



***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

PART I (Introduction; Austria – France)

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Important Notice

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

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

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

Annex III. WP 1 COUNTRY INVENTORIES OF LEGAL AND POLICY MEASURES PROMOTING/SUPPORTING MEDIA PLURALISM

BACKGROUND INFORMATION

On the basis of existing studies and reports and through online research and our own analysis of legislations, members of the research team prepared inventories of legal and policy measures promoting media pluralism in the different Member States. Those inventories were completed, updated and finalised on the basis of:

- input from national media experts (belonging to the network we set up for this study; *infra, sub A for the list of names*)
- input from broadcasting regulators (via EPRA, *European Platform for Regulatory Authorities*)

Both groups have been asked to revise the reports, check their completeness and accuracy, and signal implementation problems relating to these measures. The draft report was accompanied by an explanatory memorandum explaining the structure and content of the report, as well as our expectations (*infra, sub B*). In addition to the country inventory and explanatory memorandum, a questionnaire was sent to the broadcasting regulators, focusing on implementation problems (*infra, sub C*).

Questionnaires have also been sent to members of ENPA (*European Newspaper Publishers' Association*) with the aim of receiving more input on specific issues relating to editorial statutes, the right of reply, and barriers that could arise from licensing/registration requirements to perform journalistic activities (*infra, sub D*).

These three sources provided extremely useful information both on the presence of legal and policy measures and on the effective implementation of these measures. Where appropriate, requests for further clarification to the national experts was submitted.

This information subsequently fed into the development of the Media Pluralism Monitor. More specifically, it was relied upon during the process of formulating the legal indicators and developing the methods to measure those indicators.

The country reports were disseminated to Member States' authorities via their permanent representatives in the period between the submission of the Preliminary Final Report and the stakeholder workshop. In response to comments received subsequently, factual or material errors have been corrected, but no major changes have been made to the country correspondents' appreciation of implementation problems. Hence, the implementation problems signalled in the country reports only reflect the opinion of the study team and may not always be supported by the Member States' authorities. They do not constitute an assessment by the Commission services responsible for managing the study either.

A short manual on how to read the country reports is included *infra, sub E*.

A. Country correspondents

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The study team would like to thank EPRA, ENPA and their members, in particular:

Austria	Austrian Regulatory Authority for Broadcasting and Telecommunications; Rundfunk und Telekom Regulierungs-GmbH (Nicole Wagner)
Belgium	- Vlaamse Regulator voor de Media (Marc Chatelet, Dieter Gillis, Karen Dekeyser, Ingrid Kools) - Conseil Supérieur de l’Audiovisuel (Sarah Païman, Julien Gilson) - ENPA – Vlaamse Dagbladpers (Alex Fordyn, Sandrien Mampaey)
Denmark	- Mediesekretariatet (Erik Nordahl Svendsen) - ENPA - Danish Newspaper Publishers' Assn (Ebbe Dal)
France	CSA (Julie Mamou)

Germany	- Direktorenkonferenz der Landesmedienanstalten (Christina Uekermann) - ENPA – Bundesverband Deutscher Zeitungsverleger (Dietmar Wolff)
Hungary	National Council for Communications and Information Technology (NHIT) and National Radio and Television Board (ORTT) (János Timár)
Italy	Autorità per le Garanzie nelle Comunicazioni (Daniela Esposito Vezzoler)
Lithuania	Radio and Television Commission of Lithuania (Jurgita Iesmantaitė (lawyer), Birute Kersiene (Head of Public and International Relations))
Luxembourg	CNP (Natalie Beck)
Malta	Malta Broadcasting Authority (Kevin Aquilina)
Poland	ENPA – Chamber of Press Publishers (Jacek Wojtas)
Portugal	ENPA – Apimprensa (João Palmeiro)
Romania	Romanian Audiovisual Council (Laura Franzeti)
Spain	Consell de l'Audiovisual de Catalunya (Soledat Balaguer)
Sweden	- Radio and TV Authority (Ulrika Köling) - ENPA - Swedish Newspaper Publishers Association (Per Hultengård)

B. Explanatory Memorandum (provided to local experts and regulatory authorities)

This section describes the background information and instructions that have been sent to the country correspondents in the first phase of the study (March-April 2008), together with the draft country report prepared by the legal study team.

I. Introduction

This explanatory memorandum provides guidance to the draft inventory of legal and policy measures relating to media pluralism in your Member State. It contains a more detailed explanation of the structure and ambitions of that inventory, and the type of legal and policy measures that the inventory (should) contain(s).

The aim of these inventories is to provide input to develop “legal indicators” for media pluralism. These “legal indicators” should, combined with socio-demographic and economic indicators, constitute the basis for a risk-based framework to measure media pluralism in the Member States (for more details, please see the extract from the Tender Specifications).

The draft inventory is based on desk research (analysis of existing studies and legislation) by the study team. We kindly request you to check the completeness and accuracy of the listed measures, and add the missing elements (in some case, you will find explicit questions formulated by the research team). Feel free to add information on items which you cannot find in the tables yet; we very much welcome spontaneous remarks and comments!

It is important to note that the “legal indicators” which we are required to develop in this study should cover both the presence and effective implementation of policies and legal instruments that support pluralism and diversity. Especially with regard to the latter aspect, *i.e.* effective implementation, we rely on your input as national expert. It is, however, not the ambition of this study to provide an in-depth analysis of the effective implementation of all legal measures listed, only to detect possible implementation problems (thereby relying on so-called “bad practices” from the past). Hence, you are only requested to give a short summary of problems that have occurred (or may occur) in relation to one or more of the listed measures (thereby focusing on the most relevant ones – it is certainly not necessary to fill in all boxes under ‘implementation problems’). Should you have additional information on these problems, under the form of case law, press articles, doctrine, commentaries, studies, website links...please insert/attach these in/to your reply.

Thank you very much in advance!

II. Structure of the inventory

The inventory opens with an overview of national regulations relevant for media pluralism, including legislative measures and implementation decrees (both sector specific and general, if relevant for media pluralism), co- and self-regulatory measures (e.g. codes of conduct), other (policy) measures.

In a second box, the most important implementation problems related to one or more of these measures can be briefly summarised (or this can be done under the form of notes or comments under the relevant measure).

Each table consists of 4 columns:

- 1) a short label for the measure
- 2) the source of the measure: constitutional provision, act, decree, ethical code...
- 3) scope of application: only radio, only newspapers, all audiovisual media, etc. – see the aforementioned ‘manual’ for more information
- 4) key features: short description of the measure

In these tables (nine in total), the relevant legal and policy measures have been grouped as follows:

- constitutional protection of freedom of expression and right to information (**table 1**) and editorial independence (**table 2**)

We believe that effective protection of free speech is a prerequisite for pluralism and diversity in the media. Therefore, we would like to get a ‘snapshot’ of free speech protection in the various Member States, without having the ambition to provide an in-depth analysis of all aspects / all restrictions.

The same can be said of editorial independence, which is closely linked to the previous category (freedom of expression). Due to the specificity of the rules, however, it has been decided to put them in a separate table for the time being.

- three normative dimensions of media pluralism: cultural pluralism (**table 3**), political pluralism (**table 4**) and geographical pluralism (**table 5**)

We have grouped the various aspects of media pluralism into three normative dimensions and two operational dimensions (*infra*). The first category relates to the substance of media pluralism (*i.e. representation of and expression – in other words, passive and active access – by the various respectively cultural, political/ideological and geographical groupings in society in the media – including minority groupings*), while the second category refers to methods to realize the previous category (*for example, pluralism of ownership/control, which is not an objective by itself, but a means to realize cultural, political and/or geographical pluralism*).

Tables 3 to 5 should provide an overview of legal and policy measures that aim to prevent over- or under representation of respectively cultural, political and geographical groupings in society (including minority groupings). In other words, in these tables we want to list the *various legal and policy measures that have been adopted* (and indicate whether there are major implementation problems related to them) *in order to prevent threats to cultural, political and geographical pluralism*, such as:

- (with regard to cultural media pluralism:)
 - o absent or insufficient media representation of particular cultural, religious, linguistic, ethnic groupings in society, including communities based on gender, age, disabilities, sexual orientation (and in particular in public media, both in its governing bodies and in the programmes)
 - o stereotypical, unfair or discriminatory media portrayal of particular cultural, religious, linguistic, ethnic groupings in society, including communities based on gender, age, disabilities, sexual orientation,
 - o absence or insufficient system of minority and community media, including in particular: the lack of media outlets serving ethnic, religious, linguistic groups in society, including disabled people; the lack of investment in minority and community media; entry barriers for minority/community media by cable operators and other platform providers; marginal reach; lack of public support measures aiming at compensation of disadvantaged position of minorities as media producers and media users, including journalism training programs and stipends for high education in the field of media and journalism aiming at minority students, and media literacy programs aiming at minority audiences,
 - o separate and exclusive system of minority and community media, preventing particular cultural, religious, linguistic and ethnic groups, including communities based on age, sexual orientation disabilities from their integration with the rest of a society,
 - o absent or insufficient representation of journalists and media executives from minority, ethnic, religious, linguistic groups in society, including women, disabled people and sexual minorities
- (with regard to political media pluralism:)
 - o excessive or exclusive representation or promotion of the political beliefs and ideology of the governing party(ies) in the media; excessive journalist and editorial preference and positive / propagandistic coverage of selected political parties and ideological opinions.
 - o absent or insufficient media representation of particular political or ideological opinions and positions in society, including minority or extreme ideas on the political spectrum.
 - o stereotypical, unfair or discriminatory media portrayal of particular political groupings in a society, including political initiatives based on ethnic, religious, gender, age, disabilities, sexual orientation, environmental issues.
 - o absence or insufficient allocation of media space allocated to political opposition groupings, restrictions to right-of-reply and promotion of alternative political programs.
 - o media content affected by ideological points of view of reporters, producers, providers.
 - o absent or scarce representation of journalists and media executives from political minority or opposition groups
 - o excessive presence of media financially dominated and managed by political figures, political parties
 - o active market presence and excessive audience capture by diverse media outlets owned by the same political figure /grouping or by politically affiliated individuals
 - o excessive political pressure on programming due political ownership and/or pressure on specific media outlets at national /local level
 - o absence of particular political groups and ideological communities from public debate and elections (voting) resulting from underserved and underrepresented minority points of view in the media
- (with regard to geographical media pluralism:)
 - o absent or insufficient media representation of local and regional communities,
 - o absence or insufficient system of local and regional media, including in particular the lack of independent media outlets serving local and regional communities; the lack of

investment in local and regional media; entry barriers for local and regional media by cable operators and other platform providers; marginal reach; lack of public support measures,

- high and growing centralization of a media system on a national scale; high and growing concentration of local and regional media ownership;
- absent or insufficient representation of journalists and media executives from local and regional communities,
- absence or insufficient representation of local and regional communities in the public media,
- insufficient or decreasing local and regional production

- two operational dimensions of media pluralism: pluralism of ownership/ control (**table 6**), pluralism of media types and genres (**table 7**)

Some legal and policy measures are aimed at realising media pluralism indirectly:

- by ensuring a diversity in ownership and control over media
- by ensuring the co-existence of different media types (commercial, public, community media; national, regional, local media...) and different media genres (a diversity of media in relation to media functions, such as information, education, entertainment, as well as audiences, e.g. children, adults, elderly...).

Hence, tables 6 and 7 should provide an overview of the *existence* and the *effectiveness* of legal and policy measures that aim to foster these ‘operational’ dimensions of media pluralism.

- two ‘related’ categories: distribution (**table 8**) and supervision/monitoring (**table 9**)

Risks for media pluralism can also arise from bottlenecks at distribution level. Table 8 therefore lists the various measures in place that aim to tackle/remedy such bottleneck situations and/or promote effective competition at distribution level.

In Table 9 the various legal and policy measures that deal with the bodies supervising/monitoring the media sector (in broad sense) are brought together. Similar to what was stated for Table 1, the ambition here is limited to getting a ‘snapshot’ of the rules relating to the organisation and tasks of these regulators/competition authorities, in particular where the existence and effectiveness of these rules is directly relevant for media pluralism (e.g. independence of the regulator).

N.B. We have aspired to design the tables in such a way that duplication of legal and policy measures is avoided to the largest possible extent. However, we acknowledge that some measures may fit under more than one category, in which case the row can simply be copied into the other table(s).

III. Legal and policy measures listed in the tables

Table 1. Constitutional protection of freedom of expression and right to information

- 1.1. Recognition of freedom of expression / press freedoms / media freedoms in constitutional provisions & related case law
 - o *Please signal also, where appropriate, existing rules that may restrict free speech to such an extent that media pluralism is threatened. Examples could include rules on blasphemy (restricting ideological/religious speech), criminalisation of defamation, of injury to the Majesty and/or of insulting foreign heads of state (cf. examples from Germany and Poland on http://en.wikipedia.org/wiki/L%C3%A8se_majest%C3%A9) ...*
- 1.2. Recognition of freedom of/right to information
 - o *Is there – besides constitutional provisions – also a specific act dealing with citizens’ or journalists’ access to public sector information?*
 - o *Are there specific rules dealing with journalists’ access to events for news reporting?*
- 1.3. Explicit recognition of media pluralism (in constitutional provisions, case law, media legislation, ethical codes/charters, other...)
- 1.4. Protection of journalistic sources
- 1.5. Right of reply
- 1.6. Ratification of relevant international instruments: a yes/no reply is sufficient

Table 2. Editorial independence

- 2.1. Rules safeguarding editorial independence relating to journalists, for example: rules preventing interference by the management in the editorial decisions of newspaper journalists, rules prohibiting journalists from acting in advertising spots or moderate political debates in election periods (in order not to mislead the public about their impartiality)...

The source of these rules can be:

- o Legislation (can also include, for instance, prohibition for radio or TV journalists to appear in advertising spots)
- o Editorial statutes
- o Labour agreements
- o Codes of ethics
- o (Self-regulatory bodies, see *infra*)

Please signal also, where appropriate, whether there are any legal measures hindering journalists from expressing themselves freely and independently (on various platforms), in particular measures in the domain of copyright.

- 2.2. Rules safeguarding editorial independence (besides those dealing with journalists) in relation to news/information, for example: legal rules obliging

- broadcasters to ensure editorial independence in news and information programmes and/or to establish an editorial statute.
- 2.3. Rules safeguarding editorial independence in other media content (than news/information), for instance:
 - o Prevention of commercial influence
 - Advertising or sponsoring restrictions (e.g. Barter agreement, product placement bans/restrictions)
 - (rules preventing commercial influence via ownership restrictions are covered in Table 6)
 - o (Prevention of political influence: covered in Table 4)
 - 2.4. Subsidies/Training of journalists with the aim of strengthening their independence

Table 3. Cultural pluralism

- 3.1. Structural rules: guaranteeing or promoting access by the various cultural groupings to media companies' bodies, structures, media advisory bodies...
 - These include:
 - o representation requirements for media companies, e.g. obligation to reflect the various cultural groupings in the composition of the board of directors
 - o representation requirements for media advisory bodies and/or regulators
 - o anti-discrimination rules for recruitment and/or policies promoting equal chances / equal opportunities (for ethnical minorities, based on gender, age, handicap...)
 - 3.2. Representation of the various cultural groupings in the media
 - These include:
 - o access to airtime for cultural groupings, e.g. third party emissions on public channels by accredited representative associations
 - o content regulation: obligations relating to the media contents
 - this category contains the European quota, independent productions quota, national and regional quota, but also language requirements (e.g. obligation to broadcast in the local language).
 - 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: specifically focused on the promotion of cultural diversity (e.g. subsidizing programmes in minority languages), so either funds which come on top of the PSM's general funding, or funds granted to commercial broadcasters or print media.

- 3.4. Accessibility: policies promoting and/or legal provisions obliging special facilities for disabled people to access the media, such as subtitling, audio-description...

Table 4. Political pluralism

- 4.1. Structural rules (relating to the organisation of media companies or media advisory/regulatory bodies), for instance:
 - o restricting politicians' ownership of media, obligations for media companies to be independent from political parties/politicians, incompatibility of political mandate with membership in media advisory or regulatory bodies
 - o representation requirements in media companies' bodies (board of directors...) or media advisory/regulatory bodies
- 4.2. Content regulation (relating to media programmes, press articles, other content):
 - o Guarantees for (equal/proportionate) access to airtime for political groupings: on the one hand *non-paid access* (e.g. the right to insert own productions into the programming schedule of the public broadcaster), on the other hand *paid access*, *i.e.* rules on political advertising (prohibition, restrictions...)
 - o Rules on government announcements
 - o Obligations relating to impartiality of news/information
 - o Obligations for media companies to ensure equal/proportionate representation of political views (special rules in election periods) (closely related to the first item in this list)

Table 5. Geographical pluralism

- 5.1. Licensing policy fostering local/regional types of media: is geographical pluralism a relevant criterion for the assignment of broadcasting frequencies; is part of the spectrum reserved for local/regional types of 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...?
- 5.2. Structural measures: access of various localities to media (e.g. obligation for media companies – e.g. BBC – to have branches throughout country)
- 5.3. Content regulation: obligations to cover local events, etc.
- 5.4. Regional state aids
- 5.5. Rules on national minorities
- 5.6. Rules on social inclusion of remote areas (Aménagement du territoire): for example universal coverage obligations (usually for PSM) or must carry rules specifically aimed at guaranteeing access to specified channels in certain regions can be repeated here (also covered in tables 7 and 8).

Table 6. Pluralism of Ownership/Control

- 6.1. Sector specific rules restricting media ownership – the information in the table should provide insight in:
 - o The moment of intervention of these rules: market entry, merger, constant monitoring...
 - o Their scope: monomedia, cross-media, vertical integration...at a national level, regional level...
 - o Criteria used to define thresholds: number of licenses, market shares...
- 6.2. Sector specific rules preventing cooperation between media companies (softer form of preventing concentration of control)
- 6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership
- 6.4. General competition rules (both antitrust and merger control): is there a special treatment of the media sector in national competition rules? Do they contain specific rules for the media sector (e.g. public interest test for mergers in media in UK)...? Has there been interesting case law in the area of media (pluralism)?
- 6.5. Transparency obligations: towards consumer – towards regulator

Table 7. Pluralism of media types/genres

- 7.1. Minimum service in a number of programme strands for commercial / community / public service media
Please indicate (under ‘source’) how this is realised: via broadcasting licences, via legislation, via agreements, via codes of conduct, other.
- 7.2. Events list: what type of programmes are included in the list: sports or also culture?
- 7.3. Short news reporting
- 7.4. Fixed book price (listed in this table, as the aim of this measure is to promote certain book genres, in particular those that are ‘more difficult to market’, and hence enlarge the diversity of available book genres)
- 7.5. Public service media (PSM)

The aim is not to provide an in-depth analysis of the public service broadcasting system in each Member State, but to get a ‘snapshot’ of its organisation and remit, in particular the aspects relevant for media pluralism:

- o 7.5.1. With regard to the structure of the PSM:
 - Is it independent from government?
 - How is the management elected?
 - Are there any specific representation requirements for PSM structures?
- o 7.5.2. With regard to the funding of the public service broadcaster
- o 7.5.3. With regard to the public service remit:

- Is there an explicit obligation to bring a variety of programmes?
- Is there a special remit with regard to new media?
- o 7.5.4. Content regulation (not yet mentioned in table 3, 4 or 5)
- o 7.5.5. Universal coverage obligations (cf. also table 5)

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

- 8.1. & 8.2. must carry/must offer rules
- 8.3. Access regulation under the electronic communications regulatory framework (market 18: broadcasting transmission)
- 8.4. Regulation of conditional access systems and other associated facilities (such as application programme interfaces, electronic programme guides)
- 8.5. Interoperability requirements: in the area of media devices, networks...

Only a brief overview of such legal requirements in the media sector (focusing on those interoperability requirements without which media pluralism might be endangered due to bottlenecks at infrastructure level).

- 8.6. Specific rules for distribution systems in print media
- 8.7. General competition law

Only necessary to indicate whether the application of competition rules in the past has already resulted in remedying pluralism endangering bottlenecks at infrastructure level (e.g. by imposing certain obligations in a merger case).

- 8.8. Policies fostering distribution systems, in order to promote citizen’s access to information, for instance promotion of (digital) libraries, citizen’s access to broadband (via tax reduction schemes or other), promotion of internet at schools
- 8.9. State aids to distribution platforms/networks, for instance subsidy schemes for newspaper distribution

Table 9. Supervision/monitoring

- This table intends to provide some insight in the organisation and tasks of three institutions/bodies (with a focus on the first one), limited to those aspects which are relevant for media pluralism:
 - o broadcasting and/or telecoms regulators (‘NRA’; are they independent, are there any representation requirements in cultural or political or geographical terms for management positions, do they have specific tasks in the area of media pluralism, such as monitoring of concentration...)
 - o self-regulatory bodies, such as a press council (is the sector broadly represented, is it a credible organ, is it sufficiently financed?)
 - o competition authority (‘NCA’; these rows of the table should tell us whether there is a problem for media pluralism because the NCA does not function properly; it should not contain an in-depth analysis of functioning of NCA!)



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- cooperation between these bodies: should the broadcasting regulator give (binding or non-binding) advice to the NCA in merger cases? Should the NCA give advice to the NRA in the framework of market analysis in the electronic communications sector?

C. Questionnaire for the media regulators

1. If you look at the inventory of legal and policy measures supporting/promoting media pluralism in your country/region, do you think that important measures are missing? Do you find the categories appropriate?
2. If you consider the way in which the current media legislation in your country/region is trying to promote and safeguard media pluralism, do you see any major gaps or deficits in this legislation? Have you been confronted in the past with major implementation problems in relation to broadcasting rules protecting media pluralism? (if possible, please list them in the relevant row/column in the inventory for your country) What were, for instance, the most important problems that you have signaled in your recent annual reports?
3. Does your media legislation contain measures to support non-profit, community broadcasters, minority programming and other kinds of contents and services that are not usually offered by mainstream commercial players? If yes, what is your evaluation of implementation of these policies? If no, are there other relevant laws that pursue similar objectives?
4. Is there effective monitoring of:
 - a. impartiality and accuracy of political reporting on radio and television
 - b. cultural diversity of the programmes (in general) and minority programming (in particular)
 - c. media concentration
 - d. geographical (local) diversity of the media.If not, is this because of:
 - a. no remit to do this
 - b. lack of resources
 - c. unavailability of necessary data
 - d. other:...
5. What is your general evaluation of the subsidy system for cultural and/or minority productions? What are its main strengths and weaknesses?

D. Questionnaire for the ENPA Members

Country: Contact persons:

1. Licensing/registration

Is there a legal registration or notification obligation for publishing a newspaper in your country?	
If yes, is this considered as a neutral procedure or is it sometimes perceived as a barrier to the free flow of information/does it have a deterring effect in some cases?	
Is there a legal registration or notification obligation to work as a journalist in your country?	
If yes, what are the main requirements to work as a professional journalist?	

2. Right of reply

Are readers legally entitled to a right of reply? Both in print and electronic versions of newspapers (or only print)?	
If there is no legal right of reply, is it guaranteed in another way, or is it granted automatically by the newspaper?	
Have there been severe conflicts regarding the right of reply? (e.g. a politician or company systematically claiming a right of reply in order to silence critical journalists?)	

3. Editorial statutes

Is there a legal obligation for newspapers to have an editorial statute?	
If not, is there a tradition of editorial statutes in your country? (or an equivalent tradition, e.g. so-called ‘foundations’, that decide on the editorial line of the newspaper and often have the power to veto HR decisions – like the appointment of a chief editor – of the publisher/management)	
Does the editorial statute (or rules of the foundation) contain explicit safeguards with	

regard to the editorial staff’s independence from the management / the publisher? If yes, how (just by explicitly confirming journalists’ independence, or also by providing special protection in case of dismissals, damage claims, etc.)?	
Does the editorial statute (or rules of the foundation) confer special powers on the editorial staff to participate in / veto certain strategic decisions (e.g. the appointment of a chief editor) of the management / publisher? (see also infra, for decisions relating to ownership of the newspaper)	

4. Ownership

Are there special provisions (e.g. in the editorial statute) conferring special powers on the editorial staff in case of change in ownership of the newspaper?	
Are there special measures (in the editorial statute, labour contracts...) protecting journalists in case of resignation at the occasion of change in ownership/editorial line of the newspaper?	
Can politicians participate in newspaper ownership structures? (i.e. can they own newspapers, on the one hand, and can they be on the board of directors, on the other hand)?	
If not, is this the result of a legal provision?	
Are newspapers obliged to identify their owners/shareholders (e.g. in their newspapers or on their website, or to a monitoring body)?	
Are there any legal transparency obligations with regard to ownership/capital structure?	
Are there special rules for newspapers in case of mergers or take-over (e.g. need for approval from a special body, outside the general merger procedures applied by the competition authority)?	

5. Monitoring

Do you have a Press Council in your country?	
If yes, what is its relationship towards government: does it receive public funding,	

can government co-decide on the members...?	
Are there special bodies or procedures at the level of individual newspapers to receive and hear complaints from readers and/or to allow readers' participation in editorial decisions (e.g. “Ombudsman”, “Société des Rédacteurs”...)?	

6. Journalists and e-publishing

Are legal rules relating to newspapers/journalists (e.g. protection of journalistic sources, right of reply) in general also applicable to e-journalists, bloggers...?	
Is there a legal definition of the notion of ‘journalist’?	

7. Subsidies

Do newspapers in your country receive subsidies?	
What type of newspapers/magazines receive subsidies? Only daily newspapers, or also weekly magazines?	
If yes, are these subsidies an important source of income for newspapers?	
How are subsidies awarded? On the basis of the number of readers? A beauty contest (and in that case: what are the main criteria to award subsidies: pluralism, quality, investigative journalism...?)	
Are there special government/policy measures to promote readership (e.g. granting subsidies to schools in order to buy and discuss newspapers in class)?	

E. Manual

The country reports consist of **nine tables** grouping relevant legal and policy measures as follows:

- **Table 1:** Constitutional protection of freedom of expression and right to information
- **Table 2:** Editorial independence
- **Table 3:** Cultural pluralism
- **Table 4:** Political pluralism
- **Table 5:** Geographical pluralism
- **Table 6:** Pluralism of ownership/control
- **Table 7:** Pluralism of media types and genres
- **Table 8:** Distribution (networks/network facilities/print distribution)
- **Table 9:** Supervision

Each table is composed of **four columns** containing the following data:

- **Column ‘Measure’:** general description of the measure
- **Column ‘Source’:** specifies whether the source of the measure is a legislative provision (act, decree, decision, other), a co-regulatory mechanism, self-regulatory instruments such as codes of conduct, a policy campaign, other...
- **Column ‘Scope of application’:** specifies whether the measure applies to one or more of the following categories:
 - text/print media (PM):
 - N = all newspapers, both on paper and online
 - PN = printed newspapers
 - EN = electronic newspapers
 - M = magazines
 - B = book
 - audio+audiovisual media (AAVM):
 - R = traditional radio
 - AMS = all audio media services, including on-demand and online, e.g. podcast
 - TV = traditional linear television
 - AVMS = all audiovisual media services, including on-demand and online
- **Column ‘Key features’:** gives a short description of the measure, highlighting its main characteristics.

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Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



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

[AUSTRIA]

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National regulations relevant in the area of media pluralism

- **Legislation**

- European Convention of Human Rights (at the constitutional level since 1964)
- Constitutional law on assuring the independence of broadcasting (Bundesverfassungsgesetz über die Sicherung der Unabhängigkeit des Rundfunks – BVG-Rundfunk), 1974
- Federal Act on the press and other Publication (Media Act), 1981
- ORF Act (ORF-Gesetz – ORF-G), Based on a 1974 law
- Private Radio Act (Privatradiogesetz – PrR-G), 2001
- Private Television Act (Privatfernsehgesetz – PrTV-G), 2001
- KommAustria Act (KommAustria-Gesetz – KOG), 2001
- Federal Act on the exercise of exclusive television broadcasting rights (Fernseh-Exklusivrechtgesetz), 2001
- Ordinance on events of substantial social interest (Verordnung über Ereignisse von erheblicher gesellschaftlicher Bedeutung), 2001
- Federal Act on cartels and other restrictive trade practices (Bundesgesetz gegen Kartelle und andere Wettbewerbsbeschränkungen KartG), October 19, 2005
- Competition Act (Bundesgesetz, mit dem das Bundesgesetz über die Einrichtung einer Bundeswettbewerbsbehörde (Wettbewerbsgesetz - WettbG)), 2005
- Press Subsidy Act (Presseförderungsgesetz), 2004
- Journalism Subsidy Act (Publizistikförderungsgesetz), 1984
- Act fixed book price (Bundesgesetz über die Preisbindung bei Büchern), 2001
- Broadcasting market definition ordinance 2004 (Rundfunkmarktdefinitions-Verordnung 2004 – RFMVO 2004), January 16, 2004
- Conditional access systems and interoperability ordinance (Zugangsberechtigungssysteme- und Interoperabilitätsverordnung – ZIV), March 19, 2003
- Prohibition Act 1947 (Verbotsgesetz), 1947
- Federal Equal Opportunity Act (Änderung des Bundes-Gleichbehandlungsgesetzes), 2004
- Federal Act on the equality of disabled people (Bundesgesetz über die Gleichstellung von Menschen mit Behinderungen (Bundes-Behindertengleichstellungsgesetz - BGStG)), 2002
- Broadcasting market definition ordinance (Rundfunkmarktdefinitionsverordnung), 2004
- Conditional access systems and interoperability ordinance (Zugangsberechtigungssysteme- und Interoperabilitätsverordnung (ZIV)), 2003
- Penal Code (Strafgesetzbuch), 1974
- Copyright Act (Undesgesetz über das Urheberrecht an Werken der Literatur und der Kunst und über verwandte Schutzrechte (Urheberrechtsgesetz), 1936
- E-government Act (Governmentgesetz), 2004
- Freedom of Information Act (Auskunftspflichtgesetz), 1987

- **Codes of conduct**

- The Code of Honour of Austrian Press, 1983

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 10 ECHR (with constitutional rank)	AAVM + PM	Freedom of expression.
<i>Note: Free speech can be limited by rules on blasphemy (Art. 188 Penal Code) and the Rules against “Wiederbetätigung” (concerning Nazi Propaganda) (Art. 3 Prohibition Act).</i>			
	Art. 13 Staatsgrundgesetz	AAVM + PM	Everyone has the right freely to express his opinion by word of mouth and in writing, print, or pictorial representation. The Press may be neither subjected to censorship nor restricted by the licensing system.
1.2. Freedom of/right to information	Art. 10 ECHR (with constitutional rank)	AAVM + PM	Freedom to receive information.
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	Art. 20 (4) Constitution	AAVM + PM	Citizens’ right to access government documents.
	Freedom of Information Act		Duty to give information within the sphere of action of the relevant authority to such an extent that the fulfilment of legal duties is not impeded.
	Several single regulations within federal acts, e.g. § 7 KOG		Transparency rule.
1.3. Explicit recognition of media pluralism	Art. 1 (2) Constitutional law on assuring the independence of broadcasting	AAVM (TV + R) (linear)	Broadcasters should guarantee the variety in opinions.
	Art. 30 (1) PrTV-G; § 16 (1) PrR-G	AAVM (TV + R) (linear)	Obligation to reflect diversity of opinion and plurality in programming.
1.4. Protection of journalistic sources	Art. 31 (1) Media Act	AAVM + PM + websites (according to § 1 (1) Z 5a Media Act (BGBl. I Nr. 112/2007))	Media owners, editors, copy editors and employees of a media undertaking or media service as witnesses in a proceeding before court or an administrative authority have the right to refuse answering questions concerning the person of an author, sender or source of articles and documentation or any information obtained for their profession.
	Art. 33. ORF Act	AAVM (public broadcaster)	Editorial agreement: a general clause on protection of journalists (the protection of sources is not explicitly mentioned).
1.5. Right of reply	Art. 9 Media Act	AAVM + PM	Each natural or legal person (authority) not only generally affected by facts published in a periodical media product is entitled to request publication of a counter-statement in such media free of charge, unless such counter-statement is not true or its publication is excluded for other reasons. Statements of facts qualified for a counter-statement must be based on facts which can be verified whether they are true and complete and the respective essential statement is not just a personal opinion, an assessment or a warning against future conduct of another person.
<i>Implementation problem: The right of reply is mainly used by politicians (e.g. Jörg Haider sued almost every critical newspaper on a regular basis).</i>			
	Art. 9 Media Act: amendment	Websites	Right of reply in respect of information posted on a website. The intention is that it should be possible to insert a link to the reply on the homepage, so that the whole text of the reply does not have to be published on the homepage. The subject matter of the reply should be clearly indicated. Replies should be accessible for at least one month, or in any case for one month longer than the length of time during which the offending information was posted.

	Art. 21 Media Act	AAVM + PM	Party Political Broadcasting: In cases of replies or additional communications (ex-post notifications) on party political broadcasting shall be publicised within the airtime, which is at the disposal of the creator of the party political broadcast and namely during the first or the second available broadcast date; in case there is not such date within 8 days, (it shall be publicised) during the first available date.
1.6. Ratification of international instruments: - CoE’s Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	-Yes -Yes		

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 1 (2) Constitutional law on assuring the independence of broadcasting	AAVM + PN	Reports should be objective and impartial. Persons and the structure of the broadcasters should be independent.
<i>Note: Journalists could be hindered from expressing themselves freely and independently due to copyright rules. Content can only be broadcasted with the approval of the copyright holder (Art. 71 Copyright Act). Pictures shall only be published when legitimate interest of the depicted is not concerned (Art. 78 Copyright Act).</i>			
	Art. 4 (6) ORF Act	AAVM (Public broadcaster)	Independence is the duty and the right of journalists and programmers. Independence means independence from state and party influence as well as from other – electronic or print - media or political and business lobbies.
<i>Implementation problem: Although journalists and programmers need to be independent, there is political intervention through hidden networks.</i>			
	Art. 32 (1) ORF Act	AAVM (Public broadcaster)	The journalistic staff has the right to freely exercise the journalistic profession.
	Art. 33 (1) ORF Act	AAVM (Public broadcaster)	To guarantee the freedom of press, an editorial agreement shall be concluded.
<i>Implementation problem: The ORF has an editorial agreement guaranteeing the freedom of expression. But in reality, there are networks and political structures (hidden influence). Furthermore, KommAustria has no copy of this editorial agreement and this agreement isn't subject to statutory supervision by KommAustria.</i>			
	Art. 49 (1) PrTV-G	AAVM (Private broadcasters)	Free exercise of the journalistic profession.
	Art. 49 (5) PrTV-G	AAVM (Private broadcasters)	To guarantee the freedom of press, an editorial agreement shall be concluded. Everyone who applies for a licence (terrestrial TV, Satellite TV) has to provide an editorial agreement (§ 4 (4) Z 7 PrTV-G), which has to correspond to the requirements set out in § 49 (5) PrTV-G.
<i>Implementation problem: Most of the private broadcasters (the bigger ones) have such editorial statement, but the implication (self- regulation, sanctions) and the structures safeguarding journalistic independence are quite underdeveloped. The problem is that the structures are not institutionalized.</i>			
	Art. 21 PrR-G	AAVM (Private R broadcasters)	The independence of the editors shall be ensured. An editorial agreement shall be concluded as soon as a minimum of 5 editors are employed in a radio station. The FM and satellite broadcasters have to provide an editorial agreement within their application for a licence to prove evidence that they will comply with the general program requirements set out in § 16 PrR-G (see § 5 (3) PrR-G).
	Art. 2 Media Act	AAVM + PM	Protection of journalists in exercise of their profession.
	The Code of Honour of Austrian Press		
2.2. News / information programmes			
2.3. Other media content	Art. 35 (1) PrTV-G; Art. 19 (4) PrR-G	AAVM (TV + R)	Persons presenting news broadcasts or broadcasts on political events of the day shall neither appear on the screen, nor on the sound track of broadcasts for advertising or teleshopping purposes.
	Art. 14 (4) ORF Act; § 17 (2) ORF Act; Art. 35 (2) PrTV-G; Art. 46 PrTV-G; Art. 19 (4)-(5) PrR-G	AAVM (TV + R)	The content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor or advertiser in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes.
<i>Implementation problem: In the private sector there is often economic pressure from sponsors.</i>			
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)	Art. 10 (1) Press Subsidy Act	PN + M	Supporting journalists' education.
	Art. 9 (2) Z 3 KOG	AAVM (TV + R)	Supporting the education of TV and Radio station employees (e.g. journalists).

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...)			
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...)	Federal Equal Opportunity Act (Public Sector)		Prohibition to discriminate employees in the public sector. It concerns sexual discrimination as well as discrimination because of religion, ethnic affiliation, age, ...
	Federal Equal Opportunity Act (Private Sector)		Prohibition to discriminate employees in the private sector. It concerns sexual discrimination as well as discrimination because of religion, ethnic affiliation, age, ...
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings	Art. 30 (2)-(3) PrTV-G; Art. 16 (2) PrR-G	AAVM (TV + R)	The major social groups and organizations of the area that is covered shall be afforded the opportunity to present their opinions.
3.2.2. Content obligations	Art. 30 (2)-(3) PrTV-G; Art. 16 (2) PrR-G	AAVM (TV + R)	The broadcasters are held to present the public, cultural and economic life in the area covered. This does not apply to format programs or to programs broadcast exclusively via satellite.
3.2.2.1. Promotion of European works	Art. 11 ORF Act; Art. 50 PrTV-G	AAVM (TV)	Wording of Directive incorporated directly into national law: "where practicable".
3.2.2.2. Promotion of European independent works	Art. 11 ORF Act; Art. 50 PrTV-G	AAVM (TV)	At least 10 % of its programming budget should be reserved for European independent works.
3.2.2.3. Promotion of national/regional works			
3.2.2.4. Language requirements	Art. 5 (1) ORF Act	AAVM (Public broadcaster)	Reasonable programme shares must be provided in the languages of those national minorities which are represented by a National Minority Council.
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)	Art. 1 (1) Press Subsidy Act	PN + M (weekly magazines)	The federal state supports the Austrian newspapers and weekly papers to promote the variety of the press in Austria.
	Art. 3 Press Subsidy Act	PN + M	Support for research projects.
	Art. 8 Press Subsidy Act	PN	Support for regional daily newspapers.

