



***Independent Study on
Indicators for Media Pluralism
in the Member States – Towards
a Risk-based Approach***

Prepared for the European Commission
Directorate-General Information Society and Media
SMART 007A 2007-0002

by

**K.U.Leuven – ICRI (lead contractor)
Jönköping International Business School - MMTC
Central European University - CMCS
Ernst & Young Consultancy Belgium**

Final Report - Annex III

COUNTRY REPORTS

Bulgaria

Contract No.: 30-CE-0154276/00-76

Leuven, July 2009



Legal Notice

By the Commission of the European Communities
Directorate-General for Information Society and Media

Neither the European Commission nor any person acting on behalf of the European Commission is responsible for the use which might be made of the information contained in the following report. The views expressed are those of the authors. The report does not necessarily reflect the views of the European Commission, nor does the European Commission accept responsibility for the accuracy of the information contained herein.

Important Notice

By K.U.Leuven, Jönköping International Business School, Central European University and Ernst & Young Consultancy Belgium

The country reports are not in any way intended to be an implementation of the Media Pluralism Monitor in the Member States. They were drafted during the initial stages of the study, with the intention of obtaining a better view of regulatory measures in the broad sense – including co- and self-regulatory measures – adopted in the Member States to promote or safeguard, directly or indirectly, pluralism in the media. The intention was to obtain a high-level snapshot of possible implementation problems and not to express any value judgements on existing rules. The resulting overview facilitated the development of methods for assessing the effective implementation of regulatory safeguards, which had to be, according to the Terms of Reference for the study, an intrinsic element of the legal indicators. We strongly recommend that you also download the file containing our Introduction as it sets out our approach to the initial stages of the project in detail and includes a short manual on how to read the country reports. We draw your attention to the Overview file as well.

Please note that the country reports were finalized in the middle of 2008 and do not therefore reflect progress made with the transposition of the Audiovisual Media Services Directive or any subsequent initiative by Member States. They are made available not as final deliverables of the study, but as interim deliverables, intended to illuminate part of the route taken by the study team and thereby to contribute towards the full transparency of the MPM project.

3. Overview of legal and policy measures promoting/supporting media pluralism

[BULGARIA]

Author: Aleksandra Kuczerawy
Country correspondent: Danail Danov

National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- Law on Radio and Television, Prom. SG. 138/24 Nov 1998, , amend. SG. 60/2 Jul 1999, amend. SG. 81/14 Sep 1999, amend. SG. 79/29 Sep 2000, amend. SG. 80/18 Sep 2001, amend. SG. 96/9 Nov 2001, amend. SG. 112/29 Dec 2001, amend. SG. 77/9 Aug 2002, amend. SG. 120/29 Dec 2002, suppl. SG. 99/11 Nov 2003, amend. SG. 114/30 Dec 2003, amend. SG. 99/9 Nov 2004, amend. SG. 115/30 Dec 2004, amend. SG. 88/4 Nov 2005, amend. SG. 93/22 Nov 2005, amend. SG. 105/29 Dec 2005, amend. SG. 21/10 Mar 2006, amend. SG. 34/25 Apr 2006, amend. SG. 70/29 Aug 2006, amend. SG. 105/22 Dec 2006, amend. SG. 108/29 Dec 2006, amend. SG. 10/30 Jan 2007. There are other amendments in 2007 as well.

- *General legislation*

- Bulgaria – Constitution, adopted on: 12 July 1991

- *Self-regulation*

- Codes of conduct, called Professional Code of the Bulgarian media, adopted on 26.11.2004, and initially signed by 71 media, followed by others.
- Other: codes (regulations), designed by various media (and observed by them): bTV, NovaTV, Capital Newspaper, etc.
- Access to Information Law

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 39 Constitution of Bulgaria	To all media	Everyone is entitled to express an opinion or to publicize it through words, written or oral, sound, or image, or in any other way. This right shall not be used to the detriment of the rights and reputation of others...
<i>Note: This is more or less respected. A positive factor is the availability of a text in the Radio and TV law (restated in the Professional Code) according to which journalists may refuse a task if it contradict their convictions. Problematic remains the criminalization of defamation (not prison but a fine) which often brings about undue self-censorship, especially in the countryside.</i>			
	Art. 40 Constitution	To all media	The press and the other mass information media are free and shall not be subjected to censorship. An injunction on or a confiscation of printed matter or another information medium shall be allowed only through an act of the judicial authorities in the specified cases.
<i>Note: Just like the notes above.</i>			
	Art. 11 (1) Law on Radio and Television	To all media	Any opinion may be freely expressed in radio and television broadcasts.
	Art.10 (1) Law on Radio and TV		radio and television broadcasters shall follow the principles: 1. guaranteed right to freedom of expression of opinion
1.2. Freedom of/right to information	Art. 41 Constitution	To all media	Everyone is entitled to seek, obtain, and disseminate information. This right shall not be exercised to the detriment of the rights and reputation of others. Citizens shall be entitled to obtain information from state bodies and agencies on any matter of legitimate interest to them.
<i>Implementation problem: The problem comes mainly with implementation, there are many cases when access to information is denied or improperly delayed, and even after a court decision is not revealed to the press.</i>			
	Art.10 (1) Law on Radio and TV	Electronic media.	radio and television broadcasters shall follow the principles: 2. guaranteed right to information;
<i>Implementation problem: See above. Another problem is the term to avail the needed information (4 weeks) which often makes it irrelevant by the time it is already given to the media.</i>			
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	Access to Information Law.	To all media	Commented above.
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>	No.		
<i>Note: Not really. Except for the cases of “classified information” (there is a certain mechanism, set by the Law) as well as for cases of “national security”, which however are not well defined and can be speculated with.</i>			
1.3. Explicit recognition of media pluralism		To all media	
1.4. Protection of journalistic sources	Art.10 (1) Law on Radio and TV	LRT is valid for electronic media only but as this principle is restated by the Professional Code it is valid for the print press outlets that have signed it.	Radio and television broadcasters shall follow the principles: 3. protection of confidential sources of information.
<i>Note: Guaranteed by the Radio and TV Law (LRT) as well as by the Professional Code. Those sources can be revealed only in cases of endangered national security.</i>			

