in the publishing sector (this is also the case in Slovenia). While Slovenia has two strong commercial players, the situation is rather unique as both of these belong to the same company, Central European Media Enterprises (USA). This company also owns the strongest commercial TV channel in Slovakia, where they have interests in the publishing and radio sectors. In the Slovak press sector Swiss and German companies play an important role. Important players in the Danish market include companies from neighbouring Sweden (press and broadcasting) and Norway (press). In Finland foreign companies are active in radio (US), television (Norwegian) and the press (Norwegian). However there are also strong national players: Finland is the home of Sanoma WSOY, a major Nordic media group which is active in the publishing sectors of several East European states (including the Czech Republic and Slovakia).

In the Maltese case the ownership of media outlets by political and religious groups came about due to the perception of Government influence on the state broadcaster. Additionally, the market size of Malta would in no way provide the sort of advertising revenue to support a variety of broadcasters. Many people work in radio and television on a voluntary basis due to their involvement with the various political and religious groups. The Luxembourg market is highly concentrated with two main players: RTL and ISP in radio, RTL in television, and ISP in the press sector. The Irish press sector is highly concentrated with one main national player, Independent News and Media (INM) dominating.

There are plans for another private television channel in Malta, where eight or nine parties are expressing interest in the license and in Luxembourg the Government have promised not to issue new licenses until the RTL public remit runs out in 2010.

In most cases the market has been shaped by economic rather than regulatory factors. The regional/ local radio sector in Ireland is a possible exception, characterised by a high degree of local (and diverse) ownership (see national report). The majority of radio licenses are held by individual consortiums constituted by a range of individuals, companies and community groups, and there is no apparent cross regional ownership interests. Aside from this, the landscapes have developed according to the availability of capital, whether foreign (particularly commercial broadcasting) or political (Malta), or religious (Malta, Luxembourg, Slovenia), or from strong national players (Ireland, Luxembourg, Finland). It would be difficult to imagine any reversal of this situation.

TABLE 7: MEDIA MARKETS IN SMALL EUROPEAN UNION STATES (continued)

	RADIO		TELEVISION			PRESS	
Country Population	**Main companies market share**	**Foreign owners market share**	**Main companies market share**	**Foreign owners market share**	**Market share foreign based-channels**	**Daily Press Top Companies**	**Foreign owners market share**
5-6m							
Slovakia 5.43m	SRO (PSB): 48.5% D.Expres: 13.7% Okey: 10%		Markíza: 67% STV: 34% Mac TV: 20%	CME Media Enterprises: 22%		Vydavatelstvo Casopisov A Novín, ltd. 157,957 Petit Press, JSC 76,049 Perex, JSC 72,841	Ringier: 157,957
Denmark 5.38m	DR PSB: 64.9% SBS Broadcasting 7.3% Sky Radio A/S 6%	SBS: 7.3% Sky Radio 6.1% Jon de Mol: 4.7%	TV2 PSB: 36% DR PSB: 36% MTG: 9% SBS Broadcasting 6%	MTG: 9% SBS Broadcasting 6%		Orkla Media: 42.8% JP/Politikens: 34% MetroXpress A/S: 14.2%	Orkla Media: 42.8%
Finland 5.19m	YLE PSB: 50% SBS: 15% Radio Nova: 13%	SBS: 15%	YLE PSB: 44% Alma Media: 39.9%	Bonnier: 13%		Sanoma WSOY: 61.5% Alma Media:	Bonnier
3-4m							
Ireland 3.9m	RTE (PSB): 42% Today FM: 9%	Scottish Radio Holdings: 9%	RTE (PSB): 38% TG4 (PSB): 2% TV3: 13.4%	CanWest 6%* Granada Plc 6%*	BBC: 12.1% UTV: 7.7% Sky: 5.8%	INM: 48% Irish Times: 15% T C Holdings: 8%	**Foreign press market share** News International: 15% Trinity Mirror: 10%
Lithuania 3.6m	Lithuanian Radio (PSB): 25% M-1: 14% UAB Radiocentras:12% Pukas: 11%		UAB LNK: 28% MTG: 26.5% LRTV (PSB): 12% Baltijos TV: 11%	MTG: 26.5% MG Baltic media: 24% Amber Trust: 4% Polaris: 8% Polsat: 3%	ORT: N/A	Companies: 5 Circulation: 232,000	

*Shares in market adjusted for shares in channel or newspaper

3.2 Medium sized markets in the European Union

In the context of the next group of larger countries, from the Netherlands with 16m to Austria with 8m, the Belgian case would fit more easily into the previous group. Although the total population is over 10m, the division into Dutch and French speaking communities presents two small markets. In the case of Walloon, in particular, the issue of transnational broadcasting is an important element of the landscape. The French private channel TF1 has an audience share of 16.3% and the French PSB France Télévisions has a share of 14.7%. Hence foreign-based channels comprise over one third of the market here. By contrast, in Flanders the Dutch PSB has an audience share of 4%. The local Public Service Broadcaster of the Flemish region has a huge audience share of 77%, with the private channel of VMM having just 9%.

A somewhat similar situation prevails in Austria, regarding the importance of transfrontier broadcasting. The German based television channels have a market share of almost 25%. The Austrian market is also highly concentrated with national private broadcasting only recently having been introduced. The Public Service Broadcaster dominates with a market share of almost over 50% in the television sector, and over 80% in the radio sector. Two major national players dominate the press sector: Mediaprint (national press) and Styria Medien (regional press) a company who is present in the Slovenian market.

The issue of transnational broadcasting is somewhat different in Sweden and the Netherlands, being rather a case of foreign channels specifically targeted at the market. In the Dutch case, the foreign owned RTL channels have almost 30% of market share, while in Sweden the channel of the Modern Times Group (UK based), TV3 has a 10% share. The Modern Times Group also has channels in the Baltic States (see above). The SBS Broadcasting channel, Kanal 5, also targets the Swedish audience from the United Kingdom, implying a total foreign interest in the market of about 20%.

The Hungarian media landscape is the first major example here of the large amount of foreign investment in the former Soviet states, with foreign ownership dominating all media sectors. While the Public service radio stations have a combined share of about 33%, the private stations are all owned directly or indirectly by American companies, with two channels having a strong audience share of around 28% each, and a third with 8%.

In the television market (similar to that of the smaller states in the first group, including Estonia, Latvia, Lithuania and Slovakia) the private channels are all foreign owned, or foreign companies hold majority shares. Due to the foreign ownership limitation of 49% (before accession to the EU), SBS Broadcasting has a 49% share in the top channel, TV2, which has an almost 30% share of the audience. The second private channel with a similar share is RTL Klub (owned 49% by RTL). The Public Service Broadcaster, MTV has an audience share of about 17% and, similar to the situation in Lithuania, is weak compared to the main commercial players.

The press market is also heavily influenced by foreign capital. The Swiss Ringier Group has complete ownership of three of the top selling daily newspapers, and also a 49% share in the top selling newspaper Népszabadság. In the regional press sector German companies, Axel Springer Verlag (with ten regional papers), the WAZ Group (with 5 regional papers) and Funk GmbH (with 3 regional papers) are dominant in the market. Additionally the UK press Group Associated Newspapers have three regional newspapers. There are no restrictions on ownership or foreign ownership of the press in Hungary. Cross media ownership restrictions do exist, however, and posed problems for Bertelsmann who previously had interests in both the daily Népszabadság, and through RTL in RTL Klub. The Hungarian regulators required that Bertelsmann reduce/ divest its interests in Népszabadság. These restrictions can be seen to play a role in preventing the major broadcasting companies from also moving into the press sector.

TABLE 8: MEDIA MARKETS IN MEDIUM SIZED EUROPEAN UNION MEMBER STATES

	RADIO		**TELEVISION**		**PRESS**		
Country	**Top companies**	**Foreign owners market share**	**National channels top companies**	**Foreign owners market share**	**Daily Press Top Companies**	**Foreign owned national press**	**Regional Press**
10m +							
Portugal 10.1m	Grupo Renasçenca (Catholic Church): 39.8% Grupo Media Capital: 24.4% Grupo RPD PSB: 10.2% PT Lusomundo: 6.0%		SIC: 29.4% Grupo Media Capital: 28.2% RTP PSB: 29.7%		PT/Lusomundo: 14.9% Grupo Cofino: 10.4% Comunicação Social, S. A.: 5.1% Impresa		Catholic Church
Hungary 10m	PSB: 32.9% Danubius: 28.1% Slágerrádió: 27.8% Juventus: 7.8%	Advent Intern. USA: 28.1% Emmis Intern. USA: 20.8%* Metromedia Intern. USA: 7.8%	SBS TV2: 29.7% RTL Klub: 29.3% MTV PSB: 17.6%	SBS USA: 14.5%* RTL Group: 14.3%* Tele-München Fernseh GmbH: 3.7%* MTG Sweden: 2.4%	Ringier: 350,877 Népszabadság RT 182,485	Ringier Switzerland Circulation: 350,877 plus 91,060 (through Népszabadság)	**Foreign owned regional press** Axel Springer Verlag: 10 titles WAZ: 5 titles Funk GmbH: 3 titles Associated Newspapers: 3 titles
8-10m							
Sweden 8.8m	PSB 64% MTG 10% Bonnier 7% Cedska /NRJ: 7%	SBS USA: 3 regional stations	SWT PSB: 40% TV4: 25% MTG TV3: 10% SBS Kanal 5: 8%	MTG: 10% SBS USA: 8%	Bonnier AB: 25.6%* Schibsted ASA: 10%* Tidnings AB Stampen: 7.2%* NWT: 4.8%	Schibsted Norway: 10%	No separate market data
Austria 8.18m	ORF PSB: 82% Antenne network: 4% Arabella network: 3%		ORF PSB: 52% ProSieben Austria: 5% SAT 1 Austria: 5%	Pro7/ SAT1 **Foreign based-channels** RTL 6% PRO 7 5% ARD 3% ZDF 3% Kabel 1 3% VOX 3%	Mediaprint: 78% Styria Medien AG: 6.9% Salzburger Nachrichten: 6.2%		Styria Medien AG: 16 local titles

In the Czech Republic, foreign ownership is much less relevant in the broadcasting sector (foreign interests in commercial broadcasting have pulled out, see country report), but dominates the press and publishing sector. Ringier (national press) and Passauer Neue Presse Verlag (regional sector) and also the German Rheinisch-Bergische Verlagsgesellschaft are the most important companies.

