



***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

Malta

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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.

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

[MALTA]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

Broadcasting Act Cap 350, June 1, 1991;
Press Act Cap 248, August 23, 1974;
Electronic Communication (Regulation) Act Cap 399, December 31, 1997;
Malta Communications Authority Act Cap 418, August 1, 2000;
LN 167/2001 Cable Systems (General) Regulations;
LN 199/2007 Digital Radio Broadcasting Regulations;
LN 412/2004 Electronic Communications Networks and Services (General) Regulations;
LN 170/1999 Internet and Other Data Networks (Service Providers) Regulations;
LN 46/2001 Order of Cessation of Exclusive Privileges on the 1st March, 2001;
LN 191/2000 Cessation of Exclusive Privileges Order;
LN 47/2001 Order of Cessation of Exclusive Privileges on the 1st June, 2001;
LN 151/2000 Electronic Communications Services (General) Regulations.

- *General legislation*

Constitution of Malta, September 21, 1964;
Competition Act Cap 379, February 1, 1995;
LN 294/2002 Control of Concentrations Regulations.

- **Codes of conduct**

Code of Journalistic Ethics,

- **Other**

LN 198/2007 Broadcasting (Short News Reporting) Regulations;
GN 260/2007 Requirements as to standards and practice applicable to disability and its portrayal in the broadcasting media;
GN 730/2007 Requirements as to Standards and Practice Applicable to Participation in Media Programmes of Vulnerable Persons;
GN 729/2007 Requirements as to Standards and Practice Applicable to News Bulletins and Current Affairs Programmes;
Guidelines on gender equality and gender portrayal, July 3, 2007;

GN 413/2007 Requirements as to standards and practice on the promotion of racial equality;

LN 263/2006 Broadcasting Authority (Enforcement Powers) Regulations;

LN 133/2002 Broadcasting Code on the Correct Use of the Maltese Language on the Broadcasting Media;

LN 158/ 2000 Broadcasting (Jurisdiction and European Co-Operation) Regulations;

LN 162/2000 Special Administrative Procedure Regulations;

LN 63/1999 Radio Broadcasting Services (Master Antenna) Regulations;

LN 71/1998 Television Broadcasting Services (Antennae) Regulations.

LN 44/1994 Television Programmes (Classification Certificates) Regulations .

National regulator's website:

<http://www.ba-malta.org>

<http://www.mca.org.mt>

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	art. 41 Constitution of Malta	PM + AAVM	freedom of expression
<i>Note: There are provisions in the Criminal Code and the Press Act criminalizing defamation, contempt of the President of Malta, seditious incitement and obscene or defamatory libel but these are not such as to threaten media pluralism and in any case they have rarely been used. Much more common is the use of civil actions for damages for defamatory libel.</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>	art.47 Press Act	PM + AAVM	Obligation on the Government to establish procedures to give representatives of the press access to information held by the Government subject to certain qualifications. The Government is also prohibited from issuing any general instructions blocking the giving of information to any newspaper or licensed broadcaster.
<i>Note: There is no law providing general access to government information.</i>			
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>	The Broadcasting Short News Reporting Regulations (LN198/2007)		
1.3. Explicit recognition of media pluralism	art. 11 Broadcasting Act	AAVM	The principles of freedom of expression and pluralism shall be the basic principles that regulate the provision of broadcasting services in Malta.
	art. 1 (a) Second Schedule to Broadcasting Act (National Broadcasting Plan)		Freedom of expression should be interpreted as guaranteeing pluralism in broadcasting.
1.4. Protection of journalistic sources	art. 46 Press Act	PM + AAVM	Courts cannot require authors, editors, publishers, etc. to disclose the source of information, unless it is necessary for the national security or public safety.
	art. 4.a Code of Journalistic Ethics		Not respecting a requested confidentiality of sources is considered to be an unethical behaviour.
1.5. Right of reply	art. 21 Press Act	PM + AAVM	right to demand and to have published forthwith, free of charge, on the same medium, a statement by way of contradiction or explanation in case of misrepresentation of actions or intentions, or an attack on honour, dignity or reputation.
	Art. 8.15 GN 729/ 2007 Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes	AAVM	Mandatory requirements for broadcasting a right of reply.