	Art. 15 Law on Radio and TV	LRT is valid for electronic media only but as this principle is restated by the Professional Code it is valid for the print press outlets that have signed it.	Radio and tv broadcasters shall not be obligated to disclose their sources of information to the CEM, save in the case of pending legal proceedings or pending proceedings initiated on the complaint of a person affected. Journalists shall not be obligated to disclose their sources of information either to the audience or to the management of a broadcaster, save in the aforementioned cases. Radio and tv broadcasters shall have the right to include information from an unidentified source in their broadcasts, expressly stating this fact. Journalists shall be obligated to protect the confidentiality of the source of information should this have been expressly requested by the person who has provided the said information.
1.5. Right of reply	Art.10 (1) Law on Radio and TV	LRT is valid for electronic media only but as this principle is restated by the Professional Code it is valid for the print press outlets that have signed it.	radio and television broadcasters shall follow the principles: 7. guaranteed right of reply;
	Art. 18 Law on Radio and TV	LRT is valid for electronic media only but as this principle is restated by the Professional Code it is valid for the print press outlets that have signed it.	Any persons, state and municipal bodies, who or which have been affected in a radio or television broadcast, shall enjoy the right of reply. Within seven days after the day of the broadcast, the persons and bodies referred to in § (1) shall have the right to request in writing that the respective radio or television broadcaster provide their reply for broadcasting. The contested allegations, as well as the date and time of the broadcast, shall be specified in the request. The radio or television broadcaster shall be obligated to ensure insertion of the reply in the next succeeding edition of the same broadcast or in an equivalent time within 24 hours after receipt of the reply, modifications or abridgments of the text being impermissible. The broadcasting of a reply shall be provided at no charge to the persons and bodies referred to in Paragraph (1).The duration of the reply may not exceed the duration of the contested part of the broadcast.
<i>Note: True and not problematic in terms of implementation. Restated also by the Professional Code.</i>			
1.6. Ratification of international instruments: - CoE's Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	-Yes -Yes	Normative for electronic media as it is reflected by LRT, and also for the print media, signatory to the Code, as there is respective text on that.	

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 11 (2)-(5) Law on Radio and Television	Electronic media. Also to print media signatory to the Code as there is respective text about that.	Journalists and artists, who have concluded contracts with radio and television broadcasters, may not be given any instructions or directions as to the practice of their pursuits by persons and/or groups outside the management bodies of radio and television broadcasters. Public criticism of the programming policy of radio and television broadcasters by their employees shall not be treated as disloyalty to the employer. Journalists, who have concluded contracts with radio and television broadcasters, shall have the right to refuse to perform an assignment contrary to their personal convictions. Editorial statutes for work in the sphere of current affairs may be agreed between the owners and/or management bodies of radio and television broadcasters and the journalists who have concluded contracts with them.
<i>Note: True. Moreover, it is strongly implemented and enjoyed by the journalists. Constraints to it is the Libel Law which especially in the countryside makes journalists apply self-censorship.</i>			
	Art. 11 (6) Law on Radio and TV	True, though internal bodies (5) in the previous column if at all existing have no any significance.	The editorial statute shall state specific definitions and criteria for: <ol style="list-style-type: none"> 1. guaranteeing the freedom and personal accountability of journalistic work in accomplishing the assignment; 2. the protection of journalists within the meaning given by Paragraph (2); 3. the professional and ethical standards of journalistic activity in the respective radio and television broadcasters; 4. the manners of decision-making which concern journalistic activity; 5. the establishment of an internal body for the settlement of any disputes as may arise in the course of journalistic work on the creation of programme services.
2.2. News / information programmes			
<i>Note: Here threats to pluralism may arise from unexpected direction: in some of the countryside based electronic channels sometimes news and comments are mixed and this creates bias for the audience. At the same time it is hardly sanctioned due to insufficient monitoring capacity of CEM.</i>			
2.3. Other media content	Art. 78 Law on Radio and TV		The advertiser shall not exercise any influence over the content of the programme services.
<i>Note: True, but in the countryside in the commercial media business interests can dominate and influence the editorial content.</i>			
	Art. 90 Law on Radio and TV	Broadcasting media.	Broadcasts may not be sponsored by political parties and organizations, nor by religious organizations. Broadcasts may not be sponsored by persons whose principal activity is the manufacture of goods and [the provision of] services the advertising of which is prohibited. Political and business broadcasts, which contain analyses and comments or whose subject is similar to the objects of the sponsor, may not be sponsored. Sponsorship of news, with the exception of sports [...]