The Dutch press market is particularly highly concentrated with the same companies dominating at national and regional level: PCM and NHV De Telegraf, and Wegener NV in a strong position at the regional level. There are no press ownership restrictions in the Netherlands. The cross media ownership restrictions prevent a company with more than 25% of the market share of national press (or 50% share of regional press in a particular area) from having a stake in a national broadcaster (or a regional serving the same area). The interests of Wegener are spread throughout various regions but in three or four it is dominant. Given Wegener's interest in the radio sector, the authorities have required the company to divest some interests in the regional press sector. The restrictions here on cross media ownership can be seen as attempting to reverse a position of strength across different sectors, although the company appealed the decision by the authorities and managed to attain more favourable conditions (see country report).

The Swedish market is characterised by several strong national players and the UK based Swedish channels (mentioned above) of SBS and MTG. The approach to regulating the market is quite liberal with cross media ownership only relevant within the radio sector, allowing companies like Bonnier to have interests in press (mainly), radio and television. Bonnier has also developed as a strong European player with interests in the publishing sectors in the Baltic States, Denmark and in Poland.
The media systems of Portugal and Greece are characterised by the dominance of about five national players. In the Portuguese case in particular, and due to the lack of cross-media ownership restrictions 5 companies have developed as multi-media players in all sectors of the media. Where foreign investment exists, and where these companies expand abroad, is limited to the natural linguistic partner of Brazil. In the case of Greece, despite restrictions in cross media ownership, a somewhat similar pattern has emerged. Publishing companies, which dominate press and magazine sectors, also co-operate with each other and jointly own one of the main commercial stations. Additionally, many of these companies have radio stations and are becoming more active in the new media sectors.

TABLE 9: MEDIA MARKETS IN MEDIUM SIZED EUROPEAN UNION MEMBER STATES (continued)

	RADIO		TELEVISION		PRESS			
Country	**Top companies**	**Foreign owners market share**	**National channels top companies**	**Foreign owners market share**	**Daily Press Top Companies**	**Foreign owned national press**	**Regional Press**	**Foreign owned regional press**
10-20m								
Netherlands 16m	PSB 31.1% Sky Radio 14% VRO 9.9% Wegener 7.4%	Sky: 14% RTL: 3.6%	NOS: 37.6% RTL: 27.4% SBS: 19.6%	RTL: 27.4% SBS USA: 12.3%*	PCM Uitgevers NV: 54.5% NVH De Telegraaf: 40.6%		Wegener NV: 52.2% NV H De Telegraaf: 22.6% NDC: 12.8% PCM: 11%	
Greece 10.6m	ERA PSB Private (Various)	n/a	Antenna S.A.: 20.7% Teletypos S.A:16.5% ERT PBS: 14.6% Alpha: 13.4% Alter: 12.8% Star: 11.6%	n/a	Lambrakis.: 23% Tegopoulos: 21% Pegasus : 19.6% Kathimerini: 13%	n/a	n/a	n/a
Belgium 10.2m	**Flanders** VRT PSB: 77% VMM: 9% **Walloon** RTBF PSB: 26.6% TVI SA: 16.6% Contact Group: 14.5%	**Walloon** RTL	**Flanders** VRT PSB: 41% VMM 29.7% SBS Belgium: 6% **Walloon** RTL: 24.4% RTBF PSB:18.7% YTV SA: 4.1%	**Walloon** RTL: 24.4% **Flanders** SBS: 6% **Foreign based channel share** **Walloon** TF1: 16.3% France Télévisions: 14.7% **Flanders** Nos: 4%	**Flanders** VUM Media: 36.4% De Persgroep: 32.5% NV: 20% RMG: 7.2% **Walloon** Rossel: 30.4% SA IPM: 25.8%		n/a	n/a
Czech Republic 10.2m	Czesky Rozhlas (PSB): 27.5% Londa Ltd 11.9%	Eurocast: 11.9%	TV Nova: 43.4% PSB: 31.1% Prima TV 20.1%		Ringier 485,344 Mafra A.S. (Rheinisch-Bergische Verlag 74%) 316,206 Borgis A.S.: 189,593 Rheinisch-Bergische Verlag: 77,558 Economia A.S. 77,195	Ringier 485,344 Mafra A.S. (Rheinisch-Bergische Verlag 74%) 316,206 Rheinisch-Bergische Verlag: 77,558 Economia A.S. 77,195	PNP/ Rheinisch-Bergische Verlag 462,647	PNP/ Rheinisch-Bergische Verlag 462,647

3.3 Large media markets in the European Union

The final group of countries (outlined in Table 9) are the five largest member states: four 'old' member states and the new member Poland. Characteristics of the landscapes of the larger countries include: a much lower level of foreign investment and ownership; transfrontier broadcasting is of minimal relevance; and these countries largely represent the home bases of the important European actors (with the exception of Sweden) in the other European Union countries.

Only in the Polish case is there a significantly high level of foreign involvement interest in the media sectors. In the radio market there is a small interest in the market, however most foreign investment has focused on the press and publishing sectors. The Public Service radio has a smaller market share than average (less than 25%). There are two major Polish owned Radio Groups who own a range of regional stations and between them have almost 50% of the market share. The rest of the market consists of companies of mainly foreign interests: American, French, German and British. The US company Cox enterprises has a share in Agora media one of the main publishers of daily press, and the Norwegian company Orkla Press, with its stake in Presspublica is a major player at both national and regional levels. Agora is involved in cross media ownership having 28 regional radio stations. Another actor in the regional press market is the German Passauer Neue Presse through its ownership of Polskapresse, with a market share of 43.7%. Hence, not only is the Polish press sector quite concentrated, but also dominated by foreign media companies. There are few regulatory controls of the Polish market, and like other former Soviet States Poland required a certain input of foreign capital when the market was liberalised.

There is some foreign interest in the Spanish market. The Italian company Mediaset has a 12% share of the television market through its interests in Grupo Telecinco, the strongest private company. The Italian publishing company RCS is the majority owner of Unidad Editorial, with a 7% market share. The German owned RTL, through its interests in the Antena 3 Group, has a 4% share of the television audience. Apart from this Spanish companies control the press sector in Spain, and given that there are no restrictions on cross media ownership, most of them are additionally involved in all sectors including radio, television, production companies, magazine publishing and Internet companies. Such is the case with Grupo Prisa, Vocento, Grupo Recoletos and Grupo Godó. The main media groups involved in broadcasting are comprised of different media companies (including those in the press sector, mentioned above): Grupo Telecinco, Antena 3 Group, and Sogecable. While some ownership restrictions exist regarding involvement in two television stations, or at the regional level regarding involvement in stations in overlapping regions, the lack of cross ownership restrictions allows companies to develop their interests across a range of partnerships and groups.

The Italian media system is controlled by Italian companies (aside from Satellite television). There are no cross media ownership restrictions between the radio and press industries and some of the same players have shares in both markets: Gruppo Editoriale Espresso and RCS. Italy is one of the few countries (alongside France) with ownership restrictions in the press sector (up to 20% of the national market, and up to 50% of the regional market). Hence the strongest players RCS, Gruppo Editoriale Espresso, Editirice La Stampa etc. do not have any dominance in the market (the two involved in the radio sector do, however have significant market shares there). The press is therefore considered to be relatively plural and diverse. The major issue in Italy is, of course, the television broadcasting sector. The Public Service Broadcaster, RAI, with a share of 49.5%, and the Berlusconi company Mediaset with a share of 41.3%, represent a highly concentrated television market, the effects of which have been described in detail here (see national report). The regulatory framework has provided two ways in which to reverse this situation of dominance. The holding of three terrestrial broadcasting licenses by Mediaset was declared as unconstitutional by the Constitutional Court. With the introduction of a new frequency plan, Mediaset (and also Group Canal Plus) were allowed to continue transmitting these additional analogue channels until 31st December 2003. A second issue concerned the dominance of Mediaset and RAI as regards their revenue from advertising (which should be limited to 30% for each). For the moment it has been established by AGCOM that the companies have a dominant position and should avoid abuse of this position, while further investigations into the market are being carried out.

However, the proposed Gasparri Bill will change these conditions. Regarding advertising the threshold is to be increased (now with a 20% limit) but will now refer to total revenues from all media markets (essentially a relaxation of the rule). Also the frequency plan, which limited the number of licenses, will now refer to digital rather than terrestrial television.