<p>1.6. Ratification of international instruments:</p> <ul style="list-style-type: none"> - 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) 			<ul style="list-style-type: none"> - CoE's Framework Convention For The Protection Of National Minorities: *Signature: 11/5/1995, *Ratification: 10/2/1998, *Entry into force: 1/6/1998 - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005): *Accession: 18/12/2006
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TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 3.1 GN 729/ 2007 Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes	AAVM	Journalists and broadcasters must guard their own integrity and credibility in order to be able to act freely and independently of forces which may exert undue influence and impair free and balanced judgement.
2.2. News / information programmes	art. 1 (b) Second Schedule to Broadcasting Act (National Broadcasting Plan)	AAVM	Editorial, regulatory and economic independence of public broadcasting services from government.
	§ 23 of the Third Schedule to the Broadcasting Act		News and current affairs programmes may not be sponsored.
	Art. 3.2 GN 729/ 2007 Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes	AAVM	Officials in a political party, campaigning organisation or lobby group, should not be involved in newsgathering, production and presentation of news and current affairs programmes.
2.3. Other media content	art. 19(7) Broadcasting Act	AAVM	The content and scheduling of sponsored programmes may not be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes.
	Art. 3.3 GN 729/ 2007 Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes	AAVM	Sponsorship should never influence editorial activity, contents and presentation. Journalists must not accept commissions or give in to these seeking publicity for commercial purposes. Editorial favours must not be promised in return for advertisements.
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)			
2.5. Consultative programming structure for participation of the public/citizens to media (i.e. a mechanism to allow citizens to participate in editorial decisions, under the form of e.g. an ombudsman, ethics or liaison committee, "Société des rédacteurs"...)			

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...)			
<i>Note: Not much emphasis is placed, both in law and practice, with regard to the protection of minorities. This might perhaps be due to the fact that the Maltese population is very small – less than half a million. However, certain measures, such as in the case of women’s rights, the Guidelines on gender portrayal, are not yet legally enforceable although it must be pointed out that the Broadcasting Authority is in the process of upgrading these guidelines into legally mandatory and enforceable standards.</i>			
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...)	Req. 3.3 GN 260/2007 Requirements as to standards and practice applicable to disability and its portrayal in the broadcasting media	AAVM	Broadcasters should aim to recruit disabled persons to work among their staff and in particular the portrayal of disabled persons in drama should wherever possible be carried out by disabled actors.
	art. 4 Guidelines on gender equality and gender portrayal	AAVM	Increased participation and involvement of both sexes in broadcasting as producers or decision makers in the industry. Equal responsibilities of men and women . Broadcasting companies should recruit a gender-balanced staff. Broadcasting organisations should adopt an equality policy and a structure for the employment of both sexes in key sectors and in managerial level. Both sexes need to be involved in decision-making.
<i>Note: The Guidelines on Gender Equality and Gender Portrayal are not binding. Hence, they cannot be enforced. But the Authority is in a process of first training broadcasters and its own staff as to these Guidelines, and at a later stage, it is the Authority’s intention to revise these Guidelines to make them enforceable.</i>			
	Equality for Men and Women Act, Cap 456	PM + AAVM	Applies generally to employers in all sectors. They are prohibited from discriminating in employment on grounds of sex or because of family responsibilities. Prohibits also sexual harassment and discriminatory advertising.
	Equal Opportunities (Persons with Disability) Act Cap 413	PM + AAVM	Applies generally to all sectors. Prohibits all forms of negative discrimination on grounds of disability in relation <i>inter alia</i> to employment.
<i>Note: See: 3.1</i>			
3.2. Representation of the various cultural groupings in the media			