			[...] news, shall not be allowed if the news is kept quite separate from the other parts of the programme service by optical or acoustic means or is presented as an autonomous broadcast.
<i>Implementation problem: Technically it is like that, but during election times commercial media offers air to parties for payment. Though this is done officially and tariffs for that are accessible to the public ‘richer’ parties over overtake the air and implicate citizens. Not to mention the fact that during such times many journalists would take paid leave (something obvious for their bosses and colleagues but not to the audience) and works temporarily as PR officers to parties and candidates.</i>			
	Art. 91 Law on Radio and TV	Broadcasters	The sponsor shall have no right to influence the content and presentation of the sponsored broadcast.
<i>Note: True, but it is not clear if it is really the case in smaller towns in regard to local media.</i>			
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)	Law for radio and TV	For electronic media. Labour code is valid for all employers, media included.	Regulates the budget of both BNR and BNT, coming in the form of state subsidy, voted by Parliament. There is nothing on training of journalists. Recruitment policies are regulated by the Labour Code as well as sometimes by rules, specific to each media.
<i>Implementation problems: Labour code requires contracts which are basically stuck to. Sometimes problems arise from the fact that often commercial media in order to avoid taxation offers a permanent contract on a sum that envisages minimal taxation (and also takes out negligible percent for the pension insurance) and gives employees additional money for which they do not sigh (but also no taxation nor social insurances are paid).</i>			

TABLE 3. Cultural pluralism

Measure	Source	Scope of application	Key features
3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)	No requirements exist about that.	No media	n/a
<i>Implementation problem: As a result minority groups (especially Roma and sometimes Turks) remain heavily underrepresented in the media. It has, however, to be mentioned that the reason for this under-representation is the low level of education and qualification of those minorities.</i>			
3.1.1. Special representation requirements in media company structures	No		n/a
<i>Implementation problem: See above.</i>			
3.1.2. Special representation requirements in media advisory bodies	No		No
3.1.3. . Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Constitution, Labour code.	All media	Program licence of BNT requires 1.8 per cent of the annual air time to be allocated for the problems of the groups in need, and 0.3 per cent for those whose mother tongue is not Bulgarian.
<i>Implementation problem: The fact that the Labour Code makes it impossible to release a disabled person regardless of the reasons for that, makes employers restrain to hire them.</i>			
	Strategy for educational integration of children and school-kids from minority groups (2004), Law for encouragement of employers to hire people with disabilities, National program for employment and vocational training of disabled.		
	The available is “National strategy for equal opportunities of the people with disabilities”		
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings		Electronic media	Mentioned in an indirect way: Program licences of the BNR and BNT require broadcasts in Turkish. There is a radio station called ROMA, whose staff is mainly comprised of Roma people but it airs programs in BG.
<i>Implementation problems: Minority representation in the media is very limited. In regard to portrayal of disabled people the problem is that currently the media demonstrates reactive (only related to specific events) rather than proactive.</i>			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Art. 10 (2) Law on Radio and TV	Electronic media Restated in the Program licences of both BNR and BNT.	At least 50 per cent of the total annual transmission time, excluding the time appointed to news and sports broadcasts, radio and television games, advertising, teletext services and radio and tele-shopping, shall be reserved for European works whenever this is practically possible.
3.2.2.2. Promotion of European independent works	Art. 10 (3) Law on Radio and TV	Electronic media Restated in the Program licences of both BNR and BNT.	At least 10 per cent of the total annual transmission time shall be reserved for European works created by external producers. This proportion should be achieved progressively through allocation of sufficient resources for new works, i. e. works broadcast not later than 5 years after their creation.

	Art. 10 (4) Law on Radio and TV		The requirements covered under Paragraphs (2) and (3) shall not apply to programme services intended for local audiences and broadcast by a single broadcaster which does not form part of the national network.
3.2.2.3. Promotion of national/regional works		Electronic media	No general requirements, specific for the PSB described in the licence: European and Bulgarian production –not less than 74,9% annually, of which the Bulgarian share must be not less than 43,5%
3.2.2.4. Language requirements	Art. 12 (1) Law on Radio and TV		The programme services of radio and television broadcasters shall be transmitted in the official language, according to the Constitution of the Republic of Bulgaria.
			Program licence of BNT requires 1.8 per cent of the annual air time to be allocated for the problems of the groups in need, and 0.3 per cent for those whose mother tongue is not Bulgarian.
<i>Implementation problem: There is news in Turkish on BNR and BNT but they are hardly enough to satisfy audience needs.</i>			
	Art. 12 (2) Law on Radio and TV		The programme services or individual broadcasts of radio and television broadcasters may be transmitted in another language as well, where they are: broadcast for educational purposes; intended for Bulgarian citizens who have a mother tongue different from the Bulgarian language; intended for foreign listeners or viewers; re-transmit foreign radio and television programme services.
<i>Implementation problem: See above.</i>			
3.2.3. Representation of minorities on the screen (e.g. presenting the news, in drama, movies...; can be engagement in an internal charter or can be imposed statutory)			
<i>Implementation problem: This is the case with BNR and BNT –their program licences but the percentage is strongly insufficient. Often print media (Monitor Group, Novinar Newspaper, as well as TV SKAT) would refer to Roma as Gypsies, sometimes even using hate speech.</i>			
3.2.4. Subsidies (apart from general PSB funding)		Electronic media	The BNT/BNR shall receive a state budget subsidy until the 31 st day of December 2007, from 1 st of January 2008, the state budget subsidy of the BNR, the BNT and the CEM shall be entirely replaced by financing from the Radio and Television Fund. The amount of the said financing shall be determined according to the procedure.
<i>Note: With an amendment of late December 2007 this deadline was rescheduled for January 2009.</i>			
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 96 Law on Radio and TV	Electronic media	Citizens of impaired hearing or eyesight whereon Disability Grade Two has been conferred shall be exempt from paying fees.
<i>Note: But the fee is not yet collected from anyone as no mechanism for that has been envisaged.</i>			
	Art. 97 Law on Radio and TV	Electronic media	No fee shall be payable for use of receivers and devices by health facilities, child care homes and kindergartens, educational, social and cultural institutions according to a list proposed by the competent ministries and central government departments and endorsed by the Council for Electronic Media, as well as if the receivers and devices are used as monitors.

