



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

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

*by*

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

**Final Report - Annex III**

**COUNTRY REPORTS**

**PART III (Poland – UK)**

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

Leuven, July 2009



**Legal Notice**

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

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

**Important Notice**

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

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

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

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

### [POLAND]

Author: Prof. Dr. Beata Klimkiewicz  
Country correspondent: Prof. Dr. Beata Klimkiewicz

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

- **Legislation**

- *Sector specific legislation*

- 1984 Press Law (Ustawa Prawo Prasowe) adopted on 26 January, 1984, Official Journal 1984 No 5, item 24, as amended.
- 1992 Broadcasting Act (Ustawa o Radiofonii i Telewizji) adopted on 29 December, 1992, Official Journal 1993, No 7, item 34, 1993, as amended.
- 2004 Act Telecommunications Law (Ustawa Prawo Telekomunikacyjne) adopted on 6 July 2004, Official Journal 2004, No 171, item 1800.
- 2005 Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting (Ustawa o przekształceniach i zmianach w podziale zadań i kompetencji organów państwowych właściwych w sprawach łączności, radiofonii i telewizji) adopted on 29 December 2005, Official Journal 2005, No 267, item 2258.

- *General legislation*

- The Constitution of the Republic of Poland (Konstytucja Rzeczypospolitej Polskiej) adopted on 2 April, 1997, Official Journal, 1997, No 78, item 483.
- 2001 Law on Access to Public Information adopted on 6 September, 2001, Official Journal, 2001, No 112, item 1198.
- 1997 Penal Procedure Code (Ustawa Kodeks Postępowania Karnego) adopted on 6 June 1997, Official Journal, 1997, No 89, item 555, as amended
- 1998 Labour Code (Kodeks Pracy) adopted on 26 June 1974, Official Journal 1998, No 21, item 94, as amended.
- 2007 Act on Competition and Consumer Protection (Ustawa o Ochronie Konkurencji i Konsumentów) adopted on 16 February 2007, Official Journal, 2007, No 50, item 331.

- **Codes of conduct**

- The Media Charter of Ethics
- Code of Journalistic Ethic (Kodeks etyki dziennikarskiej) adopted by The Polish Journalists Association (SDP)
- Journalistic Code of Conduct (Dziennikarski Kodeks Obyczajowy) adopted by Association of Journalists of the Republic of Poland (SDRP)
- The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994
- Code of Good Practices (Kodeks dobrych praktyk) adopted in 2005 by the Association of Advertising Agencies (Stowarzyszenie Agencji Reklamowych – SAR)
- Good practices in the internet adopted by the Association of Advertising Agencies (Stowarzyszenie Agencji Reklamowych – SAR)
- Code of Conduct – based on SEO Code of Conduct (Kodeks etyczny w zakresie przygotowania stron internetowych) adopted by the Interactive Advertising Bureau Polska

- **Other**

-2005 Act on National and Ethnic Minorities and on a Regional Language (Ustawa o Mniejszościach Narodowych i Etnicznych oraz o Języku Regionalnym) adopted on 6 January 2005, Official Journal 2005 No 17, item 141.

-2004 Act on Commodity and Service Tax (Ustawa o podatku od towarów i usług), adopted on 11 March 2004, Official Journal 2004, No. 54, item 535, as amended.

-2008 Draft Act amending the Broadcasting Act and Some Other Acts (Ustawa o zmianie ustawy o radiofonii i telewizji oraz niektórych innych ustaw) adopted on 25 April, 2008.

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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	The 1997 Constitution of the Republic of Poland <sup>1</sup>	applies generally, including:  PM AAVM	Article 14 “The Republic of Poland shall ensure freedom of the press and other means of social communication.” Article 54 “1. The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone. 2. Preventive censorship of the means of social communication and the licensing of the press shall be prohibited. Statutes may require the receipt of a permit for the operation of a radio or television station.”  Article 213 (1) “The National Council of Radio Broadcasting and Television shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television.”
<p><i>Implementation problem:</i> Limitations:            Penal Code of 6 June 1997<sup>2</sup>:            Art. 135: "anyone who in public insults President of the Republic is liable to up to three years' imprisonment"            Art. 226 § 1 states that "anyone who insults a civil servant or a person officially assisting him during or in connection with carrying out of his official duties is liable to a fine, to restriction of personal liberty or up to two years' imprisonment".</p> <p>During the pre-accession negotiations, regular reports from the Commission on Poland's progress towards accession expressed repeatedly concerns about the slander laws offering politicians a higher level of the protection than that afforded to the general public.<sup>3</sup>            Broadly reported cases involved f.i. Kwaśniewski v. Życie</p> <p>Other limitations:            Art. 196 penalizes anyone who offends others' religious beliefs by publicly reviling an object of religious reverence or a public place of worship. Art. 256 makes liable anyone who publicly propagates fascist or other totalitarian regime as well as incites to hatred on account of national, racial, ethnic or religious differences. According art. 257 liable is also anyone who publicly defames a person or a group of people because of their national, racial, ethnic and religious origins.</p> <p>Civil Procedure Code:            Article 730 provides rules for interim injunction that prevents journalists from publishing materials being the subject matter of civil actions for libel.</p>			

<sup>1</sup> The Constitution of the Republic of Poland (Konstytucja Rzeczypospolitej Polskiej) adopted on 2 April, 1997, Official Journal, 1997, No 78, item 483.

<sup>2</sup> Official Journal, 1997, No 88, item 553.

<sup>3</sup> 1999 and 2000 Regular Reports from the Commission on Poland's Progress towards Accession; 2001 Regular Report on Poland's Progress towards Accession, SEC (2001) 1752; 2002 Regular Report on Poland's Progress towards Accession, COM (2002) 700 final.

	1984 Press Law <sup>4</sup>	PM AAVM	Article 1 The press, according to the Constitution, enjoys freedom of expression and fulfils citizens' right to be accurately and reliably informed, the right to transparency of public life as well as the right to control and social criticism.
	1992 Broadcasting Act, as amended <sup>5</sup>	AAVM	Article 6 (1) “The National Council shall safeguard freedom of speech in radio and television broadcasting, protect the independence of broadcasters and the interests of the public, as well as ensure an open and pluralistic nature of radio and television broadcasting.”
<b>1.2. Freedom of/right to information</b>	The 1997 Constitution of the Republic of Poland	applies generally, including  PM AAVM	Article 61 “1.A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury. 2.The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings.”
<i>Implementation problem:</i> Limitations: Article 61 (3) of the Constitution: “3. Limitations upon the rights referred to in paras. 1 and 2 above, may be imposed by statute solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State.”			
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	2001 Law on Access to Public Information <sup>6</sup>	applies generally, including  PM AAVM	The Act allows anyone to demand access to public information (Article 2), public data and public assets held by public bodies, private bodies that exercise public tasks, trade unions and political parties (Article 4). The requests can be oral or written (Article 10). The bodies must respond within 14 days (Article 13).
<i>Implementation problem:</i> Exemptions include state secrets and confidential information as protected by a law, personal privacy and business secrets (Article 5). Appeals of denials of access are made under the Code of Administrative Procedure initially internally and then to a court. <sup>7</sup>			
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>	1984 Press Law <sup>8</sup>	PM AAVM	Article 4 (1) states that entrepreneurs from a non-profit sector are obliged to provide information to the press about their activities.  Article 6 (2) states that state organs, units and companies are obliged to respond to the criticism of the press.

<sup>4</sup> Press Law (Ustawa Prawo Prasowe) adopted on 26 January, 1984, Official Journal 1984 No 5, item 24, as amended.

<sup>5</sup> Broadcasting Act (Ustawa o Radiofonii i Telewizji) adopted on 29 December, 1992, Official Journal 1993, No 7, item 34, 1993, as amended.

<sup>6</sup> Official Journal, 2001, No 112, item 1198.

<sup>7</sup> The Online Network of Freedom of Information Advocates: <http://www.freedominfo.org/countries/hungary.htm>.

			Article 11 provides rules for information provision by administration units, heads of administration units and spokespersons.
<b>1.3. Explicit recognition of media pluralism</b>			
<b>1.4. Protection of journalistic sources</b>	Penal Procedure Code <sup>9</sup>	applies generally, including:  PM AAVM	Article 180 entitles journalists, doctors and advocates to not disclose professional secrets.  Article 180 (2) states that members of the three professions "can be heard as witnesses about facts which are covered by professional confidentiality only when it is indispensable for the good of the administration of justice and when certain circumstances cannot be established by other evidence (...)".  Article 180 (3) specifies that "exemption of the journalist from the obligation to keep professional secrets is not applicable to information which could enable to identify the author of a press material, a letter to the editor or other material of this kind, as well as to identify persons who provided information which was published or designed for publication, if these persons have reserved their right of non-disclosure the above data".
<i>Implementation problem: Exceptions: The protection given by Article 180 (3) does not apply in cases of serious crimes including: genocide, high treason, espionage, assassination or attack on life of the President, terrorist attack on military forces or a military object, murder, causing danger to life, health of a substantial number of persons or to a property of huge size, hi-jacking and kidnapping.</i>			
	1984 Press Law PM	AAVM	Article 15 (1) specifies that an author of the article has a right not to disclose his name.  Article 15 (2) states that a journalist is obliged not to disclose data on an author of the article, letter or other press item, and data on other sources providing information, if persons listed above required such protection.
<i>Implementation problem: Exceptions specified by Article 16 include articles and other press materials which concern crime as described by Article 254 of the Penal Code.</i>			
	Code of Journalistic Ethic (Kodeks etyki dziennikarskiej) adopted by The Polish Journalists Association (SDP)	Applies generally, including PM and AAVM	Article 7  A journalist is obliged to protect confidentiality of his/her source of information if required by this source.
	Journalistic Code of Conduct (Dziennikarski Kodeks Obyczajowy) adopted by the Association of Journalists of the Republic of Poland (SDRP)	Applies generally, including PM and AAVM	Article II  A journalist is obliged to protect anonymity of his/her source, if required by this source.
<b>1.5. Right of reply</b>	1984 Press Law	PM AAVM	Article 31 provides for the publication of a reply to false or untrue facts, or incomplete information or to statements endangering personal goods.  Article 32 and 33 concern conditions under which a reply is published

<sup>8</sup> Press Law (Ustawa Prawo Prasowe) adopted on 26 January 1984, Official Journal 1984 No 5, item 24, as amended.

<sup>9</sup> Penal Procedure Code (Ustawa Kodeks Postępowania Karnego) adopted on 6 June 1997, Official Journal 1997, No 89, item 555, as amended.

<p><b>1.6. Ratification of international instruments:</b>          - CoE’s Framework Convention For The Protection Of National Minorities          - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)</p>	<p>International legal instruments:          CoE’s Framework Convention for the Protection of National Minorities          CoE’s European Charter for Regional and Minority Languages          UNESCO Convention on the Protection of the Diversity of Cultural Expressions</p>	<p>applies generally, including PM and AAVM</p>	<p>or denied publishing.</p> <p>-signed (1.02.1995)          -ratified (20.12.2000)          -entered into force (1.04.2001)</p> <p>-signed (12.05.2003)</p> <p>-accession by European community (18.12.2006)          -accession by Poland (17.08. 2007)</p>
--	---	---	---



**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	1984 Press Law	PM AAVM	Article 10 (2) obliges a journalist to fulfil internal policy (as expressed in the statute or internal code) of a news room or editorial office in which he/she is employed.
	Code of Journalistic Ethic (Kodeks etyki dziennikarskiej) adopted by The Polish Journalists Association (SDP)	Applies generally, including PM and AAVM	Articles 17 – 21 describe conflict of interests including acceptance of gifts, hidden advertising and political activity. Article 23 states that a journalist may refrain from carrying out his/her professional tasks which stay in the conflict with journalistic ethics, law or his/her grounded opinions and beliefs.
<i>Implementation problem:</i> The Association set up the Supreme Journalistic Court consisting of seven members. The Court concludes judgments on basis of the statute of the Association and the Code of Journalistic Ethics. In its judgment of 20.06.2006 the court stated that Andrzej Krajewski infringed Article 4 of the Code.			
	Journalistic Code of Conduct (Dziennikarski Kodeks Obyczajowy) adopted by Association of Journalists of the Republic of Poland (SDRP)	Applies generally, including PM and AAVM  The Association set up the Supreme Journalistic Court consisting of seven members. The Court concludes judgments on basis of the statute of the Association and the Journalistic Code of Conduct.	Article I  A fundamental task of a journalist is searching for the truth and publication of truthful information.
<i>Note:</i> Institutional landscape of journalist associations and unions is relatively rich in Poland. Two main competitive organisations include Polish Journalists' Association (Stowarzyszenie Dziennikarzy Polskich) and Polish Republic Journalists' Association (Stowarzyszenie Dziennikarzy RP). SDP was established in 1951. In 1980 – 1981, SDP has co-operated closely with the Solidarity movement. During the Martial Law in 1981 the Association was illegally dissolved and all its property was handed over to the newly established Association of Journalists of the People's Republic of Poland (now SDRP). In 1989, SDP has been legally re-established and the Association of Journalists of the People's Republic of Poland changed its name into the Association of Journalists of the Republic of Poland. There are several minor journalists' organizations operating either continuously or interrupted intervals: Catholic Association of Journalists (Katolickie Stowarzyszenie Dziennikarzy), Polish Journalists Syndicate (Syndykat Dziennikarzy Polskich), Trade Union of Journalists (Związek Zawodowy Dziennikarzy) and Trade Union of Polish Television employees (Związek Zawodowy Pracowników TVP). Other professional institutions with self-regulatory powers include: Press Publishers Chamber (Izba Wydawców Prasy), National Chamber of Audiovisual Producers (Krajowa Izba Producentów Audiowizualnych), Association of Advertising Agencies (Stowarzyszenie Agencji Reklamowych), Polish PR Association (Polskie Stowarzyszenie PR) and Interactive Advertising Bureau Polska.			
	The Media Charter of Ethics	Applies generally, including PM and AAVM	The Charter covers following principles: -Principle of the truth -Principle of objectivity -Principle of division of the information and commentary -Principle of honesty -Principle of respect and tolerance -Principle of superiority of recipients' good -Principle of freedom and responsibility

*Note: The Media Charter of Ethics was adopted by existing journalists' associations and major media organisations. On 29.03.1995 the parties established the Media Council of Ethics - a body composed of broadly respected media professionals whose aim is to guard the principles of the Charter and initiate an opinion, interpretation or further action in cases of Charter standards violation.*

<b>2.2. News / information programmes</b>	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The document covers following areas: -Polish Television and its viewers -Polish Television and politics -Polish Television and culture -Polish Television and education -Finances of Polish Television -Employees of Polish Television  The section on 'Polish Television and politics' states that a duty of the Polish Television is to provide for information and perform an impartial analysis of events and processes undergoing in the society and the world in such a way, that viewers can consciously participate in the life of the nation and fulfill their citizen's rights.
<b>2.3. Other media content</b>	Code of Good Practices (Kodeks dobrych praktyk) adopted in 2005 by the Association of Advertising Agencies (Stowarzyszenie Agencji Reklamowych – SAR)  Good practices in the internet adopted by SAR	Applies generally, including PM and AAVM	The Code covers such areas as: -fair competition -protection of intellectual values -dumping -head-hunting -corruption practices, etc.
	Code of Conduct – based on SEO Code of Conduct (Kodeks etyczny w zakresie przygotowania stron internetowych) adopted by the Interactive Advertising Bureau Polska	Applies generally, including PM and AAVM	The Code covers areas of conduct of SEO (Search Engine Optimization) practitioners and their clients and lists a number of non-ethical practices.
<b>2.4. Subsidies/          Training of journalists (independence, ethic, recruitment, etc.)</b>			

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures			
<i>Note: There are no such representation requirements in current media-related or general laws.</i>			
3.1.2. Special representation requirements in media advisory bodies	For advisory bodies to public service broadcasters:  1992 Broadcasting Act, as amended	AAVM	Article 30 (4a): “When appointing Programme Councils of branches broadcasting programme services in the languages of national and ethnic minorities and in regional languages, branch directors shall take into account candidates put forward by social organizations of national and ethnic minorities and communities speaking regional languages.”
<i>Note: The programme councils advise to public service broadcasters.</i>			
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	Article 32: “1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.  2. No one shall be discriminated against in political, social or economic life for any reason whatsoever.”
	The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	Article 33 (2): “Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.”
	The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	Article 35 (1): “The Republic of Poland shall ensure Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture.”
	The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	In addition, Article 60 states that Polish citizens enjoying full public rights shall have a right of access to public services based on the principle of equality.
<i>Note: Constitution addresses protection against discrimination in general. Article 32 of the Constitution establishes the provisions of equality and non-discrimination, but does not specifically refer to racial, ethnic, national, religious, linguistic or cultural grounds of discrimination:</i>			
<i>Article 33 ensures equal rights for men and women, in particular regarding education, employment and promotion and thus, also provide a basis for equal opportunity policy.</i>			
<i>Article 35 ensures the right of members of national and ethnic minorities to use minority language, maintain customs and perform their culture, but does not refer specifically to the employment, recruitment of equal opportunities.</i>			
<i>Regarding Article 60, access to public service includes also access to public service broadcasting. This provision does not however explicitly provide for specific equal opportunity or promotion policies</i>			

<i>to ensure that equal access is enjoyed by citizens regardless of gender, race, ethnicity, religion, language, sexual orientation, disability, etc..</i>			
	Labour Code <sup>10</sup>	Applies generally, including PM and AAVM	<p>Article 11 (2):          Employees have equal rights stemming from equal fulfillment of the same duties; it refers in particular to equal treatment of women and men in labour relations.</p> <p>Article 11 (3):          “Any form of ethnic discrimination in labour relations, direct or indirect, in particular on the grounds of sex, age, disablement, race, religion, nationality, political opinion, membership in trade unions, ethnic origin, belief, sexual orientation and on the grounds of fixed-term or non fixed-term, full-time or part-time employment, cannot be admitted”.</p>
<p><i>Note: Under this provision, media as institutions employing journalists and communication professionals “cannot admit” discrimination on grounds listed in the Article 11. The need to implement anti-discrimination legislation was noticed in the 2000 EC Regular Report: “Legislation transposing the EC directive based on Article 13 of the Treaty relative to discrimination on the grounds of race or ethnic origin will have to be introduced and implemented.”<sup>11</sup></i></p>			
	1992 Broadcasting Act, as amended	AAVM	<p>Article 18:          1. Programmes or other broadcasts may not encourage actions contrary to law and Poland's <i>raison d'Etat</i> or propagate attitudes and beliefs contrary to the moral values and social interest. In particular, they may not include any discrimination on grounds of race, sex or nationality.”</p>
	2005 Act on National and Ethnic Minorities and on a Regional Language <sup>12</sup>	Applies generally	<p>Article 6:          1. Discrimination on grounds of ethnic origin shall be forbidden.          2. Public administration shall be obliged to take appropriate steps to:          1) support the full and effective equality in a sphere of economic, social, political and cultural life, among the persons belonging to minorities and a majority.          2) protect persons who are discriminated or who are victims of hate or violence on grounds of their belonging to a minority.          3) strengthen an intercultural dialogue</p>
<b>3.2. Representation of the various cultural groupings in the media</b>	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – The Polish Television	<p>Polish Television and Culture:          The programmes of the Polish Television should represent a wide range of significant ethical and value orientations and conventions, present in the pluralistic Polish culture, including cultures of national minorities.</p>
3.2.1. Access to airtime for cultural groupings	1992 Broadcasting Act, as amended	AAVM	<p>Article 21 (1a)          “The tasks of public radio and television arising out of the implementation of the mission referred to in paragraph 1 shall include in particular:          (...)          8a) paying due regard to the needs of national and ethnic minorities and communities speaking regional languages, including broadcasting news programmes in the languages of national and ethnic minorities and in regional languages;          9) production of educational programmes and ensuring access by people of Polish descent and Poles living abroad to such programmes.”</p>

<sup>10</sup> Labour Code (Kodeks Pracy) adopted on 26 June 1974, Official Journal 1998, No 21, item 94, as amended.

<sup>11</sup> 2000 Regular Reports from the Commission on Poland's Progress towards Accession, pp. 56-57.

<sup>12</sup> Act on National and Ethnic Minorities and on a Regional Language (Ustawa o Mniejszościach Narodowych i Etnicznych oraz o Języku Regionalnym) adopted on 6 January 2005, Official Journal 2005 No 17, item 141.

	2005 Act on National and Ethnic Minorities and on a Regional Language	Article 18 (3)	Article 18 (1) Public administration is obliged to take appropriate steps to support an activity aimed at the protection, maintaining and development of cultural identity of a minority group. 2. Means described in the para. 1 may involve purpose-related or institutional subsidies for: (...) 3) the publication of books, magazines, periodicals and other printed materials in minority languages or Polish, in print or other sound and image recording techniques 4) the support of TV and radio programmes carried out by minorities.
<i>Note: Subsidies described in the para. 2 allocated from the part of the state budget disposed by the minister with competencies to deal with religions, national and ethnic minorities may be allocated without an open grant competition scheme. The minister announces each year procedural rules regarding grant allocation. A common commission of the Government and National and Ethnic Minorities provides opinions on subsidy schemes and grant distribution.</i>			
3.2.2. Content obligations	1992 Broadcasting Act, as amended	AAVM	Article 18 (2) “Programmes or other broadcasts shall respect the religious beliefs of the public and especially the Christian system of values.”
	1992 Broadcasting Act, as amended	AAVM	Article 45: “2. The registering authority shall impose a ban upon the cable network operator to retransmit programme services or a particular programme service, if: 1) contents inciting hatred on the grounds of race, sex, nationality or religion (...)”
3.2.2.1. Promotion of European works	1992 Broadcasting Act, as amended	AAVM	Article 15: “3. Television broadcasters shall reserve more than 50% of their quarterly transmission time for European works, excluding news, advertising, teleshopping, sports events, teletext services and games.”
<i>Note: The National Council may determine, by a regulation, a lower share of programmes referred to in paragraphs 1 and 3 in radio and television programme services for: Article 15 (4) (...) 1) broadcasters during the first year of transmission of their programme service, 2) thematic programme services, for which the number of available programmes referred to in paragraphs 1 and 3, is insufficient, 3) programme services transmitted solely via satellite or cable which in their entirety are available against payment of a fee (...)”</i>			
3.2.2.2. Promotion of European independent works	1992 Broadcasting Act, as amended	AAVM	Article 15a: “1. Television broadcasters shall reserve at least 10% of their quarterly transmission time for European works produced by independent producers, excluding news, advertising, teleshopping, sports events, teletext services, and games. Programmes produced not later than 5 years before their transmission in the programme service shall constitute at least 50 % of the time reserved for European works produced by independent producers.”
<i>Note: The National Council determines, by a regulation, with regard to the programmes and works referred to in Article 15 paragraphs 1 and 3 and paragraph 1: 1) the manner in which the broadcaster keeps record of the transmission time, 2) the duration of storage period of such records, however, not less than 1 year, 3) the scope of recorded information, including information about the date of transmission of a programme, actual duration of the programme, title and producer of the programme.</i>			
3.2.2.3. Promotion of national/regional works	1992 Broadcasting Act, as amended	AAVM	Article 15: “1. Television broadcasters shall reserve at least 33% of their quarterly

			transmission time to programmes originally produced in the Polish language, excluding news, advertising, teleshopping, sports events, teletext services and games. 2. Radio and television broadcasters shall reserve at least 33% of their quarterly transmission.”
3.2.2.4. Language requirements	See as above	See as above	See as above
	1992 Broadcasting Act, as amended	AAVM	Article 18 (7): “Broadcasters shall ensure the proper quality of the Polish language in their programme services and shall counteract its vulgarisation.”
	1992 Broadcasting Act, as amended	Public service TV and R	Article 25 (1) “Public radio and television broadcasting organisations may produce and transmit programme services in the Polish language and other languages for receivers abroad.”
	1992 Broadcasting Act, as amended	Public service TV and R	Article 21 (1a): “The tasks of public radio and television arising out of the implementation of the mission referred to in paragraph 1 shall include in particular: 1) production and transmission of national and regional programme services, programme services for reception abroad in the Polish language and in other languages as well as other programme services meeting the democratic, social and cultural needs of local societies.”
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)	Direct subsidies:  2005 Act on National and Ethnic Minorities and on a Regional Language	Applies to minority periodicals and TV and R programmes carried out by minorities	Article 18 (1) Public administration is obliged to take appropriate steps to support an activity aimed at the protection, maintaining and development of cultural identity of a minority group. 2. Means described in the para. 1 may involve purpose-related or institutional subsidies for: (...) 3) the publication of books, magazines, periodicals and other printed materials in minority languages or Polish, in print or other sound and image recording techniques 4) the support of TV and radio programmes carried out by minorities.
<p><u>Note:</u>          Article 18 (3)  <i>Subsidies described in the para. 2 allocated from the part of the state budget disposed by the minister with competencies to deal with religions, national and ethnic minorities may be allocated without an open grant competition scheme. The minister announces each year procedural rules regarding grant allocation.          A common commission of the Government and National and Ethnic Minorities provides opinions on subsidy schemes and grant distribution.          Direct subsidies are, in the case of Poland, provided for a relatively modest number of periodicals. The Ministry of Culture, Ministry of Scientific Research and Information Technology and Ministry of Environment Protection supply financing for cultural magazines, academic periodicals and environmental magazines, a few with an ongoing support and the rest through competitive grants. National minority press is subsidised from the Department of National Minority Cultures at the Ministry of Culture. For instance, in 2003, 34 national minority periodicals were assigned subsidies totalling PLN 2,484,000 (€ 552,000).</i></p>			
	Indirect subsidies:	Applies to specialized	Small and community press is protected through the scheme of

	2004 Act on Commodity and Service Tax, as amended <sup>13</sup>	periodicals only	‘specialised periodicals’.  Article 146 (4): The specialised periodicals are defined as periodicals focused on cultural, creative, educational, scientific, social, professional and methodical activities, regional and local issues, and periodicals designed for sightless people. They may not be published more often than once a week and their circulation cannot exceed 15 000 copies. Under the 2004 Act on Commodity and Service Tax (2004) delivery and import of specialised periodicals is exempted from VAT (Article 148.1.3.a,b).
<p><u>Note:</u>  <i>The list of specialised periodicals does not include periodicals with a general content; publications containing pornography, hate speech on grounds of national, ethnic, racial or religious differences or publications promoting fascism or other totalitarian systems; publications which devote at least 33 per cent of their surface to paid and unpaid commercial announcements, advertising or advertising texts; periodicals which contain mainly a novel or other literary work; periodicals with at least 20 per cent of their surface devoted to cross-word puzzles or other games or publications containing information about celebrities and publications which do not publish circulation data.</i></p>			
	Indirect subsidies:  1992 Broadcasting Act, as amended	AAVM	Article 4 (1a) „social broadcaster” shall mean a broadcaster who: a) propagates learning and educational activities, promotes charitable deeds, respects the Christian system of values, being guided by the universal principles of ethics, and strives to preserve national identity in the programme service, b) does not transmit programmes or other broadcasts referred to in Article 18 paragraph 5 within the programme service, c) does not transmit advertising or teleshopping, sponsored programmes or other sponsored broadcasts, d) does not charge any fees for transmission, retransmission or reception of the programme service.”
<p><u>Note:</u> 1992 Act exempts social broadcasters from fees payable for awarding or altering the licence (Article 39b)        Following subjects may apply to the National Council to be granted the status of social broadcasters:        (Article 39b):        1) an association, within the framework of implementing its statutory objectives,        2) a foundation, within the framework of implementing its statutory objectives,        3) a church or a religious legal person of a given church, or a religious organisation whose status is regulated by an Act of Parliament.</p>			
<b>3.3. Accessibility        (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)</b>	2004 Telecom-munications Law <sup>14</sup>	Telecommuni-cation sector	Article 189 (2) “The communications administration bodies shall carry out the regulation policy, aiming in particular at: 1) supporting competition with respect to the provision of telecommunications networks, associated facilities or telecommunications services, including: a)ensuring that users, including disabled users, derive maximum benefit in terms of prices, choice of services and quality, 3) promoting the interests of European Union citizens, including: e)identifying the needs of certain social groups, particularly of disabled users, 4) carrying out the policy of promoting cultural and linguistic diversity as well as media pluralism;”

<sup>13</sup> 2004 Act on Commodity and Service Tax (Ustawa o podatku od towarów i usług), adopted on 11 March 2004, Official Journal 2004, No. 54, item 535, as amended.

<sup>14</sup> 2004 Act on Telecommunications Law (Ustawa Prawo Telekomunikacyjne) adopted on 16 July 2004, Official Journal 2004, No 171, item 1800, as amended.

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)			
4.1.2. Requirements of independence from political parties / politicians	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The Polish Television and Politics (page 3-4): The Polish Television shall safeguard its autonomy and independence. The Polish Television's legal statute, mode of appointment and composition of its management and advisory bodies guarantee fulfillment of social interests and expectations through the Polish Television's activities. The Polish Television shall not favor or promote any orientation, but shall create possibilities to express all legally acceptable views in its programming structure as a whole.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	Article 214 (2): “A member of the National Council of Radio Broadcasting and Television shall not belong to a political party, a trade union or perform public activities incompatible with the dignity of his function.”
	1992 Broadcasting Act, as amended	AAVM	Article 8(3) “During the term of office of members of the National Council, their membership in: 2) governing bodies of associations, trade unions, employers' associations, as well as church or religious organisations, shall be suspended.”  Article 8(4): “It is prohibited to combine the service of a member of the National Council with holding an interest or shares, or with any other involvement, in an entity which is a radio and television broadcaster or producer, as well as with any other gainful employment, save for educational or academic positions of an academic tutor or lecturer or performing creative work.”
4.1.4. Representation requirements in media companies' bodies (board of directors...)	There are no such requirements formally set by law.		
4.1.5. Representation requirements in media advisory bodies and/or regulators	For a regulatory body:  The 1997 Constitution of the Republic of Poland	Applies generally, including PM and AAVM	Article 214 (1) “The members of the National Council of Radio Broadcasting and Television shall be appointed by the Sejm, the Senate and the President of the Republic.”
	For a regulatory body:  1992 Broadcasting Act, as amended	AAVM	Article 7 (1): “The National Council shall consist of 5 members, of which 2 shall be appointed by the Sejm1, 1 by the Senate and 2 by the President from amongst persons with a distinguished record of knowledge and experience in public media.”
	For advisory bodies to public service broadcasters:	AAVM	Article 28a “1. Programme councils of public radio and public television shall consist



	1992 Broadcasting Act, as amended	The programme councils advise to public service broadcasters.	of 15 members appointed by the National Council, of which 10 members shall represent parliamentary groups. The remaining 5 members shall be appointed from amongst persons with a record of experience and achievement in culture and mass media.”
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>	Rules on sponsorship:  1992 Broadcasting Act, as amended	AAVM	Article 17 (5): “Subject to the reservations contained in paragraph 6, programmes or other broadcasts may not be sponsored by: 1) political parties, 2) trade unions, 3) employers’ organisations,  Article 17 (7): “Sponsorship of the following programmes shall be prohibited: 1) news, with the exception of sports and weather forecasts, 2) commentaries on social and political topics, 3) consumer and practical advice programmes, 4) electoral programmes or programmes directly related to electoral campaigns.”
4.2.1. Equal/proportionate access to airtime for political groupings	1992 Broadcasting Act, as amended	Public service R and TV	Article 23 (1): “Public radio and television broadcasting organisations shall enable political parties to present their position with regard to major public issues.”  Article 23 (2): “The provision of paragraph 1 shall apply correspondingly to national trade unions and employers’ organisations.”
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The Polish Television and Politics (page 3)  The Polish Television accurately presents, analyzes and discusses activities of political parties and creates possibilities for these parties, trade unions and employers unions to address their stands and opinions in crucial public affairs. The Polish Television aims at achieving a balance in presenting diverse stands and views.
4.2.2. Government announcements	1992 Broadcasting Act, as amended	Public service R and TV	Article 22 (2): “Public radio and television broadcasting organisations shall facilitate direct presentation and explanation of the State policy by supreme State authorities.”
	1984 Press Law	PM AAVM	Article 34 (1) The editor in chief is obliged to publish unpaid administrative communication (...) from principal and central state organs (...)
4.2.3. Impartiality obligations	1992 Broadcasting Act, as amended	Public service R and TV	Article 21 (1): “Public radio and television shall carry out their public mission by providing, on terms laid down in this Act, the entire society and its individual groups with diversified programme services and other services in the area of information, journalism, culture, entertainment, education and sports which shall be pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.”
4.2.4. Fair representation of political viewpoints; special rules in election periods	1992 Broadcasting Act, as amended	Public service R and TV	Article 24 (1): “Entities participating in elections to the Sejm, the Senate, the local self-government and the European Parliament shall be entitled to transmit

			<p>election programmes in the public radio and television programme services on terms determined in separate provisions.”</p> <p>Article 24 (2): “The provision of paragraph 1 shall apply respectively to the election of the President of the Republic of Poland.</p> <p>Article 24 (3): “Entities entitled to take part in a referendum campaign launched in the radio and television programme services as defined in Article 48 paragraph 1 of the Act of March 14, 2003 on Nationwide Referendum (official journal “Dz.U.”, No. 57, item 507 and No. 85, item 782) shall be enabled to transmit referendum programmes in public radio and television programme service on terms laid down in separate provisions.”</p>
--	--	--	--

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b>	1992 Broadcasting Act, as amended	Public service R and TV	Article 26 (6): “Acting in agreement with the Chairman of the National Council, the President of the Office of Electronic Communications shall allocate to companies producing and transmitting: 1) national television programme services - the frequencies required to cover the territory of the country by the programme services transmitted by the „Polish Television I” and „Polish Television II” channels,2) national radio programme services - the frequencies required to cover the territory of the country by programme services transmitted on the first, second, third and fourth channels and frequencies needed to transmit radio programme services for listeners abroad, 3) regional television programme services - the frequencies required to transmit regional television programme services, 4) regional radio programme services - the frequencies required to transmit regional radio programme services.”
<p><i>Note: Television landscape in Poland has been fundamentally shaped during the first licence-granting process (1993 – 1994) aiming at setting up the model, that would provide initial pluralism of broadcasters complementary addressing different audiences and their needs. As a result, licences were granted to 11 domestic broadcasters (one national – Polsat, one supra-regional – Telewizja Wisla and nine local) and one foreign broadcaster (pay TV – Canal Plus). Ideally, this could have balanced the dominance of the public broadcaster offering two national channels (TVP I, TVP II), 11 regional channels and 1 satellite channel (Polonia). However due to irregularity in transmission and financial problems, private regional and local TV channels did not prove to offer alternative content production of good quality. Also, the reform of PSB structure (transformation of regionally-based 3 channel into 24 hours news channel) weakened the position of regional branches, leaving the broadcasting landscape heavily centralized.</i></p>			
	1992 Broadcasting Act, as amended	Cable operators	Article 43: “1. The cable network operator shall introduce programme services into the cable network in the following sequence: 1) national programme services of public radio and television, 2) regional programme services of public radio and television, receivable in the given area, 2a) programme services of domestic social broadcasters, receivable in the given area, 3) programme services of other domestic broadcasters, receivable in the given area, 4) programme services of other domestic and foreign broadcasters.”
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	1992 Broadcasting Act, as amended	Public service R and TV	Article 26: “2. Public television shall be formed by the company „Telewizja Polska - Spółka Akcyjna” <sup>2</sup> established for the purpose of producing and transmitting national programme services I, II, TV Polonia as well as regional television programme services. 2a. Regional branches of the company "Telewizja Polska - Spółka Akcyjna" shall have their corporate seats in: Białystok, Bydgoszcz, Gorzów Wielkopolski, Gdańsk, Katowice, Kielce, Kraków, Lublin, Łódź, Opole, Olsztyn, Poznań, Rzeszów, Szczecin, Warszawa, Wrocław. 3. Public radio shall be formed by:

			1) „Polskie Radio - Spółka Akcyjna” <sup>3</sup> established in order to produce and transmit national radio programme services and programme services for receivers abroad, 2) companies founded to produce and transmit regional radio programme services, hereinafter referred to as „regional radio companies”.
	1992 Broadcasting Act, as amended	Public service R and TV	Article 30: “1. Production and transmission of regional public television programme services shall be the task of regional branches of the company referred to in Article 26 paragraph 2.”
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The Mission of the Polish Television as a public broadcaster (page 2): Regional branches of the Polish Television reflect life, culture and traditions of regions. The Polish Television produces programming for Poles and Polish diaspora living abroad.
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	1992 Broadcasting Act, as amended	Public service R and TV	Article 21 (1): “1a. The tasks of public radio and television arising out of the implementation of the mission referred to in paragraph 1 shall include in particular: 1) production and transmission of national and regional programme services, programme services for reception abroad in the Polish language and in other languages as well as other programme services meeting the democratic, social and cultural needs of local societies.”
<b>5.4. Regional State Aids</b>	Indirect subsidies:  2004 Act on Commodity and Service Tax, as amended <sup>15</sup>	applies to specialized periodicals only	Small and community press is protected through the scheme of ‘specialised periodicals’. Article 146 (4): The specialised periodicals are defined as periodicals focused on cultural, creative, educational, scientific, social, professional and methodical activities, regional and local issues, and periodicals designed for sightless people. They may not be published more often than once a week and their circulation cannot exceed 15 000 copies. Under the 2004 Act on Commodity and Service Tax (2004) delivery and import of specialised periodicals is exempted from VAT (Article 148.1.3.a,b).
<b>Note:</b> <i>The list of specialised periodicals does not include periodicals with a general content; publications containing pornography, hate speech on grounds of national, ethnic, racial or religious differences or publications promoting fascism or other totalitarian systems; publications which devote at least 33 per cent of their surface to paid and unpaid commercial announcements, advertising or advertising texts; periodicals which contain mainly a novel or other literary work; periodicals with at least 20 per cent of their surface devoted to cross-word puzzles or other games or publications containing information about celebrities and publications which do not publish circulation data.</i>			
<b>5.5. Rules on national minorities</b>	Direct subsidies:  2005 Act on National and Ethnic Minorities and on a Regional Language	Applies to minority periodicals and TV and radio programmes carried out by minorities	Article 18 (1) Public administration is obliged to take appropriate steps to support an activity aimed at the protection, maintaining and development of cultural identity of a minority group. 2. Means described in the para. 1 may involve purpose-related or institutional subsidies for: (...) 3) the publication of books, magazines, periodicals and other printed materials in minority languages or Polish, in print or other sound and image recording techniques 4) the support of TV and radio programmes carried out by minorities.

<sup>15</sup> 2004 Act on Commodity and Service Tax (Ustawa o podatku od towarów i usług), adopted on 11 March 2004, Official Journal 2004, No. 54, item 535, as amended.

<p><u>Note:</u>  <i>Article 18 (3)</i>  <i>Subsidies described in the para. 2 allocated from the part of the state budget disposed by the minister with competencies to deal with religions, national and ethnic minorities may be allocated without an open grant competition scheme. The minister announces each year procedural rules regarding grant allocation.</i>  <i>A common commission of the Government and National and Ethnic Minorities provides opinions on subsidy schemes and grant distribution.</i>  <i>Direct subsidies are, in the case of Poland, provided for a relatively modest number of periodicals. The Ministry of Culture, Ministry of Scientific Research and Information Technology and Ministry of Environment Protection supply financing for cultural magazines, academic periodicals and environmental magazines, a few with an ongoing support and the rest through competitive grants. National minority press is subsidised from the Department of National Minority Cultures at the Ministry of Culture. For instance, in 2003, 34 national minority periodicals were assigned subsidies totalling PLN 2,484,000 (€ 552,000).</i></p>			
<p><b>5.6. Rules on social inclusion of remote areas</b>          (Aménagement du territoire)</p>			

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>	1992 Broadcasting Act, as amended  2007 Act on Competition and Consumer Protection <sup>16</sup>	AAVM  Applies generally	Limits on concentration of broadcasting ownership were set up in the 1992 Broadcasting Act within the procedural frame of granting and revoking broadcasting licences. A broadcasting licence may not be awarded if transmission of a programme service by the applicant could result in the applicant’s achievement of a dominant position in mass media in the given area (Article 36). Also, the broadcasting licence may be revoked on the same grounds (Article 38). Yet, the Broadcasting Act does not explicitly define “a dominant position in mass media in the given area”. It is the 2000 Act on Competition and Consumer Protection, which provides for interpretation of such a position. This is understood as a position of the undertaking which allows it to prevent the efficient competition within a relevant market thus enabling it to act in a significant degree independently of competitors, contracting parties and consumers. It is assumed that the undertaking holds a dominant position if its market share exceeds 40%. (Art. 4.10, 2007 Act on Competition and Consumer Protection).
<p><i>Note: In compliance with the Broadcasting Act, the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji - KRRiT) evaluates, whether an applicant may achieve a dominant position considering above all the main goals of the Broadcasting Act, open and pluralistic nature of broadcasting. It should be added in this respect, that media sector markets are treated separately, because the Polish competition law gives a possibility to divide markets according to criterion of consumers’ ability to regard products as substitutes.<sup>17</sup> For example, in the merger case Polskapresse<sup>18</sup>, the Office for Competition and Consumer Protection (OCCP) held that daily newspapers belonging to the so-called yellow-press formed together a relevant market of their own for reason of their sensational character. Moreover, according to OCCP, free of charge newspapers also have to be excluded and treated as a different category when defining a homogenous product market for (regional) daily newspapers. As regards the geographic dimension of the markets, the key factor for distinguishing between national and local newspapers is the limited area of distribution of the latter.<sup>19</sup></i></p>			
	2004 Tele-communications Law <sup>20</sup>	Tele-communication sector	Article 24 (1): “Where the President of UKE finds that the relevant market is not effectively competitive, he/she shall initiate proceedings aimed at designating a telecommunications undertaking or undertakings with significant market power and impose regulatory obligations provided for in the Act.”
6.1.1. Moment of intervention			
6.1.1.1. At moment of market entry (licensing procedure)	1992 Broadcasting Act, as amended	AAVM	Article 36(2): “Broadcasting licence shall not be awarded if transmission of a

<sup>16</sup> 2007 Act on Competition and Consumer Protection (Ustawa o Ochronie Konkurencji i Konsumentów) adopted on 16 February 2007, Official Journal, 2007 No 50, item 331. The 2007 Act replaced 2000 Act on Competition and Consumer Protection adopted on 15 December 2000, Official Journal 2000, No 122, item 1319. The 2000 was preceded with 1990 Act on Combating Monopolistic Practices and Protection of Consumer Interests which introduced specific provisions on antitrust and merger control. Already in 1987, Poland adopted its previous Act on Combating Monopolistic Practices in the National Economy.

<sup>17</sup> See more in: Klimkiewicz, B. (2004) “Poland” [in] Baksić-Hrvatini, S.; Kucić, L. and Petković, B.; (ed.) *Media Ownership and its Impact on Media Independence and Pluralism*. Ljubljana: Peace Institute.

<sup>18</sup> OCCP, decision of 11 February 2004 in Case RWR 7/2004, *Polskapresse*.

<sup>19</sup> See: Institute of European Media Law (EMR) (2005) *Media Market Definitions: A Comparative Legal Analysis, Final Report*, Chapter 9 Poland, p. 12.

