



***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

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Final Report - Annex III

COUNTRY REPORTS

Hungary

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

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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.

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

[HUNGARY]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- Act II of 1986 on the Press
- Act 1 of 1996 of Radio and Television Broadcasting
- Act 100 of 2003 on Electronic Communication
- Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover

- *General legislation*

- The Constitution of the Republic of Hungary
- Act No. LXIII of 1992 on the Protection of Personal Data and Disclosure of Data of Public Interest
- Act XC of 2005 on the Freedom of Information by Electronic Means
- Act LXVI 1995 on Public Records, Public Archives, and the Protection of Private Archives
- Act IV of 1959 on Civil Code
- Act III of 1952 on Civil Procedure

- **Codes of conduct**

- Code of Journalistic Ethics (Újságírói Etikai Kódex)
- Code of Content Provision (Tartalomszolgáltatási Kódex)

- **Other**

- Act LXXVII of 1993 on the Rights of National and Ethnic Minorities
- The Competition Act LVII of 1996

TABLE 1. Constitutional protection of press and communication freedoms

| Measure | Source | Scope of application | Key features |
|---|---|---|---|
| 1.1. Freedom of expression | The Constitution of the Republic of Hungary ¹ (Article 61) | Applies generally, including: PM AAVM | Article 61 of the Constitution states: (1) In the Republic of Hungary everyone has the right to freely express his opinion, and furthermore to access and distribute information of public interest. (2) The Republic of Hungary recognizes and respects the freedom of the press.(3) A majority of two-thirds of the votes of the Members of Parliament present is required to pass the law on the public access to information of public interest and the law on the freedom of the press. (4) A majority of two-thirds of the votes of the Members of Parliament present is required to pass the law on the supervision of public radio, television and the public news agency, as well as the appointment of the directors thereof, on the licensing of commercial radio and television, and on the prevention of monopolies in the media sector. |
| <i>Implementation problem: Article 221 of the 1978 Criminal Code allows for imprisonment of up to five years for breaching state secrets. Miklos Haraszti, the OSCE Representative on Freedom of the Media and a former Hungarian dissident, criticized the government in November 2004 for using the law against a journalist who quoted from a police report on a MP under investigation. The Commissioner ruled that the report was not be eligible to be secret and was declassified by the police.²</i> | | | |
| 1.2. Freedom of/right to information | | | |
| <i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i> | Act No. LXIII of 1992 on the Protection of Personal Data and Disclosure of Data of Public Interest It is a combined Data Protection and Freedom of Information | Applies generally, including: PM AAVM | The Act guarantees that all persons should have access to information of public interest which is broadly defined as any information being processed by government authorities except for personal information. Requests can be written, oral or electronic. Agencies must respond in 15 days to requests. |
| | Act XC of 2005 on the Freedom of Information by Electronic Means | Electronic communication means | It requires from the Minister of Informatics and Communications creation of a central list of databases and registries and a uniform public data search engine. |
| | Act LXVI 1995 on Public Records, Public Archives, and the Protection of Private Archives | Applies generally, including: PM AAVM | Individuals can access records over 30 years old. |
| | The Parliamentary Commissioner for Data Protection and Freedom of Information | Applies generally, including: PM AAVM | The Commissioner oversees data protection and freedom of information, including: maintaining the Data Protection Register and providing opinions on legislation concerning data protection and access to information |
| <i>Note: The Parliamentary Commissioner in his 2004 report noted a number of continuing problems including access to court records and the cost of disclosures on public bodies. Regulatory bodies who refused to reveal their activities were also a problem.³</i> | | | |

¹ Established by Act XX 1949.

² Organization for Security and Co-operation in Europe Representative on Freedom of the Media, OSCE media watchdog criticises Hungary over arbitrary harassment of journalist, 16 November 2004. See also: The Online Network of Freedom of Information Advocates: <http://www.freedominfo.org/countries/hungary.htm>.

³ The Online Network of Freedom of Information Advocates: <http://www.freedominfo.org/countries/hungary.htm>.