3.2.1. Access to airtime for cultural groupings	Req. 1.3 GN 413/2007 Requirements as to standards and practice on the promotion of racial equality	AAVM	Broadcasters are to foster a multicultural society by ensuring that racial groups are represented by members of the racial groups themselves, and by providing space to inform on other cultures present amongst the Maltese population.
	Req. 1.4 GN 413/2007 Requirements as to standards and practice on the promotion of racial equality	AAVM	When discussing multicultural issues, broadcasters are to include the views of persons from different ethnic and religious backgrounds rather than report their views second hand.
	Req. 3.2 GN 260/2007 Requirements as to standards and practice applicable to disability and its portrayal in the broadcasting media	AAVM	Broadcasters should take positive steps in order to ensure a more inclusive representation of disabled persons in programming.
	art. 1.5 Guidelines on gender equality and gender portrayal	AAVM	In the broadcasting media there should be an equal representation of men and women, the portrayal of men and women should reflect their actual social and professional achievement, career, interests and roles; the broadcasting media should reflect the continuous change in Maltese society with regard to the professional roles of men and women.
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	art. 5 (1) LN 158/ 2000 Broadcasting Act (Jurisdiction and European Co-Operation) Regulations	AAVM	A broadcaster shall reserve for European works a majority proportion of its transmission time.
3.2.2.2. Promotion of European independent works	art. 5 (2) LN 158/ 2000 Broadcasting Act (Jurisdiction and European Co-Operation) Regulations		Broadcasters shall either reserve at least 10% of their transmission time or reserve at least 10% of their programming budget, for European works created by producers who are independent of broadcasters.
3.2.2.3. Promotion of national/regional works	art. 13 (2)(d) Broadcasting Act		Inclusion of programmes in the Maltese language and programmes that reflect Maltese cultural identity.
3.2.2.4. Language requirements	art. 13 (2)(d) Broadcasting Act		<i>supra</i>
	LN 133/2002 Broadcasting Code on the Correct Use of the Maltese Language on the Broadcasting Media.		Provisions on ensuring proper use of Maltese language in broadcasting media.
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)		Subsidies for cultural and/or minority products is available only to the public service broadcaster. If this subsidy were to be removed, it would be tantamount to a natural death of such programmes. Hence, in the Maltese scenario it is indispensable.	
3.3. Accessibility <i>(i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)</i>			The elderly at an old people’s home have their own community radio licensed by the Broadcasting Authority.

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)			No restrictions Political parties and the Church also have their own newspaper. This situation re political parties' ownership of radio/TV stations must be viewed in the light of historical events that occurred in the 1980s – at that time there was only one radio and television station which was state owned and it was claimed that although the state owned broadcasting station had an obligation to respect impartiality and to allow diversity of opinion to be voiced etc., this was not taking place because the station was influenced by the political party in government. So the solution that was found was to allow political parties and any interested entities to own their own broadcasting stations to have a platform for their views and to redress any perceived or actual imbalance that might be perpetrated by the state owned broadcasting station. The Broadcasting Authority supervises all the local broadcasting stations to ensure that they respect due impartiality including in matters of political or industrial controversy (Art. 13(2) Broadcasting Act and Art. 119 of the Constitution).
4.1.2. Requirements of independence from political parties / politicians	art. 8 (8) Broadcasting Act		No member of the Broadcasting Authority (further BA) shall regularly take part in broadcasting.
	art. 8 (9) Broadcasting Act		No member of the BA shall be a shareholder in any broadcasting operator, licensee or contractor, nor may he be involved in the management of any broadcasting service.
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	art.118 Constitution of Malta		The members of the BA are appointed by the President, in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition.
4.2. Content rules (relating to media programmes, press articles, other content)			

4.2.1. (Equal/proportionate) Access to airtime for political groupings	art. 13 (4) Broadcasting Act		The BA has a duty to organise schemes of political broadcasts (including political spots) which fairly apportion facilities and time between the different political parties represented in Parliament
	art. 13 (5) Broadcasting Act		The BA has a right to order any person providing broadcasting service to provide, free of charge, recordings of such political broadcasts, as well as to transmit, free of charge, on days appointed by BA.
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	art. 1(f) of the Third Schedule to the Broadcasting Act		Advertising of a political nature is prohibited irrespective of whether they are broadcast in return for payment or similar consideration or otherwise except if it is authorized under a scheme of political broadcasts approved by the Broadcasting Authority.
4.2.2. Government announcements	art. 36 Broadcasting Act		The Prime Minister may advise the President to require the Authority to broadcast by any person providing broadcasting services in Malta, free of charge, and at such times as may be specified in the notice, any announcement or other material so specified.
4.2.3. Impartiality obligations	art. 13 (4) Broadcasting Act		The duty of BA to produce properly balanced discussions or debates that afford access to persons from different interest-groups and with different points of view.
	art. 13 (2) Broadcasting Act		The duty of BA to ensure that all news given in programmes broadcast by persons providing sound or television broadcasting services is presented with due impartiality and that due impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy.
	art. 19 of Second Schedule to Broadcasting Act		The public broadcasting media have the particular responsibility of providing news and current affairs programming which respect the Constitutional requisites of adequate impartiality, and which should also be in line with journalistic principles aimed at ensuring a comprehensive and accurate information service in the interests of a democratic and pluralistic society.
4.2.4. Fair representation of political viewpoints; special rules in election periods	art. 13 (4) Broadcasting Act		The duty of BA to produce commentaries or other programmes about questions relating to current public policy, wherein persons taking part can put forward differing views and comments.