TABLE 4. Political pluralism

Measure	Source	Scope of application	Key features
4.1. Structural rules (relating to the organization and structures of media companies)/advisory bodies)	LRT	Electronic media	
<i>Note: Still LRT envisages that CEM elects Directors-General and Board Members of both BNT and BNR. Given the fact that all 9 CEM members are purely political nominations (5 elected by Parliament and 4 by President) leads to the conclusion that politicians still interfere in the election process.</i>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)			LRT states that operators should be free from political and economic interference. Politicians are also obliged to sign declarations that are not members of Boards and Supervisory bodies of companies.
<i>Implementation problem: Technically it is not impossible to have those restrictions overcome. There are allegations for some small countryside based media that are owned by politicians through persons linked to them.</i>			
4.1.2. Requirements of independence from political parties / politicians	Art. 8 Law on Radio and TV		Guarantee of the independence of radio and television operators, and of their activities, from any political and economic interference.
<i>Implementation problem: Over the last 10 years electronic media gets more and more away from political interference, but with the economic one this is hardly the case and there are no enough checks and balances and mechanisms for control in this respect.</i>			
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies			
<i>Note: True, but it is the politicians who elect those bodies.</i>			
4.1.4. Representation requirements in media companies' bodies (board of directors...)	Requirement of the LRT.		Candidates for those positions in the public media (BNR and BNT) are obliged to sign declarations that they have not been linked to former (State Security) police structures, and have no economic interests.
4.1.5. Representation requirements in media advisory bodies and/or regulators	Requirement of the LRT.		For regulators: Candidates are obliged to sign declarations that they have not been linked to former (State Security) police structures, and have no economic interests.
4.2. Content rules (relating to media programmes, press articles, other content)			
4.2.1. (Equal/proportionate) Access to airtime for political groupings	No.		
<i>Note: It is the news events that determine political representation. Often, however, President and Prime Minister, as well as cabinet ministers, MPs and politicians in general (both in power and in opposition) receive undue portrayal. Moreover, Friday Parliamentary Control sessions (hearings of cabinet ministers) seem unnecessary to lot of people.</i>			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	No		
4.2.1.b. Paid access: rules on political advertising			
4.2.2. Government announcements	Art. 51 Law on Radio and TV	Electronic media	When requested to do so, the Bulgarian National Radio and the Bulgarian National Television shall be obligated to provide immediately and at no charge transmission time to representatives of state bodies for announcements in the public interest in the event of a disaster or an immediate threat to the life, safety or health of the public or of individual persons.
	Art. 52 Law on Radio and TV	Electronic media	The President of the Republic, the Chairman of the National Assembly, the Prime Minister, the Prosecutor General and the presidents of the Constitutional Court, the Supreme Administrative Court and the Supreme Court of Cassation shall have the right to address the nation on the BNR and the BNT. By resolution of the National Assembly, the BNR and the BNT shall be obligated to provide immediately transmission time for live broadcasting of plenary sittings.

Note: It has to be made clear that only Prime minister and President use this right, though only on special occasions.

4.2.3. Impartiality obligations	This is in the RTL as well as in the Professional Code.	Electronic media Print and broadcasting media	
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 54 Law on Radio and TV as well as in the Professional Code.	Electronic media Print and broadcasting media	The terms and procedure for provision of transmission time on the BNR and the BNT upon participation in election campaigns shall be established by statute.

Implementation problem: There is a problem. While BNR and BNT do that by statute, the rest of the commercial stations offer (though in a transparent manner) their rates for political statements and bigger and richer parties receive privileged portrayal as they can afford to pay. Another problem is that many journalists would take non paid leave and work as PR officers to parties and candidates adding to them of their popularity.

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media (for instance: is part of the spectrum explicitly reserved for regional/ local media; are there any rules safeguarding the local character of these media once they are operating, e.g. restrictions to cooperate or centralize programming/advertising decisions...)		Electronic media	Spectrum frequencies are allocated proportionally in the regions. Cable and satellite operators receive registration within 2 weeks after submitting the documents required.
<i>Implementation problem: Sometimes candidates for licences complain that tender procedures are not transparent. Very often they would appeal and the entire procedure gets delayed with months.</i>			
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)			BNR and BNT have their regional branches in the countryside, inherited since the time they were the only operators in the country. Now the opening of new regional stations is decided by the Boards and is approved by CEM. Commercial operators also have their regional branches – DARIK radio-18, and other stations (FM +, Mila Gold etc, but they do mainly entertainment.
5.3. Content obligations: requirements to cover local events, etc.	Art. 49 Law on Radio and TV	Electronic media	The Bulgarian National Radio and the Bulgarian National Television shall create national and regional programme services, external service broadcasts, including such for Bulgarians abroad, broadcasts intended for Bulgarian citizens who have a mother tongue different from the Bulgarian language, including broadcasts in the language of the said citizens. Regional programme services shall cover developments of local importance. They shall be created at the regional radio and television centres and shall be intended for the audience in the respective region as well as for inclusion in the national radio and television programme services. The territory of the regions, the regional programme schedules and the contribution by the radio and television centres of broadcasts of their own to the creation of national radio and television programme services shall be endorsed by the management boards of the BNR and the BNT.
<i>Implementation problem: Very true. Those obligations are fairly carried out and enjoy audience interest. Moreover, especially for BNR, these programs are leaders in their regions (in terms of ratings and credibility). This is however not the case with BNT, which regional programs have low ratings.</i>			
5.4. Regional State Aids			
<i>Note: Regional stations receive their budget (as approved by Parliament) and are themselves responsible and accountable for its spending. They would not receive funds from the regional administration. On the other hand in some of the regional centres there are Municipality radio stations, entirely subsidized by the regional administration. Hence, often they behave as ‘mikes of the administration’. Their impact, however, is negligible and more and more they tend to disappear as regional authorities see no benefits from them.</i>			