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|---|--|---|---|
| Are there specific rules dealing with journalists’ access to events for news reporting? | Act II of 1986 on the Press | PM | § 4 (1) Government organizations, business organizations [Civil Code § 685 c)], social organizations and associations shall assist the authentic, accurate and prompt information of the public on their own initiative and by disclosing the necessary data to the press. ⁴ |
| 1.3. Explicit recognition of media pluralism | There is no a special legal act dealing with media pluralism, nor there is a special institution. | | |
| 1.4. Protection of journalistic sources | | | |
| 1.5. Right of reply | Legal provision: Act No. IV of 1959 on Civil Code (Article 79) Act No. III. of 1952. on Civil Procedure (Articles 342 – 346) | Applies generally, including: PM AVVM | A right to reply can be requested by persons concerned in cases when incorrect factual information had been provided by the press. If the press organisation refuses to rectify, the court has the power to oblige it to do so. |
| <i>Implementation problem: In Hungary the attacked persons must demonstrate that the allegations were false and defamatory. This is perceived as one of the weakest application of the right of reply.⁵</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) | International legal instruments: CoE’s Framework Convention for the Protection of National Minorities CoE’s European Charter for Regional and Minority Languages UNESCO Convention on the Protection of the Diversity of Cultural Expressions | | -signed (1.02.1995) -ratified (25.09.1995) -entered into force (1.02.1998) -signed (5.11.1992) -ratified (26.04.1995) -entered into force (1.03.1998) -accession by European community (18.12.2006) |

⁴ Hungarian Parliamentary Commissioner for Data Protection and Freedom of Information, <http://abiweb.obh.hu/dpc/index.php?menu=reports/2004/III/4&dok=reports/2004/225>

⁵ Koltay Andras: The Right of Reply: A Comparative Approach, (in) Iustum Aequum Salutare III. 2007/4. -203–213.

TABLE 2. Editorial independence

| Measure | Source | Scope of application | Key features |
|---|--|---|---|
| 2.1. Journalists | <i>Code of Journalistic Ethics (Újságírói Etikai Kódex)</i> enacted by the Association of Hungarian Journalists (Magyar Újságírók Országos Szövetsége, MÚOSz) | Applies generally, including: PM AAVM | Covers following: -the protection of human rights, the prohibition of incitement to hatred, protection of human dignity; - the obligation of providing truthful and conscientious information; - the prohibition of plagiarism and other abuses; - ethics of providing information, collegial behaviour. |
| The <i>Code of Journalistic Ethics</i> of the MÚOSz defines the <i>Committee of Ethics</i> as an arbitration court of professional honour, with the aim to reconcile parties and to achieve public recompensation above all. When breach of the <i>Code of Journalistic Ethics</i> is stated, the committee may impose a scale of sanctions defined in the code extending from four grades of warnings to temporary suspension of membership in the MÚOSz or exclusion from the association. ⁶ | | | |
| 2.2. News / information programmes | | | |
| 2.3. Other media content | Code of Content Provision (Tartalomszolgáltatási Kódex) enacted by the Hungarian Content Providers' Association (Magyar Tartalomszolgáltatók Egyesülete) in 2001 | Online media | Covers among others following issues: the distinctions between editorial content, paid content and user generated content; questions of copyright; data protection; integrity of contents; archiving on-line content; commitment to make existing filtering software available for users in order to promote protection of minors. The annexes cover among others: - a code of ethics related to editorial content on journalistic principles of on-line news provision. |
| 2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.) | | | |

⁶ Lengyel Márk: Media System of Hungary, report for the Study on Co-Regulation Measures in the Media Sector, commissioned by the European Commission, Directorate Information Society Unit A1 Audiovisual and Media Policies, Digital Rights, Task Force on Coordination of Media Affairs, DG EAC 03/04 to the Hans Bredow Institut.