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Note: It is standard practice for BA to issue directives to broadcasters giving directions applicable to the four or five week period preceding the holding of local or general elections or elections to the European Parliament. Eg [the Broadcasting Authority Directive on Programmes and Advertisements broadcast during the period 11th February to 8th March 2008](#)

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...)	art. 10(9) Broadcasting Act		Community radio services shall be subject to the minimum of regulation consistent with the public interest, such services shall be subject to conditions which are less onerous than those provided for nationwide radio services.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)			
5.3. Content obligations: requirements to cover local events, etc.	art. 13 (3) Broadcasting Act		for the continued operation of the licence of a community radio service, the views and expressions of the licensee or of particular persons or bodies, on religious matters or on matters which are of political or industrial controversy or relate to current public policy do not predominate.
	art. 3 (f) of the First Schedule to the Broadcasting Act		A licence for community radio services must include conditions preventing the licensee from transmitting news or current affairs programmes other than of a community nature.
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>	art. 10 (6) Broadcasting Act		One organisation, person or company, other than government owned or controlled company, may own, control or be editorially responsible for not more than one radio broadcasting service, one TV broadcasting service and one (radio or TV) teleshopping channel.
<i>Implementation problems: The problem with regard to media pluralism which the Broadcasting Authority has encountered is that the media concentration provision in the Broadcasting Act is too rigid, especially in the digital scenario. The current provision permits one company not to own more than one radio station, one television station and one teleshopping station at a time. The criticism against this provision is that companies should be able to own up to say five different radio or television stations so as to be able to provide thematic stations, e.g. five radio stations owned by the same company specialising in different types of music (e.g. classic, rock, hard metal, pop and country and western).</i>			
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	art. 16 (1) Broadcasting Act		BA's consent required for: the transfer of shares in a company holding a broadcasting licence; the transfer of the effective control of a company holding a broadcasting licence; the transfer of managerial control of a broadcasting station by a broadcasting licensee to another person; the transfer of the beneficial ownership of a company holding a broadcasting licence; the merger of companies holding a broadcasting licence.
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	art. 16 (2) Broadcasting Act		BA may require from time to time from broadcasting licencees or contractors such declarations, returns, accounts, documents and other information as the Authority may consider necessary or advisable for the purpose of ensuring that the requirements of this Act are complied with.
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>			
6.1.2.2. <i>Crossmedia</i>	art. 10 (6) Broadcasting Act		<i>Supra</i>
6.1.2.3. <i>Vertical integration with networks</i>			
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			
6.1.3.1. <i>Number of licences</i>	art. 10 (6) Broadcasting Act		<i>Supra</i>