<sup>20</sup> 2004 Act Telecommunications Law (Ustawa Prawo Telekomunikacyjne) adopted on 6 July 2004, Official Journal 2004, No 171, item 1800, as amended.)

			programme service by the applicant could result in: (...) 2) achievement, by the applicant, of a dominant position in mass media in the given area.”
<i>Note: The print press has not been subject to limitation according to the 1992 Broadcasting Act.</i>			
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	1992 Broadcasting Act, as amended	AAVM	Article 38(2): “The broadcasting licence may be revoked if: (...) 3) by transmitting the programme service the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers; 4) another person takes over direct or indirect control over the activity of the broadcaster.”  Article 38a  Article 38a(3): “In case of a merger, division or other transformations of commercial companies, the rights referred to in paragraph 1 may transfer onto another entity upon consent of the National Council expressed in the form of a resolution. The consent shall be refused if: 1) the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers; 2) another person takes over direct or indirect control over the activity of the broadcaster.”
<i>Note: The print press has not been subject to limitation according to the 1992 Broadcasting Act. Mergers and acquisitions in the print press sector may be limited under the 2007 Act on Competition and Consumer Protection in the sense of protecting competition through preventing a company from acquisition of a dominant position on the press market.</i>			
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	1992 Broadcasting Act, as amended	AAVM	There are several monitoring and supervisory competencies concerning collection of information and transparency of broadcaster’s activities:  Article 20a 1. At the written request of the President of the Office for Competition and Consumer Protection, the broadcaster shall: 1) disclose the data allowing to identify the person who ordered a programme or advertisement, 2) deliver, free of charge, the recording of the programme or advertisement within 7 days from the date of the request.
	1992 Broadcasting Act, as amended	AAVM	Article 37a A broadcaster shall on an annual basis deliver to the National Council its financial statements prepared in the form specified in the Accounting Act of September 29, 1994.
	1992 Broadcasting Act, as amended	AAVM	Article 54 1. If a person who directs the broadcaster’s activity fails to carry out the decisions issued under Article 10 paragraph 4, the Chairman of the National Council may, by a decision, impose a fine upon such a person; however, such fine shall not exceed the person’s

			<p>six-month remuneration.</p> <p>2. The same fine may be imposed upon a person who directs the broadcaster's activity for failure to provide information or for providing inaccurate information requested by the Chairman of the National Council under Article 10 paragraph 2.</p>
	2004 Tele-communications Law	Tele-communication sector	<p>Article 21:</p> <p>“1. The President of UKE shall carry out the analysis of relevant markets within the scope of telecommunications products and services. (...)</p> <p>3. A telecommunications undertakings shall provide information and submit documents at the request of the President of UKE within the scope necessary to carry out the analysis of markets referred to in paragraph 1.</p>
	2004 Tele-communications Law	Tele-communication sector	<p>Article 21(5):</p> <p>“The President of UKE shall on a regular basis, at least once every two years, carry out the analysis of relevant markets (...)”</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	1992 Broadcasting Act, as amended	AAVM	<p>Article 36</p> <p>Article 38</p> <p>Article 38a</p> <p>the 1992 Broadcasting Act as described above</p>
<p><i>Note: “Horizontal concentration of the press is not subject to limitation according to the 1992 Broadcasting Act. It may be limited under the Act on Competition and Consumer Protection in the sense of protecting competition through preventing any company to acquire a dominant position on the press market.</i></p>			
6.1.2.2. Crossmedia	no media specific rules		
<p><i>Note: In 2002, National Broadcasting Council and Ministry of Culture in Poland proposed the Draft Amendment to the 1992 Broadcasting Act, publicly advertised as a set of measures to protect media pluralism and limit cross-media concentration. The initiative ended with a disclosure of a corruption scandal widely referred as Rywingate and ultimately resulted in the resignation of Leszek Miller's government in 2004. Following amendments did not address an issue of cross media ownership or diagonal media concentration.</i></p>			
6.1.2.3. Vertical integration with networks	no media specific rules		
6.1.2.4. Integration with advertising sector	no media specific rules		
6.1.2.5. Integration with other (e.g. energy) sectors	no media specific rules		
6.1.2.6. Control over both commercial and public media	1992 Broadcasting Act, as amended	AAVM	<p>National Broadcasting Council monitors regularly broadcasting market and provide information on its structural developments, which may include also changes in ownership, mergers and acquisitions.</p> <p>Article 12</p> <p>“1. By the end of March each year, the National Council shall submit to the Sejm, the Senate and the President an annual report on its activities during the preceding year, as well as information concerning key issues in radio and television broadcasting.”</p>
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	no media specific rules		
6.1.3.2. Market shares	<p>1992 Broadcasting Act, as amended</p> <p>2007 Act on Competition and Consumer Protection</p>	AAVM	<p>Article 36</p> <p>Article 38</p> <p>Article 38a</p> <p>The Broadcasting Act does not explicitly define “a dominant position in</p>



		Applies generally	mass media in the given area”. It is the 2007 Act on Competition and Consumer Protection, which provides for interpretation of such a position. This is understood as a position of the entrepreneur which allows him to prevent the efficient competition on the relevant market, while his market share exceeds 40% (Art. 4).
	2004 Tele-communications Law	Tele-communication sector	Article 24 (2): “A telecommunications undertaking with significant market power is a telecommunications undertaking individually holding an economic position equivalent to dominance within the meaning of the Community law provisions.”
6.1.3.3. Circulation and audience shares	only as defined above		
6.1.3.4. Capital shares			Article 38(4): “The broadcasting licence may be revoked if: (...) 4) another person takes over direct or indirect control over the activity of the broadcaster.”
			Article 38a(3): “In case of a merger, division or other transformations of commercial companies, the rights referred to in paragraph 1 may transfer onto another entity upon consent of the National Council expressed in the form of a resolution. The consent shall be refused if: 1) the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers; 2) another person takes over direct or indirect control over the activity of the broadcaster.”
6.1.3.5. Voting shares			Article 38(4): “The broadcasting licence may be revoked if: (...) 4) another person takes over direct or indirect control over the activity of the broadcaster.”
			Article 38a(3): “In case of a merger, division or other transformations of commercial companies, the rights referred to in paragraph 1 may transfer onto another entity upon consent of the National Council expressed in the form of a resolution. The consent shall be refused if: 1) the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers; 2) another person takes over direct or indirect control over the activity of the broadcaster.”
6.1.3.6. Advertising revenues	no media specific rules		
6.1.3.7. Involvement in number of media sectors	no media specific rules		
<b>6.2. Sector specific rules preventing cooperation between media companies</b>	only general competition rules		

<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	1992 Broadcasting Act, as amended	AAVM	Article 35 “1. Broadcasting licences may be awarded to natural persons of Polish nationality who permanently reside in Poland or to legal persons having their permanent seat in Poland. 2. Companies having foreign shareholders may be awarded a broadcasting licence if : 1) the stake held by foreign persons in the share capital of the company does not exceed 49% (...)”
			Article 35(3): “3. The licence may also be awarded to: 1) a foreign person, or 2) a subsidiary, as defined by the Code of Commercial Companies and Partnerships, of a foreign person, - having a seat or permanent residence in a member state of the European Economic Area, with exclusion of restrictions imposed by virtue of paragraph 2.”
			Article 40a(1): “ Purchase or acquisition of shares or interest, or acquisition of rights in shares or interest in a company holding a broadcasting licence to transmit a programme service, by a foreign person, shall require a consent of the Chairman of the National Council (...)”
			Article 40a(5): “The provisions of paragraphs 1 - 3 shall not apply to foreign persons or subsidiaries, as defined by the Code of Commercial Companies and Partnerships, to foreign persons having a seat or permanent residence in a member state of the European Economic Area.”
<i>Note: Under the 1992 Broadcasting Act (before 2004 Amendment), foreign investors were allowed to hold only minority shares (up to 33%) in the Polish broadcasting media. After the 2004 amendment and since Polish accession to EU, limits on EU-based ownership have been removed and new provisions inserted allowing for a higher share of the foreign capital for the investors from other (non EU) countries - up to 49%. Different regulatory schemes for the print press and broadcasting sector influenced ownership patterns: an unbalance between the deficit of domestic capital and extensive foreign investment in the print press sector resulted in a dominant presence of foreign owners, unlike in the case of broadcasting safeguarded by legal barriers.</i>			
6.4. General competition rules	2007 Act on Competition and Consumer Protection	Applies generally	The central administrative body responsible for the enforcement of the Competition Act is the President of the Office of Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów - OCCP).
<i>Note: The Court of the Competition and Consumer Protection (Sąd Ochrony Konkurencji i Konsumentów - CCCP), functionally integrated into the Warsaw District Court, is exclusively competent for complaints against all decisions issued by the President of the OCCP on the basis of the Competition Act. The Court was established together with the first independent competition authority in 1990 and, until 2003, called ‘the Antimonopoly Court’. Its judgments and decisions, given on the basis of the code of civil procedure, are subject to appeal before Appellate Court (Sąd Apelacyjny) and Supreme Court (Sąd Najwyższy).<sup>21</sup></i>			
6.4.1. Antitrust	2007 Act on Competition and Consumer Protection	Applies generally	Prohibition of competition restricting agreements: articles 6 – 8  Article 6. “1. Agreements which have as their object or effect elimination, restriction or any other infringement of competition in the relevant market shall be prohibited (...)”

<sup>21</sup> See: Institute of European Media Law (EMR) (2005) *Media Market Definitions: A Comparative Legal Analysis, Final Report*, Chapter 9 Poland, p. 6.

6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i>	No specific rules for media sector		
6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>			
6.4.2. Merger control	2007 Act on Competition and Consumer Protection	Applies generally	<p>Control of concentration: articles 13 - 17          Decisions in cases of concentration: articles 18 – 23          Antimonopoly proceedings in cases of concentration: Articles 94 - 99</p> <p>Article 13.          “1. The intention of concentration is subject to a notification submitted to the President of the Office in the case where:          1) the combined worldwide turnover of undertakings participating in the concentration in the financial year preceding the year of the notification exceeds the equivalent of EUR 1 000 000 000, or          2) the combined turnover of undertakings participating in the concentration in the territory of the Republic of Poland in the financial year preceding the year of the notification exceeds the equivalent of EUR 50 000 000.”</p>
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 rules for media sector		
6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	<p>For example:          Case DDI-34/2002 of 3 April 2002, <i>Agora S.A./Prószynski</i></p> <p>Case RWA 20/2002 of 5 December 2002, <i>RUCH S.A.</i></p> <p>Case DDI 110/2002 of 16 December 2002, <i>Telewizja Polska S.A.</i></p> <p>Case DPI 27/2003 of 24 April 2003, <i>Canal+ Cyfrowy</i></p> <p>Case RWR 7/2004 of 11 February 2004, <i>Polskapresse</i></p> <p>Case RWA 19/2004 of 16 July 2004, <i>RUCH S.A./ROLKON</i></p> <p>Case DOK 75/2004 of 27 July 2004, <i>Sony Corporation of America/Bertelsmann AG</i></p> <p>Case RPZ 24/2004 of 5 October 2004, <i>Telewizja Kablowa Poznań</i></p>		

*Note: F.i. case RWR 7/2004 of 11 February 2004, Polskapresse: In September 2003, Orkla company sold two of its Wrocław dailies – Słowo Polskie and Wieczór Wrocławia to Polskapresse. In consequence, Wrocław and Dolnośląskie province became largely*

*dominated by Polskapresse. In December 2003, all Wrocław dailies were consolidated into one daily appearing under the title Słowo Polskie /Gazeta Wrocławska (Polish Word/ Wrocław Newspaper) with a 12 pages supplement Wieczór Wrocławia (Wrocław Evening). The Office of Competition and Consumer Protection charged the publisher with penalties amounting to € 100,000 as the company failed twice to notify the intention of concentration on the market of regional daily newspapers. However, the Court of Competition and Consumer Protection abolished the decision of UOKiK.*

<b>6.5. Transparency obligations</b>	1992 Broadcasting Act, as amended	AAVM	Article 20a 1. At the written request of the President of the Office for Competition and Consumer Protection, the broadcaster shall: 1) disclose the data allowing to identify the person who ordered a programme or advertisement (...)"
	1992 Broadcasting Act, as amended	AAVM	Article 37a A broadcaster shall on an annual basis deliver to the National Council its financial statements prepared in the form specified in the Accounting Act of September 29, 1994."
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...)	1992 Broadcasting Act, as amended	AAVM	Article 20a 1. At the written request of the President of the Office for Competition and Consumer Protection, the broadcaster shall: 1) disclose the data allowing to identify the person who ordered a programme or advertisement (...)"
	1992 Broadcasting Act, as amended	AAVM	Article 37a A broadcaster shall on an annual basis deliver to the National Council its financial statements prepared in the form specified in the Accounting Act of September 29, 1994."

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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>	All broadcasters:  1992 Broadcasting Act, as amended	AAVM	<p>Article 16a (6):          “The following programmes may not be interrupted by advertising or teleshopping spots:          1) news and current affairs programmes,          2) programmes with a religious content,          3) commentaries and documentaries, the duration of which is less than 30 minutes, and if their duration exceeds 30 minutes, the provisions of paragraphs 2-5 shall apply,          4) programmes intended for children.”</p> <p>Article 18:          “1. Programmes or other broadcasts may not encourage actions contrary to law and Poland’s <i>raison d’Etat</i> or propagate attitudes and beliefs contrary to the moral values and social interest. In particular, they may not include any discrimination on grounds of race, sex or nationality.          2. Programmes or other broadcasts shall respect the religious beliefs of the public and especially the Christian system of values.          3. Programmes or other broadcasts may not encourage conduct prejudicial to health, safety or the natural environment.          4. Transmission of programmes or other broadcasts threatening the physical, mental or moral development of minors, in particular those containing pornography or exhibiting gratuitous violence, shall be prohibited (...)          7. Broadcasters shall ensure the proper quality of the Polish language in their programme services and shall counteract its vulgarisation.”</p>
	Public service media:  1992 Broadcasting Act, as amended	Public service media	<p>Article 16a (7):          “Programmes in a public radio and television programme service, with the exception of programmes referred to in paragraph 3, shall not be interrupted by advertising or teleshopping spots.”</p> <p>Article 21          1. Public radio and television shall carry out their public mission by providing, on terms laid down in this Act, the entire society and its individual groups with diversified programme services and other services in the area of information, journalism, culture, entertainment, education and sports which shall be pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.          1a. The tasks of public radio and television arising out of the implementation</p>

			<p>of the mission referred to in paragraph 1 shall include in particular:</p> <ol style="list-style-type: none"> <li>1) production and transmission of national and regional programme services, programme services for reception abroad in the Polish language and in other languages as well as other programme services meeting the democratic, social and cultural needs of local societies,</li> <li>2) production and transmission of thematic programme services, if a broadcasting licence has been awarded for transmission of the said programme service (...)</li> <li>7) encouraging artistic, literary, scientific and educational activities,</li> <li>8) dissemination of knowledge of Polish language,</li> <li>8a) paying due regard to the needs of national and ethnic minorities and communities speaking regional languages, including broadcasting news programmes in the languages of national and ethnic minorities and in regional languages;</li> <li>9) production of educational programmes and ensuring access by people of Polish descent and Poles living abroad to such programmes.”</li> </ol>
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	<p>The Mission of Polish Television as a public service broadcaster (p. 2):</p> <p>“In each of its national channel, the Polish Television devotes at least 15% of its transmission time to news and current affairs, 10% to education, 10% to culture and art programming, and 15% to family, children and youth programmes. Regional branches of the Polish Television shall reflect a life, culture and tradition of regions in its programming. The Polish Television shall produce programming for Poles and Polish diaspora abroad.</p>
<p><b>7.2. Events list</b>          (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)</p>	1992 Broadcasting Act, as amended	AAVM	<p>Article 20b</p> <p>“3. In view of a widespread social interest, major events shall include, among others:</p> <ol style="list-style-type: none"> <li>1) summer and winter Olympic Games,</li> <li>2) semi-finals and finals of World Cup and European Football Championship, as well as all other matches within those events with the participation of the Polish national team, including qualifying games,</li> <li>3) other football matches with the participation of the Polish national team in official tournaments and matches with the participation of Polish clubs within the Champions League and UEFA Cup.</li> </ol> <p>15</p> <p>3. The National Council may specify, by a regulation, the list of major events other than those listed in paragraph 2, having regard to the degree of social interest in the given event and its significance to social, economic and political life.”</p> <p>Article 20b (7)</p> <p>“Within the scope laid down by international agreements binding upon the Republic of Poland, the National Council may determine, by a regulation:</p> <ol style="list-style-type: none"> <li>1) the list of events deemed as being of major importance for society by other European states. (...) </li></ol>
<b>7.3. Short news reporting</b>			

<b>7.4. Fixed book price</b>			
<b>7.5. Public service media</b>	1992 Broadcasting Act, as amended	Public service media	Articles 21-32
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The document covers following areas: -Polish Television and its viewers -Polish Television and politics -Polish Television and culture -Polish Television and education -Finances of Polish Television -Employees of Polish Television
<b>7.5.1. Structural rules - organization</b>			
<b>7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</b>	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The Polish Television and Politics (page 3-4):  The Polish Television shall safeguard its autonomy and independence. The Polish Television’s legal statute, mode of appointment and composition of its management and advisory bodies guarantee fulfillment of social interests and expectations through the Polish Television’s activities. The Polish Television shall not favor or promote any orientation, but shall create possibilities to express all legally acceptable views in its programming structure as a whole.
	1992 Broadcasting Act, as amended	AAVM	Article 13 (relevant for all broadcasters, not only PSB) “1. The broadcaster shall enjoy full independence in determining the content of the programme service with a view to fulfilling the tasks referred to in Article 1 paragraph 1 and shall be responsible for its contents.”
<p><i>Note: An independence of public service broadcasters (both from the State and party politics) was a principal normative expectation during the first phase of media reform in Poland after 1989. However, the structure of interdependencies concerning the nomination of the chief regulatory body – National Broadcasting Council (appointed by Sejm, Senate and President), the PSB supervisory councils (appointed by National Broadcasting Council) and PSB management boards (appointed by Supervisory Council) has not ensured sufficient guarantees of independence from party politics. The practice over the last 12 years has shown that the hierarchy of subservience influenced a number of decisions and appointment choices both in the National Broadcasting Council and PSB management bodies, many of which proved to result from complicated political negotiations within the Polish Parliament and Presidential Office. Moreover, subsequent changes in central administration were accompanied by changes of relevant laws in order to influence a composition of regulatory, supervisory and management bodies. In December 2005, the right wing government prepared the Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting,<sup>22</sup> which reduced nine KRRiT members to five. Although a rationale behind the Amendment was the establishment of a new regulatory body – the Office of Electronic Communications, most critics of the project underlined that the Law merely changed the composition of National Broadcasting Council, Supervisory Councils of the Polish Television and Radio, and in consequence, management boards of both PSB institutions. In a similar vein, current government in force prepared 2008 Draft Act amending the Broadcasting Act.<sup>23</sup> The draft Act was adopted by the Parliament, but most likely will be vetoed by the President. The Draft Act again proposes the change of number (7) and competencies of KRRiT, as well as other bodies.</i></p>			
<b>7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)</b>	1992 Broadcasting Act, as amended	AAVM	Article 27 1. The Board of Management shall consist of one to five members. 2. Members of the Board of Management, including the President, shall be appointed and dismissed by the Supervisory Board by two-thirds majority of votes cast in the presence of at least three fourths of the Board’s members.”  Article 28 1. The Supervisory Board shall consist of five to nine members. Members of the Supervisory Board shall be appointed by the National Council, with

<sup>22</sup> Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting (Ustawa o przekształceniach i zmianach w podziale zadań i kompetencji organów państwowych właściwych w sprawach łączności, radiofonii i telewizji) adopted on 29 December 2005, Official Journal 2005, No 267, item 2258.

<sup>23</sup> 2008 Draft Act amending the Broadcasting Act and Some Other Acts (Ustawa o zmianie ustawy o radiofonii i telewizji oraz niektórych innych ustaw) adopted on 25 April, 2008.

			the exception of one member who shall be appointed by the minister in charge of the State Treasury. 2. The Supervisory Board shall adopt resolutions by an absolute majority of votes cast in the presence of at least a half of the Board members.”
<p><i>Note: The 2008 Draft Act amending the Broadcasting Act brought following changes:</i>          Article 27 (1):  <i>The Board of Management shall consist of one to three members.</i>          Article 27(2):  <i>Members of the Board of Management, including the President, shall be appointed and dismissed by the National Broadcasting Council (...)</i>          Article 28 (1):  <i>The Supervisory Board shall consist of three to seven members. Members of the Supervisory Board shall be appointed by the National Council (...)</i></p>			
7.5.1.3. Specific representation requirements for board of directors, other bodies			
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	1992 Broadcasting Act, as amended	AAVM	<p>Article 28a:          “1. Programme councils of public radio and public television shall consist of 15 members appointed by the National Council, of which 10 members shall represent parliamentary groups. The remaining 5 members shall be appointed from amongst persons with a record of experience and achievement in culture and mass media.          (...)”          3. The programme councils shall adopt resolutions evaluating the level and quality of current programming as well as of the programme schedule. The Supervisory Board shall be obliged to consider and act upon resolutions concerning programme matters which are adopted by a majority of votes cast in the presence of at least half of the members of the programme council.”</p> <p>Representation requirements concerning cultural, ethnic, linguistic diversity are embodied in the          Article 30 (4a):          “When appointing Programme Councils of branches broadcasting programme services in the languages of national and ethnic minorities and in regional languages, branch directors shall take into account candidates put forward by social organizations of national and ethnic minorities and communities speaking regional languages.”</p>
<p><i>Note: The 2008 Draft Act amending the Broadcasting Act brought following changes in Article 28a:</i>          “Programme councils of public radio and television shall consist of nine members appointed by the National Council amongst persons with a record of experience and achievement in culture and mass media. 6 members shall represent parliamentary groupings and in the case of the regional media, groupings represented in geographically relevant province councils.</p>			
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	<p>Employees of the Polish Television (p. 5):          Journalists employed in the Polish Television cannot perform agitation or political propaganda.          (...)”          The Polish Television creates conditions for workshops and improvement of its employees, and ensures a possibility of advancement and career building based on a fair and impartial evaluation of their professional achievements.</p>
7.5.2. Structural rules - funding			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	1992 Broadcasting Act, as amended	AAVM	<p>Article 31          “1. The revenues of companies referred to in Article 26 paragraphs 2 and 3 shall be the proceeds from:</p>



			<p>1) (23) licence fees, default interest for delay in their payment and fines for the use of unregistered radio and television sets, as defined in the provisions of the Licence Fees Act of April 21, 2005, subject to the reservation of Article 8 paragraph 1 thereof,</p> <p>2) trade in programme rights,</p> <p>3) advertising and sponsorship,</p> <p>4) other sources.</p> <p>2. The revenues of these companies may also include grants from the State budget (...).”</p>
<p><i>Note: Financing of PSB solely from licence fee appeared unaffordable in Poland. For example, licence fee revenue has oscillated around 30% in total revenues of the Polish Television (TVP) during the last ten years. Thus, most of the activities of the Polish Television were financed from advertising, sponsoring and other commercially related sources.</i></p>			
	2008 Act amending the Act on licence fees	Applies generally	The act exempts retired citizens from paying the licence fees.
<p><i>Note: The current government and PM announced plans to abolish financing of the public service media from licence fees provided that costs of public service programming will be covered directly by the state budget.</i></p>			
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	<p>Finances of the Polish Television (p. 5):</p> <p>The Polish Television defines forms and scope of the programming and other activities on a basis of available resources.          (...)          Revenues from advertising and sponsorship as well as other commercial activities complete revenues from licence fees (...)</p>
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)	See as above	See as above	See as above
7.5.3. Definition of public service remit	1992 Broadcasting Act, as amended	Public service media	<p>Articles 21-25 and Article 30</p> <p>Article 21          “1. Public radio and television shall carry out their public mission by providing, on terms laid down in this Act, the entire society and its individual groups with diversified programme services and other services in the area of information, journalism, culture, entertainment, education and sports which shall be pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.”</p>
<p><i>Note: Public service remit is defined more generally in terms of tasks to be fulfilled and guidelines to be followed by public service broadcasters.</i></p>			
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	<p>The document covers following areas:</p> <ul style="list-style-type: none"> <li>-Polish Television and its viewers</li> <li>-Polish Television and politics</li> <li>-Polish Television and culture</li> <li>-Polish Television and education</li> <li>-Finances of Polish Television</li> <li>-Employees of Polish Television</li> </ul>
7.5.3.1. Obligation to provide a varied and pluralistic offer	1992 Broadcasting Act, as amended	AAVM	<p>Article 21          “1. Public radio and television shall carry out their public mission by providing, on terms laid down in this Act, the entire society and its individual groups with diversified programme services and other services in the area of information, journalism, culture, entertainment, education and sports which shall be pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.”</p>
	The Mission of the Polish Television	Public service	The mission of the Polish Television as a public broadcaster (p. 2):

	as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	broadcaster – the Polish Television	The Polish Television shall present, discuss and explain in a fair manner a full range of events and phenomena in Poland and abroad. The Polish Television shall endeavour to reflect and enrich all areas of a social life (...).
7.5.3.2. <i>Obligation to engage in new media activities</i>	1992 Broadcasting Act, as amended	AAVM	Article 21: “1a. The tasks of public radio and television arising out of the implementation of the mission referred to in paragraph 1 shall include in particular: (...) 5) work on new technologies of production and transmission of radio and television programme Services.”
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	1992 Broadcasting Act, as amended	AAVM	Education: Article 25 “1. Public radio and television broadcasting organisations may produce and transmit programme services in the Polish language and other languages for receivers abroad. 2. Public radio and television broadcasting organisations shall produce and broadcast educational programmes for schools and other educational institutions. 3. Educational programmes shall comply with the requirements of school curricula. 4. The costs of producing programme services and programmes referred to in paragraphs 1 and 2 shall be borne by the state budget within the limits determined in the Budget Act.”
7.5.5. Universal coverage obligations	1992 Broadcasting Act, as amended	AAVM	Article 21: 1a. The tasks of public radio and television arising out of the implementation of the mission referred to in paragraph 1 shall include in particular: 1) production and transmission of national and regional programme services, programme services for reception abroad in the Polish language and in other languages as well as other programme services meeting the democratic, social and cultural needs of local societies.”
	The Mission of the Polish Television as a Public Broadcaster (Misja Telewizji Polskiej jako Nadawcy Publicznego) adopted in June 1994	Public service broadcaster – the Polish Television	The mission of the Polish Television as a public broadcaster (p. 2)  The Polish Television and its regional branches shall cover a whole territory of Poland and shall reach all viewers with full, diversified and complementary national and regional programmes fulfilling universally manner television functions.

<p>7.6. Content rules protecting integrity of certain types and genres of programming</p>	<p>1992 Broadcasting Act, as amended</p>	<p>AAVM</p>	<p>Article 16.a:          “6. The following programmes may not be interrupted by advertising or teleshopping spots:          1) news and current affairs programmes,          2) programmes with a religious content,          3) commentaries and documentaries, the duration of which is less than 30 minutes, and if their duration exceeds 30 minutes, the provisions of paragraphs 2-5 shall apply,          4) programmes intended for children.”</p>
	<p>Public service media:          1992 Broadcasting Act, as amended</p>	<p>Public service media</p>	<p>Article 16a (7):          “Programmes in a public radio and television programme service, with the exception of programmes referred to in paragraph 3, shall not be interrupted by advertising or teleshopping spots.”</p>

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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	1992 Broadcasting Act, as amended	AAVM	Article 43 “1. The cable network operator shall introduce programme services into the cable network in the following sequence: 1) national programme services of public radio and television, 2) regional programme services of public radio and television, receivable in the given area, 2a) programme services of domestic social broadcasters, receivable in the given area, 3) programme services of other domestic broadcasters, receivable in the given area, 4) programme services of other domestic and foreign broadcasters.”
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>	2004 Tele-communications Law	Tele-communication sector	Article 24 (3): 3. The criteria applied by the President of UKE while assessing the telecommunications undertaking's significant power in the relevant market include in particular: 1) the undertaking's share in the relevant market; 2) absence of technical and economic justification for building alternative telecommunications infrastructure; 3) the undertaking's technological advantage; 4) absence of or low countervailing buying power; 5) the undertaking's easy or privileged access to capital markets or financial resources; 6) economies of scale; 7) economies of scope; 8) vertical integration of the undertaking; 9) the development level of the undertaking's distribution and sales network; 10) absence of potential competition; 11) barriers to further expansion of the undertaking and the relevant market; 12) barriers to the relevant market entry.”
8.3.1. Implementation of market analysis procedure in ECNS Directives	2004 Tele-communications Law	Tele-communication sector	Article 24. 1. “Where the President of UKE finds that the relevant market is not effectively competitive, he/she shall initiate proceedings aimed at designating a telecommunications undertaking or undertakings with significant market power and impose regulatory obligations provided for in the Act.”
8.3.2. Result of (first) round of market analysis of market 18			
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>	2004 Tele-communications Law	Tele-communication	For example: Article 136

		sector	Article 133
8.4.1. Conditional access	2004 Tele-communications Law	Tele-communication sector	Article 133. “1. Telecommunications undertakings providing conditional access systems should offer broadcasters technical services, enabling the reception of digital radio and TV transmissions using decoders installed in the networks or at a subscriber’s place, on equal and non-discriminating terms.”
8.4.2. EPG (or other search tools)	2004 Tele-communications Law	Tele-communication sector	Article 136. “1. The President of UKE may, by means of an administrative decision, impose an obligation on telecommunications undertakings to provide access to the following associated facilities: 1) an application program interface, 2) an electronic programme guide - in order to ensure access to digital radio and TV transmissions for end users.”
8.4.3. API	2004 Tele-communications Law	Tele-communication sector	Article 132: “1.Public telecommunications networks used for digital radio and TV transmissions and TV sets, as well as other equipment used for receiving digital radio and TV transmissions should ensure interoperability of digital radio and TV transmissions, in particular by the application of an open application programme interface.”
	2004 Tele-communications Law	Tele-communication sector	Article 136. “1. The President of UKE may, by means of an administrative decision, impose an obligation on telecommunications undertakings to provide access to the following associated facilities: 1) an application program interface, 2) an electronic programme guide - in order to ensure access to digital radio and TV transmissions for end users.”
8.4.4. Other			
<b>8.5. Interoperability requirements</b>	2004 Tele-communications Law	Tele-communication sector	Article 132. “1. Public telecommunications networks used for digital radio and TV transmissions and TV sets, as well as other equipment used for receiving digital radio and TV transmissions should ensure interoperability of digital radio and TV transmissions, in particular by the application of an open application programme interface.”
	2004 Tele-communications Law	Tele-communication sector	Article 26. “1. A public telecommunications network operator shall conduct negotiations regarding the conclusion of a telecommunications access agreement at the request of another telecommunications operator or entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) for the purpose of providing publicly available telecommunications services and ensuring the interoperability of services.”
<b>8.6. Specific rules for distribution systems in print media</b>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems</b>	See below	See below	See below

<p><b>(libraries, broadband networks...)</b></p> <p><b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:</b></p> <ul style="list-style-type: none"> <li>- Regional</li> <li>- Linguistic/minority</li> <li>- National )</li> </ul>	<p>2004 Tele-communications Law</p>	<p>Tele-communication sector</p>	<p>Articles 94 - 100</p> <p>Article 94 (3):        “The Minister competent for communications may specify, by means of an ordinance, additional requirements concerning the quality of universal service provided to persons with disabilities, guided by the need to evaluate telecommunications undertakings’ operation in the scope of telecommunications service provision for such persons.”</p> <p>Article 95.        “1. In the event of unprofitable services an undertaking designated under Articles 82 and 83 shall be entitled to a subsidy to the cost of the provided services comprising universal service, hereinafter called a “subsidy”.        2. A subsidy shall be determined by the President of UKE in the amount of the net cost for the provision of a service comprising universal service. The net cost of universal service provision shall refer to only those costs which wouldn’t be incurred by a designated undertaking, if it didn’t have a universal service obligation.”</p>
---	-------------------------------------	----------------------------------	--

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>	1992 Broadcasting Act, as amended	AAVM	National Broadcasting Council (Krajowa Rada Radiofonii I Telewizji) ( <a href="http://www.krrit.gov.pl/bip/Default.aspx?alias=www.krrit.gov.pl/bip/eng">http://www.krrit.gov.pl/bip/Default.aspx?alias=www.krrit.gov.pl/bip/eng</a> )
<i>Note: National Broadcasting Council has operated since 1993. It has been composed of 9 members (1993 – 2005) and since 2006 of 5 members. 2008 Draft Act amending the Broadcasting Act changes the composition of National Broadcasting Council to 7 members.</i>			
	2005 Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting	AAVM	Office of Electronic Communication (Urząd Komunikacji Elektronicznej)
<i>Note: The Office of Electronic Communication was created on 14 January 2006 on a basis of 2005 Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting. The Office of Electronic Communication replaced the former Office for Regulation of Telecommunication and Post (2002 – 2006)</i>			
9.1.1. Structure/ organisation	1992 Broadcasting Act, as amended	AAVM	Article 5 “The National Broadcasting Council (hereinafter referred to as „the National Council”) shall hereby be established and shall constitute the state authority competent in matters of radio and television broadcasting.”  Article 6 “1. The National Council shall safeguard freedom of speech in radio and television broadcasting, protect the independence of broadcasters and the interests of the public, as well as ensure an open and pluralistic nature of radio and television broadcasting.”
	2004 Tele-communications Law	Tele-communications sector	Article 189. “1. The communications administration bodies shall be the Minister competent for communications and the President of UKE. 2. The communications administration bodies shall carry out the regulation policy, aiming in particular at: 1) supporting competition with respect to the provision of telecommunications networks, associated facilities or telecommunications services, (...) 2) supporting internal market development (...) 3) promoting the interests of European Union citizens, including (...) 4) carrying out the policy of promoting cultural and linguistic diversity as well as media pluralism; 5) ensuring that regulations are technologically neutral.”
9.1.1.1. Guarantees for independence	1992 Broadcasting Act, as amended	AAVM	no special guarantees
	2004 Tele-communications Law	Tele-communications sector	no special guarantees
9.1.1.2. Representation requirements	1992 Broadcasting Act, as amended	AAVM	Article 7(1)

			“The National Council shall consist of 5 members, of which 2 shall be appointed by the Sejm <sup>1</sup> , 1 by the Senate and 2 by the President from amongst persons with a distinguished record of knowledge and experience in public media.”
	2004 Tele-communications Law	Tele-communications sector	There are no representation requirements. The President of EKE is appointed in through the following procedure:  Article 190 (4) “4. The President of UKE shall be appointed by the Prime Minister from amongst members of the state personnel resources proposed by the National Broadcasting Council. The President of UKE shall be dismissed by the Prime Minister.”  Article 190 “8. The Minister competent for communications, at the request of the President of UKE, shall appoint the deputy President of UKE from amongst members of state personnel resources. The Minister competent for communications shall dismiss the Deputy President of UKE.”
9.1.2. Credibility and efficiency	1992 Broadcasting Act, as amended	AAVM	Article 11 1. The National Council shall perform its tasks with the assistance of the Office of the National Council. 2. The organisation and operational procedures of the Office of the National Council shall be laid down in the internal rules of procedure adopted by the National Council. 3. Costs of operations of the National Council and its Office shall be borne by the state budget. 4. Regulations relating to employees of public institutions shall apply to the employees of the Office of the National Council.”
	2004 Tele-communications Law	Tele-communications sector	Article 193. “1. The President of UKE shall perform his/her tasks with the support of UKE. 2. UKE shall manage its financial activities in accordance with the principles applicable to budget funded units.”
9.1.2.1. Sufficient resources	1992 Broadcasting Act, as amended	AAVM	Article 11 (3) “Costs of operations of the National Council and its Office shall be borne by the state budget.”
	2004 Tele-communications Law	Tele-communications sector	Article 193 (2) “UKE shall manage its financial activities in accordance with the principles applicable to budgetfunded units.”
9.1.2.2. Tasks and duties	1992 Broadcasting Act, as amended	AAVM	The tasks of the National Broadcasting Council include: -drawing up the directions of the State policy in respect of radio and television broadcasting, -supervising the activities of broadcasters, -making decisions concerning broadcasting licences, -granting to a broadcaster the status of a social broadcaster, -determining the fees for the award of broadcasting licences and registration, -determine licence fees,



			-organising research into the content and audience of radio and television programme Services, -etc. (Article 6.2.)
	2004 Tele-communications Law	Tele-communications sector	The tasks of the Office of Electronic Communication include: -telecommuni-cations services markets regulation and control, the management of frequency, orbital and numbering resources and monitoring the compliance with electromagnetic compatibility requirements, -postal activities regulation, -the preparation of draft legal acts with regard to Communications, -the analysis and assessment of telecommunications and postal services markets functioning; -interventions in issues concerning the functioning of telecommunications and postal services markets and the apparatus market, -resolving disputes between telecommunications undertakings within the competence of the President of UKE, -keeping registers, -etc. (Article 192)
9.1.2.3. <i>Effective sanctioning powers</i>	1992 Broadcasting Act, as amended	AAVM	Liability under the law: Articles 52 - 56  Article 53 Broadcaster failing to comply with the obligations laid down by the Broadcasting Act shall be liable to a fine imposed by decisions of the Chairman of the National Council.
	2004 Tele-communications Law	Tele-communications sector	Inspection and post-inspection procedure: Articles 199 – 205  Proceedings before the President of UKE: Articles 206 – 207  Penal provisions and financial penalties: Articles 208 – 210  Article 210. “1. A financial penalty referred to in Article 209 (1) shall be imposed by the President of UKE, by means of an administrative decision, in the amount of up to 3 % of the revenues of a fined entity for the past calendar year. The decision to impose a financial penalty shall not be immediately enforceable. 2. In assessing the amount of a financial penalty, the President of UKE shall take account of the scope of the violation, the past record of an entity and its financial potential.”
9.1.3. Cooperation with other regulators	2005 Act on transformations and modifications to the division of tasks and powers of state bodies competent for communications and broadcasting	AAVM	Office of Electronic Communication (UKE) and National Broadcasting Council (KRRiT) co-operate closely. 2005 Act on transformations and modifications provides for the division of tasks and competencies between these two institutions.

			Office of Electronic Communication (UKE) has a following mandate: -mandate to reserve the frequencies for broadcasters (including digital) and electronic communication providers -setting the conditions of frequency use, programming requirements and tenders for frequency reservation -keeping registers of telecommunications undertakings -relevant market analysis and the imposition, maintenance, amendment or withdrawal of regulatory obligations (conditional access systems, electronic programme guides and multiplexing of digital signals) National Broadcasting Council is entitled to consult all decisions concerning frequency reservation, programming requirements and tenders relating to radio and TV broadcasting (including digital) with UKE. KRRiT proposes three candidates for the position of UKE Chair, who is ultimately appointed by the Prime Minister. Both regulatory bodies co-operate closely with the Office of Competition and Consumer Protection.
<b>9.2. Press Council</b>			
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>	2007 Act on Competition and Consumer Protection	Applies generally	The central administrative body responsible for the enforcement of the Competition Act is the President of the Office of Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów - OCCP). ( <a href="http://www.uokik.gov.pl/">http://www.uokik.gov.pl/</a> )
<i>Note: The Court of the Competition and Consumer Protection (Sąd Ochrony Konkurencji i Konsumentów - CCCP), functionally integrated into the Warsaw District Court, is exclusively competent for complaints against all decisions issued by the President of the OCCP on the basis of the Competition Act.</i>			
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!)			
<i>Note: The cases monitored by the Office of Competition and Consumer Protection have proved that the Office paid due attention to issues of media concentration and pluralism (f.i. Polskapresse case, etc.). At the same time, the competition law does not provide sufficient measures to protect media pluralism. Relevant provisions tackle a partial scope of the problem, basically because they neither address diagonal and vertical media concentrations, nor sustainability of non-profit and community media. The need to secure media pluralism stems from different conditions and it is a different policy rationale than ensuring appropriate functioning of the market through competition.</i>			
9.3.2. Cooperation with other regulators			

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

### [PORTUGAL]

Author: Katrien Lefever

Country correspondent: Prof. Dr. Joaquim Fidalgo

*General remark: Although provisions about media concentration, cross-participation, ownership transparency, etc. are still not included in the Portuguese media laws, they are included in a law-project. It is not clear when this law-project will be submitted to the Parliament for approval.*

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

##### • Legislation

- Constitution of the Portuguese Republic (as amended by the seventh constitutional revision: 2005)
- Television Act Law (2003) (Law No. 32/2003) (Lei da Televisao), partially repealed by Law No. 27/2007, adopted on 30 of July, that approved the Television Law, which regulates the access to and performance of the television activity. Articles 4 and 5 of Law 32/2003 are still in force
- Press Law (1999) (Law No. 2/99), altered by Law No. 18/2003 (Lei de Imprensa)
- Radio Law (2001) (Law No. 4/2001), changed by Laws No. 33/2003 and No. 7/2006 (Lei da Rádio)
- Financing model for public radio and television broadcasting service (2003) (Law No. 30/2003), amended by Decree-Law No. 169-A/2005 and Decree-Law No. 230/2007
- Law re-structuring the public radio and television broadcasting service (2007) (Law No. 8/2007) containing the new Statutes of the public service broadcaster “Rádio e Televisão de Portugal, S.A.”
- Decree-Law No 103/2006 on ERC’s fees, amended by Decree-Law No 70/2009
- ERC Statutes (2005) (Law No. 53/2005) creating the Regulatory Entity for the Media
- Law on electronic communications (2004) (Law No. 5/2004), amended by Decree-Law No. 176/2007 and Law No 35/2008)
- Law on competition (2003) (Law No. 18/2003, amended by the Decree-Law No. 219/2006 (Regime Jurídico da Concorrência)
- Law creating the Investment Fund for the Cinema and the Audiovisual Sector (2006) (Law No. 227/2006)
- Electoral Law (1979) (Law No. 14/79 amended by several Laws)
- Law on incentives to regional and local mass media (2005) (Decree-Law No. 7/2005, amended by Decree-Law No 35/2009)
- Decree-Law on incentives to foster the reading of local and regional newspapers (2007) (Decree-Law No 98/2007)
- Law on state secret (1994) (Law No. 6/94) ( Lei do Segredo de Estado)
- Fixed Price Book Law (2000) (Law No. 216/2000) (Preço Fixo do Livro)
- Law of Cinematographic Art and the Audiovisual Sector (2004) (Law No. 42/2004)
- Law creating the Investment Fund for the Cinema and the Audiovisual Sector (2006) (Decree-Law No. 227/2006)
- Law of Access to Administrative Documents (1993) (Law No. 65/93), repealed by (2007) Law No. 46/2007 (LADA)
- Advertisement Code (1990) (Decree-Law No. 330/90, amended by several Laws and Decree-Laws) (Código da Publicidade)
- Code of the Penal Process, as changed by the Law No. 48/2007 (Código de Processo Penal)
- Journalist Statute (1999) Law No. 1/99, amended by Law No. 64/2007

- Decree-Law (Decreto Regulamentar) No. 8/99, amended by Decree-Law (Decreto Regulamentar) No 2/2009 on media registration (press, radio and television)
- Decree-Law No 43/2006 on equalizing the price of general content print publications in the whole national territory
- Council of Ministers Resolution No 190/2005 on Technological Plan
- **Codes of conduct**
  - Code of Ethics, adopted by the Portuguese Journalists Union in 1993 (Código Deontológico do Jornalista)
- **Other**
  - Contract of concession of television public service (25 March 2008)
  - Union of Journalists Labor Contract (2004) ('Contrato Colectivo de Trabalho')
  - Self-regulation Protocol RTP, SIC and TVI (2003)

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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Art. 37, § 1 and § 2 Constitution	All media	Everyone has the right to express and publicize his or her thoughts freely, by words, images or other means. Exercise of said rights shall not be hindered or limited by any type or form of censorship.
<p><i>Note: Restrictions to freedom of expression can only be imposed by law, when expressly allowed by the Constitution and when needed to protect other fundamental rights.</i></p> <p>&gt; <i>Television Law (art. 27) forbids television programs to incite to racial, religious or political hatred, or hatred due to skin colour, to ethnic or national origin, to gender or to sexual orientation.</i></p> <p>&gt; <i>Press Law (art. 3) states that press freedom could only be limited by the Constitution and the law in order to safeguard accuracy and objectivity of information, to guarantee the right to one’s good name and image, to one’s privacy and intimacy, and to defend the public interest and the democratic order.</i></p> <p>&gt; <i>The law on the State Secret allows the state to put exceptional restrictions to some documents and information (set case by case), for reasons of national safety, either internal or external. But it is rarely used.</i></p> <p>&gt; <i>The Penal Law forbids everyone (including journalists) to diffuse any information regarding cases being investigated by the justice, until a certain point in the process. Many opinions suggest that this ‘Justice Secret’ is sometimes too extended in time and too narrow – and probably because of that, it is frequently disregarded by the media, especially when well-known people are involved.</i></p> <p>&gt; <i>The Penal Law (Art. 180 &amp; Art. 183): Any person who, while addressing a third person, accuses another person of a fact, even if under form of assumption, or makes a judgment concerning that person in any way offensive of that individual’s honour or consideration, or reproduces such accusation or judgment, shall be punished</i></p>			
	Art. 8 (a) ERC Law	All media	One of ERC’s duties in media regulation is to guarantee the free exercise of the rights to information and to press freedom.
<b>1.2. Freedom of/ right to information</b>			
	Art. 37, § 1 Constitution	All media	Everyone has the right to impart, obtain and receive information without hindrance or discrimination.
	Art. 38, § 2 Constitution	All media	Freedom of the press is guaranteed. This freedom comprises the right of journalists to have access to information sources.
	Art. 22 (b) Press Law	PM (N)	Access to information sources, including the right of access to public places and to protection, when necessary, is a fundamental right for journalists.
	Art. 6 (b) Journalist Statute	All journalists	Freedom of access to information sources is a fundamental right for journalists.
	Art. 268 Constitution	All media	Citizens shall enjoy the right to have access to administrative records and files, subject to the legal provisions with respect to internal and external security, investigation of crime and personal privacy.