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...) | Legal provisions: Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 26 states that ‘upon receiving an economically and technically reasonable contract offer from a program provider devoting itself to (a) the preservation, protection or development of the national, ethnical minority, or European culture, or (b) the cultivation of the national or ethnical minority language, or (c) the satisfaction of the information need of the citizens, or (d) the promotion of the participation of citizens in democratic public life, or (e) the maintenance of the diversity of opinions, or (f) media pluralism, the dominant broadcasters shall conclude a contract for forty television programs with the program provider and broadcast the program thereof to subscribers.’ |
| 3.1.1. Special representation requirements in media company structures | | | |
| 3.1.2. Special representation requirements in media advisory bodies | | | |
| 3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...) | | | |
| 3.2. Representation of the various cultural groupings in the media | Act 1 of 1996 of Radio and Television Broadcasting | TV and Radio broadcasting | Article 23 (3) “Public service program providers and public program providers shall provide for the presentation of the diversity of programs and views and the viewpoints of minorities” Article 23(4) Public service program providers and public program providers shall pay special attention to: (...) c) presenting the values of religious, national, ethnic and other minority cultures; d) providing important information to groups that are severely disadvantaged due to age, mental and psychological state or social circumstances.” Article 26 (1) “It is the obligation of public service program providers to foster the culture and language of the national and ethnic minorities living in Hungary, and to provide information in their native languages on a regular basis by way of program provision programs through nationwide and - with regard to the geographical location of the minorities - regional or local channels targeted for specific minorities, with subtitles in television programs where necessary or by multilingual program provision.” |

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|--|--|-----------------------|--|
| 3.2.1. Access to airtime for cultural groupings | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 26 (2) “(2) The nation-wide self-government bodies of national and ethnic minorities (...) shall decide independently concerning the guidelines for the allocation of the transmission time made available to them by the public service program provider.” See also the provision 3.1. |
| 3.2.2. Content obligations | | | |
| 3.2.2.1. Promotion of European works | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 7 (1) requires devoting over half of television program providers’ annual transmission time for European works. Broadcasters are required to reserve 12% of programme budget to independent works. |
| <i>Implementation problem: night scheduling, and dominance of the national production</i> “It came clear in Hungary, that commercial channels have fulfilled a requirement on the European quota mainly with the Hungarian content.” ⁷ | | | |
| 3.2.2.2. Promotion of European independent works | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 7(2) requires reservation of at least ten per cent of television program providers’ annual transmission time for European works that were created by producers who are independent of program providers |
| 3.2.2.3. Promotion of national/regional works | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | |
| 3.2.2.4. Language requirements | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 7(1) requires reservation over one-third of television program providers’ transmission time for works that were originally made in the Hungarian language Article 7(2) requires reservation of at least seven per cent of television program providers’ annual transmission time for works originally made in the Hungarian language that were created by producers who are independent of program providers Other language requirements: Article 7(4) |
| 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) | | | |
| 3.2.4. Subsidies (apart from general PSB funding) | Act 1 of 1996 of Radio and Television Broadcasting | R and TV broadcasting | Article 77(1) The Program Provision Fund or Broadcasting Fund is a monetary fund supporting public service program provision, public program providers, non-profit broadcasters, and programs providing for the diversity of programming offer. |
| <i>Implementation problem: The rules give advantages to different providers and types of content, including a strong support for non-profit broadcasters. However, reception and use of these contents and services is fairly limited. Despite well-developed support measures, there is a problem of a monolithic media use.⁸ Commercial broadcasters have complained about these measures.⁹ Distribution of funds is based on the advice provided by a group of experts with a deep knowledge of non-profits broadcasters’ programming offer and operation.¹⁰</i> | | | |

⁷ An interview with János Timár, a Member of the National Council for Communications and Information Technology (NHIT) and a Member of the National Radio and Television Board (ORTT), 8 February 2008, Budapest, by Beata Klimkiewicz.

⁸ An interview with János Timár, a Member of the National Council for Communications and Information Technology (NHIT) and a Member of the National Radio and Television Board (ORTT), 8 February 2008, Budapest, by Beata Klimkiewicz.

⁹ *Ibid.*

¹⁰ *Ibid.*

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|---|---|----|---|
| | Legal provisions: Act LXXVII of 1993 on the Rights of National and Ethnic Minorities | PM | Act LXXVII of 1993 on the Rights of National and Ethnic Minorities Article 50 (2) “The state supports(...), b) the publication of books by minorities and the publication of their periodicals.” |
| | | | Procedural support measures: At least one nationally distributed newspaper per minority receives full state support for publication purposes. In 2004, this translated into a financial support of HUF 204M being provided to 20 nationally distributed newspapers for the 13 minorities. Besides minority national papers other press organs give news about the minorities, thus for example minority supplements carried by the national press and native language supplements in local newspapers. ¹¹ |
| 3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...) | | | |

¹¹ Office for National and Ethnic Minorities (2005) *National and ethnic minorities in Hungary*.