5.5. Rules on national minorities			<p>Such exist only in regard to Roma and are related to the Decade of Roma inclusion (2005-2015). Among them Are the Health Strategy for People from Minority Groups in Poor Economic Situation, National action plan for combating poverty and social isolation (2005-2006) Strategy for educational integration of children and school-kids from minority groups National program for improvement of the housing conditions of the Roma in Bulgaria, 2005-2015.</p>
<p><i>Implementation problem: The problem is that currently the media demonstrates reactive (only related to specific events) rather than proactive (challenged by the strongly under-privileged situation of the Roma.</i></p>			
5.6. Rules on social inclusion of remote areas (Aménagement du territoire)			

TABLE 6. Pluralism of ownership/control

Measure	Source	Scope of application	Key features
6.1. Sector specific rules limiting media ownership			
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Art. 105 Law on Radio and TV		Radio and TV broadcasting activities through use of existing telecommunication networks for broadcasting by terrestrial transmitter and/or through construction, maintenance and operation of new networks of this type shall be pursued by virtue of a licence granted by the Council for Electronic Media according to the procedure established by this Act and in accordance with the strategy referred to in Article 8 (3) herein.
<i>Implementation problem: The problem is that not always media ownership is clear (might be hidden as already explained).</i>			
	Art. 105 (4) 9 Law on Radio and TV		Ineligible to apply for a licence: any telecommunications operators enjoying a monopoly position on the market.
	Art. 108 Law on Radio and TV		Upon submission of documents for the grant of licences referred to in Article 111 herein, the applicants shall declare that they do not hold any interests, shares or rights of any other kind to participation in radio and television broadcasters in excess of the permissible limit according to the anti-trust legislation of the Republic of Bulgaria.
6.1.1.2. <i>At the moment of mergers & acquisitions</i>			
6.1.1.3. <i>Other (constant monitoring/supervision)</i>			
<i>Implementation problem: Supervision and monitoring is not all reliable in the countryside: no sufficient capacity.</i>			
6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. <i>Monomedia</i>	Art. 116 c (3) Law on Radio and TV		A radio and television broadcasting licence valid for the territory of the Republic of Bulgaria shall not be granted to any person or to any person therewith connected within the meaning given by the Commerce Act, who or which holds a licence of the same type for radio and television broadcasting activities within a regional or a local range, save as where the said holder shall relinquish the said licence, with the exception of the cases covered under Article 49 herein (BNT and BNR).
<i>Note: This text has been smartly overcome by DARIK radio that once had licences for regional and local operators. It gave them up and acquired a national licence and currently operates 17 centres which operate as local /regional for 4 hours a day, and during the rest of the time carry out the national program broadcast from the capital.</i>			
6.1.2.2. <i>Crossmedia</i>			
6.1.2.3. <i>Vertical integration with networks</i>			Allowed.
6.1.2.4. <i>Integration with advertising sector</i>	Art. 105 (4) 7 Law on Radio and TV		Ineligible to apply for a licence: any legal persons wherein there are partners or shareholders who or which are concurrently partners or shareholders in any juristic persons whereof the registered objects are "advertising business", or who or which carry on advertising business.
<i>Implementation problem: Allegedly such cases (violating the article) might exist as the ownership could be hidden through other people.</i>			
6.1.2.5. <i>Integration with other (e.g. energy) sectors</i>			
6.1.2.6. <i>Control over both commercial and public media</i>			
<i>Implementation problem: As already said control over commercial media may be acquired and hidden. Public media still receives its budget from Parliament (numeric majority may take crucial decisions). Also regulatory body CEM is politically elected and it is that body that elects management of both BNR and BNT.</i>			

6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
<i>Note: In Bulgaria existing criteria aim at non-monopolization of the market and do not limit ownership/cross-ownership.</i>			
6.1.3.1. Number of licences	LRT		
<i>Note: Number of licences is limited only in terms of possession of national station (than no other licences are allowed) or local/regional which forbids acquisition of national licence. The provision has been overcome by DARIK, as already explained above.</i>			
6.1.3.2. Market shares	NO limitations.		
<i>Note: Limited is only monopolistic domination over the market.</i>			
6.1.3.3. Circulation and audience shares	No limitation.		
6.1.3.4. Capital shares	No limitations.		
6.1.3.5. Voting shares			
6.1.3.6. Advertising revenues			
<i>Note: Data on it is very unreliable and contradictory.</i>			
6.1.3.7. Involvement in number of media sectors	This is allowed.		
<i>Note: There are case of one owner of TV and radio and newspaper.</i>			
6.2. Sector specific rules preventing cooperation between media companies	Not existent		
<i>Note: Moreover, hidden ownership gives unlimited opportunities.</i>			
6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership	Bulgarian legislation allows foreign ownership over media.		
<i>Note: Often owners of electronic media are not clear as already stated.</i>			
6.4. General competition rules	Regimented by the competition law.		
<i>Note: The only limitations envisage not-loyal competition and dominant position on the market that can bring about unfair competition which is not easy to prove.</i>			
6.4.1. Antitrust			
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)			Only general provisions related to prevention of unfair competition.
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			No.
6.4.2. Merger control			No.
6.4.2.1. Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)	No		No.
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)			No.
6.5. Transparency obligations	Art. 125 a Law on Radio and TV		Any person wishing to create radio or television programme services for broadcasting by means of a technical device or process other than terrestrial transmitter shall be subject to registration.
<i>Note: Yes, this made cable and satellite operators very easy to function. And as their majority is located in the countryside, no efficient monitoring of their activity is carried out.</i>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)			The Directive will become valid in 2009.
6.5.2. Transparency obligations towards regulator or in general (info on capital structure, balance sheets, either in specific media laws or in general company laws...)			LRT obliges operators to provide regulator with this data upon request as well as in its annual reports.
<i>Implementation problem: Insufficient monitoring makes control obsolete and hence, documents to be submitted may not correspond to real situation.</i>			

