



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

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*by*

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**Final Report - Annex III**

**COUNTRY REPORTS**

**Estonia**

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**Important Notice**

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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.

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

### [Estonia]

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#### National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*
- Broadcasting Act of May 19, 1994 (RT I 1994, 42, 680)
- Electronic Communications Act of December 8, 2004
- Public Information Act (RT I 2000, 92, 597)
- Advertising Act (RT I 1997, 52, 835) of 01.01.1998, the last amendment 01.09.2002
- Estonian National Broadcasting Act RTI, 06.02.2007, 10, 46

- *General legislation*

- Constitution of the Republic of Estonia, June 28, 1992
- Competition Act of June 5, 2001 (RT I 2001, 56, 332)

- **Codes of conduct**

- The code of ethics for the Estonian press

- **Other**

- Estonian Broadcasting Council

**TABLE 1. Constitutional protection of press and communication freedoms**

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Art. 45 (1) Estonian Constitution	PM + AAVM	<p>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.</p>
<i>Implementation problem: No restrictions to free expression to the extent that in fact, the media often violate §17 of the Constitution that says that nobody's dignity should not be abused.</i>			
<b>1.2. Freedom of/right to information</b>	Art. 44 Estonian Constitution	PM + AAVM	<p>(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.</p>
<i>Note: The Public Information Act supports these rights rather efficiently.</i>			

<p>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</p>	<p>Public Information Act</p>	<p>PM + AAVM</p>	<p>The purpose of this Act is to ensure that the public and every person has the opportunity to access information intended for public use, based on the principles of a democratic and social rule of law and an open society, and to create opportunities for the public to monitor the performance of public duties.</p>
<p>Are there specific rules dealing with journalists’ access to events for news reporting?</p>			<p>No specific rules in addition to the general legislation.</p>
<p><b>1.3. Explicit recognition of media pluralism</b></p>	<p>Non-existent</p>		
<p><b>1.4. Protection of journalistic sources</b></p>	<p>The code of ethics for the Estonian press</p>	<p>PM + AAVM</p>	<p>3.4. Media outlets have a moral obligation to safeguard the identity of confidential sources of information.</p>
	<p>§7 Broadcasting Act</p>	<p>AVMS</p>	<p>(1) Broadcasters shall not disclose information concerning a person who provided information to them unless so requested by the person.          (2) Broadcasters are not required to disclose information which becomes known to them in their activities.          (3) In order to establish the truth, broadcasters are required to submit the data and information specified in subsections (1) and (2) of this section to courts on the bases and pursuant to the procedure prescribed by law.</p>
<p><i>Implementation problem: There has been one case of this kind and still the broadcaster did not give information about the source.</i></p>			
<p><b>1.5. Right of reply</b></p>	<p>The code of ethics for the Estonian press</p>	<p>PN, EN, M</p>	<p>5.1. Individuals subjected to serious accusations should be offered an opportunity for immediate rebuttal in the same edition or programme. 5.2. The objection should correct any factual errors and misquotations. The space/time taken up by the objection may not exceed the space/time for the offending statement. The objection shall be published immediately and prominently, without any editorial comment. 5.3. A correction shall be issued in the event of any inaccuracies.</p>
<p><i>Implementation problem: News organizations do not follow this rule by their own initiative, but only in case if Press Council has dealt with a respective complaint and obligates the news organization to do so. Newspapers use to publish the objections at the end of the newspaper with barely noticeable font. Corrections are issued only occasionally.</i></p>			
	<p>Broadcasting Act</p>	<p>AAVM</p>	<p>(1) Any natural or legal person, regardless of nationality or domicile, whose lawful rights, in particular reputation, have been damaged by an assertion of incorrect facts in a programme shall have the right of reply or equivalent remedies which shall be in accordance with the provisions of civil, administrative or criminal law.</p>

			<p>(2) A broadcaster shall ensure that the right of reply or the equivalent remedies can be exercised and shall not hinder the exercise thereof by the imposition of unreasonable terms or conditions. A broadcaster shall be notified in writing of a request to exercise the right of reply within 20 days after the transmission of the programme to which the request refers. The broadcaster shall broadcast the reply in the same programme within 20 days after the receipt of the reasoned request.</p> <p>(3) A person exercising the right of reply is not required to reimburse the costs of broadcasting the reply.</p> <p>(4) A request to exercise the right of reply may be rejected if such reply is not justified according to the conditions specified in subsection (1) of this section or involves a punishable act or if the satisfaction of the reply would bring about civil liability to the broadcaster or transgress the generally recognised moral standards.</p>
<p><i>Implementation problem: Broadcasters try not to let to use the right to reply. There have also been cases where they have arbitrarily changed the wording of objection in case they aired it. The requirement of (3) is violated by broadcasters quite often. (4) is quite often used for rejecting the right to reply even when in fact, such conditions are not there.</i></p>			
<p><b>1.6. Ratification of international instruments:</b>          - 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)</p>	<p>-Yes          -Yes</p>	<p>PM + AAVM</p>	