In the UK press sector four large companies dominate the daily and Sunday press markets: News International (News Corp), Daily Mail and General Trust (DMGT), Trinity Mirror and Express Newspapers. The strongest of these, in both sectors is News International, owned by the Australian/US media mogul Rupert Murdoch whose company also owns Sky Television, and has major interests in BskyB (as these channels are not terrestrial, there were no relevant ownership restrictions). Trinity Mirror press group is also the strongest actor on the regional press level with a 24% market share. Another important group is that of Associated Newspapers with a 23.5% market share in regional press. There have been several changes in cross media ownership rules that would now allow a major publishing company to buy a terrestrial channel such as Channel 5. Previous restrictions affecting mergers in the press industry have been removed, although the media law now requires a 'public interest test' to be carried out in relation to any major merger or cross media buyout in both broadcasting and press sectors. In the UK, the strongest players aside from the Public Service stations in the radio market (with 46% of the audience) are the GWR Group, Capital Radio, Scottish Radio Holdings, Emap and Chrysalis. Recent changes in the media ownership laws in the UK have essentially changed the television broadcasting landscape, where it could be argued that three pillars of broadcasting prevail: public service, the private sector with the new (almost singular) private ITV company, C4 and C5, and the system of pay television characterised mainly by BskyB. While the ITV network was originally made up of a variety of companies holding the 15 local licenses, continuous consolidation, and recent changes to ownership rules regarding ITV licenses, have resulted in the creation of one large company ITV plc (through the merger of Carlton and Granada), which now has eleven of these local channels.

Major foreign interest in the French media landscape is concentrated in the radio sector where the RTL Group has 18% of the market. RTL also (through its shares in M6) has a 6% share in the television market. Four strong players compete in the French radio market. Aside from the PSB (21.4%), there are the RTL Group, the NRJ Group (17.4%) and Lagardère Active (14.6%). Lagardère Active has radio interests in Poland (with the second commercial station). Lagardère Active is part of Lagardère Media a group that also includes the publishing group Hachette Filipacchi Médias one of the major players in regional press. French cross media ownership rules limit companies to operating in only two out of four sectors: radio, television, press and cable. The NRJ Group operates four radio stations in France and also owns stations in Austria, Belgium, Denmark, Finland, Germany, Norway, Sweden, and Switzerland. Regarding television there are two strong commercial players aside from the Public Service Broadcaster France Télévisions: TF1 Group and the M6 Group. Groupe Amaury, Socpresse (now Dassault) and Le Monde SA have between them almost 68% of the daily press market, and Socpresse has also an important position in the market for regional newspapers.

Due to the federal structure of the country, the German radio landscape is characterised by a division along federal and regional lines. In contrast to regional radio in the UK where there are radio groups who each exclusively own a large range of radio stations, in Germany the main media companies tend to share the ownership of radio stations throughout the country. Of these, three commercial players have the strongest position: RTL, Axel Springer AG and Hubert Burda Media Holding AG. Media ownership restrictions are based on the prevention of a dominant position. This is defined as 30% of the market share, which none of these companies reach. Additionally the share is reduced to 25% where a company has interests in another media sector. Again none of the companies reach these limits where Axel Springer has a 17% share of the radio market, and an almost 20% share of the press market, and RTL has an 18.5% share of the radio market, and a 21% share of the television market. Hence cross media ownership restrictions at the national level still allow for companies to have significant interests in several sectors. The ProSiebenSAT.1 media group has a significant number of foreign shareholders, who are brought together in German Media Partners, including several American investment funds. In the press sector where regional and local press has a significant place regarding total circulation of newspapers for dailies, Axel Springer Verlag, Zeitungsgruppe WAZ, Verlags Medien-union, and the Ippen Gruppe are the top players. As is the case with radio, many newspapers are not owned completely by any one group. Axel Springer and WAZ both have publishing interests in the Central and Eastern European markets.

3.4 Cable and satellite markets

With the structure of the cable and satellite markets, we can note that the markets in the fifteen countries differ due to the development of infrastructure (e.g. the Netherlands and Belgium have very high cable penetration levels while in Italy cable television is almost absent). The cable markets in most countries have gone through a series of consolidation in recent years mainly due to the costs for the sector of developing infrastructure (the UK, Poland, Ireland) with two main companies in Ireland, and the UK, three in the Netherlands and Spain, four in Germany (in the German case further consolidation has taken place in April), and five in Belgium. The cable markets of Latvia and Lithuania are still quite diverse without any major consolidations to date.

The US company Liberty Media has major interests in the cable market of Ireland and the UK, and in the Netherlands, Hungary, Belgium, and Poland (through UPC). Another US based company NTL is also a major operator in France, Ireland and the UK. The satellite sector in some cases poses a threat to cable operators with take-up of satellite television being quite high in France, the UK and Ireland. While in the UK, Ireland and more recently in Italy BskyB is the main player, in France there are two main companies.

TABLE 10: MEDIA MARKETS IN LARGE EUROPEAN UNION MEMBER STATES

	RADIO		**TELEVISION**		**PRESS**		
Country Population	**Top companies**	**Foreign owners market share**	**National channels top companies**	**Foreign owners market share**	**Daily Press Top Companies**	**Foreign owned national press**	**Regional Press**
55-85m							
Germany 82.4m	PSB: 27% RTL Group: 18.5%* Axel Springer: 17%* Hubert Burda: 11.5%*		PSB ARD: 27.7% PSB ZDF: 13.4% RTL: 21.3% Pro7/ sat1: 21.4%	US interest in Pro7/SAT1 (German Media Partners)	Axel Springer: 19.6%* Zeitungsgruppe WAZ: 5.1%* Verlags Medien-union: 4.7%* Ippen Gruppe: 3.4%*		No separate data
France 60.2m	PSB 21.4% RTL Group 18.2%* NRJ Group 17.4%* Lagardère: 14.6%*	RTL Group: 18.2%	PSB FT: 43% TF1 Group: 31.5% M6 Group: 12.6% Canal+ SA: 3.7%	RTL Group: 6%*	Amaury 25.2% Socpresse 23.27% Le Monde SA 19.45% Libération 8.4%	Pearson Group (UK) 6.6%	Groupe Ouest France Socpresse Groupe Sud Ouest Hachette Filipacchi Médias Groupe Est Républicain Centre France – La Montagne La NRCO
United Kingdom 60m	BBC PSB: 52.9% Commercial market GWR 26% Captial Radio 17% Emap 13%		PSB BBC: 37.8% Granada Carlton: 19.6% Channel 4: 19.4% RTL/UBM: 7%		News Corp: 32.3% DMGT: 20% Trinity Mirror: 15.2% Express Newspapers: 13.8%	News Corp: 32.3%	Trinity Mirror: 24% Associated Newspapers: 23.5%
Italy 57.9m	PSB 43.5% Gruppo Editoriale Espresso 20.7%* Finelco Holding 15.4% RCS Group: 5.08%		PSB RAI: 49.5% Mediaset: 41.3% La Siete: 1.29%		RCS: 15.2% Gruppo Editoriale l'Espresso: 8% Editirice La Stampa Spa: 5.39% Il Sore 24 Ore: 5.2%		
35-45m							
Spain 40.2m	PSB N/A Unión Radio 39.8% Antenne 3 16.9% COPE 12.3%		PSB RTVE: 30% Grupo Telecinco: 23.5% Antena 3: 22% Sogecable: 3%	Mediaset: 12.2%* Dresdner Bank: 6%* RTL: 4%*	Vocento 19.8% Grupo Prisa 16.8% Recolétos 10.8% Grupo Zeta 8.6%	RCS Italy: 6.6%*	No separate market data
Poland 38.6m	PSB 22.8% RFM 21.3% Eurozet 18.7%	Lagardere France Cox USA GWR UK German firms Total: 10%	PSB TP 54% Polsat 19.24% TVN 16.37% TV4 3.03%		Agora 17% Media Express 14%	Cox USA 9%* Orkla Press Norway: 3.5%*	Polskapresse: 43.7% (PNP Germany) Presspublica: 23.4% (Orkla Press Norway: 16.5%*)

*Shares in market adjusted for shares in channel or newspaper

3.5 Cross sector and cross national interests

The extent to which there are cross-media activities in the countries varies, and as mentioned above, in some cases has been limited through regulation. Certain desirable goals, or stated rules such as: 'two out of four' (sectors in France), 'three voices in local media' (the UK), prevention of 'exercise of dominant opinion-forming power' (Germany), 'no dominant position in mass communications in a given area' (Poland); alongside the specific threshold restrictions (Hungary, France, Netherlands, UK, Italy), or rules in licensing procedures in one or more sectors (Ireland, France, Germany, Sweden, UK) aim to prevent high levels of cross ownership. The lack of specific regulation in Estonia, Portugal, Poland, Latvia, Lithuania Luxembourg, and Spain, the relaxing of regulation in the UK, and the proposed relaxation of regulation in Italy will allow companies more freedom in this area.

Many major companies have significant cross-sector interests: NewsCorp (press, and broadcasting); Mediaset (television and publishing); Lagardère (radio and publishing); Agora Media (publishing and radio); Bertelsmann (publishing) and through RTL (television and radio); Axel Springer AG (radio and publishing); Independent News and Media (press, and recently divested cable interests); Bonnier (publishing, television and radio). Most of these companies operate at a European or international level. The development of such strong European companies is seen as an important deterrent to the dominance of US companies on the global market. However, at the level of national democracies it is important to establish and develop systems that can safeguard levels of pluralism and standards of information provision, both in the base countries of these companies and where they operate abroad.
Tables 11-12 provides an overview of the major companies (European and US) operating in the European Union countries in this report.