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of programme strands for commercial / community / public service media			
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 32 (3) Law on Radio and TV	BNR and BNT	The CEM shall adopt and publish a list of events of major importance for society and ensure measures for protection of the access of the public to their coverage, so that any broadcaster under the jurisdiction of the Republic of Bulgaria do not deprive a substantial proportion of the public of the possibility of following any such events via whole or partial live coverage, or where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage on free television.
<i>Note: Published: events cover also cultural and political.</i>			
7.3. Short news reporting	Art. 13 (4) Law on Radio and TV		A radio or television broadcaster, who or which holds an exclusive right for the transmission of an event of major importance, shall be obligated to afford other radio and television broadcasters access for the news coverage of the said event in accordance with the obligations assumed by the Republic of Bulgaria under effective international treaties.
<i>Implementation problem: This is stuck to. The problem is that often broadcasters would show much more than the allowed and sanctions may not follow as due to insufficient monitoring capacity.</i>			
	Art. 17 (7) w on Radio and TV		Whenever a broadcast of a different radio or television broadcaster is used in part of a broadcast, this shall be expressly stated and must be in accordance with the legal framework of the Copyright and Neighbouring Rights Act.
<i>Implementation problem: Operators in the countryside violate that, though situation gradually improves.</i>			
	Art. 48 Law on Radio and TV		The BNR/BNT shall have the right to gratuitous insertion in their newscasts, by way of fair use, of reports and news about events wherefore another radio or television broadcaster holds the exclusive coverage rights, in conformity with the Copyright and Neighbouring Rights Act, mandatorily crediting the source of information.
7.4. Fixed book price			
<i>Note: This happens rarely: mainly if there is a sponsor to the publication and holds valid mainly for books with educational content.</i>			
7.5. Public service media			
7.5.1. Structural rules - organization		BNR and BNT	
<i>Note: Yes, it can be claimed, to a higher extent for the radio. And during the recent 5-6 years situation is constantly improving.</i>			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)	Art. 8 Law on Radio and TV		Freedom of radio and television broadcasters and of their broadcasting activities from political and economic interference.
<i>Note: Yes, basically being big and influential stations they are less and less subject to pressures.</i>			
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Art. 58 Law on Radio and TV	BNR and BNT	The management boards of the BNR and the BNT shall consist of five members each, endorsed by the Council for Electronic Media upon nomination by the respective directors general. The composition of the management boards of the BNR and the BNT shall include the respective director general, who shall chair the board by right.
<i>Implementation problem: As already stated, technically possibilities for unfair games exist as CEMs 9 members get elected by politicians (5 by Parliament and 4 by President). Thus, a Parliamentary majority may be reproduced in CEM, and from there-transferred in BNR and BNT as CEM elects their managerial bodies. This, however, is getting obsolete as attempts to apply it in the period 1997-2001 brought about severe crash in credibility of politicians and broadcasting authorities. Hence, by and large, such practices are clearly avoided.</i>			

7.5.1.3. Specific representation requirements for board of directors, other bodies			LRT envisages specific requirements to candidates-professional experience, education etc. Representation requirements (intellectuals, minorities, NGOs) are in the statutory documents and refer to composition of Public councils to give advice to management bodies.
<i>Implementation problem: As those Public councils do not have mandatory decisions and their members do not receive payment for their contribution (and often do not take seriously their membership in those councils) they are practically without any implication on the pluralism policies and are much more a decoration. The real power lays in the DG and the Board and they might become threat to pluralism or generate ill practices, as being a collective body it is difficult to asses their individual contribution to any improper decision. (and current Bulgarian legislation does not offer sufficient mechanisms for collective responsibility).</i>			
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	Art. 62 (3) Law on Radio and TV		The Management Boards of the BNR and BNT shall decide on the establishment of expert and advisory boards, and establish the procedure for their work.
<i>Implementation problem: See above.</i>			
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings			Media is subjected to same employment rules and principles as all other sectors. No specific measures are envisaged.
7.5.2. Structural rules - funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Art. 44 (4) Law on Radio and TV		The resources for execution of the activities referred to in Paragraph (1) shall be provided by the State budget.
<i>Note: This is not stimulating pluralism and diversity. Dependence on state budget makes operators more state, rather public with all corresponding disadvantages.</i>			
	Art. 70 Law on Radio and TV		The Bulgarian National Radio and the Bulgarian National Television shall prepare, implement, balance off and report a self-contained budget. The management boards of the BNR and the BNT, within the limits of their budgets, shall endorse a budget or a budget account for the expenses of the regional radio and television centres and the other structural units. The following shall accrue in revenue to the budget of the BNR and the BNT: 1. financing from the Radio and Television Fund; 2. a state budget subsidy; 3. own revenue from advertising and sponsorship; 4. proceeds from additional activities related to radio and television broadcasting activities; 5. donations, legacies and bequests; 6. interest and other income related to radio and television broadcasting activities.
<i>Implementation problem: This way of financing (subsidy from the budget and ads) increases tensions between public and commercial operators. Moreover, often (at least in Bulgarian case) it tolerates de-motivation and lack of initiative in public media staff.</i>			
	Art. 102 Law on Radio and TV		Radio and Television Fund shall be raised from: the monthly fees charged for reception of radio and television programme services; the initial and annual licence fees or registration fees; interest on the resources raised in the Fund; donations, legacies and bequests; other sources as specified in a statute
<i>Implementation problem: This is repeated ever since 1998 and is promised for implementation from year to year. Hence, its non implementation may mean deliberate lack of willingness, i.e. hidden agenda and interests.</i>			
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
7.5.3. Definition of public service remit			