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>			
<i>Remark: No legal measures, but there are informal internal rules in most media organizations that require loyalty to the employer and define “inside” information that should not be disclosed. According to an unwritten agreement among the publishers journalists should not criticize their colleagues and other media outlets. Copyright Act is often ignored by the media (without consequences!)</i>			
<b>2.2. News / information programmes</b>	§20 Broadcasting Act	AVMS	(5) News and current affairs programmes shall not be sponsored.
<i>Implementation problem: Sometimes ignored by commercial broadcasters.</i>			
<b>2.3. Other media content</b>	The code of ethics for the Estonian press	PM + AAVM	2.4. Editorial staff members may not be obliged by their employer to write or perform any like activity contradicting their personal convictions.
<i>Implementation problem: Often violated.</i>			
	§18 Broadcasting Act	AVMS	Persons who commission advertising or teleshopping shall not influence the content of programmes or scheduling of a programme service.
<i>Implementation problem: Often violated, but difficult to prove.</i>			
	§6 Broadcasting Act	AVMS	(1) Broadcasters have the right to freely decide on the content of their programmes and programme services in compliance with the law and the conditions of a broadcasting licence.
	§ 13 Broadcasting Act	AVMS	(1) Broadcasters shall appoint executive producers for programmes and programme services transmitted. (2) An executive producer shall ensure the compliance of transmitted programmes and programme services with the requirements of this Act and with fair practices of the press and the observance of the principle of freedom of speech.
<i>Implementation problem: Works in general, but still is interpreted very broadly by the executive producers.</i>			
<b>2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)</b>			
<i>Note: Some internal training courses are arranged by the media organizations, but any systematic training (practical journalism schools or regular courses) is missing. Academic journalism education is provided in the University of Tartu on bachelor’s (3 years), Master’s (2 years) and PhD level (4 years). Television and film are taught in the Baltic Film and Media School at Tallinn University.</i>			

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies' bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures	European Council of Ministers Directive (94/45/EC)	PN, M	There must be one employees' representative in the Board of the company.
<i>Note: No information</i>			
3.1.2. Special representation requirements in media advisory bodies	Broadcasting Act §35	AVMS	The Broadcasting Council, which consists of nine members. On the proposal of the Riigikogu (the Parliament of Estonia) Cultural Affairs Committee, the Riigikogu shall appoint five members of the Broadcasting Council from among the members of the Riigikogu on the basis of the principle of political balance and four members of the Broadcasting Council from among recognised specialist in the related fields relating for the performance of public broadcasting functions
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	The Law of the Employment Contract of the Republic of Estonia, §10	PM + AAVM	The Law prohibits any direct or indirect discrimination in recruitment on the basis of gender, race, nationality, language, sexual orientation, family status, social status, membership of organizations or associations, mental or physical state, political, religious or other convictions.
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings			No regulations
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	§4 (4) <sup>1</sup> Broadcasting Act	AVMS	A television broadcaster shall ensure that at least 51 per cent of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works.
<i>Note: No problems with Public Service Broadcasters; Commercial broadcasters do not always strictly follow these rules, but the deviations have not resulted with any punitive consequences so far. (The same relates to 3.2.2.2 and 3.2.2.3)</i>			
3.2.2.2. Promotion of European independent works	§4 (5) <sup>1</sup> Broadcasting Act	AVMS	A television broadcaster shall ensure that at least 10 per cent of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works created by producers who are independent of the broadcaster. Such works shall include works transmitted within five years of their production.
	§4 (3) <sup>1</sup> Broadcasting Act	AVMS	To be qualified as independent, a production company cannot have produced more than 90% of its programmes for one broadcaster in the previous two years.

<b>Note: No problems with Public Service Broadcasters</b>			
3.2.2.3. Promotion of national/regional works	§4 (2) <sup>1</sup> Broadcasting Act	AVMS	<p>A broadcaster shall ensure that at least 10 per cent of the monthly transmission time of the programme service, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services, is reserved for own production.</p> <p>A broadcaster shall transmit at least 50 per cent of the minimum amount of own production provided for in this subsection during the prime broadcasting time between the hours of 19.00 and 23.00.</p> <p>(3) For the purposes of this Act, “own production” means programmes and programme services relating to contemporary Estonia or Estonian cultural heritage, produced by a broadcaster itself or in co-operation with producers from the member states of the European Union or commissioned from an independent European producer.</p>
<b>Note: No problems with Public Service Broadcasters.</b>			
3.2.2.4. Language requirements	Language Act, § 25	AVMS	<p>Audiovisual production (incl. broadcasts and advertising) must be provided with adequate translation into Estonian language. Translation into Estonian is not required in case of the broadcasts of language teaching or original news broadcasts in a foreign language or live broadcasts. Translation is not required in case of radio broadcasts aimed at the non-Estonian speaking public. Broadcasts without translation should not exceed 10% of the amount of own weekly production.</p>
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)	No regulations		
3.2.4. Subsidies (apart from general PSB funding)			Subsidies to a few cultural and children’s publications from the Ministry of Culture.
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	No any regulations		