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) | | | |
| 4.1.1. Restrictions to politicians’ ownership/control of media (avoid one dominating voice) | | | |
| 4.1.2. Requirements of independence from political parties / politicians | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Paragraph 2 of the Article 4, stipulates that ‘the entirety of the programs transmitted, or any program group distinguished by content or genre may not serve the interests of any political party or movement and may not disseminate the views of such parties and movements.’ |
| 4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies | | | |
| 4.1.4. Representation requirements in media companies’ bodies (board of directors...) | | | |
| 4.1.5. Representation requirements in media advisory bodies and/or regulators | | | |
| 4.2. Content rules (relating to media programmes, press articles, other content) | | | |
| 4.2.1. Equal/proportionate access to airtime for political groupings | | | |
| 4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels | | | |
| 4.2.1.b. Paid access: rules on political advertising | | | |
| 4.2.2. Government announcements | | | |
| 4.2.3. Impartiality obligations | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 4 -requirement of diverse, factual, current, objective and balanced information on events which may be of interest for the general Public 4(1) -impartiality of the staff 4(3) -distinction of opinion from the news 4(4) |
| <i>Implementation problem: Problems in implementation stem from division of competencies between the regulatory authority (ORTT) and the Complaint Committee.¹²</i> | | | |
| 4.2.4. Fair representation of political viewpoints; special rules in election periods | Act 1 of 1996 of Radio and Television Broadcasting | TV and radio broadcasting | Article 11 Political advertising allowed only during the elections and in accordance the acts on the election of Members of the Parliament. |
| | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 29: Regulations of public service program provisions and program provisions should guarantee independence from political parties and political movements and set the principles regarding the presentation of news and political programs of current issues and disputed matters in a broader perspective and in an objective and unbiased manner, and the presentation of the diversity of opinions and views. |

¹² The Complaint Committee is appointed by the ORTT. It deals with complaints lodged for any violation of the requirement of providing balanced information (Article 4).

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...) | Act 1 of 1996 of Radio and Television Broadcasting | Public service media | Law explicitly reserves frequencies for public service media. |
| 5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country) | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 25 (5) “Broadcasters – up to at least ten percent of their entire capacity, but maximum up to three program providers – shall be obliged to conclude a contract in response to the contract offer of local program providers, an in particular, to local public program providers or local non-profit program providers.” Article 25 (6) “Broadcasters – up to at least an additional ten percent of their entire capacity, but maximum up to three programs of three program providers – shall be obliged to conclude a contract in response to the contract offer of Hungarian regional or nationwide program providers.” |
| 5.3. Content obligations: requirements to cover local events, etc. | Act 1 of 1996 of Radio and Television Broadcasting | R and TV broadcasting | Article 23 (4) (4) Public service program providers and public program providers shall pay special attention to: (...), e) showing programs presenting the social, economic and cultural life of the various parts of the country. |
| | Act 1 of 1996 of Radio and Television Broadcasting | | Article 8(1) “ National and regional program providers, other than specialized program providers, shall broadcast public service programs in not less than ten percent of their daily transmission time.” |
| | Act 1 of 1996 of Radio and Television Broadcasting | | Public service programmes are defined in the Article 2 (19) as: “a program serving the informational, cultural, citizenship and lifestyle needs of the audiences living in the area (national, regional, local) covered by the program provider (...)” |
| 5.4. Regional State Aids | | | |
| 5.5. Rules on national minorities | | | |
| 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> | Act 1 of 1996 of Radio and Television Broadcasting | TV and radio broadcasting | Article 123 Article 124 Article 126 Article 127 (described below) |
| 6.1.1.2. <i>At the moment of mergers & acquisitions</i> | | | |
| 6.1.1.3. <i>Other (constant monitoring/supervision)</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> | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 123 (1) “...program providers with national program provision rights and those holding a controlling share therein may not acquire a controlling share in another company that is engaged in program provision or program distribution services.” |
| | Act 1 of 1996 of Radio and Television Broadcasting | | Article 124 (1) “A regional and local program provider may not acquire a controlling share in another regional or local program provision company serving the same area of reception (...)” |
| 6.1.2.2. <i>Crossmedia</i> | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 125 prevents persons owning: - a daily newspaper with nationwide circulation, - a weekly newspaper with nationwide circulation, - in a daily newspaper with a non-nationwide circulation, that is sold in ten thousand copies daily from acquiring majority or controlling shares in program provider or program provider operating in respective reception areas or media sector markets. |
| <i>Implementation problem: Main objectives of cross-ownership limits aimed at development and diversification of the market, therefore implementation of these rules was successful at the entry of a new broadcasting order.¹³ Current problems: broadcasters consider to avoid cross-media limits by broadcasting from abroad. There is a need to agree on definition of a particular media market in the new technological environment.</i> | | | |