	Art. 6 Journalism Subsidy Act		KommAustria can grant subsidies to magazines meeting the relevant subsidy guidelines.
	Section 2 Journalism Subsidy Act	PN	Support of journalists periodically published print media serving the education of the citizens.
<i>Note: The Journalism Subsidy Act does not include AAVM journalists. The aim of this Act is to support the diversity of print media.</i>			
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 6. (5) Federal Act on the equality of disabled people		The “information systems should be usable for people with impediments and accessible without difficulty and help.
	Art. 1 (3) E-Government Act		Official websites which offer information or support should be accessible for disabled people.
<i>Implementation problem: This E-Government Act is not fully implemented yet.</i>			
	Art. 5 (3) ORF-G:		The television information programs of ORF (Section 3 paragraph 1) must be designed in conformity with technical developments and economic feasibility in such a way that they may be more easily followed by people who are deaf or whose hearing is impaired.

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)	Art. 10 (2) PrTV-G; Art. 8 PrR-R	AAVM (TV + R)	Political parties and organisations are not allowed to hold a radio or television licence.
4.1.2. Requirements of independence from political parties / politicians	Art. 4 (6) ORF Act; Art. 49 (1) PrTV-G; Art. 21 PrR-G		<i>Supra</i>
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Art. 12 (5) KOG		Incompatibility rules concerning the Federal Communications Board (Bundes-kommunikationssenat), which is the appellate body for KommAustria's decisions. Members of a general representative body, persons who work in a body of the Austrian Broadcasting Corporation, who are partners of another broadcaster or persons who are in a close legal relationship with anyone who makes use of an activity of the Federal Communications Board (appellate body of KommAustria) or is affected by such activity as well as employees of KommAustria or RTR-GmbH may not be members of the Federal Communications Board.
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		AAVM (Public broadcaster)	The public broadcaster must broadcast information about political parties in proportion to their seats in the Parliament.
4.2.1.b. Paid access: rules on political advertising			No restrictions on paid political advertising.
<i>Implementation problem: Broadcasters can refuse to broadcast political advertising. But when broadcasters do broadcast political advertising, they can not favour certain political parties. The broadcasters need to be objective. (Interpretation of KommAustria)</i>			
	Art. 13 (1) ORF-G		ORF can sell airtime for political advertising.
<i>Note: ORF refuses to do so according to the own general terms and conditions, which is consistent with the general principle of objectivity.</i>			
4.2.2. Government announcements	Art. 6 ORF Act	AAVM (Public broadcaster)	The public broadcaster shall at any time provide air time as is necessary and expedient to federal and regional authorities as well as local authorities within the dissemination area for appeals to the public in crises and emergency situations and other important public notices.
4.2.3. Impartiality obligations	Art. 30 and 33 PrTV-G	AAVM (TV)	Private TV broadcasters have to pay regard to the principle of objectivity in their programmes, especially in reporting on political topics (news and information).

	Art. 4 (5) ORF-G	Public broadcaster	The Austrian Broadcasting Corporation shall ensure in its programming the following: 1. an objective selection and presentation of information in the form of news and reports including coverage of the legislators’ work and broadcasts of their debates, if any; 2. the submission and presentation of commentaries, viewpoints and critical statements with due regard for the variety of opinions represented in public life; 3. self-produced commentaries, analyses, and presentations with due regard for the principle of objectivity.
4.2.4. Fair representation of political viewpoints; special rules in election periods			

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. 6 PrR-G; Art. 7 PrTV-G, Art. 8 PrTV-G	AVVM	<u>FM Radio</u> : As there is insufficient spectrum, most of the licences are granted to local or regional broadcasters. If they apply for a licence, KommAustria has to make a decision on the basis of several legal selection criteria (beauty contest). One selection criteria is the local content referring to the relevant area that is covered by the licence applied. <u>Analogue terrestrial TV</u> : Same procedure
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.	ORF Act	Public Broadcaster	ORF has regional studios (9 <i>Landesstudios</i>) and broadcasts regional news (every day from 19.-19.30).
	Press Subsidy Act		Providing subsidies for regional pluralism.
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) PrTV-G; Art. 7 (5) PrR-G; Art. 5 (5) PrR-G	AAVM (TV + R)	Disclosure of ownership structure when applying for a broadcasting licence.
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	Art. 10 Abs. (6) (7) PrTV-G; Art. 5 (5), 22 (5) PrR-G	AAVM (TV + R)	Changes in the ownership structure have to be communicated to the regulator within 14 days in the case of television or within seven days in the case of radio. Any transaction of capital that involves more than 50% of shares in the case of radio or television has to be notified ex ante to the regulator, who will then assess whether the licence decision can be upheld given the new ownership situation.
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>	Art. 11 (5) PrTV-G	AAVM (TV)	A person or partnership or persons or partnerships of the same media group must not supply the same location on the national territory with more than two digital terrestrial television programs. [Media group: 25% of the share capital or voting rights or dominance (§ 11 (6) PrTV-G)].
	Art. 9 (3) PrR-G	AAVM (R)	Persons or sole proprietorships or partnerships associated with the same media group must not cover one particular part of the Federal territory more than twice. [Media group: 25% of the share capital or voting rights or dominance (§ 9 (4) PrR-G)].
6.1.2.2. <i>Crossmedia</i>	Art. 11 (2) PrTV-G	AAVM (TV)	A media owner shall be precluded from providing broadcasting services if he exceeds the following ranges or levels of coverage in one of the listed markets: 1. terrestrial radio programs (more than 30% of a nationwide range), 2. daily press (more than 30% of a nationwide range of the daily press), 3. weekly press (more than 30% of a nationwide range of the weekly press), 4. cable networks (more than a level of 30% of coverage to the population by means of cable network on the national territory).
	Art.11 (3) PrTV-G	AAVM (TV)	A media owner shall be precluded from providing non-nationwide terrestrial television if he exceeds the below ranges or levels of coverage in the respective coverage areas in more than one of the listed markets: 1. terrestrial radio programs (more than a range of 30% in the coverage area), 2. daily press (more than a range of 30% in the coverage area), 3. weekly press (more than a range of 30% of the coverage area), 4. cable network (more than level of coverage of 30% of the population by means of cable networks on the national territory).
	Art. 11 (4) PrTV-G	AAVM (TV)	Persons or partnerships of the same media group must not provide the same location on the national territory with more than one terrestrial radio program and one analogue terrestrial television program. [Media group: 25% of the share capital or voting rights or dominance (§ 11 (6) PrTV-G)].
6.1.2.3. <i>Vertical integration with networks</i>	See again Art. 11 (3) PrTV-G		
6.1.2.4. <i>Integration with advertising sector</i>			

6.1.2.5. Integration with other (e.g. energy) sectors			
6.1.2.6. Control over both commercial and public media			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Art. 11 (1) PrTV-G; Art. 9 (1) PrR-G	AAVM (TV + R)	A person can only hold multiple radio or analogue terrestrial TV licences when the transmission areas served by the respective licences do not overlap. This restriction also applies where the person itself is not the holder of the licence, but exercises significant influence over its application by way of a shareholding of more than 25 % of capital shares or voting rights or in a manner comparable thereto.
6.1.3.2. Market shares	Art. 11 (2) PrTV-G; Art. 11 (3) PrTV-G		<i>Supra</i>
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares	Art. 10 (8) PrTV-G; Art. 22 (5) PrR-G	AAVM (TV + R)	Any transaction of capital that involves more than 50% of shares in the case of radio or television has to be notified ex ante to the regulator, who will then assess whether the licence decision can be upheld given the new ownership situation.
6.1.3.5. Voting shares	Art. 11 (1) PrTV-G; Art. 9 (1) PrR-G	AAVM (TV + R)	A person can only hold multiple radio or analogue terrestrial TV licences when the transmission areas served by the respective licences do not overlap. This restriction also applies where the person itself is not the holder of the licence, but exercises significant influence over its application by way of a shareholding of more than 25 % of capital shares or voting rights or in a manner comparable thereto.
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors	Art. 11 (4) PrTV-G		<i>Supra</i>
6.2. Sector specific rules preventing cooperation between media companies			There are no sector specific rules preventing cooperation between media companies.
6.3. (Sector specific or general) rules preventing (non-EU) foreign ownership	Art. 10 (3) PrTV-G; Art. 7 (2) PrR-G	AAVM (TV + R)	Licensing requirements: maximum 49% of the shares may be held by foreigners or held by legal persons or partnerships that are under the uniform leadership of a foreigner or an enterprise which has its domicile abroad, or where foreigners or legal persons or partnerships having their domicile abroad have possibilities to take influence.
6.4. General competition rules			
6.4.1. Antitrust			
6.4.1.1. Specific provisions for media sectors			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)	See for example OLG Wien 26.01.2001 342, 369, 380, 381, 382, 383/00 (“Formil”), or OLG Wien 19.12.2005, 26 Kt 381/05 (ORS).		
6.4.2. Merger control	Art. 42c (1) KartG		
	Art. 42c (2) KartG		A concentration will be deemed to be a media concentration, whenever at least two of the parties involved in a merger are considered either as (i) media enterprises or media services, (ii) media support companies, or (iii) enterprises that hold at least 25 % of the shares in any one of the aforementioned.

	Art. 42c (3) KartG		A concentration will also be qualified a media concentration, when only one of the enterprises qualifies according to the criteria set out, and another one has 25 % of its capital held by one or more media enterprises, media services or media support companies.
	Art. 42c (4) KartG		Where normal mergers have to be notified only if the combined annual turnover of the enterprises involved exceeds 300 mio. Euro worldwide and 15 mio. Euro domestically, with at least two of them achieving worldwide turnovers of more than 2 mio. individually, these thresholds are lowered to 1/200 for media enterprises and media services and 1/20 for media support companies.
	Art. 42c (5) KartG; Art. 35 (2)-(2a) KartG		A media concentration shall also be prohibited if it is to be expected that media diversity will be impaired by the concentration. Media diversity is a diversity of independent media enterprises which are not associated within the meaning of Section 41 and through which news reporting with due regard to different opinions is ensured.
6.4.2.1. Specific provisions for media sector (e.g. possibility for government to overrule NCA decision)			
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)	See 6.4.1.2.		
6.5. Transparency obligations			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	Art. 24 Media Act		Imprint: On each media work has to be declared the name or company of the media owner and the producer as well as the place of publishing and manufacture.
	Art. 9 (4) PrTV-G	AAVM (TV)	Cable broadcasting organizers shall update the data listed in § 9 (2) PrTV-G on an annual basis and communicate them to the regulatory authority by 31 December of every year. The regulatory authority shall keep an up-to-date list of the cable broadcasting organizers which it shall publish in suitable form.
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...)	Art. 10 (6) (7) PrTV-G; Art. 5 (5), 22 (5) PrR-G	AAVM (TV + Radio)	Changes in the ownership structure have to be communicated to the regulator within 14 days in the case of television or within seven days in the case of radio. Changes in the ownership structure have to be immediately notified to the regulator. Any transaction of capital that involves more than 50% of shares in the case of radio, or more than 25% in the case of television, has to be notified ex ante to the regulator, who will then assess whether the licence decision can be upheld given the new ownership situation.
	Art. 7 (6) PrR-G	AAVM (Radio)	For a radio broadcaster, failure to notify such transactions will invoke a procedure leading to the revocation of the licence, provided that the operator fails to comply with the orders of the regulatory body, or has repeatedly been addressed for violations of this provision, whilst in the case of national TV broadcasting licences, a transfer of more than 50 % of shares will immediately lead to the revocation of the licence.
	Art. 9 (4) PrTV-G		Cable broadcasting organizers shall update the data listed in § 9 (2) PrTV-G on an annual basis and communicate them to the regulatory authority by 31 December of every year. The regulatory authority shall keep an up-to-date list of the cable broadcasting organizers which it shall publish in suitable form.
	Art. 63 (1) PrTV-G		In case of repeated and serious violations of the law by the broadcasting organizer, or if the broadcasting organizer no longer satisfies the requirements listed in §§ 10 and 11, the regulatory authority shall initiate, either ex officio or upon application, the procedure for the withdrawal of the licence, in case of a cable broadcasting organization according to § 9 (1) the procedure for the prohibition of the cable broadcasting organization.



	Art. 28 (1) PrR-G		In cases of repeated or serious violations of provisions of the law by the radio station operator, or if the radio station operator does not more comply with the requirements of §§ 7 through 9 or has not complied with his duty to report information under § 22 (5), the regulatory authority shall ex officio institute the proceeding for revoking the licence.
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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. 6 (1) PrR-G; Art. 16 (1) PrR-G; Art. 7 (1) PrTV-G; Art. 8 (2) PrTV-G; Art. 30 (1) PrTV-G	AAVM (TV)	Decisions concerning the allocation of broadcasting licences are generally taken with a view to promoting diversity, and both radio and television broadcasters are obliged to reflect the diversity of opinion in their programming.
	Art. 3 ORF Act	AAVM (Public broadcaster)	The public broadcaster must provide two nation-wide television programmes, three nation-wide and nine region-wide radio programmes.
	Art. 9a ORF Act	AAVM (Public broadcaster)	ORF must also produce a sports TV channel that must be transmitted over satellite and may be transmitted over digital terrestrial platforms and cable TV.
	Art. 4 (1) ORF Act	AAVM (Public broadcaster)	The public broadcaster shall provide the following services: 1. comprehensive information on all important political, social, economic, cultural and sports related issues 2. promotion of understanding for all questions of democratic society 3. promotion of Austrian identity from the perspective of European history and integration 4. promotion of understanding for European integration 5. presentation and promotion of arts, culture and sciences 6. due regard for, and promotion of, Austrian artistic and creative productions 7. presentation of a varied cultural programme 8. presentation of entertainment 9. due regard for all age groups 10. due regard for the causes of disabled people 11. due regard for the causes of families and children and for the equal treatment of women and men 12. due regard for the importance of legally recognised churches and religious communities 13. dissemination and promotion of public and youth education with special emphasis on school and adult education 14. information on issues relating to environmental, consumer and health protection 15. promotion of public interest in active involvement in sports 16. information on importance, function and duties of the federal state and promotion of regional identities of the Laender 17. promotion of understanding of economic issues 18. promotion of understanding of questions of European security policy and comprehensive national defence
	Art. 4 (2) ORF Act	AAVM (Public broadcaster)	The public broadcaster shall provide a varied aggregate programme comprising information, culture, entertainment and sports for everyone. The programme offered must be geared to the variety of listeners' and viewers interests and take a balanced approach in considering these interests.
	Art. 4 (3) ORF Act	AAVM (public broadcaster)	The well-balanced total programme must contain an equivalent proportion of sophisticated substantive elements. The annual and monthly programme schemes of television must be designed in such a way that, as a rule, there is a choice of high-quality programmes at prime time (8:00 to 10:00 p.m.).

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.)			<p>In Austria there are so called “free” (independent), non-commercial radios and one cable broadcaster called “Community TV-GmbH”. These radio and TV programmes are not financed by advertising, but by donations. There is an association of non-commercial radios in Austria (“Verband Freier Radios Österreich”) and there is a charter of non-commercial radios (see http://www.freie-radios.at/).</p>
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 4 Federal Act on the exercise of exclusive television broadcasting rights Art. 1 Ordinance on events of substantial social interest		Sports events + 2 cultural events (The Vienna Philharmonic Orchestra’s New Year Concert and the Vienna Opera Ball)
	Art. 12 ORF Act; § 55 PrTV-G	AAVM (TV)	Wording of Directive incorporated directly into national law
7.3. Short news reporting	Art. 5 Federal Act on the exercise of exclusive television broadcasting rights		The short report is limited to 90 seconds.
7.4. Fixed book price	Art. 5 Act on fixed book price	B	Book dealers may concede discounts of no more than 5% of the minimum price; public, scientific and school libraries may be conceded a 10% discount.
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. 4 (6) ORF Act		<i>Supra</i>
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Art. 20 (1) ORF Act		The members of the Foundation Council shall be appointed subject to the following provisions: 1. six members appointed by the Federal Government in proportion to the number of seats of the political parties in the National Assembly, due regard being paid to the proposals of these parties; each of the parties represented on the Main Committee of the National Assembly shall be represented in the Foundation Council by at least one member; 2. nine members appointed by the States (Laender); each of the States shall be entitled to appoint one member; 3. nine members shall be appointed by the Federal Government; 4. six members shall be appointed by the Audience Council; 5. five members shall be appointed by the Central Staff Council in accordance with the Labour Constitution Act, Federal Law Gazette No 22/1974.
7.5.1.3. Specific representation requirements for board of directors, other bodies	Art. 20 (1) ORF Act		The members of the Foundation Council should possess the personal and technical qualifications as a result of appropriate previous training or pertinent vocational experience in the matters to be carried out by the Foundation Council, and should be knowledgeable of the Austrian and international media markets or have acquired high esteem in the fields of economics, science, arts or education because of their professional performance.

	Art. 26 ORF Act		Any person holding the position of Director General, Director or Regional Director or executive employee in the Austrian Broadcasting Corporation, must meet the following requirements: 1. he/she must be fully capable of entering into legal transactions; 2. must show that he/she has an adequate previous training or five years of experience in the same or a related profession.
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	Art. 28 ORF Act		The members of the Audience Council shall be appointed subject to the following provisions: 1. the Federal Economic Chamber, the Conference of the Presidents of the Austrian Chambers of Agriculture as also the Austrian Board of the Chambers of Labour and the Federation of Austrian Trade Unions shall each appoint one member; 2. the Chambers of the Liberal Professions shall together appoint one member; 3. the Roman Catholic Church shall appoint one member; 4. the Lutheran Church shall appoint one member; 5. those entities who are responsible for civic political education within the political parties shall each appoint one member (Federal Law Gazette No 369/1984); 6. the Academy of Sciences shall appoint one member.
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings			
7.5.2. Structural rules - funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Art. 2 (2) ORF Act	AAVM (Public broadcaster)	The ORF is authorized to establish branch offices in Austria and abroad and to found subsidiaries and hold shares in other companies in Austria and abroad, if the latter pursue the same business objective of the ORF. The ORF is also authorized for investment purposes to acquire shares of companies with a different business objective, provided that the share in such companies does not exceed 25%.
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Art. 4 ORF Act; § 9a ORF Act		<i>Supra</i>
7.5.3.2. Obligation to engage in new media activities	Art. 9b ORF Act		Mobile terrestrial TV.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)			
7.5.5. Universal coverage obligations	Art. 3 ORF Act		Service provision mandate: The Austrian Broadcasting Corporation, together with all regional studios, must provide 1) three nation-wide and nine region-wide radio programmes, and 2) two nation-wide television programmes. The Austrian Broadcasting Corporation must ensure that, subject to technical development and economic feasibility, all inhabitants of the national territory who are authorised to operate a radio or television receiver are consistently and permanently provided with one region-wide and two nation-wide radio programmes and two nation-wide television programmes.

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. 20 PrTV-G	Cable network	All cable network operators must carry: <ul style="list-style-type: none"> •All radio and the two TV programmes (ORF1, ORF2) of the public service broadcaster. •The TV programme of the holder of the nationwide private analogue terrestrial TV licence (ATVplus). •The TV programmes of the holders of regional private analogue terrestrial TV licences, if they can be received terrestrially in the area of the cable network. •A programme for local information, if it produces more than 120 minutes of content per day and the cable network does not already carry more than one similar programme. •A programme with Austrian content, if it produces more than 12 hours per day and the cable network does not already carry a similar programme.
	Art. 25 PrTV-G	Digital terrestrial	Must-carry for two TV programmes of the public service broadcaster (i. e. ORF1, ORF2). Must-carry for the programme of the holder of the private nationwide analogue terrestrial TV licence (ATVplus). Non-discriminatory access for other programmes and services.
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)			No formal must offer obligation.
	Art. 3 ORF-G		A must offer obligation for the public service broadcaster could be argued by the general objectives of the law.
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	Broadcasting market definition ordinance 2004 (RFMVO 2004)		The Broadcasting Market Definition Ordinance defines the relevant wholesale markets for the transmission of broadcasting signals to consumers according to the EC's SMP Guidelines and the recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation: 1. Analogue terrestrial transmission of FM Radio Broadcasting 2. Analogue terrestrial transmission of TV Broadcasting
8.3.2. Result of (first) round of market analysis of market 18	Art. 1 RFMVO 2004	Relevant market: Analogue terrestrial transmission services for TV signals + analogue terrestrial FM (VHF) transmission services for radio signals	Access obligation (unbundled) + price obligation + non –discrimination + separated accounting
	Decision KommAustria, May 29, 2006		
8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'			
8.4.1. Conditional access	Art. 27b-c PrTV-G	AAVM (TV)	<ul style="list-style-type: none"> •CAS must allow handover of control to local or regional network operators. •CAS providers must offer access on fair, reasonable and non-discriminatory terms to TV broadcasters. •Accounting separation for CAS providers. •Holders of patents must-offer licences to producers of set-top boxes on fair, reasonable and non-discriminatory terms; licences must not hinder APIs.

	Art. 1-2 ZIV		CAS operators are obliged to offer technical services to all broadcasting company organizers to fair, adequate and non-discriminating conditions.
8.4.2. EPG (or other search tools)	§ 27a (2) Z 1 PrTV-G		KommAustria can impose obligations on operators to ensure that consumers can find digital programmes and additional services under “fair, balanced, and non-discriminating” conditions
8.4.3. API	§ 27a (2) Z 2 PrTV-G		KommAustria may impose obligations on operators, especially to oblige owners of APIs to provide information on technical parameters for reasonable compensation
8.4.4. Other			
8.5. Interoperability requirements	Art. 5-6 ZIV		Standards for TV sets (digitalization of TV sets for rent or sale) and the standard of 16:9 for all TV signals.
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?			See for example the “Steuerbuch 2003” (on https://www.bmf.gv.at/), p. 48, for a policy fostering citizen’s access to broadband (via tax reduction).
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)	See for example §§ 5 – 7 Press Subsidy Act or 9a – 9e KOG (digitisation).		

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			Kommunikationsbehörde Austria (KommAustria) http://www.rtr.at/
9.1.1. Structure/ organisation	Art. 3 (1) KOG		The Austrian Communications Authority consists of one Director, two substitutes and the requisite number of staff.
9.1.1.1. Guarantees for independence	Art. 3 (3) KOG		It is an independent authority as to its external business practices, but bound by instructions of the Federal Chancellor.
9.1.1.2. Representation requirements	Art. 3 (1) KOG + Ausschreibungsgesetz 1989, BGBl. Nr. 85/1989 idF. BGBl. I Nr. 2/2008		
9.1.2. Credibility and efficiency			
9.1.2.1. Sufficient resources			
9.1.2.2. Tasks and duties	Art. 2 KOG		<ul style="list-style-type: none"> • Frequency licensing + broadcasting licensing (“one-stop shopping”) for private radio and TV • Frequency licensing for the public service broadcaster • Content regulation and supervision for private radio and TV • Market definition and market analysis for the broadcasting transmission markets
9.1.2.3. Effective sanctioning powers	Art. 15 KOG		Administrative fines
9.1.3. Cooperation with other regulators	Art. 2 (1) Z 8 KOG; Art. 10 (1) (4) WettbG; Art. 36, 46 KartG		
			Bundeskommunikationssenat (BKS) http://www.rtr.at/de/rf/BKS
9.1.1. Structure/ organisation			
9.1.1.1. Guarantees for independence	Art. 12 (1) KOG		In the exercise of their function, the members of the Federal Communications Board shall be independent and not bound by instructions and orders.
9.1.1.2. Representation requirements	Art. 12 (4) KOG		Persons that may be appointed members of the Federal Communications Board must have completed their law studies and must have several years of experience in the fields of public administration, legal practice, science or in matters coming within the executive powers of the Federal Communications Board.
9.1.2. Credibility and efficiency			
9.1.2.1. Sufficient resources			
9.1.2.2. Tasks and duties	Art. 35-36 ORF-G		<ul style="list-style-type: none"> •Appeal body for appeals against decisions of KommAustria •Body of first instance for supervision of the public service broadcaster
9.1.2.3. Effective sanctioning powers			
9.1.3. Cooperation with other regulators			
9.2. Press Council	No Press Council, but negotiations on the way.		
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			

9.3. Competition Authority			
<p><i>Note: New “Medienbehörde” is on the way, likely to be installed by the end of 08 at the moment there is no consistent structure and no common goals (like pluralism).</i></p>			
<p>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></p>			
9.3.2. Cooperation with other regulators	<p>Art. 2 (1) Z 8 KOG; Art. 10 (1) (4) WettbG; Art. 36, 46 KartG</p>		



Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



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

[BELGIUM]

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(*) The inventory is – as far as the broadcasting sector is concerned – limited to the two largest Communities in Belgium, *i.e.* the Flemish and French Community. Hence, it does not cover the broadcasting legislations applicable in the German-speaking Community and in the Bilingual Region of Brussels-Capital (which are however similar to those in the Flemish and French Community).

National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- **Broadcasting Acts:**

- FLRTA: Flemish Radio and Television Broadcasting Act of 2005 (Decreten betreffende de Radio-Omroep en de Televisie, gecoördineerd bij besluit van de Vlaamse Regering van 4 maart 2005, *Official Gazette**, 8 April 2005, *erratum Official Gazette*, 24 November 2005), amended several times (consolidated version available at: http://www.vlaamseregulatormedia.be/regelgeving/Mediadecreet_080214.pdf)
- FRBA: French Community Broadcasting Act of 2003 (Décret sur la radiodiffusion du 27 février 2003, *Official Gazette*, 17 April 2003), amended several times (consolidated version available at: http://www.csa.be/system/document/nom/502/PARL_20030227_decret_radiodiffusion_consolide.pdf)
- GBCA: German-speaking Community Broadcasting and Cinema Act of 2005 (Dekret vom 27. Juni 2005 über den Rundfunk und die Kinovorstellungen, *Official Gazette*, 6 September 2005)
- Act on Broadcasting Activities in the bilingual region of Brussels-Capital of 1996 (Wet 30 maart 1995 betreffende de elektronischecommunicatienetwerken en -diensten en de uitoefening van omroepactiviteiten in het tweetalig gebied Brussel-Hoofdstad (*Official Gazette*, 22 February 1996, *erratum Official Gazette*, 30 March 1996), amended by Act of 16 March 2007 (*Official Gazette* 5 April 2007)
- Act regulating the public service broadcaster of the French Community, RTBF, of 1997 (Décret du 14 juillet 1997 portant statut de la Radio-Télévision belge de la Communauté française (RTBF), *Official Gazette*, 28 August 1997), amended several times)
- Act regulating the public service broadcaster of the German-speaking Community, BRF, of 1986 (Dekret Rat der Deutschsprachigen Gemeinschaft. 27. Juni 1986 über das Belgische Rundfunk- und Fernsehzentrum der Deutschsprachigen Gemeinschaft, *Official Gazette*, 5 August 1986); amended several times

- **Other:**

- Act on the Protection of Journalistic Sources of 2005 (Wet 7 april 2005 tot bescherming van de journalistieke bronnen, *Official Gazette*, 27 April 2005), amended by Act of 9 May 2006 (*Official Gazette*, 7 March 2007) and partly annulled by Constitutional Court (decision n° 2006/091 of 7 June 2006, www.arbitrage.be)

- Act of the French Community of 31 March 2004 relating to subsidies granted to the French-speaking press et for the development of newspaper reading initiatives at schools (Décret du 31 mars 2004 relatif aux aides attribuées à la presse quotidienne écrite francophone et au développement d'initiatives de la presse quotidienne écrite francophone en milieu scolaire), *Official Gazette*, 13 May 2004
- Act of the Flemish Community of 26 March 2004 (Decreet 26 maart 2004 betreffende de openbaarheid van bestuur), *Official Gazette*, 1 July 2004, err. 18 August 2008
- Act of the Flemish Community of 13 April 1999 on the Flemish Audiovisual Fund ‘VAF’ (Decreet houdende machtiging van de Vlaamse regering om toe treden tot en om mee te werken aan de oprichting van de vereniging zonder winstgevend doel Vlaams Audiovisueel Fonds, *Official Gazette*, 23 September 1999)
- Act of 12 November 1997 regulating access to public information at the level of provinces and the municipalities (Wet 12 november 1997 betreffende de openbaarheid van bestuur in de provincies en gemeenten), *Official Gazette*, 19 December 1997 (modified by Act of 26 June 2000, *Official Gazette*, 15 July 2007)
- Act of the French Community of 22 December 1994 regulating access to public information (Décret du 22 décembre 1994 relatif à la publicité de l'administration), *Official Gazette*, 31 December 1994, err. 21 March 1995 (modified by the Act of 30 March 2007, *Official Gazette*, 29 June 2007)
- Act of the French Community of 22 December 1994 containing several provisions relating to the audiovisual sector and education, *Official Gazette*, 14 March 1995 (as amended by Act of 20 December 1995, *Official Gazette*, 17 April 1996)
- Act of 11 April 1994 regulating access to public information (Wet 11 april 1994 betreffende de openbaarheid van bestuur), *Official Gazette*, 30 June 1994(modified by Act of 26 June 2000, *Official Gazette*, 15 July 2007)
- Act of 30 December 1963 on the recognition and protection of the title of professional journalist (Wet betreffende de erkenning en de bescherming van de titel van beroepsjournalist), *Official Gazette*, 14 January 1964
- Act of 23 June 1961 on the Right of Reply (Wet van 23 juni 1961 betreffende het recht tot antwoord), *Official Gazette*, 8 July 1961), amended by Act of 4 March 1977 (*Official Gazette* 15 March 1977)
- *Implementation Decrees*
- Decree Flemish Government of 30 March 2007 on the procedure and criteria for the authorisation of communitywide, regional and local FM radio stations, *Official Gazette* 4 May 2007
- Decree of the Media Minister of 13 April 2007 concerning the grant of 250.000 EUR to the Fund Pascal Decroos (Ministerieel Besluit houdende toekenning van een subsidie van 250.000 Euro aan het Fonds Pascal Decroos voor Bijzondere Journalistiek - Begrotingsjaar 2007)
- Decree of the Flemish Government of 19 July 2007 establishing an appeal body for access to public information (Besluit Vlaamse Regering 4 juni 2004 tot oprichting van de beroepsinstantie inzake de openbaarheid van bestuur), *Official Gazette*, 5 November 2007, replacing the older Decree of 4 June 2004, *Official Gazette*, 1 July 2004
- Decree of the French Community Government of 8 July 2005 « reconnaissant une association représentative à laquelle peuvent être confiées des émissions de radio et de télévision à la RTBF », *Official Gazette* 16 September 2005
- Decree of the French Community Government of 22 March 2001 « reconnaissant les associations représentatives auxquelles peuvent être confiées des émissions de Radio et de Télévision a la R.T.B.F. », *Official Gazette*, 29 June 2001
- Decree of the Flemish Government of 21 April 1998 “betreffende het uitzenden door de VRT van mededelingen van het Vlaams Parlement, van de Vlaamse regering en van de ministers en staatssecretarissen van het Brusselse Hoofdstedelijke Gewest”, *Official Gazette*, 12 June 1998
- Royal Decrees of 12 April 1965 regulating accreditations and identification documents for the press (Koninklijk besluit tot instelling van identificatiedocumenten en -kentekens ten behoeve van de leden van de periodieke pers voor gespecialiseerde informatie and Koninklijk besluit tot instelling van identificatiedocumenten en -kentekens ten behoeve van beroepsjournalisten en persbedrijven), *Official Gazette*, 21 May 1965

- **General legislation**
 - Belgian Constitution of 1831, http://www.senate.be/doc/const_nl.html (Dutch), http://www.senate.be/doc/const_fr.html (French), http://www.senate.be/deutsch/const_de.html#const (German)
 - Culture Pact Act of 16 July 1973 (Wet 16 juli 1973 waarbij de bescherming van de ideologische en filosofische strekkingen gewaarborgd wordt, *Official Gazette*, 16 October 1973)
 - Belgian Competition Act of 2006 (Gecoördineerde Wet 15 september 2006 tot bescherming van de economische mededinging (*Official Gazette*, 29 September 2006)
 - Flemish Act on Regulatory Governance of 2003 (Vlaams Kaderdecreet Bestuurlijk Beleid, 18 juli 2003, *Official Gazette*, 22 August 2003)
 - Flemish Act on Strategic Advisory Bodies of 2003 (Vlaams Decreet 18 juli 2003 tot regeling van strategische adviesraden, *Official Gazette*, 22 August 2003)
 - French Community Act on the Depoliticization of Cultural Organisations of 1993 (Décret relatif à la dépolitisation des structures des organismes culturels du 5 avril 1993, *Official Gazette*, 5 June 1993)
 - Code of Income Tax (Art. 194ter: Tax Shelter)
- **Codes of conduct**
 - Belgian ‘Code of Journalistic Principles’ of 1982 (http://www.rvdj.be/ethiek_code.php)¹
- **Other**
 - Charter VRT – Flemish government 2007-2011 (http://www.vrt.be/extra/beheersovereenkomst_2007-2011.pdf)
 - Charter RTBF - Government of the French Community (2007-2011), *Official Gazette*, 4 December 2006 (http://www.csa.be/system/document/nom/562/GVT_20061013_RTBF_contratgestion.pdf)
 - Monitoring of media concentration in Flanders; documents of Flemish Media Regulator:
 - <http://www.vlaamseregulatormedia.be/documentatie/concentratiesub1.html> (report on delineation of the Flemish media landscape in 2006, 20.3.2008)
 - <http://www.vlaamseregulatormedia.be/documentatie/Mediagroepen%20in%20Vlaanderen.pdf> (overview of media groups in Flanders; 25.1.2008)
 - http://www.vlaamseregulatormedia.be/documentatie/Media%20aanbod%20Vlaanderen%2019_11_2007.pdf (overview of media services and products; 2007))

(* Please note that the official name of the Belgian Official Gazette is “Belgisch Staatsblad / Moniteur belge” (www.staatsblad.be or www.moniteur.be).

¹ The Belgian code of journalistic principles was agreed between the Belgian Association of Newspaper Publishers (Belgische Vereniging van de Dagbladuitgevers, BVDU), the General Association of Professional Journalists of Belgium (Association Générale des Journalistes Professionnels, AGJPB) and the Federation of Belgian Magazine Editors (Fédération Belge des Magazines, FEBELMA) in 1982. In 2006 the Flemish broadcasters joined the “Council of Journalism”.