7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	Art. 6 Law on Radio and TV		Public radio and television operators shall: provide for broadcasting political, economical, cultural, scientific, educational, and any other socially relevant information; ensure access to national and world cultural values, and popularise scientific and technical achievements by way of broadcasting Bulgarian and foreign educational and cultural programs for persons of all ages; ensure, through their program policies, the protection of national interests, universal cultural values, the national science, the education and culture of all Bulgarian nationals regardless of their ethnical identity; promote the production of works by Bulgarian authors; promote Bulgarian performing arts.
<i>Note: Often the remit of the commercial TV stations (bTV and Nova) gets more “public” than the one of BNT. This can be judged upon by a) their obligations as stated in their licences, b) programs they offer.</i>			
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 7.5 Law on Radio and TV		BNR and BNT shall implement new information technologies
<i>Note: This still seems more like a promise, though during the recent years more and more efforts have been spent in that direction.</i>			
	Art. 45 Law on Radio and TV		The Bulgarian National Radio and the Bulgarian National Television shall introduce and provide new radio and television services. The Bulgarian National Radio and the Bulgarian National Television shall create conditions for the broadcasting and application of digital and other new technologies in radio and television broadcasting activities.
<i>Note: New services have been introduced – BNR launched a new channel (SOFIA), while BNT increased the number of hours of its satellite channel up to 24. The problem is that still a lot more can be required in terms of quality.</i>			
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Art. 7 Law on Radio and TV		BNT and BNR shall: ensure programs for all Bulgarian nationals; contribute to the development and popularisation of Bulgarian culture and of the Bulgarian language, as well as of the culture and language of citizens in accordance with their ethnical identity; ensure through their programs access to the national and European cultural heritages; include in their programs broadcasts which inform, educate, and entertain; reflect various ideas and convictions within society; contribute to the mutual understanding and tolerance in human relations; provide citizens with opportunities to become acquainted with the official position of the state on important issues of social life.
<i>Note: This all is being done; what is problematic is the innovative approach. Still sometimes both BNR and BNT demonstrate outdated approaches and formats.</i>			
	Art. 47 (2) Law on Radio and TV		News and current affairs broadcasts on political and business subjects, broadcast in the programme services of the BNR and the BNT, may be produced solely by the Bulgarian National Radio and the Bulgarian National Television.
<i>Note: The lack of external competence makes the offered programmes stagnating and secondly, gives way to opinions that this is deliberately done to ensure greater degree of administrative control of the management over the programme makers.</i>			
7.5.5. Universal coverage obligations			

TABLE 8. Distribution (networks/network facilities/print distribution)

Measure	Source	Scope of application	Key features
8.1. Guarantees for 'public contents' to be distributed (must carry or other)			
<i>Note: Currently as still broadcasting reality in the country is totally analogue dominated, public content transfer is guaranteed (always included by distribution networks (satellite) and cable). How it would be with the digital switch-off is still not clear.</i>			
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)			
<i>Note: Same as above.</i>			
8.3. Ex ante regulation(in electronic communications): SMP market analysis for broadcasting transmission			
<i>Note: Access is guaranteed by regulation. Still to see enough evidence for proper implementation.</i>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
<i>Note: Those tendencies start to appear in Bulgaria as well.</i>			
8.3.2. Result of (first) round of market analysis of market 18			
<i>Note: Not available.</i>			
8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'			
<i>Note: Not much of a debate.</i>			
8.4.1. Conditional access			
<i>Note: Regulation in this respect gets currently developed but implementation is not clear.</i>			
8.4.2. EPG (or other search tools)			
<i>Note: See above.</i>			
8.4.3. API			
<i>Note: See above.</i>			
8.4.4. Other			
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media			
<i>Note: More reflecting measures to prevent unfair competition.</i>			
8.7. General competition law			
<i>Note: Situation has not changed considerably.</i>			
8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?			
<i>Note: Regulation is more or less in lines with EU but implementation is lagging behind as the legislation measures have been adopted pretty recently.</i>			
8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria: - Regional - Linguistic/minority - National)			National and regionally based.

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			Council of electronic media (http://www.cem.bg/r.php?sitemap_id=140)
9.1.1. Structure/ organisation			
9.1.1.1. Guarantees for independence	Art. 20 Law on Radio and TV		The Council for Electronic Media shall be an independent specialized body which shall regulate radio and television broadcasting activities by means of registration or grant of licences for pursuit of radio and television broadcasting activities and through exercise of supervision over the activities of radio and television broadcasters as to compliance with this Act.
<i>Implementation problem: The biggest problem is that very often CEM takes decisions that are later appealed against in Court and ultimately cancelled. This is valid for licensing related procedures, sanctions, imposed to operators, etc. All that has contributed to the very low level of credibility of CEM, sometimes even questioning the very need of broadcasting regulation in the country.</i>			
	Art. 27 Law on Radio and TV		The members of the Council for Electronic Media may not: occupy any other salaried position under a contract of employment; hold elective office in any state or municipal bodies, in the governing bodies of any political parties and coalitions, or in any trade unions; be members of the management, auditing and supervisory bodies of any commercial corporations or cooperative; be consultants or members of management, auditing and supervisory bodies of any radio and television broadcasters, or acquire interests or shares in any such broadcasters or in any advertising agencies; be consultants or members of management, auditing and supervisory bodies of any non-profit organizations which have received a radio or television broadcaster licence.
<i>Implementation problem: Here the problem is that once out of CEM composition (after mandate expiry) they are not allowed to work for 1 year on managerial positions at broadcasting media, which is a strong limitation for all of them who are active and not in the age of retirement. Secondly, the existent limitations sometimes seem insufficient to guarantee transparency of decisions.</i>			
9.1.1.2. Representation requirements	Art. 24 Law on Radio and TV		The Council for Electronic Media shall consist of nine members, of whom five shall be elected by the National Assembly and four shall be appointed by the President of the Republic.
<i>Implementation problem: Deficits related to this overt politically affiliated way of composing the authority have already been explained. Civic quota is missing, mechanisms to release member of the Council before expiry of its term (if needed) are missing, which creates feeling for untouchability.</i>			
9.1.2. Credibility and efficiency			
<i>Implementation problem: Extremely low credibility and efficiency.</i>			
9.1.2.1. Sufficient resources			
<i>Implementation problem: Lacking resources. Among the key reasons for CEMs deficits is its poor monitoring capacity, lack of modern methodology for monitoring, as well as insufficient qualified midlevel staff.</i>			
9.1.2.2. Tasks and duties	Art. 20 Law on Radio and TV		Supra