¹³ An interview with János Timár, a Member of the National Council for Communications and Information Technology (NHIT) and a Member of the National Radio and Television Board (ORTT), 8 February 2008, Budapest, by Beata Klimkiewicz.

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|--|--|---------------------------|---|
| 6.1.2.3. <i>Vertical integration with networks</i> | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 126 (2) “Any person holding a controlling share in a newspaper distribution company may not acquire a controlling share in a program provision or program distribution company, and vice versa.” |
| | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 127 (1) “A non-profit program provision company may acquire other program provision rights only as a non-profit program provision company.” |
| 6.1.2.4. <i>Integration with advertising sector</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> | | | |
| 6.1.3. Criteria used to define thresholds for maximum ownership and/or control | Act 1 of 1996 of Radio and Television Broadcasting | TV and radio broadcasting | Article 125 uses as a threshold “a controlling share, publisher’s or founder’s rights” |
| 6.1.3.1. <i>Number of licences</i> | | | |
| 6.1.3.2. <i>Market shares</i> | | | |
| 6.1.3.3. <i>Circulation and audience shares</i> | | | |
| 6.1.3.4. <i>Capital shares</i> | | | |
| 6.1.3.5. <i>Voting shares</i> | | | |
| 6.1.3.6. <i>Advertising revenues</i> | | | |
| 6.1.3.7. <i>Involvement in number of media sectors</i> | | | |
| 6.2. Sector specific rules preventing cooperation between media companies | | | |
| 6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership | Act 1 of 1996 of Radio and Television Broadcasting | TV and radio broadcasting | Article 122 “Natural persons with Hungarian citizenship residing in Hungary and legal persons established in Hungary must hold at least twenty-six percent of the voting rights in a private limited company with national program provision rights.” There is no limit on foreign ownership as far as a particular entity is established as a legal person in Hungary. |
| 6.4. General competition rules | The Competition Act LVII of 1996 | Industry in general | |
| 6.4.1. Antitrust | The Competition Act LVII of 1996 | Industry in general | Articles 11 - 20 |
| 6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i> | | | |
| 6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i> | | | F. i. complaints received by the competition authority referring to cable TV programme distribution and concerning unfair rise of prices or arbitrary changes in the composition of the programme packages. More cases described in: Institute of European Media Law (EMR) (2005) <i>Media Market Definitions: A Comparative Legal Analysis, Final Report.</i> |
| 6.4.2. Merger control | The Competition Act LVII of 1996 | Industry in general | Articles 23 - 32 |
| 6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i> | | | |

| | | | |
|---|--|--|---|
| <p>6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i></p> | | | <p>F.i.: Changes in the ownership of the leading Hungarian political daily <i>Népszabadság</i>: -decision (Vj-59/2003/65) . by the GVH (Hungarian Competition Authority) – refused the transferring of shares from Bertelsmann AG. to B.V. Tabora, an undertaking of the Ringier AG that took place in 2003 February. The Metropolitan Court annulled the decision of the GVH, and ordered the authority to conduct a new procedure. This was closed by a subsequent decision 40 (delete ‘40’?) of the Competition Council authorising the merger with certain conditions. More cases described In: Institute of European Media Law (EMR) (2005) <i>Media Market Definitions: A Comparative Legal Analysis, Final Report.</i></p> |
| <p>6.5. Transparency obligations</p> | | | |
| <p>6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)</p> | | | |
| <p>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...)</p> | | | |