Table 11: Major companies operating in the 25 EU member states

Parent Company	Interests in other companies	Companies with shares in parent company	Subsidiaries	Media Markets in EU member states
Bertelsmann Germany	RTL Group 52% Random House Gruner und Jahr		RTL (Luxembourg) 52% **RTL Owned** RTL Klub 51% M6 48% Antene 3: 17% C5: 66% Népszabadság RT:17% Gruner und Jahr	**Radio** Belgium, France, Germany, Luxembourg, Netherlands **Television** Belgium, France, Germany, Hungary, Netherlands, Spain, United Kingdom **Press/ publishing** Hungary, Poland, Germany
Bonnier Sweden	Alma Media (Finland) 26.8%		AS Diena: 83.5%	**Radio** Sweden **Television** Sweden, Finland **Press/publishing** Sweden, Latvia, Finland, Poland, Lithuania
CanWest Global Communiactions Corp (Canada)	SBS Broadcasting: 7%		UTV TV3: 45%	**Television** Ireland United Kingdom
Central European Media Enterprises (Bermuda)		Lauder Family 100% (A) voting shares	Pro Plus 97%	**Television** Slovenia Slovakia
Fininvest Italy	Mediaset 48.36% Mondadori	Berlusconi Family 96%	Grupo Telecino: 52% Il Giornale	**Television** Italy, Spain **Press/ publishing** Italy
Lagardère Media France	Hachette Filipacchi Médias		Hachette Filipacchi Médias	**Radio** France, Poland, Czec Republic **Publishing** France **Satellite television** France
Liberty Media US	Discovery Communications: 50% Discovery Channels: 100% AOL Time Warner 4% News Corp 24% Viacom: 1% Vivendi Universal: 4% SBS Broadcasting 21%		UnitedGlobalCom 51%	**Cable** **UPC** Austria, Belgium, Netherlands, Hungary Poland, France, Czech Republic **Liberty Media** Ireland UK (Telewest)
Modern Times Group (Swedish owned, UK based)		Invik 9.3% Kinnevik 7.5% SEB 6.8% Emesco 5% 4th AP-Fund 4.9% Robur 4.2%	Viasat 3 TV3	**Radio** Latvia, Sweden **Television** Latvia, Lithuania, Sweden

Table 12: Major companies operating in the 25 EU member states (continued)

Parent Company	Interests in other companies	companies with shares in parent company	Subsidiaries	Media Markets in EU member states
News Corporation US	Fox Entertainment Fox Broadcasting	Liberty Media: 24%	Sky Italia: 80% BskyB: 35% Sky Radio 93% News International	**Satellite Television** United Kingdom Ireland, Italy **Press** United Kingdom Ireland **Radio** Netherlands
Orkla Press Norway	Schibsted 3.3%		Presspublika: 51%	**Press / Publishing** Poland, Lithuania Sweden
Passauer Neue Presse Germany				**Press / Publishing** Czech Republic, Poland, Germany
Ringier Switzerland				**Press / Publishing** Czech Republic, Hungary, Slovakia
SBS Broadcasting US (Luxembourg)		UnitedGlobalCom 21% Janus Capital: 7.3% EnTrust Capital: 7.2% CanWest Global Comm Corp: 7.1%	SBS Broadcasting BV: 63% TV2: 49% Kanal 5	**Radio** Sweden **Television** Belgium, Hungary, Netherlands, Sweden
Vivendi Universal	Universal Pictures Universal Music Group Universal Studios Canal+ (51%)		Canal + (51%) **Canal+ owned** Canalsatellite: 66% Sogecable: 16.38%	**Television** Belgium **Satellite Television** Netherlands, Spain France **Cable** France, Spain
West Allgemeine Deutsche Zeitung Group Germany	20% share in BWTV a shareholder in RTL Group			**Press / Publishing** Germany, Poland

4. Comparative overview and assessment of frameworks for the protection of media pluralism

The following assessment is based on the data presented in the previous pages, data from other reports, and supplemented by responses to questionnaires sent to a range of media experts in the 25 member states.[517] Additionally, (and indicating the importance of the current debate on these issues) the project manager had the privilege of taking part in several meetings and workshops related to the issue of media concentration.

This included a European Parliament hearing: *'Threats to Pluralism - The need for measures at the European level'*[518] which was attended by experts and representatives from the media industry. A series of workshops are being held in the Baltic states focusing on the issue of '*Media Concentration and the regulation of cross-ownership*' supported by the European Commission DG for Enlargement, the first of which was attended by the project manager in Vilnius.[519] A workshop was also held in Bled in Slovenia to launch the publication of research into '*Concentration of Media Ownership and Its Impacts on Media Freedom and Pluralism*'[520] jointly organised by the Media Division of the Council of Europe and the South-East European Network for Professionalisation of the Media (SEENPM), which was attended by media experts, and media professionals. This work examined the situation in East and South Eastern Europe. The Council of Europe also co-organised a Round Table Discussion on the issue in Croatia in 2003.

The concern regarding media concentration and consolidation and the potential impact on journalism, on media freedom, and on pluralism is further indicated by the work of the European Federation of Journalists and the research that the EFJ carries out in this area, particularly reports from 2002 and 2003.[521] Another focus on the impact on the work of journalists was addressed by a report published in 2003 by the Representative on Freedom of the Media of the Organisation for Security and Co-operation in Europe (OSCE).[522] At the end of 2003, the Ministry of Justice of the Government of Austria also organised a workshop on the regulation of media concentration.[523] More recently the Dutch media regulator the Commissariaat voor de Media initiated a comparative study into levels of media concentration in certain European states.[524] While research and analysis of the market situation, the legal frameworks and also the potential and various impacts of media ownership structures are stemming from different sources, with possibly different agendas, it is noteworthy the extent of current research, concern and debate in this area.

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517 Direct quotes will be directly attributed to respondents.

518 Committee on Citizens' Freedoms and Rights, Justice and Home Affairs. Thursday, 19 February 2004, 3 p.m. - 6.30 p.m. Rue Wiertz, 60. Paul-Henri Spaak Building, Room PHS 1A002.

519 TAIEX Office of DG Enlargement of the European Commission in co-operation with Radio and Television Commission of Lithuania, National Broadcasting Council of Latvia, Estonian Broadcasting Council and European Institute for the Media Vilnius, 13 –14 May 2004.

520 Conference took place 11-12 June 2004. Organised by the Media Division of the Council of Europe and the South-East European Network for Professionalisation of the Media (SEENPM), to present work from the SEENPM project on media ownership, led by the Peace Institute Ljubljana. Research supported through the Stability Pact Programme by the Media Division of the Council of Europe. The funding for the Council of Europe programme is provided by the governments of Italy, Luxembourg, the Netherlands and Norway. The SEENPM media ownership project is funded by the Open Society Institute, the government of Denmark and the Guardian Foundation.
See: http://www.mirovni-institut.si/media_ownership/conference/about.htm

521 See the website of the European Federation of Journalists for reports *European Media Ownership: Threats on the Landscape* and *Eastern Empires: Foreign Ownership in Central and Eastern European Media: Ownership, Policy Issues and Strategies*:http://www.ifj.org/default.asp?Issue=OWNER&Language=EN

522 OSCE Representative on Freedom of the Media (2003): The Impact of Media Concentration on Professional Journalism. OSCE: Vienna 2003. Available online: http://www.osce.org/documents/rfm/2003/12/1715_en.pdf

523 International Media Symposium 2003: Media Concentration and Control Mechanisms in Europe: Legal Facts – Legal Instruments – Legal Professions. October 27th and 28th, 2003, Vienna. Proceedings online: http://www.bmj.gv.at/aktuelles/download/medenq2004_vortr_engl.pdf

524 See study by David Ward and the Commissariaat voor de Media, available under: http://www.mediamonitor.nl/HTML/documents/Ward-webversie.pdf

The authors, in this section, have grouped various countries together in a general sense, which corresponds to both a geographical placement and also perhaps a philosophical approach to the issue of media pluralism. Within these categorisations we do recognise and note the distinctions between the countries, which are of course outlined in detail within the country reports presented earlier.

Nordic states- little regulation- plural media?

Certain countries have no/ or very few media ownership restrictions, where media experts, regulators, government and industry are, in general, content with the status quo.[525] Examples of this are the Nordic countries: Finland, Sweden, Denmark, (and also Norway). In these states emphasis is always placed on the role of government subsidies (either production or distribution), which serve to maintain a plural press system. This was also the type of response we was also frequently received in our questionnaires. One response from Denmark noted some threats to the pluralism of radio. Also most electronic media tended to be local, and until 1997 in the Danish case networking between companies was forbidden. This was liberalised in 2002, and local radio is now controlled by large networks.[526] A similar concern was expressed regarding the growing tendency for the development of networks between local radio stations in Finland. Swedish local radio already takes the shape of several large networks.

The media sectors in these countries tend to be highly concentrated. In Finland the Public Service Broadcaster dominates Broadcasting. Two commercial companies dominate the press sector, while also being important players in the television and radio sectors. In Denmark the Public Service Broadcaster is also dominant in broadcasting, while there are other players in the market. In the press sector two companies have a combined share of over 70% of the market. In the Swedish market the Public Service Broadcaster is also very strong, with 3 or so major player in the television and press sectors. Perhaps it is the strength of Public Service broadcasting coupled with subsidies for the press that allows the Nordic states to feel secure in the safety of plural media systems. Some concern is expressed over the potential impact of further consolidation. Although it is argued that owners may not actually interfere with the editorial line of individual newspapers, the business decisions to streamline outlets have the exact impact of reducing the number of voices in the media.[527] The Nordic states are home to some of the major companies active on a pan-European level: Bonnier, Modern Times Group, Schibsted and Orkla Media.

Two non-EU Nordic states have, however, attempted to address the issue of media concentration. In Norway the Media Ownership Act of 1997 set up the Media Ownership Authority to supervise acquisitions of newspaper and broadcasting enterprises: The authority should intervene against an acquisition if the person acquiring the ownership interest has or gains a significant ownership interest (1/3 of the market) in the national, regional or local market (Gramstad 2003).