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	No regulations		
4.1.2. Requirements of independence from political parties / politicians	No regulations		
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	No regulations		
4.1.4. Representation requirements in media companies' bodies (board of directors...)	European Council of Ministers Directive (94/45/EC)	PN, M	There must be one employees' representative in the Board of the company.
<i>Note: No information</i>			
4.1.5. Representation requirements in media advisory bodies and/or regulators	Broadcasting Act §35	AVMS	The Broadcasting Council, which consists of nine members. On the proposal of the Riigikogu (the Parliament of Estonia) Cultural Affairs Committee, the Riigikogu shall appoint five members of the Broadcasting Council from among the members of the Riigikogu on the basis of the principle of political balance and four members of the Broadcasting Council from among recognised specialist in the related fields relating for the performance of public broadcasting functions
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. (Equal/proportionate) Access to airtime for political groupings	§6 <sup>1</sup> Broadcasting Act	AVMS	Upon granting transmission time to a political party or a political movement to present its positions, a broadcaster shall also provide an opportunity to grant transmission time in the same programme service for other political parties or movements without undue delay.
<i>Note: No problems with implementation. In fact, this regulation excludes 'politicization' of broadcasting.</i>			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Not regulated		
4.2.1.b. Paid access: rules on political advertising	Not regulated		
4.2.2. Government announcements	§10 Broadcasting Act		(1) In the case of a threat to public security or the constitutional order, broadcasters are required to promptly transmit the official announcements of the Riigikogu, the President of the Republic and the Government of the Republic in all their programme services at their own expense.

	§27 Broadcasting Act		<p>(1) <i>Eesti Raadio</i> and <i>Eesti Televisioon</i> are required to broadcast all official announcements of constitutional state authorities without undue delay.</p> <p>(2) <i>Eesti Raadio</i> and <i>Eesti Televisioon</i> shall transmit the announcements of constitutional state authorities without making any changes thereto.</p> <p>(3) <i>Eesti Raadio</i> and <i>Eesti Televisioon</i> are not required to verify the accuracy of information in announcements specified in subsection (1) of this section and shall not be liable for the content of the transmitted announcements.</p>
4.2.3. Impartiality obligations	Estonian National Broadcasting Act §3		National Broadcasting shall be independent in the production and transmission of its programmes, programme services and other media services, and shall be guided exclusively by the requirements of law.
4.2.4. Fair representation of political viewpoints; special rules in election periods	<p>§6<sup>1</sup> Broadcasting Act (see 4.2.1.)</p> <p>Estonian National Broadcasting Act § 6 (5)</p>		<p>The programmes of National Broadcasting shall be politically balanced. In particular, the political balance requirement must be adhered to during the period of active election propaganda in the elections of the President of the Republic, the Riigikogu<sup>1</sup>, the European Parliament and local government councils. For such purpose, National Broadcasting shall give equal opportunities to all the candidates participating in the elections of the President of the Republic, to all the political parties and independent candidates participating in the elections of the Riigikogu and the European Parliament and, taking account of the large number of election coalitions and independent candidates in the elections of local governments, shall create opportunities for as many powers as possible who participate in the elections and have an integral programme to adequately present their viewpoints. Similarly to the elections of local governments, equal opportunities shall be created in the event of referendums. The rules for reflecting elections in the programme services of National Broadcasting shall be approved by the National Broadcasting Council and such rules shall be disclosed not later than within a week after the date of announcement of the elections.</p>

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b> (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...)	§37 (3) Broadcasting Act	AAVM	Six types of broadcasting licences are issued for the broadcast of programmes: 1) a local broadcasting licence, for the operating area of one transmitter; 2) a regional broadcasting licence, for radio networks, for one transmitter or a transmitters network in a part of the territory of Estonia; 3) a national broadcasting licence, for a national transmitters network or for one transmitter which enables reception of programmes in up to 80 to 100 per cent of the territory of Estonia; 4) an international broadcasting licence, for a transmitters network or one transmitter which enables reception of programmes in other states; 5) a temporary broadcasting licence, for a specific region and period of time for a term of up to three months; 6) broadcasting licence, for cable networks.
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	No regulations		
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	No regulations		
<b>5.4. Regional State Aids</b>	No regulations, no aids		
<b>5.5. Rules on national minorities</b>	EU Framework Convention for the Protection of Minorities		
	§4 Act on the Cultural Autonomy of Ethnic Minorities 1993 RT I 1993, 71, 1001		A person belonging to an ethnic minority has the rights to publish publications in native language, distribute and transmit information in native language.
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>	No regulations		

**TABLE 6. Pluralism of ownership/control**

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>	<b>No regulations concerning print media</b>		
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	§37 Broadcasting Act	AAVM	<p>(1) A broadcasting licence is an activity licence which grants the legal or natural person specified in the licence the right to broadcast programmes and programme services under the conditions specified in the licence. Broadcasting licences are issued by the Ministry of Culture on the bases and pursuant to the procedure prescribed by this Act.</p> <p>(3) Six types of broadcasting licences are issued for the broadcast of programmes: 1) a local broadcasting licence, for the operating area of one transmitter; 2) a regional broadcasting licence, for radio networks, for one transmitter or a transmitters network in a part of the territory of Estonia; 3) a national broadcasting licence, for a national transmitters network or for one transmitter which enables reception of programmes in up to 80 to 100 per cent of the territory of Estonia; 4) an international broadcasting licence, for a transmitters network or one transmitter which enables reception of programmes in other states; 5) a temporary broadcasting licence, for a specific region and period of time for a term of up to three months; 6) broadcasting licence, for cable networks.</p>
	§40 (4) Broadcasting Act		<p>The Ministry of Culture shall refuse to issue a broadcasting licence if: (...) 6) the issue of the broadcasting licence 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;          [...]</p>