	Art. 2 Law on Radio and TV		The CEM's powers: to exercise supervision over the broadcasting activities of radio and television broadcasters; to elect and remove the directors general of the BNR and the BNT; to endorse, upon nomination by the directors general, the members of the management boards of the BNR and the BNT; to give an opinion upon the drafting of statutory instruments and upon conclusion of intergovernmental agreements in the sphere of radio and television; to give an opinion on the draft state budget regarding the subsidy for the BNR and the BNT; to endorse annually the off-budget cost estimate of the Radio and Television Fund; to organize a research of public opinion on the broadcasting activities of radio and television broadcasters and of their programme services; to give an opinion regarding any changes in the amount of fees charged for use of radio and television services; to make decisions on the grant, alteration, revocation, transfer and termination of a radio and TV broadcasting licence; to refer to the competent authorities any violations of statutory instruments in the pursuit of radio and television broadcasting activities;(…)
<i>Implementation problem: The problems come not that much from the tasks formulation but rather from their poor implementation.</i>			
9.1.2.3. Effective sanctioning powers			
<i>Implementation problem: They may seem such only on first glance. Combined with its insufficient monitoring capacity and the lack of enough competence on legal and technical issues, CEM decisions are sometimes cancelled, which makes its sanctions powers questionable.</i>			
9.1.3. Cooperation with other regulators			
	Art. 32 (13) Law on Radio and TV		CEM approaches the Communications Regulation Commission with an enquiry regarding the requisite technical parameters for broadcasting by terrestrial transmitter of radio and television programme services to a population centre or functional region as specified by the Council for Electronic Media or to the entire territory of the Republic of Bulgaria, including unallocated radio frequencies, permissible power of transmission, possible points of transmission, as well as any other technical information as may be necessary.
<i>Implementation problem: Over the recent two years this partnership turned into a growing conflict resulting in a decision of CRC to refuse to cooperate with CEM. It went to the phase where the two authorities turned to the court to resolve their conflict.</i>			
	Arts. 116 – 125 Law on Radio and TV		Communications Regulation Commission cooperates with CEM in the licensing procedure, grants individual telecommunications operation licence for use of existing telecommunication networks for broadcasting by terrestrial transmitter and/or for construction, maintenance and operation of new networks of this type.
<i>Implementation problem: See above.</i>			
9.2. Press Council			
	Print media is deregulated in Bulgaria.		
<i>Note: There is no such regulator. As from end of 2004 media self-regulation was established to envisage a Foundation called National Council for Journalism Ethics. It supervises the activity of two committees. A) Committee for the self-regulation of press and respectively – for the broadcasting media. These committees gather once per month to decide on complaints. Decisions of these committees are not mandatory and are valid only for the media outlets, signatories to the Code.</i>			
9.2.1. Broad representation of sector			
<i>Note: Only in terms of self-regulation.</i>			
9.2.2. Sufficient resources			
<i>Note: Media self-regulation function on the basis of initial grant and subsequently gathered annual taxes from the media, signatories to the Code. Certainly they are not enough but anyway, help its existence.</i>			
9.2.3. Credibility			
Average.			
9.3. Competition Authority			
(http://www.cpc.bg/public/)			

9.3.1. Structure/ organization (<i>What this row should learn is whether there is a problem for media pluralism because NCA does not function properly; it should not contain an in-depth analysis of functioning of NCA!</i>)	There is the Commission for protection of Competition.		
<i>Implementation problem: Here the problem is both with the Commission and also with the insufficient mechanisms and instruments for monitoring and maintenance of proper guarantees to fair competition in the media sector. As various media violate existent rules (show more advertising than allowed or sell airtime on prices lower than those they have officially declared) the market gets sometimes violated by non-market principles, which perverts the fair competition.</i>			
9.3.1.1. Guarantees for independence			
<i>Note: Improving its capacity as well as adoption of more functioning mechanisms for control will certainly contribute to higher independence.</i>			
9.3.1.2. Representation requirements			Not problematic.
9.3.2. Credibility and efficiency			Average.
9.3.2.1. Sufficient resources			Not really.
9.3.2.2. Tasks and duties			
<i>Implementation problem: Well formulated but insufficiently applied.</i>			
9.3.2.3. Effective sanctioning powers			
<i>Note: Could be increased.</i>			
9.3.3. Cooperation with other regulators			
<i>Implementation problem: Insufficient. Could cooperate better with CEM, CRC, and National Employment Agency.</i>			