	Art. 5 and Arts. 11-14 LADA	All media	Citizens are allowed to make written or oral requests for access to administrative documents (of any type) held by state authorities, public institutions, and local authorities (a total of 337 organizations). The authorities must respond no later than 10 days after receiving a request.
	Television Law, art. 9, § 1 (b)	AAVM (traditional linear TV)	The purposes of general television programming services are to promote the exercise of the right to inform, to inform oneself and be informed, accurately and independently, without any interdictions or discriminations.
	Radio Law, art. 9, § 1 (a)	AAVM (traditional Radio)	The purposes of general radio programming services are to promote the exercise of the right to inform, and be informed, accurately and independently, without any interdictions or discriminations; to contribute to political, social and cultural pluralism.
	Art. 7 Journalist Statute	All journalists	Journalists' freedom of expression and of creation can't be subject to interdictions or discriminations, nor subordinated to any kind of censorship.
	Art. 8 Journalist Statute	All journalists	Journalists' access to information sources must be guaranteed by the public administration and public companies, and also by private companies involved with public interest. If this access is denied, it must be justified in legal terms, and journalists can appeal to the Commission of Access to Administrative Documents (their complaint must get an answer with urgency).
<i>Note: In spite of this law, it is not rare that journalists have difficulties to accede to public documents. Even if access is not denied, access can be delayed more than it should be reasonable.</i>			
	Art. 9-10 Journalist Statute	All journalists	Journalists have the right of access to any place open to the public, if their purpose is the informative coverage of any event. All journalists have the right of access also to places which are not open to the public in general, but which open to the media. No one can be prevented of this access.
<i>Note: There have already been situations where journalists from some specific media were denied access to public events, or even to press conferences, because the organizer did not like the journalists (e.g. in football).</i>			

<b>1.3. Explicit recognition of media pluralism</b>	Art. 38, § 6 Constitution	PSB	The mass media in the public sector shall be so structured and operated as to be independent from the Government, the Public Administration and other public bodies, and to guarantee opportunities for the expression of, and challenge to, different lines of opinion.
	Art. 9, § 1 (c) Television Law	AAVM (TV)	The following shall be deemed as purposes of the television activity, according to the nature, subject-matter and coverage area of the television programme services made available. Engender the creation of habits for civic harmony proper to a democratic state and contribute to political, social and cultural pluralism.
	Art. 26, § 1 Television Law	AAVM (TV)	The freedom of expression of thought through television involves the fundamental right of citizens to free and pluralistic information, essential to democracy and to the social and economic development of the Country.
	Art. 9, § 1 (b) Radio Law	AAVM (R)	One purpose of general radio programming services is to contribute to political, social and cultural pluralism.
	Art. 34, § 1 (b) Radio Law	AAVM (R)	The freedom of expression of thought through radio broadcasting involves the fundamental right of citizens to free and pluralistic information, essential to democracy and to the social and economic development of the Country.
	Art. 47 §1 (a) (d) Radio Law	PSB (R)	Regarding specifically the public service of radio broadcasting, the company responsible for it (RDP) must guarantee pluralism, accuracy and impartiality and independence of information. It must have a programming orientation expressing the social and cultural national diversity, fighting all forms of exclusion and answering also to the minority interests of different publics.
	Art. 2, § 2 (a) Press Law	PM (N)	The right of citizens to be informed is guaranteed, namely, by measures which prevent levels of concentrated ownership such as jeopardise the pluralism of news reporting.
	Art. 4, § 1 Press Law	Regional / Local press	The State will organize a system of incentives to support [regional and local] press, aiming to guarantee the possibility of expression of the most different lines of opinion.

	Art. 7 (a), Art. 8 (e) ERC Law	All media	One of the purposes of media regulation to be achieved by ERC is to promote and guarantee cultural pluralism and diversity of expression of all the lines of thought in the mass media. This must be made with respect both for the principle of pluralism and for the editorial line of each particular medium.
<b>1.4. Protection of journalistic sources</b>	Code Of Ethics, nr. 6	All journalists	Identification of sources is an essential criterion for the journalist. The journalist must not reveal, not even in court, his/her confidential sources, nor disrespect the promises made to them, except when they have provided false information.
	Art. 11, Art. 6 and Art. 14 Journalist Statute	All journalists	Journalists cannot be obliged to reveal their sources of information (and cannot suffer any direct or indirect sanction for their silence), UNLESS the penal law orders otherwise. Protecting the confidentiality of their sources is defined both as a RIGHT and a DUTY of all journalists.
	Art. 135 Code of the Penal Process	All journalists	Judicial authority, or court, can oblige the journalists to testify about facts protected by their professional secret, if it is regarded as an essential way to discover the truth in a serious crime. This court decision should be made only after consulting the organization representing the journalistic profession.
<b>1.5. Right of reply</b>	Art. 37, § 4 Constitution	All media	The right to reply and to make corrections, and the right to compensation for loss suffered, shall be equally and effectively guaranteed to all individuals and corporate persons.
	Art. 34, § 2 (f) and Art. 65- 68 69 Television Law	AAVM (TV)	All television operators shall guarantee the right of reply and rectification in compliance with constitutionally and legally stipulated terms.
	Art. 64, § 1 Television Law	PSB (TV)	Right of political refute of opposition parties. Parties represented in the Parliament [Assembly of the Republic] and which are not part of the Government have the right to refute, in the same program service, to the political declarations made by the Government on the public television service which affected them directly.
	Art. 65-69 Television Law	AAVM (TV)	Any natural or legal person, organization, service or public organism that has been the object of references on television program services, even if indirectly, which may affect their reputation or good name, has the right of reply on the same television program services.



	Art. 57, § 1 Radio Law	PSB (R)	Right of political refute of opposition parties. Parties represented in the Parliament [Assembly of the Republic] and which are not part of the Government have the right to refute, in the same program service, to the political declarations made by the Government on the public television service which affected them directly.
	Art. 58-62 Radio Law	AAVM (R)	Any natural or legal person, organization, service or public organism that has been the object of references on radio program services, even if indirectly, which may affect their reputation or good name, has the right of reply on the same radio program services.
	Art. 24-27 Press Law	PM	Any natural or legal person, organization, service or public organism, as well as the responsible person of any public institution, that has been the object of references, even if indirectly, which may affect their reputation or good name, has the right of reply on the periodical publications responsible for those references. The reply must be published on the same page, on the same place, and with the same presentation.
	Art. 8, (f) and Arts. 24 and 59 ERC Law	All media	One of the ERC’s attributions is to guarantee the exercise of the right to reply and the right of political refute. Citizens who want to complain about the denial of this rights (either by television or by radio or by press) can appeal to the ERC, and this entity can oblige the media to publish / broadcast the reply.
<b>1.6. Ratification of international instruments:</b> - CoE’s Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	- Yes - Yes		

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Art. 38, § 4 Constitution	All media	The State shall guarantee the freedom and independence of the mass media from political and economic powers.
<i>Note: Legal measures hindering journalists from expressing themselves freely and independently: Although the Journalist Statute grants the right of authorship to all their work to all journalists, Art. 7-A, § 4 states that journalists can't oppose to formal changes made to their work by other journalists working in the same newsroom and being their superiors.</i>			
	Art. 8, (c) ERC Law	All media	One of ERC's attributions is to zeal for the independence of the mass media from the political and economic powers.
	Art. 22, (d) Press Law Art. 6 and Art. 12 Journalist Statute	All journalists	Editorial independency is one of the journalists' fundamental rights.  'Conscience clause': journalists can't be forced to do anything against their conscience and can't be punished for that.
	Art. 20 Press Law	PM (N)	It is up to the editor [director] of any medium to determine and supervise the content of the medium.
	Art. 3 § 1 Journalist Statute	All journalists	Working as a professional journalist is incompatible with working in advertising, marketing, public relations and similar activities. It is also incompatible with being in military service or in political positions.
	Art. 14 § 1 Journalist Statute	All journalists	One of journalists' fundamental duties is to refuse any functions or tasks that may put their independence and professional integrity at risk.
	Art. 10 Code Of Ethics	All journalists	A journalist must reject demands, functions, and benefits that could question his/ her independent status and professional integrity. He/she must not use his/her professional condition to report on subjects of his/her own interest.
	Art 12 Journalist Statute	All journalists	Journalists shall not be constricted to express or subscribe nor to abstain from expressing or subscribing opinions, or to perform professional duties contrary to their conscience, and shall not be subjected to disciplinary measures due to it. [...]

			<p>[...]</p> <p>Journalists shall have the right to oppose to the publication or disclosure of their work, even if these are not protected by copyright, in a different mass media entity editor from which the journalist performs its duties, even if it is part of the company or economic group to which they are bounded by agreement, as long as they reasonably claim the non compliance with the editorial guidelines.</p>
	Art. 6 and 13 Journalist Statute	All media	<p>One of the fundamental rights of journalists is the right to participate in the editorial orientation of the medium where they work, as well to give their opinion about all the issues regarding their professional activity.</p> <p>In every medium having five or more journalists, a ‘Newsroom Council’ (Conselho de Redacção) is elected, to represent journalists in every editorial or professional matter, cooperating with the editor. This council must be heard when a new editor or deputy editor is appointed. It must also participate in the elaboration of the editorial statute and of the medium code of conduct, when there is one.</p> <p>The existence of these Newsroom Councils is also referred and ordered in the three media laws (Press Law, Radio Law and Television Law).</p>
<b>2.2. News / information programmes</b>	Art. 34, § 2 (b) and (c) Television Law	AAVM (TV)	All television operators which operate general program services shall guarantee pluralism, accuracy, objectivity and independence of information.
	Art. 9, § 1 (a) Radio Law	AAVM (R)	It is a purpose of radio generalist programming operators to promote the citizens’ right to inform and be informed, with accuracy and independence, without any interdictions or discriminations.
	Art. 3 Press Law	PM (N)	The only limits to press freedom are the ones coming from the Constitution and the law, in order to safeguard accuracy and objectivity of information, to guarantee citizens’ rights to good name, image, word and privacy, and to defend public interest and democratic order.

<b>2.3. Other media content</b>	Art. 26, § 2 and Art. 27 Television Law	AAVM (TV)	<p>Except in cases stipulated in the Television Law, television broadcasting is based on the freedom of programming and neither the Public Administration nor any institute of sovereignty, with the exception of the courts of law, shall impede, limit or impose the broadcasting of any programs.</p> <p>The limits set by Television Law regard (art. 27) programs that incite to racial, religious or political hatred, or hatred due to skin colour, to ethnic or national origin, to gender or to sexual orientation. It also puts some restrictions to programs which may cause damage to children and young people, mainly those containing pornography.</p>
	Arts. 34-35 Radio Law	AAVM (R)	<p>Except in cases stipulated in the Radio Law, radio broadcasting is based on the freedom of programming and neither the Public Administration nor any institute of sovereignty, with the exception of the courts of law, shall impede, limit or impose the broadcasting of any programs.</p> <p>Limits defined by this law forbid (art. 35) any radio emission that attempts against the dignity of the human person, that violates fundamental rights and freedoms, or that incites to the practice of crimes.</p>
	Art. 1 Press Law	PM (N)	<p>The rights guaranteed by the freedom of the press (rights to inform and to be informed) cannot be prevented or limited by any form or kind of censorship.</p>
	Art. 12 Television Law	AAVM (TV)	<p>Television activity can't be exercised or financed by political parties or associations, directly or indirectly, except if it is exclusively made through the Internet and consist of doctrinaire, institutional or scientific programming (not news programs).</p>
	Art. 36 Television Law	AAVM (TV)	<p>Every television program service shall adopt an editorial statute that clearly defines its orientation and objectives and includes the commitment to respect the rights of viewers, as well as the deontological principles of journalists and professional ethics.</p>
	Art. 38 Radio Law	AAVM (R)	<p>Every radio program services must adopt an 'Editorial Statute' defining clearly their orientation and objectives, and including the commitment to respect listeners' rights, as well as journalists' deontological principles and professional ethics.</p>

	Art. 17 Press Law	PM (N)	Every informative periodical publication must adopt an ‘Editorial Statute’ defining clearly and in detail their orientation and objectives, and including the commitment to respect the journalists’ deontological principles and professional ethics, as well as readers’ good faith.
	Art. 4 of Annex of the Law no. 8/2007 (Restructure of Television and Radio Public Service, and Statutes of ‘Radio e Televisão de Portugal, S.A.’)	AAVM (TV + R Public Service)	The responsibility for the selection and content of programming and information of “Radio e Televisão de Portugal, S. A.”, is held by the directors that are in charge of those areas.
<b>2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)</b>	Union of Journalists Labour Contract		The media companies shall promote the continuous professional education of their staff, organizing actions with that purpose or allowing the journalists to attend them during their working time.
<i>Implementation problem: The Union of Journalists Labour Contract is only a general declaration of good intentions, not pursued by many companies.</i>			
	Yes		Training programmes for journalists are supported.
<p><i>The Journalists Training Protocol Centre (CENJOR - Centro Protocolar de Formação Profissional para Jornalistas) is based upon an agreement between the Institute of Employment and Vocational Training (IEFP - Instituto do Emprego e Formação Profissional), the Office for the Media (GMCS - Gabinete para os Meios de Comunicação Social), the Union of Journalists (SJ- Sindicato dos Jornalistas), the Daily Press Association (AID - Associação da Imprensa Diária), and the Portuguese Press Association (APIMPrensa - Associação Portuguesa de Imprensa). The main task of CENJOR is to promote educational and vocational training activities and it was approved by Order 667/86, of November 7th as a body governed by public law, with administrative and budgetary autonomy and its own assets.</i></p> <p><i>Decree-Law 7/2005, of January 6th establishes the State’s aid scheme for the media in order to ensure and to strengthen the appropriate conditions for the exercise of the freedom of speech and information. The State’s aid scheme for the media includes incentives providing support to the training and integration of media professionals.</i></p>			
<b>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"...)</b>	Law on Radio and Television Public Service (Law No. 8/2007). Annex, Art. 21 and 22	AAVM (Public Service R + TV)	The Radio and Television Public Service company has an Opinion Council (‘Conselho de Opinião’), composed of 27 members, where different sensitivities and organizations of the public are represented (trade unions and patrons unions, religious confessions, youth, parents’ and families’ associations, consumers’ associations, disabled people associations, women’s associations, etc.). This council meets three times a-year and must be consulted about the general activity of public Radio and Television, particularly about the duties attached to the Public Service contract signed by the company and the State. The council must also vote for the persons to be Radio and Television ombudsman.

	<p>Law on Radio and Television Public Service (Law No. 8/2007). Annex, Art. 24 to 27.</p>	<p>AAVM (Public Service R + TV)</p>	<p>‘Rádio e Televisão de Portugal S.A.’, responsible for the public service, must appoint a listener’s ombudsman, for the radio, and a viewer’s ombudsman, for the television. Each of them serve for a period of two years, renewable for only one other period of two years. Their main task is to receive and appreciate public’s complains or comments and analyze them. Each ombudsman has a weekly program to publicly talk about the activity.</p>
<p><i>Note: Two Portuguese private daily newspapers (‘Público’ and ‘Diário de Notícias’) also have a press ombudsman, because they voluntarily decided to do so (they started back in 1997). A third daily newspaper (‘Jornal de Notícias’) also had an ombudsman for some time, but presently the place is vacant. A press ombudsman exists also in a sports newspaper (‘Record’).</i></p>			
	<p>Arts. 39-41 ERC Law</p>	<p>All</p>	<p>The Regulatory Entity for the Media has a Consulting Council (‘Conselho Consultivo’), composed of 16 members, where are represented different organizations and associations from the public (journalists, universities, media companies, advertising sector, consumers, etc.). This council meets twice a-year and has the purpose to give opinions (not compulsory) regarding the ERC’s regulatory activities in general.</p>

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures	No. Only the Constitution states that no one can be discriminated by reasons of gender, race, colour, sexual orientation, political or religious beliefs, etc.		
3.1.2. Special representation requirements in media advisory bodies	Law on Radio and Television Public Service (Law No. 8/2007). Annex, Art. 21 and 22	AAVM (Public Service Radio + TV)	The Radio and Television Public Service company has an Opinion Council (‘Conselho de Opinião’), composed of 27 members, where different sensitivities and organizations of the public are represented (trade unions and patrons unions, religious confessions, youth, parents’ and families’ associations, consumers’ associations, disabled people associations, women’s associations, etc.). This council meets three times a-year and must be consulted about the general activity of public Radio and Television, particularly about the duties attached to the Public Service contract signed by the company and the State.
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	No. There are no special laws. Only the Constitution states that no one can be discriminated by reasons of gender, race, colour, sexual orientation, political or religious beliefs, etc.		
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings	Clauses 7 and 10 Contract of Concession of the Television Public Service (2008)	PSB (TV)	It is a duty of this concession to guarantee a balanced, diversified and with quality television programming, promoting political, religious, social and cultural pluralism, as well as every viewer’s access to quality information, education, culture and entertainment. A pluralistic programming, taking into account the interests of minorities and the promotion of cultural diversity, is demanded. [...]

			[...] The second TV public channel (RTP2), gives particular emphasis to the need of public television to reflect cultural diversity, either open itself to the cooperation with institutions of the society, or offering a quality programming service oriented to the multiple needs of the diverse specific audiences, particularly young people, minorities and citizens with special problems of communication or mobility.
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Art. 45 Television Law	AAVM (TV)	Television operators which run television programming services with national coverage shall incorporate a majority percentage of works of European origin in their respective programming, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services. (Wording of Directive incorporated directly into national law)
	Art. 34, § 2, (g) Television Law	AAVM (TV)	One of the general obligations of television operators is to diffuse creative works of European origin, mainly in Portuguese language, and to participate in the development of its production.
	Art. 51, § 2 (g) Television Law	PSB (TV)	The PSB’s duty is to promote programs in Portuguese language and to reserve an important part of its airtime to European production, in higher percentages than the other television operators.
	Clause 7, (i) Contract of Concession of the Television Public Service (2008)	PSB (TV)	It is an obligation of the television public service to support national production and co-production with other countries, particularly those from the European Union. It is also its obligation to promote cooperation with the entities that are responsible for television public service in the space of the European Union, regarding particularly the exchange of experiences and the joint production of programs.
	Art. 44 Radio Law	PSB (R)	The quota of Portuguese music diffused in the radio public service (which is 25 % and 40 % of the whole music programming) must be fulfilled at least with 60 % of musical work composed or interpreted in Portuguese language by citizens of the European Union members.



<p>3.2.2.2. <i>Promotion of European independent works</i></p>	<p>Art. 46 Television Law</p>	<p>AAVM (TV)</p>	<p>Television operators which run television programming services with national coverage shall ensure that at least 10% of their respective programming, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services, is filled with European works, created by producers who are independent of television operators, and produced less than five years ago.</p>
<p>3.2.2.3. <i>Promotion of national/regional works</i></p>	<p>Art. 48 Television Act</p>	<p>AAVM (TV)</p>	<p>The State shall ensure incentive policies for the original production in Portuguese of audiovisual fiction, documentaries and animation, by adopting the appropriate legal, financial, fiscal or credit mechanisms.</p>
<p>3.2.2.4. <i>Language requirements</i></p>	<p>Art. 44 Television Law</p>	<p>TV</p>	<p>Broadcasts shall be spoken or subtitled in Portuguese, without disregarding the possible use of other languages in programs that fulfil occasional informative needs or are oriented the teaching of foreign languages, or address to specific immigrant communities.</p> <p>Television programming services with national coverage, with the exception of those whose nature and thematic content would not permit such an approach, shall devote at least 50% of their broadcasts, excluding the time reserved for advertising, teleshopping and teletext services, to the broadcast of original Portuguese language programs.</p> <p>Without prejudice to the previous paragraph, television operators shall devote at least 20% of their transmission time to creative programmes originally produced in Portuguese language.</p> <p>The percentages established in paragraphs 2 and 3 may be filled, up to 25%, by programs originating in other Portuguese-speaking countries.</p> <p>Television operators shall guarantee that the percentages referred to in paragraphs 2 and 3, are not shown in off-peak viewing periods.</p>

	Art. 44-A and 44-B Radio Law	AAVM (R)	The musical programming of the radio broadcasting services must have a minimum between 25% and 40% of the whole devoted to Portuguese music. As far as the radio public service is concerned, this quota of Portuguese music in its first channel must not be inferior to 60% of the total.
3.2.2.5. Contribution	Art. 48 Television Law	AAVM (TV)	The State shall ensure the existence of incentive measures for the original production in Portuguese of audiovisual fiction, documentaries and animation, with a view to creating conditions for compliance with the provisions of Articles 44 to 46, by the adoption of the appropriate legal, financial, fiscal or credit mechanisms.
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)	(see above)		
	Television broadcasters are not legally obliged to have quotas of minority representatives in their programme services. Nevertheless paragraph 2 of article 27 of the Television Act could be relevant to this matter.		Television programme services must not incite to racial, religious or political hatred or hatred due to skin colour, to ethnic or national origin, to gender or to sexual orientation.
3.2.4. Subsidies (apart from general PSB funding)	Decree-Law on incentives to regional and local mass media (Decree-Law No. 7/2005) Decree-Law on incentives to foster reading of regional and local press (Decree-law no 98/2007)	Regional media	Considering the importance of ‘proximity’ media to the regional and local development, the State defined some financial incentives to these media, aiming to ensure and to reinforce the proper conditions to the exercise of freedom of expression and freedom of information.
	Laws on Cinema and Audiovisual (Law nr. 42/2004 and Law nr. 227/2006).	AAVM	The State considers its duty to support creation, production, distribution, diffusion and promotion of cinema and audiovisual works, considering them instruments of the integral development of the human person, of culture, of protection of the national identity and of protection and valuation of the Portuguese language. Consequently, the Ministry of Culture, through the Institute for the Cinema and Audiovisual, launches regular programs of financial support of cinema and audiovisual works in their diverse domains, respecting and fostering cultural diversity.

<p><b>3.3. Accessibility</b>  <i>(i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)</i></p>	<p>Art. 51, § 2, (j) Television Law</p>	<p>PSB (TV)</p>	<p>The public broadcaster needs to guarantee the possibility of accompanying the programs to people with special needs, namely through subtitling, to gesture language, to audio-description or to other techniques considered adequate. It also must diffuse programs specifically devoted to those people with special needs.</p> <p>These obligations are also defined in the new contract of concession for the public service of television (clause 7).</p>
	<p>Art 34. 3 Television Law</p>		<p>The Regulatory Entity for the Media shall define, having heard television operators, the set of obligations that shall enable people with special needs to follow broadcasts, namely by means of subtitling, sign language, audio-description and other techniques deemed appropriate, based on a multiannual plan providing for their gradual implementation, taking into account technical and market conditions assessed by that regulatory entity at any given time.</p>

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Art. 12 Television Law	AAVM (TV)	Television broadcasting shall not be exercised or financed by political parties or associations, departments of local government or their associations, trade unions, or employer or professional associations, either directly or indirectly, by means of entities in which they hold capital or which are subsidized by them. An exception is open if the activity is run exclusively through the Internet and consists on programming services of doctrinal, institutional or scientific nature.
	Art. 6 Radio Law	AAVM (R)	Radio broadcasting shall not be exercised or financed by political parties or associations, local authorities, trade union organizations, business or professional organizations, either directly or indirectly through organizations in which they hold capital or are subsidized by such organizations.
4.1.2. Requirements of independence from political parties / politicians	Art. 34. <sup>o</sup> , 2, (c) Television Law	AAVM (TV)	All television operators that operate general television programme services of a national coverage shall to guarantee programming and information that is independent from political and economic powers.
	Art. 38, 4 Constitution	All media	The state shall ensure the media's freedom and independence from political power and economic power by imposing the principle of specialisation on businesses that own general information media, treating and supporting them in a non-discriminatory manner and preventing their concentration, particularly by means of multiple or interlocking interests.
	Art. 47, 1 (a) Radio Law	PSB (R)	Public service radio broadcaster shall provided a varied, accurate and impartial news service and be independent of all public and private powers.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Art. 18, 4-8 and Art 19 ERC Law		The five members of the Regulatory Council of the Media Regulatory Entity cannot have any other public function or professional activity during their mandate. Besides that, no one can be elected to this position if he/she was a member of the Government (national or regional) in the previous two years. Their five year term in the ERC cannot be renewed.

<p>4.1.4. Representation requirements in media companies' bodies (board of directors...)</p>	<p>Article 21 of the Law 8/2007, of February 14th approving the law restructuring the concessionary of radio and television public service</p>	<p>PSB (TV) (R)</p>	<p>The opinion council of the Portuguese PSB consists of:</p> <ul style="list-style-type: none"> <li>a) Ten members elected by the Portuguese Parliament according to Hondt's highest average rule;</li> <li>b) One member appointed by the Regional Legislative Assembly of the Autonomous Region of the Azores;</li> <li>c) One member appointed by the Regional Legislative Assembly of the Autonomous Region of Madeira;</li> <li>d) One member appointed by the Portuguese National Association of Municipalities;</li> <li>e) Two members appointed by the national unions and two members appointed by the employers' organizations;</li> <li>[...]</li> </ul>
			<ul style="list-style-type: none"> <li>[...]</li> <li>f) One member appointed by the most representative religious groups;</li> <li>g) One member appointed by the viewers associations;</li> <li>h) One member appointed by the parents' associations;</li> <li>i) One member appointed by the associations for the family preservation;</li> <li>j) One member appointed by the youth associations;</li> <li>l) One member appointed by the Portuguese authors' protection associations;</li> <li>m) One member appointed by the non-governmental organizations branch of the advisory council to the Committee for Equality and Women's Rights;</li> <li>n) One member appointed by the Advisory Council for Immigration Affairs;</li> <li>o) One member appointed by the people with disabilities associations;</li> <li>p) One member appointed by the consumer protection associations;</li> <li>q) Two members with recognized merit co-opted by the other members of the board.</li> </ul>
<p>4.1.5. Representation requirements in media advisory bodies and/or regulators</p>	<p>Law on Public Service of Radio and Television</p>	<p>PSB (TV) (R)</p>	<p>There is an Opinion Council of 27 members, representing various institutions and associations of society (trade unions, labour organizations, TV spectators, parents, families, consumers, youth, Portuguese authors, disabled persons, etc.).</p>

	<p>Art. 15 , 38, 39 ERC Law</p>	<p>Four members of the regulatory board of ERC shall be nominated by resolution of the Assembly of the Republic.        The members nominated by the Assembly of the Republic shall co-opt the fifth member of the regulatory board.</p> <p>The advisory council of ERC is a consultative body that takes part in the definition of the general guidelines for ERC activity, contributing towards the articulation with public and private entities representing relevant interests in the context of the mass media and associated sectors.</p> <p>The advisory council consists of:</p> <ul style="list-style-type: none"> <li>a) A representative of the Competition Authority;</li> <li>b) A representative of the Department for the Media;</li> <li>c) A representative of ICP-ANACOM;</li> <li>d) A representative of the Consumer Institute;</li> <li>e) A representative of the Institute for Cinema, and Audiovisuals (Instituto do Cinema, Audiovisual e Multimédia);</li> <li>f) A representative of the Portuguese University Presidents Council (CRUP - Conselho de Reitores das Universidades Portuguesas);</li> <li>g) A representative of the Polytechnics Coordination Council (Conselho Coordenador dos Institutos Superiores Politécnicos);</li> <li>h) A representative of the Journalists Training Protocol Centre (CENJOR - Centro Protocolar de Formação Profissional para Jornalistas);</li> <li>i) A representative of the most representative journalists union;</li> <li>j) A representative of the most representative mass media confederation;</li> </ul> <p>[...]</p>
--	---------------------------------	---

			[...] m)A representative of the most representative advertising agencies association; n)A representative of the most representative advertisers association; o)A representative of the Advertising Self-discipline Civil Institute (ICAP - Instituto Civil da Autodisciplina da Publicidade); p) A representative of the Portuguese Association for Copy and Distribution Control (APCT - Associação Portuguesa para o Controlo de Tiragem e Circulação); q) A representative of the Commission for Assessment and Analysis of Means (CAEM - Comissão de Análise e Estudos de Meios).
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. (Equal/proportionate) Access to airtime for political groupings			
	Art. 64, § 1 Television Law	PSB (TV)	Right of political refute of opposition parties  Parties represented in the Parliament [Assembly of the Republic] and which are not part of the Government have the right to refute, in the same program service, to the political declarations made by the Government on the public television service which affected them directly.
	Art. 57, § 1 Radio Law	PSB (R)	Right of political refute of opposition parties  Parties represented in the Parliament [Assembly of the Republic] and which are not part of the Government have the right to refute, in the same program service, to the political declarations made by the Government on the public radio service which affected them directly.
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Art. 40, § 1-2 Constitution	PSB (TV) (R)	Political parties, trade unions, professional and business organizations and other social organizations with a national scope shall, in accordance with their size and representatives and with objective criteria that shall be defined by law, have the right to broadcasting time on the public radio and television service.  Political parties represented in the Assembly of the Republic and do not form part of the Government shall, as laid down by law, have the right to broadcasting time on the public radio and television service, which shall be [...]

			<p>[...] apportioned in accordance with each party’s proportional share of the seats in the Assembly, as well as to reply or respond politically to the Government’s political statements. Such times shall be of the same duration and prominence as those given over to the Government’s broadcasts and statements. Parties represented in the Legislative Assemblies of the autonomous regions shall enjoy the same rights within the ambit of the region in question.</p>
	<p>Art. 59-63 Television Law</p>	<p>PSB (TV)</p>	<p>(‘Direito de Antena’)        Political parties, the Government, trade unions, professional organizations and those representing economic activities and environmental and consumer protection associations are guaranteed the right to broadcast time on the public television service.</p> <p>The bodies referred to in the previous paragraph have the right, free of charge and annually, to the following broadcast times:</p> <ul style="list-style-type: none"> <li>a) Ten minutes per party represented in the Assembly of the Republic, plus thirty seconds for each elected member;</li> <li>b) Five minutes per party not represented in the Assembly of the Republic, but which has participated in the most recent general election, plus thirty seconds for every 15,000 votes obtained in those elections;</li> <li>c) Sixty minutes for the Government and sixty minutes for the parties represented in the Assembly of the Republic which are not in Government, distributed in proportion to their representation;</li> <li>d) Ninety minutes for trade union organizations, ninety minutes for professional organizations and those representing economic activities, and fifty minutes for environmental, consumer and human rights protection associations, distributed in proportion to their representation.</li> <li>e) Fifteen minutes for other bodies which have the right to transmission time attributed to them by law.</li> </ul> <p>Holders may not use the entitlement to broadcast time more than once every 15 days, nor may their broadcasts last more than ten minutes or less than three, unless total [...]</p>



			<p>[...] transmission time allowed overall is less.</p> <p>The right to broadcast time may not be exercised on Saturdays, Sundays and national public holidays, and shall also be suspended a month before the date established for the beginning of an electoral or referendum campaign.</p> <p>Entitlement times are broadcast in the television programming service with national coverage at peak viewing hours between 7.00 p.m. and 10.00 p.m.</p> <p>Holders of the entitlement to broadcast time shall request the reservation of the time to which they have the right 15 days before transmission, and the respective recording shall be made or the pre-recorded material handed in no later than 40 hours before the broadcast of the program.</p>
	<p>Art. 52-56 Radio Law</p>	<p>PSB (R)</p>	<p>(‘Direito de Antena’)          Political parties, the Government, trade unions, professional organizations and those representing economic activities and environmental and consumer protection associations are guaranteed the right to broadcast time on the public radio service.</p> <p>The bodies referred to in the previous paragraph have the right, free of charge and annually, to the following broadcast times:</p> <ul style="list-style-type: none"> <li>a) Ten minutes per party represented in the Assembly of the Republic, plus fifteen seconds for each elected member;</li> <li>b) Five minutes per party not represented in the Assembly of the Republic, but which has participated in the most recent general election, plus fifteen seconds for every 15,000 votes obtained in those elections;</li> <li>c) Sixty minutes, per category, for trade union organizations, professional organizations and those representing economic activities</li> <li>d) Ten minutes for other bodies which have the right to transmission time attributed to them by law.</li> </ul> <p>Holders may not use the entitlement to broadcast time more than once every 15 days, [...]</p>

			<p>[...]          nor may their broadcasts last more than five minutes or less than two, unless total transmission time allowed overall is less.</p> <p>The right to broadcast time may not be exercised on Saturdays, Sundays and national public holidays, and shall also be suspended a month before the date established for the beginning of an electoral or referendum campaign.</p> <p>Entitlement times are broadcast in the radio programming service with national coverage at peak viewing hours between 10.00 a.m. and 20.00 p.m.</p> <p>Holders of the entitlement to broadcast time shall request the reservation of the time to which they have the right 5 days before transmission, and the respective recording shall be made or the pre-recorded material handed in no later than forty-eight hours before the broadcast of the program.</p>
4.2.1.b. Paid access: rules on political advertising	Electoral Law	All media	<p>There is no ban of paid political advertising in television, except on electoral periods. When the date for an election is officially settled, then political paid advertising is forbidden in every medium until the election day (see Electoral Law, art. 72). An exception is open only to advertise political meetings and so. During that period, television and radio companies, both public and private, are legally obliged to give the political parties some airtime for their political propaganda ('direito de antena'), identified as such, and open to all competitors in the election (see Electoral Law, art. 62). But this 'public service' offered by the media is paid by the State (ibid., art. 69).</p> <p>The law on advertising (Advertisement Code) explicitly says that political propaganda is not considered as commercial advertisement, and doesn't fall under the scope of that law (see art. 3, § 3).</p>
	Art 31 Television Law	AAVM (TV)	<p>Without prejudice to chapter VI [Right to broadcast time], television operators shall not allow any transmission time for political propaganda.</p>

4.2.2. Government announcements	Art. 51, § 2, m) and n) Television Law	PSB (TV)	The television public service must transmit the messages required by the President of the Republic, the President of the Assembly of the Republic (Parliament) and by the Primer-Minister. It also must put airtime at the disposition of the Public Administration in order to diffuse information of general interest, especially concerning health and public security issues.
	Art. 48 Law Radio	PSB (R)	It is an obligation of radio public service to guarantee, with the due relevance and maximum urgency, the diffusion of messages required by the President of the Republic, by the President of the Assembly of the Republic (Parliament) and by the Primer-Minister.
	Art 30 Television Law	AAVM (TV)	Announcements requested by the President of the Republic, the President of the Assembly of the Republic and the Prime Minister shall be broadcasted through the television public service, and shall be carried out with due emphasis and most urgently. In the event a state of siege or state of emergency are declared, the obligation laid down in the preceding paragraph shall also apply to other television operators.
4.2.3. Impartiality obligations	Art. 34, 2, (b) Television Law	AAVM (TV)	All television operators that operate general television programme services of a national coverage shall to guarantee information that observes accurateness and independence.
	Art. 39, 1 (c) Constitution		An independent administrative body (ERC) shall be responsible for ensuring the independence of the media from political power and economic power.
	Art. 9, 1 (a) Radio Law	AAVM (R)	The purposes of general programme services in radio broadcasting consist of promoting the right to inform and be informed, accurately and independently, without impediment or discrimination.
	Art 14, 1 (c) Journalist Statue	Journalists	One of the fundamental journalists' duties consists of refusing tasks that may compromise their independence and professional integrity.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 40, § 3 Constitution	AAVM (TV) (R)	During electoral times and as laid down by law, candidates shall have the right to regular and equitable broadcasting time on radio and television stations with a national or regional scope ('Direito de Antena').

	Art. 63 Television Law	AAVM (TV)	In election periods, the exercise of the entitlement to broadcast time is regulated by electoral legislation, covering all general television programme services on a free-to-air basis.
<i>Apart from the broadcast time reserved in the public service for all political parties and other organizations during all the year, in electoral times there is a particular definition of the rights of access to all mass media.</i>			
	Art. 34, § 2 (e) Television Law	AAVM (TV)	All television operators which operate general programming services, either public or private, shall guarantee the entitlement to party political broadcasts during electoral periods (‘Direito de Antena’), in compliance with constitutional and legal terms.
	Art. 56 Radio Law	AAVM (R)	During electoral times, the right of access to radio airtime by political parties and other candidates (‘Direito de Antena’) has particular rules, defined by the Electoral Law ( <i>see next point</i> )
	Article 56 - 61 Electoral Law on Local Authority Bodies (Organic Law 1/2001, of August 14th)		<p>Under the terms of this section, all candidatures for election to local authority bodies shall have the right to usufruct of airtime in broadcasts of radio operators with local programme services whose headquarters are located within the territorial area of the correspondent municipality.</p> <p>During the election campaign period, operators shall reserve 30 minutes to all candidatures, on a daily basis, equally divided into two parts of 15 uninterrupted minutes: one between 7 am and 12 pm e another between 7 pm and 12 am.</p> <p>Broadcasting times reserved in the programmes’ services shall be equally awarded to political parties, coalitions, and opponent group of citizen voters.</p> <p>The Civil Governor shall determine by lottery the airtime distribution up until three days before the beginning of the campaign, which shall be immediately communicated to the involved operators within the same period.</p>
	Art 49 Electoral Law on Local Authority Bodies (Organic Law 1/2001, of August 14 <sup>th</sup> )		All media involved in the electoral campaign coverage shall give equal journalistic treatment to all candidatures.

	Art. 62-69 Electoral Law	AAVM	<p>During election times, political parties have the right to some airtime in television and radio stations, both public and private (the State pays them for the time they spend with that airtime).</p> <p>During electoral campaign, television stations must grant 15 minutes, between 19h00 and 22h00, from Monday to Friday, and 30 minutes on Saturday and Sunday. Public radio must grant 60 minutes a-day (20 minutes between 07h00 and 12h00, 20 minutes between 12h00 and 19h00, and 20 minutes between 19h00 and 24h00).</p> <p>[...]</p>
			<p>[...]</p> <p>Private radio stations of national scope must grant 60 minutes a-day (20 minutes between 07h00 and 12h00, 40 minutes between 19h00 and 24h00).</p> <p>Regarding the press, during the election campaign they all are asked to grant non-discriminatory treatment to all the candidates.</p>
	Article 56 and 64 Electoral Law of the Republic Assembly (Portuguese Parliament)		<p>Candidates and political parties or the coalitions that propose them shall have the right to equal treatment by public or private entities in order to carry out the election campaign freely and in the best conditions.</p> <p>In accordance with Decree-Law 85-D/75, of February 26th and other applicable legislation, daily publications or non-daily publications with a frequency under fifteen days shall give non-discriminatory journalistic treatment to all candidatures.</p>

*Note: The other legislation governing the elections to the Republic Presidency, Autonomous Regions of Madeira and Azores and European Parliament have identical rules.*

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<p><b>5.1. Licensing policy fostering local/regional types of media</b></p>	<p>Law on incentives to regional and local media (Law nr. 7/2005)</p>	<p>Regional / local media</p>	<p>The State can grant financial subventions to regional and local media companies in order to help the professionalization and qualification of their staff, to foster their technological development (with a particular emphasis in multimedia resources) and to enlarge the possibilities of diffusion of their products. The underlying idea is that regional and local media can be an agent for general development and help to guarantee pluralism and freedom of expression for all citizens.          Incentives can also be granted to media especially interested in promoting the Portuguese language and culture among the Portuguese emigrant community living abroad.</p>
	<p>Art. 7 Television Law</p>	<p>AAVM (TV)</p>	<p>1 Coverage by television programme services may be on an international, national, regional or local level, according to whether they are intended to cover, respectively:          a) Predominantly the territory of other countries;          b) The national territory in general, including the Autonomous Regions;          c) A group of districts in the mainland or a group of islands in the Autonomous Regions, or an island with several municipalities, or a metropolitan area;          d) A municipality or a group of neighbouring municipalities.</p> <p>2 The geographic area allocated to each television programme service shall be covered by the same programme and recommended signal, unless otherwise authorized by determination of the Regulatory Entity for the Media, without prejudice to the use of additional coverage resources, where it is duly authorized.          [...]</p>

			<p>[...]</p> <p>3 The determination referred to in the preceding paragraph shall establish the hourly limit of broadcast interruptions up to the maximum of two hour per day, which may be extended in exceptional and duly substantiated situations, in the terms provided therein.</p> <p>4 Ratings referred to in this article are incumbent upon the Regulatory Entity for the Media and shall be established in the licence or authorization document, without prejudice to its subsequent amendment at the request of interested parties, subject to the binding conditions for pursue of the activity, under article 21 hereof.</p>
	Clause 2, 2 (c) ( e) Contract of Concession of the Television Public Service (2008)		The television public service broadcasts two regional programme s services in the autonomous regions of Madeira and Azores archipelagos and one programme service with a particular interest for the regions and specific communities.
	Art. 4 and Art. 5, 1 Radio Law	AAVM (R)	<p>With regard to the level of coverage, programme services may be national, regional or local, depending on whether they cover, with the same recommended signal, respectively:</p> <p>a) National territory in general;</p> <p>b) A group of districts on the mainland or a group of islands in the Autonomous Regions, or an island with several municipal areas;</p> <p>c) A municipal area and possible bordering areas in accordance with the technical requirements necessary for coverage of that area.</p> <p>The classification of programme services with regard to the level of coverage and content of programming is the responsibility of the Regulatory Entity for the Media (ERC).        The frequencies available for local radio broadcasting may be reserved for programme services specifically for university populations</p>
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	Art. 7 Television Law	(see above)	
	Art. 4 and Art. 5, 1 Radio Law	(see above)	

<b>5.3. Content obligations: requirements to cover local events, etc.</b>	Art. 34, n. 4, and Art. 56 Television Law	AAVM (TV)	General television programme services of a regional or local scope shall: To extend television programming to regional or local contents; b) To broadcast information with a specific interest for the audience's geographic scope; c) To promote typical values of regional or local cultures. PSB's television programme services aimed especially at the Autonomous Regions of the Azores and Madeira shall take due regard of the respective social and cultural realities and enhance regional production.
	Art 39, 2 and Art. 41, 1 Radio Law	AAVM (R)	Radio stations must transmit a minimum of three news services relating to their own geographical area. These news services must be transmitted between 07.00 h and 24.00 h and separated by periods of not less than three hours. Programme services for local coverage must transmit a minimum of eight hours of own programming, to be broadcast between 07.00 and 24.00
<b>5.4. Regional State Aids</b>	(see above)		
	Regional legislative decree 22/2006/A (of the Autonomous Region of the Azores)		Regional Support Programme (PROMEDIA - Programa Regional de Apoio à Comunicação Social Privada). The objectives of PROMEDIA are the following: a) Technological modernization of regional media; b) Information diffusion support; b) Vocational qualification of media agents.
	Order 233/94 (of the Autonomous Region of Madeira)		Support system to media entities in the Autonomous Region of Madeira.
<b>5.5. Rules on national minorities</b>	No.		
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>	Art. 7, 1, b) Television Law		Coverage by television programme services on a national level should cover the national territory in general, including the Autonomous Regions of Madeira and Azores. The public service operator broadcasts two regional programme services, one in Madeira and another one in the Azores.



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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
<i>Note: Art. 39 Constitution states that an independent administrative entity has to guarantee the non-concentration of ownership of the mass media. Presently, this entity is the Regulatory Entity for the Media (ERC). Provisions about media concentration, cross-participation, ownership transparency, etc. are not included in the Portuguese media laws, but in a law-project. It is not clear when this law-project will be submitted to the Parliament for approval.</i>			
<b>6.1.1. Moment of intervention</b>			
<b>6.1.1.1. At moment of market entry (licensing procedure)</b>			
	Art. 13 Television Law	AAVM (TV)	The access to television activity using the terrestrial spectrum is subject to State licence in the sequence of public contest. The concession is granted according to a number of obligations assumed by the operator (presently there are two private channels broadcasting in Portugal with a national licence. The access to television activity which doesn't use the spectrum (e.g. cable) is only subject to a previous authorization by the State
<i>This general legal precept is the same for every company, dealing with media or anything else. Specifications for the media industry will be available only when the new law is approved (see above).</i>	Art. 4 Television Law	AAVM (TV)	Television operators are submitted to the general legal regime to preserve competition, particularly in what concerns concentration and transparency of ownership.
	Art. 3 Radio Law	AAVM (R)	Access to radio activity using broadcasting system depends on the public authorization and licence, in order to preserve the attribution of radio electric frequencies. Radio through Internet doesn't fall under these conditions.
<i>This general legal precept is the same for every company, dealing with media or anything else. Specifications for the media industry will be available only when the new law is approved (see above).</i>	Art. 7 Radio Law	AAVM (R)	Radio broadcasting operators are submitted to the general legal regime to preserve competition, particularly in what concerns abuse of dominant position, concentration and transparency of ownership.
	Art. 5 and Art. 16 Press Law	PM (N)	The constitution of press companies is totally free and only subject to previous registration of the publication. The identification of the owners of journalistic companies must be published once a year and sent to the Media Regulatory Entity.