			[...] 7) the issue of the broadcasting licence would violate the requirements of free competition and of enterprise based on equal grounds in the territory planned for the broadcasting activity or a part of the territory of Estonia; 8) 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; this restriction shall not extend to the television guide published by a broadcaster itself.
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	No media targeted regulations; Commercial Code applied (Passed 15 February 1995 (RT1 I 1995, 26/28, 355; consolidated text RT I 2005, 63, 481)		
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	§34 Est.National Broadcasting Act		State supervision (1) The State Audit Office shall exercise economic control over the activity of National Broadcasting pursuant to the State Audit Office Act. (2) The Communications Board shall exercise control over compliance with the Electronic Communications Act pursuant to the procedure provided by the Electronic Communications Act. (3) The Ministry of Culture shall exercise supervision over adherence to the requirements provided by §§ 41, 8, 9, 11 and 13 of the Broadcasting Act and §§ 10 and 11 of this Act. (4) The officials appointed by the Minister of Culture has the right to exercise the supervision specified in subsection (3) of this section (hereinafter person exercising supervision). The Ministry of Culture has the right to involve experts in the exercise of supervision
6.1.2. <i>Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)</i>			
6.1.2.1. <i>Monomedia</i>	No regulation		

6.1.2.2. <i>Crossmedia</i>	§40 (4) Broadcasting Act	Only AAVM	The Ministry of Culture shall refuse to issue a broadcasting licence if: 8) 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; this restriction shall not extend to the television guide published by a broadcaster itself.
6.1.2.3. <i>Vertical integration with networks</i>	No regulation		
6.1.2.4. <i>Integration with advertising sector</i>	No regulation		
6.1.2.5. <i>Integration with other (e.g. energy) sectors</i>	No regulation		
6.1.2.6. <i>Control over both commercial and public media</i>	No regulation		
6.1.3. <i>Criteria used to define thresholds for maximum ownership and/or control</i>	No regulation		
6.1.3.1. <i>Number of licences</i>	§37 Broadcasting Act	AAVM	(4 <sup>1</sup> ) Up to two international broadcasting licences for television networks or two national broadcasting licences for television networks or one national and one international broadcasting licence for a television network shall be issued for simultaneous periods of validity.
6.1.3.2. <i>Market shares</i>	No regulation		
6.1.3.3. <i>Circulation and audience shares</i>	No regulation		
6.1.3.4. <i>Capital shares</i>	No regulation		
6.1.3.5. <i>Voting shares</i>	No regulation		
6.1.3.6. <i>Advertising revenues</i>	No regulation		
6.1.3.7. <i>Involvement in number of media sectors</i>	No regulation		
<b>6.2. Sector specific rules preventing cooperation between media companies</b>	No regulation		
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	§23 (1) Broadcasting Act		Any person may acquire, create or distribute broadcasting programmes or programme services.
<b>6.4. General competition rules</b>			
6.4.1. <i>Antitrust</i>	Competition Act		
6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i>	Non-existent		
6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	Non-existent		
6.4.2. <i>Merger control</i>	§22 (2) Competition Act	General competition rules	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.

6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i>	No specific regulations		
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	No regulations		
<b>6.5. Transparency obligations</b>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	§28 (1) Commercial Code		Access to commercial register: Entries in the commercial register are public. Everyone has the right to examine the card register and the business files, and to obtain copies of registry cards and of documents in the business files.
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...)	Some general requirements are in: Taxation Act <sup>1</sup> , Passed 20 February 2002 (RT2 I 2002, 26, 150),		
	§33 National Broadcasting Act		Availability of reports: The audited and approved annual report and activity report of National Broadcasting shall be published in the Riigi Teataja Lisa <sup>2</sup> and the website of National Broadcasting.

**TABLE 7. Pluralism of media types and genres**

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>	§4 (1) Broadcasting Act	AAVM	A broadcaster shall ensure that at least 5 per cent of the daily transmission time of its programmes or programme service is reserved for the transmission of news programmes produced by the broadcaster, except for programme services on Sundays and public holidays. A news programme which includes news produced by at least two different news producers is also deemed to be a news programme produced by a broadcaster.
<i>Implementation problem: Sometimes problems with commercial televisions.</i>			
	§4 (8) Broadcasting Act		The weekly transmission time of a programme service of a broadcaster shall amount to at least: 1) 84 hours upon the transmission of radio programmes and programme services; 2) 56 hours upon the transmission of television programmes and programme services; 3) 21 hours upon the transmission of television programmes and programme services on the basis of a local broadcasting licence or a broadcasting licence for cable networks.
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	§11 <sup>1</sup> Broadcasting Act		Restriction on exercise of exclusive broadcasting rights (1) The Government of the Republic shall establish a list of events which are regarded as being of major importance for society and which are therefore to be transmitted such that a substantial proportion of the public has the possibility of following such events via whole or partial live or deferred coverage on free television. (2) If an Estonian broadcaster has acquired an exclusive right to broadcast events which a member state of the European Union or a state party to the European Convention on Transfrontier Television has included in its list of events regarded as being of major importance for society, the broadcaster shall not exercise the exclusive right if by so doing it deprives a substantial proportion of the public in the state concerned of the possibility of following such major events via free television. (4) For the purposes of this Act, a substantial proportion of the Estonian public equals at least 70 per cent of the population.