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 19. Belgian Constitution: <i>“Freedom of worship, public practice of the latter, as well as freedom to demonstrate one’s opinions on all matters, are guaranteed, except for the punishment for offences committed when using this freedom.”</i>	PM+AAVM	General provision applicable to all forms of expression
	Art. 25 Belgian Constitution: <i>“The press is free; censorship can never be established; no security can be demanded from authors, publishers or printers. When the author is known and resident in Belgium, neither the publisher, nor the printer, nor the distributor can be prosecuted.”</i>	PM	Prohibition of prior censorship, specific to press freedom (only print media, according to the case law of the Court of Cassation, <i>Hof van Cassatie – Cour de Cassation</i>)
<p><i>Note:</i> Resulting from the special status attributed to print press in Art. 25 Belgian Constitution, there is no legal registration or notification obligation for publishing a newspaper in Belgium. Consequently, publishing newspapers, magazines and books is free in Belgium. However, there exists an old (1867) penal code (Art. 299) stipulating that publishing a printed matter without the name and the place of residence of the writer or the printer is punishable (the so-called responsible editor principle), which is however not considered a major obstacle to free publishing.</p> <p>There are also no legal registration or notification obligations to work as a journalist in Belgium. Journalism is an open profession, there is even no specific education required. The Act of 30 December 1963 on the recognition and protection of the title of professional journalist attaches the following conditions to the use of the title “beroepsjournalist” (“professional journalist”), but - as mentioned - this title is not necessary in order to exercise the profession (it mainly offers the journalist some practical advantages): 1) being 21 years or older, 2) not being deprived of political and civil rights, 3) taking part in the editing of newspapers, magazines, radio or television etc. as main occupation and against salary for general reporting, 4) having exercised this activity at least two years, 5) not being involved in any form of trade. One of the Royal Decrees of 12 April 1965, regulating accreditations and identification documents for journalists, describes a similar regime for the “journalists of profession”, i.e. journalists working for the specialised periodical press (magazines). These Royal Decrees impose transparent and objective conditions for obtaining journalists’ accreditations.</p>			
	Art. 150 Belgian Constitution: <i>“The jury is established for all criminal matters and for political and press offences, with the exception of press offences inspired by racism or xenophobia.”</i>	PM	Installs special judicial protection for authors, journalists, editors, etc., granting exclusive powers to the people’s jury (<i>Hof van Assisen – Cour d’Assises</i>) to judge in the case of press offences (except if they relate to racism of xenophobia, in which case they are tried by the regular professional criminal judges).
1.2. Freedom of information	Art. 32 Belgian Constitution: <i>“Everyone has the right to consult any administrative document and to have a copy made, except in the cases and conditions stipulated by the laws, decrees, or rulings referred to in Article 134.”</i>		
<p><i>Note:</i> Such conditions have been laid out in legislation applicable both at the federal level (Act of 11 April 1994) and at the level of the provinces and the municipalities (Act of 12 November 1997). At the federal level, documents may be withheld from public scrutiny if their special character necessitates confidential treatment of the information contained therein, e.g. in order to protect sensitive individual information or public security against becoming public, or if the request for information itself is either abusive or excessively vague. Citizens retain the right to challenge denials of information requests before the responsible administrative agency as a first step, and secondly before the Council of State (Raad van State/Conseil d’État). At the regional level, similar provisions apply. The Flemish Act of 26 March 2004, for instance, also states that requests for information may be denied where releasing the document is likely to result in it being misinterpreted (e.g. due to its unfinished or incomplete character) or where the information contained therein has been made available to the authority on confidential terms only; additionally, the requests must not be manifestly abusive or excessively vague. There is also a two-stage complaints procedure open to citizens whose requests for information have not been met with a special appeal body called “beroepsinstantie inzake de openbaarheid van bestuur”; more info: http://www3.vlaanderen.be/openbaarheid/index.php.</p>			

1.3. Explicit recognition of media pluralism	Culture Pact Act of 16 July 1973		Although not formally part of the Belgian Constitution, this Act belongs to the core provisions underpinning the Belgian federal state – the principle of pluralism being inextricably linked to the structure of the Belgian state.
<p><i>Note:</i> No provision in the Belgian Constitution refers explicitly to media pluralism. The principle of pluralism is however inextricably linked to the structure of the Belgian state (being a federal state composed of Communities and Regions, with – at the time of the first state reforms – a religious-political-ideological majority of Christen democrats in the Dutch-speaking North part of the country and a religious-political-ideological majority of atheist socialists in the French-speaking South part of Belgium). This implies that several safeguards have been installed to ensure cultural and ideological pluralism at institutional level as well as in the media, in particular via the so-called “Cultuurpactwet” of 16 July 1973 (<i>Official Gazette</i> 16 October 1973). This “Culture Pact Act” was enacted at the occasion of the first state reform in 1970, resulting in the establishment of three cultural “communities” (Flemish, French and German-speaking Community) and three economic “regions” (Flemish, Walloon and Brussels-Capital Region). It applies to all government decisions and actions relating to culture, which should be interpreted in a broad sense, including art, drama, film, radio and television, libraries, musea, youth, sports, leisure and entertainment, research and education, language, tourism, etc. The Act serves to protect all ideological and philosophical groupings in a Community and prevent discrimination of one of these groupings in the preparation, development, implementation, etc. of cultural policies, in participating in cultural institutions, in obtaining representative cultural functions, in gaining access to cultural infrastructures, etc. Art. 18 and 19 contain explicit safeguards relating to “the use of communication means”:</p> <p><i>“Art. 18. All ideological or philosophical views represented in a [Community parliament] should have access to the means for expressing opinions resorting under the public authorities of the respective Community.”</i></p> <p><i>“Art. 19. The radio and television organizations have to respect the proportional representation of the political groupings in [the respective Community parliament] in the composition of their management bodies. These management bodies should be assisted by a permanent advisory committee in which all accredited users’ organizations and all ideological and philosophical groupings are represented. This advisory committee is entitled to full information on the actions of the management bodies.”</i></p> <p>These articles should be taken into account by the Community governments when organizing their public service broadcaster (each Community has its own public broadcasting organization²). Art. 18 has resulted in special rules guaranteeing access to air time for all ideological and philosophical groupings in the emissions of the public broadcaster (the so-called “third party emissions”; <i>infra</i>); Art. 19 means that the management bodies of the public broadcaster have to reflect the various political groupings in a <i>proportionate</i> manner.</p> <p>Art. 7 prescribes that all advisory bodies participating in the preparation and implementation of cultural policies (<i>please note that Art. 6 obliges all governments to involve such advisory bodies in the development of their cultural policies</i>) should be composed of representatives of all ideological and philosophical groupings (as well as users’ organizations), in such a way that an unjustified dominance of one of these groupings is excluded.</p> <p>This implies that the ministers of media affairs in the three Communities have to request the advice of a Media Council before taking a legislative or policy action in the domain of media, and that the various ideological and philosophical groupings have to be represented in these Media Councils (as well as the users’ organizations).</p> <p>The Culture Pact Act of 16 July 1973 has a Flemish counterpart with the Decree of 28 January 1974, containing identical provisions (<i>Official Gazette</i> 31 May 1974).</p>			
	Belgian ‘Code of Journalistic Principles’		Mentions the “respect for diversity of opinions”: <i>“The press recognizes and respects the diversity of opinions; she defends the freedom of publication of diverse viewpoints. She will oppose any form of discrimination on the basis of gender, race, nationality, language, religion, ideology, ethnics, culture, social status or beliefs, to the extent that the expressed viewpoints are not in conflict with the respect for the fundamental rights of every individual.”</i>
1.4. Protection of journalistic sources	Act on the Protection of Journalistic Sources of 7 April 2005	PM+AAVM	Grants journalists the right not to disclose their sources and prohibits investigative measures (e.g. interception of communication, surveillance and judicial search and seizure) vis-à-vis journalists if this could lead to breach of secrecy of sources.
<p><i>Note:</i> The protection was originally reserved for “journalists” and editorial collaborators such as the telephonist, documentalist, etc. The notion of “journalist” was defined as all persons engaged in the collection and dissemination of information to the public via any means of mass communication in a professional manner (i.e. as an independent agent or employee, hence no volunteers) and on a regular basis. The Belgian Constitutional Court decided on 7 June 2006 that this contravenes the principle of equality. The protection of journalistic sources, being the cornerstone of the freedom of the press in a democratic society, should therefore extend to everyone who exercises a journalistic activity. The Court consequently deleted the phrases referring to the professional and regular character of the journalist’s activities, and even the word “journalist” itself in the definition. Since then the rules relating to the protection of journalistic sources are also considered applicable to bloggers etc.</p>			
1.5. Right of reply	Act on the Right of Reply 1961 (amended in 1977)	PN+AAVM	The Act of 23 June 1961 installs a very broad right of reply in the area of print media (which entitles everybody who is – explicitly or implicitly –

² VRT (Vlaamse Radio- en Televisieomroep) in Flanders, RTBF (Radio-Télévision belge de la Communauté française) in the French Community and BRF (Belgisches Rundfunk- und Fernsehzentrum der Deutschsprachigen Gemeinschaft) in the German-speaking Community.

			mentioned in a newspaper article the right to react both to correct errors, defend one’s reputation or oppose the viewpoint that was expressed) and a more limited right of reply (rectification right and defence of reputation and honour) in the area of audiovisual media. Illegitimate refusal of the right of reply by newspapers or broadcast organisations leads to penal sanctions.
	Self-regulation	EN	The Act on the right of reply of 1961 does not apply to electronic versions of newspapers. Various legislative proposals aiming at harmonising the rules for print and audiovisual and at stipulating similar rules for the internet have been introduced in the federal parliament in previous years, but none of them has been adopted so far. However, there exists self-regulation in the field of the right of reply in an online environment. When someone asks for a right of reply, e.g. someone is sentenced to imprisonment but cleared of charge in appeal, the newspaper will put a note under the article in the online archive, saying this person is cleared of charge in appeal.
	Art. 177-191 FLRTA	AAVM	The Flemish Community has installed its own regime for right of reply on radio and television broadcasting. This regime is very similar to the one of the Federal Act of 1961 in the area of audiovisual media. Besides a right of reply, the Flemish rules also install a “right of announcement” for suspected or accused persons that have been discharged or acquitted. N.B. In the French and German-speaking Community, the right of reply for audiovisual media contained in the Federal Act of 1961 applies.
	Art. 176septies FLRTA; Art. 36 FRBA	AAVM	In this context, it is relevant to mention that in the Flemish Community, all public and private broadcasters must keep a copy of their broadcast signals during 2 months. In the French Community, private broadcasters and RTBF must keep a copy of full programme during 3 months (only 2 months for independent radios).

Note: There are no severe conflicts regarding the right of reply. From time to time courts have to decide on a case regarding the right of reply. For instance, in the eighties a politician (Van den Boeynants) misused the right of reply several times against a magazine, leading the magazine to refuse further replies. However, the court condemned the magazine saying the formal conditions of the right of reply were fulfilled. The media criticised this court decision sharply, but the courts continue to enforce the right of reply if the conditions are fulfilled. In 2003, the Court of Appeal of Antwerp condemned the CEO of a newspaper to pay a fine for illegitimate refusal of right of reply.

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Belgian Ethical Code for Journalists of 1982	All	“Newspapers and journalists should resist pressure of any kind.”
<p><i>Note:</i> In contrast to radio and television organisations (<i>infra</i>), there are no legal obligations for newspapers to have an editorial statute. However, in Belgium there exists a tradition of foundations within the (Flemish) newspapers. These foundations are established in order to take care of the editorial principles and values (in relation to editorial texts and advertisements) of the newspapers and the statutes of the foundations contain explicit safeguards with regard to the editorial staff’s independence (e.g. guaranteeing the autonomy of the editorial staff). For example: in case of change in the editorial cooperation with other newspapers, the preliminary approval of the foundation is required, and in case of change in ownership (to a shareholder or to a third), the vendor or liquidator has to impose the stakeholder or the third party the obligation to respect the editorial principles and values as described in the statute. If the buyer acquires the titles without respecting the editorial line, he has to pay a damage. The statutes also confer special powers on the editorial staff e.g. a preliminary advice of the foundation in case of appointment or dismissal of a chief editor; a preliminary approval of the foundation in case of appointment or dismissal of a journalist, trainee journalist and chief editor. A substantial change in the task of a journalist (e.g. he would be no longer linked to the editorial staff), is equated with a dismissal and therefore a preliminary approval of the foundation may be required. Nevertheless, the Flemish association of professional journalists has called for a formalisation of safeguards for editorial independence by introducing editorial statutes in all news media; they are of the opinion that the Flemish government has an essential role to play in that regard, for instance, by making press subsidies dependent on the presence of an editorial statute (see, for instance, “De Journalist” of 23 March 2006, magazine of the VVJ, the Flemish association of professional journalists).</p>			
2.2. News / information programmes	FLRTA: - Art. 23 (public broadcaster) - Art. 36; 45, § 1, 3°; 49, 3° (radio stations) - Art. 70 (generalist TV channels) - Art. 73, 3° (regional TV) FRBA : -art. 35 § 1, 4° & 6 (private broadcasters) -art. 66 §1,8° (local TV) Art. 3 & 7§2 RTBF decree + charter RTBF/ government (art. 18)	AAVM	Obligation to ensure editorial independence in news and information programmes (as enshrined in an editorial statute)
	Art. 101, §6 and 109, al. 2 FLRTA; Art. 14 Code of advertising and sponsoring	AAVM	News and other informative programmes cannot contain advertising + cannot be sponsored.
2.3. Other media content	Art. 98, 7° FLRTA	AAVM	Prohibition to rely on persons who are known by the public for their participation to information programmes and whose performance can be misleading for the viewer or listener (e.g., a news presenter cannot promote a product or service in an advertising spot, as this might be misleading for the public and might jeopardize his reputation of impartial and objective news presenter).
	Art. 109 FLRTA Art. 24,1 FRBA	AAVM	No influence of editorial content by sponsor
	Art. 103 FLRTA Art. 15 (advertising and teleshopping)	AAVM	Prohibition to limit advertising to the products or services of one commercial or financial group, or to grant exclusivity to a certain product or

	+ art. 24,11° (sponsorship) FRBA		service
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)	Protocol between Flemish Government and Press sector (2005-2007)	PM	Flemish Government grants annual subsidies (1.000.000 EUR) to the print press; two of the four selection criteria refer explicitly to independence and pluralism of the press: “the extent to which the project contributes to the preservation and promotion of the editorial independence” and “the extent to which the project supports the preservation of a pluralist, independent press and guarantees diversity”. (See call for tenders: http://www2.vlaanderen.be/media/Media/steun/GP2007_oproep.doc) More info: http://www2.vlaanderen.be/media/Media/steun/geschrevenpers.htm
	Ministerial Decree of 13 April 2007	Press (both print and audiovisual)	The Fund Pascal Decroos for investigative journalism aims to support high quality and investigative journalism in and outside Flanders, both in the print and audiovisual press. It grants subsidies to individual journalists who would like to work on a project of special or investigative journalism the costs of which exceed the normal budgetary capacities of the newspaper, editor or broadcaster. The Fund receives an annual grant from the Flemish Government (in 2007: 250.000 EUR), fees for membership (9.000 EUR) and gifts. More info: http://www.fondspascaldecroos.org/
	Art. 30-31 FRBA and Act of 31 March 2004 relating to press subsidies		The Press Fund of the French Community (<i>Centre de l'aide à la presse écrite</i>) grants three types of subsidies: <ul style="list-style-type: none"> - supporting the creation of new titles - supporting long-term employment of journalists, use of new technologies - preserve the largest possible diversity in newspapers (giving priority to less profitable titles). The fund is financed through contributions by the public service broadcaster RTBF and by editors of TV broadcasting services whose annual turnover exceeds 15 mio. EUR (Art. 30). Overview of subsidies granted in 2007: http://www2.cfwb.be/av/db/aig/gallery/Autres_secteurs/PresseEcritreTitresSoutenus07.pdf More info: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=538
Note: (1) The French community government has never adopted implementation measures, but broadcasters contribute in practice: RTBF implemented this article (in 2005, 3.1 Mio. Euros paid for the fund of the written press development); TVi contributes (freely) since 2006 (but any control by CSA).			
Note: (2) Initially, the federal state was in charge of granting subsidies to the press. Since 1978, such a system of direct support to the written press had existed with the aim of ensuring pluralism in the press (which would reflect all opinions in society) and guaranteeing the viability of the newspapers (legal basis: Law of 19 July 1979 and Royal Decree of 20 July 1979). During the state reform of 1988, powers over press subsidies were transferred to the Communities, which have since then established their own systems and developed their own policies (for instance, in the Flemish Community a first agreement relating to safeguarding a pluralist and independent opinion press was reached in 1993; in 1998 the Flemish government restructured the system of direct support and replaced it by a program for the support of digital diversification (today: educational programs), concentrating on the preservation of good, quality based and autonomous editorial staff teams).			
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...)			
3.1.1. Special representation requirements in media company structures			
	Art. 76, § 1 FLRTA	Regional TV	The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, <i>cultural</i> , ideological and regional criteria”.
	Art. 70, §1 and 5 FRBA	Local TV	(At least) Half of the members of the board of governors of local television stations should consist of representatives of the <i>cultural</i> sector.
3.1.2. Special representation requirements in media advisory bodies	Art. 19. Culture Pact	PSM	Management bodies of public broadcasters in Belgium should be assisted by a <i>permanent advisory committee</i> in which all accredited users’ organizations and all ideological and philosophical groupings are represented.
<i>Implementation problem:</i> Only explicitly implemented in French Community (Art. 20 of the RTBF-Decree and the Government Decision of 12 December 2000, <i>Official Gazette</i> 30 March 2001)			
	Art. 7 of the Culture Pact Act		Composition of media advisory bodies should reflect all ideological and philosophical groupings (as well as users’ organizations), in such a way that an unjustified dominance of one of these groupings is excluded.
<i>Implementation problem:</i> Only explicitly mentioned in French Community for advisory body within CSA (Art. 135, § 1 Décret du 27 février 2003 sur la radiodiffusion), but Art. 7 directly applies in the other Communities as well for all media advisory bodies participating in the preparation and implementation of culture policies in those communities.			
	Art. 79 FLRTA	Regional TV (Advisory Council)	Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “political, social, <i>cultural</i> , ideological, ethnic and regional criteria”.
3.1.3. General policies promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Various policy measures at federal and Community level (at Community level “equal chances” is a dedicated policy domain appointed to a minister).		Examples include: legislation on the representation of women in public bodies (including for instance, regulatory and advisory bodies in the media domain).
	Art. 31 Charter VRT-Flemish Government, VRT Charter on Diversity	PSM (Flemish Community)	VRT has to respect a diversity and equal chances policy in general, and in relation to HR management in particular. It has issued a “Charter on Diversity” and created a “Diversity Cell” that advises programme producers, directors and managers, script writers, journalists, etc. They pay attention to various aspects of diversity: gender issues, age issues, ethnic minority issues, people of foreign origin, and people with handicaps...
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings	Art. 28 and 30 FLRTA	PSM (Flemish Community)	Representative associations are entitled to broadcast radio and television programmes on the radio and TV channels of VRT. Accreditation is done by the government who also determines on an annual basis the division of airtime and subsidy. There are currently five accredited ideological associations that are entitled

			<p>to bring radio and television programmes:</p> <ol style="list-style-type: none"> 1. VZW Katholieke Televisie- en Radio-omroep 2. VZW Het Vrije Woord 3. VZW Pro-Erts 4. VZW Israëlitische Godsdienstige Uitzendingen 5. Orthodoxe Kerk in België <p>The following social-economic associations are entitled to bring radio programmes :</p> <ol style="list-style-type: none"> 1. Algemeen Christelijk Vakverbond (ACV) 2. Algemeen Belgisch Vakverbond (ABVV) 3. Algemene Centrale der Liberale Vakverbonden van België (ACLVB) 4. VZW Voka 5. VZW Unizo 6. VZW Agrarische Televisie- en Radio-omroep 7. VZW Gezinsbond
	Art. 7, § 3-4 RTBF-Act (+ implementation decrees)	PSM (French Community)	<p>“Representative” associations are entitled to broadcast radio and television programmes on the radio and TV channels of RTBF. Accreditation is done by the government; the division of airtime is determined by the board of administrators of the RTBF (according to the criteria put forward in the Charter between the RTBF and the French Government).</p> <p>There are currently five accredited philosophical / religious associations:</p> <ol style="list-style-type: none"> 1. Radio Télévision catholique belge a.s.b.l. 2. La Pensée et les Hommes a.s.b.l. 3. Association protestante pour la Radio et la Télévision a.s.b.l. 4. Les Emissions religieuses du Consistoire central israélite de Belgique a.s.b.l. 5. Eglise orthodoxe en Belgique
3.2.2. Content obligations			
3.2.2.1. <i>Promotion of European works</i>	- Art. 115 FLRTA - Art. 43, § 1 FRBA	AVM (except local/regional TV stations)	Obligation to reserve for European works a majority proportion of transmission time (excluding time appointed to news, sports events, games, advertising teletext services and teleshopping); cf. Art. 4 and 6 TVWF
3.2.2.2. <i>Promotion of European independent works</i>	- Art. 116 FLRTA - Art. 43, § 2 FRBA	AVM (except local/regional TV stations)	Obligation to reserve for European independent works 10% of transmission time (excluding time appointed to news, sports events, games, advertising teletext services and teleshopping); cf. Art. 5 TVWF
3.2.2.3. Promotion of national/regional works			
	Art.16 Charter VRT-Flemish Government	PSM (Flemish Community)	<p>Obligation for VRT to strive at a percentage of 50% of Flemish (co-) productions on its linear TV channels between 6 and 11 pm.</p> <p>Obligation for VRT to reserve at least 20% of the time for music on its radio channels for Flemish music productions.</p> <p>At least one radio channel of VRT should be recognised by the public as a channel with Dutch music profile.</p>
	Art. 41 FRBA	AVM	General obligation for all editors of television broadcasting services to invest a certain percentage of the annual turnover (increasing as the turnover increases) in audiovisual production under the form of co-production, pre-ordering, or contribution to the “Centre de cinéma et de l’audiovisuel” (for instance, annual turnover between 0 and 5 mio EUR: 1,4%; AT between 5 and 10 mio. EUR: 1,6%, AT between 10 and 15 mio. EUR: 1,8%, etc.).
	Art. 79 FRBA	AVM	General obligation for aggregators of services to contribute for audiovisual production (co-production or paid 2 euros/user/year)

	Art. 42 FRBA	AVM	All editors of television broadcasting services: Quota for music written/produced/composed/ performed by persons residing in the French language region or bilingual region of Brussels-Capital: - at least 4,5% of musical programming
	Art. 43 FRBA	AVM (except for local television)	The European and independent works should include works originating from domestic authors or producers.
	Art. 54, § 1 and 60 FRBA	AMS	All editors of radio broadcasting services: Quota for music in the French language region or in the bilingual region of Brussels-Capital: - at least 4,5%
	Art. 48-50 FRBA		An “editor of broadcasting services” in the French Community can obtain a must carry-status if it concludes an agreement with the Government, stating that it will “promote the (cultural) patrimony of the French Community, broadcast a minimum amount of original programmes, offer a news service, contribute to the audiovisual production of the French Community (via internal production, co-production or external orders of programmes, up to a minimum of 24% of its annual turnover) and create employment in the French Community (with a minimum of 60 FTE).
3.2.2.4. Language requirements	Art. 34 FLRTA	AMS	Obligation for all private radio stations to broadcast in Dutch (Flemish government can grant exception).
	Art. 41, § 1 FLRTA	R	Obligation for communitywide private radio in Flanders to offer music in the Dutch language
	Art. 73, 6° FLRTA	TV (Regional)	Obligation for regional television to broadcast in Dutch (Flemish government can grant exception).
	Art. 90, § 1, 7° FLRTA	Non-traditional AVM (‘television services’)	Obligation for television services to broadcast in Dutch (Flemish government can grant exception).
	Art. 42 FRBA	AVM	Quota for audiovisual works in the French language: - 10% of transmission time for audiovisual works in the French language - 50+% of all programmes (except for music programmes)
	Art. 54, § 1 and 60 FRBA	AMS	Quota for music in the French language: - at least 30% on annual basis. (CSA can grant to guarantee the linguistic and cultural diversity) General obligation for all editors of radio services to broadcast in the French language.
3.2.2.5. Other	Art. 54, § 1, 1°, a) FRBA	AMS	Obligation for all editors of radio services in the French Community to “promote cultural development, notably by presenting for free the principal (socio-) cultural activities in its broadcasting area”.
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)	Art. 31 Charter VRT-Flemish Government, VRT Charter on Diversity	PSM (Flemish Community)	The public service broadcaster of the Flemish Community (VRT) has adopted an internal “Charter on Diversity”, containing engagements with regard to non-discrimination, equal chances, representation of all groups in society in its staff and in its programmes. There is a specific engagement towards the representation of “members of all ethnic-cultural minorities, persons with a handicap and elderly people as citizen, expert, guest, participant or public in the programmes”. <u>More info: http://www.vrt.be/vrt_master/over/vrt_overvrt_diversiteit_engagement_bis/index.shtml</u>
<i>Note:</i> VRT takes this seriously and puts serious efforts in promoting diversity on the screen (both in drama, in news, in cultural programmes people from different origin, race, gender, etc. are shown...).			
	Art. 5 to 7 (content) & 49 (staff) charter		The fundamental principles of RTBF explain an engagement to promote the

	RTBF/French government		social and cultural diversity, equality men/women in its programmes ; no discrimination and equality men/women in its staff
3.2.4. Subsidies (apart from general PSB funding)	Flemish Act of 13 April 1999 on the Flemish Audiovisual Fund ‘VAF’	Film & TV	<p>Flanders Audiovisual Fund (“Vlaams Audiovisueel Fonds”, VAF) supports audiovisual production in, as well as international co-productions with Flanders. The Fund was set up by the Flanders government in 2002. It annually receives a €12.5 million grant <i>of the Flanders government</i>. The aims of the Flanders Audiovisual Fund are threefold: to develop a sustainable audiovisual industry, to encourage and support upcoming audiovisual talent and to promote a vibrant audiovisual culture in Flanders. It has 4 tasks:</p> <p>(1) production support: it provides financial support for audiovisual productions (min. 78% of the annual budget); filmmakers can apply for support to fiction, documentary, animation and experimental media production. All funding applications are examined by reading committees the members of which have critical skills and a thorough knowledge of the audiovisual field. These committees given their recommendations to the Board of Directors, which has the final decision.</p> <p>(2) promotion: it promotes these productions in Flanders as well as abroad.</p> <p>(3) training support: it grants scholarships, finances professional training and supports/organises workshops.</p> <p>(4) research: it carries out surveys on the audiovisual field.</p> <p>More info: http://www.vaf.be/taal/en/</p>
	Act of the French Community of 22 December 1994 containing several provisions relating to the audiovisual sector and education; Royal Decree of 22 June 1967, modified several times (most recently by the Decree of the Government of the French Community of 18 December 2001)	Film & TV	<p>Centre du Cinéma et de l’audiovisuel has as its primary aim the support and promotion of audiovisual productions. It is financed through an <i>annual grant from the French Community</i>, as well as <i>contributions by broadcasting distributors (in particular the cable TV companies) and by TV broadcasting editors*</i>.</p> <p>It has the following tasks:</p> <ul style="list-style-type: none"> - support and promotion of audiovisual works of the French Community; - support the distribution of these works and grant quality bonuses; - support organisational structures for audiovisual production and training (“ateliers d’accueil, de production, d’écoles”); - stimulate co-productions between independent producers and TV broadcasters in the French Community. <p>In 2007, the sum of granted aids amounted to nearly 20 mio. EUR (figures: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=558, ‘synthèse de ce bilan’.)</p> <p>More info: http://www.cfwb.be/av/ http://www.qmonsite.be/default.asp?V_DOC_ID=1307</p> <p>(* Editors of TV services are obliged to contribute to the production of audiovisual works, either through co-productions or under the form of a contribution to the Centre du Cinéma et de l’audiovisuel - contribution which is calculated on the basis of their annual turnover; the modalities of this obligation are elaborated in an agreement between the editor and the Government of the French Community (Art. 41 FRBA).</p>
	Art. 1, 15° and 161-162 FRBA; implementation decree of 21 June 2004	Radio	<p>Fund for radio productions (“Fonds d’aide à la création radiophonique”, FACR) supports the development of radio productions in the French Community. It can spend an average annual amount of 150.000 EUR (varies every year; see http://www2.cfwb.be/av/db/aig/gallery/Radio/</p>

			<p>bilanFACR0405.pdf for an overview of 1994-2005). It is financed through <u>contributions by the sector</u> (mainly contributions by the public service broadcaster RTBF, and to a smaller extent by commercial radio stations, calculated on the basis of their annual turnover; see Art. 161 FRBA)</p> <p>A selection committee decides 2 times/year which projects (in different genres: information, fiction, music, culture) are eligible for subsidies on the basis of originality, quality, creativity, promotion of cultural heritage of French Community...</p> <p>The subsidies cover the costs for the production of the radio project.</p> <p>More info: http://www.cfwb.be/av/ http://www2.cfwb.be/av/default.asp?V_ITEM_ID=535</p>
	Art. 194ter Code of Income Tax (as amended by the federal act of 2 August 2002)	Film & TV	Tax Shelter (special exemption regime from taxes on profits for companies investing in the production of ‘accredited’ audiovisual works in Belgium).
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 9, §7 Charter VRT-Flemish Government	PSM Flanders	<p>The Charter between the Flemish Government and the public service broadcaster of the Flemish Community (VRT) prescribes that VRT should do maximum efforts to ensure accessibility of its programmes by people with difficulties seeing and hearing:</p> <p>1° by 2010 at least 95% of the TV programmes have to be subtitled; 2° it will conform its websites to the “Blindsurfer label” 3° it will experiment with audio description and similar techniques.</p> <p>The number of programmes (not only in foreign language but also Dutch-spoken TV programmes) subtitled by the VRT has increased as follows:</p> <ul style="list-style-type: none"> – 1998-2003: 35% – End 2004: 40% – End 2005: 45% – End 2006: 50% <p>More info: http://jsp.vlaamsparlement.be/website/htm-vrg/511308.html; http://jsp.vlaamsparlement.be/website/htm-vrg/502075.html</p>
	Art. 29 charter RTBF/French government		RTBF must broadcast or/and offer via video on demand: content subtitled, priority for news and message of general interest (at least 600 hours in 2007, 800 hours in 2009...), guarantee an access to news in language of the signs.
	<p>Decrees of the Flemish Government of 12 May 2006 and 29 May 2007 granting subsidies to regional TV stations;</p> <p>Decree of the Flemish Government of 19 July 2007 granting subsidies to VMMA</p>	Regional and commercial TV	<p>The Flemish Government grants since 2006, reps. 2007, subsidies to the regional TV stations (50.000 EUR each for equipment and 50.000 EUR on annual basis for personnel costs) and the largest Flemish commercial TV station VTM (500.000 EUR) for the subtitling of their news.</p> <p>More info: http://www.fevlado.be/nieuws/nieuwsDetail.aspx?item=427</p>

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)	Art. 11, § 2 FLRTA	PSM Flemish Community (VRT)	The position of governor on the board of the public broadcaster is incompatible with a political mandate (including a position in a minister's or secretary of state's cabinet).
<i>Note:</i> Art. 19 of the Culture Pact Act applies, implying that candidate governors are nominated by the various political parties in the Flemish Parliament. No similar provisions for CEO and directors...?			
	Art. 12 RTBF-Act		Being member of the board of governors of RTBF is incompatible with a political mandate in a government (or a minister's office) or in a parliamentary assembly (at European, federal, community, regional or local level).
	Art. 41, § 1, 1°; 45, § 1, 1°; 53, al. 2; 54, § 1, 3° FLRTA	AMS	Members of the board of governors of radio stations (both terrestrial, cable, internet) cannot have a political mandate. The only exception (where such rule is not explicitly imposed) applies to local FM radio stations. The justification is that local politicians are often member of the board of governors of a local radio station and that it is hard to find other people from the local community interested to take up membership of the board.
	Art. 77, 1° and 90, § 1, 3° FLRTA	Regional TV and non-traditional "TV services"	Max. 1/5 of the members of the board of governors of regional TV stations can have a political mandate. The same provision applies to "television services" (non-traditional TV services, e.g. on demand or via the Internet, on the condition that they perform an economic activity the primary goal of which is to offer TV programmes).
	Art. 70, §1 and 5 FRBA, <i>juncto</i> Art. 1 French Community Act on the Depoliticization of Cultural Organisations	Local TV	Maximum half of the members of the board of governors of local television stations may consist of political representatives (i.e. persons with a political mandate).
4.1.2. General requirement of independence from political parties / politicians	Art. 35 FLRTA	(private) AMS	All private radio stations (both traditional FM and AM radios, cable radios and internet radios) have to be independent of a political party.
	Art. 73, 5° FLRTA	Regional TV	Regional TV-stations have to be independent of a political party (as well as of professional associations and commercial organizations).
	Art. 90, §1, 5° FLRTA	Non-traditional TV	Non-traditional TV services (e.g. on demand or via Internet) have to be independent of a political party.
	Art. 35, § 1, 7° FRBA	AAVM	Being independent of government, political parties (as well as labour associations) is a prerequisite for all "editors of broadcasting services" (both radio and television services) in order to obtain a broadcasting licence.
4.1.3. Representation requirements in media companies' bodies (board of directors...)	Art. 11, §1 FLRTA and Art. 19 Culture Pact Act	PSM (Flemish Community)	The members of the board of governors are appointed by the Flemish government taking into account the representation requirements of Art. 19 Culture Pact Act. (all political parties represented in the Flemish Parliament propose candidates for the board, from which the Flemish government has to choose).

	Art. 11, § 1 RTBF-Act and Art. 19 Culture Pact Act	PSM (French Community)	The board of governors of RTBF should be composed of representatives of the various recognized political groupings in a <i>proportionate</i> manner.
	Art. 8, § 1 BRF-Act and Art. 19 Culture Pact Act	PSM (German-speaking Community)	The board of governors of BRF should be composed of representatives of the various political parties in the Parliament of the German-speaking Community in a <i>proportionate</i> manner.
	Art. 76, § 1 and 77 FLRTA	Regional TV	The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, cultural, ideological and regional criteria”. The board of governors of regional TV stations should be composed in a “representative manner” and max. 1/5 of its members can have: - a political mandate (except for a position in the government at local, provincial, regional or federal level), <i>or</i> - a executive or administrative function in a professional association, <i>or</i> - a executive or administrative function in a media, broadcasting, press or advertising company, <i>or</i> - a executive or administrative function in a cable operator.
	Art. 70, § 1 and 5 FRBA	Local TV	The members of the board of governors of local television stations who have a political mandate (max. half of the board; <i>supra</i>) should represent in a <i>proportionate</i> manner the political parties in the councils of the municipalities located within the emission region of the local television (in Brussels-Capital: proportionate representation of the political parties in the Parliament of the French Community).
4.1.4. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Art. 8 Flemish Act on Strategic Advisory Bodies	Advisory Body – Flemish Community	Members of the Flemish Strategic Advisory Body for Sports, Media, Youth and Culture (SMYC) cannot have a political mandate, nor belong to the Flemish administration department of SMYC.
	Art. 168 FLRTA <i>juncto</i> Art. 21, § 1 Flemish Act on Regulatory Governance of 2003	Regulatory Body – Flemish Community	Members of the Flemish Media Regulator VRM cannot have a political mandate nor have a position in a minister’s or secretary of state’s cabinet.
	Art. 135, § 4 FRBA	Advisory Body – French Community	Membership of the Advisory Committee (<i>Collège d’avis</i>) in the <i>Conseil Supérieur de l’Audiovisuel (CSA)</i> of the French Community is incompatible with membership of the executive or legislative power at European, federal, community or regional level, as well as with a position in a minister’s cabinet (at European, federal, community or regional level).
	Art. 136, § 2 FRBA	Regulatory Body – French Community	Membership of the Regulatory Committee (<i>Collège d’autorisation et de contrôle</i>) in the <i>Conseil Supérieur de l’Audiovisuel (CSA)</i> of the French Community is incompatible with membership of the executive or legislative power at European, federal, community, regional, <i>provincial and local level</i> (N.B. broader than the advisory committee), as well as with a position in a minister’s cabinet (at European, federal, community or regional level).
4.1.5. Representation requirements in media advisory bodies and/or regulators	Art. 79 FLRTA	Regional TV (Advisory Council)	Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “ <i>political, social, cultural, ideological, ethnic and regional criteria</i> ”.
	Art. 7 Culture Pact Act (explicitly referred to in Art. 135, § 1 FRBA; implicitly applicable in the other communities)		The members of the media advisory bodies (i.e. the <i>Conseil d’Avis</i> of the <i>Conseil Supérieur de l’Audiovisuel</i> of the French Community and the Strategic Advisory Council for Culture, Youth, Sports and Media of the Flemish Community) should reflect all ideological and philosophical groupings (as well as users’ organizations), in such a way that an

			unjustified dominance of one of these groupings is excluded.
	Art. 136 FRBA, <i>juncto</i> Art. 9 Culture Pact Act 1973		The members of the Regulatory Committee (<i>Conseil d'autorisation et de contrôle</i>) of the <i>Conseil Supérieur de l'Audiovisuel</i> of the French Community should be appointed with respect to the proportional representation of all political groupings
<i>Note: Implicitly applicable to Flemish Media Regulator?</i>			
4.2. Content rules (relating to media programmes, press articles, other content)			
4.2.1. Equal/proportionate access to airtime for political groupings	Art. 29 and 30, §6 FLRTA	PSM (Flemish Community)	Political parties having elected representatives in the Flemish Parliament are entitled to windows on the TV and radio channels of VRT in “pre-election periods” (<i>i.e.</i> a period of 2 months preceding local, provincial, regional, federal and European elections): - 50% of the airtime is divided in a proportionate manner, - 50% is divided equally over the various political parties.
	Art. 7, § 3-4 RTBF-Act (+ implementation decrees)	PSM (French Community)	“Representative” associations are entitled to broadcast radio and television programmes on the radio and TV channels of RTBF. Accreditation is done by the government; the division of airtime is determined by the board of administrators of the RTBF (according to the criteria put forward in the Charter between the RTBF and the French Government). There are currently four accredited ideological/political associations: 1. Centre d'Etudes et de Formation en Ecologie a.s.b.l 2. Action solidaire a.s.b.l 3. Institut Emile Vandervelde a.s.b.l 4. La Pensée libérale a.s.b.l.
4.2.2. Government announcements	Art. 27 FLRTA (+ implementation decree)		VRT is obliged to broadcast government* announcements free of charge, up to a maximum of 15 minutes per month, and following a primetime newscast. (*) Flemish government, as well as announcements from the Flemish Parliament, the Flemish ministers and the secretaries of state of the Region Brussels-Capital. These announcements are suspended – except in urgent cases – in pre-electoral periods (<i>i.e.</i> 2 months preceding elections at local, regional, federal or European level).
	Art. 7, § 5 FRBA	PSM	Private broadcasters and RTBF are obliged to broadcast government* announcements free of charge and up to a maximum of 3 hours per month. (*) Governments of the French Community, of the Walloon Region, of the Region Brussels-Capital, and of the bodies in Brussels-Capital representing the interests of the French speaking population.
4.2.3. Impartiality obligations	Art. 111bis FLRTA	AAVM	A non-discrimination obligation applies to all radio and TV broadcasters for all their programmes and services; the programme schedule cannot give rise to discrimination between the various ideological or philosophical groupings. Informative programmes should be produced with political and ideological impartiality. This provision is monitored by the ‘Chamber for Impartiality and Protection of Minors’ within the Flemish Media Regulator.
	Art. 35, § 1, 5° FRBA; Art. 66, §1, 8° FRBA	AAVM	The licensing conditions for editors of radio or TV programmes contain the obligation to adopt internal rules of procedure on the impartial treatment of information. This obligation is reiterated in the provisions for local TV stations.
	Art. 15 Charter VRT – Flemish Government	PSM (Flemish Community)	The public service broadcaster of the Flemish Community (VRT) has the obligation to respect impartiality and truthfulness in all news, information, and informative programmes.

	Art. 18 Charter RTBF - Government of the French Community (2007-2011)	PSM (French Community)	The public service broadcaster of the French Community (RTBF) has the general obligation to bring news and information which is objective, honest, independent, in-depth, pluralist, complete, analytical, apprehensive and stimulating reflection and debate on issues relevant to a democratic society.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 111bis	AAVM	The impartiality obligation implies that broadcasters have to present the various political viewpoints fairly in news, talk shows, etc. This provision is monitored by the ‘Chamber for Impartiality and Protection of Minors’ within the Flemish Media Regulator.
	Art. 29 and 30, §6 FLRTA		In pre-electoral periods (<i>i.e.</i> 2 months preceding elections at local, regional, federal or European level), the public service broadcaster of the Flemish Community (VRT) allocates windows on its radio and TV channels to political parties represented in parliament. 50% of these windows are allocated in a proportionate manner; 50% are divided equally.
	Art. 18-19 Charter RTBF - Government of the French Community (2007-2011)		The public service broadcaster of the French Community (RTBF) has specific obligations to cover elections and bring news, talk shows, interviews, etc. both on radio and TV with the aim of informing the citizens about the discussion items, the various viewpoints, etc. RTBF has the general obligation to bring news and information which is objective, honest, independent, in-depth, pluralist, complete, analytical, apprehensive and stimulating reflection and debate on issues relevant to a democratic society.
Note: Before electoral periods (tree months) the CSA publish recommendation bound TV & radio broadcasters.			
4.2.5. Political advertising	Art. 97, §3 and 98, §1 FLRTA	AAVM	Ban on political advertising (“it is prohibited to broadcast any form of announcement from politicians, political candidates or political parties in return for payment”.); Advertising should not promote political, religious, ideological or philosophical views.
	Art. 12 FRBA	AAVM	Ban on political advertising (“commercial communication cannot have as its object political parties, labour organisations or employers’ associations; it cannot promote religious or philosophical beliefs”).

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media	Art. 31-33, 44-47, 48-50 FLRTA	R (terrestrial)	Local FM radio and regional FM radio are recognised as separate categories of radio broadcasting providers, with separate authorisation procedures and criteria. They should take the form of a “legal person” (without specification of the type of legal person: commercial or non-profit). They have special obligations relating to covering local news and events, promoting communication in the local or regional territory. Part of the broadcasting frequencies are reserved for those categories.
	Art. 71 ff. FLRTA	Regional TV	A special category of regional TV is recognised in the Flemish broadcasting legislation; in order to be authorised, these regional TV stations should take the form of non-profit associations. They have to fulfil a (public) mission to bring information and news from the region, to promote communication within the regional community and to contribute to the cultural and social development of the region. The administrators of the regional TV station have their residence in the region of coverage. The programmes are only distributed via cable (which is the traditional and predominant means of distribution for TV programmes in Belgium – only the public broadcasters distribute their TV programmes via terrestrial networks) but have must carry status (art. 128, §1).
	Art. 53 FRBA		Special category of “independent radios” (local radios) versus “network radios”.
	Art. 63 ff. FRBA		Local TV stations (‘télévisions locales’) are a separate category of editors of broadcasting services with a specific authorisation regime, a special public mission. They have to take the form of non-profit associations.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)	Art. 18 RTBF-Act		The public service broadcaster RTBF is obliged to install 5 regional production centres (of which at least one in Brussels). The board of governors safeguards the effective decentralisation of services of RTBF by allocating sufficient resources to these regional production centres and by ordering the production of a sufficient amount of programs from all of them.
	- Art. 76, § 1 and 77 FLRTA - Art. 79 FLRTA	Regional TV	* The general assembly of the regional TV stations has to be “representative” of the region according to “political, social, cultural, ideological and regional criteria”. Governors / administrators of regional TV stations should <i>have their residence in the broadcasting area of the TV station</i> . * Each regional TV station has the obligation to create an Advisory Council, whose task it is to safeguard the pluralistic and independent character of the TV station; the members of this Advisory Council have to be “representative” of the region according to “political, social, cultural, ideological, ethnic and <i>regional</i> criteria”.
	Art. 70 FRBA	Local TV	* Governors / administrators represent the cultural and community sector, on the one hand, and the political/ ideological groups at local level, on the other hand.