In Iceland the government this year (2004) tried to address the issue of media concentration. They proposed legislation that would set limits on media ownership due to consolidation of media corporations to prevent companies from owning both newspapers and television/radio stations. The Baugur Group inc. which has, through Northern Lights, substantial interests in newspapers, television and radio, accused the government of violating constitutional rights.[528] Baugur also has a 51% share in grocery retailing in Iceland, and the new law would force it to split up the Northern Lights company. The President of Iceland refused to pass the Bill, which will now apparently be voted on by referendum. The Prime Minister of Iceland claimed the President's decision was due to the political connections between the company and the president.[529]
According to responses to our questionnaire attempts to regulate media ownership in the EU Nordic states would threaten the freedom of establishment of media enterprises, and may threaten the

[525] Response from Finnish ministry and Swedish regulator.
[526] Danish regulator
[527] Danish regulator
[528] EJC Media News Archive Source http://www.frett.is - frett.is/mbl.is/ruv.is April 26, 200
[529] EJC Media News Archive, June 03, 2004 and EJC Media News Archive, June 04, 2004

existence of smaller outlets, which could not perhaps survive without being part of a larger company. However, as noted above, there are some concerns regarding the long-term impact on pluralism in terms of diversity of content with the consolidation of local media.

Baltic States –East meets West

The Baltic States, in terms of geography, sometimes language (Estonia and Finland having some common linguistic links), and now media actors, are in many ways linked to their Nordic neighbours. Furthermore, much is made of the take off of new technology in the Baltic States and the high levels of Internet penetration and use, which also aligns them with their Nordic neighbours. Just like in Sweden and Norway, many of the important companies in the Baltic States are Swedish and Norwegian (Bonnier, Schibsted and the Modern Times Group). Some of the respondents to our questionnaire from the Baltic states, where media ownership regulation is also minimal, felt that the protection of the freedom of speech in the constitution coupled with the provision of media for both local and Russian language communities was adequate for protecting media pluralism.[530] Others expressed concern regarding what this situation of having no antitrust legislation may mean for the future, and for future consolidation. Public Service Broadcasting radio companies are reasonably strong in Estonia, Lithuania and Latvia, with each having several competing commercial actors in the radio sector. The Public Service television stations are, however, not as strong as those of the Nordic neighbours, and usually the most important channels are commercial. The situation is particularly difficult for the PSB in Lithuania. In the press sector there are a variety of players, of which in Latvia and Estonia the dominant are Nordic companies. There still exists a limited form of subsidy support for publications, more particularly cultural products, in these states. It was noted above that owners might not actually interfere with the editorial line of individual newspapers. This is certainly the philosophy that the Nordic companies (and also the German companies in Eastern Europe) bring with them to explain their positive impact on local media environments.

> *Orkla Media is dedicated to defending freedom of speech, freedom of the press, freedom of information and the values of democracy. Orkla media respects, within this framework, the identity and local traditions of its publications and, regardless of ideology, defends and supports their freedom and independence.*[531]

The question that needs to be addressed is that of the impact that the business decisions to streamline outlets have on reducing the number of voices in the media. As outlined earlier (section 2) there are very limited provisions for controlling media concentration in the Baltic States.

Central Eastern Europe – the battle of models and interests

Alison Harcourt (2003) examined the way in which models of media regulation developed in Central and East European states, outlining the role of Western governments, Western companies, international organisations and Western NGOs in this process. Similar to the Baltic States a rapid transition was needed to separate media and the state, to privatise, to regulate and to incorporate EU legislation. It is noted by many media experts the difficulties experienced in trying to regulate for freedom and independence while at the same time regulating market structure, and regulating for the opening of markets for EU membership.[532] The different policy goals and agendas have made the introduction of media legislation rather complicated and controversial in these states. It is this experience rather than the end result of the regulatory process that justifies grouping these states together (Czech Republic, Hungary, Poland, Slovakia and Slovenia). Additionally, in all cases there is an ongoing problem with supporting pluralism through funding:

> *"In Hungary, unlike in the Scandinavian and Latin countries, there is no press fund to subsidies loss-making political newspapers. Many newspapers, new and old, have ceased*

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[530] Latvian Academic response to questionnaire.

[531] Stig Finslo Director of Orkla Media Norway Speaking at Bled conference on "Impact of media ownership and concentration on diversity and independence of the Media" June 11-12 2004.

[532] For example Harcourt (2003), Jakubowicz (1996, 2003 etc.), Hrvatin and Petkovic (2004).

publication in recent years. Similarly, the public service media are permanently under funded which gives way to political pressure.”[533]

“In Poland, moreover, public media, and especially public television, receive inadequate public funding, with obvious consequences for their ability to defy popular tastes and add to pluralism of content in full measure”.[534]

It is clear that the issue of the status of public service television broadcasting in these member states and indeed in the Baltic states has in no way been resolved. On the other hand, similar to the Baltic States, the Public Service Broadcasting radio companies of the Czech Republic, Hungary, Poland, Slovakia and Slovenia have a reasonably strong audience share with several competing commercial actors in the radio sector.

Hungary, Slovakia and Slovenia have at this point detailed regulation dealing with the issue of media concentration: each have rules regarding both horizontal and diagonal media concentration. The Czech Republic framework restricts horizontal concentration but not cross media ownership. The largest of these countries, and indeed the fifth largest country of the EU, i.e. Poland, has no restrictions on media ownership.

The experience of these countries also implies that other (related) issues are of concern to media professionals, policy-makers and academics. Journalists and other media organisations are still striving for full independence, and for full professionalisation. Ownership of the media whether foreign, political or industrial inhibits many of these developments.

North European approach – with slow de-regulation?

In this group we will loosely associate the Germany, United Kingdom, the Netherlands, Belgium, Luxembourg, Austria and Ireland. Already, one can note that of these countries the UK, Ireland, Austria and Germany are the only EU member states where competition policy treats the media sector as an industry with special significance for society and hence enacts a different process for regulating mergers and concentrations. The countries each have very strong Public Service Broadcasters (like those of the Nordic states), which in the case of Ireland, and more particularly Austria, is largely due to a very late move to opening the market to commercial broadcasters.

Of these Germany and the UK are two of the core states of the European Union with the largest populations, and the home base of many of the important pan-European media companies. While both have relatively plural media systems certain concerns are expressed regarding future development and also the slow process of de-regulation. The UK has recently relaxed rules, while proposed changes in German competition law will raise thresholds, allowing more consolidation in the press and publishing sector.[535] Concern was also expressed by UK respondents (to the questionnaire) regarding the functioning of the new integrated regulatory authority:
“OFCOM is overly subject to regulatory capture by the largest groups and its mandate does not encompass public interest regulation.”[536]

In the Dutch case, where there is a particularly highly concentrated press market, there is pressure to increase regulation in the media field. The new Austrian regime represents a comprehensive approach to regulation of the media sector, (mainly through licensing) but the Austrian media market is (as noted earlier in section 3) already a highly concentrated market. The Belgian law, regulating two communities, regulated by two separate authorities has a rather minimal approach to ownership regulation that also operates mainly through the licensing system in broadcasting. In Ireland the licensing of private broadcasting has also been the prime method of control of media ownership.

533 Peter Bajomi-Lázár in response to questionnaire.
534 Izabella Chruslinska in response to questionnaire.
535 German media regulator response to questionnaire.
536 Alison Harcourt response to questionnaire.

Regarding the Irish case, it is felt that, at least in principle that issues of media pluralism are addressed through legislation and through monitoring of the market situation by authorities.[537] But weaknesses exist in the structure of regulation. Only a situation where subsidies allowed greater access for people could the situation be improved, while the Internet perhaps has a role to play in enhancing pluralism.[538] Luxembourg is another example of a very small state, one with not only a very highly concentrated media sector, but also a very limited media sector that relies heavily on the import of foreign broadcasting. Luxembourg only has ownership restrictions relating to radio.

On the whole, this group of countries display an adequate system for the regulation of markets. However, the tendency to de-regulate, the consolidation in industries which are free of regulation (such as the German cable market, or the Dutch press sector) are issues of concern for practitioners and academics. Additionally, while there are few ownership links between politicians and the media (unlike in other states, excepting that of the German SPD), there are obvious relationships between politicians and the media. The influence gained by press owners such as Rupert Murdoch on political life in the UK, and also in Ireland is well documented.

Also, and particularly in the case of larger countries, where media companies can extend their growth to new markets, there is a concern regarding the impact that freedom at home will have on the activities of countries abroad:

> *"The UK has also created many problems for other EU Member States. Like most countries, market liberalisation has always come from demands from domestic economic actors which wished to expand, however domestic politics has spilled over and effected politics abroad."*[539]

A final issue raised, particularly by journalism organisations, is the tendency for foreign companies to have different standards of employment for workers in their host countries, than for those at home.

Continental Europe and constitutional traditions

The placing of this last group of countries (France, Italy, Spain, Malta, Cyprus, Greece and Portugal) together is partly for convenience and partly as many similar patterns and approaches have emerged in the research. In several cases a range of laws exist which deal with the issue of media ownership, which is further enhanced by constitutional case law (we also note the role of the Constitutional Court in the German case).

Spain, Greece and Portugal have some recent experience in common with many of the new member states. Only in the 1970s have these countries become democratic states. Part of the democratisation process involved the development of more voices in the media. In most cases large media actors have developed since this time, and there are strong links between media ownership, politics, and industry, as is the case with Italy. The links between media companies and large industry is also an issue of concern in France.