6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	Art. 9 and Art. 57 Competition Law	All	Every operation of companies' concentration must be communicated in advance to the authorities, namely when it leads to the creation of a share of 30 % or more of the market of any goods or services. The merger or fusion depends on those authorities permission. When the merger or acquisition involves media companies, the Media Regulatory Entity must authorize it too. And this authorization will not be given if there's a clear risk of menacing the free expression and exchange of different lines of opinion.
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Art. 8, (b) and (g) ERC Law		One of ERC legal attributions is to zeal that there is no concentration of ownership of mass media companies, in order to preserve pluralism and diversity. This attribution is understood as complementary to the ones committed to the Competition Authority. Another ERC attribution is work in cooperation with the Competition Authority in order to guarantee the regular and efficient functioning of the press and audiovisual markets, in good conditions of transparency and equity.
<i>Note: As stated above, these general attributions committed to ERC regarding media ownership can be more concrete only when the law on media concentration (presently being discussed) is approved by Government and by the Parliament. In the meantime, some specifications of the Competition Law can be used also to analyze the media businesses.</i>			
	Art. 24, (o), (p) and (q) ERC Law		It's a specific competence of ERC's Regulator Council to determine, in cooperation with the Competition Authority, which are the economically relevant markets in the media sector; to judge about property acquisitions or about concerted practices by any company dealing with media; to identify the powers of influence on the public opinion, in order to defend pluralism and diversity, and to adopt the necessary measures to its safeguard.
<i>Note: As stated above, these general attributions committed to ERC regarding media ownership can be more concrete only when the law on media concentration (presently being discussed) is approved by Government and by the Parliament. In the meantime, some specifications of the Competition Law can be used also to analyze the media businesses.</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>			
	Art. 7, § 3 and § 4 Radio Law	AAVM (R)	No one can own shares on more than five radio companies, and no company can own more than a 25% share in two or more stations that operate in the same municipality and has local programming.
	Art. 4, §2 Press Law	PM (N)	Every news company or journalistic company that buys any participation or share in a similar company must notify the Regulatory Entity for the Media (ERC) of that acquisition.

6.1.2.2. <i>Crossmedia</i>	No restrictions. <i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate)</i>		
6.1.2.3. <i>Vertical integration with networks</i>	No restrictions. <i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate)</i>		
6.1.2.4. <i>Integration with advertising sector</i>	No		
6.1.2.5. <i>Integration with other (e.g. energy) sectors</i>	No		
6.1.2.6. <i>Control over both commercial and public media</i>	No restrictions. <i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate).</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. 7, § 3 and 4 Radio Law	AAVM (R)	No one can own shares on more than five radio companies, and no company can own more than a 25% share in two or more stations that operate in the same municipality and has local programming.
6.1.3.2. <i>Market shares</i>	Art. 9 Law on Competition		Concentrations between undertakings are subject to prior notification to the Competition Authority when one of the following conditions is fulfilled: a) Their implementation creates or reinforces a share exceeding 30% of the national market for a particular good or service or for a substantial part of it. b) In the preceding financial year, the group of undertakings taking part in the concentration have recorded in Portugal a turnover exceeding EUR 150 million, net of directly related taxes, provided that the individual turnover in Portugal of at least two of these undertakings exceeds two million euros.
6.1.3.3. <i>Circulation and audience shares</i>	<i>Criteria will be defined in the future Concentration Law (now in preparation and in public debate).</i>		
6.1.3.4. <i>Capital shares</i>	<i>Criteria will be defined in the future Concentration Law (now in preparation and in public debate).</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>	<i>Criteria will be defined in the future Concentration Law (now in preparation and in public debate).</i>		
<b>6.2. Sector specific rules preventing cooperation between media companies</b>	<i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate)</i>		
<b>6.3. (Sector specific or general) rules preventing (non-EU) foreign ownership</b>	No restrictions		
<b>6.4. General competition rules</b>	Art. 4, Television Law	AAVM (TV)	The general regime of defence and promotion of competition is applicable to television operators, particularly with regard to prohibited practices, especially the abuse of a dominant position, and also to concentration of companies.
	Art 4, § 2 Law No 32/2003		Concentration operations between television operators subject to intervention of the Competition Authority are communicated by this body to the regulatory authority, which issues prior judgments that are binding in nature and which shall only involve refusal when these operations present clear risk to both freedom of expression and the presentation of different opinions.
	Art. 7 Radio Law	AAVM (R)	Radio broadcasting operators are submitted to the general legal regime to preserve competition, particularly in what concerns abuse of dominant position, concentration and transparency of ownership.
6.4.1. Antitrust			
6.4.1.1. <i>Specific provisions for media sectors</i>	<i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate)</i>		
6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i>	<i>Restrictions in this domain are defined in the future Concentration Law (now in preparation and in public debate)</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)</i>	Art. 57 Competition Law	All media	When deciding on concentrations and mergers within the media sector, the Competition Authority decisions are subject to a binding prior opinion of the ERC [which replaced the former AACS-High Authority for the Media] , who assess the impact of such a merger on the freedom of expression and the diversity of opinion.

	Art. 7, §2, and Art. 18 Radio Law	AAVM (R)	Any concentration operation among radio operators, either horizontal or vertical, leading to changes in the control of the medium, is possible only three years after the broadcasting licence has been granted (or one year after it was renewed) and must be previously approved by the Regulatory Entity (ERC). These operations will not be allowed if they put at risk the freedom of expression and of the various opinion lines.
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)			
<b>6.5. Transparency obligations</b>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	Art. 16 Press Law	PM (N)	The list of all the shareholders of news companies, as well as the indication of any other participation of those shareholders in similar companies, must be published every year (together with the economic and financial report) in every media they own and sent it to the Regulatory Entity for the Media.
	Art 5 § 1 and 2 Law No 32/2003	AAVM (TV)	Shares representing the capital of television operators, taking the form of a public limited company, shall be nominative. The description of holders of qualified holdings in the capital of the television operators and of holders of special rights, respectively itemized, and indications of holdings in other similar entities are published together with the report and accounts and the respective editorial policy every year in one of the national large-circulation general periodicals.
	Art 8 § 1 Radio Law		Shares representing the capital of radio operators, taking the form of a public limited company, shall be nominative.
	Art 41 § 2 Radio Law		During the time dedicated to own programming, radio programme services must be identified by name, the transmission frequency if any, and the transmission location, at intervals not longer than one hour.
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. 4, Television Law	AAVM (TV)	Television and distribution operators are submitted to the general regime of defence and promotion of competition, particularly in what concerns the forbidden practices and companies' concentration, as well as to the juridical regime that regulates ownership transparency and ownership concentration in the mass media.

*Note: Specific measures in this domain, regarding specifically the media companies, are defined in the future Concentration Law (now in preparation and in public debate). Until now, there has been no specific ‘juridical regime’ to this sector.*

	Art. 8, § 2 Radio Law	AAVM (R)	Any changes in the capital of the radio broadcasting companies must be communicated within 30 days to the Regulatory Entity for the Media (ERC).
	Art. 16 Press Law	PM (N)	News companies are obliged to inform the Regulatory Entity for the Media – ERC (previous ‘High Authority for Social Communication - AACS) annually of the details regarding shareholders in the company. Additionally publishing companies must publish annually in their newspapers the details of annual accounts and shareholder interests (see above).
	Art 1 § 1 and 2 Media Registration Decree-Law	All media	One of the ERC attributions is to register the media (press, radio and television) in order to prove the legal situation of the media ant to guarantee the transparency of the media ownership.

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

Measure	Source	Scope of application	Key features
<p><b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b></p>	<p>Art. 51 Television Law,          Art. 47 and Radio Law</p>	<p>PSB</p>	<p>Operators holding the public television and public radio service concession shall assure quality programming that is balanced and diverse and which contributes to the cultural and civic development of viewers, promoting political, religious, social and cultural pluralism, and allowing access by all viewers to information, culture, education and quality entertainment.</p> <p>Public television operator is specially are obliged to:</p> <ul style="list-style-type: none"> <li>a) Provide pluralist programming which takes into account minority interests and promotes cultural diversity;</li> <li>b) Provide accurate, independent and pluralist information;</li> <li>c) Ensure news coverage of the main national and international events;</li> <li>d) Ensure the production and transmission of educational and entertainment programs destined for young people and children, which will contribute to their education;</li> <li>e) Broadcast programs destined especially for Portuguese people resident outside Portugal and for nationals of other Portuguese-speaking countries also resident outside Portugal;</li> <li>f) Promote access to programmes for the deaf or those with hearing disabilities (TV);</li> <li>g) Support national production, as regards international commitments which bind the Portuguese State, and co-production with other countries, especially European and Portuguese-speaking countries;</li> </ul> <p>[...]</p>

		<p>[...]</p> <p>h) Guarantee the entitlement to broadcast time, the right to reply and political refutation, in compliance with constitutionally and legally stipulated terms;</p> <p>i) Broadcast any messages requested by the President of the Republic, the President of the Assembly of the Republic or by the Prime Minister;</p> <p>j) Give transmission time to the Civil Service, in order to disseminate information of general interest, particularly in matters of public health and safety.</p> <p>Public radio operator is specially obliged to:</p> <p>a) Provide a varied, accurate and impartial news service and be independent of all public and private powers;</p> <p>b) Transmit innovative and varied programming, which stimulates learning and cultural development, with special attention to young audiences;</p> <p>c) Transmit programming of a convergent nature which is accessible to the whole population, taking into consideration different age groups, professions and interests;</p> <p>d) Transmit programming which conveys national, social and cultural diversity, work against all forms of exclusion or discrimination and which meets the interests of different minority public groups;</p> <p>e) Ensure news coverage of the main national and foreign events;</p> <p>f) Promote and inform on national art and develop knowledge of the historical and cultural heritage of the country;</p> <p>g) Transmit regular programmes specializing in the international promotion of Portuguese language and culture.</p>
--	--	--



	Art. 34 Television Law	AAVM (TV)	<p>All television operators, whether public or private, exploring <b>national</b> generalist programming services, have the obligation: a) to provide a diversified and plural programming; b) to provide information that respects pluralism, accuracy and fairness; c) to ensure a programming service independent from political and economic powers; d) to guarantee the rights to reply and to rectification; e) to diffuse creative works of European origin, particularly in Portuguese language, and to participate in the development of their production.</p> <p>The operators of <b>regional</b> or <b>local</b> scope have the obligations above mentioned from a) to c) and, furthermore, the obligations: a) to diffuse content of regional and local interest; b) to promote the characteristic values of the regional and local cultures.</p>
<b>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.)</b>	No		
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 32 (4) Television Law, and Ministerial Order Ministerial Order (Despacho) No 24768/2007, of 18 October (For the years 2008-2009: Ministerial Order No 26037/2008, of 10 October)	AAVM (TV)	<p>In the case of some events considered to be of general interest, the TV channel that owns the broadcasting rights is obliged to allow other broadcasters of national scope and open access to diffuse those events too. The list of those events is determined every year by the Government.</p> <p>For the years 2007-2008, the Ministerial Order listed – after having consulted the ERC – a series of events of general public interest, all of them coming from sport (football mainly, as well as other international competitions where Portuguese athletes are involved).</p>
<b>7.3. Short news reporting</b>	Art. 33 Television Law	AAVM (TV)	<p>Neither those responsible for the production of shows or other public events, nor the holders of exclusive rights to them, may oppose the transmission of brief extracts of those events, which are of an informative nature, by any television operator, national or otherwise.</p>

<b>7.4. Fixed book price</b>	Fixed Price Book Law (Law n° 216/2000, of 2 September), art. 4, 12 and 14	B	Maximum discount: 10% for books published or imported in the last 18 months. In certain specific cases, discount can reach 20% when the books are acquired by public libraries, school libraries, institutions of public utility, or on activities of promotion of reading (book fairs). School manuals and used books are not included.
<b>7.5. Public service media</b>			
<b>7.5.1. Structural rules - organization</b>			
<i>7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Art. 38, § 6 Constitution Art. 50, § 1 Television Law Art 47 § 1 (a) Radio Law	PSB	The structure and the operation of the media that remain within the radio and television public sector must ensure their independence against the Government, the administration and other public bodies; it also ensures that the different lines of opinion may be expressed and confronted.
<i>Implementation problem: The fact that the management of the company responsible for the Radio and Television Public Service (one single company since 2007) is actually appointed by the Government causes frequent controversies regarding the issue of political independence. In spite of that, the laws stress the fact that the management shouldn't interfere in any matters linked to the information services. But suspicions about it are frequent. Besides that, the existence of an Opinion Council, as well as of an ombudsman for the public radio and for the public television allegedly grants some internal scrutiny about the issue of independence (among others).</i>			
	Art. 2, § 3 Law on the Radio and Television Public Service Company (Law no. 8/2007)	PSB	The radio and television public services work with total editorial autonomy in what concerns their programming and information.
	Law on the Radio and Television Public Service Company (Law no. 8/2007) - Annex, art. 4, § 1, 2 and 3	PSB	The responsibility for the selection and for the content of the public radio and television programs belongs to their directors (editors-in-chief). Management orientations can't deal with matters which involve editorial responsibility for the radio and television information services, because this responsibility belongs exclusively to the editor-in-chief.
<i>7.5.1.2. Election of management, composition of board member (government? Parliament? Other?)</i>	Law on the Radio and Television Public Service Company (Law no. 8/2007) - Annex	PSB	As the company responsible for the Radio and Television Public Service is a company totally owned by the State, the board is elected by the State as the only shareholder. The board ('Conselho de Administração') is appointed by the Government. It has five members and the law doesn't define any particular requisites for them. They can be dismissed only when they commit any serious fault in their duties or when they fail to respect the public service concession contract.
<i>7.5.1.3. Specific representation requirements for board of directors, other bodies</i>	No		

<p>7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i></p>	<p>Law on the Radio and Television Public Service Company (Law no. 8/2007) – Annex, art. 21 to 23</p>	<p>PSB</p>	<p>The public broadcaster has an Opinion Council, composed of 27 members, where different sensitivities and organizations of the public are represented (trade unions and employers’ associations, religious confessions, youth, parents and families’ associations, consumers’ associations, disabled people associations, women’s associations, etc.).        This council meets three times a-year and must be consulted about the general activity of public Radio and Television, particularly about the duties attached to the Public Service contract signed by the company and the State.        The council must also vote for the persons to be Radio and Television ombudsman.</p>
<p>7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i></p>	<p>No</p>		
<p>7.5.2. Structural rules - funding</p>			
<p>7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i></p>	<p>Art. 1, § 2 , Law no. 30/2003</p>	<p>PSB (R)</p>	<p>The public radio service is financed by means of a charge corresponding to audiovisual licence fee.</p>
<p><i>Note: The amount of this fee (collected monthly through the electricity bill) was set in 1,60 euros per month (subject to annual actualizations), which means 19,20 euros per year. Only the consumers spending annually less than 400 kWh of electric power are exempted of this fee. For the year 2008, the fee was set in 1,71 euros per month, which means 20,52 euros per year (see Law n° 67-A/2007, of 31 December). (For the year 2009, the fee was set in 1,75 euros per month, which means 21 euros per year (see Law n.° 64-A/2008, of 31 December).</i></p>			
	<p>Art. 1, § 3 Law no. 30/2003 (financing the public service of radio and television)</p>	<p>PSB (TV)</p>	<p>The public television service is financed by means of compensation indemnities and by the revenue from audiovisual licence fee which is not used by the public service radio.</p>
<p><i>Implementation problem: Besides the compensation indemnities, public television also has revenues from commercial advertising (only in the first channel, RTP1, and with some limitations of time), although these revenues must be totally used to pay the previous debts of the company, and not to finance programming or other investments. Private TV chains often criticize this competition in collecting advertising, arguing that the public service should have no commercial advertising at all, since it has the financial resources coming from the State (unlike the private chains, who live only from advertising revenues)</i></p>			
<p>7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i></p>	<p>Art. 2, § 1 and 2, Law no. 30/2003 (financing the public service of radio and television)</p>	<p>PSB</p>	<p>The licence fee for the audiovisual and the compensation indemnities are established in accordance to the global needs of financing the public service and must respect the principles of transparency and proportionality. This public financing system must be subject to annual control, through an external audit designed by the Regulatory Entity for the Media (ERC).</p>
	<p>Art. 57, § 5 Television Law</p>	<p>PSB</p>	<p>With the aim of ensuring an adequate and efficient management of resources, in accordance with forecasts for the economical and social environment, expenses resulting from the financing of the public radio and television service will be established on a multi-annual basis over four-year periods</p>

7.5.3. Definition of public service remit			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	Art. 38, § 6 Constitution	PSB	The structure and the operation of the media that remain within the public sector must be independent from the Government and ensure that the different lines of opinion may be expressed and confronted.
<i>Implementation problem: The ERC defined a set of quantitative criteria (percentage of airtime allegedly due to the Government and to every political party, according to their electoral results) to check if the public television respected adequately the political pluralism in the news programs. The first results were presented in April 2008, and they suggested that there was a sub-representation of the main opposition party and an over-representation of Government in public television news. But these issue also caused some controversies, for instance because it was only quantitative, disregarding the qualitative aspects of the news and other criteria of newsworthiness.</i>			
	Art. 50 Television Law	PSB	Public television service observes the principles of universality and national cohesion, of diversity, excellence and indivisibility in programming, of pluralism, objectivity and independence of information, as well as of innovation.
	Art. 47 Radio Law	Public Service Radio	The radio public service must have an innovative programming, with high quality standards, satisfying the cultural, educational, formative, informative and entertainment needs of the most various publics. It must ensure pluralism, accuracy and impartiality of information, and produce an innovative and diverse programming.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Clause 3 Contract of Concession of the Television Public Service (2008)		In accordance with the exigences of diversification and innovation principles, the public service television shall be present in the various technological platforms appropriated to the public service television broadcasting; it may include programme services or any other form of organization of audiovisual content, specially created for each platform.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Arts. 51-52 Television Law	PSB	The PSB must provide: <ul style="list-style-type: none"> <li>• one or more programmes of interest to Portuguese language viewers living abroad as well as specific programmes for countries that speak the Portuguese language;</li> <li>• a specific service particularly tailored for cultural, scientific, independent production and Portuguese cinema programmes;</li> </ul> provision of two program services specifically addressed to the Azores and Madeira.
	Art. 54, § 1 Television Law	PSB	The public television service will also involve a service of programs (the Second Channel) particularly directed at culture, science, research, innovation, social involvement, amateur sport, religious faiths, independent production, Portuguese cinema, the environment, defence of consumer rights and audiovisual experimentation.

	Self-regulation Protocol RTP, SIC and TVI (2003)		<p>Private broadcasters SIC and TVI are engaged:</p> <ul style="list-style-type: none"> <li>- to support an finance the independent production;</li> <li>- To offer 1 hour, per day, of their own contents, to the international channels of the public service broadcaster;</li> <li>- To broadcast , at least 2h:30m per week, news programming , educational, entertainment or religious programmes with sign language;</li> <li>- To broadcast, at least 5 hours per week, fiction programmes or documentaries with teletext;</li> <li>- To broadcast, 2 hours per month, cultural programmes (literature, cinema, theatre, dance, painting, architecture, audiovisual production and design, etc.)</li> <li>- To broadcast 18 hours per year of fiction works of national production;</li> </ul> <p>[...]</p>
			<ul style="list-style-type: none"> <li>- To broadcast, 30 minutes per week, programmes aimed to ethnic, religious or cultural minorities.</li> </ul> <p>Concerning the public service television broadcaster (RTP) it shall broadcast more then the double of the hours and contents referred above.</p>
7.5.5. Universal coverage obligations	Art. 50, § 2, and Art. 51, § 1 Television Law	PSB	<p>Television Public Service must guarantee the respect for the principles of universality and national cohesion.</p> <p>This service must have a programming service that promotes guarantees the access of everybody to information, to education and to entertainment with quality standards.</p>
	Art 18 § 2 Television Law	AAVM (TV)	<p>The licensing of television activity concerning the general national programme services is subjected to the coverage of the whole national territory including the Autonomous Regions (Azores and Madeira).</p>
	Art. 47 § 1 (c) Radio Law	PSB (R)	<p>The Radio Public Service must have a programming service accessible to the whole population, taking into consideration the different ages, occupations and interests of the audience.</p>

	<p>Art. 52.<sup>o</sup>, n. 3 Television Law          Clause 2 Contract of Concession of the          Television Public Service (2008)</p>	<p>PSB</p>	<p>The concession of the public television service must include:          a) A general programme service distributed <b>simultaneously throughout the national territory</b>, including the Autonomous Regions, which aims to meet the educational, informative, cultural and entertainment needs of the general public;          b) A second general programme service <b>distributed simultaneously throughout the national territory</b>, including the Autonomous Regions, open to the participation of the civil society, which aims to meet the informative and entertainment needs, and specially the education and cultural needs of various public sections, including the minorities          c) Two television programme services <b>intended respectively to the Autonomous Region of the Azores and the Autonomous Region of Madeira</b>;          d) One or more programme services aimed at Portuguese-speaking viewers resident abroad or in countries where Portuguese is an official language, promoting the affirmation, enhancement and defence of Portugal's image in the world.</p>
--	--	------------	---

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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Art 43, § 1 and 2, Law on electronic communications		Must-carry obligations can be imposed on electronic communications networks which are used by a significant number of end-users as their principal means to receive radio and television broadcasts. These obligations can be imposed only when they are necessary to pursue objectives of general interest clearly defined, and must be reasonable, proportionate, transparent and subject to periodical revision.
	Art. 25., n.º 2 and 3, Television Law	AAVM (TV)	Operators of electronic communications networks used in the television activity must provide, following a decision of the national communications regulatory authority, issued according to paragraphs 1 and 2 of article 43 of Law no. 5/2004, of 10 February, the transport of television programme services specified by the Regulatory Entity for the Media under point s) of paragraph 3 of article 24 of Law no. 53/200, of 8 November. 3 – For the purposes of the preceding paragraph, television operators responsible for the organization of the television programme services referred therein must provide the respective signal.
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>	Art. 24 § 3 s) of ERC Statutes		The Regulatory Entity for the Media (ERC) shall specify the radio and television programme services that are subjected to must carry and to must offer by the companies distributing electronic communications networks in accordance with the competences attributed to the Competition Authority and to Communications Authority in this domain.
<i>Note: ERC has not yet implemented this provision, because terrestrial channels are currently available on different platforms (cable, ADSL, etc.). (No need that ERC implement the provision)</i>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18			

<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access	Art. 78, § 1 (a) Law on electronic communications		All operators of conditional access services which, irrespective of the means of transmission, provide access services to digital television and radio services, whereby broadcasters depend on such services in order to reach any group of potential viewers or listeners, shall offer technical services to all broadcasters, on a fair, reasonable and non-discriminatory basis compatible with Community competition law,
8.4.2. EPG (or other search tools)	Art. 77, 1 (b) Law on electronic communications		The NRA is charged with imposing obligations of access and interconnection on any undertaking, as far as such obligations may be necessary, regardless of whether or not it holds significant market power, to provide access to EPGs (electronic programme guides), on fair, reasonable and non-discriminatory terms.
8.4.3. API	Art. 77, 1 (b) Law on electronic communications		The NRA is charged with imposing obligations of access and interconnection on any undertaking, as far as such obligations may be necessary, regardless of whether or not it holds significant market power, to provide access to to APIs (application program interfaces), on fair, reasonable and non-discriminatory terms.
8.4.4. Other			
<b>8.5. Interoperability requirements</b>	Art. 102 § 1 Law on electronic communications		In order to promote the free flow of information, media pluralism and cultural diversity: a) Providers of digital interactive television services for distribution to the public on digital interactive television platforms, regardless of the transmission mode, shall favour the use of an open API; b) Providers of all enhanced digital television equipment deployed for the reception of digital interactive television services on interactive digital television platforms shall encourage compliance with an open API in accordance with the minimum requirements of the relevant standards or specifications.
<b>8.6. Specific rules for distribution systems in print media</b>	No		
<b>8.7. General competition law</b>			



<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)?</b>			A number of municipal libraries receive subsidies to enlarge their holdings and rebuild the facilities.
	Council of Ministers Resolution No 190/2005 on Technological Plan		The measures of the Technological Plan consist in promoting the access to broadband, tripling the number of households accessing the Internet by broadband until 2010 and implementing in all schools the access to Internet by broadband.
	Decree- Law No 43/2006 on equalizing the price of general content print publications i		In order to equalize the price of general content print publications in the whole national territory, the State pays the total transportation price of the publications between mainland and the Madeira and Azores islands
<b>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 )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			Entidade Reguladora para a Comunicação Social (ERC) ( <a href="http://www.erc.pt">http://www.erc.pt</a> )
9.1.1. Structure/ organization	Law creating ERC (Law no. 53/2005)		ERC is composed by a Regulatory Board (Conselho Regulador) of five members. In order to ensure independence from the Government, four members of the Regulatory Board are elected by the Parliament, with a qualified majority of votes (two thirds). Once elected, these four members co-opt a fifth member, who will be the President ERC also includes a Consulting Council, composed of 16 members, where are represented several institutions somehow linked to the media and the public (consumers, journalists, universities, advertisers, media monitoring entities, media companies, etc.)
9.1.1.1. Guarantees for independence	Art. 39 Constitution		An independent administrative body
<i>Note: In order to ensure independence from the Government, four members of the Regulatory Entity are elected by the Parliament, with a qualified majority of votes (two thirds). Once elected, these four members co-opt a fifth member, who will be the President.</i>			
9.1.1.2. Representation requirements	Art. 38 Law creating ERC (Law no. 53/2005)		ERC also includes a Consulting Council, where are represented several institutions somehow linked to the media and the public (consumers, journalists, universities, advertisers, media monitoring entities, media companies, etc.)

	Art. 18 ERC Statutes		<p>The members of the regulatory board of ERC shall be nominated and co-opted from among persons of an acknowledged reputation and independence as well technical and professional skills.</p> <p>The members of the regulatory board shall be functionally independent, and shall not be subject to any specific instructions or guidelines.</p> <p>The members of the regulatory board shall not be removable.</p> <p>Whoever holds, or held for the last two years, a post as member of executive bodies of companies, unions, confederations or business associations of the mass media sector shall not be nominated.</p> <p>Whoever holds, or held for the last two years, a post as member of the Government, of executive bodies of the Autonomous Regions or of local authorities shall not be nominated.</p> <p>The members of the regulatory board are subject to the incompatibilities and impediments of holders of high public office.</p>
			<p>During their term of office, the members of the regulatory board shall not:</p> <p>a) Retain interests of a financial nature or shares in companies that pursue mass media activities;</p> <p>b) Carry out any other public function or professional activity, except with regard to part-time teaching duties in higher education.</p> <p>8 - The members of the regulatory board shall not hold any executive post in companies, unions, confederations or business associations of the mass media sector for a period of two years from the date of termination of service.</p>
9.1.2. Credibility and efficiency	Art. 4 ERC Statutes		<p>ERC shall be independent in the performance of its duties, defining freely the focus of its work, without being subject to any lines of approach from political authorities, in strict compliance with the Constitution</p>
9.1.2.1. Sufficient resources	Art. 50, ERC Statutes (Law 53/2005) Decree-Law No 103/2006 on ERC's fees		<p>ERC revenues consist mainly of money directly transferred from the State Budget, and of fees paid by every media company in the country, according to their size and income.</p> <p>Besides that, ERC charges for the services it supplies (issuing licenses and authorizations, registry acts, ...) and keeps part of the money due for any penalty or fine it applies to any media company.</p>
<p><i>Implementation problem: The tax to be paid by every media company to ERC was subject to various criticism and some companies refused to pay it, intending to raise the question in the Constitutional Court.</i></p>			

<p>9.1.2.2. <i>Tasks and duties</i></p>	<p>Art. 24, ERC Statutes (Law 53/2005)</p>		<p>Among the various tasks and duties, ERC has the authority to:</p> <ul style="list-style-type: none"> <li>• approve and publish directives and decisions , as well as deliberations, related to the media</li> <li>• adopt opinions on the object of public contests before the granting of TV and radio broadcasting licences;</li> <li>• grant radio and TV broadcasting licences as well as decide on requests for renewal;</li> <li>• impose sanctions;</li> <li>• decide over complaints about the right to reply and the right to airtime;</li> <li>• opinion about the appointment of editors-in-chief for the public radio and television;</li> <li>• opinion about concentration and mergers in the media business;</li> <li>• determine, in articulation with the Competition Authority, which are the economically relevant markets in the media business;</li> <li>• Register the media (press, radio and television);</li> <li>• Publish every year a report on the situation of the media sector, as well as the ERC regulatory and supervision activity;</li> <li>• zeal for the accuracy and independence of opinion polls and inquiries;</li> <li>• verify the good respect for the PBS concession contracts</li> </ul>
	<p>Art. 39 Constitution</p>		<p>It is up to an independent administrative authority (ERC) to guarantee in the media:</p> <ol style="list-style-type: none"> <li>a) The right to information and the freedom of the press;</li> <li>b) The non-concentration of ownership of the media;</li> <li>c) Independence from political power and economic power;</li> <li>d) Respect for personal rights, freedoms and guarantees;</li> <li>e) Respect for the statutes and rules that regulate the work of the media;</li> <li>f) That all different currents of opinion are able to express themselves and confront one another;</li> <li>g) Exercise of the rights to broadcasting time, of reply and of political response.</li> </ol>

9.1.2.3. <i>Effective sanctioning powers</i>	Art. 12, ERC Statutes (Law 53/2005)		ERC assumes the rights and obligations attributed to the State in what concerns: a) The coercive collect of taxes and other fees; b) The protection of their staff and locations; c) The monitoring of the public service, including the application of sanctions.
	Art. 45, ERC Statutes (Law 53/2005)		ERC staff and agents, when looking for any infractions in media companies, have the right of access to their locations and documents, and must be treated, in that function, with similar rights to those of a police officer.
9.1.3. Cooperation with other regulators	ERC Statutes (Law 53/2005)		ERC is supposed to cooperate with other regulatory entities with any links to the media industry, mainly the Competition Authority (for economic issues) and the Regulatory Authority for Telecommunications and Electronic Communications (ANACOM) (for technical issues, for example those regarding the management of the radio-electric spectrum).
<b>9.2. Press Council</b>	No Press Council		
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>			<a href="http://www.concorrenca.pt/">http://www.concorrenca.pt/</a>
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> )	Law no. 18/2003 (Competition Regime)		
9.3.2. Cooperation with other regulators	Law no. 18/2003 (Competition Regime), art. 27, § 4		When a case being analyzed by the Competition Authority refers to a particular market with a particular regulator ((which is the case for the media)), this particular regulator must be asked to give its opinion about the case.



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



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

### [ROMANIA]

Author: Aleksandra Kuczerawy  
Country correspondent: Prof. Dr. Brandusa Armanca

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

- **Legislation**

- *Sector specific legislation*

Law no. 504 / July 11, 2002 Law on Radio and Television Broadcasting (Audiovisual Law), Official Gazette of Romania no. 534 / July 22, 2002, amended by Law no.402/2003;

Law no. 41/1994 on Romanian Public Service Radio and Television, amended by Law no. 124/1998;

Decision no.187 of April 3,2006 Concerning the Regulations of the Content of Audiovisual Programme Services (The Audiovisual Code), Official Gazette of Romania no. 338 of April 4,2006;

Law on Free Access to Public Information 544/12 October 2001, amended and completed in 2006 by the Freedom of Information Act;

Law no.109/2007 on Free Use of Public Information;

Law no.8/1996 on Copy right amended by: Law no. 285/2004, OUG 123/2005 and Law no. 329/2006;

Law no.19/2003 on the Romanian News Agency ROMPRES;

Ordinance of Government no.134/2006 to establish the National Authority for Regulation of Communications and Technology of Information, Official Gazette of Romania no.1046/ 2006;

Ordinance of Government no.40/2005 regarding the Advertising and the Public Funds;

- *General legislation*

Constitution of Romania of 1991, amended and completed by the Law No. 429/2003 on the revision of the Constitution of Romania, published in the Official Gazette of Romania, Part I, No. 758 of 29 October 2003

The Penal Code;

The Civil Code;

Law no.11/1991 and Law no.21/1996 Antitrust;

Law no.571/2004 Whistle Law;

Law no.48/2002 against Discrimination.

- **Codes of conduct**

Ethic Code of Convention of Media Organizations (2004);

Statute of Journalists from Romanian Public Television (1999);

Codex of Hungarian Journalists from Romania (1997).

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

Measure	Source	Scope of application	Key features
1.1. Freedom of expression	Art. 30 Constitution of Romania		(1) Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable. (2) Any censorship shall be prohibited. (3) Freedom of the press also involves the free setting up of publications. (4) No publication shall be suppressed. (5) The law may impose upon the mass media the obligation to make public their financing source. (6) Freedom of expression shall not be prejudicial to the dignity, honour, privacy of a person, and to the right to one's own image. (7) Any defamation of the country and the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism, or public violence, as well as any obscene conduct contrary to morality shall be prohibited by law. (8) Civil liability for any information or creation made public falls upon the publisher or producer, the author, the producer of the artistic performance, the owner of the copying facilities, radio or television station, under the terms laid down by law. Indictable offences of the press shall be established by law.
	Law no.8/1996 on Copy right		Romanian Law of Copy right stimulate the free expression and creation by protecting the rights of creators.  Ch.1.Introductory provisions Art. 1. (1) The copyright in a literary, artistic, or scientific work as well as in any similar work of intellectual creation shall be recognized and guaranteed under the terms of the present law. This right belongs to the author person and involves moral and patrimonial prerogatives. (2) A work of intellectual creation shall be acknowledged and protected independently of its being made publicly known, simply by virtue of its creation.

*Note: 1. Libel (art.205) and defamation (art.206) were excluded in 2006 from the Penal Code (by Law 278/2006 ). That was considered by media organizations a big step forward against the “Justice harassment” of journalists (hundred of cases of libel are in justice court against Romanian journalists). In January 2007 the Constitutional Court reversed the first decision and criminalized again defamation and libel. The decision cannot be overruled.*

*The representative of OSCE for Media Freedom, Miklos Haraszti, criticized the Court's decision as a restriction of freedom of speech*

*2. The ambiguity of terms “defamation of the country and the nation” (art.30/7 of the Romanian Constitution) raised questions about the limits of criticism in media. Romanian journalists are often accused by the authorities for the bad image of the country.*

*It was not created an internal critical mass able to deal with media freedom against the pressures of politicians and owners.*



<p><b>1.2. Freedom of/right to information</b></p>	<p>Art. 31 Constitution of Romania</p>		<p>(1) A person's right of access to any information of public interest shall not be restricted. (2) The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest. (3) The right to information shall not be prejudicial to the measures of protection of young people or national security. (4) Public and private media shall be bound to provide correct information to the public opinion. (5) Public radio and television services shall be autonomous. They must guarantee any important social and political group the exercise of the right to broadcasting time. The organization of these services and the parliamentary control over their activity shall be regulated by an organic law.</p>
<p><i>Is there – besides constitutional provisions – a specific act dealing with citizens' or journalists' access to public sector information?</i></p>	<p>Law no.544/2001 on Access to Public Information (completed in 2006)</p>		<p>Obliges government (state-owned) institutions to announce any information of public interest</p> <p>Law 544 of 12/10/2001 regarding free access to information of public interest defines terms as <b>authority</b> or <b>public institutions</b> as any organization that uses public money, the information of public interest as any information resulting out of the activity of the said regardless of its form or support and the information concerning personal data as any information that regards a natural person that could be identified or identifiable. Stipulates that the authorities and the public institutions are compelled to provide free access to information of public interest and to set up special public relation offices or to designate certain persons for the purpose. Any person is entitled to request information of public interest, except classified information, either verbally or in writing in which latter instance the public institution is compelled to answer within 10 to 30 days. It also contains special provisions regarding the access of mass media to information of public interest. Its last two chapters contain sanctions and transitory and final provisions. (25 arts.; pp.5-7).</p> <p>The law was amended twice in 2006 by :        Law no.371/2006, to amend the definition of the “authority” and “public institution” terms and to complete certain information that cannot make the object of free access. (1 art.; p.3).        and by        Law no.380/2006. The amendments deal with the obligation of any contracting party to put government contracts at the disposal of the interested natural or legal person, except for certain information as indicated by the amended art.12. (1 art.; p.7).</p>
	<p>Law 109/2007 on Free use of Public Information</p>		<p>Law 109/2007 put in clear terms what kind of information should be provided free of charge and enlarge the concept of public information.</p>
<p><i>Note: The access to the public information was improved in 2006 when the list of state-owned companies was extended. In 2007 the Law no.109 clarified the principle of free use of the public information. However, public institutions consider information's issued by public servants as the ownership of the institution. The lack of transparency of public procurements is not punished by law.</i></p>			
<p><i>Are there specific rules dealing with journalists' access to events for news reporting?</i></p>			<p>Local and central authorities use to request accreditation</p>
<p><i>Note: Sometimes the head of the office refused to issue accreditations for the journalists who criticized the institution.</i></p>			

<b>1.3. Explicit recognition of media pluralism</b>	Art. 3 of the Audiovisual Law		(1) Political and social pluralism, cultural, linguistic and religious diversity, information, education and public entertainment are accomplished and ensured by the transmission and retransmission of program services observing the freedoms and fundamental rights of the person.
	Art.3 of Law no.41/1994 PBS		Art.3 (1).Through their entire activity, The Romanian Broadcasting Corporation and the Romanian Television Corporation shall be bound to ensure pluralism, the free expression of ideas and opinions, the free communication of information, as well as the correct information of the public opinion
<p><i>Note: The lack of transparency of ownership as in audiovisual sector as in the printed media restrict the pluralism. Romanian legislation does not oblige media outlets to make public the ownership and the cross-ownership</i></p> <p><i>Concentration of media market and political influence in media business are the main tendencies in 2008. That's affecting the pluralism of news sources</i></p> <p><i>Political influences:</i></p> <ul style="list-style-type: none"> <li>• <i>Owners controlling media are themselves in several cases politicians. They concentrated their influence on political and state decisions, even on Justice decisions</i></li> <li>• <i>Members of National Council of Broadcasting are politically appointed. They could influence the licensing system of the audiovisual sector</i></li> <li>• <i>The Boards of Public TV and Public Radio are also appointed by political parties, as political clients, without any competence or ethical criteria.</i></li> </ul> <p><i>The Presidents of the public TV or Radio are in the same time executive directors(PDG) They influence the editorial decisions</i></p>			
<b>1.4. Protection of journalistic sources</b>	Art. 7 Audiovisual Law		(1) The confidential nature of the information sources used in conceiving or issuing news, shows or other elements of program services is warranted by this Law. (2) Any journalist or program creator is free not to disclose the information that could identify the source of information obtained in direct connection to his professional activity; (3) Information able to identify a source are deemed the following: a) the personal name and data, as well as the voice or image of a source; b) the concrete circumstances in which a journalist obtains information; c) the unpublished part of the information supplied by the journalist's source; d) the personal data of the journalist or radio-broadcasters related to their activity of obtaining the broadcasted information. (4) The confidential nature of the information sources obliges in return to assume the liability for the reality of the supplied data. (5) Persons who take knowledge of information that could identify a source by gathering, editorial treating or publishing such information by virtue of their professional relations with journalists will benefit of the same protection as journalists do. (6) The disclosure of an information source may be ordered by law courts insofar it is necessary in order to protect national safety or public order and insofar such disclosure is necessary to solve a case judged at a law court when: a) measures of similar effect, alternative to the disclosure do not exist or have been exhausted; b) the legitimate interest in the disclosure exceeds the legitimate interest of the non-disclosure.

	Art.14/11 and 12 Law 41/1994 PBS		Art. 14(11) The confidential character of the information sources of specialist staff is guaranteed by law Art.14(12) Disclosure of these sources, motivated by the infringement of public interest, may be made only on the basis of an order issued by a law court.
<b>1.5. Right of reply</b>	Art. 41 Audiovisual Law		(1) Any natural or legal person irrespective of nationality whose legitimate rights or interests, especially public reputation and image have been harmed by the presentation of inaccurate facts in a program benefit of the right to reply or equivalent remedies. (2) The Council will adopt the procedure necessary for the effective exertion of the right to reply or to rectify, as well as any other measures, including sanctions, necessary in order to warrant the right to reply or rectify within a reasonable time limit after receiving the request of the applicant. (3) The broadcasting of the rectification or granting of the right to reply does not remove the right of the injured person to apply to a competent law court.
<i>Note: Criminalization of libel and defamation stimulate the offended persons to go directly to the Justice Court and not to ask a right of reply but the low respect of Romanian journalists for ethical principles and the increasing tabloidization of the media make a lot of victims.</i>			
	Art. 48 Decision 187/2006		Any natural or legal person, regardless of nationality, whose legitimate rights or interests were damaged by an assertion of incorrect facts in an audiovisual program, must have a right of reply.
	Art. 49 Decision 187/2006		(1) A right of reply cannot be requested in the following situations: a) when opinions and value judgments were made; b) when licence holders did abide by the principle “audiatur et altera pars”; c) when a reply to a reply is requested; d) when the licence holder answers accusations made by a person, on the condition that the rights or the legitimate interests of a third part are not prejudiced; e) when there exists a written agreement between the licence holder and the injured person.