	Art. 8 of Second Schedule, national Broadcasting Plan	AAVM : R	Seven services (including one provided by the State) which will transmit for at least twelve hours daily (education, information and entertainment programming calculated to appeal to a variety of tastes and interests, and not limited to a narrow format). A number of these services however may be more specifically tourist-oriented; Three twenty-four hour live stereo services providing music, information, news analysis, interview, discussions and phone-in programmes.
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares			
6.1.3.5. Voting shares			
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors			
6.2. Sector specific rules preventing cooperation between media companies			
6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership	art. 10 (5) Broadcasting Act		National treatment and reciprocity, otherwise a licence for any broadcasting service may only be awarded to a partnership regularly constituted in Malta, which, in the case of a licence for community radio services is wholly owned by citizens of Malta ordinarily resident in Malta, and in all other cases, has a majority of its voting shares controlled by such citizens.
6.4. General competition rules			yes
6.4.1. Antitrust	Competition Act, chapter 379		
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)	Mizura Nru. 4/2006 <i>Melita Cable Plc</i> (Commission for Fair Trading, 19 May 2006)		Commission for Fair Trading issued an interim measure against a cable broadcasting operator ordering it to cease and desist from blocking free to air transmissions of Italian television stations in exercise of exclusive rights obtained by the cable operator in respect of a sports event, which exclusive licence was deemed to have an anti-competitive effect.
6.4.2. Merger control	Control of Concentrations Regulations, LN 294/2002		
6.4.2.1. Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)			
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)	CCD/368/06 <i>Maltacom Plc/Multiplus Ltd</i> (Office for Fair Competition, 26 January 2007)		The Office for Fair Competition approved the acquisition of Multiplus Ltd by Maltacom Plc., both holders of a licence from the Malta Communications Authority for the use of



			radio frequencies for the operation of a DTTV network, on condition that the acquiring company surrenders one of the two licences because the two operators were the only operators in Malta that had been awarded such a licence. Since radio spectrum is a scarce resource it was feared that upon acquisition Maltacom would have effectively acquired a monopoly on DTTV services.
6.5. Transparency obligations	art. 35, 36, 43, 51 Press Act		the Registrar should keep a register of newspapers, their editors and publishers, as well as editors of broadcasting services and broadcasting licencees and the Registrar may demand and obtain information from any person concerning the ownership of a newspaper published in Malta or of a company or other association of persons that is or at any time was, directly or indirectly, the owner of such a newspaper or with regard to the transfer of shares or control of any such company.
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	art. 51(1) Press Act		Every newspaper published in Malta is obliged to publish the name of its publisher and the date on which it was printed.
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...)	Fourth Schedule and art. 1 (d) (g) First Schedule to Broadcasting Act		Applicant for a nationwide sound or television broadcasting service must submit detailed information to the Broadcasting Authority re owners, employees, financial arrangements, share capital, loan stock etc. Same information required from applicant for a digital radio broadcasting service under the Digital Radio Broadcasting Regulations, LN 199/2007. Broadcaster's licence to contain obligation to furnish the Broadcasting Authority with such information (including documents, returns, accounts and declarations) as it may require as well as audited accounts and other reports. Similar information concerning periodic returns to be submitted to the Malta Communications Authority is required in the case of cable service providers under art. 21 of the Cable Systems (General) Regulations, LN 167 of 2001.
	Article 15 of the Broadcasting Act		The Broadcasting Authority is empowered by law to request information of a financial nature both in the application form itself and at regular intervals as the Authority may establish.
	Chapter X of Companies Act, Cap 386		General obligation on all companies to keep



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			proper accounting records, to maintain auditing procedures and to submit annual returns to the Registrar of Companies.
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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	art. 23 (2) Broadcasting Act		No programme may be transmitted unless it forms part of a programme schedule approved in writing, in advance, by the Authority.
	art. 23(4) Broadcasting Act		The Authority may give general or specific directions as to the exclusion or inclusion of any item from a programme schedule; the Authority shall not approve a programme schedule until the given directions are satisfied.
	Art. 3 LN 44 /1994. Television Programmes (Classification Certificates) Regulations.		No work shall be broadcast as part of a television broadcasting service unless it has been granted a classification certificate in writing.
7.1bis. Special framework for community media (“medias associatifs”): Is there a special legal framework granting protection to community media (including rules determining the criteria - e.g. being independent of political parties, non-profit, respecting the law, etc. - in order to qualify as community media; granting certain privileges to that type of media, like guaranteed access to spectrum or networks, etc.			
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	art. 6 Broadcasting (Jurisdiction and European Co-Operation) Regulations		Broadcasters shall not broadcast on an exclusive basis events which are regarded by the Authority as being of major importance for society in such a way as to deprive a substantial proportion of the public of the possibility of following such events, BA shall draw up a list of major events.
<i>Note: The current list of major events issued by BA, GN 86/2007, covers only cultural and sports events.</i>			
7.3. Short news reporting	art. 3 Broadcasting (Short News Reporting) Regulations		Any secondary broadcaster shall be entitled to provide information on an event by means of a short report.
7.4. Fixed book price			
7.5. Public service media			
7.5.1. Structural rules -- organization			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)	art. 1 (b) Second Schedule to Broadcasting Act (National Broadcasting Plan)		Editorial, regulatory and economic independence of public broadcasting services from government.
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)			The Chairman and Board of Directors as well as the editorial board are appointed by government.
7.5.1.3. Specific representation requirements for board of directors, other bodies			