Malta and Cyprus (two countries whose size is comparable to Luxembourg) both have systems that try to limit ownership concentration, and indeed have a wider range of outlets than Luxembourg given their size. The ownership of media outlets (radio in Cyprus and radio, television and press in Malta) by political parties has developed partly through the wish to increase pluralism and partly due to lack of capital being available elsewhere.

Italy, France and Greece are the only three countries with specific limitations in the field of press ownership. In France and Greece this implies a limitation of share capital, while in Italy this is limited by market share. The Greek approach to the regulation of media market has other parallels with France through the approach to cross media ownership with a 'two out of three' rule, where France has a 'two out of four rule' regarding a company's involvement in various media sectors.

[537] Irish academic response to questionnaire
[538] Irish academic response to questionnaire
[539] Alison Harcourt (UK) response to questionnaire.

Spain and Portugal have no cross media ownership limits, which has resulted in the growth of multimedia companies. However, despite the legislation in Greece, this is also the case. It has been well documented in the report on Italy that despite a legislative framework, the efforts of monitoring authorities, the rulings of the constitutional court, and the wishes of a President, there are no guarantees that pluralism can be ensured or protected.

With the last example, Portugal, the research has shown that there are no media ownership limits, aside from a limitation of one terrestrial television license, and there currently is little of a system to assess While the Portuguese system is severely lacking in both legislation and monitoring authorities, recent developments show a move to alter this situation. A new competition authority has been set up, and a new media authority is expected to be launched by the end of 2004. In the meantime the status quo of the market reflect the presence of five strong fully integrated multimedia companies, a situation which would be very difficult to reverse.

> *"Probably, the greatest threats are the development of cross-media concentration strategies by large conglomerates, both private and state-run, and the trend to mass market-orientated programming and editorial criteria. This last one has been responsible for the development of a renewed taste for sensationalism in journalism and the current total domination of both radio and TV programming by imported contents."*[540]

Conclusion

As François Jongen[541] notes: "L'indépendance ne se décrète pas, elle se démontre."
It should be apparent for anyone who has read through the information provided in this report that not only are the media systems, and legal frameworks different in the member states, but the problems and concerns are also varied, and there exists no 'perfect system.' However, the fact that there are problems with the state of media pluralism and the citizen's right to be fully and objectively informed in all member states is clear. In some cases the conflicts of interest are extremely explicit, in others they are far more subtle. While our survey of experts cannot be considered comprehensive, the majority of respondents believed that the European Union had, not just a role, but also an obligation, to act in this area. It is clear given the differences outlined in this analysis, and also from the responses of experts, that an attempt to harmonize or initiate legislation from the 'top' (EU level) was neither workable nor desirable. There is however, a call for the EU to implement a framework directive that would enshrine certain principles at the EU level particularly given the constitutional base of Article 11.

In this context there are certain remedies that make sense, which come through from this research and have been put forward by other organisations, networks, journalists etc that would serve to support what is a very active civil society in each of the member states. Additionally principles, which oblige member states to protect pluralism, to ensure transparency, and support the work of relevant authorities, would provide a system of redress for organisations and individuals at the European level. The principle of equal treatment for men and women was also once an idea lying dormant in an EEC treaty until pressure came from the 'bottom up' to initiate a framework that would ensure this.

The following recommendations put forward some principles that should form part of the obligations on national member states regarding the protection of media freedom and pluralism. Additionally other proposals here recommend further research or co-operation that could be supported by the EU in this area.

[540] António Moreira Teixeira (PT) response to questionnaire.
[541] Jongen, François, La police de l'audiovisuel, Analyse comparée de la régulation de la radio et de la télévision en Europe, Bruylant, LGDJ, 1994.

5. Recommendations[542]

Based on the findings of an investigation into the systems of the European Union Member States and taking into account research findings, declarations and recommendations published/adopted by a range of international organisations and bodies, we make the following recommendations:

Regarding Freedom of Information and Freedom of the Media:

- Member States should weigh carefully the balance between the right of establishment of media enterprises, and that of pluralism of opinion, in order to ensure that a wide range of diversity and pluralism of opinion exists in the media (in line with the interpretation of the ECJ).

- "Statutory defence and protection of citizens' rights to freedom of information and the right to know" (European Federation of Journalists; 2002). To this end the EFJ/IFJ recommends the adoption of a European Freedom of Information Act based on the Swedish (or US) model.

- An alternative would be the adoption of appropriate systems of access to information at the national level, which most countries, but not all, have implemented. Financial charges for this system are seen as a hindrance to freedom of information.

- In order to ensure editorial freedom for journalists, the introduction of editorial Statutes should be stimulated aiming at providing journalists protection from interference in content and editorial decisions.

- Self-regulation for the press connected with the establishment of an independent body such as a Press Council is necessary to uphold standards of journalism. The journalism unions of all the Member States, as well as their European and International associations and federations all have codes of ethics. Not all countries have a Press Council or other body to arbitrate these issues and some are more effective than others.

- Fundamental to a solid tradition of ethical journalism are the working conditions of media professionals. It has frequently been noted in this report that the working status, payment and rights of media professionals are not always secured in many of the EU member states. "Media companies should be aware of their important role in society and adopt a socially responsible policy, in line with international conventions and core labour standards. This policy should be focussed on developing freedom of expression, training and improving working conditions of media professionals."[543]

Regarding Media Ownership Regulation and Protection of Pluralism:

- In preparing this report the authors noted the difficulty in finding clear and comparable data regarding circulation and audience figures, which in some countries are far more comprehensive than others. To this end we echo the recommendation of the Council of Europe (2003:22) to encourage the development of 'an up-to date collection and public access' to such information in all member states (current and new).

- On a related issue, the transparency of ownership and interests held by companies in media outlets varies widely between states and again we would repeat the recommendation of the

[542] Many of these recommendations formed part of *the Resolution on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of foundamental rights*, 22.04.2004, report A5-0230/2004 by J.Boogerd-Quaak.
[543] Conclusions and Recommendations Concentration of Media Ownership and its Impact on Media Freedom and Pluralism, Regional Conference, Bled, Slovenia, 11-12 June 2004

Council of Europe (2003:22): 'an up-to-date collection and public access to economic information on providers and operators (turnover, audience share, etc.) are absolutely necessary. Only on the basis of appropriate data is it possible to determine if media pluralism is vibrant or endangered.'

- As further noted by the participants in discussion groups dealing with media pluralism, mentioned above, such "measures should be based on the principle of open access by the public to accurate information in order to know who owns and controls the media. These measures should enable the competent authorities to make accurate assessments of the media markets and the impact of concentration of ownership on media pluralism."[544]

- The establishment of an Observatory focusing on media markets and concentration, with the provision of a data-base of information on EU member states, would go a long way towards providing such transparency and enhancing national systems of regulation. The majority of respondents to the survey on media pluralism were in favour of this idea, which would also be of benefit to the various national authorities dealing with these issues.

- Competition Policy should recognise the specific cultural and democratic importance of the media industries as opposed to other industries when examining merger and acquisitions. An assessment of the UK 'public interest test' and its application, or the assessment of other systems dealing with the impact of ownership changes on pluralism, would be useful as a step in this direction.

- However, taking into account the fact that a competition law approach alone is not sufficient in order to safeguard media pluralism, sector-specific media ownership regulations are necessary as also supported in the CoE Report on Media Diversity in Europe of December 2002.

- The media legislation of several countries, while having broad principles regarding the prevention of a dominant position in the mass media, often have no thresholds or measurements within which to assess this dominance. Such a lack of definition provides no sure way of preventing concentration and consolidation.

- At the national level monitoring of media concentration should be supported as part of the remit of the Broadcasting regulatory authorities (such as is the case in the Netherlands) or specialised authorities (such as the Norwegian Media Ownership Authority).

- Regarding internal pluralism certain regulations are in place, which are intended to guarantee pluralism of opinion and information during elections. Additionally, the licensing of commercial enterprises in certain countries place some programming obligations on the media outlets. This could be considered more widely in member states of the EU as a means to enhance pluralism.

- While noting the frequent need for consolidation and or co-operation between local media in order to preserve a diversity of outlets, this process should be regulated to ensure such co-operation does not lessen the diversity of content and opinion in local media.

- We recommend that the EU support and initiate studies to take a close look at what is actually happening to local media. Is consolidation necessary for small outlets to survive? Does Government support provide an alternative approach? What is the real effect of consolidation upon the range of content, information, voices and opinions at the local level?

[544] Conclusions and Recommendations Concentration of Media Ownership and its Impact on Media Freedom and Pluralism, Regional Conference, Bled, Slovenia, 11-12 June 2004.

- Also the encouragement of research and studies examining levels of internal pluralism and the impact of ownership, or political influence on content, would serve as a useful starting point for assessing the impact of ownership on the national systems.
- One major contributor to the pluralism (both cultural and political) of the media landscapes, due to the Public Service Remit is the national Public Service Broadcaster. A strong, independent and financially secured Public Service Broadcasting should be supported in all EU member states, in particular in the new digital environment.

- In the Digital television environment, given that in most countries there are no rules on vertical concentration, vertical integration should be closely monitored so that access of content suppliers/broadcasters to main platforms would be ensured.