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 | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 8(1) “National and regional program providers, other than specialized program providers, shall broadcast public service programs in not less than ten percent of their daily transmission time.” |
| 7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...) | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 9/A (2) “The Government, in agreement with the National Radio and Television Board, shall draw up a list of designated events, which it considers to be of major importance for society.” |
| 7.3. Short news reporting | Act 1 of 1996 of Radio and Television Broadcasting | TV and R broadcasting | Article 8 (3): “National television channels and national radio channels shall broadcast not less than twenty minutes and not less than fifteen minutes, respectively, independent and uninterrupted news broadcasts during prime time hours.” |
| 7.4. Fixed book price | | | |
| 7.5. Public service media | | | |
| 7.5.1. Structural rules - organization | Act 1 of 1996 on Radio and Television Broadcasting | Public service program providers and public program providers | Article 22 (4): “Public service program providers and public program providers shall be exempt from the obligation to pay a program provision fee.” |
| 7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i> | | | |
| 7.5.1.2. <i>Election of management, composition of board members...(government? Parliament? Other?)</i> | Act 1 of 1996 on Radio and Television Broadcasting | Public service media | Articles 55 – 58: Boards of trustees are the managing organizations of public foundations (PSB). The members include persons are elected by the Parliament and designated by organizations representing: churches, trade unions, human rights organizations, women organizations, disabled people organizations, national minority self-governments, local governments, seniors and pensioners organizations, etc. |
| 7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i> | | | |
| 7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i> | | | |
| 7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i> | | | |
| 7.5.2. Structural rules - funding | | | |
| 7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i> | State budget Act 1 of 1996 of Radio and Television Broadcasting | Public service media | Article 75 (1): “The State shall provide funding as appropriate for the program provision-related expenditures of the companies as allocated in the “the Parliament” Chapter of the Central Budget.” |
| 7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i> | | | |

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| 7.5.3. Definition of public service remit | | | |
| 7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i> | Act 1 of 1996 of Radio and Television Broadcasting | Public service programme providers and public programme providers | Article 23(2): “Public service program providers and public program providers shall provide information on domestic and foreign events which may be of interest for the general public, events significantly affecting the lives of those living in the reception area, connections, disputed matters, the representative opinions formed of the events, including different opinions, on a regular basis, in a comprehensive, impartial, authentic and precise manner. |
| | Act 1 of 1996 of Radio and Television Broadcasting | Public service programme providers and public programme providers | Article 23 (3) “Public service program providers and public program providers shall provide for the presentation of the diversity of programs and views and the viewpoints of minorities, and shall, through the variety of programs, provide for satisfying the needs of a wide range of audiences, and as many groups as possible, at a high standard.” |
| 7.5.3.2. <i>Obligation to engage in new media activities</i> | | | |
| 7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5) | Act 1 of 1996 of Radio and Television Broadcasting | Public service programme providers and public programme providers | Special advertising and sponsoring limits: in Articles 24 and 25 |
| 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) | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 25 (1): “Broadcasters shall transmit the programs of public service program providers defined in Article 132 of the Media Act as a basic service and may not require subscribers to pay an extra fee for access to such services.” |
| 8.2. Guarantees for network operators to distribute 'public contents' (must offer or other) | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 25 (2) “The programs specified in Article 132 of the Media Act and broadcasted by public service program providers via free-to-air broadcasting shall be made accessible to the users free of charge.” |
| | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 25 (4): “With the exception of broadcasting via free-to-air broadcasting, broadcasting service shall be rendered free of charge for all public service program providers, and in turn, public service program providers may not require any remuneration from the broadcaster for the dissemination of the programs thereof.” |
| 8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission | | | |
| 8.3.1. Implementation of market analysis procedure in ECNS Directives | | | |
| 8.3.2. Result of (first) round of market analysis of market 18 | | | |
| 8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities' | | | |
| 8.4.1. Conditional access | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Article 30 |
| 8.4.2. EPG (or other search tools) | | | |
| 8.4.3. API | | | |
| 8.4.4. Other | | | |
| 8.5. Interoperability requirements | Act 74 of 2007 on the Rules of Broadcasting and Digital Switchover | AVMS | Articles 31 and 32 |
| 8.6. Specific rules for distribution systems in print media | | | |
| 8.7. General competition law | | | |
| 8.8. Policies fostering distribution systems (libraries, broadband networks...) | | | |