	<p>Art.14/5, 6, 7,8,9,10 of Law 41/1994          PBS</p>		<p>Art 14(5)          The broadcasting of information by which the legitimate rights of a natural or legal person are damaged, shall entitle that person to request the staff to rectify them within 48 hours from the request...          Art.14 (6)          In case of refusal, the person considering itself damaged in a right or in a legitimate interest, may request the director general of the corporation, within maximum 6 days from the expires day in para(5) to be granted the right to retort.          Art.14(7)          The right to retort shall be broadcast within the same transmission and at the same hour when the right or the legitimate interest of the person was damaged within 48 hours ...          Art.14(8)          The responsibility for the broadcast of rectification shall belong to the head of the editorial staff involved, and the responsibility for granting the right to retort shall devolve upon the director general of the corporation          Art 14(9)          The failure of the broadcast the rectification and to grant the right to retort may be referred to law courts          Art.14 (10)          The other cases regarding the right to retort shall be exercised according the compulsory norms established by the National Audio-Visual Council            For the printed press the Constitutional Court kept in 1996 five articles from the old Press Law issued by the communist regime and abolished in December 1989</p>
	<p>Art.71-75 and art.93 of the Law no.3/1974 Press Law (confirmed by Constitutional Court's Decision no.8/1996</p>		
<p><b>1.6. Ratification of international instruments:</b>          - CoE's Framework Convention For The Protection Of National Minorities          - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)</p>			<p>CoE's Framework Convention For The Protection Of National Minorities:          Signature – 1/2/1995, Ratification – 11/5/1995, Entry into force – 1/2/1998;            UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005): Accession – 20/7/2006</p>

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Art. 8 Audiovisual Law		(1) Authorised public authorities ensure on request: a) the protection of journalists in case they are subject to pressures or threats that could effectively impede or restrict the free exertion of their profession; b) the protection of the head offices and precincts of the radio-broadcasters in case they are subject to threats that could impede or affect the free development of their activity. (2) The protection of journalists and of headquarters or precincts of radio-broadcasters in the terms of paragraph (1) may not become a pretext to prevent or restrict the free exertion of their profession or activity.
<i>Note: A sensitive issue is the unethical relation between journalists and owners generating obedience and opportunism. All Codes of Conduct adopted by media organizations are not properly implemented.</i>			
	Art. 9 Audiovisual Law		The carrying out of searches at the head offices or precincts of radio-broadcasters must not prejudice the free expression of journalists nor suspend the broadcasting of programs.
	Law.no.41/1994 of PSB, art 8 and 10		Art 8(1) The autonomy and editorial independence of the public radio broadcasting and television services are guaranteed by law, and their programs shall be protected against any interference from public authorities as well as against influence exercised any parties, social-political formations, trade unions, commercial or economic organizations or pressure groups. Art.10(5) The statutes shall compulsorily comprise norms warranting: a) the protection of the journalists and their transmission producers from attempts to impair their professional independence, and harm their rights
	Interior Regulation of TVR Ruling Guide of TVR Art.II.6 of Statute of TVR Journalist		According to Interior Regulation of TVR in art.VIII.66.h, the Ruling Guide (ROF) art. V.7/9 and also Art.II.6 of Statute of journalist, journalists could be fired if they spread negative opinions about the company or criticize it or their boss.
<i>Note: Cf. Interior Regulation of Romanian Television (TVR) in art.VIII.66.h and also in Ruling Guide(ROF) art. V.7/9 journalists could be fired if they spread negative opinions about the company or criticize it. If application of Ruling Guide-ROF means that any journalist working for TVR and accepting the institution’s home rulings also accepts humbly hush whatever were to happen within closed doors, giving up – for as long as his work contracts lasts – all of his legal rights and liberties. ROF wording of the ruling allows for abusive interpretation, all to the worse of its employees and coming against European provisions for liberty of expression. According to EU ruling for human rights and freedom of speech, not only outer liberty of the press must be protected, but also inner liberty thereof, so all inner pressures could be avoided.(Resolution 1003/ 1993, 10) Such ruling will ultimately result in intimidation of journalists, unconditional obedience and opportunism within public Romanian Television.</i>			
<b>2.2. News / information programmes</b>	Art. 103 Decision 187/2006 Audiovisual Code		(1)News or political debates programs cannot be sponsored; the whole program service cannot be sponsored.
	Law.no.41/1994 PBS, art.14		Art.14 follows in the first 3 paragraphs the general professional rules of news producing and broadcasting: accuracy, probity, double check, responsibility, independence.
	Art. 34 Audiovisual Law		(4) News programs or current affairs may not be sponsored.
<i>Note: The news department is the most sensitive in TVR: all the complains about censorship, political interference, manipulation came from the news journalists. Sometimes a scandal around the news was the premise to change the Administration Board</i>			

<b>2.3. Other media content</b>	Art. 6 Audiovisual Law		(1) Censorship of any kind upon audio-visual communication is interdicted. (2) Editorial independence of radio-broadcasters is acknowledged and warranted by this Law. (3) Any kind of interference of public authorities or any Romanian or foreign natural or legal persons in the content, shape or illustration methods of elements comprised in program services is interdicted. (4) Decisions and instructions with a regulatory character issued by the National Audiovisual Council for the implementation of this law and while observing the legal provisions and the rules for the respect of the human rights stipulated in the conventions and treaties ratified by Romania shall not be considered as interference. (5) Provisions of professional conduct codes adopted by journalists and radio-broadcasters and applied within self-regulation mechanisms and structures of their activity are not deemed interference, unless they infringe the legal provisions in force.
<i>Note: Several cases of censorship were reported in PBS and also in commercial media (audiovisual and printed media)<sup>1</sup>          Self-censorship is stimulated by the economical dependence of journalists, but also by bad ethical practices in media, like the well-paid opinion makers in owners service.</i>			
	Art. 34 Audiovisual Law		(1) Sponsored programs must fulfil the following terms: a) their content and scheduling must in no way be influenced by the sponsor so as to affect the liability and editorial independence of the radio-broadcaster towards the concerned programs;
			(2) The content and scheduling of a sponsorship program must not be influenced by the sponsor so as to affect the editorial independence of the radio-broadcaster.
	Art. 102 Decision 187/2006 (Audiovisual Code)		
	Law 41/1994 PBS		
<b>2.4. Subsidies/          Training of journalists (independence, ethic, recruitment, etc.)</b>			

<sup>1</sup> See FreeEx , Media Monitoring Agency, Freedom House, Irex and EUMAP reports on 2004, 2005,2006, 2007.

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures			
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...)	Constitution of Romania		
	Law against discrimination		
<b>3.2. Representation of the various cultural groupings in the media</b>			
<i>Implementation problem: Stereotype coverage of Roma issues or gender subjects.</i>			
3.2.1. Access to airtime for cultural groupings	Art. 71 Decision 187/2006		(1) In news and debates programs, the information regarding public interest issues, with political, economic, social and cultural character shall observe the following principles: a) to ensure fairness, equilibrium and to encourage free formation of opinions by presenting the main opposite viewpoints during the period of public debate over certain issues; b) to ensure a clear distinction between the facts and opinions that are presented; c) to avoid any form of discrimination, those based on race, ethnic affiliation, religion, nationality, gender, sexual orientation or age. (2) The provisions of par. (1) letter a) shall be observed equally when the expressed viewpoints belong to experts, journalists, representatives of political parties not elected to the Parliament, of minorities, non-governmental organizations, trade unions and employers. (3) The presentation of the main opposite viewpoints shall be ensured, as a rule, during the same programme, or exceptionally, in the following programmes; when those requested refuse to present their viewpoint, this fact shall be specifically mentioned.

	Art. 4/1, Art.7/3,4 Law 41/1994 PBS		Art.4(1) PBS ...shall be bound to promote the values of the Romanian language, of the authentic national and universal cultural, scientific creation of the national minorities Art.7(3) Out of the European creation broadcast, at least 30% shall be Romanian creation including creation of the national minorities Art.7(4) Out of the Romanian creation, at least 35% shall be cultural creation
	Art. 76 Decision 187/2006		Within news and debates on issues of public interest regarding ethnical, religious and sexual minorities, their viewpoints shall be also presented
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Art. 22 Audiovisual Law		(1) Since the date of accession, any radio-broadcaster under the jurisdiction of Romania shall reserve to European works a majority proportion of his broadcasting time, save the time dedicated to the news, sportive events, games, advertising, as well as teletext and tele-shopping services.
	Art.7/2 Law 41/1994 PBS introduced by the amended law in 1998		Art.7(2) Within max. 4 years from the coming into force of the present law, PBS shall reserve to the European creation a majority percentage of the transmission time, which shall not include the informative and sporting transmissions, games, and advertising and teletext services.
<i>Implementation problem: TVWF Directive and the following Directive 2007/65/EC of the European Parliament and of the Council obliges broadcasters to include in their programs 10 percent European works or created by independent producers. Most of the televisions neglected the recommendation. In 2008, after 10 years, the majority percentage for European creation is not respected. However TVR is broadcasting more European programs and films than the commercial channels.</i>			
	Art. 94 Decision 187/2006		Starting with January 1, 2007 the broadcasters under Romanian jurisdiction have the obligation to ensure, for each television programme, the following requirements: a) to reserve for European works, as defined in art. 23 of the Audiovisual Law no. 504/2002, with its further modifications and completions, a percentage of minimum 50% of the transmission time, except for the time allotted to news, sports events, games, advertising, as well as teletext and teleshopping services.
<i>Implementation problem: Incomplete monitoring system</i>			
	Art. 96 Decision 187/2006		(1) Shall be excepted from the provisions of art.94 the television service programmes that fulfil simultaneously the conditions stated below: a) cover a potential audience of up to 3% of the censused population of the country; b) do not broadcast feature films and TV series; c) the content of the programme service is of an exclusive local interest; (2) The programme services broadcast on the basis of an audiovisual licence issued for the municipality of Bucharest shall be exempted from the provisions of art.94 if they fulfil simultaneously the conditions stated below: a) do not broadcast feature films and TV series; b) the content of the programme service is of an exclusive local interest.



3.2.2.2. <i>Promotion of European independent works</i>	Art. 24 Audiovisual Law		(1) Any radio-broadcaster located within the jurisdiction of Romania will reserve to the European works created by independent producers of such radio-broadcasters at least 10% from its transmission time, save the time dedicated to information, sport events, games, advertising, as well as tele-text and tele-shopping services or at least 10% from their program budgets. (2) An appropriate proportion of recent works, respectively of works broadcast during the last five years after their production will be included in the European works created by independent producers.
<i>Implementation problem: Lack of monitoring strategies</i>			
	Art. 94 Decision 187/2006		b) to reserve at least 10% of the transmission time or at least 10% of their budget allotted to the programmes for the European works created by independent producers, except for the time allotted to news, sports events, games, advertising, as well as teletext and teleshopping services.
	Art. 96 Decision 187/2006		Supra
3.2.2.3. <i>Promotion of national/regional works</i>	Art. 90 Decision 187/2006 – ceased since 1 January 2007		The broadcasters shall reserve for Romanian audiovisual works a proportion of at least 30% of the transmission time of each audiovisual programme service, excepting the transmission time appointed to news, sports events, games, advertising, as well as teletext and teleshopping services will be excluded.
3.2.2.4. <i>Language requirements</i>	Art. 88 Decision 187/2006		The broadcasters have the obligation to ensure the observance of Romanian morphological, orthographical and orthoepic norms laid down by the Romanian Academy.
<i>Implementation problem: No supervisory body for observance in printed media. The National Council for Broadcasting has not technical infrastructure and human facilities for that.</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>Note: Only PBS is obliged to broadcast minority programs.</i>			
3.2.4. Subsidies (apart from general PSB funding)			
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			
<i>Note: Romanian Television adopted the deaf-mute language for some news programs</i>			

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Several decisions of National Council for Broadcasting and Audiovisual Law		
<i>Note: MP's are not allowed to be producers and moderators in Television and radio.</i>			
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	Art. 13.1 and Art.20(2) of Law 41/1994 PBS		Art.13 (1)The specialist staff provided in art.11 cannot belong to political formations and is obliged to keep political equidistance in their profession... Art.20(2) The members of Parliament and of the Government cannot be part of boards of management of the two corporations
<i>Implementation problem: Art.13.1 of PBS Law forbids to the journalists and managers to be political party members. Despite the rule, the PDG of TVR was appointed as a member of Social-Democrat Party and its Secretary General.</i>			
4.1.4. Representation requirements in media companies' bodies (board of directors...)			
4.1.5. Representation requirements in media advisory bodies and/or regulators	Audiovisual Law		
	Art. 19/1-6 Law no.41/1994		Art.19(1)The members of the Board of Management of PBS are appointed by the vote of the majority of the deputies and senators in joint meeting of the two Chambers. Art.19(2) The list of candidates shall be sent to the Standing Bureau of the two Chambers as follows: a)the joint parliamentary groups submit proposals for 8 seats in accordance with the political configuration of their share in Parliament, b)the President of Romania for one seat, c)the Government for one seat, d)the employed personnel, by secret ballot, for 2 seats... e)the minorities group for one seat Art.19(6) The list of candidates are totally subjected to the vote of the joint Chamber of Deputies and the Senate...
<i>Note: The political configuration of the Board of Management (Administration) of Romanian Radio and TVR was the main subject of civil society critics. The project of a new law designed a new configuration where 2 seats were reserved to the civic organizations, but still keeping the political representation of the Parliament</i>			
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>	Audiovisual Code		National Council for Broadcasting ask to broadcasters to avoid apologetic presentation of crimes and abuses by totalitarian regime, as well as denigration of their victims.
4.2.1. (Equal/proportionate) Access to airtime for political groupings	Decisions of Central Electoral Office		

	Art.5.4 Law no.41/1994		Art.5 (4) PBS shall reserve part of their transmission time for the political parties represented in Parliament. The time assigned to political parties shall not exceed one hundredth of the entire weekly transmission time. The distribution of the transmission time among the political parties shall be made in ratio with their share of their representation in Parliament, by calculating one time unit for every MP, including the representatives of the national minorities..
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Art. 73 Decision 187/2006		broadcasters are not allowed to broadcast audiovisual programs edited, presented, moderated or produced by members of Parliament, representatives of government and local public administration, representatives of the presidential administration, leaders or spokespersons of the political parties, persons publicly designated to candidate or that have publicly announced their intention to candidate in local, parliamentary or presidential elections.
<i>Note: Some MPs avoid this interdiction becoming “permanent guests” in TV talk-shows</i>			
	Art. 74 Decision 187/2006		(1) In news programs the broadcasters under Romanian jurisdiction shall observe the three parts rule, as follows: a) one third of the total time dedicated to the representatives of ruling parties and opposition shall be allocated to the parliamentary opposition (senators, deputies, party leaders, mayors, local and county counsellors); b) one third of the total time dedicated to the representatives of ruling parties and opposition shall be allocated to representatives of the central public authority (prime-minister, ministers, state secretaries, prefects and their spokespersons); c) one third of the total time dedicated to the representatives of ruling parties and opposition shall be allocated to parties that form the parliamentary majority (senators, deputies, party leaders, mayors, local and county counsellors). (2) >From the three parts rule shall be excepted: a) the time allocated to the prime minister when representing Romania at official international events, internal or external. b) the time allocated to accounts and interventions concerning natural calamities or epidemics, and to the measures of removing their effects; this exception does not annul the right of the opposition of expressing their point of view concerning the event and the measures established by the authorities. (3) The monitoring of observing the three parts rule is working out on sliding periods in two consecutive months; in case of a visible lack of balance, the National Audiovisual Council will request the broadcaster to restore the balance in the first month after the monitored period.
<i>Note: The one-third rule changed in 2007.</i>			
	Art. 75 Decision 187/2006		The number of representatives of ruling parties and opposition, participants in other programmes than news, shall benefit of equal expression opportunities; the observance of this rule is monitored in accordance with the provisions of art. 74 par.(3).
4.2.1.b. Paid access: rules on political advertising	Art. 155 Decision 187/2006		(1) For the purpose of the present cod, the advertising spots that promote a party, a politician or a political message are considered political advertising. (2) Political advertising is prohibited, except during elections campaigns.

4.2.2. Government announcements	Art. 9 of Law no.41/1994 PBS		Art.9 PBS shall compulsorily, with priority and free of charge, transmit official statements and messages of public interest received from Parliament, the President of Romania, the Supreme Council of National Defence and the Government.
4.2.3. Impartiality obligations	Statute of TV Journalists  Codex of Hungarian Journalists of Romania  Audiovisual Law		
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 71 Decision 187/2006		<i>Supra</i>
	Art. 42 Audiovisual Law		(1) All radio-broadcasters must reflect election campaigns in a fair, balanced and impartial way in order to encourage and facilitate the pluralist expression of opinion trends. (2) In order to assure a fair application of the provisions from paragraph (1), the Council shall issue regulation norms of compulsory nature, to control the observance of the legal provisions and the norms issued and shall penalize their infringements.
	Decisions of Central Electoral Office and Law of Elections		

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b> (for instance: is part of the spectrum explicitly reserved for regional/ local media; are there any rules safeguarding the local character of these media once they are operating, e.g. restrictions to cooperate or centralize programming/advertising decisions...) 	Art. 47 Audiovisual Law		(1) By way of derogation from the provisions of Art. 43, audio-visual licences may be granted to the local public authorities, provided : a) there should be no other audio-visual licence for a local program service; b) it should exclusively provide information services regarding the respective community. (2) In case of granting another audio-visual licence, the licence granted under the terms of paragraph (1) shall be rightfully withdrawn.
	OUGno.134/2006to establish the National Authority for Regulation of Communications and Technology of Information, Official Gazette no. 1046/2006		
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b> 			
<i>Implementation problems: First channel of Romanian TV covers about 78% of Romania on terrestrial broadcasting. The domination of PBS is however decreasing even in the countryside because of rapid increasing of cable television. The print media still have problems with the Romanian Post Company, which handles subscription-based distribution. The company operates slowly and inefficiently. For direct sales distribution, the market is still dominated by the formerly state-owned company Rodipet, privatized in 2003. Nothing has changed after privatization, and Rodipet still delays payments, causing financial problems for many publications</i>			
<b>5.3. Content obligations: requirements to cover local events, etc.</b> 	Art. 25 Audiovisual Law		The provisions of Art. 22-24 (European quota, European independent quota) will not apply to the programme services destined to a local audience assured by radio-broadcasters that are not part of a national network.
	Art. 96 Decision 187/2006		Supra
<b>5.4. Regional State Aids</b>			
<b>5.5. Rules on national minorities</b>	Code of Good Practices. Minorities in Media		
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b> 		Lack of coverage of issues like AIDS and disabled people	

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Art. 44 Audiovisual Law		(10) For the purpose of this Law: a) the national audiovisual licence shall provide the right to a broadcast covering a geographical area representing a potential audience of more than 60% of the censored population of the country; b) the regional audiovisual licence shall provide the right to a broadcast covering a geographical area representing a potential audience between 3% and 20% of the censored population on the territory of 3 to 8 counties; c) the local audiovisual licence covers a geographical area and a potential audience smaller than the ones stipulated for the regional audiovisual licence; d) audiovisual licences granted for the municipality of Bucharest are considered to be local audiovisual licences.
	Antitrust Law		
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>			
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Art. 43 Audiovisual Law		(5) Any natural or legal person holding or acquiring a proportion from the share capital that is equal or higher than 10% of the share capital or of the voting rights of a company holding an audio-visual or broadcasting licence or of a company that controls a company holding such a licence must notify the Council thereof within one month since the date when it reached such a rate.
<i>Implementation problem: The National Council of Broadcasting over-regulated the content, but under-regulated the transparency of ownership. NGO's like Center for Independent Journalism, Media Monitoring Agency and Euractiv started in 2005 to collect information about journalists, media companies, owners etc. (see Media Index.ro web portal).</i>			
	Art. 48 Audiovisual Law		Any legal person holding an audio-visual licence must permanently set at the disposal of the public the following categories of information: a) the name, legal status and head office; b) the name of the legal representative and of the main associates or shareholders; c) the names of the persons in charge with the company's management and of those who mainly assume editorial liability; d) the list of publications edited by the respective legal entity and the list of the other audio-visual communication services it provides.
	Art. 49 Audiovisual Law		The operating of radio-broadcasters is subjected to the rules of transparency according to which the persons operating a programme service are required to notify the Council the following: a) changes that occurred during the operating of the service in what regards the data categories mentioned in Art. 48; b) other data categories regarding the operating of the service following its entering into activity.
6.1.2. Scope ( <i>i.e. trying to prevent one of the following forms of concentrated ownership and/or control</i> )			
<i>Implementation problem: No law to prevent involvement of rich businessmen in media. "Media moguls" have no immediate interest in obtaining profits but to use media as a political weapon.</i>			

6.1.2.1. Monomedia	Art. 44 Audiovisual Law		(1) The concentration of property and the extension of the audience in the audio-visual field are limited to dimensions ensuring economic efficiency, but not generating dominant positions in the forming of public opinion, in order to protect pluralism and cultural diversity. (3) It is considered that a radio-broadcaster holds a dominant position in forming the public opinion at national level when its market share exceeds 30% of the market of television programmes broadcast at national level.
<i>Implementation problem: The ownership concentration and the proliferation of outlets without clear legitimate economic resources to support them is one of the threats of Romanian media market. The media market is designed as an oligopoly. The law and the Justice are not enough strong to forbid cross-ownership and also the hidden ownership, like off-shore companies.</i>			
6.1.2.2. Crossmedia			
<i>Note: It is the main tendency on media market.</i>			
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			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control	Antitrust Law		
6.1.3.1. Number of licences	Art. 44 Audiovisual Law		(8) A Romanian or foreign natural or legal person may hold maximum two audio-visual licences of the same type within the same administrative and territorial unit or area, without the possibility of holding exclusivity.
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares	Portal of CNA  BRAT Romanian Office for Circulation Audit		
<i>Note: Not all ratings data are freely accessible for the public. Circulation of newspapers is monitored by BRAT only for printed media which accept the audit. BRAT developed the National Readership Survey (SNA), a research that approximates the total number of readers for publications and established the demographic data.</i>			
6.1.3.4. Capital shares	Art. 44 Audiovisual Law		(9) A natural or legal person may become directly or indirectly a majority investor or shareholder at one single audio-visual company and may hold maximum 20% of the share capital of other companies.
6.1.3.5. Voting shares			
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors			
<b>6.2. Sector specific rules preventing cooperation between media companies</b>			
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>			
<b>6.4. General competition rules</b>			
6.4.1. Antitrust	Law Antitrust Law of Competition		
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
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>			
<b>6.5. Transparency obligations</b>			
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...)			
<i>Note: In 2005 the National Council for Broadcasting obliged audiovisual outlets to decline their ownership, but without any punishments if not.</i>			



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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>			
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 21 Audiovisual Law		<p>(1) Events of major significance may not be exclusively transmitted or re-transmitted in a manner that deprives a significant part of the public from Romania of the possibility of watching them live or in a recorded transmission comprised in a program service with free access.</p> <p>(2) The list of events considered of major significance shall be approved by Government Decision on the proposal of the Council and it shall be communicated to the European Commission; subsequent amendments shall follow the same procedure. In the pre-accession period, the list shall come into force after the decision is published in the Official Gazette of Romania, Part I.</p> <p>(3) By the Government decision stipulated in paragraph (2) the percentage of the population that represents a significant part of the public is also specified; by the same decision is also established for each event of major significance whether its live transmission may be performed entirely or partially or whenever the public interest requests such, the recorded transmission shall be performed entirely or partially.</p> <p>(4) The exertion by radio-broadcasters under the jurisdiction of Romania of the exclusive rights to transmit certain events declared by a member state of the European Union as being of major importance and which are comprised in the list published in the Official Journal of the European Union may not deprive a significant part of the public from the respective state from the possibility to watch those events live or recorded, in compliance with the provisions established by that member state.</p>
<b>7.3. Short news reporting</b>	Art. 84 Audiovisual Law		<p>the extension of the exclusivity right gained by contract by a radio-broadcaster, hereinafter called primary radio-broadcaster, is limited by the right of any other radio-broadcaster, hereinafter called secondary radio-broadcaster, to broadcast excerpts regarding the event, provided he does not prejudice the author or holder of the operating rights, as follows:</p> <p>a) by recording the signal of a primary radio-broadcaster for the purpose of broadcasting an excerpt;</p> <p>b) by ensuring, through the organiser or another entitled person, the access of the secondary radio-broadcaster to the sites where the event of public interest is ongoing, in order to accomplish its own recordings in view of editing an excerpt.</p>

	Art. 85 Audiovisual Law		<p>(1) The excerpt represents short succession of images and sounds regarding an event of public interest for the purpose of informing the public upon the essential aspects of the respective event.</p> <p>(2) If an event of general interest is composed, from the organizational point of view, of several autonomous elements each element shall be considered an event of public interest.</p> <p>(3) If an event of general interest runs for several days, secondary radio-broadcasters shall be entitled to broadcast one single excerpt for each day.</p> <p>(4) Irrespective of the structure and development of the event of general interest, the duration of the excerpt may not exceed 3 minutes.</p> <p>(5) Excerpts shall be used only in usual news bulletins.</p> <p>(6) All the elements of the program or of the recording that were not used to create the excerpt shall be destroyed by the secondary radio-broadcaster after broadcasting the excerpt.</p> <p>(7) If the excerpt is created by registering the signal of a primary radio-broadcaster, it must mention the name of the former or it must comprise the sign of the former, save the case when the involved radio-broadcasters decide otherwise.</p> <p>(8) The excerpt may not be broadcast before the primary radio-broadcaster has broadcast the event, save the case when the primary radio-broadcaster does not broadcast the event within 24 hours after its creation.</p> <p>(9) A broadcast excerpt may be retransmitted only if there is a direct link between its content and another actual event.</p>
	Art. 86 Audiovisual Law		Under the reserve of other agreements between the parties, primary radio-broadcasters shall not be allowed to impose on secondary radio-broadcaster to pay for the right to broadcast an excerpt.
<b>7.4. Fixed book price</b>			
<b>7.5. Public service media</b>	Law no. 41/1994 PBS		
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. 8 and 10 of Law no.41/1994 PBS		<p>Art 8(1) The autonomy and editorial independence of the public radio broadcasting and television services are guaranteed by law, and their programs shall be protected against any interference from public authorities as well as against influence exercised any parties, social-political formations, trade unions, commercial or economic organizations or pressure groups.</p> <p>Art.10(5) The statutes shall compulsorily comprise norms warranting:</p> <p>a) the protection of the journalists and their transmission producers from attempts to impair their professional independence, and harm their <i>rights</i>.</p>

	Art.19/1-6 Law 41/1994 PBS		Art.19(1)The members of the Board of Management of PBS are appointed by the vote of the majority of the deputies and senators in joint meeting of the two Chambers. Art.19(2) The list of candidates shall be sent to the Standing Bureau of the two Chambers as follows: a)the joint parliamentary groups submit proposals for 8 seats in accordance with the political configuration of their share in Parliament, b)the President of Romania for one seat, c)the Government for one seat, d)the employed personnel, by secret ballot, for 2 seats... e)the minorities group for one seat Art.19(6) The list of candidates are totally subjected to the vote of the joint Chamber of Deputies and the Senate...
<i>Note: Intrusion of political interests into news programs is a frequent practice.</i>			
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)			
<i>Notes: The political criteria are strong in the management selection        The President-Director General of the Romanian TV is now, for the first time, appointed from the political body: former senator, secretary general of the SD Party        A project for a new Public broadcasting law issued in 2005 by 3 MPs, in order to depoliticize the public services, was abandoned after the right wing parties won the general elections. The parties represented in the Parliament (The Liberal Party, The Social-democrat Party, the new Liberal-democrat Party, nationalists and the ethnic parties) are no more interested to reform the public services usable in the upcoming elections.</i>			
7.5.1.3. Specific representation requirements for board of directors, other bodies			
<i>Note: According the law, the president is also the director general of the company controlling the management and the editorial decision.</i>			
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings			
<i>Implementation problem: Members of Administration Board of Public TV and Public Radio and members of National Council for Broadcasting are appointed by political parties, without competence or ethical criteria, mostly as political clients.</i>			
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...)			Supported through a licence fee, as well as money from the state budget and advertising.
	Art. 39 and 40 of Law no. 41/1994 PBS		Art.39 (1) The financial sources of PBS shall be constituted from state budget allocations, own income and other sources. Art.40(1) The own income of the corporations derive from radio and television subscription fees, from sources achieved according the object of activity, as well as donations and sponsorship
	Annual Reports of TVR and SRR		
<i>Note: PBS uses 3 sources of financing: state funds for investments, tax money and advertising        In 2006 the advertising time for T VR and SRR was reduced by the Audiovisual Law to 8 min./hour, in order to enlarge the access of commercial audiovisual media to the advertising market.</i>			

7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
<i>Note: No enough resources for technical investments but a lot of resources spent on salaries. Bad management is specific to Romanian PBS.</i>			
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Art.3 of Law no.41/1994 PBS		Art.3(1).Through their entire activity, The Romanian Broadcasting Corporation and the Romanian Television Corporation shall be bound to ensure pluralism, the free expression of ideas and opinions, the free communication of information, as well as the correct information of the public opinion
7.5.3.2. Obligation to engage in new media activities			
<i>Note: No preparation and no strategies for digitalization.</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
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Art. 82 Audiovisual Law		<p>(1) Any supplier that retransmits programme services by telecommunication networks must include in the supply the programme services of the Romanian Television Company for Romanian public, as well as other programme services free for retransmission, and without technical or financial conditioning of private radio-broadcasters under Romanian jurisdiction, within the limit of 25% of the total number of programme services supplied by the respective network.</p> <p>(2) If possible, suppliers that retransmit programme services by telecommunication networks shall include in their programme offers the TVR Cultural channel, provided they assign the necessary funds to the Romanian Television Company for the free use of decoders.</p> <p>(3) In the countryside, for networks with less than 100 subscribers, the Romanian Television Company may ensure for free the reception of the public programmes to be retransmitted.</p> <p>(4) In localities where a national minority is larger than 20%, the suppliers shall also ensure transmission services for the programmes free to retransmission, in the language of the respective minority.</p> <p>(5) If possible, the suppliers retransmitting programme services by telecommunication networks shall include in their programme offers the public services of the Romanian Radio-Broadcasting Company, a private national radio-broadcasting programme and a private local radio-broadcasting Programme.</p>
	OUGno.134/2006toestablish the National Authority for Regulation of Communications and Technology of Information, Official Gazette of Romania no. 1046/2006		
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>	See ARCA researches		<p>ARCA is the Romanian Association for Audiovisual Communication, a NGO including 63 broadcasters and companies. Their contribution to the legal process for the main laws in audiovisual field is important. See their contribution to the European laws.  <a href="http://ec.europa.eu/avpolicy/other_actions/content_online/index_en.htm">http://ec.europa.eu/avpolicy/other_actions/content_online/index_en.htm</a></p>
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18			
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access			
8.4.2. EPG (or other search tools)			
8.4.3. API			
8.4.4. Other			

<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>			
<i>Note: Centralized distribution system starting from Bucharest as it was designed by the communist system. The progress of the printing technologies gives right solutions for decentralization.</i>			
<b>8.7. General competition law</b>	Competition law		
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>			
<b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:        - Regional        - Linguistic/minority        - National )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			National Audiovisual Council – CAN ( <a href="http://www.cna.ro">http://www.cna.ro</a> )
9.1.1. Structure/ organisation			
9.1.1.1. <i>Guarantees for independence</i>	Art. 10 Audiovisual Law		(1) The National Audio-Visual Council, hereinafter called the Council, is a public autonomous authority under the control of the Parliament and the warrantor of the public interest in the field of audio-visual communication.
<i>Note: Members of National Council for Broadcasting are politically appointed, they are often political clients.</i>			
	Art. 11 Audiovisual Law		(6) The members of the Council are the warrantors of the public interest and do not represent the authority that proposed them.
	Art. 12 Audiovisual Law		(2) The position of a member in the Council is incompatible with any other public or private office, save didactical ones, provided they do not result in conflicts of interests. (3) The members in the Council may not be members of political parties or other political structures while exerting their mandate. (4) The members of the Council may not directly or indirectly hold shares or social parts in companies with activities in fields where they would be in conflict of interests with the capacity of a member in the Council.
<i>Note: Some cases of incompatibility were reported (hidden ownership in broadcasting outlets etc.)</i>			
	Art. 18 Audiovisual Law		(4) The civil servants of the Council may not be members in the board of directors of public or private radio-broadcasters, in the management bodies of radio-broadcasters and they may not exert positions or hold shares or social parts in a company holding an audio-visual licence.
9.1.1.2. <i>Representation requirements</i>	Art. 11 Audiovisual Law		(1) The Council is made up of 11 members and it is assigned by the Parliament, on request: a) Senate: 3 members; b) Chamber of Deputies: 3 members; c) President of Romania: 2 members; d) Government: 3 members.
9.1.2. <i>Credibility and efficiency</i>			
<i>Note: The licences granting process has not clear procedures and most of the Council members have not expertise in the media field. However in the last years the credibility of the Council increased because of an more active role in creating new rules and regulating the TV content.</i>			
9.1.2.1. <i>Sufficient resources</i>	Art. 16 Audiovisual Law		(1) The activity of the Council is financed from the state budget and from extraordinary income. (2) The President of the Council is a main credit accountant.

<p>9.1.2.2. <i>Tasks and duties</i></p>	<p>Art. 10 Audiovisual Law</p>		<p>(3) The National Audio-Visual Council must ensure the following as the warrantor of the public interest in the field of audio-visual communications:</p> <ul style="list-style-type: none"> <li>a) the observance of a pluralist expression of ideas and opinions in the programme services transmitted by radio-broadcasters under the jurisdiction of Romania;</li> <li>b) the pluralism of information sources of the public;</li> <li>c) the favouring of free competition;</li> <li>d) a fair balance between the national radio-broadcasting services and local, regional or thematic services;</li> <li>e) the protection of human dignity and of minor children;</li> <li>f) the protection of the Romanian culture and language, as well as of the culture and languages of ethnical minorities;</li> <li>g) the transparency of mass communication means from the audio-visual sector;</li> <li>h) the transparency of own activities.</li> </ul>
<p><u>Notes:</u> Lack of transparency of decisions and accounts.</p>			
	<p>Art. 17 Audiovisual Law</p>		<p>(1) The Council is authorised:</p> <ul style="list-style-type: none"> <li>a) to establish the conditions, procedure and criteria for the granting of audio-visual licences;</li> <li>b) to establish the procedure for the granting of the retransmission authorisation;</li> <li>c) to issue audio-visual licences and retransmission authorisations for the operating of radio and TV programme services and to issue the audio-visual authorisation decisions;</li> <li>d) to issue for the application of the provisions from this Law, regulatory normative decisions in order to accomplish its attributions as expressly stipulated in this Law and mainly in regard to:             <ul style="list-style-type: none"> <li>- the ensuring of accurate information of the public;</li> <li>- the monitoring of the correct expression in the Romanian language and in the languages of national minorities;</li> <li>- the assurance of equidistance and pluralism;</li> <li>- the transmission of official information and communiqués of public authorities regarding calamities, states of necessity or emergency, state of siege or armed conflict;</li> <li>- the protection of minor children;</li> <li>- the defence of human dignity;</li> <li>- non-discriminatory policies regarding race, sex, nationality, religion, political beliefs and sexual orientation;</li> <li>- the exertion of the right to reply;</li> <li>- advertising, including political campaign advertising and tele-shopping;</li> <li>- sponsorship;</li> <li>- scheduling and broadcasting of shows or programmes regarding political campaigns;</li> <li>- cultural responsibilities of radio-broadcasters;</li> </ul> </li> </ul> <p>[...]</p>



			<p>[...]</p> <p>e) to draw up instructions and issue recommendations for the development of the activities in the field of audio-visual communication;</p> <p>(2) The Council is consulted in the process of defining the position of Romania and it may attend by representatives the international negotiations regarding the audio-visual field.</p> <p>(3) The Council is consulted in regard to all draft normative acts whereby the activities in the field of audio-visual communication or related thereto are regulated.</p> <p>(4) The Council is authorised to request and receive from radio-broadcasters and distributors of audio-visual programme services any necessary data, information and documents in order to accomplish its attributions, having the obligation to keep the confidentiality of the data that are not of public nature.</p>
9.1.2.3. Effective sanctioning powers			
<i>Note: The sanctions are oriented on the content but not on structural and moral aspects of the market competition, hidden ownership etc.</i>			
9.1.3. Cooperation with other regulators	Art. 10 Audiovisual Law		(6) The Council must notify the competent authorities in regard to the occurrence or existence of practices restricting competition, the abuse of the dominant position or of economic concentrations, as well as the existence of any other infringement of the legal provisions that does not fall under its competency.
<b>9.2. Press Council</b>			No Press Council
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>			
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”



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

### [SLOVAKIA]

---

Author: Prof. Dr. Beata Klimkiewicz  
Country correspondent: Dr. Andrej Skolkay

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

- **Legislation**

- *Sector specific legislation:*

- Act No. 81/1966 Coll. of 25 October 1966 on Periodical and Other Mass Communication Media
- Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications
- Act No 16/2004 Coll. on the Slovak Television
- Act No 619/2003 Coll. on the Slovak Radio
- Act No. 220/2007 Coll. on digital broadcasting of programming services and other content services provided via digital transfer

- *General legislation*

- The Slovak Constitution adopted on 1 September 1992 and published in the Collection of Laws under No. 460/1992
- 2000 Act on Free Access to Information
- Act No. 365/2004 Coll. of 20 May 2004 on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Antidiscrimination Act)
- Act No 136/2001 Coll. of 27 February 2001 on Protection of Competition and on Amendments and Supplements to Act

- **Codes of conduct**

- Code of Ethics (Etický kódex) adopted by the Slovak Syndicate of Journalists (Slovenský Syndikát Novinárov SSJ)
- The ethical principles of advertising practice in Slovakia (Code of Ethics) adopted by the Code of Ethics adopted by the the Advertising Standards Council in 2004

- **Other**

- Act No. 205/2004 Coll. on assembling, storing and spreading environmental information
- Act No 184/1999 Coll. of 10 July 1999 on the Use of Languages of National Minorities

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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Article 26 The Slovak Constitution Adopted on 1 September 1992 and published in the Collection of Laws under No. 460/1992	applies generally, including: PM + AAVM	The freedom of speech and the right to information are guaranteed. Everyone has the right to express his views in word, writing, print, picture, or other means as well as the right to freely seek out, receive, and spread ideas and information without regard for state borders. The issuing of press is not subject to licensing procedures. Enterprise in the fields of radio and television may be pegged to the awarding of an authorization from the state. The conditions will be specified by law. Censorship is banned. The freedom of speech and the right to seek out and spread information can be restricted by law if such a measure is unavoidable in a democratic society to protect the rights and liberties of others, state security, public order, or public health and morality.
<p><i>Implementation problem:</i> The Network of Independent Experts on Fundamental Rights notes that in the Slovak Republic, the offence of infringement of confidentiality of verbal communication and other communications of private nature was implemented into the new <i>Trestný zákon</i> [Criminal Code] 219 following the Member of the Parliament’s proposal.<sup>1</sup></p> <p>The draft of the new Slovak Act on Periodic Press and Agency News Service and the Amendment and Supplementing of Certain Acts (the Press Act): In March 2008, six Slovak leading newspapers protested against a controversial bill to reform a 1966 press law. They published their daily editions with nothing on the front page except seven articles from the bill that have been dubbed the “seven capital sins.”</p> <p>ARTICLE 19’s concerns relates “overbroad restrictions on the content of what may be published, which include describing war, cruel or inhuman acts or narcotic substances ‘in a manner that trivializes them, justifies them or indicates approval of them’, as well as incitement to hatred, including on the basis of ‘political or other thinking’. These prohibitions could potentially cover a wide range of perfectly legitimate, indeed public interest, speech.” Article 19 emphasises that the draft Act would give the Minister the power to impose penalties for breach of these provisions, rather than their being applied by the courts.<sup>2</sup></p> <p>In his letter to the Minister of Foreign Affairs of the Slovak Republic, Miklos Haraszti, the Representative on Freedom of the Media, OSCE underlined that the controversial chapter 6 would “seriously damage society’s right to get information on issues of public importance.(...) This clearly transgresses the speech limitation barriers accepted by democracies and international human rights courts.”<sup>3</sup></p>			

<sup>1</sup> Zákon č. 300/2005 Z. z. *Trestný zákon* [Act no. 300/2005 Coll. Criminal Code], Synthesis Report 2005., p. 104.. EU Network of Independent Experts on Fundamental Rights (2005) Report on the Situation of Fundamental Rights in the European Union and Its Member States in 2005: Conclusions and Recommendations, Ref.: CFR-CDF/Conclusions 2005.

<sup>2</sup> Article XIX Press Release (2008) Analysis of Draft Slovak Press Act, for immediate release, 15 February 2008.

<sup>3</sup> OSCE (2008) The Letter from Miklós Haraszti, the Representative on Freedom of the Media to the Ján Kubiš, the Minister of Foreign Affairs of the Slovak Republic, 18.01. 2008.

<p><i>In an interview with Tom Nicholson for the Slovak Spectator (28 January 2008), Miklós Haraszti noted: “These two articles in the draft law would unduly restrict pluralism in the country because they would give power to a cabinet minister to correct the way in which facts are presented (article 6), or “boost objectivity” at private outlets, which is another way of homogenizing opinion content.”<sup>4</sup></i></p>			
<b>1.2. Freedom of/right to information</b>	Article 26 (5) The Slovak Constitution	applies generally, including: PM + AAVM	State bodies and territorial self-administration bodies are under an obligation to provide information on their activities in an appropriate manner and in the state language. The conditions and manner of execution will be specified by law.
	Article 45 The Slovak Constitution	applies generally, including: PM + AAVM	Everyone has the right to timely and complete information about the state of the environment and the causes and consequences of its condition.
<p><i>Implementation problem: The Citizen and Democracy Association conducted several reviews of the implementation of the 2000 Act’s provisions in 2002. The organization concluded that basic information was usually provided but “problematic information” such as contracts and privatization is often withheld. It also observed that information was often arbitrarily withheld or only provided for when an attorney was involved. The Association was involved in several court cases including two where the Supreme Court ruled for disclosure and also provided legal assistance in other cases. In 2004, the government released a number of contracts with companies such as PSA Peugeot Citroen and Kia Motors after a court case by the Association.<sup>5</sup></i></p>			
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	2000 Act on Free Access to Information	applies generally, including: PM + AAVM	The Act guarantees that any person or organization can demand information held by state agencies, municipalities and private organizations that are making public decisions.
	Act No. 205/2004 Coll. on assembling, storing and spreading environmental information	applies generally, including: PM + AAVM	The act regulates the collection and publishing of information. The right to access is regulated by the Act on Free Access to Information.
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>	Article 13 (1) Act No. 81/1966 Coll. of 25 October 1966 on Periodical and Other Mass Communication Media	PM	State institutions and organizations, scientific and cultural institutions, and economic organizations are obliged to provide editors-in-chief and other editors (...) with information that is necessary for communicating true, timely and general-interest information to the public or enable the public to access such information.
<b>1.3. Explicit recognition of media pluralism</b>			
<b>1.4. Protection of journalistic sources</b>	Code of Ethics (Etický kódex) adopted by the Slovak Syndicate of Journalists (Slovenský Syndikát Novinárov SSJ)	Applies generally, including PM and AAVM	III A journalist and an information source: A journalist should not reveal the information source unless the source itself or the court states otherwise.

<sup>4</sup> Slovak Spectator (2008) An interview by Tom Nicholson with Miklós Haraszti, 28 January 2008.

<sup>5</sup> The Online Network of Freedom of Information Advocates: <http://www.freedominfo.org/>.

<b>1.5. Right of reply</b>	Article 19 Act No. 81/1966 Coll. of 25 October 1966 on Periodical and Other Mass Media	PM, R and TV (news and current affairs contents only)	A publisher will publish a correction or reply from a citizen, organization, scientific or cultural institution, state institution if this person or organisation finds that the published false or untrue information imparts their honour or dignity.
<p><i>Implementation problem: Miklós Haraszti, the Representative on Freedom of the Media OSCE raises concerns about the draft of the new Slovak Act on Periodic Press and Agency News Service and the Amendment and Supplementing of Certain Acts (the Press Act): “Chapter 11 would oblige publishers to allow a response from any natural person or legal entity if this person or legal entity finds that the published ‘fact statement’ imparts their honour or dignity. This wording is about any fact statement regardless if it is true.”<sup>6</sup></i></p> <p><i>The Article 19 called for a right of correction/reply to be available only where the publication of false facts has breached a legal right of the claimant.<sup>7</sup></i></p>			
	Article 21 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	If there was in the broadcasting broadcast incorrect or truth-twisting fact about legal person or natural person who can be exactly identified on the basis of this fact, such a legal person or natural person, without reference to his state adherence, place of permanent residence or long-term residence, shall have the right to claim a free of charge correction in the broadcasting. The broadcaster shall be obliged, on the request of this person, to publish the correction.
<b>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)</b>	-Yes -Yes		

<sup>6</sup> OSCE (2008) The Letter from Miklós Haraszti, the Representative on Freedom of the Media to the Ján Kubiš, the Minister of Foreign Affairs of the Slovak Republic, 18.01. 2008. The Representative on Freedom of the Media states in the letter: “While it is welcome to require so-called internal pluralism in public service broadcasters and oblige them to provide for complaints mechanism, governments must protect the uninhibited external pluralism – they right to bias, if you wish – of the private print media outlets. The reason is that the print press is not a so-called scarce medium, like broadcasting is, hence there is no justification for restricting bias in their particular selection of opinions, or, which is the same, forcing them to publish complementary views.”

<sup>7</sup> Article XIX Press Release (2008) Analysis of Draft Slovak Press Act, for immediate release, 15 February 2008.

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Code of Ethics (Etický kódex) adopted by the Slovak Syndicate of Journalists (Slovenský Syndikát Novinárov SSJ)	applies generally, including: PM + AAVM	The Code of Ethics covers: -the principles of protection of human rights and freedoms and human dignity, -the obligation to publish truthful, verified and professional information. -the relation between the journalist and his/her information source, -the ethics of information collecting, relations with colleagues, -prohibition of plagiarism <sup>8</sup>
<i>Note: The Slovak Syndicate of Journalists was established in 1990 and its Members are journalists working in press, radio, TV and news agencies in Slovakia. The Press Council of the Slovak Republic was established in 2002 and is another independent authority for printed periodicals.</i>			
<b>2.2. News / information programmes</b>			
<b>2.3. Other media content</b>	The ethical principles of advertising practice in Slovakia (Code of Ethics) adopted by the Code of Ethics adopted by the Advertising Standards Council in 2004	applies generally, including: PM AAVM	The Code covers following areas: -general principles of advertising practice (truth, honesty and fairness of advertising, social responsibility) -special advertising requirements -specific advertising practice rules (e.g. alcohol advertising, protection of children).
<i>Note: The Advertising Standards Council was established in 1995.</i>			
<b>2.4. Subsidies/          Training of journalists (independence, ethic, recruitment, etc.)</b>			

<sup>8</sup> Vozár, Jozef and Malík Peter (2005) Media System of Slovakia, report for the Study on Co-Regulation Measures in the Media Sector, commissioned by the European Commission, Directorate Information Society Unit A1 Audiovisual and Media Policies, Digital Rights, Task Force on Coordination of Media Affairs, DG EAC 03/04 to the Hans Bredow Institut.