5.3. Content obligations: requirements to cover local events, etc.			
	Art. 76, § 1 FLRTA	Regional TV	Regional TV stations have the (public) mission to bring information and news from the region, to promote communication within the regional community and to contribute to the cultural and social development of the region.
	Art. 64 FRBA	Local TV	Local TV stations have the public mission to produce and bring information, entertainment, cultural development, permanent education, promote the active participation of the community (each local TV has to conclude a charter with the government specifying this mission).

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. 41, § 1; 45, § 1; 49FLRTA	R (terrestrial - FM)	<p>Requirements <i>to obtain</i> and keep broadcasting licence:</p> <ul style="list-style-type: none"> - one legal person cannot operate more than 2 communitywide (i.e. Flemish) FM radio stations. <i>Direct or indirect links cannot lead to the same undertaking or legal person controlling more than 2 communitywide FM radio stations</i> (*). - one legal person cannot operate more than 2 regional FM radio stations. <i>Direct or indirect links cannot lead to the same undertaking or legal person controlling more than 2 regional or communitywide FM radio stations.</i>(*) - the legal person operating a local radio station cannot operate another radio station (neither another local radio nor another radio of a different type, including cable radios).
<i>Note: (*)</i> The phrase in <i>italic</i> has been added in 2007 (Act of 2.2.2007) to respond to the critic about the ineffectiveness of this provision (e.g. by the Flemish regulator itself, who pointed out that the initial rule could not prohibit mergers or cooperation agreements giving one operator control over another licensee as long as the latter retained a distinct legal personality).			
	Art. 73, 4° FLRTA	TV (regional)	<p>Requirements <i>to obtain</i> and keep broadcasting licence:</p> <ul style="list-style-type: none"> - one legal person cannot operate more than 1 regional TV station
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	Art. 56bis FRBA		<p>The French Community regulator (CSA) can approve the merger of:</p> <ul style="list-style-type: none"> - “radios associatives et al” - “radio associatives” with independent radio stations - independent radio stations - independent radio stations with network radios - network radios <p>on the condition that the radios concerned use frequencies in different areas and that – in case a “radio associative” is concerned – the merger does not change the nature of that radio. The merger can only be allowed for reasons of economic feasibility of the radio(s) and is without prejudice to Art. 7 (control of “significant position threatening media pluralism”; <i>infra</i>).</p>
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Art. 41, § 1; 45, § 1; 49FLRTA		Cf. supra (requirements to obtain <i>and keep</i> broadcasting licence).
	Art. 169, § 2, 9° FLRTA and Charter VRM – Flemish Government		<p>The Flemish Media Regulator has the task to ‘map’ (monitor) concentrations in the Flemish media sector and to report annually. In 2007 it developed a “media database”, which can be used for the annual reports and for ad hoc reports in response to specific questions. The aim is to enhance transparency; the regulator cannot take any action in case of increases in concentration which may endanger pluralism.</p> <p><u>More info:</u></p>

			http://www.vlaamse-regulatormedia.be/documentatie.html
	Art. 7 FRBA	AAVM	Monitoring system in the French Community: regulator (CSA) monitors whether editors or distributors having a “significant position” in the audiovisual sector are not threatening the access of the public to a pluralistic offer of broadcasting services (i.e. a media offer produced by a plurality of independent and autonomous media companies and representing the largest possible diversity of opinions and ideas). A presumption of significant position exists in the following situations: 1. a natural or legal person holds more than 24% of the capital of 2 editors of TV services (directly or indirectly). 2. idem for radio 3. several editors of TV services, directly or indirectly controlled by the same natural or legal person, have an audience share of 20% [...]
<p><i>Note:</i> For the first time, the French speaking Community has launched a frequencies plan. For the 22nd of June, the CSA will decide which radio broadcaster will be licensed. At this occasion, we have launched an internal procedure of pluralism analysis in order to have a situation in which the public has access to a pluralistic offer of radio services.</p> <ul style="list-style-type: none"> - The first step was to indicate which editor was in “significant position”. - The second step was the analysis of the offer’s pluralism. <p>(problems with local televisions) see infra point 8.2. This report was divided in 4 parts. 1) A plurality of media (number of media available in French Community); 2) independence and autonomy of media (ownership structure of private radio broadcaster and HHI for television, radio and press sectors) ; [...]</p>			
			[...] 4. idem for radio. In this case, an assessment will have to be made regarding possible repercussions that this position has for the diversity of broadcasting services being offered in the relevant market. If the CSA concludes that the concentration of ownership interests implies a threat to pluralism, it then has a period of six months to reach an agreement with the person concerned with a view to restoring pluralism to the market. Failing to consent to such an agreement, or to effectively implement it, the owner would be faced with a range of possible sanctions, spanning from the imposition of a fine to the revocation of one or more of the operator’s licences, or fines.
<p><i>Note:</i> [...] 3) plurality of opinion (analysis of the news offer in radio sector); 4) plurality of ideas (analysis of other programs in radio sector).</p> <p>The final decision of the procedure is not yet taken by the “CAC”.</p> <p>The same procedure was launched for the distributors.</p>			
6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. Monomedia	Art. 41, § 1; 45, § 1; 49 FLRTA	R (terrestrial – FM)	Cf. supra - max. 2 communitywide radio stations - max. 2 regional radio stations - max. 1 local radio station
	Art. 73, 4° FLRTA	TV (regional)	Cf. supra

			- max. 1 regional TV station
	Art. 7 FRBA	AVM	Cf. supra - max. 24% of capital of max. 2 editors of TV services - max. 20% TV audience share
	Art. 7 FRBA	AMS	- max. 24% of capital of max. 2 editors of radio services - max. 20% radio audience share
	Art. 56bis FRBA	Radio (terrestrial)	Cf. supra
6.1.2.2. Crossmedia			
<i>Note:</i> In Belgium, there are no rules on the limitation of cross-media ownership between e.g. press and television. This is mainly a result of the division of powers in Belgium between the federal state (press, film...) and communities (radio and television), limiting each legislator’s scope for action to one of these media types.			
6.1.2.3. Vertical integration with networks			
6.1.2.4. Integration with advertising sector			
6.1.2.5. Integration with other (e.g. energy) sectors			
6.1.2.6. Control over both commercial and public media	Art. 11, §2 FLRTA		<i>Excluded:</i> The position of governor on the board of the public broadcaster is incompatible with a position in another media company or in an advertising company.
<i>Note:</i> No similar provisions for CEO and directors...?			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Art. 41, § 1; 45, § 1; 49FLRTA	R (terrestrial – FM)	Cf. supra; is similar to: - max. 2 licences for communitywide FM radio - max. 2 licences for regional FM radio - max. 1 licence for local FM radio
	Art. 73, 4° FLRTA	TV (regional)	Cf. supra; is similar to: - max. 1 licence for regional TV
	Art. 66 §2 FRBA	Local TV	1 non-profit-making association (‘ASBL’) for 1 local TV
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares			
	Art. 7 FRBA	AVM/ AMS	Cf. supra - max. 20% TV audience share - max. 20% radio audience share
6.1.3.4. Capital shares			
	Art. 7 FRBA	AVM/AMS	Cf. supra - max. 24% of capital of max. 2 editors of TV services - max. 24% of capital of max. 2 editors of radio services
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	Art. 40 and 48 FLRTA	R (terrestrial - FM)	Cooperation between the terrestrial radio stations (and with the public broadcaster of the Flemish Community) cannot lead to “structural uniformity” in the programming policy.
	Art. 63 and 72, § 3 FLRTA	AVM	Cooperation between private televisions (both traditional and on-demand/online television services) cannot lead to “structural uniformity” in the programming policy. For regional TV stations an additional restriction is imposed, saying that cooperation cannot lead to uniformity of advertising or financing (except for regional TV stations in the same province).
	Art. 44 FLRTA	Regional radio/TV	Regional radio stations can only cooperate with regional TV stations in programme production, information gathering and advertising sales.
6.2.bis Sector specific rules restricting accumulation of	41, § 1, 1°; 45, § 1, 1°; 53; 54, § 1,	AMS and regional	It is typical for the Flemish broadcasting legislation to limit control over

positions on executive boards of media companies	3°; 73, 1° FLRTA	TV	media companies, not via an ownership share model, but through limiting the number of executive boards of which a single person can be member: - one cannot be a member of the board of governors of more than one communitywide radio in Flanders, nor can a member of the board of governors of a communitywide radio also be a member of the executive board of the public service broadcaster (Art. 41, §1, 1°); - one cannot be a member of the board of governors of more than one regional radio station in Flanders, nor can a member of the board of governors of a regional radio station also be a member of the executive board of a communitywide radio or of the public service broadcaster (Art. 45, §1, 1°); - one cannot be a member of the board of governors of more than one network radio station (Art. 53); - one cannot be a member of the board of governors of more than one radio service (Art. 54, §1, 3°) - one cannot be a member of the board of governors of more than one regional TV station (Art. 73, 1°).
	Art. 72 FRBA	Local TV	There is only one similar restriction to combining positions in various executive boards of radio or TV broadcasters in the French Community: - one cannot combine membership of the board of governors of a local TV station with holding a position at or being member of the executive board of other editors of broadcasting services or of press companies.
6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership			The legal framework does not contain any prohibitions against cross media or foreign ownership.
6.4. General competition rules			
6.4.1. Antitrust			
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>	Decision of the Belgian Competition Council of 20.3.2003		The president of the Competition Council found a <i>prima facie</i> abuse of dominance in the behaviour of the largest Flemish media group VMMA (owning both a commercial TV station, radio stations, newspapers, magazines) towards its competitors, the second largest newspaper group in Flanders (VUM) when trading advertising space or time ('barter agreements'). It imposed preliminary measures in order to prevent damage to the general economic interest, <i>notably the pluriformity of the Dutch-speaking press in Belgium.</i>
<i>Note:</i> Sources: eCompetitions (http://www.concurrences.com); website of the Belgian Competition Council (http://economie.fgov.be/organization_market/competition/jurisprudence/jurisprudence_2003_01.pdf)			
6.4.2. Merger control			
6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i>	Art. 8; §6 <i>juncto</i> Art. 60 Belgian Competition Act 2006	all	General clause (not limited to the media sector) granting the council of ministers the power to declare a concentration admissible for general interest reasons that override the risk of impeding effective competition on the Belgian market (or part of it); in its assessment the council of ministers should take into account “the general interest, national security, competitiveness of the sectors concerned at the international level, consumer interests and employment”; the council of ministers acts upon its own initiative or at the request of the notifying parties.
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	Telenet-Canal+, Belgian NCA decision of 12.11.2003 (n° 2003-C/C-89)	CATV; Pay-TV	Takeover of pay-TV distributor Canal+ by Telenet (Flemish cable operator) approved under conditions, including obligation for Telenet to grant access to their networks and CAS to non-affiliated pay-TV operators on FRND

			terms, and to allow resale of the Canal+ channels via alternative platforms. In its decision of 25 March 2008, the Competition Council limited the scope of Telenet’s obligation to grant competitors access to its premium content, especially with regard to football rights. Belgacom has lodged an appeal against this decision before the Brussels Court of Appeal.
<i>Note:</i> Source: eCompetitions (www.concurrences.com)			
6.5. Transparency obligations	Art. 6 FRBA	AAVM	Towards the public: All editors of broadcasting services have to make available ‘basic information’ to the public in order to allow it to form its opinion about the value of information and ideas distributed in the programs of that editor.
	Art. 6 FRBA	AAVM	Towards the regulator: “in order to ensure transparency of ownership and control structures, as well as their level of independence, editors, distributors and network operators are obliged to send the regulator (CSA) the following information: - identification of shareholders (and percentage of shareholding) - interest of these shareholders in other broadcasting or media companies - identification of natural or legal persons active in program supporting businesses, contributing to a substantial level to the production of programs.
<i>Note:</i> There are no special obligations for newspapers to identify their owners/shareholders (e.g. in their newspapers or on their website, or to a monitoring body) or provide transparency with regard to ownership/capital structure. But newspapers are subject to the competition rules in the same way as they apply to other sectors.			

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of program strands for commercial / community / public service media			
	Art. 40-41, 44, 48-49 FLRTA	R (terrestrial - FM)	Analogue terrestrial (communitywide, regional and local) FM radio stations have the task to offer a diversity of programs, in particular relating to information and entertainment. They have to bring at least 4 newscasts/day (3 for local radio stations) that cover a variety of topics and that are produced by own editorial staff (for communitywide radio stations: consisting of accredited professional journalists), and under the editorial responsibility of a chief editor. Local radio stations have to provide at least 21hours of original programming (produced by internal staff) on a weekly basis (of which minimum 2 hours on a daily basis, between 6 a.m. and 12 a.m.).
	Art. 40 and 48 FLRTA	R (terrestrial - FM)	Cooperation between the terrestrial radio stations (and with the public broadcaster of the Flemish Community) cannot lead to “structural uniformity” in the programs.
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.).	French Community Act of 29.2.2008 modifying the FRBA		French Community inserted several provisions in its broadcasting legislation dealing with “radios associatives et d’expression à vocation culturelle ou d’éducation permanente” (hereinafter “radios associatives et al”: - definition (art. 1, 33 ^{bis}): independent radio mainly staffed by volunteers and focusing in its programming either on information, education, cultural development and citizen’s participation, or on musical genres that do not belong to the most popular ones; - authorisation procedure (art. 33 ff.); they can apply for a frequency (in which case they are exempted from remuneration (art. 108, § 2); the regulator (CSA) can approve voluntary exchange of frequencies amongst “radios associatives et al” or between those and other categories of radios (art. 56ter) - subsidies: government can grant subsidies to “radios associatives et al”; the amount can vary on the basis of whether or not these radio stations rely on commercial communication and on the basis of the distribution mode; the total amount of subsidies cannot exceed 100.000 EUR (art. 162bis).
<i>Note:</i> Regarding associative radios, there are several protection mechanisms in art. 56bis regarding the merging process. First, an associative radio cannot merge with any category of radio, but only with another independent radio - no merging between an associative radio and a network. Second, a merging with such an associative radio must not have as a consequence to have an associative radio to disappear. And thus, any service that would result of a merging with an associative radio should still respond to the criteria of an associative radio service.			
	(Art. 48 ff. FLRTA: local FM radio stations; Art. 71 ff. FLRTA: regional TV stations; Art. 31, § 4 <i>juncto</i> 54 FLRTA and Art. 60		The Flemish Community has no specific framework for community media, but in practice, media complying with the criteria put forward in the Resetarits report on alternative media exist and fall under one of the following categories:

	<i>juncto</i> 90 FLRTA: other radio and TV services)		<p>local FM radio stations: have to be independent (art. 35), are authorised on the basis of following criteria: 1) coverage of local news, of local sports, cultural, political events and 2) close link to and being embedded in the local community (art. 50 <i>juncto</i> Decree Flemish Government of 30 March 2007 on the procedure and criteria for the authorisation of communitywide, regional and local FM radio stations). Example: local FM radio station “Scorpio” in Leuven is a non-profit student’s radio, working with volunteers only, accountable to and open for participation by its student’s public, etc. www.radioscorpio.com)</p> <p>regional TV stations: have to take the form of a non-profit association, have the (public) mission to bring information and news from the region, to promote the communication within the regional community and to contribute to the cultural and social development of the region (art. 71)</p> <p>other radio and television services: small scale, non-economic citizen’s or association’s radio and TV initiatives, e.g. via the Internet, are (since May 2007) exempted from the notification obligation in Art. 31, § 4 (radio) and 60 (TV); the only obligations applying to them are the protection of minors and of human dignity provisions copied from the TWF Directive, and the right to reply. Example: http://www.supotv.be/v1/supotv/supotv2.asp, internetTV made by students in journalism at the Catholic College in Mechelen.</p>
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 166 FLRTA; Art. 4 FRBA		<p>Cf. art. 3a TWF (currently art. 3j AVMS)</p> <p>The Belgian list contains mainly sports events + Queen Elisabeth music contest; FIFA lodged complaint before CFJ.</p>
7.3. Short news reporting	Art. 157-165 FLRTA		<p>All broadcasters (domestic and EU-based) are entitled to the “right of information gathering”, encompassing:</p> <ul style="list-style-type: none"> - free access to the event - right to make recordings - right to short news reporting in journals and regular news programs. Either the secondary broadcaster makes its own reports, or it is entitled to freely choose short extracts (max. 3 min.; in some cases 6 min.) from the transmitting broadcaster’s signal (with identification of the source), in return for fair compensation.
	Art. 3 FRBA		<p>All “editors of broadcasting services” (domestic and EU-based) are entitled to short extracts from editors of broadcasting services under the jurisdiction of the French Community (in return for fair, reasonable and non-discriminatory compensation) for use in journals and regular news programs.</p>
<i>Note:</i> The CAV (‘collège d’avis’) of the CSA published a consultative status relative to short extracts http://www.csa.be/system/document/nom/743/CAV_20071211_courts_extraits.pdf			
7.4. Fixed book price	N.A.		
<i>Note:</i> Notwithstanding several attempts to introduce legislation on fixed book prices, there is currently no act or decision regulating book prices. In 2006, the Competition Council rendered a (negative) advice to the minister of economic affairs (at his request), in which it expressed its doubts regarding the appropriateness and efficiency of a fixed book price to ensure a wide offer of books and the preservation of small book shops. The advice is available at: http://economie.fgov.be/organization_market/competition/competition_council/advice/Advies_vaste_boekenprijs_nl.pdf .			
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. 11, §2 FLRTA		<i>Political independence:</i> The position of governor on the board of the public broadcaster is incompatible with a political mandate (including a position in a minister’s cabinet).
<i>Note:</i> No similar requirements for the CEO and directors...?			
	Art. 11, §2 FLRTA		<i>Commercial independence:</i> The position of governor on the board of the

			public broadcaster VRT is incompatible with a position in another media company or in an advertising company.
<i>Note: No similar requirements for the CEO and directors...?</i>			
	Art. 7 FLRTA		Explicit recognition of VRT's autonomy to arrange its program offer and schedule.
	Art. 13, § 2 FLRTA		The CEO of VRT has exclusive competence over the management, HR, infrastructure, product development and PR of VRT.
	Art. 12 RTBF-Act		<i>Political independence:</i> Being member of the board of governors of RTBF is incompatible with a political mandate in a government (or a minister's office) or in a parliamentary assembly (at European, federal, community, regional or local level).
	Art. 12 RTBF-Act		<i>Commercial independence:</i> The position of governor on the board of the public broadcaster RTBF is incompatible with a position in / with having (financial) interest in another company or organisation performing activities competing with those of RTBF.
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Art. 11, §1 FLRTA		The board of governors of VRT is appointed by the Flemish government, taking into account the representation requirements of Art. 19 Culture Pact Act (<i>supra</i> and <i>infra</i>).
	Art. 13, § 1 FLRTA		The CEO of VRT is elected (and dismissed) by the General Assembly, <i>i.e.</i> the Flemish Community, represented by its government.
	Art. 11 RTBF-Act		The administrators of the RTBF are elected by the Parliament.
7.5.1.3. Specific representation requirements for board of directors, other bodies	Art. 11, §1 FLRTA <i>juncto</i> Art. 19 Culture Pact Act.		The members of the board of governors are appointed by the Flemish government taking into account the representation requirements of Art. 19 Culture Pact Act (all political parties represented in the Flemish Parliament propose candidates for the board, from which the Flemish government has to choose).
	Art. 11 RTBF-Act, <i>juncto</i> Art. 19 Culture Pact Act		The administrators of the RTBF are elected by the Parliament in accordance with the principle of proportional representation of the various political groupings.
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	Art. 19. Culture Pact	PSM	Management bodies of public broadcasters in Belgium should be assisted by a <i>permanent advisory committee</i> in which all accredited users' organizations and all ideological and philosophical groupings are represented.
<i>Note: Only explicitly implemented in French Community (Art. 20 of the RTBF-Decree and the Government Decision of 12 December 2000, Official Gazette 30 March 2001)</i>			
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings	Art. 31 Charter VRT-Flemish Government		VRT has to respect a diversity and equal chances policy in general, and in relation to HR management in particular.
7.5.2. Structural rules - funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)			
	Art. 8 FLRTA and Charter VRT-Flemish Government (renewed every 5 years)	VRT (PSM Flemish Community)	Dual funding: annual grant from the state (tax money) (65%) + commercial communications (35%) (sponsoring on TV, advertising and sponsoring on radio, merchandising)
	Art. 8 RTBF-Act and Title IX (Art. 50 ff.) Charter RTBF – Government French Community	RTBF (PSM French Community)	Dual funding: annual grant from the state (tax money) (73 % in 2007, 72 % in 2008, 71 % in 2009 and 70 % in 2010) + commercial communications (art. 55 charter RTBF : at the most 27% in 2007, 28 % in 2008, 29 % in 2009 and 30 % in 2010) (sponsoring on TV, advertising and sponsoring on radio, merchandising)
7.5.2.2. Sufficiency of resources			
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Art. 6 FLRTA, Charter VRT-	VRT (PSM Flemish)	Obligation to bring a varied offer of high quality programs relating to

	Flemish government	Community)	information and culture (have priority), education and entertainment (including sports, original fiction). There is an explicit mission to bring children’s programs. The programs should contribute to the development of the identity and diversity of the Flemish culture and of a democratic and tolerable society. Via its programs VRT has to contribute to an independent, objective and pluralistic public opinion in Flanders.
	Art. 3 RTBF-Act and Art. 4-5 Charter RTBF – Government French Community		Obligation to provide a varied offer, in different genres (information, entertainment, education, culture...), attractive for the widest possible audience, catering for both wide and narrow interests, reflecting the different ideological, philosophical, religious, cultural...opinions and ideas in society, contributing to a democratic and tolerant society, stimulate communication and public debate, etc.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 6, § 2 FLRTA, Charter VRT-Flemish government		VRT has to follow closely technological developments, in order to be able to offer its programs to the public via new media applications (such as Web2.0, games, 3D worlds, location based services, etc.), whenever appropriate.
	Chapter II (Art. 33 ff.) Charter RTBF – Government French Community		RTBF has to act as accelerator of promoting the cultural identity of the French Community in the domain of new media and has a major role to play in the digital switchover.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)			
7.5.5. Universal coverage obligations	Art. 6 FLRTA, Charter VRT-Flemish government		VRT has the obligation to reach as many viewers and listeners with a diversity of high quality programs (Art. 16 Charter contains detailed population % that VRT should reach on a monthly basis with various types of programs, i.e. the so-called ‘performance indicators’). VRT has to ensure maximum presence of its programs on all relevant platforms via all relevant networks in Flanders (Art. 25 Charter).
	Art. 32 and 33 Charter RTBF – Government French Community		RTBF is subject to a universal service/ coverage obligation, implying the equal and free to air access to all its wide interest channels via terrestrial and cable networks. It should distribute its linear and non-linear services on all appropriate platforms and networks (taking into account its technical, human and budgetary constraints) with the aim of ensuring accessibility by as many users as possible on as many networks as possible.
7.6. Subsidies to support less popular/profitable media products	Art. 30-31 FRBA and Act of 31 March 2004 relating to press subsidies	PN About implementation Decree of Art. 30: See supra (point 2.4)	The Press Fund of the French Community (<i>Centre de l’aide à la presse écrite</i>) grants three types of subsidies: <ul style="list-style-type: none"> - supporting the creation of new titles - supporting long-term employment of journalists, use of new technologies - preserve the largest possible diversity in newspapers (giving priority to less profitable titles). The fund is financed through contributions by the public service broadcaster RTBF and by editors of TV broadcasting services whose annual turnover exceeds 15 mio. EUR (Art. 30). Overview of subsidies granted in 2007: http://www2.cfwb.be/av/db/aig/gallery/Autres_secteurs/PresseEcritreTitresSoutenus07.pdf More info: http://www2.cfwb.be/av/default.asp?V_ITEM_ID=538
	Protocol between the Flemish Government and the Press		The Flemish Government grants annual subsidies (1.000.000 EUR) to the print press; one of the selection criteria is the extent to which the project

	Sector (2005-2007)	"supports the preservation of a pluralist, independent press and guarantees diversity". (See call for tenders: http://www2.vlaanderen.be/media/Media/steun/GP2007_oproep.doc) <u>More info:</u> http://www2.vlaanderen.be/media/Media/steun/geschrevenpers.htm
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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. 128 FLRTA		<p>Must carry obligations imposed on operators of electronic communications networks based on wire that are used by a significant number of end-users as primary means to receive broadcasting programs (in casu, CATV networks) for reasons of pluralism and cultural diversity:</p> <ul style="list-style-type: none"> - radio and TV channels of the public broadcasters of the 3 Communities in Belgium (all channels of VRT, 2 channels of RTBF and the channel of BRF) - TV channels of Flemish regional TV stations - radio and TV channels of the PSM of the Netherlands
	Art. 48-51, 82 FRBA		<p>Cable distributors are obliged to distribute the services of following editors:</p> <ul style="list-style-type: none"> - RTBF - Local TV - International broadcasters, appointed by government, in which RTBF participates - 2 TV channels of VRT - BRF - Editors entitled to “mandatory distribution” on the basis of Art. 48-51 (editors can conclude an agreement with government in which they take up engagement to promote audiovisual production in the French Community, create employment, etc., in return for which they are entitled to mandatory distribution). - the services specified by government of editors based in the EU that have concluded an agreement to promote the cultural production in the French Community and the EU
<i>Note:</i> The European commission has opened (2006) and closed (2007) an infringement procedure for incorrect implementation of must carry rules (IP/06/948 MEMO/06/271 IP/08/142 MEMO/08/67). Not effective			
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)	Art. 51 FRBA		<p>Editors entitled to “mandatory distribution” on the basis of an agreement with government are obliged to distribute their service within 6 months. No must offer obligation for other must carry broadcasters.</p>
<i>Note:</i> Several local TV refuse to be distributed in xDSL network (Belgacom SA).			
8.3. Ex ante regulation: SMP market analysis for broadcasting transmission			
8.3.1. Implementation of market analysis procedure in ECNS Directives	Art. 122-125 FLRTA; Art. 90-96 FRBA		<p>VRM (Flemish Media Regulator), resp. CSA (broadcasting regulator in the French Community) is competent to conduct market analyses. The implementation is in line with the ECNS Directives.</p>
8.3.2. Result of (first) round of market analysis of market 18	Art. 122-125 FLRTA; Art. 90-96 FRBA		<ul style="list-style-type: none"> - Market 18 (from the Recommendation 2003) has never been analysed in Flanders. - CSA conducted analysis of market 18, but withdrew notification of 3 draft measures on April 18, 2007 (after serious doubts letter and opening of Phase II by Commission). <p>CSA could not continue due to cancellation of the relevant legislation by the Belgian constitutional court.</p>
8.4. Ex ante regulation for so-called 'bottleneck'			

facilities'			
8.4.1. Conditional access	Art. 145 and 150-153 FLRTA; Art. 124-126 FRBA		Cf. Art. 6 Access Directive 2002/19/EC, <i>juncto</i> Annex I: - cost-effective transcontrol and full control by cable and/or DTT network operators - FRND-obligations with regard to broadcasters' access to CAS - accounting separation - FRND-obligations with regard to licensing of consumer equipment manufacturers.
8.4.2. EPG (or other search tools)	Art. 145 and 155 FLRTA; Art. 127 FRBA		Government can impose obligations with regard to the installation of, access to and presentation of EPGs, when necessary to guarantee access to specified digital broadcasting programs available in the Flemish, resp. French Community.
<i>Note: No yet implemented.</i>			
8.4.3. API	Art. 145 and 154, al. 1 FLRTA; Art. 128 FRBA		Cf. Art. 5, al. 1, b) Access Directive 2002/19/EC: Government can impose obligations on providers of digital interactive programs and/or end-user equipment (in Flanders specified as: with regard to the use of an open API – in the French Community specified as: to the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting services available in the French Community).
<i>Note: No yet implemented.</i>			
8.4.4. Other			
8.5. Interoperability requirements	Art. 146 FLRTA		16:9 PAL-compatible
<i>API</i>	Art. 145 and 154, al. 2 FLRTA		Flemish government can impose obligations on providers of API's to ensure interoperability and full functionality.
<i>Note: No yet implemented.</i>			
<i>Wide-screen TV</i>	Art. 147 FLRTA		Cf. Art. 4, al. 2 Access Directive 2002/19/EC: electronic communications networks established for the distribution of digital television services shall be capable of distributing wide-screen television services and programmes. Network operators that receive and redistribute wide-screen television services or programmes shall maintain that wide-screen format.
<i>Interoperability for analogue and digital television sets</i>	Art. 148 FLRTA; Art. 129 FRBA		Cf. Annex VI, 1° USO-Directive 2002/22/EC: Any analogue television set with an integral screen of visible diagonal greater than 42 cm which is put on the market for sale or rent is to be fitted with at least one open interface socket, as standardised by a recognised European standards organisation, permitting simple connection of peripherals, especially additional decoders and digital receivers. Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent is to be fitted with at least one open interface socket standardised by a recognised European standards organisation, permitting simple connection of peripherals, and able to pass all the elements of a digital television signal, including information relating to interactive and conditionally accessed services.
<i>The common scrambling algorithm and free-to-air reception</i>	Art. 149 FLRTA; Art. 123 FRBA		Cf. Annex VI, 2° USO-Directive 2002/22/EC: All consumer equipment intended for the reception of digital television signals, for sale or rent or otherwise made available, capable of descrambling digital television signals, is to possess the capability to: - allow the descrambling of such signals according to the common

			European scrambling algorithm as administered by a recognised European standards organisation (currently ETSI); - display signals that have been transmitted in clear provided that, in the event that such equipment is rented, the rentee is in compliance with the relevant rental agreement.
8.6. Specific rules for distribution systems in print media			
	Art. 106, §5 Electronic Communications Act		Reduced telephone tariffs apply to newspapers and informative magazines, as well as press agencies.
8.7. General competition law			Cf. supra: Telenet/Canal+ case.
8.8. Policies fostering distribution systems (libraries, broadband networks...)			- Lower VAT-tariff for distribution of newspapers - The Flemish government promotes readership in Flanders with a media-education project called 'Kranten in de Klas'. Free newspaper packages are during two weeks set at the disposal of schools with the support of the Flemish minister of Media and the Flemish minister of Education. The government contributes partly to the costs (50% of the sales price of newspapers distributed). <u>More info:</u> http://www2.vlaanderen.be/media/Media/steun/krantenindeklas.htm ; http://www.krantenindeklas.be/
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			- Conseil Supérieur de l'Audiovisuel de la Communauté Française (www.csa.be) - Vlaamse Regulator voor de Media (www.vlaamseregulatormedia.be)
9.1.1. Structure/ organisation			
9.1.1.1. Guarantees for independence	Art. 168 FLRTA <i>juncto</i> Art. 21, § 1 Flemish Act on Regulatory Governance of 2003	Regulatory Body – Flemish Community	Members of the Flemish Media Regulator (VRM) cannot have a political mandate nor have a position in a minister's or secretary of state's cabinet. Members of the Flemish Media Regulator (VRM) cannot have a position in (nor a “link” with) a media or advertising company.
	Art. 136, § 2 FRBA	Regulatory Body – French Community	Membership of the Regulatory Committee (<i>Collège d'autorisation et de contrôle</i>) in the <i>Conseil Supérieur de l'Audiovisuel</i> (CSA) of the French Community is incompatible with membership of the executive or legislative power at European, federal, community, regional, <i>provincial and local</i> level (N.B. broader than the advisory committee), as well as with a position in a minister's cabinet (at European, federal, community or regional level). It is also incompatible with any function or position in another media company which would create a conflict of interest.
9.1.1.2. Representation requirements	Art. 136 FRBA, <i>juncto</i> Art. 9 Culture Pact Act 1973		The members of the Regulatory Committee (<i>Conseil d'autorisation et de contrôle</i>) of the <i>Conseil Supérieur de l'Audiovisuel</i> of the French Community should be appointed with respect to the proportional representation of all political groupings
<i>Note: Art. 9 Culture Pact Act 1973 implicitly applicable to Flemish Media Regulator.</i>			
9.1.2. Credibility and efficiency	OK		
9.1.2.1. Sufficient resources	Yes		
9.1.2.2. Tasks and duties	Art. 169 FLRTA		- grant licences - compliance monitoring - sanctioning
	Art. 132-133 FRBA		- grant licences - compliance monitoring - sanctioning
9.1.2.3. Effective sanctioning powers	Art. 176-176ter FLRTA		Yes (limited to administrative sanctions, ranging from warning, fine to suspension or revocation of licence).
	Art. 151-160 FRBA		Yes (civil and administrative sanctions: ranging from warning, fine to suspension or revocation of licence – and even penal sanctions, including imprisonment).
9.1.3. Cooperation with other regulators	Art. 7, § 5 FRBA		During the pluralism procedure, the CSA can decide to consult the competition authorities.
	Art. 156 FLRTA		In the framework of the market analysis procedure in the electronic communications sector, the Flemish Media Regulator (VRM) cooperates, where necessary, with the other Belgian and regional media and telecommunications regulators, the competition authorities, the national regulatory authorities from other Member States, and the Belgian regulators in other sectors.

9.2. Press Council		<p>From 1988 until 2001 a Council of Deontology, founded by the journalists, existed in Belgium. Since 2002, the Flemish speaking part of Belgium has a Press Council founded by the journalists (both of print and audiovisual press) and publishers together. The French speaking part of Belgium is still trying to set up a Press Council.</p>
9.2.1. Broad representation of sector		<p>The Press Council is a fully independent self-regulatory body without any statutory framework. Composition: 18 members (6 journalists, 6 publishers and 6 external people). The members are nominated by the sector without any governmental interference. It represents both the print and audiovisual press.</p>
9.2.2. Sufficient resources		<p>The Press Council is funded by the journalists union (50%) and by the publishers (50%). The Press Council does not receive direct public funding, but the union of journalists receives a governmental subsidy, part of which must be used for the financing of the Press Council.</p>
9.2.3. Credibility		<p>Yes, the Press Council is considered both by the sector, the audience and the legislator as the body dealing with ethical conflicts (before 2006, the (old) Flemish media regulator could also judge on conflicts in the area of journalists’ ethics; this duplication of competences was the reason why the public broadcaster for a long time did <i>not</i> join the Press Council; however, to avoid confusion, the legislator decided to delete these powers when establishing the new media regulator in 2005/2006, thereby acknowledging that deontology is the sole competence of the Press Council). The Ombudsman within the Press Council mediates in cases of conflicts and acts as an advisor. If case mediation does not succeed, the Press Council deals with the complaint. The Press Council deals with all complaints, also complaints addressed against bloggers/weblogs (e.g. Decision Pyis a/Ernst of 13.03.2008).</p>
9.3. Competition Authority		<p>= Competition Service (investigation) and Competition Council (administrative court), including a body of Rapporteurs (http://mineco.fgov.be/organization_market/competition/home_nl.htm)</p>
9.3.1. Structure/ organisation		
9.3.1.1. <i>Guarantees for independence</i>		<p>The body of Rapporteurs used to be part of the Competition Service (resorting under the minister of economic affairs), but has been transferred to the Competition Council in 2006 in order to strengthen its independence. Both the Rapporteurs and the members of the Competition Council are appointed by the government after a transparent and objective exam procedure.</p>
9.3.1.2. <i>Representation requirements</i>		<p>Parity Dutch – French language (at least one German-speaking member)</p>
9.3.2. Credibility and efficiency		
9.3.2.1. <i>Sufficient resources</i>		<p>In recent years, both the Competition Service and Competition Council have been given additional staff and resources. The Rapporteurs currently face a considerable workload, but enlargement of staff is envisaged for the near future.</p>
9.3.2.2. <i>Tasks and duties</i>		<p>Notwithstanding some ‘growing pains’ in the early days of the Competition Council (mid nineties), the Competition Council is now considered a well-performing authority which is taken seriously by the sector.</p>
9.3.2.3. <i>Effective sanctioning powers</i>		<p>Yes</p>
9.3.2. Cooperation with other regulators		<p>Cooperation between Competition authorities and sector regulator to be regulated via Royal Decree</p>



Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



			Federal telecommunications legislation requires a (binding) advice from the Competition Council on draft decisions of the Belgian Institute for Postal Services and Telecommunications analysing markets and imposing obligations on operators with significant market power.
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Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



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

[BULGARIA]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

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

- *General legislation*

- Bulgaria – Constitution, adopted on: 12 July 1991

- *Self-regulation*

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

TABLE 1. Constitutional protection of press and communication freedoms

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

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

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 11 (2)-(5) Law on Radio and Television	Electronic media. Also to print media signatory to the Code as there is respective text about that.	Journalists and artists, who have concluded contracts with radio and television broadcasters, may not be given any instructions or directions as to the practice of their pursuits by persons and/or groups outside the management bodies of radio and television broadcasters. Public criticism of the programming policy of radio and television broadcasters by their employees shall not be treated as disloyalty to the employer. Journalists, who have concluded contracts with radio and television broadcasters, shall have the right to refuse to perform an assignment contrary to their personal convictions. Editorial statutes for work in the sphere of current affairs may be agreed between the owners and/or management bodies of radio and television broadcasters and the journalists who have concluded contracts with them.
<i>Note: True. Moreover, it is strongly implemented and enjoyed by the journalists. Constraints to it is the Libel Law which especially in the countryside makes journalists apply self-censorship.</i>			
	Art. 11 (6) Law on Radio and TV	True, though internal bodies (5) in the previous column if at all existing have no any significance.	The editorial statute shall state specific definitions and criteria for: 1. guaranteeing the freedom and personal accountability of journalistic work in accomplishing the assignment; 2. the protection of journalists within the meaning given by Paragraph (2); 3. the professional and ethical standards of journalistic activity in the respective radio and television broadcasters; 4. the manners of decision-making which concern journalistic activity; 5. the establishment of an internal body for the settlement of any disputes as may arise in the course of journalistic work on the creation of programme services.
2.2. News / information programmes			
<i>Note: Here threats to pluralism may arise from unexpected direction: in some of the countryside based electronic channels sometimes news and comments are mixed and this creates bias for the audience. At the same time it is hardly sanctioned due to insufficient monitoring capacity of CEM.</i>			
2.3. Other media content	Art. 78 Law on Radio and TV		The advertiser shall not exercise any influence over the content of the programme services.
<i>Note: True, but in the countryside in the commercial media business interests can dominate and influence the editorial content.</i>			
	Art. 90 Law on Radio and TV	Broadcasting media.	Broadcasts may not be sponsored by political parties and organizations, nor by religious organizations. Broadcasts may not be sponsored by persons whose principal activity is the manufacture of goods and [the provision of] services the advertising of which is prohibited. Political and business broadcasts, which contain analyses and comments or whose subject is similar to the objects of the sponsor, may not be sponsored. Sponsorship of news, with the exception of sports [...]