Annexe 1: Main Sources of Information and References

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Danish Press Council http://www.pressenaevnet.dk/
Estonian Council of the Public Word: http://www.asn.org.ee/
Estonian Newspaper Association: http://www.eall.ee
Journalism Codes: Databank for European Codes of Journalism Ethics – EthicNet: www.uta.fi/ethicnet/
German Journalists Association: http://www.djv.de
German Press code: (Pressekodex): http://www.djv.de/downloads/pressekodex.pdf
National Federation of the Italian Press (Federazione Nazionale della Stampa Italiana): http://www.fnsi.it/
The Institute of Maltese Journalists (IMJ): http://www.maltapressclub.org.mt/
Press Council in the Netherlands (Raad voor de Journalistiek): http://www.rvdj.nl/
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The National Union of Journalists of Britain and Ireland http://www.nuj.org.uk

UK Press Complaints Commission: http://www.pcc.org.uk

Regulatory Authorities, Ministries, Competition Authorities, Sources for Legislation

Austria

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Vlaams Commissariaat voor de Media (Flemish Community): http://www.vlaamscommissariaatmedia.be

Cyprus

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Competition Authority: http://www.competition.gov.cy/
Competition Law:
http://www.competition.gov.cy/competition/competition.nsf/All/04D13351C652079BC2256C8E003CD9A3/$file/22%20%C9%2099._English_Text.pdf?OpenElement
Data from AGB Cyprus: http://www.agb.cy

Czech Republic

Charter of Fundamental Rights and Basic Freedoms,
http://www.mdac.info/region/czech/CZ_RESOLUTION.doc
Constitution of the Czech Republic, http://www.concourt.cz/angl_verze/constitution.html
German Version: http://www.verfassungen.de/cz/verf93.htm
Law on free access to information,
http://www.ijnet.org/FE_Article/MEdiaLaw.asp?CID=115659&UILang=1&CIdLang=1
Journalism Codes: http://www.ijnet.org/
Code of Ethics from the Czech Syndicate of Journalists: http://www.uvdt.cz/english.htm
Office for Protection of Competition: http://www.compet.cz
Council for Radio and TV Broadcasting of the Czech Republic: http://www.rrtv.cz/en

Denmark

Danish Constitution: http://www.grundloven.dk/. In English: http://www.oefre.unibe.ch/law/icl/da00000_.html.
Freedom Of Information Laws: http://www.retsinfo.dk/_LINK_0/0&ACCN/A19941131514.

Media Liability Act: http://www.pressenaevnet.dk/lovgivning/medieansvar.html.
Radio and Television Act: http://www.retsinfo.dk/_LINK_0/0&ACCN/A20020105230.
Competition Law: http://www.retsinfo.dk/_LINK_0/0&ACCN/A20020053929;
Competition Law in English http://www.ks.dk/english/competition/legislation/comp-act539-02/.
Radio and Television Board: http://www.mediesekretariatet.dk/mediasecretariat.htm

Estonia

Ministry of Culture: http://www.kul.ee/
Estonian Broadcasting Council: http://www.rhn.ee/e_main.htm
Constitution of the Republic of Estonia, http://www.oefre.unibe.ch/law/icl/en00000_.html
Public Information Act: http://www.legaltext.ee/text/en/X40095K2.htm
Code of Ethics, http://www.asn.org.ee/english/code_of_ethics.html
Broadcasting Act of 19 May 1994, as last amended by Act of 29 January 2002:
http://www.rhn.ee/dokumendid/seadused/seadusandlus_eng/Broadcasting%20Act.pdf
Competition Act, http://www.konkurentsiamet.ee/eng/dokumendid/compet.pdf
Cable Distribution Act, http://www.esis.ee/legislation/cable.pdf

Finland

Ministry of Transport and Communications: http://www.mintc.fi/www/sivut/english/tele/massmedia/index.html
Finnish Communications Regulatory Authority: http://www.ficora.fi/englanti/index.html
Finnish Competition Authority: http://www.kilpailuvirasto.fi/cgi-bin/english.cgi
Constitution of Finland, http://www.finlex.fi/pdf/saadkaan/E9990731.PDF
German version: http://www.finlex.fi/pdf/saadkaan/S9990731.PDF
Act on the Exercise of Freedom of Expression in the Mass Media (460/2003), http://www.webfact-test.de/epi_research/doc/9122683e62299c328ff6b221daed9557.pdf
Act on the Openness of Government Activities, No. 621/99, http://www.om.fi/1184.htm
Decree on the Openness of Government Activities in the Information Management, No. 1030/1999, http://www.finlex.fi/pdf/saadkaan/E9991030.PDF In German: http://www.finlex.fi/pdf/saadkaan/S9991030.PDF
Personal Data Act (523/1999), http://www.tietosuoja.fi/uploads/hopxtvf.HTM
Code of conduct: http://www.jsn.fi/english/guidel.html
Act on Television and Radio Operations,
http://www.mintc.fi/lvm_old/data/www/sivut/english/tele/massmedia/1998_744.htm
Communications Market Act,
http://www.mintc.fi/www/sivut/dokumentit/viestinta/tavoite/communications_market_act.pdf
Act on Yleisradio OY, Section 12a: http://www.mintc.fi/www/sivut/english/tele/massmedia/yle_legisl.htm
Act on Competition Restrictions, http://www.kilpailuvirasto.fi/cgi-bin/english.cgi?luku=legislation&sivu=act-on-competition-restrictions-amended

France

Declaration on Human Rights: http://www.elysee.fr/ang/instit/text1.htm
Conseil Supérieur de l'Audiovisuel – CSA: http://www.csa.fr
Competition Authority (*Conseil de la concurrence*): http://www.conseil-concurrence.fr/user/index.php
Legal texts: http://www.legifrance.gouv.fr

Germany

Direktorenkonferenz der Landesmedienanstalten – DLM: http://www.alm.de
Federal Cartel Office: http://www.bundeskartellamt.de
German media concentration regulator KEK www.kek-online.de
German Basic Law, available from: www.bundestag.de/htdocs_e/info/gg.pdf
Act Against Constraints on Competition, available from http://www.bundeskartellamt.de/GWB_E.PDF

Greece

Greek Constitution of 1975, as amended in 2001. Available from:
http://www.oefre.unibe.ch/law/icl/gr__indx.html
Ministry of Press and Mass Media: http://www.minpress.gr/web/mmedia/2.htm
Greek media data: Media Net: http://www.media.net.gr

Hungary

The Hungarian Radio and Television Commission (ORTT): http://www.ortt.hu

National Communications Authority: http://www.nhh.hu
Constitution of the Republic of Hungary, http://www.kum.hu/Archivum/Torvenytar/law/const.htm
Act LXIII OF 1992 : http://www.obh.hu/adatved/indexek/AVTV-EN.htm

Ireland

Broadcasting Commission of Ireland: http://www.bci.ie
Irish Ministry for Communications, Marine and Natural Resources: http://www.marine.gov.ie/
Irish Statute Book Online for legislative Acts: http://www.irishstatutebook.ie
The Constitution of Ireland: http://www.oasis.gov.ie/government_in_ireland/the_constitution

Italy

Autorità per le Garanzie nelle Comunicazioni, AGCOM: http://www.agcom.it
Italian Competition authority (*Autorità Garante della Concorrenza e del Mercato*): http://www.agcm.it/
Constitutional Court: http://www.cortecostituzionale.it/
Italian Constitution: http://www.senato.it/funz/cost/home.htm
Italian Parliament legal database: http://www.parlamento.it/parlam/leggi/elelemat.htm
Freedom of Information Laws:
http://www.governo.it/Presidenza/DICA/documentazione_accesso/normativa/legge241_1990_eng.html
http://www.governo.it/Presidenza/DICA/documentazione_accesso/normativa/dpr352_1992_eng.html

Latvia

Constitution of Latvia 1998. http://www.oefre.unibe.ch/law/icl/lg00000_.html
Law on Freedom of Information, Adopted 29 October 1998, Signed 6 November 1998.
http://www.nobribes.org/Documents/Latvia_FOILaw.doc
Competition Authority: http://www.competition.lv/Alt/ENG/EFS.htm
National Broadcasting Council: http://www.nrtp.lv

Lithuania

Lithuanian Constitution: http://www.uta.edu/pols/psees/LITHCON.htm
Code of conduct: http://www.uta.fi/ethicnet/litindex.html
Media law: http://www.rtk.lt/downloads/Law.doc
Competition law: http://www.konkuren.lt/english/merger/legislation.htm
Radio and Television Commission Lithuania: http://www.rtk.lt

Luxembourg

Constitution:
http://www.legilux.lu/leg/textescoordonnes/recueils/constitution_droits_de_lhomme/CONST1_2003.pdf;
Freedom of Expression Law:
http://www.gouvernement.lu/dossiers/medias_soc_information/loi_media/projet.pdf.
Press Council: http://www.press.lu
Press Code: http://www.press.lu/datas/info_code.html
Media laws: http://www.eco.public.lu
Press laws: http://www.etat.lu/

Malta

Laws: http://www2.justice.gov.mt/lom/home.asp?LangID=E&PubID=LG&PSB=P
Broadcasting Authority of Malta: http://www.ba-malta.org/

Netherlands

Commissariaat voor de Media: http://www.cvdm.nl
Netherlands Competition Authority (*Nederlandse Mededingingsautoriteit – NMa*):
http://www.nmanet.nl/en/Over_de_NMa/default.asp
Constitution of the Netherlands: http://www.minbzk.nl/contents/pages/00012485/grondwet_UK_6-02.pdf
Act of 31 October 1991, containing regulations governing public access to government information:
http://www.minbzk.nl/contents/pages/00012478/public_access_government_info_10-91.pdf

Poland

National Broadcasting Council, KRRiT: http://www.krrit.pl
Polish Government website: http://www.sejm.gov.pl

Polish Constitution: http://www.sejm.gov.pl/english/konstytucja/kon1.htm
Polish Broadcasting Act, available in English: http://www.krrit.gov.pl/stronykrrit%5Cenglish.htm
Law on Access to Public Information. 6 September 2001 Journal of Laws No 112, item 1198.
http://www.ijnet.org/FE_Article/MEdiaLaw.asp?CID=25272&UILang=1&CIdLang=1