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies' bodies, structures...)</b>	Article 5 (1), f The Act No 16/2004 Coll. on the Slovak Television	Public service TV	(...) For providing the production of broadcasting for national minorities and ethnic groups the Slovak Television organizes special organizational units.
	Article 5 (1), e The Act No 619/2003 Coll. on the Slovak Radio	Public service R	(...) For providing the production of broadcasting for national minorities and ethnic groups the Slovak Radio organizes special organizational units.
3.1.1. Special representation requirements in media company structures			
3.1.2. Special representation requirements in media advisory bodies	Article 9 The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The Council of Slovak Television has 15 members elected by the National Council of Slovak Republic. Proposal for the members of the council can be submitted by the appropriate Committee of the National Council of Slovak Republic, members of the National Council of Slovak Republic, professional or civic associations from the field of audiovisual production, mass media, science, culture, education, development and production of spiritual values, human rights, environment protection, health protection, representing interests of national minorities and ethnic groups, other minorities or registered churches and religious associations.
	Article 9 The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The Council of Slovak Radio has 15 members elected by the National Council of Slovak Republic. Proposal for the members of the council can be submitted by the appropriate Committee of the National Council of Slovak Republic, members of the National Council of Slovak Republic, professional or civic associations from the field of radio production, mass media, science, culture, education, development and production of spiritual values, human rights, environment protection, health protection, representing interests of national minorities and ethnic groups, other minorities or registered churches and religious associations.



<p>3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)</p>	<p>Article 6 (1) Act No. 365/2004 Coll. of 20 May 2004 on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Antidiscrimination Act)</p>	<p>applies generally, including: PM + AAVM</p>	<p><i>Principle of equal treatment in employment and other similar legal relations</i></p> <p>In conformity with the principle of equal treatment, any discrimination shall be prohibited in employment relations, similar legal relations and related legal relations on grounds of sex, religion or belief, racial, national or ethnic origin, disability, age and sexual orientation.</p>
<p><b>3.2. Representation of the various cultural groupings in the media</b></p>	<p>Article 5 (1), f-g-h The Act No 16/2004 Coll. on the Slovak Television</p>	<p>Public service TV</p>	<p>The main activity of the Slovak Television includes:</p> <ul style="list-style-type: none"> <li>-broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia (...)</li> <li>-considering interests of deaf people and other social minorities in broadcasting</li> <li>-providing a space for the activities of registered churches and religious associations in broadcasting</li> </ul>
	<p>Article 5 (1), e-f-g The Act No 619/2003 Coll. on the Slovak Radio</p>	<p>Public service R</p>	<p>The main activity of the Slovak Radio includes:</p> <ul style="list-style-type: none"> <li>-broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia (...)</li> <li>-considering interests of social minorities in broadcasting</li> <li>-providing a space for the activities of registered churches and religious associations in broadcasting</li> </ul>
<p>3.2.1. Access to airtime for cultural groupings</p>			
<p>3.2.2. Content obligations</p>			

3.2.2.1. Promotion of European works	Article 23 (1)-(2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	<p>The broadcaster shall reserve a majority proportion of his broadcasting time for European works, excluding the broadcasting time appointed to news, sport events, games, advertising, teletext services and teleshopping.</p> <p>The Council can set in the licence a smaller share of European works in broadcasting than specified in paragraph 1, for a broadcaster who has been granted a licence for the first time and for a broadcaster of monothematic programme service; with regard to the financial situation of the broadcaster and availability of European works the Council shall determine an increase of this share during the validity of the licence.</p>
<p><i>Note: Under the Article 16 (l) broadcasters are required “to keep statistics on the broadcast programme of a television programme service; the statistics will contain an analysis of the share of the programme types, the share of European productions and the share of the European independent production programmes; the statistics on the programme service for a calendar month are to be delivered by the broadcaster to the Council within 15 days of the end of the appropriate month, a broadcaster with a licence for broadcast operating through satellites, cable networks, a broadcaster of coded and digital broadcasting shall deliver the statistics within 15 days of delivery of the Council’s request for this statistics.”</i></p>			
3.2.2.2. Promotion of European independent works	Article 25 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A licenced broadcaster shall be obliged to reserve at least 10% of his broadcasting time for European works created by independent producers, independent from broadcasters (...).
3.2.2.3. Promotion of national/regional works	Article 5 (1), d The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of the Slovak Television includes: providing regional broadcasting through the regional television branches (...)
	Article 5 (1), d The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of the Slovak Radio includes: providing regional broadcasting through the regional radio branches (...).
3.2.2.4. Language requirements	Article 16 (g) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A broadcaster has the duty to ensure the use of the state language and the languages of national minorities in accordance with special regulations 26) in the broadcasting of programmes and other elements of the programme service.
	Article 1 The Act No 184/1999 Coll. of 10 July 1999 on the Use of Languages of National Minorities	Applies generally including PM and AAVM	The citizen of the Slovak Republic who is a member of a national minority is entitled to use, in addition to the state language <sup>1)</sup> , the language of the national minority (hereinafter referred to as "minority language").(...)

	Article 5 (1), f The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of the Slovak Television includes: broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia (...)
	Article 5 (1), e The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of the Slovak Radio includes: broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia (...).
<b>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)</b>			
<b>3.2.4. Subsidies (apart from general PSB funding)</b>	Ministry of Culture Section for Minority and Regional Cultures	PM	The grant programme No 6: 6.2. Periodical Press: 6.2.1. Dailies 6.2.2. Weeklies 6.2.3. Monthlies and bi-monthlies 6.2.4. Quarterlies 6.2.5. other regular periodicals 6.2.6. electronic periodicals The ministry does not support local, local-government and municipal press, religious and sport press. <sup>9</sup>
<b>3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)</b>	Article 18 (2), b Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	Public service broadcasters	A public service broadcaster shall be obliged to: in the broadcasting of a television programme service ensure translation to sign language or in sign language at least 1 % of all broadcast programmes on one programme circuit.

<sup>9</sup> Ministerstvo Kultúry SR (2008) Metodické usmernenie pre žiadateľov o poskytnutie dotácie z Grantového systému MK SR v roku 2008 v programe KULTÚRA NÁRODNOSTNÝCH MENŠÍN 2008, <http://www.culture.gov.sk/G08/P6/usmernenie6.htm>.

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)			
4.1.2. Requirements of independence from political parties / politicians	Article 20 (7) The Act No 16/2004 Coll. on the Slovak Television	Public service TV	Finances and property of the Slovak Television may not be used for the purpose of financing a political party, political movement or in favour of a candidate for an elected political position.
	Article 20 (7) The Act No 619/2003 Coll. on the Slovak Radio	Public service R	Finances and property of the Slovak Radio may not be used for the purpose of financing a political party, political movement or in favour of a candidate for an elected political position.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Article 7 (2)-(3) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	Council membership: The function of the member of the Council shall not be compatible with the function of President of the Slovak Republic, a National Council deputy, a member of the government of the Slovak Republic, a Ministry state secretary or board director, the director of other central body of the state administration or its statutory representative, an employee of a state administration body, a mayor, a judge, a prosecutor, a member of the Slovak Television Council or of the Radio Council. A Council member must not a) hold a function in a political party or a political movement, appear in its name or act for its benefit.
4.1.4. Representation requirements in media companies' bodies (board of directors...)			
4.1.5. Representation requirements in media advisory bodies and/or regulators			

<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. Equal/proportionate access to airtime for political groupings			
4.2.2. Government announcements	Article 16, d Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A broadcaster has the duty to provide without charge in urgent public interest to state bodies on their request inevitable broadcasting time for broadcasting an important and immediate message or challenge for announcing a state of war or declaration of war 23) or for broadcasting civil protection information 24) in a time which would reduce the danger of delay to a minimum degree.
	Article 5 The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of Slovak Television includes: l) providing a necessary broadcasting time for state institutions to announce information about crisis situations and other important announcements targeted at the general public.
	Article 5, j The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of Slovak Radio includes: providing a necessary broadcasting time for state institutions to announce information about crisis situations and other important announcements targeted at the general public.
	Article 14 (2) Act No. 81/1966 Coll. of 25 October 1966 on Periodical and Other Mass Media	PM, R and TV (news and current affairs content only)	The editor in chief is obliged to publish an opinion or statement of a state institution or organisation in an appropriate form and scope after mutual agreement in the periodical press in one of the next editions, in radio and TV in one of the next broadcasts within one month.
4.2.3. Impartiality obligations	Article 16, b Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A broadcaster has the duty to ensure objectivity and impartiality of news programmes and current affairs programmes; opinions and evaluating comments must be separated from information of a news character.

*Note: Network of Independent Experts on Fundamental Rights noted in the Synthesis Report (2005) that the Rada pre vysielanie a retransmisii [Council for Broadcasting and Retransmission] imposed a sanction on the commercial television Markíza for providing unbalanced news in violation of Section 16 paragraph 1 (a) of the zákon o vysielaní a retransmisii [Act on Broadcasting and Retransmission], when it reported on 4 September 2005 on the meeting of the Board of the political party ANO. Such a practice proved that the regulation of the broadcasting sector by independent regulatory authorities can significantly contribute to the preservation of values of impartiality and plurality.<sup>10</sup>*

4.2.4. Fair representation of political viewpoints; special rules in election periods	Article 16, c Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A broadcaster has the duty to ensure that programmes and other elements of the programme service broadcast within election campaigns comply with special regulations.
	Article 5, k The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of Slovak Television includes: providing an emission time for broadcasting a political advertising
	Article 5, i The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of Slovak Radio includes: providing an emission time for broadcasting a political advertising.

<sup>10</sup> Pursuant to the Section 4 of the Act no. 308/2000 Coll. on broadcasting and retransmission as amended, the Council for Broadcasting and Retransmission supervises the observance of law regulating the broadcasting and retransmission and exercises the state administration of the broadcasting and retransmission. The Council takes care of keeping the plurality of information on news programs of the broadcasting providers, who broadcast on the legal basis or on licence basis. The resolution of the Council no. 05-19/76.722 of 8 November 2005. The resolution is available on the website of the Council for Broadcasting and Retransmission <http://www.rada-rtv.sk/> Zákon č. 308/2000 Z. z. o vysielaní a retransmisii v znení neskorších predpisov [Act no. 308/2000 Coll. on broadcasting and retransmission as amended]. Synthesis Report, p. 108. EU Network of Independent Experts on Fundamental Rights (2005) Report on the Situation of Fundamental Rights in the European Union and Its Member States in 2005: Conclusions and Recommendations, Ref.: CFR-CDF/Conclusions 2005.

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b>	Article 47 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	In making a decision about granting the licence, the Council shall be obliged to evaluate and take into account: “d) proportionality of programme structure proposed by the applicant for the licence in relation to the existing offer of programme services in the area of broadcasting in the territory that should be covered by this broadcasting.” (Indirectly)
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	Article 17 (1), b Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A retransmission operator has the duty: to reserve free of charge one channel for local broadcasting; on this channel, advertisements and teleshopping must not be broadcast without the consent of the retransmission operator”
	Article 5 (1), d The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of the Slovak Television includes: providing regional broadcasting through the regional television branches (...)
	Article 5 (1), d The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of the Slovak Radio includes: providing regional broadcasting through the regional radio branches (...)
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	See as above	See as above	See as above
<b>5.4. Regional State Aids</b>			
<b>5.5. Rules on national minorities</b>	Article 5 (1), f The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The main activity of the Slovak Television includes: broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia. For providing the production of broadcasting for national minorities and ethnic groups the Slovak Television organizes special organizational units.
	Article 5 (1), e The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The main activity of the Slovak Radio includes: broadcasting of thematically and regionally balanced programmes in the languages of national minorities and ethnic groups living on the territory of Slovakia. For providing the production of broadcasting for national minorities and ethnic groups the Slovak Radio organizes special organizational units.
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>			

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>	Article 42 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	Assurance of plurality of information
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Article 42 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	Assurance of plurality of information
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	Article 44 (2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	If it is proved that a broadcaster does not meet the conditions laid down in Articles 42 or 43, the Council shall give the broadcaster adequate time limit for redress. If the redress is not obtained in the determined time limit, the Council shall revoke the licence of the broadcaster.”
6.1.1.3. <i>Other (constant monitoring/supervision)</i>			
<b>6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)</b>			
6.1.2.1. <i>Monomedia</i>	Article 42 (2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	One legal or natural person must not be connected through capital with more than one licensed broadcaster of multiregional or nationwide broadcasting of radio programme services, or with one licensed broadcaster of multiregional or nationwide broadcasting of television programme service; at the same time, this person also must not be connected through capital with a publisher of nation-wide periodicals.”
6.1.2.2. <i>Crossmedia</i>	Article 42 (1)-(2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A publisher of periodicals that appear at least five times a week and are distributed in public in at least half of the territory of the Slovak Republic must not be a licensed broadcaster for multiregional or nationwide broadcasting at the same time. One legal or natural person must not be connected through capital with more than one licensed broadcaster of [...]



			[...] multiregional or nationwide broadcasting of radio programme services, or with one licensed broadcaster of multiregional or nationwide broadcasting of television programme service; at the same time, this person also must not be connected through capital with a publisher of nation-wide periodicals.”
6.1.2.3. <i>Vertical integration with networks</i>	Article 42 (4) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	The broadcasters may develop a programme network to an extent allowing that it is received by maximum 50% of total population.
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>	See as above	See as above	See as above
<b>6.1.3. Criteria used to define thresholds for maximum ownership and/or control</b>			
6.1.3.1. <i>Number of licences</i>	Article 42 (1)-(2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A publisher of periodicals that appear at least five times a week and are distributed in public in at least half of the territory of the Slovak Republic must not be a licensed broadcaster for multiregional or nationwide broadcasting at the same time. One legal or natural person must not be connected through capital with more than one licensed broadcaster of multiregional or nationwide broadcasting of radio programme services, or with one licensed broadcaster of multiregional or nationwide broadcasting of television programme service; at the same time, this person also must not be connected through capital with a publisher of nation-wide periodicals.”
6.1.3.2. <i>Market shares</i>			
6.1.3.3. <i>Circulation and audience shares</i>	Article 42 (4) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	The broadcasters may develop a programme network to an extent allowing that it is received by maximum 50% of total population.

6.1.3.4. <i>Capital shares</i>	Article 43 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	Any connection through capital or through personnel of a broadcaster of a radio programme service and a broadcaster of a television programme service with each other, or with a publisher of nation-wide periodicals, shall be prohibited.
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>			
<b>6.2. Sector specific rules preventing cooperation between media companies</b>			
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	Article 47, g Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	In making a decision about granting the licence, the Council shall be obliged to evaluate and take into account: the fact that it is necessary to ensure adequate capital participation of the Slovak persons and their representation in bodies of the company provided that the applicant for the licence is a legal person with foreign capital participation.
<b>6.4. General competition rules</b>	Act No 136/2001 Coll. of 27 February 2001 on Protection of Competition and on Amendments and Supplements to Act	Industry in general	
6.4.1. Antitrust	Article 4 (3) Act No 136/2001 Coll. of 27 February 2001 on Protection of Competition and on Amendments and Supplements to Act	Industry in general	Prohibited agreements: “a) direct or indirect fixing of prices or other trade conditions; b) commitment to limit or control production, sales, technical development, or investments; c) division of the market or sources of supply; d) commitment by the parties to the agreement that different conditions relating to an identical or comparable performance will be applied to individual undertakings, which will or may disadvantage these undertakings in competition; e) conditions stipulating that the conclusion of agreements will require the parties to accept further obligations that are not related to the subject of these agreements in terms of their nature or according to customary commercial practice; or [...]”

			[...] f) signs of collusive behavior as a result of which undertakings coordinate their bids, especially in the process of public procurement.”
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>			
<b>6.4.2. Merger control</b>	Article 10 (1) Act No 136/2001 Coll. of 27 February 2001 on Protection of Competition and on Amendments and Supplements to Act	Industry in general	Concentration shall be subject to control by the Authority if: a) the combined global turnover of the parties to the concentration is at least SKK 1,200,000,000 for the closed accounting period preceding the establishment of the concentration and at least two of the parties to the concentration attain a turnover of at least SKK 360,000,000 each in the Slovak Republic for the closed accounting period preceding the establishment of the concentration; or b) at least one of the parties to the concentration attains a total turnover of at least SKK 500,000,000 in the Slovak Republic for the closed accounting period preceding the establishment of the concentration and at least one other party to the concentration attains a total global turnover of at least SKK 1,200,000,000 for the closed accounting period preceding the establishment of 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>			
<b>6.5. Transparency obligations</b>			
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
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>			
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Article 31 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A major event means a political, social, cultural or sport event which meets at least two of the requirements as follows: a) its outcome has a special and general resonance and is a subject of interest also to that part of the public which usually does not follow events of this kind, b) has unique cultural importance for inhabitants and in particular contains the elements of their cultural identity, c) is an important international event and a national team is involved, d) is broadcast terrestrially, multiregional or nationwide.
<b>7.3. Short news reporting</b>	Article 30 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	The broadcaster of television programme service can for the purpose of news produce and transmit deferred coverage on an event for which another broadcaster has exclusive broadcasting rights. Deferred coverage under paragraph 1 a) can be transmitted solely in a news, b) broadcasting time may not overrun a time limit of three minutes, c) must not be transmitted before the broadcaster with exclusive rights on event can broadcast on this event, d) must not be used repeatedly, except of cases where its content would directly relate to another important event which is the subject of a newscast or sport broadcast.
<b>7.4. Fixed book price</b>			
<b>7.5. Public service media</b>	The Act No 16/2004 Coll. on the Slovak Television	Public service TV	
	The Act No 619/2003 Coll. on the Slovak Radio	Public service R	
7.5.1. Structural rules - organization	The Act No 16/2004 Coll. on the Slovak Television	Public service TV	
	The Act No 619/2003 Coll. on the Slovak Radio	Public service R	
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?)	Article 18a The Act No 16/2004 Coll. on the Slovak Television	Public service TV	General Director of the Slovak Television is elected by the Council of Slovak Television.

	Article 18a The Act No 619/2003 Coll. on the Slovak Radio	Public service R	General Director of the Slovak Radio is elected by the Council of Slovak Television.
<i>7.5.1.3. Specific representation requirements for board of directors, other bodies</i>			
<i>7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i>	Article 9 The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The Council of Slovak Television has 15 members elected by the National Council of Slovak Republic. Proposal for the members of the council can be submitted by the appropriate Committee of the National Council of Slovak Republic, members of the National Council of Slovak Republic, professional or civic associations from the field of audiovisual production, mass media, science, culture, education, development and production of spiritual values, human rights, environment protection, health protection, representing interests of national minorities and ethnic groups, other minorities or registered churches and religious associations.
	Article 10 (4) The Act No 16/2004 Coll. on the Slovak Television		A member of the Council may not hold a position in the political party or political movement or act on behalf of that party or act in its favour.
	Article 9 The Act No 619/2003 Coll. on the Slovak Radio	Public service R	The Council of Slovak Radio has 15 members elected by the National Council of Slovak Republic. Proposal for the members of the council can be submitted by the appropriate Committee of the National Council of Slovak Republic, members of the National Council of Slovak Republic, professional or civic associations from the field of radio production, mass media, science, culture, education, development and production of spiritual values, human rights, environment protection, health protection, representing interests of national minorities and ethnic groups, other minorities or registered churches and religious associations.
	Article 10 (4) The Act No 619/2003 Coll. on the Slovak Radio		A member of the Council may not hold a position in the political party or political movement or act on behalf of that party or act in its favour.
<i>7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings</i>			
<i>7.5.2. Structural rules - funding</i>	The Act No 16/2004 Coll. on the Slovak Television	Public service TV	
	The Act No 619/2003 Coll. on the Slovak Radio	Public service R	

7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Article 21 The Act No 16/2004 Coll. on the Slovak Television	Public service TV	Sources of funding of the Slovak Television encompass: licence fees, allocation from the state budget, advertising revenues, donations, etc.
	Article 21 The Act No 619/2003 Coll. on the Slovak Radio	Public service R	Sources of funding of the Slovak Television encompass: licence fees, allocation from the state budget, advertising revenues, donations, etc.
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
7.5.3. Definition of public service remit	Articles 3,4,5 The Act No 16/2004 Coll. on the Slovak Television	Public service TV	
	Articles 3,4,5 The Act No 619/2003 Coll. on the Slovak Radio	Public service R	
	Article 18 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	Special duties of public service broadcaster
7.5.3.1. Obligation to provide a varied and pluralistic offer	Article 3(2) The Act No 16/2004 Coll. on the Slovak Television	Public service TV	
	Article 3(2) The Act No 619/2003 Coll. on the Slovak Radio	Public service R	
	Article 18 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	The main objective of a public service broadcaster shall be to serve the public or other social interest, to contribute to the development of a democratic society, to create space in the broadcast for a plurality of opinions without favouring the interest of any one political party, political movement, group or part of society or religious confession or faith, and to support the development of artistic creation, culture and education.
7.5.3.2. Obligation to engage in new media activities			
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Article 18 (2) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	A public service broadcaster shall be obliged to a) in the broadcasting of a television programme service ensure by hidden or open subtitles at least 25 % of all broadcast programmes on each programme circuit, within five years after this law coming into effect, b) in the broadcasting of a television programme service ensure translation to sign language or in sign language at least 1 % of all broadcast programmes on one programme circuit.
7.5.5. Universal coverage obligations	Article 3(2) The Act No 16/2004 Coll. on the Slovak Television	Public service TV	The aim of the Slovak Television is to provide a service of universal coverage
	Article 3(2) The Act No 619/2003 Coll. on the Slovak Radio	Public service radio	The aim of the Slovak Radio is to provide a service of universal coverage

**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 17 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunications	AAVM	A retransmission operator has the duty a) to ensure, while occupying channels in a telecommunication network or in a telecommunication facility, that in the basic programme offer of public service broadcasters and broadcasters by licence are placed programme services which can be received by ordinary receiving equipment in the place of reception for telecommunication equipment (...)
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	Section 16 (3) Act No. 610/2003 Coll. of 3 December 2003 on Electronic Communications	Electronic communications	An undertaking with significant market power on the relevant market is an undertaking which individually or jointly with other undertakings has such position on the market that it is not exposed to effective competition and its economic influence enables it to behave, in a substantial extent, independently of competitors and users (hereinafter as “SMP undertaking”).
8.3.1. Implementation of market analysis procedure in ECNS Directives	Section 15 (1) Act No. 610/2003 Coll. of 3 December 2003 on Electronic Communications	Electronic communications	The Office shall define relevant markets in the field of electronic communications (hereinafter as “relevant market”) on the basis of the list of relevant markets and procedures of relevant market analysis recommended by the European Commission in line with principles of assurance of competitive environment and taking into account specific national circumstances, especially geographical ones.
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 25 (1) Act No. 610/2003 Coll. of 3 December 2003 on Electronic Communications	Electronic communications	Conditional access system means any technical measure or agreement ensuring, in a comprehensible form, access to protected services conditioned by a subscription or other consent of the provider of such service. A protected service means radio and television programme services and information society services.
8.4.2. EPG (or other search tools)			

8.4.3. API			
8.4.4. Other			
<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>			
<b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:</b> - Regional - Linguistic/minority - National )			



**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>	Articles 1 – 14 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	Council for Broadcasting and Retransmission ( <a href="http://www.rada-rtv.sk">http://www.rada-rtv.sk</a> )
9.1.1. Structure/ organisation	Articles 6-14 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	Structure and organization of the Council for Broadcasting and Retransmission
9.1.1.1. <i>Guarantees for independence</i>			
9.1.1.2. <i>Representation requirements</i>	Article 6 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication		A Council has nine members who are elected and recalled by the National Council. The National Council Committee may be presented with proposals for candidates of Council membership by members of the Parliament, professional institutions and civil associations operating in the areas of audio-visual, mass information means, culture, science, education, sport, registered religious and church societies, and civil associations of citizens with health handicaps through the Coordinating Committee for Issues of Health Handicapped Citizens of the Slovak Republic.”
9.1.2. Credibility and efficiency	Article 13 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	Tasks related to organizational, personnel, administrative and technical insurance of Council activity, and performance of Council decisions, shall be executed by the office.
9.1.2.1. <i>Sufficient resources</i>	Article 12 (1) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	The Council shall work with its own budget according to special regulation 19), and its activity is refunded from the state budget.
9.1.2.2. <i>Tasks and duties</i>	Article 5 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	The competence of Council includes: - deciding on the licences for broadcasting, - supervision of the fulfilment of duties according to the broadcasting law, -imposing sanctions, - elaborating statistics on broadcasting programmes, etc.

9.1.2.3. <i>Effective sanctioning powers</i>	Part 13 (Art. 65-67) Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	Announcement of the infringement of law, Suspension of the broadcasting of the programme or a part thereof, Fines.
<b>9.1.3. Cooperation with other regulators</b>	Article 14 Act No. 308/2000 Coll. of 14th September, 2000 on Broadcasting and Retransmission and on Amendments of Act No. 195/2000 Coll. on Telecommunication	AAVM	The Ministry, other central bodies of state administration and other state administration bodies shall cooperate with the Council on issues connected with the area of broadcast and retransmission and provide their needed cooperation to the extent according to special regulations.
<b>9.2. Press Council</b>			
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>			
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			

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

### [SLOVENIA]

---

Author: Aleksandra Kuczerawy  
Country correspondent: Brankica Petkov

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

- **Legislation**

- *Sector specific legislation*

- Zakon o medijih (ZMed-UPB1)-Amended Mass Media Act, Official Gazette No. 110/2006;

- Zakon o elektronskih komunikacijah (ZEKom)-Electronic Communications Act, Official Gazette No. 80/2004

- Zakon o RTV Slovenija (ZRTVS-1) – Radio and Television Corporation of Slovenia Act, Official Gazette No. 25/2005.

- *General legislation*

- Constitution of the Republic of Slovenia, Official Gazette, No. 33/1991.

- **Codes of conduct**

- Code of ethics of Slovene Journalists adopted in Izola, 10<sup>th</sup> October, 2002, available at: [http://www.novinar.com/dokumenti/Code\\_of\\_Ethic.doc](http://www.novinar.com/dokumenti/Code_of_Ethic.doc)

- **Other**

- Kazenski zakonik (KZ-1) – Penal Code, adopted by the National Assembly of the Republic of Slovenia on 24 April 2008.

- Zakon o dostopu do informacij javnega značaja (ZDIJZ) - Access to Public Information Act, Official Gazette No. 24-900/2003

- Zakon o informacijskem pooblaščenču – Information Commissioner Act, Official Gazette No. 113/2005.

- Zakon o uresničevanju javnega interesa v kulturi (ZUJIK) - Exercising of the Public Interest in Culture Act, Official Gazette, No. 77/2007.

- Sklep o določitvi seznama najpomembnejših dogodkov – Government’s Decision on the Events List, Official Gazette No. 18/2003.

- Zakon o volilni in referendumski kampanji (ZVRK) – Election and Referendum Campaign Act, Official Gazette No. 41/2007.

- Zakon o preprečevanju omejevanja konkurence (ZPomK-1)-The Prevention of the Restriction of Competition Act, Official Gazette No. 36/2008.

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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Art. 39, Constitution of Slovenia	PM, AAVM	Freedom of expression of thought, freedom of speech and public appearance, of the press and other forms of public communication and expression shall be guaranteed. Everyone may freely collect, receive and disseminate information and opinions.
	Art. 159 Penal Code (adopted on 24 April 2008)		The Penal Code determines sanctions for defamation done through the media (print, radio, TV of other media type) in the form of either a pecuniary penalty or penalty of imprisonment up to one year. The same sanction was determined in the previous version of Penal Code.
<p><i>Implementation problem: The measure is almost not used in practice. Defamation is considered criminal act according to the Penal Code. It has been considered as such in the previous version of Penal Code from 1994, and criminalization of defamation is kept also in the new version of Penal Code which was adopted by the Parliament on 24 April 2008. However sanction of imprisonment hasn't been used. Also criminal procedures related to defamation have been rarely used; civil procedures based on the Civil Code have been used more frequently.</i></p>			
	Art. 6 Mass Media Act	PM, AAVM	Mass media activities shall be based on freedom of expression, the inviolability and protection of human personality and dignity, the free flow of information, media openness to different opinions and beliefs and to diverse content, the autonomy of editorial personnel, journalists and other authors/ creators in creating programming in accordance with programme concepts and professional codes of behaviour, and the personal responsibility of journalists, other authors/creators of pieces and editorial personnel for the consequences of their work.
<b>1.2. Freedom of/right to information</b>	Art. 39, Constitution of Slovenia		Except in such cases as are provided by law, everyone has the right to obtain information of a public nature in which he has a well founded legal interest under law.
	Art. 45 Mass Media Act	PM, AAVM	State bodies, local community bodies, individuals who perform public functions, public institutions and public companies and other legal and natural persons that perform public services (hereinafter: public persons) must provide truthful, complete and up-to-date information on issues from their field of work for publication via the mass media. The information specified in this article may be collected for publication via the mass medium by editorial personnel, journalists and other authors/ creators of programming pieces. Public persons shall through legal acts regulate the method of providing information for the public and stipulate the responsible officer charged with ensuring the public release of information on work. Persons specified in the second paragraph of this article shall have the right of access to information under equal conditions. Public persons may refuse to provide information only in certain cases.

	Preamble of Code of ethics of Slovene Journalists	PM, AAVM	The first principle of professional conduct of journalists is the right of the public to be informed. Public enlightenment is the basis for proper functioning of modern societies and the foundation of democracy. In pursuance of the right of the public to be informed, journalists should at all times defend the principles of free gathering, disseminating and transmitting information, as well as the right to express opinions. Journalists are obliged to present a comprehensive account of events and – taking into consideration the rights of others – report in accurate and conscientious manner. Such conduct of journalists is the cornerstone of their credibility.
Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?	Art. 5 Access to Public Information Act		Legal entities or natural persons (hereinafter referred to as “the applicants”) have free access to public information. Each applicant shall have, at his request, the right to acquire information from the body by acquiring such information for consulting it on the spot, or by acquiring a transcript, a copy or an electronic record of such information. Every applicant has the right, under the same conditions as all other persons, to acquire the right to re-use information for commercial or non-commercial purposes. The body shall make its documents available through electronic means where possible and appropriate though this shall not imply an obligation to create or adapt documents in order only to comply with the request of bodies or other persons, nor shall it imply an obligation to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.
<i>Note: Implementation of the provisions of the Access to Public Information Act is considered successful due to efficiency and transparency of the work of the Information Commissioner, an independent body dealing with appeals against the decision with which a body refused or dismissed the applicant’s request for access. The work of the Information Commissioner is regulated in more details in the Information Commissioner Act (Official Gazette, No. 113/2005).</i>			
	Art. 45, Mass Media Act	PM, AAVM	Journalist may require information from all public persons which are stipulated in the Access to Public Information Act.  Public persons shall have the responsible officer in charge of ensuring the public release of information on their work.  Any public person that decides not to provide the information requested must give a journalist a written explanation of the reasons for refusal by the end of the next working day.  Public persons should give a journalist the requested information within 7 days from the reception of the question(s) in written form.
Are there specific rules dealing with journalists’ access to events for news reporting?	Rules on the conditions for reporting from the National Assembly (Parliament), adopted on 29 March 2006, especially rule No 1.12 regarding the access to various parts of the building of the parliament	PM, AAVM	Interviews and statements by journalists can be made in the press room of the parliament or in front of the main hall for the sessions of the parliament; access to other parts of the building is allowed only upon agreement with PR office or with individual MPs or with parliamentarian groups.
<i>Note: Introduction of these rules in 2006 caused complaints from journalists, but since then it is not publicly known if the rules produce problems for journalists’ access to parliamentarians. It seems that implementation is made in flexible way.</i>			

<b>1.3. Explicit recognition of media pluralism</b>	Art. 4 (1) Mass Media Act Art. 4a (1)(2)  Art.56-63	PM, AAVM	<p>Within the Section “Public interest in area of the mass media” within the Mass Media Act the provision in the Art. 4 (1) says that Republic of Slovenia shall support mass media in the production and dissemination of programming important to ensure media pluralism and diversity.</p> <p>In the Section “Financing of the programming of the mass media” the provisions in the Art. 4a (1) says that Republic of Slovenia shall ensure financing from the state budget to ensure pluralism and democratic performance in the media; especially stressing in 4a(2) purpose “to ensure pluralism and democratic performance of general news print media”.</p> <p>Beside the above mentioned sections of the Mass Media Act there is another section explicitly recognizing media pluralism issue - Section “Protection of Pluralism and Diversity of the Media” including articles 56-63 and regulating media concentration.</p>
<p><i>Note: Implementation of these provisions is quite controversial, since the Mass Media Act was amended in 2006 mostly because of introduction of these and other more detailed provisions on financing the media to ensure pluralism. The controversy comes from the disagreement between political position and opposition in Slovenia about the state of political pluralism in the media in Slovenia, and provisions in the amended law introduced by the ruling coalition put as the first condition for getting state financial support a balanced reporting on political affairs. In practice state financing didn't influence political pluralism in the media, so we can conclude that the provisions which provide explicit recognition of media pluralism contributed to narrowing its scope to political dimension and in practice produced no other effect than political conflicts in debating the state of media pluralism in Slovenia.</i></p>			
<b>1.4. Protection of journalistic sources</b>	Art. 21 (2) Mass Media Act	PM, AAVM	Editorial personnel, journalists and the authors/creators of pieces shall not be obliged to reveal the sources of their information, except in cases where such is stipulated by criminal legislation.
<p><i>Implementation problem: It is not possible to apply the measure in the cases of journalists revealing confidential state documents. Still the most common situation in which journalists are pressured into revealing their sources is revealing confidential state documents. In almost all cases journalists are prosecuted and pressured into revealing their sources because they revealed confidential state documents (this is regulated by Penal Code and by Law on Protection of Classified Information).</i></p>			
<b>1.5. Right of reply</b>	Code of ethics of Slovene Journalists Art. 40 Constitution of Slovenia	PM, AAVM PM, AAVM	The journalist may decline testifying and disclosure of the source. The right to correct published information which has damaged a right or interest of an individual, organisation or body shall be guaranteed, as shall be the right to reply to such published information.
<p><i>Implementation problem: Contra-productive effects due to misuse of the measure. There are problems with implementation of this constitutional right since it includes both right to reply and right to correction, following the system which existed during the socialism. Division between the two (reply and correction) and implementation of the rules cause many problems. The Mass Media Act attempting to regulate this constitutional right for instance includes whole section and almost 20 articles.</i></p>			
	Art. 26 (1) Mass Media Act		Any person shall have the right to demand that the responsible editor publish free-of-charge a correction by such person to any report published that infringed upon the person's rights or interests.
<p><i>Implementation problem: There are huge problems with implementation of the whole section with articles on right to correction or reply in the Mass Media Act. The amendments introduced in 2006 by the recent government put even more controversy in implementation of the provisions since for instance according to new provisions chief editors have to reply to the request for correction or reply in 24 hours.</i></p>			
	Art. 42 Mass Media Act		The right to reply is intended to secure the interest of the public in terms of objective, multilateral and up-to-date information, as one of the essential conditions for democratic decision-making in public affairs. Any person shall have the right to demand that the responsible editor publish free-of-charge a reply to information published by which that person through demonstrable statements denies, significantly corrects or significantly elaborates upon the statement of facts and figures in the information published.

<p><b>1.6. Ratification of international instruments:</b>          - CoE's Framework Convention For The Protection Of National Minorities          - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)</p>	<p>- UNESCO</p>		<p>- CoE's Framework Convention For The Protection Of National Minorities :          * Signature: 1/2/1995          * Ratification: 25/3/1998          * Entry into force: 1/7/1998</p> <p>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005): accession by European community (18.12.2006)</p>
--	-----------------	--	---

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Art. 17 (5) Mass media Act	PM, AAVM	The programme concept shall be a constituent part of employment contracts between the publisher and editorial personnel and between the publisher and journalists. The special rights of editorial personnel and journalists deriving from changes or additions to the programme concept shall be defined by the branch collective agreement.
<i>Implementation problem: This measure sounds good but is more or less useless in practice. It is like that because programme concept of the media outlets proved to be formal documents with no relevance in actual (politically motivated) changes of program orientation and editorially policies of concrete media outlets, where such changes produce circumstances for journalists to hinder their free expression. Such situation caused massive protest of Slovenian journalists against censorship in autumn 2007 (more than 500 journalists signed petition and sent it to international organizations and the media).</i>			
	Art. 5 RTV Slovenia Corporation Act		Journalists and editors of RTV Slovenia and others directly involved in the creation or production of RTV programming shall in their work in particular /.../ adhere to the principle of political balance and pluralism of world news, /.../ adhere to the principle of political independence and autonomy of journalists, institute professional ethics for reporters and the consistent distinction between information and commentary in journalists reports /.../.
<i>Implementation problems: This measure produces controversial interpretations and actions in the programmes of RTV Slovenia resulting in pressure, censorship and self-censorship in political reporting.</i>			
	Art. 20 (2) Mass Media Act	See above.	The editorial board, editorial personnel, journalists, and authors/creators of other programming pieces shall be independent in their work within the framework of the programme concept and in accordance with the publisher's basic legal act.
	Art. 21 (3) Mass Media Act	PM, AAVM	Journalists may not have their employment terminated, a contracted concluded with them cancelled, their pay reduced, their status in the editorial board changed or their position worsened in any other manner for reason of the expression of opinions and standpoints in accordance with the programme concept and the rules, criteria and standards of the profession.
<i>Implementation problem: The measure is not implemented in practice. See above. New editors and managers without changes of the programme concepts introduced changes of editorial policy and orientation and replace journalists, worsen their position because their opinions don't follow new editorial orientation. When they spoke publicly about it they have been punished for producing bad image of their media outlet and causing business harm to their publisher.</i>			
	Art 22 (1)(2) Mass Media Act		The status of a freelance journalist shall be acquired through entry in the register of freelance journalists at the relevant ministry, following expression of a prior opinion by a registered professional journalists' organisation. The responsible minister shall rule on entry in the register: the person holds a certificate on active knowledge of Slovene if the person is not a citizen of the Republic of Slovenia; the person performs journalistic activities as a sole or principal occupation; the person has proof of publication in mass media entered in the register specified in Article 12 of the present act; the person has not been banned from performing such activities by a legally binding court ruling.
	Art. 53 (1) Mass Media Act		A sponsor may not influence sponsored programming and its distribution in the programming scheme and thereby restrict the editorial independence of the mass medium.



<i>Implementation problem: There were noticed several problems with application of this provision in practice, since the distinction between editorial and advertising is blurring and sponsorship is in many cases misused for surreptitious advertising.</i>			
	Art. 99 (1) Mass Media Act		Television journalists and news presenters may not appear in advertising.
	Code of ethics of Slovene Journalists		If involved in the events the journalist reports on, he/she should disclose this or exclude himself/herself as a journalist.
	Code of ethics of Slovene Journalists		The journalist should avoid situations that might lead to real or perceived conflicts of interest, which might compromise his/her integrity or that of the journalistic community.
	Code of ethics of Slovene Journalists		The journalist should disclose possible unavoidable conflicts of interest to the public or exclude himself/herself from reporting and commenting on them.
	Code of ethics of Slovene Journalists		The journalist has the right to turn down any job in opposition to this code or his/her convictions.
	Code of ethics of Slovene Journalists		No one is allowed to alter or revise the content of the journalist's report or other piece of work without his/her consent. The journalist has the right to sign his/her piece of work and may not be signed without his/her knowledge or against his/her will.
<i>Implementation problem: The measure is not always implemented in practice since journalist's reports are proven to be changed by editors or sub-editors without their consent. Sometimes they complain publicly, most often not.</i>			
	Code of ethics of Slovene Journalists		Should the journalist be invited to the Journalists' Ethics council session, he/she is obliged to attend it and to abide by its adjudications. In professional matters the journalist should recognise as competent the judgement of his/her colleagues only.
<i>Implementation problem: This measure is not always implemented since journalists which are not member of the Association and Union of Journalists – establishers of the ethics council – don't respect its decisions.</i>			
<b>2.2. News / information programmes</b>	Art. 55 (1) Mass Media Act		News and current affairs may not be sponsored. Other informative programming in/on mass media may only be sponsored in cases stipulated by the act governing election campaigns.
<b>2.3. Other media content</b>	Art. 18 Mass Media Act	PM, AAVM	Each mass medium must have a responsible editor, who shall be appointed and dismissed by the publisher in accordance with the present act and the publisher's basic legal act. Before appointing or dismissing the responsible editor the publisher must obtain an opinion from the editorial board, unless stronger influence on the part of the editorial board is stipulated in the basic legal act. The responsible editor shall be answerable for the implementation of the programme concept and shall perform other tasks stipulated by the publisher's basic legal act. The responsible editor shall be answerable for any information published, unless stipulated otherwise by the present act. If a mass medium has more than one responsible editor, each shall be answerable for the publication of information in the programming area for which he/she is responsible.
<i>Implementation problem: This measure in the part of obtaining opinion of the editorial board before editor is appointed or dismissed is not fully implemented. Even when it is implemented, the opinion of the editorial board serves only as a formal legal measure without producing effect on the decision of the publisher. It has happened in 2006 that new editor of the biggest quality daily was appointed gaining support of only 7 % of the members of the editorial board.</i>			

	Art. 19 Mass Media Act	PM, AAVM	Any person who fulfils the following conditions may be a responsible editor: the person possesses a certificate of active knowledge of Slovene if the person is not a citizen of the Republic of Slovenia; the person possesses a certificate of active knowledge of Hungarian or Italian in the event that the mass medium is for the Hungarian or Italian ethnic communities; the person has commercial capability; no ban on working in the profession, performing activities or making public appearances has been pronounced against the person. Any person who enjoys immunity under the constitution or the law may not be a responsible editor.
	Art. 20 (1) Mass Media Act	PM, AAVM	The legal relations between the publisher and the editorial board and the basic mutual relations within the editorial board shall be set out by the publisher's basic legal act in accordance with the present act, whereby such act shall define the editorial board's degree of autonomy in regulating relations within the editorial board.
<i>Implementation problem: This measure is not implemented in practice.</i>			
<b>2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)</b>	Exercising of the Public Interest in Culture Act		Ministry of Culture is providing annual financing based on public call for application from professional associations for professional training of various professions in the field of culture, including the media.
<i>Implementation problem: This measure in the field of media professions has very limited effect since the amount of the annual state financing for projects of professional training for journalists organized by professional organizations is very small (in total in 2007 around 7.000 EUR).</i>			

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures	Art. 114 (1), (2) Mass Media Act	RTV	An operator shall form a programming council, which in accordance with the provisions of the present act and the operator's technical capacities shall decide on which stations the operator is to transmit and broadcast in accordance with the fifth paragraph of Article 112 of the present act. The programming council's term of office, composition and other tasks shall be stipulated in detail by the operator via an internal legal act. An operator shall be obliged to include in the programming council specified in the previous paragraph members proposed by the local communities or regions whose areas are covered by the provision of telecommunications services, and an equal number of representatives of various interest groups from the area.
	Art. 17 (6) RTV Corporation of Slovenia Act	RTV (PSB)	The Programme Board of RTV Slovenia shall comprise 29 members, of which one member shall be appointed by the Hungarian ethnic community, one member shall be appointed by the Italian ethnic community /.../, two members shall be appointed by the President of the Republic on the proposal of registered religious communities /.../.
	Art. 23 (1) (4) RTV Corporation of Slovenia Act	RTV (PSB)	The Programme Board shall appoint a Programme Committee for the Italian and one for the Hungarian ethnic community channels (of RTV Slovenia), and they shall comprise nine members each, except for those members appointed by the self-governing ethnic communities themselves, or those elected from among themselves by employees by employees in the editorial offices of the ethnic community channels.  The Programme Committees for the ethnic community channels shall grant their consent to the appointment of respective commissioning editors for the ethnic community channels, and to the scope and programme plan, programme standards and programme scheme of the channel, which must be appropriate to the material capacities of the RTV Slovenia public institution and with the regulations governing its work.
	Art. 24 (1) (2) RTV Slovenia Corporation Act	RTV (PSB)	The Programme Board shall appoint a Programme Committee comprising nine members for the issue of programme content for the disabled. Representative associations of disabled persons shall propose members for the Programme Committee referred to in the preceding paragraph, whereby they may only propose persons whose disability has been determined in an enforceable decision by the competent authority.