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| <p>8.10. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:</p> <ul style="list-style-type: none">- Regional- Linguistic/minority- National) | | | |
|---|--|--|--|

TABLE 9. Supervision

| Measure | Source | Scope of application | Key features |
|---|--|----------------------|--|
| 9.1. National Regulatory Authority | Act 1 of 1996 of Radio and Television Broadcasting | | The National Radio and Television Board (ORTT) (http://www.ortt.hu) |
| | Act 100 of 2003 on Electronic Communication | | National Communications Authority (NHH) (http://www.nhh.hu/) |
| 9.1.1. Structure/ organisation | | | |
| 9.1.1.1. Guarantees for independence | Act 1 of 1996 of Radio and Television Broadcasting | | <p>ORTT: Article 32 (1): “The Board is an independent legal entity under the supervision of the Parliament (...)”</p> <p>The Board is comprised of at least 5 members nominated by the Parliament factions. The Chairman of the Board is nominated jointly by the President of the Republic and the Prime Minister (Article 33).</p> <p>Conflict of interest: Articles 34 and 35: Members of the Board may not: -be media owners, - pursue political activities and may not make political statements on behalf of a party, -be employed by media organisations, -may not perform specific public functions (including MPs or their paid employees, civil servants, officers of the national or regional organizations of political parties, etc.)</p> |
| | Act 100 of 2003 on Electronic Communication | | <p>NHH: Composition of the Board:</p> <p>Article 14: The Board of NHH is comprised of 7 members, 6 of which are appointed by the Minister. The Chair is appointed by the PM.</p> |
| | Act 100 of 2003 on Electronic Communication | | <p>Limits on business activities: Article 14 (7): Members of the Board and their close relatives cannot: “participate under the obligation of personal participation in any business association or cooperative. Moreover, they may not hold any share or an executive position, or be a supervisory board member in any economic organization engaged in communications activities (...)”.</p> |
| 9.1.1.2. Representation requirements | | | |
| 9.1.2. Credibility and efficiency | | | |
| 9.1.2.1. Sufficient resources | | | |

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| 9.1.2.2. <i>Tasks and duties</i> | Act 1 of 1996 of Radio and Television Broadcasting | | ORTT: Article 41: - carry out the supervisory and oversight the licensing procedure, - operate a program monitoring and analyzing service, - fulfill the responsibilities related to program provision contracts, - operate a Complaint Committee for the investigation of cases reported, -overview operations and performance of public service broadcasters, - initiate the proceedings related to the protection of consumers and to the prohibition of unfair market practices, -review the drafts of any legislation relating to frequency management and telecommunications, -etc. |
| | Act 100 of 2003 on Electronic Communication | | NHH: Article 10: - routinely analyze the electronic communications and the information technology market in connection with making decisions relating to regulatory measures, - establish, in accordance with the provisions of this Act, the relevant markets, analyze the competition on these markets, and the effectiveness of competition, - in the sphere of management exercise state ownership rights related to frequencies, - perform the regulatory functions related to the notification of electronic communications services, frequency management for civilian purposes, -etc. |
| 9.1.2.3. <i>Effective sanctioning powers</i> | | | |
| 9.1.3. Cooperation with other regulators | | | |
| 9.2. Press Council | | | |
| 9.2.1. Broad representation of sector | | | |
| 9.2.2. Sufficient resources | | | |
| 9.2.3. Credibility | | | |
| 9.3. Competition Authority | | | |
| 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> | | | |
| 9.3.2. Cooperation with other regulators | | | |