Portugal
Portugal Republic Constitution, English: http://www.parlamento.pt/ingles/con_leg_ing/
Portugal Republic Constitution in French: http://www.aacs.pt/francais/legislacao/crp.htm
Portuguese Legislation at Parliament website: http://www.parlamento.pt
High Authority for Social Communication (Alta Autoridade para a Comunicação Social, AACS)
http://www.aacs.pt
Media Laws available from AACS
Some laws in English linked to the EPRA website: http://www.epra.org
Competition Authority:http://www.autoridadedaconcorrencia.pt/index.aspx

Slovakia
Council for Broadcasting and Retransmission of the Slovak Republic: http://www.rada-rtv.sk
Constitution of the Slovak Republic , http://www.government.gov.sk/VLADA/USTAVA/en_vlada_ustava.shtml
German Version: http://www.verfassungen.de/sk/verf92.htm
Press codes: http://www.ssn.sk/ethic.htm
Antimonopoly Office: http://www.antimon.gov.sk/eng/

Slovenia
Constitution of the Republic of Slovenia (1991) in English: http://www.oefre.unibe.ch/law/icl/si00000_.html
Mass Media Act 2001: Source Slovenian Government website: http://www.dz-rs.si/
Access to Information of Public Character. 2003: :http://www.privacyinternational.org/countries/slovenia/foia-2003.doc
Journalism Codes: The Presswise Trust: http://www.presswise.org.uk/display_page.php?id=453
Broadcasting Council: http://www.gov.si/srd
Telecommunications, Broadcasting and Post Agency of the Republic of Slovenia – ATRP: ttp://www.atrp.si

Spain
Spanish Constitution: http://www.tribunalconstitucional.es/CONSTITUCION.htm;
http://www.spainemb.org/information/constitucionin.htm
Laws: http://www.setsi.mcyt.es
Ombudsman: http://www.defensordelpueblo.es/
Codes: EthicNet www.uta.fi/ethicnet/
Competition laws: http://www.mineco.es/dgdc/sdc/legislacion_16_89_(inglés)2.htm

Sweden
Swedish Government: http://www.riksdagen.se
Swedish Broadcasting Commission: http://www.grn.se
Radio and TV Authority, RTVV: http://www.rtvv.se
Swedish Constitutional law: *Kungörelse (1974:152) om beslutad ny regeringsform* retrieved from
http://www.riksdagen.se/english/work/fundamental/government/
Freedom of Expression: http://www.riksdagen.se/english/work/fundamental/expression/ and in English available from http://www.riksdagen.se/english/work/fundamental/press/
Freedom of the Press Act: http://www.riksdagen.se/english/work/fundamental/press/
Swedish Competition Act: http://www.kkv.se/eng/competition/competition_act_fulltext.shtm.

United Kingdom
Office for Communications – OFCOM: http://www.ofcom.org.uk
Department of Trade and Industry: http://www.dti.gov.uk/
Competition Commission: http://www.competition-commission.org.uk
Department of Culture Media and Sport: http://www.culture.gov.uk/default.htm
Human Rights Act 1998: http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm
Freedom of Information Act 2000: http://www.cfoi.org.uk/foiact2000.html.
Enterprise Act 2002: http://www.legislation.hmso.gov.uk/acts/acts2002/20020040.htm
Communications Act 2003: http://www.hmso.gov.uk/acts/acts2003/20030021.htm

International Organisations

Council of Europe, Media Division: http://www.coe.int/T/E/Human_Rights/Media/
European Federation of Journalists: http://www.ifj-europe.org/
European Platform of Regulatory Authorities: www.epra.org
International Journalists Network: http://www.ijnet.org
International Federation of Journalists: http://www.ifj.org
International Freedom of Expression Exchange: http://www.irex.org
International Press Institute: http://www.freemedia.at/
Reporters Without Frontiers: http://www.rsf.org
World Association of Newspapers: http://www.wan-press.org

Media Research and Training, Audience and Circulation Data

Austrian Radio market data: RMS Austria http://ww.rms-austria.at
Austrian TV data fromTELETEST.
Austrian press circulation audit: http://www.oeak.at
Baltic States Media Data from Media House: http://www.media-house.com/
Belgium and Luxembourg media data:Le Centre d'Information Sur Les Media: http://www.cim.be
Belgium media data from Audimetrie: http://www.audimetrie.be
Columbia Journalism Review: America's Premier Media Monitor. http://www.cjr.org/tools/owners/
Czech Republic Audit Bureau of Circulation: http://www.abccr.cz
Czech Association of TV Organisations ATO: http://www.ato.cz
Denmark radio and television shares from TNS Gallup http://www.gallup.dk
Denmark press circulation audit: http://www.do.dk
Estonia Media data: www.media-house.com
European Audiovisual Observatory (including Merlin and IRIS databases): http://www.obs.coe.int/
European Institute for the Media: http://www.eim.org
European Journalism Centre: http://www.ejc.nl
French data for broadcasting from Médiamétrie: http://www.mediametrie.fr/
French data for press from OJD and Stratégies: http://www.diffusion-controle.com/ and http://www.strategies.fr/
German data for press circulation (IVW): www.ivw.de
German Television viewing research (AGF): www.agf.de
Greek media data AGB Hellas: http://www.agb.gr
Greek press circulation from EIHEA (Athens Daily Newspaper Owners Association:
http://www.eihea.gr/default_en.htm
Hungary circulation figures from Hungarian circulation audit bureau: http://www.matesz.hu/
Irish data from media live: http://ww.medialive.ie
Italian radio data from Audiradio: http://www.audiradio.com/
Italian TV data from Auditel: http://www.auditel.it/html/index.html
Luxembourg data from ILRES: http://www.ilres.com/index2.html
Netherlands data from: http://www.mediamonitor.nl
Poland, Press Research Centre: http://www.obp.pl
Poland circulation data: Press Circulation Audit Unit (ZKDP). http://www.zkdp.pl/wk_2002.htm
Poland media data: AGB Polska: AGB Polska. http://www.agb.com.pl
Portugal Advertising information from: APAN http://www.apan.pt/estatisticas.php?ID=1
Portugal circulation data from APCT http://www.apct.pt/cgi-bin/sthm_1.asp
Portugal media data from Marktest Portugal: http://www.marktest.pt/
RAJAR, Radio data United Kingdom: http://www.rajar.co.uk
UK: The Newspaper Society: http://www.newspapersoc.org.uk
UK: Radio Advertising Bureau
UK: Audit Bureau of Circulation: http://www.abc.org.uk

ANNEXE 2: Questionnaire for national media experts

Study on "the information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed"
undertaken by the European Institute for the Media
on behalf of the European Parliament.

Please complete the section below.

Organisation/authority:

Address:

Name of contact person /Function:

Department:

Telephone:

Fax:

e-mail:

Please note: For YES or NO questions, please delete as appropriate.
Please return this form with your questionnaire and feel free to add any further information which is relevant to the aim of the study.
Thank you.

Legal framework regarding freedom of expression (Article 11 of the Charter of Fundamental Rights of the European Union) and media ownership rules

1. Do you think that the current legal system/framework regarding freedom of expression and media ownership rules in your country provides adequate protection of the freedom of expression (in particular citizens' right to be fully and objectively informed)?

è **YES / NO**
è **If NO:**
Please explain briefly the reasons.

2. Do you think that the present system allows for the maintenance of pluralism?

è **YES / NO**
è **If NO:**
Please explain briefly the reasons.

3. What particular problems or obstacles, if any, exist in your country regarding correct implementation of the aforementioned legal framework?

4. What specific problems, cases or new developments may represent a threat to media pluralism?

5. Is there a need for new rules on media ownership or revision of the existing ones?

è **YES / NO**
è **If NO:**
Please explain briefly the reasons.

è **If YES:**

- Restrictions on foreign ownership (YES / NO
- Restrictions on cross-media ownership (YES / NO
- Criteria used to determine dominance and unacceptable market concentration (e.g. audience share, share-holdings, voting rights, turnover etc.) (YES / NO
- Others. Please specify.

Monitoring of media ownership rules

6. Is there a need for adopting measures aiming at strengthening the regulatory bodies which are responsible for controlling/ monitoring media ownership in your country (responsible for ensuring media pluralism)?

è **YES / NO**
è **If YES:**
Please explain briefly why and how.

è **If NO:**
Please explain briefly why.

7. Should the co-operation between the media regulators and the competition authorities be strengthened?

è **YES / NO**
è **If YES:**
Please explain briefly why and how.

è **If NO:**
Please explain briefly why.

8. Do you think that a competition law approach alone is sufficient for ensuring media pluralism or are sector-specific media ownership regulations are necessary?

è **YES / NO**
è **If YES:**
Please explain briefly why and how.

è **If NO:**
Please explain briefly why.

9. Do you foresee a need to establish a system of monitoring/ control which would incorporate new media platforms/ delivery systems?

è **YES / NO**

è **If YES:**
Please explain briefly why and how.

è **If NO:**
Please explain briefly why.

Policy Recommendations

10. Do you think there is a need for action at international or EU level?

è**YES / NO**

è **If NO:**
Please explain briefly why.

è **If YES:**

- By adopting recommendations (YES / NO
- By adopting common European guidelines (YES / NO
- By adopting a framework Directive on media ownership (YES / NO
- By creating a European Ownership Observatory (YES / NO
- By creating a European database (YES / NO
- Others. Please specify

Thank you very much for your time and your co-operation.