<b>7.3. Short news reporting</b>	§ 29 Broadcasting Act		1) transmit free of charge live or recorded programmes of events specified in clause 25 (2) 1) which are financed from the state or a local budget unless otherwise prescribed by copyright or the provisions of an agreement; 2) produce and broadcast an up to 90-second news programme of every public cultural or sports event free of charge with the consent of the organiser of the event; 3) insert into their regular news programmes an up to 90-second clip of a programme transmitted by another Estonian broadcaster, observing copyright and the provisions of the agreement which is the basis for distributing the programme.
<b>7.4. Fixed book price</b>	Not regulated		
<b>7.5. Public service media</b>			
7.5.1. Structural rules - organization	§40 National Broadcasting Act		§ 40. Dissolution of Eesti Raadio3 and Eesti Televisioon4 and foundation of Rahvusringhääling (National Broadcasting) (1) Based on this Act, the public service broadcasters Eesti Televisioon and Eesti Raadio are merged, and Rahvusringhääling (National Broadcasting), a legal person in public law, is founded which shall be the legal successor of Eesti Televisioon and Eesti Raadio. As of the date of foundation of National Broadcasting, Eesti Televisioon and Eesti Raadio are deemed to be dissolved.
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)	§3 Estonian National Broadcasting Act		§ 3. Independence of National Broadcasting: National Broadcasting shall be independent in the production and transmission of its programmes, programme services and other media services, and shall be guided exclusively by the requirements of law.
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	§23 Estonian National Broadcasting Act		(1) The management board of National Broadcasting (hereinafter management board) is the management body of National Broadcasting who represents and manages National Broadcasting. (2) Upon managing, the management board shall be guided by the budget, development plan and strategic documents approved by the Council. Transactions which are beyond the scope of everyday economic activities may only be concluded by the management board with the consent of the Council. The management board is required to act in the most economically purposeful manner. [...]

			<p>[...]</p> <p>(3) The management board shall present the Council with an overview of the economic activities and economic situation of National Broadcasting at least once every three months and shall immediately give notice of any material deterioration in the economic condition of National Broadcasting or of any other material circumstances related to the economic activities of National Broadcasting. The management board's reports and notices directed to the Council shall be comprehensive and clear and shall be submitted in good time and in a format which can be reproduced in writing.</p> <p>(4) The management board shall organise the accounting of National Broadcasting.</p> <p>(5) The activities of the management board shall be organised by the chairman of the management board.</p>
<p>7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i></p>	<p>§15 National Broadcasting Act</p> <p>§24 (4) National Broadcasting Act</p>		<p>(1) A Council member shall not be:</p> <ol style="list-style-type: none"> <li>1) a member of the management board, a procurator or an auditor of National Broadcasting;</li> <li>2) a member of a management body of a broadcaster;</li> <li>3) a sole proprietor in the meaning of a broadcaster;</li> <li>4) in a contractual relationship with any broadcaster;</li> <li>5) a partner, shareholder or member in a broadcaster;</li> <li>6) a member of the Government of the Republic.</li> </ol> <p>The following persons shall not be members of the management board:</p> <ol style="list-style-type: none"> <li>1) a person with respect to whom a court has, pursuant to § 49 of the Penal Code, imposed a prohibition on acting as a member of the management board, a person who is prohibited from operating within the same area of activity as National Broadcasting, or a person who is prohibited to act as a member of the management board on the basis of an Act or a court decision;</li> <li>2) a person who is in a contractual relationship with any private broadcaster;</li> <li>3) a person who is a member or an auditor of another broadcaster, a shareholder with a qualifying holding in another broadcaster, or a person exercising dominant influence over the management of such broadcaster in any other manner;</li> <li>4) a sole proprietor in the meaning of a broadcaster;</li> <li>5) a member of the Riigikogu or the Government of the Republic;</li> <li>6) a member of a management body of a political party registered in Estonia.</li> </ol>

<p>7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i></p>	<p>§13, §14, § 29 National Broadcasting Act</p>		<p>National Broadcasting Council          The National Broadcasting Council (hereinafter Council) is the highest directing body of National Broadcasting. The Council shall plan the activities of National Broadcasting, organise the management of National Broadcasting and supervise the activities of the management board. The Council shall submit a written and oral report on the activities of the Council to the Riigikogu Cultural Affairs Committee once a year.</p> <p>Formation of Council          (1) The Council consists of members of the Riigikogu and of acknowledged experts in the field of activity of National Broadcasting. On the proposal of the Riigikogu Cultural Affairs Committee, the Riigikogu shall appoint:          1) one representative from each faction of the Riigikogu until the date of termination of the authority of the composition of the Riigikogu; Upon termination of the authority of the composition of the Riigikogu, the Council members who are members of the Riigikogu shall stay with the Council until the entry into force of the decision to appoint members of the new composition of the Riigikogu to the Council;          2) four experts from among the acknowledged experts in the field of activity of National Broadcasting whose authority shall continue for five years.</p> <p>Public advisory board          (1) The public advisory board has the task to advise the management board in:          1) matters related to the content of programmes and other media products, and the structure of programme services;          2) preparation of the draft development plan of National Broadcasting.          (2) The public advisory board shall have nine to fifteen members who are appointed by the decision of the Council on proposal of the management board for a period of up to five years. In order to elect a member of the public advisory board, his or her consent is required.          (3) Appointment of the members of the public advisory board shall be based on the representation of the interested groups and walks of life of the society.</p>
<p>7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i></p>	<p>No regulation</p>		
<p>7.5.2. Structural rules - funding</p>			