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

TABLE 3. Cultural pluralism

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

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

TABLE 4. Political pluralism

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

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

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

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

TABLE 5. Geographical pluralism

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

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

TABLE 6. Pluralism of ownership/control

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

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

TABLE 7. Pluralism of media types and genres

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

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

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

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

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

TABLE 9. Supervision

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

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

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

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

[CYPRUS]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- Press Law of 1989, N. 145/1989, as amended; published in the Official Gazette of the Republic on 11.8.1989;
- The Law on Radio and Television Stations of 1998, N. 7(I)/1998, as amended, published in the Official Gazette of the Republic on 30.1.1998;
- The Law on the Cyprus Broadcasting Corporation (CYBC), Law 96(I)/2004;
- Cyprus Radio Television Authority (Terms of service of employees) Regulations of 1999 to 2007
- Radio and Television Stations Regulations of 2000 to 2006;
- Radio and Television Stations Regulations (equal treatments of political parties and candidates) of 2006
- Radio and Television Stations Regulations (Major Events) of 2004
- Radio and Television Advisory Committee Regulations of 1999
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations 1961 (The Rome Convention) (Ratification) Law of 1999, N. 14(III)/1999

- *General legislation*

- Constitution of the Republic of Cyprus;
- Law for the Protection of Competition of 2008, Law No. 13(I) of 2008;
- The Control of Concentrations between Undertakings Law, No. 22(1)/99;
- Radiocommunications Law of 2002, N. 146(I)/2002 as amended
- Radiocommunications Regulations
- Publication of Obscene Matters Law of 1963, N. 35/1963 as amended
- Intellectual Property and Neighbouring Rights Law of 1976, N. 59/1976

- **Codes of conduct**

- Journalists' Code of Practice

- **Other**

- Re-use of public sector information Law, Law No. 132(I)/2006;
- The Freedom of Access to Information on Environment Matters Law of 2000 (N. 125(I)/2000);
- Processing of Personal Data (Protection of the Person) Law of 2001 to 2003;



- European Convention on Intellectual Property and Neighbouring Rights concerning - Transfrontier Television (Ratifying) Law of 1995, N. 29(III)/1995;
- European Convention on Transfrontier Television (Ratifying) Law of 1991, N. 178(III)/1991 as amended;

- European Agreement on the Protection of Television Broadcasts and Protocol (Ratification) Law of 1969, N. 82/1969;
- Additional Protocol to European Agreement on the Protection of Television; - Broadcasts and Protocol (Ratification) Law of 1974, N. 11/1974 and 1984, N. 77/1984

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 19 of the Constitution of the Republic of Cyprus		<p>Article 19 of the Constitution of the Republic of Cyprus provides the right to freedom of speech and expression in any form. It further states that seizure of newspapers or other printed matter is not allowed without the written permission of the Attorney -General of the Republic, which must be confirmed by the decision of a competent court within a period not exceeding seventy-two hours, failing which the seizure shall be lifted. It reiterates that nothing shall prevent the Republic from requiring the licensing of sound and vision broadcasting or cinema enterprises.</p> <p>The wording of Article 19 is almost identical to article 10 of the European Convention of Human Rights, with one exception; the condition that restrictions should be “necessary in a democratic society” is omitted.¹</p>
<p><i>Implementation problem:</i> There are limitations to the freedom of the press by virtue of provisions in the Torts Law, Cap. 148 which give a right to someone to sue for libel and slander. Various cases have been brought against newspapers for publishing personal information about persons or for making innuendos. See for example the cases of:</p> <ul style="list-style-type: none"> • <i>Alithia Publishing Company & papyrus v. Leonida (1997)</i> • <i>Themelio Publishing Company v Kazolides (1991)</i> • <i>Alekos Konstantinides & Alithia Publishing Company v Tssos Papadopoulos (1999)</i> • <i>Alithia Publishing Company v Andrea Nikolaou (1993) – the Godfather case</i> • <i>Dias United Journalists v. Nathanael (1993)</i> • <i>General Press Agency v Christofides (1981)</i> <p><i>Libel used to be a criminal offence as well but the Criminal Law was amended recently. A number of cases were also reported against newspapers.</i></p>			
	The 1989 Press Law		<p>The 1989 Press Law safeguards the freedom of the press, the unhindered circulation of newspapers, and free access to state sources of information. It provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.</p>

¹ <http://www.hans-bredow-institut.de>.

1.2. Freedom of/right to information	The Press Law of 1989		All journalists have the right to free access to state sources of information, freedom to seek and acquire information from any competent authority of the Republic and the freedom to make this public; the authority concerned must give the requested information unless it pertains to state or public security, constitutional or public order, public morals or the protection of the honour and rights of third parties.
<i>Implementation problem: There is no Freedom of Information Law adopted yet in Cyprus. Only the Freedom of Access to Information on Environment Matters Law of 2000 (N. 125(I)/2000) was adopted but its scope is limited. Furthermore, the right of journalists to have access to information may be limited by virtue of the provisions of the Processing of Personal data (Protection of the Person) Law of 2001 to 2003².</i>			
	The Code of Ethics		Respect for the journalist's right to unobstructed access to the sources of news and transparency and necessary prerequisites for proper information.
<i>Note: See above for data protection related limitations. The code of ethics is the product of the will of the media professionals to self-regulation; the adoption of the code in 1997 occurred at a time when the authorities failed to introduced any regulations or regulatory bodies and is founded on the conviction of media professionals that they do not need any state or other interference with media freedoms. The code aims at defining the fundamental rules that should guide the work of journalists in all media, print and broadcasting; it entrusts the commission on journalistic ethics, a purely self-regulatory body, with the powers to monitor compliance with these rules. The code is based on the obligation of journalists to inform the public, on the need to defend media freedoms and keep up with high professional standards and ethos. See: http://ec.europa.eu/avpolicy/docs/library/studies/coregul/annex_4_en.pdf</i>			
Is there – besides constitutional provisions – a specific act dealing with citizens' or journalists' access to public sector information?			<p>The Press law of 1989 aims at regulating a wide spectrum of issues related to press freedoms, the publication and circulation of newspapers and the publishing sector.³</p> <p>The main policy objectives are the following: Safeguard the right of journalists to seek, obtain and disseminate information, both from public and private sources, as well as establish the obligation of the authorities to provide access to information. Stipulate on the right of reply for all members of the public. A special clause provides for a right of reply of public servants and/or their service.</p>
<i>Note: There is no Freedom of Information Law adopted yet in Cyprus. Only the Freedom of Access to Information on Environment Matters Law of 2000 (N. 125(I)/2000) was adopted but its scope is limited.</i>			
Are there specific rules dealing with journalists' access to events for news reporting?	Press Law		<p>Under the Press Law, the press council was entrusted with powers to regulate issues of journalistic ethics. It was assigned the task to</p> <ul style="list-style-type: none"> •ensure respect for the freedom and independence of the press, •defend the rights and interests of the press, •regulate issues relevant to professional conduct of the pres and the journalists, •investigate complaints or initiate investigations in connection to the conduct of the press and the journalists.

² Sources: http://www.ejc.net/media_landscape/article/cyprus/

³ http://ec.europa.eu/avpolicy/docs/library/studies/coregul/annex_4_en.pdf

			<p>The Press and Information Office (PIO) is a government department dealing with press matters and the dissemination of official information to local and foreign media and the public. It is entrusted with the task of publicizing the work of the Government and the House of Representatives. It is also the central publishing agency for the Government and it has the task of monitoring the implementation of the Press and Cinema laws.</p> <p>The PIO structure provides for three divisions, with four sections each, and an administrative unit: The Local Media and Public Relations Division.</p> <p>The Central News Room is responsible for the issuing of all press releases and statements on all matters concerning government machinery and the Public Relations Section covers the activities of the President, ministers and other officials. It is also responsible for the publicity of government activities. The Local Media Section is responsible for the implementation of the provisions of the Press Law. Publications, Cinema and Audio-Visual Productions Division.</p> <p>The Division is responsible for all government publications (covering all government periodicals, books and booklets in Greek, English and other languages), for the photographic section, as well as the distribution of other audio-visual material (films, video films, radio and television programmes etc.). The Foreign Press and International Public Relations Division.</p> <p>The Division deals with the briefing of international media and public opinion and monitors the international and Turkish Cypriot/Turkish press and other media. It also assists in the organisation of conferences taking place on the island and has the overall responsibility for preparing the programmes of visiting foreign journalists and other personalities and briefing them on Cyprus. The Division also includes the Press Offices (Abroad) Section. Currently there are sixteen press offices in the main embassies/missions of the Republic of Cyprus abroad. The PIO maintains contact by telefax communication with the Press Offices and the Cyprus Embassies abroad for two-way briefing. Administration.</p>
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1.3. Explicit recognition of media pluralism	Section 3 of Radio and Television Stations Regulations (equal treatments of political parties and candidates) of 2006		Expressly states that stations have an obligation to ensure the promotion of pluralism in order to ensure freedom of expression and not to affect the rights of journalists to evaluate facts and circumstances in accordance with their value. ⁴
<p><i>Note: Freedom of expression and media pluralism are safeguarded by the Constitution and the relevant press and radio and television station laws.</i></p> <p><i>Currently there are:</i></p> <ul style="list-style-type: none"> - 7 dailies and a large number of weeklies and periodicals in circulation - 7 island-wide and 6 local TV channels - 10 island-wide and 38 local radio stations - 1 news agency (Cyprus News Agency – CNA) 			
1.4. Protection of journalistic sources	The Press Law		All journalists, Cypriot or foreign, have the right not to reveal their source of information and to refuse to give testimony without being liable to prosecution for doing so. The only exception is in instances where a journalist publishes information regarding a criminal offence. He may then be obliged by the Court examining the case or the coroner to reveal his source, provided that the Court or the coroner is satisfied that the following preconditions concur: (a) the information is clearly related to the criminal offence (b) the information cannot be obtained otherwise (c) reasons of superior and imperative public interest require that the information be revealed.
<p><i>Implementation problem: The Courts have the power under the Criminal Procedure Rules to issue various orders which may limit protection, such as, for example, orders to call and examine witnesses, orders for search and seizure, search of premises, orders of arrest, etc. Civil Courts also have the power to order the disclosure of information held by a party in a trial by virtue of the Civil Procedure Rules. Finally, various independent authorities such as the Competition Commission established under the Law for the Protection of Competition of 1989 as replaced by Law 13(I) of 2008, has the power to enter into premises and investigate sources held in electronic or non-electronic form.</i></p>			
	The Code of Ethics		Functionaries of the Media have a moral obligation to observe professional privilege regarding the source of information obtained confidentially. A journalist is not obliged to reveal the source of his information.
<p><i>Implementation problem: This is limited as a result of powers attributed to the Courts by virtue of the Criminal Procedure Law and the Civil Procedure Law (see above)</i></p>			
1.5. Right of reply	The Press Law		Persons, organizations or public institutions that are named or indirectly referred to in a report or article have the right to reply if they consider the information concerning themselves as untrue or misleading. Their reply must be published, free of charge, within three days of its receipt, giving it the same prominence as the initial report.
	The Code of Ethics		The Media give the opportunity of reply, in the appropriate case, to those affected and particularly when they have been attacked.

⁴ <http://www.cyprusemb.se/dbase/cypemb/11.asp>.



<p>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)</p>			<p>CoE's Framework Convention For The Protection Of National Minorities: Signature- 1/2/1995, Ratification- 4/6/1996, Entry into force- 1/2/1998</p> <p>UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005): Ratification – 19/12/2006</p>
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TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	The Code of Ethics		Journalists have an obligation to defend their independence and not to allow interference with their work.
<p><i>Note: The Right of Privacy is safeguarded by Article 15.1 of the Constitution that reads:</i></p> <p><i>‘1. Every person has the right to respect for his private and family life.</i></p> <p><i>2. There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.’</i></p> <p><i>Article 15.1 is modelled on Article 8 of the European Convention of Human Rights</i></p> <ul style="list-style-type: none"> • <i>The right to secrecy of correspondence is safeguarded by Article 17 of the Constitution that reads:</i> <i>‘1. Every person has the right to respect for, and to the secrecy of, his correspondence and other communication is such other communication is made through means not prohibited by law.</i> <i>2. There shall be no interference with the exercise of this right except in accordance with the law and only in cases of convicted and unconvicted prisoners and business correspondence and communication of bankrupts during the bankruptcy administration.’</i> • <i>Law for the Processing of Personal data (Protection of the Person) Law of 2001 to 2003.</i> <p><i>Press cannot publish information infringing data protection rules.</i></p> <ul style="list-style-type: none"> • <i>Protection of Confidentiality of Private Communications (Interception of Conversations) Law of 1996, Law No. 92(I)/1996</i> <p><i>Press cannot use private conversations or recordings without permission</i></p> <ul style="list-style-type: none"> • <i>Copyright and Neighbouring Rights Law</i> <p><i>This law protects the right of the author</i></p>			
2.2. News / information programmes			
2.3. Other media content			
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)			

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...)			
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...)	The Equal Treatment of men and women in employment and vocational training Law, No. 205(I)/2002		
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works			Article 4 of the Directive requires broadcasters to reserve a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping, for European works. A certain flexibility is allowed for the implementation of this provision by the “where practicable” approach. All covered channels broadcast an average of 50.34% of European works in 2004.
<i>Implementation problem: Three out of five reported covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while the remaining two were below it. The compliance rate, in terms of number of channels, was 60%. The report indicated that the programme orientation of one channel towards sports and recreation would explain its low percentage of 29.6%. The Commission would point out that the proportion defined in Article 4(1) applies for each year and to each of the television programmes falling within the jurisdiction of the Member State concerned. The Commission takes note of Cyprus’ intention of awarding a special prize to the channel with the highest proportion of scheduled European works. This appears to be a good incentive to increase proportions in scheduling European works in line with the principle of progressive achievement.</i>			
3.2.2.2. Promotion of European independent works			
<i>Implementation problem: The average allocation to European works by independent producers for all five channels was 43.86% in 2004. The compliance rate, in terms of number of channels, was 100%. The average relative proportion of recent European works by independent producers for all channels was 22.20% in 2004. Compared to the other Member States, this is the lowest average proportion dedicated to recent independent works.⁵</i>			
3.2.2.3. Promotion of national/regional works			
3.2.2.4. Language requirements	Art. 171 Constitution of the Republic of Cyprus		The obligation of the public service to broadcasting audio and vision programmes in both Greek and Turkish, the official languages of the Republic, respecting specific quotas.

⁵ http://ec.europa.eu/avpolicy/docs/reg/tvwf/art_4_5/sec2006_1073_en.pdf

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 are given via the European Programme MEDIA
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			

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)	Law on Radio and Television Stations of 1998		There are specific rules applying, for example where a company applies for a licence to operate a station, it needs to comply with specific share ownership rules, etc
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)			Many radio stations are owned by various political parties.
4.1.2. Requirements of independence from political parties / politicians			There are no such requirements.
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	Radio and Television Stations Regulations (equal treatments of political parties and candidates) of 2006		There are Regulations for the equal treatment of political parties and politicians.
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	Radio and Television Stations Regulations (equal treatments of political parties and candidates) of 2006		
4.2.2. Government announcements			
4.2.3. Impartiality obligations			
4.2.4. Fair representation of political viewpoints; special rules in election periods	Codes of conduct in electoral periods		Codes of conduct in electoral periods: These documents are drawn by broadcasters themselves (sometimes in consultation with political parties) in electoral periods. They provide for the rules that will be respected in the coverage of elections and the schedule of programmes in fulfillment of the obligation for coverage and fair access to the media. Not all broadcasters adopt codes and those who do it once do not necessarily follow is as a consistent practice over time.

	Radio and Television Stations Regulations (equal treatments of political parties and candidates) of 2006		They contain specific rules applying during the 40 day period prior to the election day.
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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...)	Law on Radio and Television Stations of 1998		The Law provides for the licensing of pan-cyprian and local stations, as well as for certain amateur stations. There are specific types of legal and natural persons who may obtain a licence.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)			There are 2 types of licence issued – according, mainly; to the licence amount the applicant is willing to pay.
5.3. Content obligations: requirements to cover local events, etc.			There are requirements as to quality and plurality of content. There are also requirements for appropriate, qualified, experienced and numerous permanent staff who are engaged in informational, educational and entertainment programs. There are numerous other requirements as to polyphony, etc.
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>			
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>i.e.</i> trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. <i>Monomedia</i>	Art. 19 Law Consolidating and Revising the Laws Regulating the Establishment, Installation and Operation of Radio and Television Stations		Regarding national radio and TV stations and local TV stations, no shareholder can hold/control more than 25% of the total share capital of the company. Regarding local radio stations, no shareholder can control more than 40% of the share capital of the company. The total of the company shares that belong to people who are relatives up to second grade or are husbands/wives cannot be higher than 25% of the total share capital of the company. For a local radio station the limit is again 40%. No company that holds shares of another company can hold or control directly or indirectly more than 25% of the total share capital of the company. As long as the limits above are adhered to there are no restrictions for holding shares in 2 or more national TV stations, in 2 or more local TV stations, in one national TV station and one local TV station. For radio, there are no restrictions for holding shares: in 2 or more national radio stations, in 2 or more local radio stations, in national radio station and local radio station. For TV and radio: there are no restrictions for holding shares in local TV stations and local radio stations.

6.1.2.2. <i>Crossmedia</i>	after modifications by Law 134(I)/2000		No licence for a radio station to be granted to a natural person or company that has or controls in any way: (i) more than 5% of the share capital in a publishing company, newspaper or magazine; (ii) or more than 5% in national television station. No licence for television station to be granted to a company that has or controls in any way: (i) more than 5% of the share capital in a publishing company, newspaper or magazine; (ii) more than 5% in national radio station. No licence for television or radio station to be granted to a company, the shareholders of which have or control in any way: (i) more than 5% of the share capital in a publisher company, newspaper or magazine; (ii) more than 5% in national radio or television station. For the purposes of this article, in the proportion of the shares that one person holds are also included the shares that their relatives up to second grade or their husbands/wives hold.
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. 19 Law Consolidating and Revising the Laws Regulating the Establishment, Installation and Operation of Radio and Television Stations		<i>Supra</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>	Art. 19 Law Consolidating and Revising the Laws Regulating the Establishment, Installation and Operation of Radio and Television Stations		<i>Supra</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	Art. 19 (1)(d) Law Consolidating and Revising the Laws Regulating the Establishment, Installation and Operation of Radio and Television Stations		A foreigner can obtain, following authorization of the Council of Ministers, not more than 5% of the shares (total share capital) of a company (after modification by Law 78(I)/2001. Restrictions regarding companies of EU Member States are no longer valid after accession.
6.4. General competition rules	There is a new Law in place as of 18 April 2008, entitled the Protection of Competition Law of 2008, No. 13(I) of 2008.		
6.4.1. Antitrust			
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>			<p>In June 2006 Commission for the Protection of Competition fined: LTV CYP 275,000; Multichoice (MCC) CYP 130,000; NetMed CYP 130,000. LTV is a pay TV provider in Cyprus. It operates one of the two analogue terrestrial pay TV channels. It is also available on the satellite platform of NOVACYPRUS. Multichoice is a subscriber management company for both the LTV and NOVACYPRUS platforms. NetMed is the majority shareholder of MCC, LTV and NOVACYPRUS are also shareholders. Until now, LTV had an exclusive distribution agreement with MCC, which it now wishes to break in order to offer its content over incumbent telecommunications operator CYTA's IP TV platform miVision. CPC ruled that the exclusive distribution agreement that LTV signed with MCC, which prohibits LTV from entering into any commercial agreements with any other competing channel distribution platforms, violates article 4(1) of the national competition law on restrictive practices and is null and void. CPC also has an ongoing investigation open into the agreement between CYTA and LTV to distribute LTV's content over CYTA's IP TV platform miVision. Other commercial broadcasters and telecommunications operators have claimed that the agreement would have exclusionary effects. Telecommunications operators PrimeTel and OTeNet are seeking that LTV gives them the same content that it is providing to miVision at the same cost and on the same terms.</p>

			In March 2006 CYTA was fined CYP 25,000 for refusing to cooperate with the investigation. The decision of the CPC to fine Multichoice and LTV was rendered void by the Supreme Court of the Republic in 2008, following an administrative recourse. The CPC will have to return the fines that were imposed.
6.4.2. Merger control	Control of Concentrations between Undertakings Law 22(1)/99		Mergers are examined where enterprises are considered to be ‘of major importance’: where the ‘aggregate turnover achieved by at least two of the participating enterprises exceeds, in relation to each one of them, two million Cyprus pounds’ and at least one of them must operate in the Republic of Cyprus and carry out business in Cyprus.
	Schedule 1, section2, Article1		The merger of companies will be examined where: (a) two or more of the enterprises participating in the concentration engage in business activities in the same market or a specific group of products or services (horizontal relationship), and the concentration of their activities leads to a combined market share of 15% and above; or (b) any of the enterprises participating in the concentration engages in business activities in a market of products in a preceding or subsequent stage of the procedure of production of products or of specific groups of products in the markets of which any of the other enterprises participating in the concentration engages in activities (vertical relationship) and provided any of the market shares of these enterprises amounts to 25% or more, irrespective of whether or not there exists a supplier/customer relationship among the enterprises that participate in the concentration.
6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i>			
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>			
6.5. Transparency obligations			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)			

<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>			<p>In the event of a procedure before the Commission for the Protection of Competition – either as a result of a complaint or following the initiation of an own initiative investigation – the parties involved have to disclose all relevant financial and other information in their possession. The Commission has extensive powers to request information and carry out on the spot checks in company premises.</p>
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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			
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Regulations on radio and television stations of 2004		List of the events of major importance
7.3. Short news reporting			
7.4. Fixed book price			
7.5. Public service media			
7.5.1. Structural rules - organization			Implementation and enforcement of rules on broadcasting were different for the public service and the commercial broadcasters. The amending law 96(I)/2004 is an attempt to solve this question on issues of content and compliance of the Cyprus Broadcasting Corporation (CYBC) with its mission.
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>	The Law on the Cyprus Broadcasting Corporation		The council of ministers appoints the chairman and vice chairman and seven more members of the board of directors for a mandate of three years. The council may remove the chairman or any other member of the Corporation without providing any reason for the removal.
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	The Regulations on public service broadcasting of 2003		Respect for the quotas from the regulations on public service broadcasting of 2003 enables the corporation to qualify for receiving public funding and subsidies.
7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i>			
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	The Regulations on public service broadcasting of 2003		Define the criteria to which the Cyprus broadcasting corporation should respond in order to qualify for the characterization of public service broadcaster. The criteria are based on the need to respect specific quotas for each category of programmes, i.e. news and current affairs, educational and entertainment, in radio and television.
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>			
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)			
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			
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			No regulation of CAS for two analogue terrestrial pay-TV channels, cable TV network or IP TV CAS under consideration in the context of the introduction of digital terrestrial TV, but no final decision taken yet.
8.4.2. EPG (or other search tools)			No regulation yet. Regulation of EPGs is under consideration in the context of the introduction of digital terrestrial TV, but no final decision has been taken yet.
8.4.3. API			No regulation yet. Regulation of APIs under consideration in the context of the introduction of digital terrestrial TV, but no final decision has been taken yet.
8.4.4. Other			
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media			
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...)			
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	Radio and Television Stations Law 7(I)/1998		The Cyprus Radio-Television Authority (CRTA) (http://www.crta.org.cy)
<i>Note: There is also an advisory committee established by CRTA comprising of representatives from the Ministry of Interior, Ministry of Communications and Works, Ministry of Education and Culture, the Legal Service of the Republic, private television stations, private radio stations, Union of Journalists, local government, Trade unions, Cyprus Chamber of Commerce, University of Cyprus, Industrialists federation, pan-Cyprian Consumers association, the Church, Advertisers union, Newspaper Publishers union, etc.</i>			
9.1.1. Structure/ organization			Composed of the Chairman, Vice-Chairman and five members, appointed by the Council of Ministers for a six-year term, solely concerned with private radio and television stations broadcasting in Cyprus. Its remit does not cover the Cyprus Broadcasting Corporation (CyBC), which is a state-funded public service broadcasting organization.
9.1.1.1. Guarantees for independence			Section 3 of the Law expressly states that it is independent. No person can be appointed a member of the authority if he is affiliated, has any direct or indirect interest in any radio or television station or CyBC.
9.1.1.2. Representation requirements			Members come from the fields of art, literature, science or technology and have recognized experience as well as special knowledge and experience in mass media.
9.1.2. Credibility and efficiency			See <i>supra</i> , concerning recognized experience, etc.
9.1.2.1. Sufficient resources			Through licence fees.

<p>9.1.2.2. <i>Tasks and duties</i></p>	<p>The Radio and Television Stations Law 7(I) of 1998 and Regulations of 2000</p>		<ol style="list-style-type: none"> 1. Issuing and renewing broadcasting licences for radio and television. 2. Monitoring the ownership of radio and television stations so as to avoid media concentrations, monopolies and oligopolies and ensure pluralism. 3. Monitoring the content of radio and television programmes to ensure compliance with the Radio and Television Stations Law and Regulations by broadcasters. 4. Safeguarding the editorial independence of media professionals from any kind of pressures and interferences. 5. Ensuring the equal treatment of political parties, particularly during pre- election periods. 6. Monitoring international developments in the media field and making proposals or suggestions to the Council of Ministers as regards the need to adopt, amend or update relevant legislation. 7. Examining complaints about the content of radio and television programmes and commercials. 8. Examining breaches of the law and regulations and of the code of conduct by broadcasters, and imposing sanctions, which include recommendations, warnings, fines and the suspension or withdrawal of licences. 9. Issuing circulars and directives regarding observance of the code of journalistic conduct.
	<p>Law 96(I)/2004 on the Cyprus Broadcasting Corporation (CYBC)</p>		<p>Powers on the public service broadcaster: examines fulfillment by the corporation of its obligations as public service broadcaster; investigates eventual breaches of the law; imposes sanctions for breaches of the law relating to issues of advertising, protection of minors, respect of quotas for European works and to broadcasts of events of major importance.</p>
<p>9.1.2.3. <i>Effective sanctioning powers</i></p>			<p>Power to impose sanctions for not compliance with the law. Sanctions may vary from warnings to administrative fines and suspension or withdrawal of a licence.</p>

9.1.3. Cooperation with other regulators			Close co-operation between the Cyprus Radio-Television Authority (CRTA), the Ministry of Interior and the Ministry of Communications and Works, regarding broadcasting issues and drafting of proposals for Law and Regulation amendments.
9.2. Press Council	Article 3 of the Press Law 145/1989		The Cyprus Media Complaints Commission - an independent press council, responsible for the self-regulation of the news media, both written and electronic where members of the public are given the opportunity to lodge their grievances against the media when they feel they have been offended.
<p><i>Note: The independent press council 'Cyprus Media Complaints Commission' (CMCC) was established in May, 1997 by the Association of Newspapers and Periodicals Publishers, the owners of private Electronic Media and the Cyprus Union of Journalists, responsible for the self-regulation of the news written and electronic media. The Cyprus Broadcasting Corporation later acceded to the regulations governing the operation of the CMCC and the Code of Media Ethics. The CMCC accepts complaints submitted within 30 days of the offending publication first appearing or becoming known to the offended party or even a third party. The right to examine publications on its own initiative also exists.</i></p>			
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
9.3. Competition Authority			The Competition Commission http://www.competition.gov.cy/competition/competition.nsf/index_en/index_en?opendocument
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>			
<p><i>Note: The Competition Commission is currently functioning properly although it has, until march 2008 had various problems due to the faulty appointment of the Chairman and one of its members. Now there is a brand new Chairman and new members, as well as a brand new law which aims at setting a new start for the operations of the Commission.</i></p>			
9.3.3. Cooperation with other regulators			The Ministry of Communications and Works is responsible for allocating radio spectrum frequencies.

Short summary of major implementation problems

One problem that has been identified is that the Radio and Television Authority only has power to regulate analogue-broadcasted television programs and not television programme broadcast for example via the internet. Internet providers of television programs do not require a licence to broadcast programs. Only analogue broadcasters do. In this manner, internet broadcasters do not need to pay any fees either, something which is disadvantageous vis-à-vis analogue broadcasters.

In addition, another problem is that faced as a result of piracy. Satellite providers of television programs (i.e. Nova Cyprus) complain about the lack of or poor enforcement of the provisions of the Intellectual Property and Neighbouring Rights Law by the police as a result of the use of illegal decoders allowing for the free access to their programs by non-subscribers.



Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



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

[CZECH REPUBLIC]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*

- Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)
- Act No. 46/2000 coll. on rights and duties related to publishing periodical press and on amendment to several other acts (Press Act)
- Act No. 483/1991 coll. of 7 November 1991 on Czech Television (amended)
- Act No. 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)
- Act. No. 484/1991 coll. of 7 November 1991 on Czech Radio (amended)
- Act No. 2/1993 coll. (Charter of Fundamental Rights and Freedoms)
- Act No. 247/1995 coll. on Elections to the Parliament of the Czech Republic

- *General legislation*

- The 1993 Charter of Fundamental Rights and Freedoms
- Act No. 106/1999 coll. of 11 May 1999 on Free Access to Information
- Act No. 101/2000 coll. of 4 April 2000 on the Protection of Personal Data

- **Codes of conduct**

- The Code of Journalist's Ethics (Etický kodex novináře), adopted by the Union of Journalists of the Czech Republic (Syndikát novinářů České republiky) in 1998
- The Czech Television Code (Kodex České Televize), approved in 2003
- The Ethical Code of Advertising Practice (Etický kodex reklamy) adopted in 1994 by Council for Advertising - (Rada pro reklamu - RPR)
- The Code of internet advertisement's ethics (Etický kodex internetové reklamy) adopted by Section of Internet Periodical Publishers (*Sekce vydavatelů internetových titulů*) of The Czech Publisher Association (*Unie vydavatelů denního tisku*) in 2003

- **Other**

- Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition
- Act No. 273/2001 coll. of 10 July 2001 on rights of members of national minorities

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Article 17 The 1993 Charter of Fundamental Rights and Freedoms ¹	applies generally, including: PM + AAVM	Freedom of expression and the right to information are guaranteed. Everybody has the right to express freely his or her opinion by word, in writing, in the press, in pictures or in any other form, as well as freely to seek, receive and disseminate ideas and information irrespective of the frontiers of the State. (3) Censorship is not permitted.(...).
<i>Implementation problem: Although the Czech Constitutional Court and the Parliament acted (in 1994 and 1997, respectively) to reduce the number of articles in the penal code under which one may be convicted for speech offenses, there has been no discernable decrease over the past decade in the volume of cases threatened or actually brought under the remaining provisions of law which permit criminal prosecution for one's speech.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. 106/1999 coll. of 11 May 1999 on Free Access to Information The Law was amended in 2006 to make a number of improvements.	applies generally, including PM + AAVM	The law allows any natural or legal person to access information held by State authorities, communal bodies and private institutions managing public funds. Requests can be made in writing or orally. The public bodies are required to respond to requests within 15 days.
<i>Implementation problem: The Ombudsman received 19 complaints in 2004. The office found that the largest problem was a failure by public bodies to recognize and register requests, failure to respond and violation of procedures for denying information.³ The 2005 implementation report to the UNECE committee reported a number of problems with access rights including conflicts between the laws on access to information and the Administrative Procedures Act.⁴ The NGO Otevřená Společnost's (Open Society) Right to Information Project conducted studies in 2001 and 2002 and found that citizens have obtained access in a majority of cases and the authorities have not been overwhelmed by requests.⁵</i>			
	Act No. 101/2000 coll. of 4 April 2000 on the Protection of Personal Data	applies generally, including PM + AAVM	Allows individuals to access and correct their personal information held by public and private bodies.
<i>Are there specific rules dealing with journalists' access to events for news reporting?</i>	No rules, only internal instructions in particular offices (police, courts, big companies).		
1.3. Explicit recognition of media pluralism	Part Six Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	R and TV	The Securing of the Plurality of Information in Radio Broadcasting and Television Broadcasting (Articles 55 – 58) The part is devoted to limits on ownership (see also the section 6 of this report)

¹ The Charter is a part of the constitutional order of the Czech Republic.

² For instance: “On October 23, 2001, Frantisek Zamencnik, former editor-in-chief of *Nove Bruntalsko*, was sentenced to sixteen months in prison for criminal defamation in connection with his remarks regarding Bruntal Mayor Petr Krejci, Social Democrat Deputy Jaroslav Palas, and Ludmila Navarova, editor of a rival newspaper. Zamencnik had been convicted of criminal defamation twice before, but in those cases he was sentenced to suspended prison terms. The World Association of Newspapers has protested his most recent conviction and sentence.” OSCE (2002) United States Helsinki Commission: Criminal defamation and ‘insult’ laws: a summary of free speech developments in the Czech Republic, Articles Vol. 35 (1), [http://www.csce.gov/index.cfm?Fuseaction=UserGroups.Home&ContentRecord_id=20&Contentype=G&ContentRecordType=G&UserGroup_id=77&Subaction=ByDate&CFID=18849146&CFTOKEN=53](http://www.csce.gov/index.cfm?Fuseaction=UserGroups.Home&ContentRecord_id=20&ContentType=G&ContentRecordType=G&UserGroup_id=77&Subaction=ByDate&CFID=18849146&CFTOKEN=53)

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

⁴ UNECE, Implementation Report - Czech Republic ECE/MP.PP/2005/18/Add.6, 12 May 2005.

⁵ See Open Society, b.a., Free Access to Information in the Czech Republic, August 2002. <http://www.otevrete.cz/index.php?id=142&akce=clanek>

1.4. Protection of journalistic sources	Article 16 Act No. 46/2000 coll. on rights and duties related to publishing periodical press and on amendment to several other acts (Press Act)	PM	Protection of source and contents of information. An individual or a legal entity who took part in gaining or processing information to be publicized or publicized in a periodical press shall have the right to refuse to provide a court, another state authority or a public administration authority with the information concerning the origin or contents of this information.
	Article 41 (1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	R and TV	Any natural person or juristic person who/which took part in obtaining or processing the information transmitted or to be transmitted in the radio or television broadcasting shall have the right to deny disclosure of the origin of such information or the contents thereof to the court or any other State authority or public administration authority. Exceptions: Article 41 (3): “The obligations laid down in a special legal regulation and requiring not to indulge offenders and to prevent or report criminal offence shall remain unaffected by the rights referred to in Articles 41(1) and 41(2) above, and so shall remain, in relation to such obligations laid down in a special legal regulation, any obligations as may be prescribed in the penal proceedings.”
	Articles 16 (11) – 16 (12) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall have the right to guarantee anonymity to persons that have provided information or background material for its recordings, if the topic to which the information relates concerns public interest and the provision of the aforementioned guarantee is justified by serious reasons.(...)
1.5. Right of reply	Articles 10 – 15 Act No. 46/2000 Coll. on rights and duties related to publishing periodical press and on amendment to several other acts (Press Act)	PM	Where it came to publishing and information in the periodical press containing a factual statement affecting the honour, dignity or privacy of certain individual or affecting the name or goodwill of certain legal entity, this person shall have the right to demand that the publisher publicize an answer. Exceptions from the duty to publicize the answer when the publication - would result in a crime or an administrative offence, - would be contrary to good manners, - when the a contested publication is a quote of a statement of a third person

	<p>Article 35 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)</p>	<p>R and TV</p>	<p>If any announcement containing any factual information affecting the honour, dignity or privacy of a natural person or the good name or reputation of any juristic person was made public in radio or television broadcasting, then such a natural person or juristic person shall have the right to request that a response be transmitted by the radio or television broadcaster.”</p> <p>Additional announcement (Art. 36)</p> <p>Submission of the application to transmit a reply and additional announcement and the requisites thereof (Art. 37)</p> <p>Conditions of the transmission of a response and additional announcement (Art. 38)</p> <p>Enforcement through a court of the right to the transmission of a reply and additional announcement (Art. 39)</p> <p>Exceptions to the duty to transmit response and additional announcement (Art. 40)</p> <p>The exceptions to the duty to transmit response and additional announcement include situations when:</p> <ul style="list-style-type: none"> -the transmission of the proposed text would involve the commitment of a criminal act, - the transmission of the proposed text would involve immoral offence, -the challenged communication or part thereof is quoted from a third party’s communication intended for the public, etc.
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<p>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)</p>	<p>International legal instruments:</p> <p>CoE’s Framework Convention for the Protection of National Minorities</p> <p>-signed (28.04.1995) -ratified (18.12.1997)</p> <p>CoE’s European Charter for Regional and Minority Languages</p> <p>-signed (9.11.2000) -ratified (15.11.2006) -entered into force (1.03.1998)</p> <p>UNESCO Convention on the Protection of the Diversity of Cultural Expressions</p> <p>-accession by European community (18.12.2006)</p>		
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TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Code of Journalist's Ethics (Etický kodex novináře) adopted by the Union of Journalists of the Czech Republic (Syndikát novinářů České republiky) in 1998 and amended in 1999	applies generally, including: PM + AAVM	Covers following: -the right of citizens to actual, fair and impartial information, -requirements of the high standards in journalistic profession, -credibility, fairness and reliability.
<p><i>Note: The Union set up the Ethical commission as an independent professional body of eleven members in 1998. The members of Ethical commission are volunteers from the media and academic environment. Several periodicals and newspapers adopted their own Codes of conduct, usually as an internal norm (e.g. wire agency ČTK, dailies MF Dnes, Lidové noviny, Hospodářské noviny, weekly Týden).⁶</i></p>			
	The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	The code's provisions apply to Czech Television and its employees, including those engaged on a contractual basis. Breaches of the code are treated as disciplinary offences and may result in dismissal of the employee or individual contractor concerned. The Code covers such issues as: -a viewer at the first place, -a special attention to children, -an open relation with licence-fee payers, -programme producers as a basic requirement for successful performance, - a special care for news and current affairs programming, -anti-discrimination practices, -discussions and pluralism, -religious issues, -critical situations, -etc.
<p><i>Note: The Code also establishes an Ethics Panel of the Czech Television, the members of which will be appointed by the Director General of Czech Television. Its tasks are to protect freedom of opinion and independence and to submit to the Council of the Czech Television reports on important programming issues, prepared on request of the Council of Czech Television and on request of the General Director of Czech Television.</i></p>			
	The Ethical Code of Advertising Practice (Etický kodex reklamy) adopted in 1994 by Council for Advertising - (Rada pro reklamu - RPR)	applies generally, including: PM + AAVM	The Code covers such issues as: -social responsibility of advertising, -unfair practices, -protection of privacy, -advertising targeting children, -advertising of alcohol beverages, tobacco products, pharmaceutical products, -hidden advertising, -etc.
<p><i>Note: Council for Advertising - (Rada pro reklamu - RPR) has the Arbitration Committee with an exclusive right to make decisions regarding complaints received by the RPR.</i></p>			

⁶ Vladimír Kroupa and Milan Šmíd (2005) Media System in the Czech Republic, 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.