7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i>	Art. 33 Broadcasting Act		The Authority may appoint, or designate any organ, as advisory committees to give advice to the Authority and to any person providing broadcasting services in Malta, on educational and religious matters, on standards of conduct in the advertising of goods or services, and on such other matters as the Authority may determine.
			The Public Service Broadcaster has an Editorial Board established by the National Broadcasting Policy 2004 (in addition to the Board of Directors).
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>			Public funding and revenue from advertising and sponsorship.
	The National Broadcasting Policy 2004		Provides for the conclusion of a public service obligation between the Ministry responsible for broadcasting and the public service broadcaster where state aid is given by the Government to the broadcaster to produce extended public service obligation programmes.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
7.5.3. Definition of public service remit			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	art. 16 Second Schedule to Broadcasting Act (National Broadcasting Plan)		expected to provide high quality programming across the full range of public tastes and interests; the public services have a particular duty to provide programming of an educational and cultural nature.
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)			
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)	art. 40 Broadcasting Act		All television broadcasting services (other than services devoted entirely to teleshopping), licensed in Malta and receivable terrestrially and free of charge by the general public in Malta shall be distributed over a cable television system or any other system for the retransmission of a number of television broadcasting services to the public. Possible obligation of retransmission over the systems of other television broadcasting services, also including services devoted entirely to teleshopping, under such conditions, which may also include an obligation to pay compensation to the operator of any said system
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)			
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	Electronic Communications (Regulation) Act Cap 399 - Articles 17-20; LN 412/2004 Electronic Communications Networks and Services (General) Regulations 2004		Notification to Malta Communications Authority (MCA) for general authorisation to provide electronic communications networks and/or services (ECNS). General authorisation procedure and conditions for TV and radio broadcast transmission are essentially same as those for any public ECNS. Conditions attached to the general authorisation are the same as Annex A of the EU Authorisation Directive. MCA responsible to conduct market analysis in electronic communications sector.
8.3.2. Result of (first) round of market analysis of market 18			- Dec. 29, 2006: MCA notified draft decision to Commission (Melita Cable designated as SMP on markets for cable analogue TV and cable digital TV and radio) and Multiplus designated as SMP on market for digital terrestrial TV; suggested remedies included access to wholesale transmission services on reasonable request, non-discrimination, transparency, price control and cost accounting, and accounting separation). - Jan. 25, 2007: notification withdrawn by MCA
8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'			

8.4.1. Conditional access			
8.4.2. EPG (or other search tools)	Regulation 15(1)(b) and Part B of Third Schedule of LN 412/2004 Electronic Communications Networks and Services (General) Regulations 2004, Regulation 11		Power of NRA to impose on digital operators obligations of access to APIs and EPGs (on fair, reasonable and non-discriminatory terms).
8.4.3. API	Supra: Regulation 15(1)(b) and Part B of Third Schedule of LN 412/2004 Electronic Communications Networks and Services (General) Regulations 2004, Regulation 11		Supra: power of NRA to impose on digital operators obligations of access to APIs and EPGs (on fair, reasonable and non-discriminatory terms).
8.4.4. Other			
8.5. Interoperability requirements	LN 412/2004 Electronic Communications Networks and Services (General) Regulations 2004, Regulation 11		Interoperability of digital interactive television services, all providers of digital interactive television services to the public are encouraged to use open API interfaces.
8.6. Specific rules for distribution systems in print media			
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?			Government subsidized scheme called ‘Blueskies’ providing broadband access in households to first-time users at a heavily subsidized price for one year.
8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria: - Regional - Linguistic/minority - National)			