<p>7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</p>	<p>§11 National Broadcasting Act</p>		<p>Advertising, teleshopping and sponsorship in National Broadcasting          (1) National Broadcasting shall not transmit advertising and teleshopping and shall not receive support from sponsorship, except in the cases provided in subsection (2) of this section.          (2) The National Broadcasting Council may permit the transmission of advertising or sponsor information in the programmes or media services of National Broadcasting as an exception, if:          1) it relates to the broadcasting rights of an international major event acquired via the EBU (European Broadcasting Union), or          2) it relates to the broadcasting rights of a cultural or sports event of significant public interest.          (3) Unless otherwise provided by the broadcasting rights specified in subsection (2) of this section, the information concerning sponsors accompanying broadcasting rights to events broadcast in the radio programme services shall contain the names of sponsors without any background sound and such information broadcast in the television programme services shall contain the names of sponsors without any logo or trademark.          (4) Pursuant to the procedure established by the management board, National Broadcasting may broadcast announcements free of charge concerning public events or call on people to behave in a certain manner if this is in public interest.          (5) National Broadcasting shall not be a sponsor or donor.          (6) National Broadcasting may introduce itself, its programme services and programmes and the products related thereto.</p>
<p><i>Implementation problem: No compensation</i></p>			
	<p>§7 (5) National Broadcasting Act</p>		<p>The revenue of National Broadcasting comprises:          1) the annual appropriation from the state budget;          2) income from the sale of the transmission and distribution rights of its own programmes and media services;          3) income from the grant for use for profit-making activities of the materials from its archives;          4) income from the sale of the property of National Broadcasting;          5) gifts and donations which are not deemed to be support received from sponsorship;          6) interest and other financial income;          [...]</p>

			<p>[...]</p> <p>8) financing for projects intended for specific purposes;</p> <p>9) other income from the activity of National Broadcasting which is not in conflict with the objectives of National Broadcasting and which has been approved by the National Broadcasting Council.</p> <p>(6) During a financial year, the National Broadcasting Council may pass a supplementary budget of National Broadcasting in order to correspondingly increase or decrease the revenue and expenditure of National Broadcasting in a balanced manner.</p> <p>(7) The National Broadcasting Council shall approve the procedure for registration and disclosure of the donations and support for projects intended for specific purposes which are granted to National Broadcasting. If such disclosure takes place via the programme services of National Broadcasting, the information concerning the supporters and donors of a project shall include only the name of the supporter or donor.</p>
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
<i>Note: No information about this. However, the PSB steadily complains about the lack of resources.</i>			
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	§4 National Broadcasting Act		<p>Objective of National Broadcasting</p> <p>The objective of National Broadcasting is to assist in the performance of the functions of the Estonian state provided by the Constitution of the Republic of Estonia. For such purposes, National Broadcasting shall create programme services, produce and mediate programmes and organise other activities which, separately or as a set shall:</p> <ol style="list-style-type: none"> <li>1) support the development of the Estonian language and culture;</li> <li>2) enhance the guarantees of the permanence of the Estonian state and nation, and draw attention to the circumstances which may endanger the permanence of the Estonian state and nation;</li> <li>3) assist in the increase of the social cohesion of the Estonian society;</li> <li>4) assist in the increase of the economic wellbeing and competitive ability of Estonia;</li> <li>5) assist in the promotion of the democratic system of government;</li> <li>6) explain the need for the economical use and sustainable development of the natural environment</li> </ol> <p>[...]</p>

			[...] 7) enhance the family-based model of society; 8) assist in the audio-visual recording of Estonian history and culture; 9) guarantee the availability of the information needed by each person for his or her self-realization.
7.5.3.2. <i>Obligation to engage in new media activities</i>	No specific regulations		
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	§6 National Broadcasting Act		<p>Programme services of National Broadcasting</p> <p>(1) The programme services and media services shall meet the objectives of National Broadcasting and serve the public interest.</p> <p>(2) The programme services shall be diverse and deal with the topics of social life in a balanced manner.</p> <p>(3) The programme services and media services shall promote communication between the members of the society and social groups, the social cohesion of the society, and shall reflect different opinions and beliefs.</p> <p>(4) The news programmes of National Broadcasting shall be diverse, balanced, independent and appropriate. Before transmitting the news, the information on which they are based shall be verified with reasonable diligence. Fact and commentary shall be clearly differentiated in a news broadcast.</p> <p>(5) The programmes of National Broadcasting shall be politically balanced. In particular, the political balance requirement must be adhered to during the period of active election propaganda in the elections of the President of the Republic, the Riigikogu<sup>1</sup>, the European Parliament and local government councils. For such purpose, National Broadcasting shall give equal opportunities to all the candidates participating in the elections of the President of the Republic, to all the political parties and independent candidates participating in the elections of the Riigikogu and the European Parliament and, taking account of the large number of election coalitions and independent candidates in the elections of local governments, shall create opportunities for as many powers as possible who participate in the elections and have an integral programme to adequately present their viewpoints. Similarly to the elections of local governments, equal opportunities shall be created in the event of referendums. The rules for reflecting elections in the programme services of National Broadcasting shall be approved by the National Broadcasting Council and such rules shall be disclosed not later than within a week after the date of announcement of the elections.</p>
7.5.5. Universal coverage obligations	No regulation		