2.2. News / information programmes	Art. 5 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	
2.3. Other media content	Code of internet advertisement's ethics (Etický kodex internetové reklamy) adopted by Section of Internet Periodical Publishers (<i>Sekce vydavatelů internetových titulů</i>) of The Czech Publisher Association (<i>Unie vydavatelů denního tisku</i>) in 2003	Online advertising	The Code has only four sections concerning: -the erotic advertisement, -the deceiving (bluffing) advertisement, -the hidden advertisement -the aggressive advertising formats.
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)			

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...)			
3.1.1. Special representation requirements in media company structures	Article 13 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	See below
3.1.2. Special representation requirements in media advisory bodies	Article 4(2) Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Council of the Czech Television is comprised of 15 members is the body through which the public exercises its right of inspection in relation to Czech Television. Nomination proposals for membership in the Council shall be submitted to the Chamber of Deputies by organisations and associations representing cultural, regional, trade union, employer, religious, educational, scientific, environmental and nationality interests.
	Article 4 (2) Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	The Council of Czech Radio is the body through which the public exercises its right of inspection in relation to Czech Radio. The Council has nine members. Nomination proposals for membership in the Council shall be submitted to the Chamber of Deputies by organisations and associations representing cultural, regional, trade union, employer, religious, educational, scientific, environmental and nationality interests.
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Article 13 (2) and Article 13 (5) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall not discriminate anyone in either its operation or its programme schedule on the grounds of sex, age, race, sexual orientation, nationality, ethnicity, religion or membership in any social group. Czech Television shall pay special attention to the equality of opportunities for men and women, both in the operation of Czech Television and in the composition of its schedule.
3.2. Representation of the various cultural groupings in the media	Article 13 (1) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	The schedule of Czech Television may not give rise to or confirm notions that the social status of people belonging to certain racial, national, ethnic or social groups is, for reasons of such group membership, different from the status of others. Czech Television is obliged to refrain from the use of stereotypes in portraying concrete groups or their members.

	Article 31 (4) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	R and TV	The statutory broadcaster shall prepare its programme structure so as to provide, in its broadcasting, a well-balanced portfolio offered to all the population with respect to their age, gender, colour of the skin, faith, religion, political or other opinions, ethnic, national or social origin, and membership of a minority.
3.2.1. Access to airtime for cultural groupings	Article 13 (3) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall also create opportunities for the participation of the physically handicapped in its programmes. In designing and constructing the stage and decorations for the recording of programmes with the participation of audience or supernumeraries, Czech Television must take into account the potential participation of physically handicapped persons.
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Article 42 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV	<p>The television broadcaster shall, where practicable, reserve more than a half of the total broadcasting time of each channel to European production.</p> <p>Exceptions (Art. 45):</p> <ul style="list-style-type: none"> - local broadcasting not involved in nation-wide television network, - programme broadcast exclusively in a language other than Czech or in a language other than any of the languages of the Member States - television broadcasters whose broadcasting is intended exclusively for reception outside the Czech Republic and outside the territory of the Member States of the European Communities,. <p>The Council for Radio and Television Broadcasting is responsible for monitoring and supervising the fulfilment of European quota requirement</p>
3.2.2.2. Promotion of European independent works	Article 43 (1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV	<p>The television broadcaster shall, where practicable, reserve at least 10% of the total broadcasting time of each channel to European works produced by independent producers.</p> <p>Exceptions (Art. 45 as above)</p> <p>The Council for Radio and Television Broadcasting is responsible for monitoring and supervising the fulfilment of European independent works requirement</p>

3.2.2.3. Promotion of national/regional works	Article 8 (1) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall promote the development of culture and the arts in the Czech Republic.
	Article 3(1), e Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Czech Television shall provide public service in the television broadcasting area in the following major ways: in the area of news and political programme units, provide regional broadcasting via the TV studios of Czech Television (...). The regional broadcasting of every television studio must contain a balanced mix of contributions from the entire territory it covers.
	Article 3(1), g Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Czech Television shall provide public service in the television broadcasting area in the following major ways: promote Czech film production.
3.2.2.4. Language requirements	Article 9 (2) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Newscasters, moderators and editors of news and current affairs programmes shall use only standard codified language, unless they quote or interpret a statement of another person or unless the use of a non-standard expression seems necessary with regard to the given situation.
	Article 13 (2) Act No. 273/2001 coll. of 10 July 2001 on rights of members of national minorities	PM Public service media	For the purpose of maintaining and developing culture, traditions and languages the state supports publishing periodical and non-periodical printed matter and radio and television broadcasting in the languages of national minorities living traditionally and for a long time on the territory of the Czech Republic. For this purpose it provides grants from the Budget; conditions and the way of providing grants are determined by a government decree.
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)	Article 13(3) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	On the basis of current demographic trends, Czech Television shall ensure, where possible, that the cast or the selection of supernumeraries for in-house programming would reflect the national and ethnic diversity of the population living in the Czech Republic, especially as regards programmes with audience participation in the studio. The viewers should be led to perceive the participation of the aforementioned persons as a commonplace.

	<p>Article 2 (2), d Act No. 483/1991 coll. of 7 November 1991 on Czech Television</p> <p>Act No. 484/1991 coll. of 7 November 1991 on Czech Radio</p>	<p>Public service television</p> <p>Public service radio</p>	<p>The main tasks of public service in the television/radio broadcasting area include, without being limited to: developing the cultural identity among the citizens of the Czech Republic, including members of national or ethnic minorities.</p>
3.2.4. Subsidies (apart from general PSB funding)	<p>Article 13 (2) Act No. 273/2001 coll. of 10 July 2001 on rights of members of national minorities</p>	<p>PM</p> <p>Public service media</p>	<p>As specified above under 3.2.2.4.</p>
<p>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></p>	<p>Article 3(1) Act No. 483/1991 coll. of 7 November 1991 on Czech Television</p>	<p>Public service television</p>	<p>Czech Television shall provide public service in the television broadcasting area in the following major ways: provide hidden or open captions for the deaf in at least 70% of the programme units or ensure simultaneous interpretation into the sign language.</p>
	<p>Article 32 (2) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)</p>	<p>TV and R</p>	<p>Any nation-wide licenced television broadcaster shall provide surreptitious or open captions for the deaf in at least 15% of the programme units it broadcasts, and any nationwide Statutory television broadcaster shall provide surreptitious or open captions for the deaf in at least 70% of the programme units it broadcasts, unless otherwise provided in a special Act.</p>

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	Article 31(1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	Requirement of broadcaster's independence, indirectly from political parties. The broadcaster and retransmission broadcaster shall be entitled to broadcast programmes in a free and independent manner. Any intervention in the contents of the programmes is only admissible on the basis of law and within the limits thereof.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council for Radio and Television Broadcasting (national regulatory body) The Council membership is incompatible with: -mandates of deputies, senators, members of government (Article 7 (9)) - assuming functions in political parties or movements and acting in their favour (Article 7(11))
	Art. 5 Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	The Council of Czech Television (supervisory body for the Czech public television) The Council membership is incompatible with: -mandates of deputies, senators, members of government - assuming functions in political parties or political movements, social organisations and associations, civic initiatives and other such organisations and acting, when exercising their functions in the Council, on such organisations' behalf or acting in their favour or in favour of any other group interests.

	Art. 5 Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	The Council of Czech Radio (supervisory body for the Czech public radio) The Council membership is incompatible with: -mandates of deputies, senators, members of government - assuming functions in political parties or political movements, social organisations and associations, civic initiatives and other such organisations and acting, when exercising their functions in the Council, on such organisations' behalf or acting in their favour or in favour of any other group interests.
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	See 4.2.4	See 4.2.4	See 4.2.4
4.2.2. Government announcements	Article 6 Act No. 46/2000 coll. on rights and duties related to publishing periodical press and on amendment to several other acts (Press Act)	PM	Information in a pressing public interest: In a pressing public interest, the publisher must publicize in the periodical press important and urgent information of a state authority and authority of territorial self-administration; in particular, he must publicize a decision on the state of emergency, state of danger of the state or on state of war. This information must be publicized in the next issue of the periodical press following the delivery of the text thereof to the publisher; it must be published in a way pointing it up graphically and differing it from the other contents of the periodical press.
	Article 31(1), I Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	R and TV	In urgent public interest, if so requested by the State authorities and the local public administration authorities, provide such authorities with the broadcasting time needed for important and urgent announcements to promulgate the state of emergency or state of threat to the State, or to proclaim the state of war, or announce measures to protect public health; responsibility for the contents shall be borne by those who requested the broadcasting time to be provided.

4.2.3. Impartiality obligations	Article 31(2) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The broadcaster shall provide objective and balanced information as needed for opinions to be freely formed. Any opinions or evaluating commentaries shall be separated from information having the nature of news.
	Article 5.6 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	In its news and current affairs programmes, Czech Television shall pay attention to accuracy and impartiality of its broadcasting, which task consists primarily in the ascertaining and verification of facts.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Article 2 (2), a Act No. 483/1991 coll. of 7 November 1991 on Czech Television Article 2 (2), a Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service television Public service radio	The main tasks of public service in the television/radio broadcasting area include, without being limited to: providing objective, verified and generally balanced and comprehensive information as may be needed for opinions to be freely formed.
	Article 31(3) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The broadcaster shall ensure that principles of objectivity and equilibrium are complied with in news and political programme units and that, in particular, no one-sided advantage is - within the broadcast programme as a whole - given to any political party or movement, or to their views, or the views of any groups of the public, taking account of their real position within the political and social life.
	Article 16 (3) Act No. 247/1995 coll. on Elections to the Parliament of the Czech Republic	Public service radio and public service television	From the sixteenth day prior to the day of the elections, until the forty-eighth hour prior to the opening of elections, Political Parties and coalitions nominating candidates to stand for elections to the Chamber of Delegates shall be allotted a total of fourteen hours of air time on broadcasting channels on Czech Radio, and fourteen hours of air time on broadcasting channels on Czech Television for the purpose of their election campaign. The broadcasting time shall be allotted free of charge and apportioned evenly among the Political Parties and coalitions involved. The time and hour when each Political Party and coalition shall be on air shall be determined by drawing lots. Liability and answerability for the contents of the television and radio programmes broadcasted shall rest with the Political Party and coalition that is canvassing.

	<p>Article 5.3 The Czech Television Code (Kodex České Televize) approved in 2003</p>	<p>Public service television</p>	<p>The primary task of the current affairs programmes of Czech Television is to offer a critical reflection of reality (...) Investigative current affairs programmes examining serious breaches of law, corruption and the protection of rights and interests of the citizens play an indispensable monitoring role in the development of a democratic society.(...).</p>
	<p>Article 6.2 The Czech Television Code (Kodex České Televize) approved in 2003</p>	<p>Public service television</p>	<p>The fulfilment of the provisions of Article 6.1 also requires the broadcasting of political discussions in the framework of the democratic competition of political parties and movements. The broadcasting time allowances provided to individual political parties and movements must be well balanced. The balancing must take into account especially the relative importance of individual political parties, estimated primarily from the results 19 of the elections in the principal bodies of representative democracy. At the same time, however, Czech Television must make sure that the ratio of discussion appearances of government and opposition politicians is balanced, i.e. the total time provided to each of the blocs should be approximately the same. Czech Television shall also create conditions for an adequate participation of non-parliamentary political parties and movements in the aforementioned discussions.</p>

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media			
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)	Article 54 (1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	Cable operators	The licensed broadcaster in the cable system and the retransmission broadcaster in the cable system shall - if so requested by the municipality or voluntary association of municipalities - reserve one channel for an unpaid local information system serving exclusively for the purposes of the local community (...).
5.3. Content obligations: requirements to cover local events, etc.	Article 3(1), e Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Czech Television shall provide public service in the television broadcasting area in the following major ways: in the area of news and political programme units, provide regional broadcasting via the TV studios of Czech Television (...). The regional broadcasting of every television studio must contain a balanced mix of contributions from the entire territory it covers.
5.4. Regional State Aids	Act No. 360/2007 coll. on the state budget of the Czech Republic for the year 2008, Appendixes, Budget Chapter of the Ministry of culture (No. 334)		For the support for national minority culture was allocated 42 000 000 CZK, from that 10 000 000 CZK for promoting the cultural activities of national minorities, 2 000 000 CZK for support of projects dealing with social inclusion of Roma community, and 30 000 000 CZK for distribution and receiving of information in the national minority languages.
5.5. Rules on national minorities	Article 13 (2) Act No. 273/2001 coll. of 10 July 2001 on rights of members of national minorities	PM Public service media	For the purpose of maintaining and developing culture, traditions and languages the state supports publishing periodical and non-periodical printed matter and radio and television broadcasting in the languages of national minorities living traditionally and for a long time on the territory of the Czech Republic. For this purpose it provides grants from the Budget; conditions and the way of providing grants are determined by a government decree.
5.6. Rules on social inclusion of remote areas (Aménagement du territoire)	Act No. 360/2007 coll. on the state budget of the Czech Republic for the year 2008, Appendixes, Budget Chapter of the Ministry of culture (No. 334)		<i>Supra</i>

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>	Article 55 (1-4) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	<p>(1) No single juristic person, nor any single natural person, may be a holder of more than one licence for nation-wide television broadcasting.</p> <p>(2) No single juristic person, nor any single natural person, may be a holder of more than one licence for nation-wide radio broadcasting.</p> <p>(3) No nation-wide radio broadcaster may possess any ownership interest in the business of any other nation-wide radio broadcaster.</p> <p>(4) No nation-wide television broadcaster may possess any ownership interest in the business of any other nation-wide television broadcaster.</p> <p>(5) No nation-wide statutory television broadcaster may consolidate with any other nation-wide television broadcaster, such a consolidation being based on the fact that their statutory bodies or members of statutory bodies are the same persons or related parties, or are partners in the same business entity or are related parties.</p> <p>(6) No nation-wide statutory radio broadcaster may consolidate with any other nationwide radio broadcaster, such a consolidation being based on the fact that their statutory bodies or members of statutory bodies are the same persons or related parties, or are partners in the same business entity or are related parties.</p> <p>(7) No nation-wide television broadcaster may consolidate with any other nation-wide television broadcaster in any other manner (Article 58).</p> <p>(8) No nation-wide radio broadcaster may consolidate with any other nation-wide radio broadcaster in any other manner (Article 58).</p>

			(9) Duties referred to in Articles 55(1) and 55(2) shall not apply to digital broadcasting and to radio and television broadcasting disseminated over cable systems and via satellites. (10) Provisions in Articles 55(7) and 55(8) shall not apply to persons involved in the canvassing and sale of advertising services, sponsorship- and teleshopping-related services, market surveying services and services relating to the purchase of programme units, except news programme units.
6.1.1.2. <i>At the moment of mergers & acquisitions</i>	Article 58 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council should be notified about consolidation between radio and TV broadcasters.
6.1.1.3. <i>Other (constant monitoring/supervision)</i>			
6.1.2. <i>Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)</i>			
6.1.2.1. <i>Monomedia</i>	Article 55 (1-8) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	No nation-wide television broadcaster may possess any ownership interest in the business of any other nation-wide television broadcaster.
6.1.2.2. <i>Crossmedia</i>	Article 58 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council should be notified about consolidation between radio and TV broadcasters.
6.1.2.3. <i>Vertical integration with networks</i>	Article 57 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	No programme network may cover by radio or TV broadcasting more than 70% of the total population of the Czech Republic, counted on the basis of the information from the last population census.
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. <i>Criteria used to define thresholds for maximum ownership and/or control</i>			
6.1.3.1. <i>Number of licences</i>	Article 55 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	E.g. 55(1): No single juristic person, nor any single natural person, may be a holder of more than one licence for nation-wide television broadcasting.
6.1.3.2. <i>Market shares</i>			

6.1.3.3. <i>Circulation and audience shares</i>	Article 56 (1-2) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	Limits on coverage for holders of more than one licence to 70% of population.
6.1.3.4. <i>Capital shares</i>	Article 58 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)		<i>Infra</i>
6.1.3.5. <i>Voting shares</i>	Article 58 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)		<p>Consolidation of broadcasters or retransmission broadcasters</p> <p>(1) The broadcaster or retransmission broadcaster shall notify the Council about any of the following circumstances:</p> <ul style="list-style-type: none"> a) radio broadcasters consolidated and television broadcasters consolidated, such a consolidation taking the form of merger of two juristic persons or sale of the undertaking or a substantial part thereof; b) a consolidation occurred between radio broadcasters and between television broadcasters wherein <ul style="list-style-type: none"> 1. their statutory bodies or members of statutory or other bodies, or employees under direct management authority of such a statutory body or member thereof or under direct management authority of the managing clerk, are identical natural persons or persons who are related parties, 2. they run a joint business on the basis of a partnership deed, or 3. are related parties; c) a consolidation of radio broadcasters occurred whereby one juristic person or one natural person exerts a substantial influence on two or more radio broadcasters; d) a consolidation of television broadcasters occurred whereby one juristic person or one natural person exerts a substantial influence on two or more television broadcasters. <p>(2) A juristic person or natural person shall be regarded as having a substantial influence on a broadcaster insofar as</p> <ul style="list-style-type: none"> a) it possesses, directly or indirectly, a share of voting rights greater than 34%; indirect holding means holding through a controlled party, <p>[...]</p>

			<p>[...]</p> <p>b) it makes decisions regarding the majority of employees of the broadcaster who are under the direct managing authority of the statutory body or a member thereof, or makes decisions on the persons that provide, on the basis of a mandate agreement or any other agreement, significant administrative, managing or trading activities for the broadcaster,</p> <p>c) it has opportunities to exercise controlling influence on the management of the broadcaster upon the basis of a contract, a special provision in the Statutes, Articles of Partnership or Founder’s Deed or agreement with persons who are partners to or shareholders of the broadcaster regardless of the validity or non-validity of such an agreement.</p>
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			
6.4. General competition rules	Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition	Industry in general	
<p><i>Note: The relevant regulatory authority is the Office for the Protection of Economic Competition. The competence of the Office is specified in Act No. 273/1996 Coll., on the competence of the Office for the Protection of Economic Competition.</i></p>			
6.4.1. Antitrust	Articles 3 -7 Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition	Industry in general	<p>Article 3 (1)</p> <p>All agreements between undertakings, decisions by associations of undertakings and concerted practices (hereinafter referred to as “agreements”) which result or may result in the distortion of competition shall be prohibited and null and void, unless this Act or a special act provides otherwise, or unless the Office for the Protection of Competition (hereinafter referred to as “the Office”) grants an exemption from this prohibition by its implementing regulation.</p>

			<p>Article 6 (1) The prohibition of agreements pursuant to Article 3(1) shall not apply to: a) a horizontal agreement where the combined share in the relevant market of the parties to the agreement does not exceed 10%, b) a vertical agreement where the combined share in the relevant market of the parties to the agreement does not exceed 15%.</p>
	Act No. 143/2001 coll. on the Protection of Economic Competition		<p>Definition of the dominant position and the abuse of dominance.</p> <p>The basic limit for a non-dominant position on the relevant market was set to 40 percent. (Article 10(3) company or companies in joint dominance shall be deemed not to be in dominant position, if its/their share in the relevant market achieved during the examined period does not exceed 40%). However, this limit serves only as an orientation point, because the evaluating of the dominant position proceeds according many different criteria. The dominant position is defined in Article 10(1) following way: „(1) One or more companies jointly (joint dominance) are deemed to have a dominant position on relevant market, if their market power enables them to behave to significant extent independently of other companies or consumers.” Among the criteria for deciding on dominant position are for instance „ascertained volume of supplies or purchases on the relevant market for the goods in question (market share)“ „the economic and financial power of the company“, „vertical integration level of the company“, or „market structure and size of the market shares of their immediate competitors.“</p>
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)	Not defined		
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)	Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition	Industry in general	<p>For example: <i>Mediaprint & Kapa Pressegrasso:</i> The Decision Ref. No. S 238/02-OK-2222/03-ORP dated 24 April 2003. The Antimonopoly Office issued a preliminary measure against publishing houses (the companies RINGIER R, MAFRA, Borgis, Československý sport and ASTROSAT). [...]</p>

			[...] Reasoning: during September and October 2002, the above mentioned companies terminated distribution contracts concluded with the company Mediaprint & Kappa Pressegrasso. More cases described in: Institute of European Media Law (EMR) (2005) <i>Media Market Definitions: A Comparative Legal Analysis, Final Report.</i>
<i>Note: In Mediaprint & Kapa Pressegrasso case the Antimonopoly Office provided a complex analysis of the relevant markets. For instance, the Office concluded that the national news dailies and regional news dailies are mutually substitutable. The regional titles also include news which is not limited only to a particular region, while most Czech national dailies include a regional enclosure.⁷ At the same time, the nation-wide network of regional news dailies is controlled by the company VLTAVA-LABEPRESS, subsidiary of German Verlagsgruppe Passau. In other words, VLTAVA-LABEPRESS has a monopolistic position on the regional daily newspaper market, as there are no other competitors.</i>			
6.4.2. Merger control	Art. 10, 12-19 Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition	Industry in general	Articles 12 – 19: concentrations of undertakings Article 10 (3): “(...) an undertaking or undertakings in joint dominance shall be deemed not to be in dominant position, if its/their share in the relevant market achieved during the examined period does not exceed 40%. “
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?)	Act No. 143/2001 Coll. of 4 April 2001 on the Protection of Economic Competition	Industry in general	For example: Assessment of the merger in the <i>Kabel Plus</i> case - Decision Ref. No. S 79/99-230 dated 16 August 1999: The Office defined the relevant product market of services based on the supply of a TV signal through a cable network, thus: cable TV is not substitutable with other kinds of TV as it requires maintenance of the cable network and does not require customers to install special devices. Institute of European Media Law (EMR) (2005) <i>Media Market Definitions: A Comparative Legal Analysis, Final Report.</i>

⁷ See: Institute of European Media Law (EMR) (2005) *Media Market Definitions: A Comparative Legal Analysis, Final Report.*

6.5. Transparency obligations			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	Article 32(1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	l) indicate the mark of the television programme (logo) in television broadcasting, except for the broadcasting of advertising and teleshopping, m) identify the radio programme at least once in an hour, provided that such identification does not affect the coherence of the programme unit being broadcast.
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...)	Article 58 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The article obliges broadcasters to notify the Council about different types of consolidation on the broadcasting market.

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of programme strands for commercial / community / public service media			
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Article 33 (3) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The event of major importance for society shall be any event on the List of Events of Major Importance for Society which is set out by a Decree of the Ministry of Culture (“Ministry” hereinafter) upon consultation with the Council.
7.3. Short news reporting	Article 34 (1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The television broadcaster possesses the right to broadcast - as part of a regular news programme unit - brief topical information on any event of increased public interest though exclusive broadcasting rights in relation to such an event may be held by another television broadcaster, provided, however, that such an event is publicly accessible. The total time of broadcasting of such brief information on any such event shall not exceed 3 minutes daily.
7.4. Fixed book price			
7.5. Public service media			
7.5.1. Structural rules - organization	Article 2 (1) Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Czech Television shall provide public service by creating and distributing television programmes and prospectively also other multimedia content and supplemental services in the entire territory of the Czech Republic (...).
	Article 2(1) Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	Czech Radio shall provide public service by creating and distributing radio programmes and prospectively also other multimedia content and supplemental services in the entire territory of the Czech Republic (...).
<i>7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>			
<i>7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)</i>	Article 9 (4) Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	The Director General shall be appointed by the Council (The Council of Czech Television – added) from among eligible candidates who fulfil the conditions specified in Article 4(3) (...).

	Article 9 (4) Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	The Director General shall be appointed by the Council (The Council of Czech Radio – added) from among eligible candidates who fulfil the conditions specified in Article 4(3). The Director General is so appointed for a term of 6 years on the basis of the results of a tender (...).
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>	Article 4(2) Act No. 483/1991 coll. on Czech Television	TV	Nomination proposals for membership in the Czech Television Council (15 members) shall be submitted to the Chamber of Deputies by organisations and associations representing cultural, regional, trade union, employer, religious, educational, scientific, environmental and nationality interests. The proposed nominations shall be submitted in the manner defined by the resolution of the Chamber (House) of Deputies within 15 days after the public announcement of the invitation by the Chairperson of the Chamber (House) of Deputies to submit the proposals.
	Article 4(2) Act No. 484/1991 coll. on Czech Radio		Nomination proposals for membership in the Czech Radio Council (9 members) shall be submitted to the Chamber of Deputies by organisations and associations representing cultural, regional, trade union, employer, religious, educational, scientific, environmental and nationality interests. The proposed nominations shall be submitted in the manner defined by the resolution of the Chamber (House) of Deputies within 15 days after the public announcement of the invitation by the Chairperson of the Chamber (House) of Deputies to submit proposals.
7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i>	Article 13 (2) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall not discriminate anyone in either its operation or its programme schedule on the grounds of sex, age, race, sexual orientation, nationality, ethnicity, religion or membership in any social group.
	Article 13 (5) The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall pay special attention to the equality of opportunities for men and women, both in the operation of Czech Television and in the composition of its schedule.
7.5.2. Structural rules - funding			

7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Article 10 Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	The sources of financing Czech Television include, without being limited to: a) television fees, based on a specific legal regulation, b) income from Czech Television's own business activities.
	Article 10 Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	The sources of financing Czech Radio include, without being limited to: a) radio fees, based on a specific legal regulation, b) income from Czech Radio's own business activities.
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
7.5.3. Definition of public service remit	Preamble The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	The Czech Television Act provides for the adoption of a Czech Television Code that should lay down principles of public service provision in the area of television broadcasting.
7.5.3.1. Obligation to provide a varied and pluralistic offer	Articles 5, 6, 7, 8, 10, 13 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	
	Article 2.2 Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	The main tasks of public service in the television broadcasting area include, without being limited to: a) provision of objective, verified and generally balanced and comprehensive information as may be needed for opinions to be freely formed (...).
	Article 2.2 Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	The main tasks of public service in the radio broadcasting area include, without being limited to: a) providing objective, verified and generally balanced and comprehensive information as may be needed for opinions to be freely formed (...).
7.5.3.2. Obligation to engage in new media activities	Article 3.1 Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	Czech Radio shall provide public service in the radio broadcasting area in the following major ways: (...) h) develop activities in the area of new transmission technologies and services.
	Article 3.1, I Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	Czech Television shall provide public service in the television broadcasting area in the following major ways: (...) develop activities in the area of new transmission technologies and services.

7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Article 1.17 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall endeavour to ensure that, within individual genres making up the schedule, significant proportion of broadcasting time 10 would be devoted to in-house programmes or programmes produced by other domestic producers.
	Article 2.1 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	Czech Television shall approach young viewers primarily with the aim to help them discover and internalise the values of decency, education, hard work and respect for the environment. The range and character of programmes targeted at children will thus be influenced by the aforementioned aim (...).
	Article 2.4 The Czech Television Code (Kodex České Televize) approved in 2003	Public service television	In its programming for children and teenagers, Czech Television shall present examples of integrated co-existence of healthy and physically handicapped children (...).
7.5.5. Universal coverage obligations	Article 3 Act No. 484/1991 coll. of 7 November 1991 on Czech Radio	Public service radio	
	Article 3 Act No. 483/1991 coll. of 7 November 1991 on Czech Television	Public service television	

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)	Article 72 (1) Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	The Office is entitled through its decision to impose the obligation to distribute designated radio or television programme and provide services associated thereto on an undertaking through whose public communications network the broadcasting distribution service is provided (...).
	Article 54(1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	Cable operators	The licensed broadcaster in the cable system and the retransmission broadcaster in the cable system shall - if so requested by the municipality or voluntary association of municipalities - reserve one channel for an unpaid local information system serving exclusively for the purposes of the local community (...).
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	Volume 7 – Section 51-53 Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	Definition of Relevant Markets and Definition of an Undertaking with Significant Market Power.
8.3.1. Implementation of market analysis procedure in ECNS Directives	Section 51 Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	Analysis of Relevant Markets
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	Section 83 Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	Conditions of Access to Digital Television and Radio Broadcasting Services
8.4.2. EPG (or other search tools)			
8.4.3. API			
8.4.4. Other	Section 43 Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	Special Measures for Disabled Persons

8.5. Interoperability requirements	Volume 4 – Sections 78-79 Act No 127/2005 coll. of 22 February 2005 on Electronic Communications and on Amendment to Certain Related Acts (Electronic Communications Act)	Electronic communication	Interconnection of Electronic Communications Networks and Associated Facilities and Access Thereto
8.6. Specific rules for distribution systems in print media			
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...)			
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			Council for Radio and Television Broadcasting (http://www.rtv.cz/en/)
	Article 4 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	
9.1.1. Structure/ organisation	Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council has 13 members appointed by the Prime Minister based on proposal of the House of Deputies
9.1.1.1. Guarantees for independence	Article 4(2) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council shall be an administrative authority which shall execute government administration in the area of radio and television broadcasting and retransmission and shall supervise the maintaining and further development of plurality in the programme portfolio offered and the information in the area of radio and television broadcasting and retransmission; it shall promote the independence of the content thereof and shall fulfil other tasks laid down by this Act and by other specific legal regulations. Article 5.
<i>Note: The 2002 Regular Report monitoring progress of the Czech Republic towards accession observed that there was “a little progress in transparency and stability in the television sector” and that “the Council for Radio and TV Broadcasting should maintain its political independence.</i>			
9.1.1.2. Representation requirements	Article 7 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council consists of 13 members who are appointed and removed by the Prime Minister based on proposal made by the House of Deputies.
9.1.2. Credibility and efficiency			
9.1.2.1. Sufficient resources	Article 11 (1) Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	The Council shall manage its own budget pursuant to a specific legal regulation and its activities shall be covered by a separate chapter of national budget of the Czech Republic.

9.1.2.2. <i>Tasks and duties</i>	Article 5 Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	<ul style="list-style-type: none"> - supervision of compliance with legal regulations in the area of radio and television broadcasting, - grant, change and withdrawal of licences for the operation of radio and television Broadcasting, - maintaining records on broadcasters and retransmission broadcasters, -imposing sanctions pursuant to the Broadcasting Act, -monitoring broadcasting, - and others.
9.1.2.3. <i>Effective sanctioning powers</i>	Act No. 231/2001 coll. of 17 May 2001 on Radio and Television Broadcasting Operation and on Amendments to Other Acts (Broadcasting Act)	TV and R	Penalty provisions include: -Article 59 - corrective measures, - Article 60 - fines, - Article 62 - suspension of retransmission broadcasting, - Article 63 - withdrawal of the licence, - Article 64 - cancellation of registration.
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			



Independent Study on
“Indicators for Media Pluralism in the Member States
– towards a risk-based approach”



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

[DENMARK]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*
- Radio and Television Act (*Radio- og fjernsynsloven*)¹
- Ministerial Order on Local Radio and Television Broadcasting (*Bekendtgørelse om lokal radio- og fjernsynsvirksomhed*)²
- Press Subsidies Act (*Lov om tilskud til distribution af dagblade*)³
- Media Liability Act (*Medieansvarsloven*)⁴
- Literature Act (*Litteraturloven*)⁵
- Act on Mass Media Databases (*Lov om mssemediers databaser*)⁶

- *General legislation*
- Danish Constitution (*Grundloven*)⁷
- Administration of Justice Act (*Retsplejeloven*)⁸
- Value Added Tax Act (*Momsloven*)⁹
- Archives Act (*Arkivloven*)¹⁰
- Public Administration Act (*Forvaltningsloven*)¹¹

- **Codes of conduct**

¹ Act no. 338 of 11 April 2007 on radio and television broadcasting.

² Ministerial Order no. 1627 of 13 December 2006 as last amended by Ministerial Order 1328 of 20 November 2007.

³ Act no. 570 of 9 June 2006 on subsidies for the distribution of daily newspapers.

⁴ Promulgating Act no. 85 of 19 February 1998 as last amended by Act no. 1404 of 21 December 2005.

⁵ Act no. 477 of 12 June 1996.

⁶ Act no. 430 of 1 June 1994 as last amended by Act no. 433 of 31 May 2000.

⁷ Act no. 169 of 5 June 1953.

⁸ Promulgating Act no. 1261 of 23 October 2007 as last amended by Act no. 168 of 12 March 2008.

⁹ Act no. 966 of 14 October 2005 as last amended by Act no. 518 of 7 June 2006.

¹⁰ Act no. 1035 of 21 August 2007.

¹¹ Act no. 571 of 19 December 1985 as last amended by Act no. 518 of 24 June 2005.

- The Press Ethical Rules (*Vejledende regler for god presseskik*)¹²

- **Other**

- Public Service Contract of Danmarks Radio
- Public Service Authorization of TV2

¹² As suggested by the Media Responsibility Committee in its report (Betænkning) nr. 1205/1990, <http://www.pressenaevnet.dk/Love-og-regler/Regler-for-god-presseskik.aspx>

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Section 77 of the Danish constitution	PM+AAVM	Any person shall be entitled to publish his thoughts in printing, in writing, and in speech, provided that he may be held answerable in a court of justice. Censorship and similar measures shall be prohibited.
	Section 10 Radio & TV Act; DR Public Service Contract; Section 2.1 TV2 Public Service Authorisation	AAVM (Radio & TV Act), TV	In programming decisions freedom of expression shall be a primary concern.
	Section on Fundamental principles, Press Ethical Rules	N, M, R, TV ¹³	Journalists should not have tasks imposed on them that are contrary to their conscience or convictions.
1.2. Freedom of/right to information	Section 65 of the Danish constitution		(1) In the administration of justice all proceedings shall be public and oral to the widest possible extent.
<i>Note: Sections 29 to 29c Administration of Justice Act allow to bar access to the courtroom where individuals may unnecessarily be harmed</i>			
	Section 10 Radio & TV Act; DR Public Service Contract; Section 2.1 TV2 Public Service Authorisation	TV	In programming decisions freedom of information shall be a primary concern.
	Section on Fundamental principles, Press Ethical Rules	N, M, R, TV	Effective freedom of expression depends on the ability to collect information.
<i>Note: Limitations of the freedom to gather information is given by the</i> <ul style="list-style-type: none"> - individual integrity - the right to a private life not subject to public exposure, and - the protection against unjustified violations of private life 			
Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?	Access to Public Administration Files Act (Lov om offentlig adgang til forvaltningen), Public Administration Act (Forvaltningsloven), Party Access Act (Lov om partsoffentlighed), Archives Act (Arkivloven), Act on Processing of Personal Data (Lov om behandling af personoplysninger)		
<i>Note: Section 86 Radio and TV Act exempts cases and documents relating to DR’s and the regional TV2 operators from the Access to Public Administration Files Act and parts of the Public Administration Act; Section 15 (1) DR Charter ordains that the meeting of the Board of Directors be closed. Under Section 15 (3), the Chair of the Board can decide whether a case is covered by professional secrecy in line with Section 17 of the Public Administration Act.</i>			
Are there specific rules dealing with journalists’ access to events for news reporting?	The Journalists’ Union issues a Press Card, which is accepted by the police as a token of access to public events for reporting purposes.		
1.3. Explicit recognition of media pluralism	Section 1 (2) Press Distribution Subsidies Act	PN	Provision of economic support to the distribution of newspapers aims to promote the plurality and diversity of newspapers

¹³ Can include text, images and sound programmes periodically imparted to the public, provided that these have the form of news presentation comparable to that of the above media and the company providing the service has filed for registration with the Press Council. Such services are, for certain purposes (e.g., record keeping) treated like radio and television operators (Section 8 (2) Media Liability Act).

			and its diffusion
	Section 10 Radio & TV Act	AAVM	Quality, versatility and diversity shall be pursued in the supply of all public service programming.
1.4. Protection of journalistic sources	Section 172 Administration of Justice Act	N, M, R, TV	Editors and other editorial collaborators cannot be required to reveal their sources.
<i>Note: Unless the case in question - could lead to incarceration of four years or more and this would be of decisive import for adjudication, or - pertains to a selected number of criminal offences (cf. para. 152 et seqq. of the Criminal Code)</i>			
1.5. Right of reply	Chapter 6 Media Liability Act	N, M, R, TV	Requests for reply in the mass media to information of a factual nature must be heeded, except where the correctness of the information is unquestionable.
<i>Note: This provision has never been applied in practice.</i>			
	Section 33 (4) Executive Order on Advertising and Sponsoring in Radio and TV	R, TV	Radio and Television Board decides on right to reply regarding advertising
1.6. Ratification of international instruments: - CoE's Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	- yes - yes		Ratification: 22.9.1997 Ratification: 18.12.2006

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Section on Fundamental principles, Press Ethical Rules; Section B.4, Press Ethical Rules	N, M, R, TV14	Press ethics are breached, <i>inter alia</i> , in case of the withholding of rightful publication of information of essential importance to the public, and of compliance with outsiders' demands for influence over the content where this casts into doubt the freedom and independence of the mass media. Clear distinction between advertising and editorial content must be maintained.
<i>Note: Copyright protection is given a wide interpretation in favor of journalists. Although companies have made attempts to reform copyright law to afford them all rights attached to journalistic creation (so-called arbejds giverregel), this initiative has not been successful.</i>			
	Sections 72, 81 Radio & TV Act; Section 3 Executive Order on Advertising and Sponsoring in Radio and TV	R, TV	Advertisement and editorial content must be clearly separable in terms of content and presentation.
	Section 81 Radio & TV Act; Section 28 Executive Order on Advertising and Sponsoring in Radio and TV	R, TV	Sponsoring must not affect editorial responsibility.
2.2. News / information programmes	Section 84 Radio & TV Act; Section 31 Executive Order on Advertising and Sponsoring in Radio and TV	R, TV	Sponsoring of news and current events programmes is forbidden in all TV and in public service radio broadcasts. Cf. Section 32 (3) of the EO, current events programmes comprises only programmes that concern news of political or social importance and comments or political opinions on these.
2.3. Other media content	Section 83 (2) Radio and TV Act	R	Public service radio programming must not be sponsored by employer organizations, trade unions, political parties or religious groupings.
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")	Section 14 DR Public Service Contract; Section 2.7 TV2 Public Service Authorisation	AAVM (DR) TV (TV2)	DR and TV2 are to ensure an organized dialogue with the population concerning its programming decisions. For DR this pertains to national and regional programmes, and at least two meetings per year must be held.
	Section 17 (3) Radio and TV Act	AAVM (DR)	Listeners and viewers ombudsman is appointed by the Board (The same for TV 2 according to new PS-rules)

¹⁴ Can include text, images and sound programmes periodically imparted to the public, provided that these have the form of news presentation comparable to that of the above media and the company providing the service has filed for registration with the Press Council. Such services are, for certain purposes (e.g., record keeping) treated like radio and television operators (Section 8 (2) Media Liability Act).