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...)			
<b>3.2. Representation of the various cultural groupings in the media</b>	Art. 80 (1), (2) Mass Media Act	RTV	A student organisation may be the publisher of a radio and/or television station if the majority of the programming is created and disseminated by students and is primarily aimed at a student audience, and if the surplus of revenues over expenditure is used only for executing the activities for which it was founded, in accordance with the act governing the operation and activities of students' self-managed communities in Slovenia and its basic legal act. The programming of student radio and television stations shall comprise information of all types and works under copyright whose purpose is providing information and satisfying the educational, scientific, professional, artistic, cultural and other needs of students and the general public.
3.2.1. Access to airtime for cultural groupings	Art. 3 (1) RTV Slovenia Corporation Act	RTV (PSB)	Public service pursuant to this Act shall comprise the creating, producing, archiving and broadcasting of: /.../ one radio and television channel each for the autochthonous Italian and Hungarian ethnic communities and radio and television broadcasts for the Roma ethnic community; radio and television channels for Slovenian ethnic minorities in neighbouring countries and for Slovenian expatriates and migrant workers. /.../
3.2.2. Content obligations	Art. 4 Mass Media Act	PM, AAVM	The Republic of Slovenia shall support the mass media in the dissemination of programming important to: the exercise of the right of citizens of the Republic of Slovenia, Slovenes around the world, members of the Slovene minorities in Austria, Hungary and Italy, the Hungarian and Italian ethnic communities in Slovenia, and the Romani community living in Slovenia to public information and to be informed in general; the protection of the Slovenian national and cultural identity; the promotion of cultural creativity in the area of the mass media; a culture of public dialogue; the consolidation of the social state based on the rule of law; the development of education and science.
	Art. 78, Mass Media Act		A publisher may acquire the status of a local radio or television station of special significance if it fulfils the following extra conditions: 1) the station provides objective and unbiased information for inhabitants of the local community and the balanced presentation of different opinions and views on political, cultural, religious, economic and other issues important to the life and work of the local inhabitants; 2) the publisher appoints a programme committee in which the interests of the local community in the areas of commerce, culture, education and sport, and of the publisher of the station are represented; 3) the programming is primarily of a local character, and is jointly created by inhabitants of the local community; 4) it provides programming from the lives and work of Slovenes in neighbouring countries, members of the Hungarian and Italian ethnic communities, and Roma, if it is receivable in areas where such communities live /.../

	Art. 4 RTV Slovenia Corporation Act	RTV (PSB)	On the channels referred to in the first paragraph of the preceding Article ( <i>all radio and TV channels of RTV Slovenia except parliamentary TV channel</i> ), RTV Slovenia shall in particular ensure credible and impartial informational broadcasts whereby it shall provide comprehensive information regarding political events at home and in neighbouring countries, important events in other European countries, especially the Member States of the European Union, and important world topics such that the content broadcasted facilitates the objective public informing /.../, shall ensure high-quality in-house production intended for children, adolescents and the elderly /.../.
3.2.2.1. Promotion of European works	Art. 17 (2) Mass Media Act	TV	The publisher of a television station shall also stipulate in the programme concept the initial proportions of works of European audio-visual production, European audio-visual works by independent producers and Slovenian audio-visual works.
	Art. 89 (1), (2), (4), (5) Mass Media Act	TV	The publisher of a television station must endeavour to see that the majority of the annual transmission time comprises European audio-visual works. A publisher that fails to reach the proportion of European audio-visual works specified in the previous paragraph must increase the proportion of such works each year in comparison with the proportion of annual transmission time in the previous year, whereby the minimum initial proportion shall be twenty per cent of the annual transmission time, unless stipulated otherwise by the present act. The provisions of this article shall not apply to the publishers of television stations specified in Articles 77, 79, and 80 ( <i>local radio/TV stations, regional radio/ TV stations, student radio/TV station</i> ) of the present act, if the particular station is intended for a local audience and is not included in a national network. The provisions of the second paragraph of this article shall not apply to Radiotelevizija Slovenija.
3.2.2.2. Promotion of European independent works	Art. 17 (2) Mass Media Act		<i>Supra</i>
	Art. 90 (1), (2), (3), (5), (6)	TV	The publisher of a television station must endeavour to see that the proportion of annual transmission time comprising European audio-visual works by independent producers is at least ten per cent. A publisher that fails to reach the proportion of European audio-visual works by independent producers specified in the previous paragraph must increase the proportion of such works each year in comparison with the proportion of annual transmission time in the previous year, until the proportion reaches ten per cent of the annual transmission time, unless stipulated otherwise by the present act. At least half of the works specified in this article must have been produced in the last five years. The provisions of the second paragraph of this article shall not apply to Radiotelevizija Slovenija. The provisions of this article shall not apply to the publishers of television stations specified in Articles 77, 79 and 80 ( <i>local radio/TV stations, regional radio/ TV stations, student radio/TV station</i> ) of the present act, if the particular station is intended for a local audience and is not included in a national network.

<i>Implementation problem: The Slovenian independent producers often complain that the TV broadcasters don't respect this provision and claim that the quotas, reported by the broadcasters, don't reflect the real situation.</i>			
3.2.2.3. Promotion of national/regional works	Art. 17 (2) Mass Media Act Art 68 (3) Mass Media Act		Supra In accordance with Articles 4 and 110 of the present act the Republic of Slovenia shall support the establishment and progressive development of the Slovenian audio-visual industry, and shall promote the creation of Slovenian audio-visual works, such as TV feature films and dramas, arts and culture series, entertainment series, serials, documentaries and educational works.
	Art. 86 (1), (2), (3) Mass Media Act	RTV RTV (PSB)	At least 20 per cent of the daily transmission time of any radio station must comprise Slovenian music or music production of Slovenian creators. Proportion of the daily transmission time of the music from the previous paragraph must comprise at least 40 per cent in the case of each of the programmes (channels) of RTV Slovenia. Proportion of daily transmission time comprises at least 25 per cent in the case of radio and tv programmes of special importance. The provisions of this article shall not apply to radio stations for the Hungarian and Italian ethnic communities.
<i>Implementation problem: According to the APEK's regular programme monitoring findings, the majority of broadcasters don't have problems with this provision. RTV Slovenia, however, complains that the quota imposed to the PSB (40%) is too big. The implementation of this provision caused a lot of problems to the PSB's radio station, dedicated to art and culture (Program Ars), which used to broadcast big pieces of non-Slovenian classical music within the EBU exchange and was warned by APEK for not reaching the daily quota of Slovenian music.</i>			
	Art. 87 (1), (2) Mass Media Act		The publisher of every television station must endeavour to see that a significant proportion of the annual transmission time comprises Slovenian audio-visual works. Slovenian audio-visual works must account for at least two per cent of the annual transmission time of each television station of a publisher. The publisher must increase the proportion of such works each year in comparison with the proportion of annual transmission time in the previous year, until the proportion reaches five per cent of the annual transmission time, unless stipulated otherwise by the present act.
	Art. 85 (1), (3) Mass Media Act	RTV	The proportion of in-house production must be at least twenty per cent of the daily transmission time of any television station, of which at least sixty minutes shall be between 6 pm and 10 pm, unless stipulated otherwise by the present act. At least thirty per cent of the daily transmission time of any radio station must comprise programming produced in-house, unless stipulated otherwise by the present act.
<i>Implementation problem: Many broadcasters were caught at breaching these provisions, but recent programme monitoring findings show that there are not so many violations of these provisions anymore.</i>			
	Art. 9 RTV Slovenia Corporation Act	RTV (PSB)	Every year in accordance with the programme production plan /.../ RTV Slovenia shall publish a tender for the purchase of Slovenian audiovisual work by independent producers, to be broadcast on its channels in accordance with the Act regulating the media.
3.2.2.4. Language requirements	Art. 5 (1) Mass Media Act	PM, AAVM	Publishers founded and registered in the Republic of Slovenia must disseminate programming in Slovene, or must translate programming into Slovene in an appropriate manner, unless such is primarily intended for readers, listeners or viewers from any other language group.
	Art. 5(4) Mass Media Act	PM, AAVM	If programming is intended for the Hungarian or Italian ethnic communities, publishers may disseminate the programming in the language of the ethnic community.

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)	Code of ethics of Slovene Journalists	PM, AAVM	The journalist should avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance and social status. Discrimination based on sex, ethnicity, religion, social or national origins, insults about religious feelings and customs and incitement of conflicts between nationalities are impermissible.
	Art. 8 Mass Media Act	PM, AAVM	The dissemination of programming that encourages national, racial, religious, sexual or any other hatred and intolerance shall be prohibited.
<i>Implementation problem: Not efficiently implemented measure. Besides the general ban, quoted in the previous column, there are not any other measures or sanctions for such cases in the media legislation. The violations could be only treated within the Penal Code.</i>			
	Art. 5 RTV Slovenia Corporation Act	RTV (PSB)	Journalists and editors of RTV Slovenia and others directly involved in the creation or production of RTV programming shall in their work in particular: /.../ adhere to the principle of constitutionality and legality in the formulation of programming, including the prohibition on incitement to cultural, religious, sexual, racial, national or other forms of intolerance.
<i>Implementation problem: Not efficiently implemented measure.</i>			
3.2.4. Subsidies (apart from general PSB funding)	Art. 82 (1) Mass Media Act,	RTV	In accordance with Article 4 of the present act the Republic of Slovenia shall support the activities of radio and television stations specified in Articles 76, 77, 79, 80 and 81 ( <i>public broadcaster, local radio/TV stations, regional radio/ TV stations, student radio/TV stations, non-profit radio/TV stations</i> ) of the present act that are of special importance to Slovenian culture using funds from the national budget
	Art. 4a (1) (2) (3) (11) Mass Media Act	RTV	In order to ensure pluralism and democratic performance of the mass media in line with the principle of the freedom of expression, the Republic of Slovenia shall, via the competent ministry, provide budgetary funds for the mass media with the purposed of providing state support for the realisation of the public interest in the area of the mass media. Within the budgetary funds allocated for the mass media the Republic of Slovenia shall provides funds for: /.../ development and co-financing of the programme content of radio and television programmes with the status of local, regional, student or non-profit radio and television programme. The budgetary funds in the proportion of the value of 3 per cent of the licence fee for programmes of RTV Slovenia collected in the previous year shall be allocated for the development of the programme content of radio and television programmes which have the status of local, regional, student or non-profit radio or television programme. When deciding on the co-financing of radio and television programmes that have the status f a local, regional, student or non-profit radio and television programme, the expert committee shall take into account the following criteria: /.../ to what extent the project enables the realization of the right to public information for local and minority communities and whether minority languages are used; to what extent the project enables the realization of the principle of cultural diversity, the principle of equal opportunities and the assertion of tolerance.
<i>Implementation problem: Whole measure providing state subsidies to the media proved to be controversial since the methodology for application of the criteria haven't been developed. Therefore the measure is sometimes even counter-productive and misses the purpose.</i>			

	Art. 31 Exercising the Public Interest in Culture Act		/.../ Fund to financing the public institutions which the Italian or Hungarian national minorities may found in order to meet their needs in the field of culture shall be provided for the Italian and Hungarian national minorities by the State within the framework of the funds for the Italian and Hungarian minorities.
<i>Implementation problem: This measure is base for financial support to the media activities of the minorities by the Ministry of Culture and Governmental Office for National Minorities.</i>			
	Art. 65 Exercising the Public Interest in Culture Act		/.../ In addition to the public cultural programmes and cultural projects under the preceding paragraph, the state shall also fund those cultural programmes or projects aimed at the following: /.../ the autochthonous Italian and Hungarian minorities and Roma community; the cultural integration of minority communities and immigrants if their programmes/projects go beyond local interests; the needs of the blind, the deaf-mute and other groups of population with special needs.
<i>Implementation problem: This measure is efficient, but considering huge disproportion of public funds aimed at autochthonous Italian and Hungarian national minorities and others is also subject of critics for discriminatory implementation. The measure is base for financial support to the media activities of the minorities by the Ministry of Culture and Governmental Office for National Minorities.</i>			
	Art. 30 (2) RTV Slovenia Corporation Act	RTV (PSB)	The following shall be financed by funds from the state budget: that part of the ethnic community channels not financed from licence fee /.../.
<i>Implementation problem: This measure is efficient but not transparently implemented since the annual level of financing from the state budget for ethnic minority programmes at RTV Slovenia is subject of negotiations between Governmental Office for National Minorities and management of RTV Slovenia.</i>			
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 4 (3) Mass Media Act	PM, AAVM	The Republic of Slovenia shall provide extra support to the dissemination of programming intended for the blind and the deaf-and-dumb using techniques thereto adapted, and to the development of the appropriate technical infrastructure
	Art. 4 (1) RTV Slovenia Corporation Act	RTV (PSB) Occasionally implemented.	On the channels referred to in the first paragraph of the preceding Article, RTV Slovenia shall in particular: /.../ provide programming intended for blind and visually impaired persons and for deaf and hearing-impaired persons using systems adapted for such persons.
	Art. 32 (2)	RTV (PSB)	The following groups of liable persons shall be exempt from payment of the licence fee: socially at-risk persons, disabled persons with 100% physical impairment, disabled persons with less than 100% physical impairment, if they have also been granted the right to a care and assistance supplement; persons with permanent hearing loss, /.../



**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies) /advisory bodies)</b>			
4.1.1. Restrictions to politicians’ ownership/control of media (avoid one dominating voice)			
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	Art.101 Mass Media Act		The following may not be members of the Broadcasting Council: - officials, parliamentary deputies and other persons employed at state bodies, members of the leadership of political parties /.../.
	Art. 4a (7) Mass Media Act		The members of the expert commission for the assessment and evaluation of projects for co- financing programme content aimed at implementation of the goals from the 2 <sup>nd</sup> paragraph of this Article /allocation of the funds from the state budget to assure pluralism and democratic performance of the media/ shall, in accordance with the act governing the public interest in the area of culture, be appointed by the minister responsible for culture. Members of the expert commission may not be officials, parliamentary deputies and public servants; members of the official bodies of political parties /.../
	Art, 17 (3) RTV Slovenia Corporation Act	RTV (PSB)	Election or appointment to the Programme Board may not involve persons who on their appointment or in the period of five years prior to appointment were: Member of the official bodies of political parties; members of the European Parliament or public servants and official in bodies of the EU; President of the Republic, Prime Minister, parliamentary deputies, members of the National Council, mayors, Constitutional Court judges, ministers, state secretaries and other officials in state bodies; directors-general, secretaries-general, heads of ministerial bodies and of government offices, heads of directorates and bodies within their composition, heads of administrative units and directors of secretaries of municipal administrations.
4.1.4. Representation requirements in media companies’ bodies (board of directors...)	Art. 26 (1) RTV Slovenia Corporation Act	RTV (PSB)	RTV Slovenia shall have a Supervisory Board of eleven members. The National Assembly shall appoint five members, whereby it must take into account the relative representation of political parties in the National Assembly, four members shall be appointed by the government, and employees of the RTV Slovenia public institution shall elect two members from among themselves in a direct ballot.

	Art. 17 (6)		The Programme Board shall comprise 29 members, of which: /.../ five members shall be appointed by the National Assembly of Slovenia on the proposal of political parties, whereby the relative representation of parties in the National Assembly must be taken into account to the greatest possible extent.
<i>Implementation problem: There have been recent attempts by the ruling coalition to ignore this measure in the part which concern respect for proportional representation of individual opposition parties in the parliament.</i>			
4.1.5. Representation requirements in media advisory bodies and/or regulators			
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. (Equal/proportionate) Access to airtime for political groupings	Art. 3 (2) RTV Slovenia Corporation Act		Public service pursuant to this Act shall, in addition to the channels referred to in the preceding paragraph comprise a special national television channel intended to provide live transmission of sessions of the National Assembly of the Republic of Slovenia and its working bodies, and broadcasting of recordings of such sessions where live transmission is not possible /.../.
<i>Implementation problem: The measure hasn't been implemented yet almost 3 years after the adoption of the law due to lack of finances.</i>			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels			
4.2.1.b. Paid access: rules on political advertising			
4.2.2. Government announcements	Art. 25 Mass Media Act		At the request of state bodies or public companies and public institutions a mass medium must without delay and free-of-charge publish an emergency report in connection with a serious threat to the lives, health or property of the public, to the natural and cultural heritage or to the security of the state. The person that sent the report to the mass medium shall be answerable for its veracity and accuracy
4.2.3. Impartiality obligations	Art. 104 (2) Mass Media Act		In the procedure for selecting among bidders with a legitimate interest the efficiency of use of frequencies and the following criteria regarding the performance of radio and/or television activities shall primarily be taken into consideration: /.../ - political neutrality of the station, /.../
<i>Note: The measure is in practice implemented in a way that the bidders, which compete on a radio frequency tender, could provide a non-obligatory statement on political neutrality of their TV/radio station. Those bidders who do so get extra points...</i>			
	Art. 4a (9) (10) (11) Mass Media Act		When deciding about the co-financing of general news print media, the expert commission shall take into account the following criteria: whether the project ensures regular, objective and balanced presentation of the political activities and standpoints of various organizations and individuals, in particular political parties in government and those in opposition, /.../.
			When deciding on the co-financing of the programme content of radio and television programmes and electronic publications, the expert commission shall take into account the following criteria: whether the project ensures regular, objective and balanced presentation of the political activities and standpoints of various organizations and individuals, in particular political parties in government and those in opposition, /.../.
			[...]

			<p>[...]</p> <p>When deciding on the co-financing of radio and television programmes that have the status of local, regional, student or non-profit radio or television programme, the expert commission shall take into account the following criteria: whether the project ensures regular, objective and balanced presentation of the political activities and standpoints of various organizations and individuals, in particular political parties in government and those in opposition, /.../.</p>
<p><i>Note: The measure (introduced in 2006 after the change of the government) introduces the criteria of “balance in political reporting” for acquiring subsidies, but proved to be difficult to implement. The measure as such provoked debate in political public but also among experts about the need for such criteria. There was attempt by group of experts to develop methodology and implement research for measuring “political balance”, but it has triggered high level of criticism.</i></p>			
	Art. 5 RTV Slovenia Corporation Act		<p>Journalists and editors of RTV Slovenia and others directly involved in the creation or production of RTV programming shall in their work in particular: adhere to the principle of truthfulness, impartiality and integrity of information, /.../ adhere to the principle of political balance and pluralism of world views, /.../ adhere to the principle of political independence and autonomy of journalists, /.../.</p>
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 6 (1) (2) (3) Election and Referendum Campaign Act		<p>The mass media must at least 45 days before the day of elections and at least 25 days before referendum compile and publish rules for use of air time or space in the print media for presentation of candidates, political parties or the referendum question.</p> <p>RTV Slovenia has to implement during the election and referendum campaigns rules established in the act regulating RTV Slovenia.</p> <p>Other print and broadcasting media directly or indirectly owned by public institutions must provide to all organizers same conditions for publishing of election propaganda. It is allowed to allocated special time or space for political parties, represented in the National Assembly and special time or space for those not yet represented in the parliament.</p>
<p><i>Note: The measure is implemented.</i></p>			
	Art. 5 Election and Referendum Campaign Act		<p>When publishing opinion poll surveys during the election and referendum campaign the mass media must indicate who perform the survey, applying which methodology and who order the survey.</p> <p>Seven days prior to the voting it is not allowed to publish opinion poll surveys on candidates, political parties or the referendum question.</p>
<p><i>Implementation problem: Recently some media by intention started to break provision on 7 day silence with opinion polls results in the media prior to the day of election or referendum, requesting abolishment of the rule.</i></p>			

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b> (for instance: is part of the spectrum explicitly reserved for regional/ local media; are there any rules safeguarding the local character of these media once they are operating, e.g. restrictions to cooperate or centralize programming/advertising decisions...)	Art. 104 (2) Mass Media Act		In the procedure for selecting among bidders with a legitimate interest the efficiency of use of frequencies and the following criteria regarding the performance of radio and/or television activities shall primarily be taken into consideration: /.../the level of development of broadcasting in the specific area, the level of coverage achieved by the same station in the area under tender, an opinion from the relevant local community body on the justification of covering the area with a new station, an assurance that the local community supports a local or regional radio or television station.
<i>Implementation problem: The measure is not efficiently implemented. It is because most of frequencies have been allocated before the first regulation on broadcasting was adopted in early 1990s. Consequently the Broadcasting Council and Post and Electronic Communications Agency (the converged NRA, responsible for the regulation of broadcasting) state agency responsible for broadcasting have no opportunity to implement respective regulation other than in the cases of the remaining free frequencies with minor relevance.</i>			
	Art. 104 (5) Mass Media Act		If the same or similar range of programme is offered, in the selection of the broadcaster of a station that would cover a smaller area (one or several local communities or regions) priority shall be given to the bidder with a head office in the area for which the station is intended.
<i>Implementation problem: This measure is not very useful in practice. Firstly, because it is rather difficult to define whether the radio frequency bidders offer ‘the same or similar’ programme, and secondly, because on the geographical areas, which could be covered by the remaining free frequencies, usually there are not head offices of broadcasters who compete for frequencies.</i>			
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	Art. 77 Mass Media Act		A station that is intended for the inhabitants of one or more local communities or an area of coverage in which no more than 10 per cent of the population of the Republic of Slovenia live, and that carries local programming produced in-house for at least 20 per cent of its transmission time between 6 am and 8 pm shall be considered a local radio station. A station that is intended for the inhabitants of one or more local communities or an area of coverage in which no more than 10 per cent of the population of the Republic of Slovenia live, and that carries local programming produced in-house for at least 20 per cent of its transmission time between 8 am and 12 am shall be considered a local television station. The minimum transmission time of a local television station shall be three hours per day and four days per week. [...]

			<p>[...]</p> <p>In exceptional cases a station that does not achieve the proportion of local programming produced in-house prescribed in this article may acquire the status of a local radio or television station if such a station is disseminated in a demographically disadvantaged or economically undeveloped area and there is no other local radio or television station in the area, under condition that surplus of revenues over expenditure, i.e. profit, from the activities is used by the broadcaster only for performing radio or television activities, and under condition that employees' pay, the bonuses for members of the broadcaster's management and supervisory body and other benefits not exceed the tariff stipulated for public institutions by current regulations and the collective agreement for employees in the area of culture.</p>
<p><i>Note: This measure is aimed at defining the conditions for gaining the so called status of the local radio/TV station of special significance. The criteria are highly criticized, since they appear to be so loose that (too) many local broadcasters could gain the privileged status, which gives them substantial financial incentives and enables them to be transmitted free of charge.</i></p>			
	Art. 79 (1), (2) Mass Media Act	Similar comment as above.	<p>A station intended for the inhabitants of an area (region or town) in which more than ten per cent and no more than fifty per cent of the population of the Republic of Slovenia live and that carries regional programming produced in-house for at least thirty per cent of its transmission time between 6 am and 8 pm if a radio station or for at least thirty per cent of its transmission time between 8 am and 12 am if a television station shall be considered a regional radio or television station.</p> <p>A regional station may be created by, and as a rule prepared and transmitted by, a single publisher; publishers of local radio or television stations may link in terms of programming and organisation for the purpose of disseminating such programming</p>
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	Art. 78 (1) Mass Media Act		<p>Extra conditions to acquire the status of a local radio/ TV station: the station provides objective and unbiased information for inhabitants of the local community and the balanced presentation of different opinions and views on political, cultural, religious, economic and other issues important to the life and work of the local inhabitants; the publisher appoints a programme committee in which the interests of the local community in the areas of commerce, culture, education and sport, and of the publisher of the station are represented; the programming is primarily of a local character, and is jointly created by inhabitants of the local community; it has programming from the lives and work of Slovenes in neighbouring countries, members of the Hungarian and Italian ethnic communities, and Roma, if it is receivable in areas where such communities live; the station's daily transmission time provides a higher proportion of programming of a local character than other radio and television stations that fulfil the criteria specified in this article and broadcast in the same area.</p>
<b>5.4. Regional State Aids</b>	See 3.2.4		
<b>5.5. Rules on national minorities</b>	See 3.2.1 and 3.2.2		
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>			

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Art. 12, Mass Media Act		For the purpose of entry in the mass media register the publisher must register the mass media at the relevant ministry prior to commencing the performance of activities. It shall be necessary to cite the following in the application for entry in the mass media register: -the name of the mass media; -the name or business name and head office address or address of permanent residence of the publisher; -the publisher’s responsible officer, if the publisher is a legal person; -the type of mass media and interval of its dissemination; -the full name of the responsible editor, -the address at which the editorial board or responsible editor is based; -the type of transmission and envisaged area of coverage for the dissemination of programming; the language of dissemination of programming; -the sources of financing; - information on persons that hold ownership or management stakes of at least 5 per cent or stakes of at least 5 per cent in the voting rights within the assets of a publisher of a general informative printed daily or weekly or a radio or television station.
<i>Note: At the very beginning of the media establishment, the ownership structure should be reported to the Ministry of culture, which is in charge of administration of the mass media register. Later on, in licensing procedure, there are no analogue requirements.</i>			
	Art. 104 (1), (2), (3), (4), (5) Mass Media Act		The agency shall conduct the public tender procedure and make the selection on the basis of a explained proposal by the Broadcasting Council and following the act which regulate electronic communications. In the procedure for selecting among bidders with a legitimate interest the efficiency of use of frequencies and the following criteria regarding the performance of radio and/or television activities shall primarily be taken into consideration: the amount of in-house production and production of Slovenian audio-visual works specified in Article 68 of the present act; the political neutrality of the station; the diversity of the programming offered in terms of genre and theme; the level of development of broadcasting in the specific area; the level of coverage achieved by the same station in the area under tender; an opinion from the relevant local community body on the justification of covering the area with a new station; an assurance that the local community supports a local or regional radio or television station; the applicant’s economic status and technical and personnel capacity to broadcast a radio or television station; the number of potential consumers [...]

			<p>[...]          (listeners or viewers); the applicant's experience in broadcasting; the duration (scope) of the station          A national radio or television station shall have priority in selection over other bidders in those areas that it does not cover or does not cover at a level of sufficient technical quality.          During selection priority shall be given to the special importance of radio and television stations specified in Articles 76, 77, 79, 80 and 81 of the present act.          If the same or a similar range of programming is offered, in the selection of the publisher of a station that would cover a smaller area (one or several local communities or regions) priority shall be given to the bidder with a head office in the area for which the station is intended.</p>
<p><i>Note: As you can see from the quoted provisions, there are not any ownership issues taken into account when the radio frequencies for broadcasting are issued.</i></p>			
	Art. 105 (2) Mass Media Act		<p>If the activities of the publisher of a radio or television station are not connected to the use of frequencies the agency shall issue a licence without a public tender on the basis of a ruling on entry in the mass media register.</p>
6.1.1.2. At the moment of mergers & acquisitions	Art. 58 (1) (2) (3) (5) (7) Mass Media Act		<p>In order to acquire an ownership or management stake or a share in the voting rights in the assets of a publisher of a radio or television station or publisher of general news daily newspaper of more than twenty per cent it shall be necessary for legal validity of the deal to obtain approval from the relevant ministry, which shall issue the approval following a prior opinion from the agency.          All legal actions or decisions of the responsible bodies of the publisher which are taken without respect for the above paragraph are null and void.          The relevant ministry can reject issuing the approval to the person specified in the first paragraph of this article which would by acquiring the ownership or management stakes or voting rights would alone or together with subsidiaries have a dominant position on the advertising market, would create dominant position in the media environment in a way to achieve alone or together with subsidiaries coverage of more than 15 per cent of the population of the Republic of Slovenia with analog terrestrial radio programmes; would create dominant position in the media environment in a way to achieve alone or together with subsidiaries more than 30 per cent of coverage of population of the Republic of Slovenia with analog terrestrial TV programmes; create alone or together with subsidiaries dominant position in the media market in a way to exceed number of sold copies of its daily newspapers 40 per cent all sold copies of the general news daily newspapers in the Republic of Slovenia, including those issued at least 3 times per week.          Before issuing approval for acquiring stake from the first paragraph the relevant ministry shall acquire data from the Securities Market Agency and opinion of the body responsible for the protection of competition; and in the case of radio and TV programmes an opinion of the Broadcasting Council</p>

<i>Implementation problem: The measure seems not to be efficient. It is like that especially because most actions of consolidation and concentration were taken prior to the adoption of that new regulation in 2006.</i>			
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. 56 (3) Mass Media Act		A publisher, a legal or natural person or a group of connected persons specified in the first and second paragraphs of this article may hold an ownership stake of no more than twenty per cent or a share in the management or voting rights of no more than twenty per cent in the assets of any other publisher, except in cases when the present act stipulates otherwise.
6.1.2.2. Crossmedia	Art. 56 (1) Mass Media Act		A publisher of a daily informative printed medium or a single legal or natural person or group of connected persons that holds an ownership stake of more than twenty per cent or a share in the management or voting rights of more than twenty per cent in the capital or assets of such a publisher may not also be the publisher or a co-founder of the publisher of a radio or television station and may not perform radio or television activities.
	Art. 56 (2) Mass Media Act		A publisher of a radio or television station or a single legal or natural person or group of connected persons that holds an ownership stake of more than twenty per cent or a share in the management or voting rights of more than twenty per cent in the capital or assets of such a publisher may not also be the publisher or a co-founder of the publisher of a daily informative printed medium.
	Art. 59 (1) Mass Media Act		A single publisher may perform radio activities alone or television activities alone, unless stipulated otherwise by law.
6.1.2.3. Vertical integration with networks	Art. 61 Mass Media Act		An operator that provides telecommunications services specified in Article 111 of the present act or in the act governing telecommunications may not be the publisher of a radio or television station, and may not disseminate programming or advertising, unless the licence for performing radio or television activities specified in Article 105 of the present act is obtained.
6.1.2.4. Integration with advertising sector	Art. 60 Mass Media Act		An advertising organisation whose activity is the collection, design and dissemination of advertisements, and a legal or natural person or group of connected persons that hold(s) an ownership stake of more than ten per cent or a share of the voting or management rights of more than ten per cent in the capital or assets of such an organisation may not be the publisher or the founder of a publisher of a radio or television station, and may not hold a stake of more than twenty per cent in the capital or a share of more than twenty per cent of the management or voting rights in the assets of a publisher of a radio or television station.
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			
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares	Art. 58 (3) Mass Media Act		Supra
6.1.3.4. Capital shares			



6.1.3.5. Voting shares	Art. 58 (1) Mass Media Act		Supra
6.1.3.6. Advertising revenues	Art. 58 (3) Mass media Act		Supra
6.1.3.7. Involvement in number of media sectors			
<b>6.2. Sector specific rules preventing cooperation between media companies</b>			
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	Art. 63 Mass Media Act		The provisions of this section ( <i>art. 56-63</i> ) shall also apply to foreign legal and natural persons, irrespective of the country in which their head office or permanent residence is located, unless stipulated otherwise by the present act.
<b>6.4. General competition rules</b>	Art. 62 Mass Media Act		The regulations on protection of competition shall apply to publishers of mass media and operators. The relevant ministry shall participate in the procedures of the body responsible for protection of competition relating to the concentration of publishers of mass media and operators; the agency shall also participate in those procedures relating to publishers of radio and television stations.
6.4.1. Antitrust			
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
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?)			
<b>6.5. Transparency obligations</b>	Art. 12 Mass Media Act		For the purpose of entry in the mass media register the publisher must register the mass medium at the relevant ministry prior to commencing the performance of activities. It shall be necessary to cite the following in the application for entry in the mass media register: (...) information on persons that hold ownership or management stakes of at least 5 per cent or stakes of at least 5 per cent in the voting rights within the assets of a publisher of a general informative printed daily or weekly or a radio or television station.
<i>Implementation problem: The measure is not efficient as it can be since the register is not regularly updated. (It is publicly available through the web site of the Ministry of Culture).</i>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	23 (1) (4) Mass Media Act		The publisher must ensure the publication of the following information in a clearly discernible place in/on each individual medium (e.g. an issue of a printed medium, a television programme) carrying programming: the name or business name and head office address or address of permanent residence of the publisher, the full name(s) of the responsible editor or responsible editors and the full names of the editors of individual programming areas if such is in accordance with the editorial board's internal organizational structure, the name or business name and head office address of the printer, and the date of printing or reprinting if a printed medium is involved, the date of production (month and year) if a radio or television station is involved. The name or logo of a radio or television station must be published at least once every hour of transmission.

<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>Art. 64 Mass Media Act</p>		<p>By the end of February each year a publisher must publish the following information in the Official Gazette of the Republic of Slovenia: the full name and address of permanent residence of any natural person and/or the business name and head office address of any legal person that in the publisher's assets holds a stake of five per cent or more of the capital or a share of five per cent or more of the management or voting rights, and the full names of the members of the publisher's board of directors or management body and supervisory board. The publisher must report any changes to the information specified in the previous paragraph to the Official Gazette of the Republic of Slovenia within thirty days of their occurrence.</p>
---	-------------------------------	--	---

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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>	Art. 81 (1) Mass Media Act		Radio stations that carry informative, arts, educational and cultural-entertainment programming produced in-house for at least thirty per cent of their daily transmission time and television stations that carry the programming specified in this article for at least thirty per cent of their daily transmission time shall be considered non-profit stations.
	Art. 83 (1), (2) Mass Media Act		Publishers of radio and television stations that do not have the status of a special station specified in the previous article ( <i>public broadcaster, local radio/TV stations, regional radio/ TV stations, student radio/TV stations, non-profit radio/TV stations</i> ) may link together in terms of programming to form wider, regional or national networks, with regional or wider coverage of an area, under specified conditions(...) A national network under the present act is a radio or television station specified in this article that reaches more than fifty per cent of the population of the Republic of Slovenia.
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 75 Mass Media Act Para 1 Decision on the events list		The publisher of a radio or television station may not, on the basis of having acquired exclusive rights, cover a particular event of public importance in the Republic of Slovenia, in another member-state of the EU, or in a signatory to an international treaty by which the Republic of Slovenia is bound in a manner owing to which a significant proportion of viewers in the area would be prevented from receiving coverage of the event. The direct or delayed coverage of an event either in its entirety or in part if such is necessary for objective interests or in the interest of the public shall be considered coverage under this article. It shall be in contravention of the present act if an event specified in the first paragraph of this article is covered, on the basis of exclusive rights having been acquired, by a publisher whose television station can be received by less than seventy-five per cent of the population of the Republic of Slovenia or whose station charges an additional payment for reception (pay-per-view) in addition to the RTV licence fee and the usual payments for receiving television stations via cable. The government shall at the proposal of the agency adopt a list of the most important events specified in the first paragraph of this article and shall in this connection carry out other appropriate measures in accordance with international treaties by which the Republic of Slovenia is bound. The government shall at the proposal of the Broadcasting Council adopt an act setting out the method and criteria for formulating the list of the most important events specified in this article, and the procedure for mandatory consultations among interested parties.

<p><i>Note: The measure is implemented in a way to include only sports events in the list. The list of events of major importance to society has been adopted by the Government in 2003 and includes European and world sports competitions and Olympic games. However, it hasn't been notified at European Commission up to date.</i></p>			
7.3. Short news reporting	Art. 74 (1), (2), (5)		<p>All publishers of radio and television stations shall have under equal conditions the right to make a short report on all important events and other events accessible to the public, with the exception of religious ceremonies.</p> <p>The presentation of a report that lasts no more than a minute and a half and is presented within the area of an information station shall be considered a short report as specified in this article.</p> <p>The right to make a short report may be restricted or denied if the exercise thereof would seriously impose upon the sentiments of those participating in the event, or would threaten public order or safety.</p>
7.4. Fixed book price			
7.5. Public service media			
7.5.1. Structural rules - organization			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)	Art. 2 (1) RTV Slovenia Corporation Act	RTV (PSB)	<p>The founder of the public institution of the Radio and Television Corporation of Slovenia is the Republic of Slovenia. The duty of the founder shall be to ensure the institutional autonomy and editorial independence of RTV Slovenia, and to ensure appropriate financing for the provision of public service.</p>
<p><i>Implementation problem: The measure has only declarative function and hasn't been implemented in practice.</i></p>			
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)	Art. 17 (6) RTV Slovenia Corporation Act		<p>The Programme Board shall comprise 29 members, of which: one member shall be appointed by the Hungarian ethnic community, one member shall be appointed by the Italian ethnic community; one member shall be appointed by the Slovenian Academy of Sciences and Arts, two members shall be appointed by the President of the Republic on the proposal of registered religious communities, three members shall be appointed among themselves by employees of RTV Slovenia in direct elections such that the areas of information, the arts and technology are represented, five members shall be appointed by the National Assembly of Slovenia on the proposal of political parties, whereby the relative representation of parties in the National Assembly must be taken into account to the greatest possible extent, sixteen members shall be appointed by the National Assembly of Slovenia on the proposal of viewers and listeners of RTV Slovenia channels, of the universities and faculties and societies, associations of societies or their organizations, especially in the field of art, culture, science and journalism, and of other civil society organizations, except for political parties and their organizational forms. The suitability of candidates and fulfilment of conditions shall be demonstrated by evidence set out in the wording of the public call.</p>
<p><i>Note: The measure is implemented in a way to provide control of RTV Slovenia through the Programme Board by the political parties in the government (selection and appointment of sixteen representatives of civil society in the parliament is orchestrated by the political parties in the government).</i></p>			

	Art. 26 RTV Slovenia Corporation Act		RTV Slovenia shall have a Supervisory Board of eleven members. The National Assembly shall appoint five members, whereby it must take into account the relative representation of political parties in the National Assembly, four members shall be appointed by the government, and employees of the RTV Slovenia public institution shall elect two members from among themselves in a direct ballot.
	Art. 21 (1) RTV Slovenia Corporation Act		The director-general of RTV Slovenia shall be appointed by the Programme Board on the basis of public competition. The term of office of the director-general shall be four years.
7.5.1.3. Specific representation requirements for board of directors, other bodies	See 3.1.1.  (Art. 23 (1) and Art. 24 (1) (2) RTV Slovenia Corporation Act)		Programme Committee for the Italian and for the Hungarian ethnic community channels. Programme Committee for the disabled.
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	See 7.5.1.2. and 7.5.1.3.		
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. 30 (1) RTV Slovenia Corporation Act		RTV Slovenia shall obtain funds for performing its activities: from payment of the contribution for receiving RTV Slovenia channels (hereinafter: licence fee), from commercial activities, from funds acquired from the state budget, from sponsorship and other sources in accordance with the law and the Statute.
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)	Art. 31(3) RTV Slovenia Corporation Act		The amount of the licence fee shall be provided by law. The government shall raise the amount of the licence fee by a maximum of 10%, if justified economic reasons exist to doing so, but must do so no later than by 1 September of the current year for the following year.
<i>Implementation problem: The measure hasn't been implemented. Although there have been justified economic reasons, and although the management of RTV Slovenia with the recommendation of the Programming Board requested from the Government raise of the licence fee, the Government hasn't even decided about it. In early 2008 Prime Minister even announced that among measures to help to citizens to overcome social problems due to inflation the Government will consider possibility to decrease licence fee for RTV Slovenia.</i>			
	Art. 32 RTV Slovenia Corporation Act		The monthly licence fee shall be paid to RTV Slovenia in the following amounts: 1. for private use: a) liable natural persons shall pay for all television and radio receivers and other devices enabling reception of radio and television channels, which they use personally or together with their family members, SIT 2637. /.../
<i>Note: The measure (fix level of the licence fee) is implemented. The monthly amount of the licence fee is kept on the level fixed in the law, which was adopted in 2005. The amount which is fixed in the law was the same even in 2004. When advocating for new RTV Slovenia Act the actual Government (the RTV Slovenia Act was among the first to change/adopt after winning the elections; due to high political conflict over the announced changes of that law, there was even referendum organized around that issue in September 2005) promised to voters to decrease level of the licence fee.</i>			
7.5.3. Definition of public service remit	Art. 76 (1) Mass Media Act		The public service of producing and disseminating radio and television stations in the public and cultural interest of the Republic of Slovenia, including radio and television stations of the Italian and Hungarian ethnic communities and other stations in accordance with a separate act, shall be carried out by the public institution Radiotelevizija Slovenija.

	Art. 3 RTV Slovenia Corporation Act		Public service pursuant to this Act shall comprise the creating, producing, archiving and broadcasting of: two national television channels, three national radio channels, radio and television channels at regional centers in Koper and Maribor, one radio and television channel each for the autochthonous Italian and Hungarian ethnic communities and radio and television broadcasts for the Roma ethnic community, radio and television channels for Slovenian ethnic minorities in neighbouring countries and for Slovenian expatriates and migrant workers, radio and television channels for the foreign public, teletext, Internet and mobile portals. Public service pursuant to this Act shall, in addition to the channels referred to in the preceding paragraph comprise a special national television channel intended to provide live transmission of sessions of the National Assembly of the Republic of Slovenia and its working bodies, and broadcasting of recordings of such sessions where live transmission is not possible /.../.
<i>Implementation problem: The measure on introduction of parliamentary channel hasn't been implemented almost three years after the adoption due to lack of finances.</i>			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	Art. 4 (1) RTV Slovenia Corporation Act		On the channels referred to in the first paragraph of the preceding Article ( <i>all radio and TV channels included in the public service remit except the parliamentary TV channel</i> ), RTV Slovenia shall in particular: /.../ ensure high-quality educational broadcasts within the framework of which it shall disseminate the entire range of topical content, ranging from religious and social to scientific and information technology subjects, /.../ ensure broadcasts that reflect the life and issues of different structures of the population /.../
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 7 RTV Slovenia Corporation Act		In its methods of broadcasting, transmitting and archiving programme content created as part of public service, and in accordance with its technological development capacities, RTV Slovenia shall introduce new technologies such as the Internet, digital broadcasting and satellite, in order to facilitate access to programme content from the widest possible circle of citizens at home and abroad, for the Slovenian ethnic minorities in neighbouring countries and for Slovenians around the world.
	Art. 13 (2)		For the performance of public service pursuant to this Act, RTV Slovenia shall have priority in the allocation of free frequencies and access to other technologically limited resources that it requires urgently for the performance of public service, and shall obtain them without public tender through a decision of the Agency for Post and Electronic Communications. The Agency shall issue such a decision by the application mutatis mutandis of the provisions of the Electronic Communications Act, upon obtaining the prior opinion of the Broadcasting Council. Such opinion must set out the reasons for which priority allocation is essential for the performance of public service.

7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Art. 92 (1), (2), (3), (5) Mass Media Act		<p>European audio-visual works must make up the majority of the annual transmission time of Radiotelevizija Slovenija television stations. Slovenian audio-visual works must together make up at least twenty-five per cent of the annual transmission time of Radiotelevizija Slovenija television stations 1 and 2.</p> <p>Audio-visual works by independent producers must make up at least ten per cent of the annual transmission time of Radiotelevizija Slovenija television stations.</p> <p>The provisions of the second and third paragraphs of this article shall not apply to television stations for the Hungarian and Italian ethnic communities.</p>
	Art. 10 (1) (2) RTV Slovenia Corporation Act		<p>Political propaganda shall not be permitted on the channels of RTV Slovenia.</p> <p>Irrespective of the provision of the preceding paragraph, political propaganda shall be permitted during the period of election campaigns in accordance with the provisions of the Act regulating election campaigns.</p>
	Art. 11 RTV Slovenia Corporation Act		<p>Religious promotional messages shall not be permitted on the channels of RTV Slovenia. Religious promotional messages pursuant to this Act shall be paid advertisement for religious communities.</p>
7.5.5. Universal coverage obligations	Art. 8 (1) RTV Slovenia Corporation Act		<p>The national channels shall be broadcast to an area covered by at least 90% of the population of Slovenia, while ethnic community channels must be broadcast in 90% of the territory inhabited by the Italian and Hungarian ethnic communities.</p>

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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Art. 112 Mass Media Act		<p>Operators must allow all publishers that have been issued the licence specified in Article 105 of the present act to disseminate stations under equal conditions, if there are technical possibilities for the quality reception of signal at the operator's main receiving station, within ninety days of the beginning of the distribution of such stations, in such a way that they are accessible to all users of their services.</p> <p>Operators must within the period specified in the previous paragraph allow the dissemination free-of-charge of radio and television stations specified in Articles 76, 77, 79, 80 and 81 of the present act, if there are technical possibilities for the quality reception of signal at the operator's main receiving station, in such a way that they are accessible to all users of their services.</p> <p>In the case specified in the previous paragraph the publisher must allow the operator to disseminate the operator's station free-of-charge, excluding the obligations deriving from the collective protection of copyright and related rights.</p> <p>An operator may not allow the dissemination of a radio or television station of a publisher that falls under the jurisdiction of the Republic of Slovenia if the station is not entered in the mass media register at the relevant ministry.</p> <p>In addition to the stations specified in the first and second paragraph of this article, operators shall also allow the dissemination of other stations if the programming council specified in Article 114 of the present act so rules.</p> <p>Operators shall pay a special fee for the technical dissemination of programming specified by the present act to each individual user.</p> <p>The fees specified in the previous paragraph shall be set in the amount of eight per cent of the revenue obtained by the operator from each user for the operator's services, and shall be paid once a month into the national budget and directed towards the purposes of the budget fund for audio-visual media specified in Article 110 of the present act.</p>
<i>Implementation problem: Many cable operators refuse to include small TV or radio channels which don't attract large audiences. Another problem might arise due to the fact that by the transition to digital broadcasting some must carry rules were abolished. In the analogue terrestrial scheme, local and regional TV channels in public interest were exempted from payment of transmission costs, but no payment relief is foreseen for the DTT model.</i>			
	Art. 114 (1), (2) Mass Media Act		<i>Supra</i>
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			



8.3.2. Result of (first) round of market analysis of market 18			APEK defined RTV Slovenia as a SMP in the field of analogue and digital terrestrial transmission, since the national PSB is the largest broadcasting network operator in Slovenia.
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access	Art. 114 ZEKom, Electronic Communications Act		CAS must have the necessary technical capability allowing the possibility for full control, by public communications network operators at local or regional levels, of the services using such CAS. 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.
8.4.2. EPG (or other search tools)	Art. 113 (3) ZEKom		The Agency may by decision require operators providing electronic communications networks from the first paragraph of this Article to ensure access to application programme interfaces or electronic programme guides under fair, reasonable and non-discriminatory conditions.
8.4.3. API	Art. 113 (3) ZEKom		<i>Supra</i>
8.4.4. Other			
<b>8.5. Interoperability requirements</b>	Art. 113 (4) ZEKom		The Agency shall by general act prescribe the conditions for interoperability of digital interactive television services and digital television equipment used by consumers.
<b>8.6. Specific rules for distribution systems in print media</b>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?</b>			
<b>8.10. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:        - Regional        - Linguistic/minority        - National )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			Post and Electronic Communication Agency of the Republic of Slovenia ( <a href="http://www.apek.si">http://www.apek.si</a> )
9.1.1. Structure/ organisation	Decision on the establishment of the Post and Electronic Communications Agency of the Republic of Slovenia (Official Gazette of the RS nos. 60/01, 52/02 and 80/04),	AAVM	The Post and Electronic Communications Agency of the Republic of Slovenia is an independent regulatory body in the field of electronic communications, both telecommunications and broadcasting, and postal services.
9.1.1.1. <i>Guarantees for independence</i>	Art. 101 Mass Media Act		The following may not be members of the Broadcasting Council: officials, parliamentary deputies and other persons employed at state bodies; members of the leadership of political parties; persons employed at a publisher of a radio or television station or at an advertising organization; persons who as external contractors have concluded contractual relations with the publisher of a radio or television station or an advertising organization; persons who hold more than one per cent of the capital or management or voting rights within the assets of a publisher of a radio or television station or within an advertising organisation
9.1.1.2. <i>Representation requirements</i>	Art. 100 (2) Mass Media Act		The Broadcasting Council shall consist of seven members, who shall be appointed by the National Assembly on the basis of a public invitation. Candidates from the areas of law, telecommunications and informatics, audiovisual culture, economy, journalism and communication science shall be eligible to submit their candidacy.
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	Art. 103 (1) Mass Media Act		The funds for the work of the Broadcasting Council shall be provided by the agency. The funds shall be managed by the agency as ordered the Broadcasting Council.