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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	§ 90 Electronic Communication Act		(1) A communications undertaking who provides cable distribution services shall guarantee the continuous retransmission of the following programmes: 1) television programmes of the Estonian public service broadcaster; 2) television programmes transmitted by terrestrial broadcasting transmitters within a cable distribution network area that are received at a signal strength compatible with the technical requirements and for the transmission of which the broadcaster requires no charge. (2) The programmes specified in subsection (1) of this section are transmitted as a single packet based on a subscription contract entered into between the communications undertaking providing cable distribution services and the end-user.
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>			The same as above
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives	No data		
8.3.2. Result of (first) round of market analysis of market 18	No data		
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			

8.4.1. Conditional access	§ 2, 50 and 67 of the Electronic Communication Act		<p>Conditional access” means a set of technical facilities that enables the use of radio or television services only against remuneration.</p> <p>A communications undertaking that provides conditional access services to providers of digital television and radio services, and if the access by broadcasters to potential viewers and listeners depends on the access services, is required to:</p> <ol style="list-style-type: none"> <li>1) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally transmitted services to be received by viewers or listeners authorised by means of decoders;</li> <li>2) keep separate accounts of its activities as a provider of conditional access services.</li> </ol> <p>A communications undertaking that provides conditional access systems is required to use activity-based cost (ABC) accounting.</p>
8.4.2. EPG (or other search tools)	§ 2, 50 and 67 of the Electronic Communication Act		<p><i>Supra</i></p> <p>ENCB may impose obligations for access to network or systems on an operator with SMP.</p>
8.4.3. API	§ 2, 50 and 67 of the Electronic Communication Act		<i>Supra</i>
8.4.4. Other			
<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>	No rules		
<b>8.7. General competition law</b>	Competition Act (RT1 I 2001, 56, 332)		Contains nothing specific about the media.
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>			
<b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:</b> - Regional - Linguistic/minority - National )	“Tiger Leap” project 1997-2000, 2001-2005, 2006-2011		The Tiger Leap programme is a national specific programme launched by the Estonian Government with an aim to increase Estonian school education quality utilizing modern information and communication technology (computers and Internet access for each school). The programme is funded from the national budget via Ministry of Education.

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			Estonian Broadcasting Council ( <a href="http://www.rhn.ee">http://www.rhn.ee</a> )
9.1.1. Structure/ organisation			
9.1.1.1. <i>Guarantees for independence</i>	§15 National Broadcasting Act		<p><b>Members of Council</b></p> <p>(1) A Council member shall not be:</p> <ol style="list-style-type: none"> <li>1) a member of the management board, a procurator or an auditor of National Broadcasting;</li> <li>2) a member of a management body of a broadcaster;</li> <li>3) a sole proprietor in the meaning of a broadcaster;</li> <li>4) in a contractual relationship with any broadcaster;</li> <li>5) a partner, shareholder or member in a broadcaster;</li> <li>6) a member of the Government of the Republic.</li> </ol>
9.1.1.2. <i>Representation requirements</i>	§13 National Broadcasting Act		<p>National Broadcasting Council:</p> <p>The National Broadcasting Council (hereinafter Council) is the highest directing body of National Broadcasting. The Council shall plan the activities of National Broadcasting, organise the management of National Broadcasting and supervise the activities of the management board. The Council shall submit a written and oral report on the activities of the Council to the Riigikogu Cultural Affairs Committee once a year.</p>
	§14 National Broadcasting Act		<p>Formation of Council</p> <p>(1) The Council consists of members of the Riigikogu and of acknowledged experts in the field of activity of National Broadcasting. On the proposal of the Riigikogu Cultural Affairs Committee, the Riigikogu shall appoint:</p> <ol style="list-style-type: none"> <li>1) one representative from each faction of the Riigikogu until the date of termination of the authority of the composition of the Riigikogu;</li> </ol> <p>Upon termination of the authority of the composition of the Riigikogu, the Council members who are members of the Riigikogu [...]</p>