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			Malta Broadcasting Authority (http://www.ba-malta.org)
9.1.1. Structure/ organisation	art.118 Constitution of Malta		Establishing the Broadcasting Authority, the members of the BA are appointed by the President, in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition; not eligible: a Minister, a Parliamentary Secretary, a member of, or candidate for election to, the House of Representatives, a member of a local government authority or a public officer.
9.1.1.1. <i>Guarantees for independence</i>	art.118 Constitution of Malta		In the exercise of its functions BA shall not be subject to the direction or control of any other person or authority.
	art. 8 (8),(9) Broadcasting Act		No member of the Authority shall regularly take part in broadcasting. No member of the BA shall be a shareholder in any broadcasting operator, licensee or contractor, nor may he be involved in the management of any broadcasting service.
9.1.1.2. <i>Representation requirements</i>			
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>			
9.1.2.2. <i>Tasks and duties</i>	art.119 Constitution of Malta		Tasks of the BA: to ensure due impartiality in respect of matters of political or industrial controversy or relating to current public policy, to ensure a fair apportion of broadcasting facilities and time between persons belonging to different political parties.
	part II of the Broadcasting Act		Composition and functions of the BA, regulating sound and TV broadcasting services, issuing licences, monitoring radio and TV stations and regulating their performance in terms of their legal and licence obligations.* Licensing responsibilities include grants of rights for use of analogue broadcasting frequencies.

<p>9.1.2.3. <i>Effective sanctioning powers</i></p>	<p>Art.3 LN 162/2000 Special Administrative Procedure Regulations</p>		<p>The Chief Executive of BA shall issue a notice of a charge to a broadcaster where he indicates the relevant provisions of the Act, or of the rules, regulations or Codes which the broadcaster is charged with infringing and informs the broadcaster of the penalty to which the infringements are liable in the case of a finding of guilt.</p>
	<p>Art. 3 LN 263/2003 Broadcasting Authority (Enforcement Powers) Regulations</p>		<p>the BA has the following additional powers: to enter and search any premises; to have access to any relevant document, in any form, related to the intra-Community infringement; to require the supply by any person of relevant information related to the intra-Community infringement; to carry out necessary on-site inspections; to request in writing that the seller or supplier concerned cease the intra-Community infringement; to obtain from the seller or supplier responsible for intra-Community infringements an undertaking to cease the intra-Community infringement; and, where appropriate, to publish the resulting undertaking; to require the cessation or prohibition of any intra-Community infringement and, where appropriate, to publish resulting decisions; to require the losing seller or supplier to make payments to the BA, in the event of failure to comply with the decision; to take such other measures conducive to the enforcement and implementation of Regulation 2006/2004 in terms of the said Regulation.</p>
	<p>Art. 41 Broadcasting Act</p>		<p>When the Authority is satisfied that a person has committed an offence against any administrative offence listed in the First Column of the Fifth Schedule the Authority may: issue a warning in writing to such person; or direct such person not to broadcast for a specified period of time and, if the Authority so directs, it shall order such person to transmit free of charge during the time within which it is not broadcasting a notice to the effect that the station in question has been put off air for such period of time by order of the Authority in terms of this paragraph; [...]</p>

			[...] or impose an administrative penalty on such person in accordance with the penalties established in the Second Column of the Fifth Schedule to this Act and subject to the provisions of paragraph 1 of the said Schedule.
9.1.3. Cooperation with other regulators	Art. 18 Broadcasting Act		Cooperation with the Minister responsible for wireless Telegraphy when assigning broadcasting frequency
9.1.4. National Electronic Communications Regulatory Authority			Malta Communications Authority: responsible for general authorisations for public communication networks, including television and radio distribution services. Responsible for analysis of Market 18. Also responsible for management of radio frequencies under the national radio frequency plan.
9.2. Press Council			the Press Ethics Commission- deals with complaints of aggrieved parties*
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
9.3. Competition Authority			Office for Fair Competition, Ministry of Finance, Economy and Investment (http://www.mcmp.gov.mt/)
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>	Arts. 3, 16 and 21 Competition Act and Control of Concentrations Regulations		Office for Fair Competition is a government department and together with the Department of Consumer Affairs forms the Consumer and Competition Division at the Ministry. It investigates cases involving infringement of the Competition Act or of Arts. 81 and 82 of the EC Treaty and assesses notified concentrations using an SLC test under the Control of Concentrations Regulations. Where the Office finds that the agreement, practice or conduct constitutes a serious infringement of the Act or a breach of Art. 81 or 82 EC Treaty it may not decide the case itself (as it does when it is a non-serious infringement) but must refer the case to the Commission for Fair Trading, an independent [...]