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...)			
3.1.1. Special representation requirements in media company structures			
3.1.2. Special representation requirements in media advisory bodies	Section 2 of the Literature Act	B	The Danish Literature Council comprises five expert members, two of which are nominated by the Danish Association of Authors and the Danish Association of Fictional Authors jointly, while the remaining three are nominated by the Minister of Culture.
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			
3.2.1. Access to airtime for cultural groupings			
3.2.2. Content obligations			
3.2.2.1. <i>Promotion of European works</i>	Section 48, Radio and Television Broadcasting Act	TV	Minister for Culture may lay down rules concerning programme services, including rules for the proportion of programmes of European origin to be included, and rules to ensure that consideration is shown for children and young people.
	Section 2.4 TV2 Public Service Authorisation; Section 3 DR Public Service Contract	TV	More than half of transmission time not consisting of news, sports, competitions or teletext shall be reserved to European programmes.
3.2.2.2. <i>Promotion of European independent works</i>			
	Section 2.2 TV2 Public Service Authorisation	TV	Programmes that have to be commissioned shall be bought from external producers.
	Section 2.6 TV2 Public Service Authorisation	TV	TV2 shall make special contribution to Danish movie production, i.e. fiction and documentary programmes produced by Danish independent producers (for 2003-2006 minimum annual amount of 60 mio DKK).
	Section 3 DR Public Service Contract	TV	10% of broadcasting time not consisting of news, sports events, competitions and teletext, or 10% of programme budget shall be devoted to works by independent producers.
	Section 9 DR Public Service Contract	AAVM	Obligation to outsource production of audiovisual works.
3.2.2.3. <i>Promotion of national/regional works</i>	Section 10 Radio & TV Act; DR	AAVM (DR)	Public service media are to put special

	Public Service Contract; Section 2.1 TV2 Public Service Authorisation	TV (TV2)	emphasis on Danish culture and language.
	Section 2 DR Public Service Contract	R	DR shall carry regional radio programmes and increase its coverage of Danish culture on radio.
	Section 2.5 TV2 Public Service Authorisation	TV	TV2 to grant programme windows to regional broadcasters.
	Section 2.6 TV2 Public Service Authorisation, DRs public service contract, Appendix 3	TV	DR and TV2 shall make special contribution to Danish movie production, i.e. fiction and documentary programmes produced by Danish independent producers (for 2003-2006 minimum annual amount of TV 2: 60 mio DKK, DR 77 mio.).
3.2.2.4. Language requirements	Section 2.1 TV2 Public Service Authorisation	TV	TV2 to put special emphasis on Danish culture and language.
	Section 2.4 TV2 Public Service Authorisation	TV	TV2 programming shall have an emphasis on Danish or Nordic language programming.
	Section 2 DR Public Service Contract	AVMR	DR shall provide newscasts in the languages most commonly used by refugees and immigrants (EN, Arabic, Somali, Urdu, Turkish, South slave.)
3.2.3. Representation of minorities in the media (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)	Section 43 Radio & TV Act;	R, TV (local)	Board of Radio and TV gives grants to non-commercial radio and television (50 mio DKr pr. Year).
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			
	Sections 4 DR Public Service Contract	Internet	Adoption of open standards
	Section 5 DR Public Service Contract	AAVM	DR to take advantage of technological opportunities to enhance accessibility of its programmes to the disabled (includes guaranteed no. of newscasts with full subtitling; introduction of audio description for AV content, full subtitling of all content by 2012) Events of major importance to society shall as far as possible be subtitled or translated into sign language.

	Section 2.3 TV2 Public Service Authorisation	TV	<p>TV2 to take advantage of technological opportunities to enhance accessibility of its programmes to the disabled.</p> <p>Events of major importance to society shall as far as possible be subtitled or translated into sign language.</p>
	Section 5 DR Public Service Contract ; Appendix 1 to TV2 Public Service Contract	TV	<p>On digital multiplex, DR and TV2 shall make available at least two of its regular newscasts between 18 and 24 hrs in sign language</p>

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			
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Section 16 (3)+(4) Radio & TV Act	AAVM (DR)	Members of or candidates for Parliament, regional councils and the European Parliament cannot be members of DR's board.
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	Case Law	R, TV	According to the case law of the Danish Supreme Court (cases no. II 16/1958 and II 207/1987), DR must treat all political parties in general elections or standpoints in a referendum equally.
4.2.2. Government announcements	Section 88 Radio & TV Act	R, TV	Minister of Culture can lay down rules according to which radio and television enterprises are obliged to broadcast notifications to the general public regarding emergency measures in a crisis situation.
	Section 13 DR Public Service Contract	R, TV	Obligation to broadcast emergency announcements.
4.2.3. Impartiality obligations			
	Section 2.1 TV2 Public Service Authorisation	TV	The provision of information shall be truthful and balanced.
	Sections A.4 and A.5 on accuracy in reporting, Press Ethical Rules	N, M, R, TV	General obligation to feature two sides of an argument together where possible, and to clearly separate fact from opinion.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Section 76 (4) Radio and TV Act	TV	No advertising for political messages is allowed during a period of three months preceding general elections and referendums.
4.2.5. Advertising for political and religious organizations	Section 76 (3) Radio and TV Act	TV	Prohibition against advertising for employer organizations, trade unions, religious and political groupings, political parties and members of or candidates for political bodies.
	Section 83 (2) Radio and TV Act	R	Public service radio programming must not be sponsored by employer organizations, trade unions, political parties or religious groupings.

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media	Section 8, Ministerial Order on local radio and tv	TV, R (local)	Radio & television board shall seek to ensure that the overall local programme services within the individual local area are of a versatile nature.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)	Section 1 (2) i.c.w. Ch. 6, Radio and TV Act		Establishes the regional (independent) outlets of TV2.
	Section 1.7 TV2 Public Service Authorisation	TV	Organization must be headquartered in Odense.
5.3. Content obligations: requirements to cover local events, etc.			
	Section 57 Radio and TV Act		
	Section 1 DR Public Service Contract; Section 2.1 TV2 Public Service Authorisation	AAVM (DR) TV (TV2)	Overall composition of programming shall effectively convey the pluralism in culture, philosophy of life and living conditions that characterizes different regions of the country.
<i>Note:</i> Is hardly tested.			
	Section 2 DR Public Service Contract	R	DR shall carry regional radio programmes and increase its coverage of Danish culture on radio.
	Section 2.5 TV2 Public Service Authorisation	TV	TV2 to grant programme windows to regional broadcasters.
	Sections 31 (2) and (3) Radio and TV Act	R, TV	Regional television stations shall produce news and current affairs programmes according to public service principles, and take into consideration regional concerns in their programming decisions.
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>	Article 4, Ministerial order nr. 168 af 17. marts 2003 on Radio- and tv boards Tender of the fifth and sixth terrestrial FM channel	R (FM 4 and FM 5)	Same buyer can not win both channels.
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>			
6.1.2.2. <i>Crossmedia</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>			
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			
6.4. General competition rules			
6.4.1. Antitrust			
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>			
6.4.2. Merger control			
6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i>			
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>			
6.5. Transparency obligations			



6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)			
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...)			

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	Article 2, Ministerial order nr. 168 af 17. marts 2003 on Radio- and tv boards Tender of the fifth and sixth terrestrial FM	FM 4 (R)	Minimum 1,000 hours of news per year, including 1 hour daily news magazine.
<i>Note: The concept of 'news magazine' is difficult to pin down vis-à-vis commercial operators who engage in a loose reading of the concept.</i>			
	Local radio and tv-rules	R + TV (Local)	Promises in beauty contests, e.g. about local news, will be transformed into licence conditions.
7.1bis. Special framework for community media (<i>medias associatifs</i>): 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...)	DK does not currently have an events list under Ch. II, Art. 3a TVWF		
	Section 57 Radio and Television Act		Possibility to promote diffusion of single events of importance to the local community (no list).
7.3. Short news reporting	Section 90 (3) Radio and Television Act	TV	Minister of Culture can establish rules to limit the exploitation of exclusive rights to guarantee public access to information.
7.4. Fixed book price	Section 11 (1) Agreement between the Danish Publishers' Association and the Competition Authority i.c.w. political agreement on a more liberal book pricing regime	B	<p>Publisher has the right to determine upon publication whether a book is to have a fixed price, a suggested retail price or have no pricing suggestion attached to it.</p> <p>According to the political agreement,</p> <ul style="list-style-type: none"> - a publisher may apply fixed prices only to 10% of new publications - fixed book prices are banned for reissues of works previously published on the Danish market - fixed price period is reduced to the year of publication plus the first five months of the following year

			- release at a reduced price via a book club automatically eclipses the general fixture of the retail price
<i>Note: unprofitable from the start. The Ministry of Culture has sought to counter this with the introduction of a campaign for the love of reading (Laeselystkampagnen).</i>			
7.5. Public service media			
7.5.1. Structural rules - ORGANIZATION			
7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Section 15 (1) Radio & TV Act; DR Public Service Contract	AAVM	DR is a public independent institution. Limited supervisory function of the Radio & TV board
7.5.1.2. <i>Election of management, composition of board members...(government? Parliament? Other?)</i>	Section 16 Radio & TV Act;	AAVM	Board of directors comprises 11 members - 3 elected by Minister of Culture (incl. chair) - 6 by Parliament - 2 by DR employees
7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i>	Section 16 (2) Radio & TV Act	AAVM	DR board members represent expertise in media, cultural, management / administrative and business matters
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>	Sections 11 (6), 15 (2), 35 Radio & TV Act	AAVM (DR) TV (regional TV2 operators)	DR's and the regional TV2 operators' public service activities are financed via licence fees plus revenue from programme sales and other services, subsidies, profit. General prohibition against advertising. User fees only for musical events with DR's ensembles and large scale events.
	Section 19 (1) Radio & TV Act	AAVM	DR's Board of Directors determines the annual budget.
	Section 11 (7) Radio & TV Act i.c.w. TV2 Public Service Authorisation	TV	Advertising-based, possibly to be supplemented by occasional public support; subscription prohibited.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
<i>Note: The flagship of Danish PSB, DR, has been forced to cut staff and programming in response to an escalation of the costs associated with the building of a new headquarter.</i>			
7.5.3. Definition of public service remit	Chapter 3, Radio and TV Act i.c.w. Public service contracts between the Minister of Culture and (i) DR; (ii) TV2; (iii) regional TV2 operators	(i) AAVM (ii) TV (incl. videotext) (iii)	
	Chapter 2 TV2 Public Service Authorisation	TV	See details below
	Section 11 (4) Radio & TV Act	R	Fifth national FM radio channel shall broadcast classical music, supplemented by an offering of rhythmic music, jazz and

			dance, cultural programmes, social and debating programmes, etc.
	Section 11 (5) Radio & TV Act	R	Fifth national FM radio channel shall broadcast news from the entire country; the service must not be regionalized.
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	DR Public Service Contract	AAVM	Obligation to provide a broad range of programmes including news, informational, educational, artistic and entertainment content.
	Section 2.1 TV2 Public Service Authorisation	TV	Obligation to provide a broad range of programmes including news, educational, artistic and entertainment content, aiming to provide for ‘quality, versatility and diversity’.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Introduction and Sections 1, 2, 6 DR Public Service Contract	AAVM	Distribution of DR’s programmes to reflect the media use of Danes and thus be available via new platforms as well (public service content to be available on ‘all relevant technological platforms’), incl. launch of a new Internet news channel and a combined children’s/history channel on DTT.
<p><i>Note: New initiatives that have not been determined by the Public Service Contract are to be submitted to a value test and the results to be submitted to the Radio and TV Board prior to being implemented. Although the ultimate decision on whether or not to launch new services remains subject to DR’s discretion, a lack of concrete cases on which the procedure has been brought to bear makes it difficult to assess its operational ramifications, and notably how the corporation would be held responsible were its decision to contradict the assessment of the Radio and TV Board. Without clarity regarding accountability, additional procedural safeguards may reduce incentives for service innovation, in particular when the cost of providing ex ante assessments is deemed substantial under conditions of general fiscal austerity.</i></p>			
	Section 4 DR Public Service Contract	Internet	Adoption of open standards.
	Section 10 DR Public Service Contract; Appendix 1 to TV2 Public Service Contract	TV	<p>With the introduction of DTT, TV2 shall</p> <ul style="list-style-type: none"> - progressively produce and transmit more programmes in widescreen format - co-produce, with DR and the regional TV2 operators, a common EPG - develop and transmit digital teletext either alone or jointly with DR and regional TV2 operators - commit resources to development of new digital services - transmit new services within the allotted capacity - make these new service available at no extra cost to viewers - ensure that regional TV2 operators have opportunity to broadcast new services via digital multiplex
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)			

	Section 2 DR Public Service Contract	AAVM	DR shall <ul style="list-style-type: none"> - high quality programming for children - produce educational content - increase the amount of Danish drama - emphasize its role as champion of Danish music (R+TV) - increase coverage of minority sports (R+TV)
	Section 2.4 TV2 Public Service Authorisation	TV	Obligation to provide <ul style="list-style-type: none"> - high quality programming for children - minimum amount of news and Danish drama
7.5.5. Universal coverage obligations	Section 1.8 TV2 Public Service Authorisation	TV	Transmission must reach 99.9% of households
	Section 6 DR Public Service Contract	AVMR	Universal reception must be ensured within areas covered by broadcasts

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)	Section 6 Radio and TV Act	R, TV	Owners of community aerial systems shall guarantee distribution of sound and image programmes produced by DR, TV2 and regional TV2 operators.
<i>Note: A new DR channel for children on DTT has not been granted must carry status, and there is currently a debate about the general future need for must carry rules.</i>			
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)			
	Section 1.3 TV2 Public Service authorization	TV	TV2 obliged to offer its programme to operator of a prospective digital distribution platform if this platform covers.
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			
8.4.2. EPG (or other search tools)			
8.4.3. API			
8.4.4. Other			
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media	Section 1 (2) Press Distribution Subsidies Act	PN	Provision of economic support to the distribution of newspapers aims to promote the plurality and diversity of newspapers and its diffusion.
	Section 34 VAT Act	PN	Sales of printed newspapers appearing at least once monthly are exempt from VAT taxation.
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...)	Section 6 DR Public Service Contract; Section 1.3 TV2 Public Service authorization		
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			Radio and Television Board, c/o Media Sekretariat (http://www.mediesekretariatet.dk/mediasekretariat.htm)
	Chapter 2, Section 3 (1) Radio and Television Broadcasting Act	R, TV	Diffusion of sound and television programmes over DTT broadcast networks requires a licence from the Radio and Television Board.
9.1.1. Structure/ organisation	Chapter 7, Section 39 et seqq. Radio and Television Broadcasting Act	R, TV	The Radio and Television Board is set up by the Minister for Culture and forms part of that Ministry. In its day-to-day operations, it is served by the Agency for Library and Media (http://www.bibliotekogmedier.dk/).
9.1.1.1. <i>Guarantees for independence</i>	Section 40	R, TV	Decision of the Board can not be changed by any administrative bodies, only by the courts.
9.1.1.2. <i>Representation requirements</i>	Chapter 7, Section 39 (1) Radio and Television Broadcasting Act	R, TV	Eight Board members represent expertise in legal, financial/ administrative, business and media/ cultural affairs.
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	n/a		
9.1.2.2. <i>Tasks and duties</i>	Chapter 7, Sections 41-44, 78 Radio and Television Broadcasting Act; Section 33 Executive Order on Advertising and Sponsoring in Radio and TV	R, TV	<ul style="list-style-type: none"> - advisory function to the Ministry - licensing local and national stations - registration of radio and TV operators and - the supervision of prg content and - handling of complaints about advertising
9.1.2.3. <i>Effective sanctioning powers</i>	Chapter 7, Sections 42 (4), 50 (1) and 51 Radio and Television Broadcasting Act	R, TV	<p>The Board can</p> <ul style="list-style-type: none"> - issue warnings - demand the diffusion of a rectifying announcement (ltd. to advertising contents) - suspend or revoke operators' licences <p>Additionally, the Board can report serious violations of the provisions on advertising and sponsoring as well as licensees' failure to comply with any of the Board's decisions to the police who can subsequently impose a fine.</p>

9.1.3. Cooperation with other regulators			
9.2. Press Council	Chapter 7, Section 41 et seqq. Media Liability Act	N, M, R, TV ¹⁵	Section 34 requires content and conduct of the mass media to be in conformity with sound press ethics. The Press Council is to decide in cases on (i) whether publications are contrary to sound press ethics and (ii) whether under a mass medium shall be obliged to publish a reply, including the content, form and location of the reply.
<i>Note: The decision to treat providers of text, images and sound programmes similar to radio and tv operators may dissuade voluntary registrations → fosters 'uncontrolled' pluralism.</i>			
9.2.1. Broad representation of sector	Chapter 7, Section 41 et seqq. Media Liability Act	N, M, R, TV	Consists of eight members. Chair and deputy chair must be lawyers. Two members are appointed by the Danish Journalists' Union, two represent editorial management in the mass media, and two are appointed as public representatives following consent by the Danish Council for Adult Education.
9.2.2. Sufficient resources	n/a		
9.2.3. Credibility	Chapter 7, Section 41 (1) Media Liability Act	N, M, R, TV	Appointment procedure requires professional qualification or recommendation. In practice, the chair is being held by a Supreme Court judge.
9.3. Competition Authority			
9.3.1. Structure/ organization: Does the NCA face any functional limitations that might negatively affect media pluralism?		PM + AAVM	All media issues are dealt with by the NCA's Centre for Media, Health and Foodstuffs
9.3.2. Cooperation with other regulators			

¹⁵ Can include text, images and sound programmes periodically imparted to the public, provided that these have the form of news presentation comparable to that of the above media and the company providing the service has filed for registration with the Press Council. Such services are, for certain purposes (e.g., record keeping) treated like radio and television operators (Section 8 (2) Media Liability Act).

Short summary of major implementation problems

While there are several measures in place that are designed to promote diversity in the media, these have a relatively weak track record of enforcement. This reflects a tradition of regulatory enforcement which has been complaints-led, and in which the regulatory authority accordingly has neither been endowed with nor demanded the resources necessary to uphold a continuous monitoring of media content. Even public service broadcasters who by virtue of the licence conditions laid down in their public service contracts face the perhaps steepest demands for the promotion of diverse programme offerings are difficult to be held accountable on the terms of the law on an ongoing basis; here it seems rather that political control in the context of assessing compliance with the contractual terms of engagement will have to ensure accountability to those standards, although, of course, this may be difficult without the necessary data input that is independent of self-reporting by the institutions whose performance is to be assessed. The introduction of a public value test for initiatives by Denmark's Radio also points towards an increased focus on controlling the public service character of DR's services. Outside the field of audiovisual media, one of the most serious threats to diversity continues to be the high VAT rate applied to books which disincentives risk-taking publishing choices and leads to diminished accessibility of recent findings in e.g. the sciences with potentially serious implications for public informedness.

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

[Estonia]

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National regulations relevant in the area of media pluralism

- **Legislation**

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

- *General legislation*

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

- **Codes of conduct**

- The code of ethics for the Estonian press

- **Other**

- Estonian Broadcasting Council

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 45 (1) Estonian Constitution	PM + AAVM	<p>Everyone shall have the right to freely circulate ideas, opinions, persuasions, and other information by word, print, picture and other means. This right may be restricted by law for the purpose of protecting public order or morals, or the rights and liberties, health, honour and reputation of others. The law may likewise restrict this right for state and local government officials, for the purpose of protecting state or business secrets or confidential communication, which due to their service the officials have access to, as well as of protecting the family life and privacy of other persons, and in the interests of justice. (2) There shall be no censorship.</p>
<i>Implementation problem: No restrictions to free expression to the extent that in fact, the media often violate §17 of the Constitution that says that nobody's dignity should not be abused.</i>			
1.2. Freedom of/right to information	Art. 44 Estonian Constitution	PM + AAVM	<p>(1) Everyone shall have the right to freely receive information circulated for general use. (2) At the request of Estonian citizens, and to the extent and in accordance with procedures determined by law, all state and local government authorities and their officials shall be obligated to provide information on their work, with the exception of information which is forbidden by law to be divulged, and information which is intended for internal use only. (3) Estonian citizens shall have the right to become acquainted with information about themselves held by state and local government authorities and in state and local government archives, in accordance with procedures determined by law. This right may be restricted by law in order to protect the rights and liberties of other persons, and the secrecy of children's ancestry, as well as to prevent a crime, or in the interests of apprehending a criminal or to clarify the truth for a court case. (4) Unless otherwise determined by law, the rights specified in Paragraphs (2) and (3) shall exist equally for Estonian citizens and citizens of other states and stateless persons who are present in Estonia.</p>
<i>Note: The Public Information Act supports these rights rather efficiently.</i>			

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

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

TABLE 2. Editorial independence

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

TABLE 3. Cultural pluralism

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

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

TABLE 4. Political pluralism

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

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

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

TABLE 6. Pluralism of ownership/control

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

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

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

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

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

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

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

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

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

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

			<p>[...]</p> <p>7) enhance the family-based model of society; 8) assist in the audio-visual recording of Estonian history and culture; 9) guarantee the availability of the information needed by each person for his or her self-realization.</p>
7.5.3.2. <i>Obligation to engage in new media activities</i>	No specific regulations		
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	§6 National Broadcasting Act		<p>Programme services of National Broadcasting</p> <p>(1) The programme services and media services shall meet the objectives of National Broadcasting and serve the public interest.</p> <p>(2) The programme services shall be diverse and deal with the topics of social life in a balanced manner.</p> <p>(3) The programme services and media services shall promote communication between the members of the society and social groups, the social cohesion of the society, and shall reflect different opinions and beliefs.</p> <p>(4) The news programmes of National Broadcasting shall be diverse, balanced, independent and appropriate. Before transmitting the news, the information on which they are based shall be verified with reasonable diligence. Fact and commentary shall be clearly differentiated in a news broadcast.</p> <p>(5) The programmes of National Broadcasting shall be politically balanced. In particular, the political balance requirement must be adhered to during the period of active election propaganda in the elections of the President of the Republic, the Riigikogu¹, the European Parliament and local government councils. For such purpose, National Broadcasting shall give equal opportunities to all the candidates participating in the elections of the President of the Republic, to all the political parties and independent candidates participating in the elections of the Riigikogu and the European Parliament and, taking account of the large number of election coalitions and independent candidates in the elections of local governments, shall create opportunities for as many powers as possible who participate in the elections and have an integral programme to adequately present their viewpoints. Similarly to the elections of local governments, equal opportunities shall be created in the event of referendums. The rules for reflecting elections in the programme services of National Broadcasting shall be approved by the National Broadcasting Council and such rules shall be disclosed not later than within a week after the date of announcement of the elections.</p>
7.5.5. Universal coverage obligations	No regulation		

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

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

8.4.1. Conditional access	§ 2, 50 and 67 of the Electronic Communication Act		Conditional access” means a set of technical facilities that enables the use of radio or television services only against remuneration. A communications undertaking that provides conditional access services to providers of digital television and radio services, and if the access by broadcasters to potential viewers and listeners depends on the access services, is required to: 1) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally transmitted services to be received by viewers or listeners authorised by means of decoders; 2) keep separate accounts of its activities as a provider of conditional access services. A communications undertaking that provides conditional access systems is required to use activity-based cost (ABC) accounting.
8.4.2. EPG (or other search tools)	§ 2, 50 and 67 of the Electronic Communication Act		<i>Supra</i> ENCB may impose obligations for access to network or systems on an operator with SMP.
8.4.3. API	§ 2, 50 and 67 of the Electronic Communication Act		<i>Supra</i>
8.4.4. Other			
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media	No rules		
8.7. General competition law	Competition Act (RT1 I 2001, 56, 332)		Contains nothing specific about the media.
8.8. Policies fostering distribution systems (libraries, broadband networks...)			
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)	“Tiger Leap” project 1997-2000, 2001-2005, 2006-2011		The Tiger Leap programme is a national specific programme launched by the Estonian Government with an aim to increase Estonian school education quality utilizing modern information and communication technology (computers and Internet access for each school). The programme is funded from the national budget via Ministry of Education.

TABLE 9. Supervision

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

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

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

¹ www.asn.org.ee

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

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

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

[FINLAND]

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National regulations relevant in the area of media pluralism

- **Legislation**

- *Sector specific legislation*
 - Act on the Exercise of Freedom of Expression in the Mass Media¹
 - Act on Television and Radio Operations²
 - Government Decree on Television and Radio Operations³
 - Act on the State Television and Radio Fund⁴
 - Act on Yleisradio Ab⁵
 - Communications Market Act⁶
 - Act on Communications Administration⁷
 - Decree on Communications Administration⁸
 - Act on the Promotion of Film Art⁹
 - Press Subsidy Ordinance¹⁰
- *General legislation*
 - The Finnish Constitution¹¹
 - Act on the Openness of Government Activities¹²

¹ Act 460/2003.

² Act 744/1998 as last amended by Act 1068/2007.

³ Act 2003/698.

⁴ Act 745/1998 as last amended by Act 1069/2007.

⁵ Act 1380/1993 as last amended by Act 635/2005.

⁶ Act 393/2003 as last amended by 119/2008.

⁷ Act 625/2001 as last amended by Act 520/2004.

⁸ Decree 697/2001 as last amended by Decree 709/2002.

⁹ Act 28/2000 as last amended by Act 68/2002.

¹⁰ Decree 1481/2001 as last amended by Decree 224/2005.

¹¹ Act 731/1999 as last amended by Act 802/2007.

¹² Act 621/1999 as last amended by Act 713/2007.

- Act on Political Parties¹³
- Act on the Competition Council¹⁴
- Act on the Finnish Competition Authority¹⁵
- Act on the Library for the Visually Impaired¹⁶
- Act on the Monitoring of Foreigners' Corporate Acquisitions in Finland¹⁷
- Act on the Public Disclosure and Confidentiality of Tax Information¹⁸
- Administrative Procedure Act¹⁹
- Value Added Tax Act²⁰

- **Codes of conduct**
 - Guidelines for Journalists, 1.1.2005

- **Other**
 - The Finnish Film Foundation Support Guidelines, 1.1.2008
 - Charter of the Council for Mass Media (the 'Basic Agreement'), 19.2.1998
 - YLE Policy on services for minorities and special groups (2005)

¹³ Act 10/1969 as last amended by Act 653/1992.

¹⁴ Act 481/1992 as last amended by Act 962/2000.

¹⁵ Act 711/1988 as last amended by Act 623/1999.

¹⁶ Act 638/1996 as last amended by Act 1053/2001.

¹⁷ Act 1612/1992 as last amended by Act 623/1999.

¹⁸ Act 1346/1999 as last amended by Act 1108/2006.

¹⁹ Act 434/2003.

²⁰ Act 1501/1993 a last amended by Act 1312/2007.

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Section 12 Finnish Constitution	P, AAVM P, AVMS (broadcasting and on-line media)	Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. Implementing is technology neutrality.
<i>Note: Provisions on restrictions relating to pictorial programmes that are necessary for the protection of children may be laid down by an Act.</i>			
1.2. Freedom of/right to information	Section 12 Finnish Constitution	P, AAVM	Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the right of access to public documents and recordings.
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	Section 1 Act on the Openness of Government Activities; Section 24 Administrative Procedure Act		All government activity shall be public subject to the exemptions laid down in this or other laws. The Act promotes access to government information by stipulating an obligation on behalf of authorities to produce and spread information (Section 20) and standards for good information processing (Section 18).
	Section 3 Act on the public disclosure and confidentiality of tax information		Tax information is public according to the provisions of this Act and everybody is entitled to participate in an act of taxation within the limitations provided for under this Act. Personally identifiable tax information shall be considered confidential subject to the exceptions provided for under Section 5-9, 21.
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>	No		
1.3. Explicit recognition of media pluralism	Section 10 Act on Television and Radio Operations	R, TV	When announcing the availability of broadcast licences, the authority responsible shall have a view to the diversity of programmes. Likewise it may attach conditions to the award that are intended to promote the diversity of programmes.
<i>Note:</i>			
1) Ministry of TC commissions annual study on programme diversity of TV channels			
2) Section 6 Act on Yleisradio Administrative Council of YLE submits every two years to Parliament a report on implementation of public broadcasting after hearing Sámi Parliament. Report is			

<i>discussed then in Parliament.</i>			
3) Section 12a Act on Yleisradio, YLE shall report annually to Ficora, including information on programme operations			
	Chapter 4 Section 16 Act on the Exercise of Freedom of Expression in the Mass Media	P, AAVM	The originator of a message provided to the public, the publisher and the broadcaster are entitled to maintain the confidentiality of the source of information in the message. The publisher and the broadcaster are also entitled to maintain the confidentiality of the identity of the originator of the message.
	Section 1 Press Subsidy Ordinance		Support under this Ordinance seeks to promote the value pluralism and diversity of domestic newspapers.
<i>Note: Since the beginning, the press subsidy system has served only one communication mode, the newspapers, but not pluralism or diversity as such in the society. For example, a local radio station does not get any similar subsidy even though it declares to promote pluralism.</i>			
1.4. Protection of journalistic sources	Chapter 3 Act on the Exercise of Freedom of Expression in the Mass Media	P, AAVM	Private individuals have a right to a reply in the same medium to messages that they consider offensive. Private individuals and legal persons enjoy the right to have erroneous information concerning them corrected unless this is unnecessary due to the minor significance of the error.
	Section 14 Guidelines for Journalists	P, AAVM	Journalists have the right to protect the identity of their sources. This right must be respected by editors.
1.5. Right of reply	Section 21 Guidelines for Journalists	P, AAVM	A right of reply shall be granted whenever the activities of a clearly identifiable individual, company or organisation are portrayed in a very negative light.
1.6. Ratification of international instruments: - CoE's Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	- yes - yes (did not ratify, but accepted)		

TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Sections 2+3 Guidelines for Journalists	P, AAVM	The capacity to make decisions about the content of mass communications must never be allotted to others than the responsible editor. Journalists shall resist third party attempts at influencing the content of communication.
2.2. News / information programmes	Chapter 4 Section 28 Act on Television and Radio Operations	R, TV	News and current affairs programmes may not be sponsored.
2.3. Other media content	Chapter 4 Section 21 Act on Television and Radio Operations	R, TV	Advertising and teleshopping shall be readily recognizable.
	Chapter 4 Section 26 Act on Television and Radio Operations	R, TV	Sponsorship may not influence scheduling or content choice so as to affect the broadcaster's responsibility for programming.
	Section 19 Guidelines for Journalists	P, AAVM	Advertising and editorial content must be clearly separated.
2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)			Media are free to recruit labour force, e.g. there is no journalist-diploma system or contract between employer and unions that obliges media to recruit students with degree in journalism.
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")	YLE Policy on services for minorities and special groups		YLE's Steering Group for Gender Equality and Diversity Work shall create a framework for YLE's dialogue with immigrants, the disabled and national language minorities.

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...)			
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			
3.2.1. Access to airtime for cultural groupings			
3.2.2. Content obligations			
<p><i>Note: The content requirements of national commercial TV channels in their operating licences are identical and based on the Act on TV and Radio Operations. Their operating licences for digital operations state that different population groups shall be taken into account. Cultural policy aspects must be taken into consideration in the programming that shall promote Finnish audiovisual culture. Programmes shall be qualitative, comprehensive and include news, current affairs and entertainment. Good journalistic practice shall be observed.</i></p> <p><i>Note: In an evaluation report (2008) by the Ministry of TC, the operators in the radio and television sector doubted somewhat whether the regulations that are in place to safeguard the diversity of programme offers and meet the needs of the special audience groups genuinely steer the choices made by the operators.</i></p>			
3.2.2.1. Promotion of European works	Chapter 3 Section 16 Act on Television and Radio Operations	TV	Majority of annual transmission time shall be reserved for European works. This requirement does not apply to local broadcasting and transmissions not received outside Finland.
	Government Decree on Television and Radio Operations	TV	Defines the notion of European works for purposes of the Act on Television and Radio Operations.
3.2.2.2. Promotion of European independent works	Chapter 3 Section 17 Act on Television and Radio Operations	TV	15% of transmission time or 15% of programme budget shall be reserved for works by independent producers. 50% must be less than five years of age. This requirement does not apply to local broadcasting and transmissions not received outside Finland.
3.2.2.3. Promotion of national/regional works	Chapter 3 Section 7 Act on Yleisradio Ab	R, TV	The PSB shall produce, create and develop Finnish culture, art and inspiring entertainment.
3.2.2.4. Language requirements	Chapter 3 Section 7 Act on Yleisradio Ab; YLE Policy on services for	R, TV	The PSB shall produce programming catering both to Swedish- and Finnish-speaking

	minorities and special groups		language groups, and treat these equally.
3.2.3. Representation of minorities in the media (e.g. presenting the news, in drama, movies...; can be engagement in an internal charter or can be imposed statutory)	Chapter 3 Section 7 Act on Yleisradio Ab; YLE Policy on services for minorities and special groups	R, TV	The PSB shall produce programming in Sami and Roma languages, and in that of other language groups in the country, where applicable. It shall support tolerance and multiculturalism and provide programming for minority and special groups. YLE in particular commits itself to enhancing representation in entertainment and children’s programmes.
3.2.4. Subsidies (apart from general PSB funding)	Legal basis could not be identified; information taken from Committee website at www.tjnk.fi/sve	R, TV, P	The Committee for Public Information awards grants for the dissemination of information and knowledge products. Furthermore, stipends are offered to producers that allow for recipients to immerse themselves in the production process on a full-time basis for half a year.
	Section 1 Act on the Promotion of Film Art		Expenses included in the state budget may be dispensed towards the production of films and other audiovisual works as well as towards other activities promoting film culture.
	Section 6 Finnish Film Foundation Support Guidelines		The Finnish Film Foundation organizes film education activities for professionals, notably in the field of digital film distribution.
	Sections 3, 5 Press Subsidy Ordinance		Political parties are entitled to receive a share of the amount of dedicated funding on the state budget for press subsidies that they can freely allot to a newspaper of their choice.
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Section 10 Act on Television and Radio Operations	R, TV	When announcing broadcast licences, the authority responsible shall take into consideration the needs of special groups of the public. It may also impose conditions on the licensee that are designed to cater to the needs of those groups.
	Chapter 3 Section 7 Act on Yleisradio Ab	R, TV	The PSB shall make available programming in sign language, and programming that meets the needs of minority and special groups.
	Section 2 Act on the Library for the Visually Impaired		The Library for the Visually Impaired shall produce and rent audio- and Braille books as well as electronic and other specialist material; produce materials for all levels of the educational system; sell materials that it has produced and provide guidance to its customers.
	YLE Policy on services for minorities and special groups		The company seeks to improve access to and usage of already existing services by different groups, especially by the disabled.