			[...] shall stay with the Council until the entry into force of the decision to appoint members of the new composition of the Riigikogu to the Council; 2) four experts from among the acknowledged experts in the field of activity of National Broadcasting whose authority shall continue for five years.
9.1.2. Credibility and efficiency	§22 National Broadcasting Act		Liability of members of Council (1) Upon performance of his or her obligations, a member of the Council shall act in a loyal manner with respect to National Broadcasting and exercise a necessary level of diligence commensurate with the position of a Council member. (2) Members of the Council who cause damage to National Broadcasting by violation of their obligations shall be solidarily liable for compensation for the damage caused. A Council member is relieved from liability if he or she proves that he or she has performed his or her obligations with the diligence specified in subsection (1) of this section or if he or she maintained a dissenting opinion in the adoption of the resolution which was the basis for the illegal activity, and the dissenting opinion has been recorded in the minutes. (3) The limitation period for submission of claims against a member of the Council shall be five years.
9.1.2.1. Sufficient resources	§20 National Broadcasting Act		Operating expenses of Council and remuneration of Council members (1) The operating expenses of the Council shall be covered from the budget of National Broadcasting. The managing board shall ensure the necessary conditions and means for the work of the Council. (2) Out of the means specified in subsection (1) of this section, Council members are remunerated to the extent of two minimum monthly wages a month, and the chairman of the Council is remunerated to the extent of three minimum monthly wages a month.

<p>9.1.2.2. <i>Tasks and duties</i></p>	<p>§21 National Broadcasting Act</p>		<p>Competence of Council          (1) The Council has exclusive competence to:          1) approve of and supervise over the execution of the budget of National Broadcasting;          2) approve of the internal audit rules and the work schedule of the internal auditor of National Broadcasting;          3) approve of the procedure for use and disposal of assets of National Broadcasting;          4) approve of the interim report on execution of the budget and the audited annual account of National Broadcasting;          5) determine the structure of National Broadcasting;          6) increase the number of programme services of National Broadcasting;          7) exercise supervision over performance of the objectives and functions of National Broadcasting listed in §§ 4 and 5 of this Act.</p>
<p>9.1.2.3. <i>Effective sanctioning powers</i></p>			
<p>9.1.3. Cooperation with other regulators</p>	<p>§7 National Broadcasting Act</p>		<p>§ 7. Budget of National Broadcasting          (1) Before the beginning of the next financial year or not later than within two weeks after the approval of the state budget by the Riigikogu, the management board of National Broadcasting shall prepare the budget which shall set out all the income, expenditure and financing transactions for the next financial year.          (2) The budget shall be prepared using the accrual method, and a cash flow plan for the financial year and the next four years shall be appended to it.          (3) The National Broadcasting Council shall approve the budget of National Broadcasting. Until the budget has been approved, the expenditure of National Broadcasting for one calendar month shall not exceed the total expenses during the same calendar month of the previous year.          (4) The report on execution of the budget and the audited annual account shall be published on the website of National Broadcasting not later than by the end of the month of their preparation.</p>
<p><b>9.2. Press Council</b></p>			<p>The Estonian Press Council (ASN)<sup>1</sup>          The Press Council of Estonia (PN)<sup>2</sup></p>

<sup>1</sup> [www.asn.org.ee](http://www.asn.org.ee)

<p><i>Note: Both councils use the same Code of Ethics. Their competences partly overlap. The Councils can demand that their condemning opinions must be published in the same media where the breach took place. The Councils have no enforcement mechanism for their decisions and they do not award damages.</i></p>			
9.2.1. Broad representation of sector			<p>PN consists of 5 editors-in-chief, National Broadcasting’s Ethical Advisor and 4 not media related persons (from Estonian Bank, a law firm, Estonian Academy of Arts, Non-Estonians’ Integration Foundation);          ASN consists of 3 representatives of the Estonian Journalists’ Union, 7 from four NGOs.</p>
<p><i>Note: PN is under the control of the owners and publishers, funded by the publishers’ organization Estonian Newspaper Association. ASN is funded by membership fees, and is independent from the media industry.</i></p>			
9.2.2. Sufficient resources			See 9.2.1.
9.2.3. Credibility			
<p><i>Note: ASN enjoys large public credibility. PN has repeatedly damaged its reputation by standing for the interests of the owners.</i></p>			
<b>9.3. Competition Authority</b>			Estonian Competition Board
9.3.1. Structure/ organization (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!)			
<p><i>Note: The problem for media pluralism is the lack of legal regulation of the media ownership.</i></p>			
9.3.2. Cooperation with other regulators	§ 144 of the Electronic Communication Act		<p>The Communications Board must co-operate and where necessary, exchange information, on the competition situation in the electronic communications markets with the Competition Board.          The Communications Board and the Competition Board may specify the conditions and organisation of their co-operation in a protocol. The must ensure uniform and consistent interpretation of the competition situation and must prevent the passing of contradictory decisions.          The Communications Board must provide the Competition Board with the information on its market analysis promptly, including the definition of relevant markets, SMP designation, and remedies. The Communications Board has the right to forward confidential business information to the Competition Board.          [...]</p>

<sup>2</sup> <http://www.eall.ee/pressinoukogu/index-eng.html>

			<p>[...]</p> <p>If an undertaking is designated as having SMP and the Communications Board has imposed remedies, the Competition Board cannot apply measures under the Competition Act based on a finding of a dominant position, or to take decisions that contradict those of the Communications Board.</p> <p>ENCB is responsible for the supervision of pricing behaviour and access provision by an operator designated as having SMP, despite such an undertaking's possible dominant market position under competition law.</p> <p>One member in the Commission of Granting of Broadcasting Licences at the Ministry of Culture is appointed by the Estonian Competition Board.</p>
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