			[...] administrative tribunal, for a decision. Neither the Office nor the Commission may impose any administrative fines but they may and do issue cease and desist or compliance orders against the undertakings found guilty of infringement. Infringements of the Competition Act and of Arts. 81 and 82 EC also constitute a criminal offence for which the Court of Magistrates may impose criminal fines of up to 10% of the undertaking's turnover. However, to date the Police have never instituted such criminal proceedings even though there have been several decisions of the Office and the Commission finding infringements of the Competition Act.
9.3.1.1. <i>Guarantees for independence</i>	Arts. 3, 4, 12A, 13A, 14 Competition Act and Control of concentrations Regulations		The Office for Fair Competition is not independent of the Administration but when the infringement is serious or involves a breach of Art. 81 or 82 EC the case is not decided by the Office but it only prepares a report for the Commission for Fair Trading and it is this independent tribunal presided by a magistrate that decides the case. Also, if the Office refuses to act on a complaint because it deems it inadmissible or decides that it is unjustified, the complainant may appeal to the Commission for Fair Trading and the latter may reverse the Office's decision. Moreover, all decisions of the Office finding an infringement or blocking a concentration or approving it subject to conditions are reviewable by the Commission
9.3.1.2. <i>Representation requirements</i>			
9.3.2. <i>Credibility and efficiency</i>			
9.3.2.1. <i>Sufficient resources</i>		Throughout its thirteen years of existence it has regularly suffered from inadequate resources because since most of the professional staff are young freshly-graduated lawyers, there is a lot of staff mobility to the private sector or other ministries in the public sector. However, over the past months a strong effort has been made to attract more personnel by offering a better remuneration package and the professional staff has increased threefold.	

9.3.2.2. <i>Tasks and duties</i>		Although the Office has never been accused of impartiality or bias in its decisions or investigations, there have been calls for the Office to be turned into an independent authority especially since there are still a number of state owned or controlled enterprises that enjoy market power or in some sectors a monopoly in the market.	
9.3.2.3. <i>Effective sanctioning powers</i>	Arts. 16-18, 21, 22A, 23, 24, 26A, 26B Competition Ac	The Office and the Commission lack the power to impose any administrative fines. Although they have used the cease and desist orders to force undertakings to terminate their infringements (non-compliance is a criminal offence), it is felt that the lack of power to sanction past illegal practices and conduct weakens the deterrent effect, especially considering that criminal proceedings have never been instituted in respect of such infringements. The Competition Act also empowers the Director of the Office for Fair Competition to impose compromise penalties or to enter into an agreement with the offender to extinguish criminal liability and not to proceed with the criminal proceedings if the offender pays an agreed sum of money. However, neither of these provisions have ever been	
9.3.3. <i>Cooperation with other regulators</i>	Art. 29 Competition Act		The Director of the Office for Fair Competition is empowered to enter into reciprocal cooperation agreements with foreign NCAs but no such agreements have ever been concluded.
	Art. 33 Competition Act		As an EU Member State, Council Regulation 1/2003 is applicable to Malta and so the Office for Fair Competition is part of the European Competition Network (ECN). Art. 33(2) of the Act empowers the Minister to make regulations enabling the application of Council Regulation 1/2003 and in particular to provide for the power to the Office for Fair Competition to conduct joint investigations, to co-operate, and to exchange information with other NCAs and to regulate the procedure for co-operation between the Commission for Fair Trading, the European Commission and the national courts and competition authorities. However, these regulations have not been issued yet.

	<p>Memorandum of Understanding between the MCA and the Consumer and Competition Division, 20 May 2005</p>		<p>The Office for Fair Competition liaises with other local regulators when it is dealing with competition concerns affecting their respective sectors but with the Malta Communications Authority this cooperation is formalized through an MOU.</p>
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