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			
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 media for political groupings			
4.2.2. Government announcements	Chapter 2 Section 15 a Act on Television and Radio Operations	R, TV	Licensed radio and television broadcasters are required to broadcast to the general public information at the request of public authorities free of charge if this is necessary for the protection of human life, property or public order.
	Chapter 2 Section 7 Act on the Exercise of Freedom of Expression in the Mass Media	P, AAVM	Publishers and broadcasters are required to relay free of charge official announcements necessary to protect human life, significant property or environmental interests, or for other comparably important reasons.
	Chapter 3 Section 7 Act on Yleisradio Ab	R, TV	The PSB shall broadcast official announcements.
4.2.3. Impartiality obligations			
4.2.4. Fair representation of political viewpoints; special rules in election periods	Section 10 Act on Political Parties	R, TV	State authority, whether exercised by state bodies or through institutions controlled by the state, shall treat all parties equally. In applying this principle during election periods, the PSB may also take into consideration programming dispositions.
4.2.5. Advertising for political and religious organizations			

TABLE 5. Geographical pluralism

Measure	Source	Scope of application	Key features
5.1. Licensing policy fostering local/regional types of media			
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)			
<i>Note: The geographical coverage of the multiplexes in digital TV is not fully equal.</i>			
5.3. Content obligations: requirements to cover local events, etc.			
5.4. Regional State Aids			
5.5. Rules on national minorities	Chapter 3 Section 7 Act on Yleisradio Ab	R, TV	YLE shall support tolerance and multiculturalism and provide programming for minority and special groups.
	YLE Policy on services for minorities and special groups		YLE’s Steering Group of Gender Equality and Diversity Work work to establish a dialogue with national language 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>			
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>i.e.</i> 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>			
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>			
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	Sections 1+2 Act on the Monitoring of Foreigners' Corporate Acquisitions in Finland		Where an important national interest is at stake, the transfer to foreigners or to foreign legal persons of control in a major company may be restricted. An important national interest comprises, inter alia, the prevention of lasting economic, social or environmental sectoral or geographic problems, and the safeguarding of public order and the population's health and safety.
6.4. General competition rules			
6.4.1. Antitrust			
6.4.1.1. <i>Specific provisions for media sectors (e.g. public</i>			

<i>interest test...</i>			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
6.4.2. Merger control			
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?)			
6.5. Transparency obligations			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	Chapter 2 Section 5 Act on the Exercise of Freedom of Expression in the Mass Media	P, AAVM	Obligation for publishers and broadcasters to identify themselves as well as their responsible editors. Where multiple responsible editors have been assigned, their relative responsibility shall be made clear. Everyone has a right to be informed of the identity of the editor responsible.
<i>Note: The name of the responsible editor shall be printed or otherwise clearly announced in every issue, programme or publication, with the note “Responsible Editor”. This editor will represent the media in the court. The other editors may be responsible e.g. for news, sports, or editorials. Similarly, in the broadcasting companies the name of responsible editors of the programmes shall be on view for consumers in the entrance hall of the company.</i>			
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...)	Chapter 2 Section 7b Act on Television and Radio Operations i.c.w. Chapter 2 Section 15 Act on Television and Radio Operations	R, TV	The uptake of broadcasting activity has to be notified to the Finnish Communications Regulatory Authority. The notification has to include information concerning the name, business name, and contact information of the broadcaster and its representative, and the former’s domicile; the transmission area; the programmes offered or planned; and availability of programme recordings to the public.
	Chapter 2 Section 13 Act on Television and Radio Operations	R, TV	If effective control of a licence holder changes, the licensing Authority may accept the change or revoke the licence (Subsection 2). Any transfer of a licence or change in the effective control of a licensee must be immediately notified to the licensing authority (Subsection 3). Licence changes between a parent and a wholly owned subsidiary do not need to be nullified, but have to be immediately notified (Subsection 6).
	Chapter 7 Section 41 Act on Television and Radio Operations	R, TV	Ministry of Communications and FICORA are authorized to demand information from radio and television operators as are necessary for fulfilling their functions under the Act
	Chapter 5 Section 32 Act on the State Television and Radio Fund	R, TV	FICORA is authorized to request information from broadcast licensees notably concerning the turnover generated by their activities and audit their accounts in order to be able to determine the licence fee payable

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of programme strands for commercial / community / public service media			
7.1bis. Special framework for community media (<i>medias associatives</i>): 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...)	Chapter 3 Section 20 Act on Television and Radio Operations; OJ L 180, 10.7.2007, p. 38.	TV	Government may designate a list of events of major importance to society which must be available to at least 90 percent of society without extra cost. The list comprises only sports events, a limited number of which has to be made available as live coverage for the full duration of the event.
7.3. Short news reporting			
7.4. Fixed book price	N/a		
7.5. Public service media			
7.5.1. Structural rules – ORGANIZATION	Chapter 1 Section 2 Act on Yleisradio Ab	R, TV	State shall own the equivalent of at least 70% of the capital and a corresponding amount of shares.
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)			
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Chapter 2 Section 5 Act on Yleisradio Ab	R, TV	Administrative Council consists of 21 members elected by Parliament that elect a chair and a vice-chair from among themselves.
7.5.1.3. Specific representation requirements for board of directors, other bodies	Chapter 2 Section 5 Act on Yleisradio Ab	R, TV	The Administrative Council shall include representatives from the fields of science, art, education, business and economics, as well as representatives of different social and language groups.
	Chapter 2 Section 6a Act on Yleisradio Ab	R, TV	The Board of Directors shall comprise a minimum of five and a maximum of eight members, which shall represent both language groups.
<i>Note: The Board's powers corresponds to the tasks of the Board defined in Companies Act (734/1978)</i>			
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings			
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings	YLE Policy on services for minorities and special groups		The company subscribes to developing the enterprise as a multicultural and equal opportunities workplace.
7.5.2. Structural rules – Funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Section 5 Act on the State Television and Radio Fund	R, TV	Assets of the State Television and Radio Fund, managed by the Finnish Communications Authority, shall be used to finance the operations of the Finnish Broadcasting Company Ltd. (YLE)

	Chapter 5 Section 12 Act on Yleisradio Ab	R, TV	YLE is barred from screening advertising in connection with radio and television programmes that are provided within the public service remit of its activities.
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>	Chapter 3 Section 7 Act on Yleisradio Ab	AAVM	YLE is to provide comprehensive television and radio programming with related additional and extra services for all citizens under equal conditions. It may deliver these services on all telecommunications networks..
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)	Chapter 14 Section 134 Communications Market Act		Telecommunications operators providing network services in a cable television network must carry, free of charge, public service television and radio that are freely receivable in the municipality concerned including supplementary and ancillary services as well as programmes transmitted under a national programming licence. This obligation may be derogated from where the operator needs the capacity for its own television or radio operations, or if is needed to cover future needs of the operator in this respect.
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			
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			
8.4.2. EPG (or other search tools)	Section 31 Communications Market Act		A telecommunications operator with significant market power may be required to relinquish access rights to an EPG to digital television or radio to other telecommunications operators.
8.4.3. API	Section 32 Communications Market Act		A telecommunications operator with significant market power may be required to relinquish access rights to a programming interface for digital television or radio to telecommunications operators.
8.4.4. Other	Section 68 Communications Market Act		The terms of an agreement on a telephone network subscriber connection and any Other agreement on receiving a communications service may not restrict the user's right to choose a content service provider.
8.5. Interoperability requirements			
8.6. Specific rules for distribution systems in print media	Section 4 Press Subsidy Ordinance	N	Newspapers can receive a distribution subsidy only following an audit of its circulation figures and if the share of copies distributed free of charge does not exceed 30 percent of the number of subscription copies.
8.7. General competition law			

8.8. Policies fostering distribution systems (libraries, broadband networks...)	Legal basis could not be identified; information taken from Committee website at www.tjnk.fi/sve	B	The Public Information Committee administers a support scheme for the distribution of quality literature (both fiction and non-fiction) to public libraries. Libraries receive support to acquire works from a list of publications in small-scale distribution.
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)	Section 1 Act on the Promotion of Film Art		Expenses included in the state budget may be used to finance the distribution of films and other audiovisual works.

TABLE 9. Supervision

Measure	Source	Scope of application	Key features
9.1. National Regulatory Authority			The Finnish Communications Regulatory Authority FICORA (http://www.ficora.fi)
	Chapter 5 Section 34 Act on Television and Radio Operations	R, TV	The Ministry of Transport & Communications shall be responsible for the development of radio and TV broadcasting.
	Chapter 5 Section 35 Act on Television and Radio Operations	R, TV	The Finnish Communications Regulatory Authority shall be responsible for ensuring compliance with the Act on Television and Radio Operations; insofar responsibilities have not been awarded to the Consumer Ombudsman (ethical principles of advertising; protection of minors in advertising).
9.1.1. Structure/ organisation	Section 2 Decree on Communications Administration		The FICORA is led by a Director-General who decides on the internal organisation of the Authority. In practice, the Authority is divided into seven profit areas and a division for international affairs and development under the direct leadership of the Director-General.
9.1.1.1. <i>Guarantees for independence</i>	Section 2 Decree on Communications Administration		Ability to determine internal organisation independently from line ministry.
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>	Chapter 5 Section 35 Act on Television and Radio Operations	R, TV	The Finnish Communications Regulatory Authority (FICORA) shall be responsible for ensuring compliance with the Act on Television and Radio Operations, insofar responsibilities have not been awarded to the Consumer Ombudsman (ethical principles of advertising; protection of minors in advertising).
9.1.2.3. <i>Effective sanctioning powers</i>	Chapter 6 Section 36 Act on Television and Radio Operations	R, TV	Failure to comply with the Communications Market Act is punishable by a conditional fine, if a reminder from the Authority to rectify the countervailing behaviour has not been acted upon..
	Chapter 6 Section 36a Act on Television and Radio Operations	R, TV	Failure to comply with programming and advertising standards is punishable by a penalty payment. The penalties are determined by the Market Court following a proposal by FICORA.
	Chapter 6 Section 37 Act on Television and Radio Operations	R, TV	Licences may be suspended or revoked for recurrent violation of the provisions of the Act on Television and Radio Operations or resource limitations.
	Chapter 6 Section 38 Act on Television and Radio Operations	R, TV	Retransmission of foreign broadcasts may be suspended where these constitute a violation of the Penal Code or bring harm to children.
	Chapter 6 Section 39 Act on Television and Radio Operations	R, TV	Unauthorized broadcasting activity can be sanctioned by award of a fine or imprisonment.
9.1.3. Cooperation with other regulators	Chapter 12 Section 120 Communications Market Act		The Ministry of Transport and Communications and the FICORA shall cooperate with the competition and consumer protection authorities whenever necessary.
9.2. Press Council			

9.2.1. Broad representation of sector	Section 5 Charter of the Council for Mass Media (the ‘Basic Agreement’)	P, AAVM	The Council for Mass Media consists of the president and nine members, six of which represent expertise in the mass media and three the general public. The Chair and the three members representing the general public are appointed by the Council itself, the others are elected by the organisations.
9.2.2. Sufficient resources			
9.2.3. Credibility			Those signed the agreement commit themselves to exert influence to the effect that their members and those in their service shall function in a manner befitting this contract.
9.3. Competition Authority			Finnish Competition Authority (http://www.kilpailuvirasto.fi/cgi-bin/suomi.cgi)
	Section 1 Act on the Finnish Competition Authority		The Finnish Competition Authority shall be located under the administrative domain of the Ministry of Trade and Industry (now Ministry of Employment and the Economy).
	Section 1 Act on the Competition Council		The Competition Council shall be located under the administrative domain of the Ministry of Trade and Industry (now Ministry of Employment and the Economy).
9.3.1. Structure/ organization: Does the NCA face any functional limitations that might negatively affect media pluralism? The decisions are often compromises, it could be to imagine to happen.	Relevant decree could not be identified.		Rules on the organisation of the Authority have been laid down by Decree; cf. Section 4 Act on the Finnish Competition Authority.
	Section 2 Act on the Competition Council		The Competition Council comprises a chair, a vice-chair and seven other members. They are appointed by the President following a proposal by the State Council.
9.3.2. Cooperation with other regulators			

Short summary of major implementation problems

1) Frequency allocation for commercial radio stations (Communications Market Act) because concessions are granted for a fixed period, 2) Funding system of PSB (YLE needs a compensation for ceasing the operation licence fee by the commercial television companies after the switchover to digital transmissions on September 2007. Public discussion: should the television fee be replaced by funding through taxes? A parliamentary committee will work out the financing problems of YLE in autumn 2008.) 3) The press subsidy system (regular political discussion) 4) After the start of digital television in Sept. 2007, commercial companies have got new possibilities for operations and some market competition problems have reduced 5) The Åland Islands have their own broadcasting legislation (cf. The Autonomy Act of Åland, of Jan 1 1993. The population is mainly Swedish-speaking and 0.5% of total population.) This involves a potential for the fragmentation of the regulatory environment that inhibits uniform standards of service provision.

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

[FRANCE]

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National regulations relevant in the area of media pluralism

• Legislation

- Declaration of human rights (1789)
- Law 86-1067 on freedom of communication (Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication) (Loi Létard)
- Law 2004-669 on electronic communications et audiovisual communication services (Loi n° 2004-669 du 9 juillet 2004 relative aux communications électroniques et aux services de communication audiovisuelle)
- Law on freedom of press (Loi du 29 juillet 1881 sur la liberté de la presse)
- Law on access to administrative documents (Loi n° 78-753 du 17 juillet 1978 portant diverses mesures d'amélioration des relations entre l'administration et le public et diverses dispositions d'ordre administratif, social et fiscal (Liberté d'accès aux documents administratifs et réutilisation des informations publiques))
- Law on the distribution of newspapers (Loi du 2 Avril 1947 relative au statut des entreprises de groupage et de distribution des journaux et publications périodiques) (Loi Bichet)
- Law on the statute of Agence France Presse (Loi n° 57-32 du 10 janvier 1957 portant statut de l'Agence France Presse)
- Law on the reform of the press (Loi n° 86-897 du 1er août 1986 portant réforme du régime juridique de la Presse)
- Decree 93-535 approving the terms and conditions of RFO (Décret n° 93-535 du 27 mars 1993 portant approbation du cahier des missions et des charges de la Société nationale de programme Réseau France Outre-mer)
- Decree 94-813 approving the terms and conditions of France 2 and France 3 (Décret n° 94-813 du 16 septembre 1994 portant approbation des cahiers des missions et des charges des sociétés France 2 et France 3)
- Decree 2005-286 approving the terms and conditions of France 4 (Décret n° 2005-286 du 29 mars 2005 portant approbation du cahier des charges de la société France 4)
- Decree on Press Agencies (Ordonnance n°45-2646 du 2 novembre 1945 portant réglementation provisoire des Agences de Presse)
- Decree 95-71 approving the terms and conditions of France 5 (Décret n° 95-71 du 20 janvier 1995 portant approbation du cahier des missions et des charges de France 5)
- Law 81-766 on fixed book price (Loi 81-766 relative au prix du livre)
- Decree 2004-1392 on the broadcasting of major events (Décret n°2004-1392 relatif à la diffusion des événements d'importance majeure)
- Decree 90-66 on the broadcasting of cinematographic and audiovisual works (Décret n°90-66 modifié relatif à la diffusion des oeuvres cinématographiques et audiovisuelles)
- Code of sports (Ordonnance n° 2006- 596 relative à la partie législative du code du sport)
- Code of penal procedure (Code de procédure pénale - CPP)

- Law 82-652 on audiovisual communication (Loi n° 82-652 du 29 juillet 1982 sur la communication audiovisuelle)
- Decree 95-240 on the use of French
- Decree 2001-1332 on the contribution of encoded channels to the development of the production of cinematographic and audiovisual works
- Decree 2001-609 on the level of the production of cinematographic and audiovisual works (Décret n°2001-609 sur le développement de la production d'oeuvres cinématographiques et audiovisuelles)
- Decree 2001-1333 on the digital terrestrial broadcasting of services (other than radio) (Décret n°2001-1333 du 28 décembre 2001 sur la diffusion des services autres que radiophoniques par voie hertzienne terrestre en mode numérique)
- Tax Law (Code général des impôts et de nombreux décrets relatifs à diverses modalités d'aides de l'Etat à la presse)
- Law 47-585 on the distribution of newspapers (Loi n°47-585 du 2 avril 1947 relative au statut des entreprises de groupage et de distribution des journaux et écrits périodiques)
- Law promoting equal opportunities (Loi n° 2006-396 pour l'égalité des chances)
- Law 2005-102 on the equal rights and opportunities, participation and citizenship of disabled persons (Loi n° 2005-102 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées)
- Act on the elections (Code électoral du 27 octobre 1964)
- Convention on Journalists (Convention collective nationale de travail des journalistes du 1 November 1976)
- **Codes of conduct**
 - Code of Ethics (1918) (revised in 1938)
 - Diversity Charter (2004)
- **Other**
 - Code on the film industry (Code de l'industrie cinématographique, version consolidée au 29 décembre 2007)
 - Law on the confidence in the digital economy (Loi n°2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique)
 - Property Code (Code du patrimoine (régime des archives), version consolidée au 30 juillet 2008)
 - Copyright Code (Loi n° 92-597 du 1er juillet 1992) (Code de la propriété intellectuelle (protection et exceptions des droits d'auteurs et droits voisins))
 - Employment Code (Code du travail (statut des journalistes))

TABLE 1. Constitutional protection of press and communication freedoms

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 11 Declaration of human rights (1789)	PM + AAVM + all citizens (Constitutional court, 1984)	Free communication of thoughts and opinions.
<i>Note: Rules restricting free speech (e.g. defamation, racism, ...) are not considered as restrictions, but are seen as means to ensure an equilibrium between rights and different interests that need an equal protection.</i>			
	Art. 1 Law 86-1067	AAVM (TV + R + internet)	The communication to the public by electronic way is free.
1.2. Freedom of/ right to information			
	Art. 14 Declaration of human rights (1789)	PM + AAVM	Right of access to information concerning the state budget.
	Law 76- 753 on Access to Administrative Documents		Right to access by all persons to administrative documents held by public bodies.
<i>Are there specific rules dealing with journalists' access to events for news reporting?</i>	Art. L 333-6 Code du sport	PM + AAVM	Journalists and other persons working in media companies are free to enter the venue of sports events.
<i>Note: Journalists may also easily enter to press conferences, Parliament, trials etc.</i>			
1.3. Explicit recognition of media pluralism	Art. 1 Law 86-1067	AAVM	The freedom of the communication to the public by electronic way can be restricted (or protected) in order to create pluralism.
	Case law of Constitutional Council (<i>Conseil Constitutionnel</i>), e.g. Decision n° 84-181 DC of 10 and 11 October 1984, Decision n° 86-210 DC of 29 July 1986 (press), Decision n° 86-217 DC of 18 September 1986 (audiovisual communication)		The Constitutional Council considers media pluralism as “an objective with constitutional value” (being a prerequisite for democracy).
1.4. Protection of journalistic sources	Code of Ethics 1918 (revised in 1938)		Journalists keep the professional secrecy.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
	Art. 109 CPP, Art. 56-2 CPP Art 60-1, 77-1, 90-3	PM + AAVM	Journalists are not obliged to reveal the origin of their sources during domiciliary visit, inquiry and requisition.
<i>Implementation problem: Protection of sources is only given to “professional journalists”, i.e. those who satisfy the criteria of Art L 7111-3 Code du Travail. Further, a bill extends the journalist's rights to protect their sources.</i>			
1.5. Right of reply	Art. 13 General press act (1881)	PM	Any person or institution mentioned in the press has the right to reply even if he has not been attacked and even if a possible error has already been corrected.
<i>Implementation problem: This right of reply is not often used.</i>			
	Art. 6 Law 82-652	AAVM (TV) + Internet	Right to reply when imputations to undermine honour or reputation have been broadcast.
<i>Implementation problem: Due to its complexity (delay, forms,...) the right to reply is very difficult to use in practice.</i>			
1.6. Ratification of international instruments:	No		

-CoE's Framework Convention For The Protection Of National Minorities -UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	Yes		
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TABLE 2. Editorial independence

Measure	Source	Scope of application	Key features
2.1. Journalists	Art. 57 Law 86-1067	AAVM	The rights of journalists should not depend on their opinions or beliefs. Their recruitment and nomination may only depend on their professional capacities.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
	Convention collective nationale de travail des journalistes	P + AAVM	This Convention sets out the relations between employers and professional journalists.
2.2. News / information programmes			
2.3. Other media content	Code of Ethics 1918		Journalists may not write articles related to commercial or financial advertising.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
2.4. Subsidies/Training of journalists (independence, ethic, recruitment, etc.)			Media companies must pay taxes for professional training (<i>taxe d'apprentissage, taxe pour la formation permanente</i>) and journalists are allowed to take time to get such professional training.
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" ...)			There is no real "ombudsman".
<i>Note: Since there is no legal obligation to have structures for participation of the public, they are very rare, informal and they can not participate in editorial decision. The exception is perhaps the daily "Le Monde" where the "société de rédacteurs" has some power (due to the fact that the journalists are shareholders).</i>			

TABLE 3. Cultural pluralism

Measure	Source	Scope of application	Key features
3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies' bodies, structures...)			
3.1.1. Special representation requirements in media company structures	Diversity Charter		Encourage businesses to employ staff representative of the diverse French society.
3.1.2. Special representation requirements in media advisory bodies			No
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Law 2005-102 on the equal rights and opportunities, participation and citizenship of disabled persons		Discrimination in recruitment is forbidden.
	Act 24 February 2001		France 2 and France 3 have to promote the different cultures without any discrimination.
3.2. Representation of the various cultural groupings in the media			
3.2.1. Access to airtime for cultural groupings	Art. 56 Law 86-1067	AAVM	France 2 has the duty to carry religious programmes on Sunday.
3.2.2. Content obligations			
<i>Note: France applies a stricter definition than that of Article 4 of the Directive, and require all broadcasters to show more original European works than the Directive.</i>			
3.2.2.1. Promotion of European works	Art. 13, I Decree 90-66	Terrestrial television	Minimum 60% of European works
	Art. 13, II Decree 90-66	AAVM (not using frequencies)	Minimum 50% of European works
	Art. 27, 2° Law 86-1067	AAVM (Terrestrial television)	Minimum 60% of European works
	Art. 33, 9° Law 86-1067	AAVM (not using frequencies)	Minimum 60% of European works (applies also to peak hours)
	Art. 33, 10° Law 86-1067	AAVM (not using frequencies)	Proportions of European works writings and French original expression, which can vary according to the investments of the editor of service in production, but European works must represent at least 50% of the broadcast time.
<i>Note: Those “quota” are strictly supervised by the CSA. Every year, the CSA publishes the “bilans des chaînes” about the respect of the quota.</i>			
3.2.2.2. Promotion of European independent works			2/3 of the expenses on French language audiovisual production [ie 10.67% of turnover].
3.2.2.3. Promotion of national/regional works	Art. 13, I Decree 90-66	AAVM (Terrestrial television)	Minimum 40% French-speaking works.
	Art. 27, 2° Law 86-1067	AAVM (Terrestrial television)	Minimum 40% French-speaking works.
	Art. 28, 2° bis Law 86-1067	AAVM (R)	Quotas of French-speaking songs on the radio: minimum 40 % (derogation is possible).
	Art. 33, 9° Law 86-1067	AAVM (not using frequencies)	Minimum 40% French-speaking works (applies also to peak hours).
3.2.2.4. Language requirements	Art. 20-1, al. 1 86-1067	AAVM	The use of the French language is obliged,

			except broadcasting works in the original language.
3.2.2.5. Contribution to production	Art. 8 Decree 201-609; Art. 9 Decree 2001-1333; Art. 11, I Decree 2002-140	AAVM (TV)	Spend 16% of turnover to French language production or European works.
<i>Note: A special Fund (Compte de soutien aux industries de programme: COSIP), financed by a tax paid by the TV channels (about 2,75% of their turnover) is devoted to help the TV producers to create French or French-European audiovisual works.</i>			
	Art. 9 Decree 2001-1332	AAVM (Encrypted terrestrial television)	Spend 4,5% of turnover to French language production or European works.
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)	Art. 47 Law on the equal rights and opportunities Art. 3-1 Law 86-1067	AAVM	The CSA has to monitor whether or not the broadcasters reflect the diversity of the French society.
<i>Note: In November 2006, the CSA has published its first “Bilan de la représentation de la diversité des origines et des cultures à la télévision et à la radio”. At the end of 2007 the CSA created an “Observatoire de la diversité audiovisuelle” that would evaluate the measures adopted by radio and television broadcasters to guarantee diversity in all its aspects: origin, age, sex, handicap...</i>			
3.2.4. Subsidies (apart from general PSB funding)	General tax law and other acts	PN + M	There exists about 18 different support mechanisms for the press (representing about 12% of the press turnover): subsidies to the national and local dailies, to regional weeklies, special tax system (no <i>taxe professionnelle</i> , low TVA, low <i>impôt sur les benefices</i>), special postal rates, special railway rates, subsidies for the delivery systems,...).
	Art. 72-73 Annex III General tax law	PM	In order to receive indirect subsidies, a newspaper must obtain an inscription number from the CPPAP by satisfying the following criteria: -The paper is important in the dissemination of ideas and is involved in the instruction, education, information and recreation of the public. -The paper abides by its obligations under the Press Law. -The paper is distributed at least once every three months. -The paper is distributed for free and carries a marked price. -At least one third of the total volume is dedicated to editorial content. -It is not a brochure or catalogue or similar type of publication.
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 43-11, al. 3 Law 86-1067; Art. 28, 5° bis Law 86-1067; Art. 33-1 Law 86-1067	AAVM	Obligation to facilitate access by disabled people to programmes.

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 provisions		
4.1.2. Requirements of independence from political parties / politicians	No provisions		
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	No provisions		
4.1.4. Representation requirements in media companies' bodies (board of directors...)	Art 47-1 à 47-5 Law 86-1067	AAVM	See 7.5.1.2.
4.1.5. Representation requirements in media advisory bodies and/or regulators			See 9.1
4.2. Content rules (relating to media programmes, press articles, other content)	Art. 14 Law 86-1067	AAVM	Prohibition of political advertisement.
4.2.1. (Equal/proportionate) Access to airtime for political groupings	Art 13 Law 86-1067	AAVM	The CSA has to guarantee the diversity of ideas and opinions in the different programmes on radio and television.
<i>Note: The CSA has published a report about access to airtime for political groupings for the period 1989-2000.</i>			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Art. 13 Law 86-1067		The editors have to respect an equilibrium between the time of intervention of -the members of government -the members of the parliamentary majority -the members of the parliamentary opposition
	Art. 55 Law 86-1067	AAVM	Duty to broadcast parliamentary debates and messages by political parties, unions and professional bodies.
	Art 45-2 Law 86-1067	AAVM	Each Parliament Assembly has its own channel (<i>Public Sénat, La Chaîne parlementaire</i>) which allow the deputies and senators to give their opinions and broadcast political debates.
4.2.1.b. Paid access: rules on political advertising			
4.2.2. Government announcements	Art 54 Law 86-1067	AAVM	Government announcements on the public broadcaster.
4.2.3. Impartiality obligations			
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 16 Law 86-1067	AAVM	Special duties relating to broadcasting during election campaigns.
	Art. L52-1 Code Electoral		During the three months preceding the first day of the month of an election and until the date of the turn of polls, electoral propaganda in the press is forbidden.

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 28 eq Law 86-1067	AAVM (private R and TV)	Part of the spectrum is explicitly reserved for regional/local radios and television. They are allocated by the CSA.
5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)	Law 86-1067	AAVM (France 3 and Radio France)	France 3 and Radio France have sort of “branches” through the country.
5.3. Content obligations: requirements to cover local events, etc.		AAVM (France 3)	<i>Cahiers des charges</i>
5.4. Regional State Aids	Act of 1 December 1984	AAVM (Associative radios)	Subsidies for associative radios with less than 20% advertising revenue. A great number of them are local.
5.5. Rules on national minorities	In France, there are no official national minorities.		
5.6. Rules on social inclusion of remote areas (Aménagement du territoire)	Art 44-4 Law 86-1067	AAVM (Réseau France Outre Mer)	Réseau France Outre Mer has to schedule programmes for French people abroad.

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. At moment of market entry (licensing procedure)			
6.1.1.2. At the moment of mergers & acquisitions			
6.1.1.3. Other (constant monitoring/supervision)			
6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. Monomedia	Art. 11 Law 86-897	PN (Daily political press - <i>presse quotidienne d'information générale et politique</i>)	An individual or legal entity cannot run or control daily publications dealing with political or general news that have a total circulation of more than 30% of the market of that type.
<i>Note: This law was adopted to hinder the extension of the Hersant group (that had reached the limit of 30 %). Nowadays, there is no legal entity that reaches the level of 30 %).</i>			
	Art. 39 Law 86-1067	AAVM (Private TV)	<ul style="list-style-type: none"> - An individual or a legal entity cannot hold, directly or indirectly, more than 49% of the capital or the voting rights of an analogue terrestrial television channel at national level - An individual or a legal entity cannot hold, directly or indirectly, more than 50% of the capital or the voting rights of an analogue terrestrial television channel at regional level - An individual or a legal entity cannot hold, directly or indirectly, more than 50% of the capital or the voting rights of a company offering broadcast services via satellite.
			<p>If a single person holds more than 15% of the capital share of one nationwide analogue terrestrial broadcaster, his participation in a second should be less than 15%. If one person owns more than 5% of the capital shares of two broadcasting companies, his share in a third cannot be more than 5%. Similar rules apply to satellite broadcasters. If a single person holds more than one third of the capital share of one satellite broadcaster, his participation in a second should be less than one third. If one person owns more than 5% of the capital shares of two satellite broadcasting companies, his share in a third cannot be more than 5%. In addition, a person or legal entity can neither hold more than one licence for nationwide analogue terrestrial television, nor one licence for analogue terrestrial television at</p>

			national level and one at regional level (with the exception of overseas territories).
6.1.2.2. Crossmedia	Art. 41-1 Law 86-1067; Art. 41-1-1 Law 86-1067; Art. 41-2 Law 86-1067; Art. 41-2-1 Law 86-1067	AAVM	Operators are not allowed to hold interests in more than two of the following three sectors: terrestrial television (analogue or digital), radio or daily newspapers, and whenever an operator is active in two of these sectors, certain thresholds must be respected. At national level, an individual or legal entity can be involved only in two of the following areas: <ul style="list-style-type: none"> - one or more television licences for analogue or digital terrestrial channels reaching four million residents; - one or more terrestrial radio services reaching 30 million people - daily papers that have a market share of more than 20 percent of the national circulation <p>The same rule applies at regional level. No licence for terrestrial television (analogue or digital) or radio or cable for a specific region can be issued if the holder has interests in:</p> <ul style="list-style-type: none"> - one or more TV licences for analogue or digital terrestrial channels which are broadcast in the region; - one or more radio licences for radio programmes whose audience is more than 10% of the potential audience of all public and private operators in the same zone; - daily papers that are circulated in the region.
6.1.2.3. Vertical integration with networks	Vertical integration in the media is not forbidden or limited		
6.1.2.4. Integration with advertising sector	No specific law		
<i>Note: Vincent Bolloré, for example, has partly control on Havas (advertising) and Direct TV.</i>			
6.1.2.5. Integration with other (e.g. energy) sectors	No specific law		
<i>Note: Bouygues (building), Arnault (Luxe), Lagardère (EADS) and Dassault (military industry) are active in the industry sector and the media sector.</i>			
6.1.2.6. Control over both commercial and public media	No specific law		
<i>Note: France Televisions (public) and TF1 (private) are partners in France 24 (international TV).</i>			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Act 20 October 2004 Art.41 al 4 Law 86-1067	AAVM (Terrestrial television (analogue))	The licence-holder of a nationwide analogue terrestrial television can hold up to seven licences for digital TV programmes. A single person can hold two licences for satellite broadcasting. At regional or local level, a single person can hold only one licence (analogue or digital) within the same geographical area. One person or legal entity

			may own several analogue or digital regional or local licences as long as they do not cover more than 12 million inhabitants. The same applies to cable licences as long as they do not cover more than eight million inhabitants.
6.1.3.2. Market shares	Art. 11 Law 86-897	PN	Supra
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares	Art. 39 Law 86-1067	AAVM	Supra
6.1.3.5. Voting shares	Art. 39 Law 86-1067	AAVM	Supra
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors	Art. 41-1 Law 86-1067; Art. 41-1-1 Law 86-1067; Art. 41-2 Law 86-1067; Art. 41-2-1 Law 86-1067	AAVM	Supra
6.2. Sector specific rules preventing cooperation between media companies			
6.3. (Sector specific or general) rules preventing (non-EU) foreign ownership	Art. 40 Law 86-1067	AAVM	Individuals or legal entities from outside the European Union cannot hold more than 20% of either the capital of a daily paper, or of the capital of companies, which hold a terrestrial radio, or television broadcasting licence in the French language. This provision is also applicable to digital terrestrial television.
6.4. General competition rules			
6.4.1. Antitrust	No specific rules for media.		
6.4.1.1. Specific provisions for media sectors			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
6.4.2. Merger control	Supra		
6.4.2.1. Specific provisions for media sector (e.g. possibility for government to overrule NCA decision)	No		
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)	Merger Canal+/TPS (July 2006)		
6.5. Transparency obligations			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)			
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...)	Art. 5 Act 1 August 1986	PN	Transparency obligations related to the name of the main shareholders and to the type of the share that is allowed.
	Art 36 Law 86-1067	AAVM	Transparency obligations related to the name of the main shareholders and the type of the share that is allowed.
	Art. 6 Law 21 June 2004	Non-linear services	Transparency obligations related to the name of the main shareholders and the type of the share that is allowed.
<i>Implementation problem: In reality, due to the complicated ownership structure, it is often difficult to know exactly who (or more usually which company) controls what.</i>			

TABLE 7. Pluralism of media types and genres

Measure	Source	Scope of application	Key features
7.1. Minimum service in a number of programme strands for commercial / community / public service media	Art. 28 Law 86-1067	AAVM	Content conditions attached to licences: - duration and characteristics of programming - diffusion of French works, educational and cultural programmes, programmes dedicated to the scientific, technical and industrial culture, - time dedicated to advertising, sponsorship and conditions of insertion - data enriching or complementing the main programming -
	Chapter 3 Decree 93-535	AAVM (Réseau France Outre-mer)	Réseau France Outre-mer has to offer the following programme types: information programmes, music programmes, children’s and adolescents’ programmes, sports programmes.
<i>Implementation problem: Advertisers, providing a significant part of the financing in the media, want to reach as many viewers as possible. To please their advertisers, broadcasters adopt their broadcasting schedule to the needs of their viewers. E.g. since the public is not that interested in some kind of programmes (e.g. cultural programmes) these programmes are shunned and broadcasters decide to schedule these programmes very late in the evening.</i>			
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.)	Law 86-1067 + CSA Communiqué 34 (29 August 1989)		CSA classifies the authorized radios in 5 classes: class A concern the local associative radios. There are about 500 associative radios. They can receive subsidies from <i>Fonds de soutien à l’expression radiophonique</i> .
7.2. Events list (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 20-2 Law 86-1067; Art. 20-3 Law 86-1067 Decree 2004-1392 on events of major importance	AAVM	The list of major events only contains sports events.
7.3. Short news reporting	Art. L 333-7 Code of Sports		The Code du Sport contains a right to short reporting for sports events.
7.4. Fixed book price	Law 81-766	B	Maximum discounts of 5% of the retail price fixed by the publisher.
7.5. Public service media			
7.5.1. Structural rules - organization			
7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Art. 11 Universal Declaration of Human Rights Art. 1 Law 86-1067	PM + AAVM AAVM	Free communication of thoughts and opinions. The CSA has to guarantee the independence of the public broadcasters.
7.5.1.2. <i>Election of management, composition of board members...(government? Parliament? Other?)</i>	Art. 47-1 Law 86-1067	AAVM	France Television: 14 members: one person representing each chamber of

			Parliament, five persons representing the State, five qualified persons nominated by the CSA and two persons representing the workforce. The President is nominated by the CSA and may also be removed by the CSA.
Implementation problem: Although the CSA is considered as an independent body, it is in a certain way politically oriented due to its composition.			
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>	Law 2006-396		Promoting diversity.
7.5.2. <i>Structural rules - funding</i>			
7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i>	Finance Law		France Télévision depends on the licence fee around 65% of their income.
			The vast majority of the remaining revenue comes from a combination of advertising and sponsorship of programmes, and national programming companies may also sell audio-visual works to which they have the rights.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
7.5.3. <i>Definition of public service remit</i>			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	Art. 43-11 Law 86-1067	AAVM	<ul style="list-style-type: none"> - Provide programmes representing diversity, pluralism and democratic principles - Ensure independence, pluralism of information and pluralist expression of viewpoints - Ensure promotion of French language and of cultural and linguistic heritage in its local and regional diversity - Facilitate democratic debate, exchanges between different parts of the population, social insertion and citizenship
	Art. 4-5 Decree 93-535; Art. 2; Art. 3-1 Decree 95-71; Art. 2-3 Decree 2005-286; Art. 2-3 Decree 94-813	AAVM (France 2, France 3, France 4, France 5, Réseau France Outre-mer)	Obligation to guarantee pluralism.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 43-11, al. 5 Law 86-1067	AAVM	Develop new services to enrich or complement their programmes as well as new production and diffusion methods.
7.5.4. <i>Content obligations (not yet mentioned in table 3, 4 or 5)</i>	Art. 44, I Law 86-1067; Art. 45 Law 86-1067; Art. 45-2 Law 86-1067	AAVM	<i>Cahiers des charges</i> <ul style="list-style-type: none"> - France 2: General programme schedule - France 3: National, regional and local programme schedule - France 5: Educational programme schedule

			<ul style="list-style-type: none"> - Réseau France outre-mer: Programme schedule for French people abroad - Chaîne parlementaire: Political programme schedule - Arte-France: International (European) programme schedule Radio France + Radio France Internationale
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. 34-2 Law 86-1067; Art. 34-4 Law 86-1067; Art. 45-3 Law 86-1067; Decree 2005-1355 of October 31, 2005	AAVM	Distributors must freely make available to their subscribers: - Arte and France Television that are transmitted by analogue terrestrial networks; - TV5 channel; - Réseau France Outre-Mer destined to the metropolitan public; - the above channels that are transmitted by digital terrestrial networks when the distributor proposes a digital offering - Chaîne parlementaire - Services for disabled people associated with the channels to be carried - Local channels that so request (except distributors on satellite) Any distributor must accept requests of editors of private free-to-air (analogue and digital) channels to have access to their distribution terminal, under fair, reasonable and non-discriminatory conditions.
8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)	Art. 34-1 Law 86-1067; Art. 34-1-1 Law 86-1067	Editors of terrestrial channels	They cannot oppose the retransmission of their services over the internal distribution network of a collective building where this network is connected to a cable network. Furthermore, they cannot oppose the retransmission of their services over cable networks.
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		AAVM (analogue terrestrial television) AAVM (digital terrestrial television)	Accounting separation and cost accounting Provision of access on reasonable request + Prohibition of excessive or predatory prices
8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'			
8.4.1. Conditional access	Art. 95 and 30-3 Law 86-1067 Opinion (26/01/2004) of the Audiovisual Council	AAVM	The operators of CAS grant access under fair, equitable and non-discriminatory conditions at requests when these requests concern the provisioning of technical

			benefits necessary for the reception of their offer by the public.
8.4.2. EPG (or other search tools)	Art 34-4 Law 86-1067	AAVM	Distributors of services must grant access to their EPG to editors under fair, equitable, and non-discriminatory conditions.
8.4.3. API			
8.4.4. Other			
8.5. Interoperability requirements	Art. 95 Law 86-1067	AAVM	Editors of pay-television digital terrestrial services should conclude agreements with all distributors to ensure interoperability of set top boxes.
8.6. Specific rules for distribution systems in print media	Law 47-585		Single copy selling editors can choose a cooperative system that treats each newspaper (daily or not) in the same way. Press sellers cannot refuse to sell any title.
<i>Note: This is one of the most important measures to guarantee an editor that its publication (even if it is a new or very small one) will be delivered in a press shop in the same condition as other successful ones.</i>			
8.7. General competition law			
8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?	Yes, due to an interpretation of Art 86 of the European treaty,		
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			CSA (www.csa.fr)
9.1.1. Structure/ organisation			
9.1.1.1. <i>Guarantees for independence</i>	Art. 5 Law 86-1067		Incompatible: political mandates, all professions, interests in firms relating to the broadcasting, cinema, press, advertising and telecommunications sector.
9.1.1.2. <i>Representation requirements</i>			
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	Art 7 Law 86-1067		The CSA must have sufficient resources to perform his mission. The CSA budget is part of the state budget (<i>Loi de finance</i>).
9.1.2.2. <i>Tasks and duties</i>	Art. 3-1 Law 86-1067		<ul style="list-style-type: none"> - Issuing broadcasting licences to radio and television companies - Management and allocation of frequencies for radio and television - Enforcement of broadcasting legislation - Ensuring the independence and impartiality of the public radio and TV sector - Promote free competition and the creation of non-discriminatory relationships between editors and distributors of services
9.1.2.3. <i>Effective sanctioning powers</i>	Art 42-1 Law 86-1067		Private sector: Suspension, fine, withdrawal of authorization,...
	Art 48-1 Law 86-1067		Public sector: Fine, postponement of the programmes,...
9.1.3. Cooperation with other regulators	Yes, Competition Authority		
9.2. Press Council	No Press Council		
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
9.3. Competition Authority			Conseil de la concurrence (http://www.conseil-concurrence.fr/user/index.php)
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>)	Code de commerce		
9.3.2. Cooperation with other regulators	Direction générale de la concurrence, de la consommation et de la répression des fraudes ; (DGCCRF) au Ministère de l'économie.		