9.1.2.2. <i>Tasks and duties</i>	Art. 100 (1) Mass Media Act		<p>The Broadcasting Council is an independent expert body, and shall conduct the following tasks: provide the APEK (Post and Electronic Communications Agency) of the Republic of Slovenia with initiatives for the conduct of supervision of the implementation of broadcasters' programming obligations and restrictions; provide to the APEK an explained proposal for selection of bidders participating in public tenders for allocation of frequencies, provide the APEK with a preliminary opinion on the issue, retraction and transference of broadcast licences, provide the APEK with a preliminary opinion on the granting or retracting the status of local, regional, or student television or radio channels; providing a preliminary opinion to the Ministry of Culture on granting or retracting the status of non-profit television or radio channels and channels of special importance; providing a preliminary opinion to the Ministry of Culture on decisions about the prevention of ownership concentration; evaluating the state of the television and radio markets in an annual report to Parliament; suggesting to the Ministry of Culture how to implement criteria on local and regional content, in-house production and conditions to acquire the status of a broadcaster of special significance; provide the APEK with approval to its strategy for development of television and radio in the Republic of Slovenia.</p>
<p><b>Implementation problem:</b> The measure introduced with the amendments to the Mass Media Act in 2006 resulted with weakening the position of the Broadcasting Council in relation with the APEK. The measures introduced in 2006 didn't contribute to the weakening of the Council's position considerably. The most decisive measures that resulted in the current status of the Council were taken in 2001, when the Mass Media Act was adopted and the converged regulator for broadcasting and telecommunications was established. Due to these changes the role of Broadcasting Council changed substantially. The then new legislation defined it as an “independent expert body”, to which the then newly established converged regulator (now APEK) should provide technical, expert, financial and administrative support.</p>			
9.1.2.3. <i>Effective sanctioning powers</i>			
9.1.3. Cooperation with other regulators	Art. 100 Mass Media Act		See above in 9.1.2.2. description of cooperation with the Ministry of Culture.
	Art. 58 (7)		In order to issue an approval to an applicant for acquiring an ownership or management stake or a share in the voting rights in the assets of a publisher of a radio or television station of more than 20 per cent, the Ministry of Culture shall obtain opinion of the Broadcasting Council.
<p><b>9.2. Press Council</b></p>			
9.2.1. Broad representation of sector			There is Ethics Council (“Journalists Court of Honor”), a self-regulatory body dealing with complaints submitted on the basis of the Code of Ethics. The Council is a joint body of the Association of Journalists and Union of Journalists. Its members are only journalists, with no participation of publishers, broadcasters or the public.
<p><b>Implementation problem:</b> The measure is partly efficient. Doesn't provide broad representation of media sector.</p>			
9.2.2. Sufficient resources			Work of the Ethics Council /Journalists Court of Honor is financed by both funding journalists' organizations.
9.2.3. Credibility			The body has fair level of credibility among journalists and in the public.
<p><b>9.3. Competition Authority</b></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> )			The Office for Protection of Competition is a body in the competence/ constituent part of the Ministry of Economy. The director of the NCA is appointed by the Government.

9.3.1.1. Guarantees for independence	Art 13 The Prevention of the Restriction of Competition Act		The Office for Protection of Competition is in execution of its competences independent and autonomous.
<i>Implementation problem: Recently the issue of the independence NCA raised more attention when its director has been dismissed and new one appointed. The previous director was at that position for several mandates, but was replaced with accusations from the Government for being passive with regard to concentration in the cases of some companies involved also in media ownership. The new appointed director immediately introduced actions against the companies pointed by the Prime Minister.</i>			
9.3.1.2. Representation requirements			
9.3.2. Credibility and efficiency	Annual Report of the Office for Protection of Competition 2006		According to the survey presented in the 2006 Annual Report of the NCA most of the clients evaluate work of the NCA as very good. Average mark was 4,14.
9.3.2.1. Sufficient resources	Annual Report of the Office for Protection of Competition 2006		According to the 2006 Annual Report of NCA there are 17 employees. There are no claims of lack of resources in the report.
9.3.2.2. Tasks and duties	Art. 12 (1) (2) (3) The Prevention of the Restriction of Competition Act		The Competition Protection Office /NCA/ is a body responsible for supervision of the implementation of this Act and of the Art. 81 and Art. 82 of the European Community Treaty. The office monitors and analyzes circumstances at the market, relevant for development of the efficient competition; conducts procedures and issues written orders according to the law; provides the National Assembly and the Government with opinion on general issues from its competence. The Office has competences to take decisions on violations of the provisions of this Act and Art. 81 and Art. 82 of the EC Treaty as a body competent to impose sanctions for infringements. The Office can submit a lawsuit at the competent court for assessment of the nullity of business deals done in opposition with the provisions of the competition protection law.
	Art. 44 (2) (3) The Prevention of the Restriction of Competition Act		When the Office submits a call to companies to declare concentration, the companies shall stop with realization of the concentration acts from the day of the receipt of the call. Acts done in contrast with that are considered null.
9.3.2.3. Effective sanctioning powers	Art. 73 The Prevention of the Restriction of Competition Act		A fine of up to 10 per cent of annual turnover of the company in the preceding financial year for an infringement shall be imposed upon a legal person or individual if it fails to act in accordance with provisions on restriction of concentration and on abuse of dominant position in the market in this law (provisions in the Art. 6 and Art. 9 of the Act) and in the EC Treaty (Art. 81 and Art. 82).
9.3.3. Cooperation with other regulators	Art. 71 The Prevention of the Restriction of Competition Act		When legal provisions or other regulation lead to restriction of competition or of proper function of the market, without being justified in general interest, the NCA provides responsible public bodies with its opinion about necessary actions to abolish or prevent restriction of competition.
	Art. 35 The Prevention of the Restriction of Competition Act		Authorized persons shall carry out investigations on the request of the EC or a body, responsible for protection of competition in other Member State of the EU.
	Art. 58 (5) Mass Media Act		Before issuing approval to an applicant for acquiring an ownership or management stake or a share in the voting rights in the assets of a publisher of a radio or television station or publisher of general news daily newspaper of more than twenty per cent, the Ministry of Culture shall acquire data from the Securities Market Agency and opinion of the body responsible for the protection of competition.

### Short summary of major implementation problems

Key features of the media regulation in Slovenia – very detailed, often changed (with no proper public debate and public consensus) and poorly implemented. It is evident from the number and substance of the measures described in the tables below that many measures look on the paper very useful and productive for media freedom and pluralism. However in practice many of the measures don't work.

For example, measures aimed at restriction of media concentration don't work because of the lack of cooperation between regulators and because of ability of media owners to hide connections. Media register doesn't work properly because the data is not updated. Right of reply is regulated in such a complicated manner that it enables only powerful political and business players to enforce it. Program concepts are required from the publishers as a key document for entering their media in the media register (thus starting to operate) and for establishing of editorial independence of their editorial staff, but program concepts are in fact formal documents with general, declarative commitments on program orientation with no real value in practice, for instance in implementation of legal provisions of editorial independence or in protection of journalists in the case of de facto change of program orientation of the media.

The measure of state subsidies is similarly lacking efficiency considering the fact that subsidies have been provided to three biggest daily newspapers for program content they are regularly producing and would produce without subsidies, while all three publishers declare considerable profits in their annual business reports. Subsidies for program content are also given to a press agency owned by the government and already financed directly from the state budget, the same press agency which in practice operates with no competition in the market.

In the case of PSB – RTV Slovenia for instance the law (from 2005) includes provision by which the state, being its founder, ensures its autonomy and appropriate financing, while the Government after adoption of the law denies for several years requests from the RTV Slovenia management and boards for increase of the licence fee due to economic reasons; Prime Minister even announced possible decrease of the licence fee to gain public support in pre-election time in 2008.

Problems with implementation of media regulation and other media policy instruments arise from the lack of political and business culture supportive to free and competitive media market (especially in the field of news media), and consequently from obstacles for development of independent regulators and media professionalism.

According to the opinion of the National Regulator (APEK), the major gaps of the existing measures derive from the fact that the measures were not developed with respect to the national market specific conditions, but just arbitrarily set. The criteria for deciding on (dis)allowing the proposed concentration cases are not detailed sufficiently and not efficient enough. Some of them, for instance those on the geographic coverage are not applicable to all broadcasting media, but just to those who use analogue terrestrial broadcasting platform, and even for those, the threshold is so high, that almost no one could ever reach it.



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



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

### [SPAIN]

Author: Robin Kerremans  
Country correspondent: Prof. Dr. Carles Llorens

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

- **Legislation**

- *Sector specific legislation*

*Law 31/1987 of December 18 on Regulation of Telecommunications*

*Organic Law 2/1988 of May 3 on regulating political advertising during elections on private television*

*Law 10/1988 of May 3 on Private Television (Private Television Act)*

*Organic Law 10/1991 of April 8 on political advertising during elections on local public radio*

*Law 25/1994 of July 12 to insert Directive 89/552/EEC in the Spanish legal order*

*Organic Law 14/1995 on political advertising during elections on local television by cable*

*Law 41/1995 of December 22 on Local Terrestrial Television by Cable (Local Television Act)*

*Law 42/1995 of December 22, 1995 on cable*

*Law 21/1997 of July 3 on Broadcasting Sport Competitions and Events.*

*Law 22/1999 of June 7 to modify Law 25/1994 to insert Directive 89/552/EEC in the Spanish Legal Order*

*Law 53/2002 on December 30 on Taxation, Administrative Provisions and Social Affairs (Amendments to Local and Private TV acts)*

*Law 32/2003 of November 3, 2003 General Telecommunications Law*

*Law 62/2003 of December 30 on Taxation, Administrative Provisions and Social Affairs (Amendments to Local and Private TV acts)*

*Law 10/2005 of June 14 on Urgent Measures for the promotion of Digital Terrestrial Television, Cable TV liberalisation and promotion of media pluralism*

*Law 17/2006 of June 5 on Public Radio and Television (Public Radio and Television Act)*

*Law 56/2007 of December 28 on Measures to the promotion of the information society*

*Law 10/2007 of June 22 on Reading, Books and Libraries.*

*Royal Decree 2296/2004 of December 10, 2004 on electronic markets, access to networks and numbering*

*Royal Decree 920/2006 of July 28, 2006 on the conditions for the provision of television services by cable*

*Royal Decree 2066/1996 of Sept. 13, 1996*

- *General legislation*

*Spanish Constitution*

*Law 30/92 on Rules for Public Administration*

*Law 2/84 on the Right of Rectification*

*Organic Law 5/1985 on the General Electoral Regime (Spanish Electoral Code)*  
*Competition Act*

- **Codes of conduct**

*Deontological Code for the Journalistic Profession of the Federation of Press Associations of Spain (Journalist Code)*

*RTVE Corporation Information Statute (April 2008) (only to be applied to RTVE journalists)*

- **Other**

*CMT final decision on market 18 (February 2006)*

*First RTVE Mandate Framework approved by Parliament (July 2008) \*RTVE is the Spanish PBS*



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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	art. 20 Constitution		<p>The following rights are recognized and protected: a) right to freely express and disseminate thoughts, ideas and opinions by word, in writing or by any other means of communication; b) right to literary, artistic scientific and technical production and creation; c) the right to academic freedom; d) the right to freely communicate or receive truthful information by any means of dissemination. The law shall regulate the right to the protection of the clause on conscience and professional secrecy in the exercise of these freedoms.</p> <p>Prohibition of prior censorship.</p> <p>The law shall regulate the organization and parliamentary control of the social communications media owned by the State or any public entity and shall guarantee access to those media by the main social and political groups, respecting the pluralism of society and the various languages of Spain.</p> <p>Freedom of expression is limited by respect for the constitutional rights, the legal provisions implementing them, and especially, by the right to honor, to privacy, to personal reputation and to the protection of youth and childhood.</p> <p>The confiscation of publications, recordings, or other information media may only be carried out by means of a court order.</p>
<p><i>Note:</i></p> <p>1) <i>Professional secrecy - In which laws? What are the criteria for secrecy?</i>          As far as this Spanish Constitution article is concerned and according with the main interpretation, the professional secrecy mentioned here is only applied on journalists or media workers as mentioned later in 1.4. A journalist has the right to remain silent and not being punished if any judge in a trial asks him about his sources. But, it has still to be developed as a law after 30 years of Spanish Constitution existence. In practice, the lack of this law has been a source of confrontation between justice and journalists.</p> <p>2) <i>Which law is regulating State social communications media (see text in bold) – art. 16, 4, o Public Radio and Television Act. The 17/2006 Law is regulating State Social Communications Media (This is the name that Spanish Constitution gave to Public Media Service). However, no law regulating Public Media, –in fact, any other law–, could overcome the boundaries established by Spanish Constitution, which has pre-eminence over any law. It places the frame within the law has to be developed. Once a law, which develop a particular aspect of the Spanish Constitution as this one, has been approved, the regulation becomes law and can be applied.</i>  <i>Management Board will determine the internal proceedings in order to guarantee the exercise of the right to access.</i>  <i>Therefore, this principle is included and developed in the Public Radio and TV Act 17/2006.</i>  <i>As for rules restricting free speech and affecting media pluralism, there are three main cases.</i>  <i>First, Spanish Criminal Code establishes in its 490.3 article a penalty of imprisonment (6 to 24 months) for everybody who calumniates or insults any direct member of the Royal Family. Similarly, anybody who uses King images of any of his family in order to damage their prestige will be punish with a fine. (Art. 491.2. Spanish Criminal Code).</i>  <i>Second case. Spanish Criminal Code establishes as well a punishment of 1 or 2 years of imprisonment for anybody who promotes or praises terrorism or its methods using any personal communication or media diffusion.</i>  <i>Third case. Spanish Criminal Code establishes as well a fine for anyone who makes a public insult to the religious feelings, rites, and beliefs of any creed.</i></p>			
<b>1.2. Freedom of /right to information</b>	art. 105 Constitution		<p>The law shall regulate [...] access of citizens to the administrative files and records except where they may affect the security and defense of the State, the investigation of crimes and the privacy of individuals.</p>
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	Law on Rules for Public Administration		<p>Elaboration of art. 105 Constitution.</p>
<p><i>Note:</i> There is no specific act on Freedom of Information. However, the Law 30/92 on Rules and Proceedings for Public Administration provides general rules for access to government records and documents. There is no distinction between ordinary citizens and journalists.</p>			

<p>Documents can be withheld if the public interest or a third party's interest would be better served by non-disclosure or if the request would affect the effectiveness of the operations of the public service. Access can also be denied if the documents refer to government actions related to constitutional responsibilities, national defence or national security, investigations, business or industrial secrecy or monetary policy. Accesses to documents that contain personal information are limited to the persons named in the documents. There are also restrictions for information protected by other laws including classified information, health information, statistics, the civil and central registry, and the law on the historical archives</p>			
<p>Are there specific rules dealing with journalists' access to events for news reporting?</p>			
<p><i>Note: Yes, but only in the field of sport through Law 21/97 on Broadcasting Sport Competitions and Events. It states that print or radio media can have free access to any sport event or competition without any limitation in order to protect the right of information. To protect audiovisual right holders, TV stations without rights can only have free access only in order to edit up to 3 minutes headlines.</i></p>			
<p><b>1.3. Explicit recognition of media pluralism</b></p>	<p>art. 2, 1 Law 17/2006 on Public Radio and Television ( Public Radio and Television Act)</p>		<p>Public Radio and Television (PSM) has the objective of promoting pluralism.</p>
	<p>art. 3, 2, b Public Radio and Television Act</p>		<p>RTVE has to guarantee true and plural information, has to comply with the criteria of professional independency and political, social and ideological pluralism.</p>
	<p>art. 3, 2, e Public Radio and Television Act</p>		<p>RTVE has to promote territorial cohesion, linguistic and cultural plurality and diversity.</p>
	<p>Art. 28 Public Radio and Television Act</p>		<p>RTVE guarantees in its programming the expression of social, ideological, political and cultural plurality of the Spanish Society.</p>
	<p>Art. 10.c. <u>First RTVE Mandate Framework</u></p>		<p>RTVE programming will be broad enough to cover all of the options and opinions developing in Spain in order to provide to the Spanish citizen with a good level of interpretation and assessment on facts. The viewpoints included will be delimited by institutional, social or economic representation and by information interest.</p>
	<p>Art. 9 Law 10/1988 on Private Television (Private Television Act)</p>		<p>Granting concessions for private television broadcasting, the Government will take into account the need to guarantee free expression and plurality of ideas and opinions.</p>
<p><b>1.4. Protection of journalistic sources</b></p>	<p>art. 10 Deontological Code for the Journalistic Profession of the Federation of Press Associations of Spain (Journalist Code)</p>		<p>The right to keep professional secrecy is a right of a journalist, but it is also an obligation which guarantess the confidentiality of the sources of information. Therefore, a journalist shall guarantee the right of the sources of information to stay anonym, if so has been requested. However, this professional obligation shall exceptionally not be applied, if it has been proved that the source has consciously falsified information or if revealing the source is the only way to avoid serious and instant damage to people.</p>
	<p>Art. 19,20,21, 22 and 23 of <u>RTVE Corporation Information Statute (April 2008)</u></p>		<p>The professional secrecy has the aim to protect the decision of a journalist not to disclose his sources to media managers or owners, public institutions or individuals except for a reasoned judicial decision. RTVE will give legal support to its journalist to protect this right. Secrecy professional right is applied as well to the work materials of journalist. It will not be disclosed or revealed unless a judicial decision has been issued. RTVE will not reveal the authors of any information pieces with no signature, except if a judicial decision orders the opposite.</p>
<p><b>1.5. Right of reply</b></p>	<p>Law 2/84 on the Right of Rectification</p>		<p>Under Ordinary Law 2/84 of 26 January any person directly affected by publication of incorrect, damaging information may require the print or broadcast publisher to publish a corrected version, without comment and with the same prominence as the original. He has to claim this right within seven days after the publication. The publisher has to</p>

			<p>comply within three days. Failure to comply can invoke court action to determine what sort of correction is appropriate.</p> <p>The right is essentially concerned with fairness, since newspapers may continue to separately assert that their version is correct. Decisions as to the truth of the different versions may be determined by separate court action. There is no requirement for the subject of information.</p>
	Art. 3, 2, m Public Radio and Television Act	They have been implemented within the <u>First RTVE Mandate Framework</u> approved by Spanish Parliament in end June 2008. The article 28 changes the right of reply mentioned in Law 17/2006 to a right of rectification. It states that RTVE will follow the proceedings of Rectification Law 2/1984.	RTVE will develop proceedings that will guarantee the right of reply
<b>1.6. Ratification of international instruments:</b> - CoE's Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	-Yes -Yes		

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	art. 8 Journalist Code		To guarantee the necessary independence and fairness in carrying out his/her profession, the journalist must claim for himself and for the people working for him/her: a) The right to appropriate working conditions, as it refers to earnings, as well as to the material and professional circumstances in which he/she must carry out his/her tasks. b) The obligation and right to oppose to any evident intension to monopolize or oligopolize information, which might hinder political and social pluralism. c) The obligation and right to participate in matters of the journalistic enterprise in order to guarantee his/her freedom of information in a way which is compatible with the rights of the media in which he/she is expressing this freedom. d) The right to call on to the clause of conscience, when the media on which he/she depends on proposes a moral attitude which harms his/her professional dignity or which modifies substantially the editorial policy. e) The right and obligation to professional training which is up to date and complete.
	art. 18 Journalist Code		In order not to cause mistakes or confusion among the users of information, a journalist is obliged to make a formal and rigorous distinction between information and advertising. Therefore, it is considered ethically incompatible simultaneously practice journalism and advertising business. Equally, this incompatibility applies to all activities related to social communication which may imply a conflict of interests with the journalistic profession and its principles and norms.
	art. 19 Journalist Code		A journalist shall not accept, directly or indirectly, payments or rewards of other persons to promote, direct, affect or to publish information or opinions of any kind.
<b>2.2. News / information programmes</b>	art. 3, 2, b Public Radio and Television Act		RTVE has to guarantee true and plural information, has to comply with the criteria of professional independency and political, social and ideological pluralism in our society and distinguish and separate information and opinion.
	Art. 16, 4, o Public Radio and Television Act		The Management Board of RTVE will approve the creation, composition and functions of the organs destined to guarantee internal control and professional independency of information services.
	Art. 24 Public Radio and Television Act		There is an Editors Council within the RTVE ensuring and promoting independency and objectivity and truthfulness of informative content
<i>Note: This objective has been implemented through the approval of the RTVE Corporation Information Statute, which includes the creation of an Editor Council art. 39 to 58. This latter body will have as main objectives to ensure the independence of journalists, to inform on editorial guidelines, to write a style guide and to express their opinion on the Editor in Chief appointment. It is made up of 22 RTVE journalists and it started to work in middle July 2008</i>			
<b>2.3. Other media content</b>			
<b>2.4. Subsidies/ Training of journalists (independence,</b>			

ethic, recruitment, etc.)			
2.5. Consultative programming structure for participation of the public/citizens to media (i.e. a mechanism to allow citizens to participate in editorial decisions, under the form of e.g. an ombudsman, ethics or liaison committee, "Société des rédacteurs" ...)			

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures	Art. 23. Public Radio and TV Act		The Advisory Council of RTVE is made up by 15 members. 3 from Social and Economic Council 2 from Users and Consumers Council 1 from Foreign Office 1 from Youth Spanish Council 1 from Woman Institute 1 from disabled people bodies 1 from General Immigration Council 1 from TV Arts and Sciences Spanish Academy 1 from Cinema Arts Spanish Academy 1 University expert on media 1 member from advertisers organisations 1 member from Journalists organisations. Its main goals are: 1. Advising the Board of Directors on general programming strategies 2. To inform about the norms and criteria on social and public access to Public Broadcasting Service. 3. To inform on proposals of Mandate Frameworks, on the programming guidelines and on norms related to advertising admission.
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...)			
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings	Art. 16, 4, o Public Radio and Television Act		Cf. supra
	Art. 28, 2-3 Public Radio and Television Act		The right to access to RTVE will be granted a) in a global way, by participation of important social and political groups, as sources and providers of information and opinions b) in a direct way, by specific spaces different radio and television formats  The different societies of the RTVE will guarantee the availability of the technical means and human resources, necessary for the realization of the right to access.

<p><i>Note: The RTVE mandate framework defines in its article 27 how this right will be developed. The Board of Directors of RTVE will establish a set of rules on formats, times and schedules, according to the general norms to be established by a still to be born Spanish Audiovisual Council. Therefore this right will remain useless until this latter body will be created.</i></p>			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Art. 1, cinco Law 22/1999 j. art. 5 Law 25/1994 to insert Directive 89/552/EEC in the Spanish legal order		Television operators must reserve 51% of their annual broadcasting time for European Works. For that reason they must dedicate 5 percent of their annual revenues to the financing of European movies.
3.2.2.2. Promotion of European independent works	Art. 1, seis Law 22/1999 to modify Law 25/1994		Television operators must reserve 10% of their annual broadcasting time for European Independent Works, of which more than 50% can not be older than five years.
3.2.2.3. Promotion of national/regional works			
3.2.2.4. Language requirements	Art. 5 Law 25/1994 to insert Directive 89/552/EEC in the Spanish legal order		More than 50% of the time reserved for European Works (cf.supra) should be in one of the Spanish languages
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)			
<p><i>Note: The Spanish Commission for the Telecom Market stated that the current subsidy scheme does not guarantee the sustainability of cultural and/or minority productions. Producers of this type remain dependent on the granting institution. There is a need for more objective criteria that would avoid discretionary decisions and manipulation of the productions towards one or the other ideological, political or artistic preference.</i></p>			
3.3. Accessibility (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 3, 3 Public Radio and Television Act		PSM promote means that will avoid any form of discrimination towards disabled.
<p><i>Note: The RTVE mandate framework defines in its article 17 how this right will be developed: RTVE will progressively broadcasts its content with audio description for blind people, and subtitles and sign language for deaf.</i></p>			

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)			
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			
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. (Equal/proportionate) Access to airtime for political groupings			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Art. 60, 2 Organic Law 5/1985 on the General Electoral Regime (Spanish Electoral Code)		During election campaigns the parties participating in the elections have the right to free advertising space on PSM.
	Art. 61etc. Spanish Electoral Code		Free advertising space on PSM will be distributed between the participants taking into account the total number of votes obtained by that party during the last elections (no elected representative = 10 minutes, <5% of total votes = 15 minutes, between 5 and 20% of total votes = 30 minutes, ...) A special authority (Junta Electoral Central) is entitled to distribute this free advertising space and take notice of the decisions of the PSM regarding this issue.
	Organic Law 10/1991 on political advertising during elections on local public radio		Free advertising space on local radio during local elections.
	Organic Law 14/1995 on political advertising during elections on local television by		Free advertising space on local television during local elections  Also for cable television
	RTVE Mandate Framework. Article 27		Defines the access to PSM from any social group, but especially from political parties. The Board of Directors of RTVE will establish a set of rules on formats, times and schedules, according to the general norms to be established by a still to be born Spanish Audiovisual Council.
4.2.1.b. Paid access: rules on political advertising	23 <sup>rd</sup> EPRA Meeting, Elsinore, Denmark		Permanent ban on paid political advertising for television broadcast. The Spanish Electoral Code permits paid electoral advertising on commercial



	17-19 May 2006  Background paper – Plenary <i>Political advertising: case studies and monitoring</i> EPRA Secretariat		radio stations, only during the election period
	Art 60, 1 Spanish Electoral Code		It is prohibited to make contractual arrangements about space for advertising with PSM [during election periods]
	Art. 1, 1 Organic Law 2/1988 regulating political advertising during elections on private television		It is prohibited to make contractual arrangements about advertising space on private television.
	Organic Law 10/1991 on political advertising during elections on local public radio		Prohibition to make contractual arrangements
	Organic Law 14/1995 on political advertising during elections on local television by		Prohibition to make contractual arrangements
4.2.2. Government announcements	Art. 27 Public Radio and Television Act		The Government can order to program and broadcast official declarations and communications of public interest, with indication of its origin.
	Art. 16 Private Television Act		Concession holders are obliged to broadcast, freely and with indication of its origin, communications and declarations which the Government at any given moment and for any given reason deems necessary in the public interest.
4.2.3. Impartiality obligations			
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 26 Public Radio and Television Act		In election periods, electoral legislation will apply (cf. supra)
	Art. 66 Spanish Electoral Code		Respect to political and social pluralism, as well as the neutrality regarding the information distributed by PSM during election periods will be guaranteed by the organizational structure of and control over these PSM. Decisions of the organs of these media in this election period are to be enforced by the Junta Electoral Central.
	Art. 1, 2 Organic Law 2/1988 regulating political advertising during elections on private television		Respect to pluralism and values of equality within the programs distributed during the election period by private television broadcaster will be guaranteed by the Juntas Electorales cf. the regulations for PSM (cf. supra).

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>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...)</b>	Spanish Constitution. Art 149. 21		Telecommunications and radio-communications are state competences. In practice, it means that state plans the national, regional and local radio and television frequencies, and grants national TV and radio licences.
	Spanish Constitution. Art 149.27		basic norms of the system of press, radio, and television and, in general, of the other means of social communication are state competences, without prejudice to the faculties which in their development and execution belong to the Autonomous Communities The Spanish regional powers, called Autonomous Communities, grants regional and local TV and radio licences according to the frequencies available and established by the Spanish State. They regulate them as well. This is why each Autonomous Community has its own requirements regarding local content, advertising centralization and other aspects of geographical pluralism.
	<i>Law 53/2002 on Taxation, Administrative Provisions and Social Affairs (Amendments to Local and Private TV acts)</i>		Modification of Law 41/1995 on Local Terrestrial TV. Only those cities or groups of cities that meet certain population thresholds will be allowed to have local digital terrestrial television stations. This Act is approved each year, together with the Budget Act. The main object of it is to introduce amendments to existing provisions, thus acting as a "container" of amendments. This modification of Local Terrestrial TV Law was implemented in 2004 and 2005 with the National DTT plan of frequencies, which implied a change from the typical local TV Spanish station based on villages and with small coverage to an enlargement to small towns TV station.

	<i>Law 62/2003 on Taxation, Administrative Provisions and Social Affairs (Amendments to Local and Private TV acts)</i>		This act introduces new provisions that oblige all digital TV concessionaires to broadcast original TV programmes for at least 4 hours a day and 32 hours a week, including the obligation to broadcast some of those original TV programmes during prime time (between 13:00 and 16:00 and between 20:00 and 23:00). These provisions also set limits to networking agreements relating to the provision of regional or local digital terrestrial TV services: -a limit of 5 hours by day and 25 hours by week of networked content - Programming with content related with the TV geographical scope has to cover at least 4 hours during prime time as defined before. From this thresholds fixed by National Law, which are common across Spain, each Autonomous Community has increased or added different requirements on networked and syndicated programming and advertising. Usually they follow the national limits.
	<i>Law 10/2005 on Urgent Measures for the promotion of Digital Terrestrial Television, Cable TV liberalisation and promotion of media pluralism</i>		Art. 3. Modification of Law 41/1995 on Local TV. Art. 3.10. No legal or natural person may own more than one concession in the same area in which the concessions are granted.
	<i>Law 41/1995 on Local Terrestrial Television by Cable (Local Television Act)</i>		A concession can be granted by the Autonomous Communities to form a local terrestrial television for broadcasting by cable. In principle only one concession per municipality. Art. 6,g of this Law explicitly states that this station should be reserved for the promotion of local interests, stimulating the participation of local social groups, in order to nourish, promote and defend local culture and society.
	<i>Additional disposition 18 to Law 56/2007 of 28 December 2007 on Measures to the promotion of the information society – non-profit community television</i>		Non-profit, community broadcasting: The eighteenth additional disposition of the State Law 56/2007 of 28 December relating to Measures to foster the Information Society foresees the planning of frequencies for indirect management of local service of proximity television by non-profit organizations, although at the same time it states that its planning won't have priority in relation to other planned or would-be planned services. This non-profit proximity television shall be free-to-air and its programming shall consist of original contents with relation to the region or community considered as its target. Neither advertising nor teleshopping are allowed, only sponsorship. The organization responsible of this local proximity television service must have no direct or indirect conventional television licence. This 5-year-licences will be given by the regional governments and could be renewed a maximum of three times.
<i>Note: No implementation yet</i>			
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>	<i>Art. 7, 4 Public Radio and Television Act</i>		RTVE will adopt the necessary territorial structure in order to attend its function of PSM, provide regionalized content, and contribute to the development of interterritorial cohesion.

<b>5.3. Content obligations: requirements to cover local events, etc.</b>	<i>Law 62/2003 on Taxation, Administrative Provisions and Social Affairs (Amendments to Local and Private TV acts)</i>		As mentioned before, this law establishes as a requirement at least 4 of the 6 prime-time hours have to be related with the geographical scope of licence concession.
<b>5.4. Regional State Aids</b>			
<b>5.5. Rules on national minorities</b>			
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>	Art. 7, 4 Public Radio and Television Act		RTVE [...] will attend the fact of the islands and the conditions of remote areas

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>	Art. 9.a, in fine Private Television Act		Granting concessions for private television, the Government will take into account the need for diversification of sources providing information and the objective to avoid abuse of dominant market power and competition restricting practices.
6.1.1. Moment of intervention			
6.1.1.1. <i>At moment of market entry (licensing procedure)</i>	Art. 10, e Private Television Act		A company that already holds a concession for private television or participates via shares in or effectively controls another company with a concession cannot obtain a second concession.
<i>Note: Can a company obtain a concession if it holds less than 5% shares (cf. art. 19 Private Television Act)? Yes. The Art. 19 sets limits to the art. 10 general principles.</i>			
	<i>Law 10/2005 on Urgent Measures for the promotion of Digital Terrestrial Television, Cable TV liberalisation and promotion of media pluralism has modified 4.3 article of the Private Television Act.</i>		The new Act abrogates article 4.3 of the Act 10/1988, which limited the number of national analogue terrestrial TV concessions to three. Now, the Government may grant new national analogue terrestrial TV concessions, if there are frequencies available. The new Act has also amended the Third Additional Provision of Act 10/1988, which now establishes that it will be possible to simultaneously hold a national analogue terrestrial TV concession and a digital one until the analogue switch-off takes place.
<i>Note: One new national TV licence (La Sexta) has been granted since then.</i>			
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	Art. 19 Private Television Act		Art. 19 is formulated as a general prohibition
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. Monomedia	Art. 19 Private Television Act		<p>Physical or legal persons that hold, directly or indirectly, 5% or more of the share capital or of the voting rights of a licence-holder cannot have a significant participation in any other company within the same coverage area. Physical or legal persons that hold, directly or indirectly, 5% or more of the share capital or of the voting rights of a national licence-holder cannot have a significant participation in a regional or local company if the population covered in each one of them exceeds 25% of the national total. Likewise, physical or legal persons that hold, directly or indirectly, 5% of the capital or of the voting rights of a regional licence-holder (autonomous communities) cannot have a significant participation in any other local company with the same coverage, if the population covered exceeds 25% of the regional total.</p> <p>Where an individual has a significant part of the share capital or the voting rights of a national, regional or local licence-holder, he cannot have a significant interest in national, regional or local licence-holders whose programs can be simultaneously received in the same area.</p> <p>Significant participation means holding directly or indirectly 5% or more of the share capital or of the voting rights of a licence-holder</p>
	Law 31/1987 on Regulation of Telecom		In the radio sector, an individual or legal entity cannot hold more than one AM licence and more than two FM licences in an overlapping area, under the condition that pluralism and diversity are being guaranteed in that area.
<i>Note: This particular rule has been deleted and modified recently. See text below.</i>			
	Law 10/2005 on Urgent Measures for the promotion of Digital Terrestrial Television, Cable TV liberalisation and promotion of media pluralism. The art. 1 modifies Law 31/1987		A natural or legal person may control up to 50% of the radio concessions available in a certain area, insofar the total number of overlapping radio concessions controlled in that area is not above five. A person can also control up to a third of the radio concessions with total or partial coverage of the State. Where there is only one frequency available in a particular area, no natural or legal person may control more than 40% radio licences of that kind in the same Autonomous Community. These percentages will be calculated with the public radio stations excluded and the limits will be applied separately to the analogue and to the digital radio stations.
6.1.2.2. Crossmedia			
6.1.2.3. Vertical integration with networks			No specific rules on vertical media concentration exist. General competition rules apply (see 6.4)
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			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences			
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares	Art. 19 Private Television Act		5%
6.1.3.5. Voting shares	Art. 19 Private Television Act		5%

6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors			
<b>6.2. Sector specific rules preventing cooperation between media companies</b>	Art. 7 Local Television Act		Local terrestrial TV licence-holders cannot create a network or enter into networking agreements with other licence-holders. Networking programming is defined as 25% of total programming. They may do so only after the authorization of the Autonomous Community they belong to.
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	Art. 13 Local Television Act		Non-EU nationals cannot hold, directly or indirectly, more than 25% of the share capital of a licence-holder.
	Law 31/1987		Same threshold as above for AM or FM licences, unless reciprocal arrangements apply.
<b>6.4. General competition rules</b>			
6.4.1. Antitrust			
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
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?)			Two important cases should be mentioned here. In 2002, the only two satellite pay TV platforms that existed in Spain – Canal Satélite Digital (owned by Sogecable) and Vía Digital (owned by DTS/Telefonica) – merged. This merger was cleared by the Spanish competition authority, but only with multiple behavioural remedies set by the Spanish government. These remedies mainly concerned the vertical effects of the transaction and involved, amongst others, the granting of platform access to other TV channels, the withdrawal of Sogecable’s preferential rights concerning the acquisition of films and thematic channels produced by the major film and film distribution companies (the "majors"), as well as the prohibition on all companies belonging to the Sogecable group from entering into agreements or strategic alliances regarding the media sector with any company belonging to the Telefónica group. In 2007, when Sogecable wanted to acquire sole control over Audiovisual Sport SL (AVS), a company created to acquire and licence Spanish football TV broadcasting rights, the Spanish competition authority imposed a number of behavioural remedies to tackle competitive concerns of a vertical nature. The remedies were aimed at preventing a vertically integrated operator with exclusive rights over a quasi-essential input (football broadcasting rights) from precluding access to competing operators in the downstream market (the pay TV market) to such input. Most important remedies involved the granting of access by third parties to football broadcasting rights, the elaboration of a procedure for the selection of matches and timetables, agreed upon by both Sogecable/AVS and third parties and a limitation on the length of wholesale contracts between Sogecable/AVS and the football clubs.
<b>6.5. Transparency obligations</b>			
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. 20, Art. 21 j. art. 21bis Private Television Act		Information on the licence holders and all relevant transactions affecting them are recorded in the National Special Registry for Private Terrestrial Television Broadcasters within the Ministry of Industry, Tourism and Trade. Changes resulting in non-compliance with the provisions of art. 19 should be communicated to the Secretaria de Estado de Telecomunicaciones y para la Sociedad de la Informacion or to the competent Autonomous Community.



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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>			
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.).	<i>18<sup>th</sup> additional provision of Law 56/2007 on Information Society Promotion Measures</i>		The state will plan local TV frequencies for non-profit organisations, if there is enough frequencies available. Advertising and teleshopping are forbidden, but not sponsorship. In order to have the NGO attached to territory, it has not have been granted any another TV licence national, regional or local.
<i>Note: As the National Government has still not developed the details through an specific regulation, there is no direct impact, therefore it is still to be seen the effectiveness of this provision.</i>			
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Resolution of 25th June 2007 on listed sport events made by the Presidency of the Sport Events Transmission and Broadcasting Council for the season 2007-2008		Beijing Olympic games: Opening and closing ceremonies. Sports with Spanish participation. Athletics, swimming, gymnastic, tennis, basket and handball. World Athletics Championship. Formula 1. Spanish Grand Prix. Basketball: Official matches of Spanish Team. Handball: European Championship. Final and Spanish matches. Cycling: Last hour of Spanish Vuelta. World Championship. Soccer: Spanish Team matches. Final Spanish Cup. 1 Champions League match with the Spanish Team. Final. UEFA Final, if an Spanish team is playing European Championship. Spanish participation and final and opening game. Motorcycling: Spanish Grand prix. Tenis: Davis Cup, if the Spanish Team is playing. Roland Garros, Semi-final and final if a Spanish player is playing.
<i>Note: Only Sport Events.</i>			
<b>7.3. Short news reporting</b>	Art. 2 of Law 21/97 on Broadcasting Sport Competitions and Events.		It states that print or radio media can have free access to any sport event or competition without any limitation in order to protect the right of information. To protect audiovisual right holders, TV stations without rights can only have free access only in order to edit up to 3 minutes headlines.
<i>Note: Only Sport Events.</i>			
<b>7.4. Fixed book price</b>	Act for Reading, Books and Libraries (2007)		double system of fixing book prices and making schoolbooks free of charge
<b>7.5. Public service media</b>			

<p><i>Note: The new RTVE law, which for the first time has established a broad definition of a public service established a commitment to a complete change of its management structure in an attempt to make it independent from political control of the Spanish Government and at less extent of the Parliament and to avoid a new mismanagement of public money. It has to be said that the Government has respected its commitments made possible the main structural and managerial changes defined in this law. This is a big step for Spanish standards. However, it is still too early to assess a general positive impact on quality programming and on news independency, even if some positive results could be perceived. This law has not developed the most significant financial measures, it has been a task of the Economy Department, which has devised and applied a rationalisation plan, which has resulted in a significant downsizing of the staff (40%) and reducing the programming hours for regional language programmes that RTVE has in the various autonomous communities. Simultaneously the Spanish State has begun to take on part of its debt (3,180 million euros) as stipulated in the Spanish National Budget Law for 2007 and 2008. All of this is taking place within a context where TVE's first channel is progressively losing viewers (in 2006 it was the third most viewed channel, with 18.3% of the share, behind Tele 5 and Antena 3), while RNE continues to rank as the fourth most listened to radio, with an audience of close to 1.2 million listeners.</i></p>			
7.5.1. Structural rules - organization			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)	art. 5, 3 Public Radio and Television Act		RTVE will be governed autonomously and will act functionally independent regarding the Government and the General State Administration
	Art. 15, 6 Public Radio and Television Act		The members of the Management Board are absolutely independent in the exercise of their functions. They can not receive instructions, directives or any type of imperative indication of the Government nor the General State Administration or other institutions or entities.
<p><i>Note: Parliament has chosen the first management board members along party lines.</i></p>			
	Art. 15, 1-2 Public Radio and Television Act		<p>1. Membership of the Management Board is a full time occupation and the regime of incompatibilities that applies to the higher officials of the General State Administration. In any case it is incompatible with a membership of parliament.</p> <p>2. Members of the Management Board can not hold any direct or indirect interest in companies dealing with audiovisuals, discographics, cinema, video, press, publicity, informatics, telecommunications, services of the information society or any other type of entity linked to the supply of material or programs to the RTVE.</p>
7.5.1.2. Election of management, composition of board members... (government? Parliament? Other?)	Art. 10-11 Public Radio and Television Act		Management Board (main governing body) of the RTVE consists of twelve members, eight appointed by Congress and four by the Senate
	Art. 11, 4 j. art. 17 Public Radio and Television Act		The President of the Management Board will be elected by the Congress
7.5.1.3. Specific representation requirements for board of directors, other bodies	Art. 10 Public Radio and Television Act		Equal representation of men and women in the Management Board.
	Art. 11 Public Radio and Television Act		Two of the members of the Management Board appointed by the Congress will be elected among candidates proposed by the main trade unions.
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	Art. 23 Public Radio and Television Act		<p>The Advisory Board will consist of 15 members, as follows:</p> <p>3 from the Economical an Social Council, 2 from the Consumers and Users Council and 1 from the Ministry of External Affairs, Council of Spanish Youth, Woman Institute, representative entities of disabled persons, General Emigration Council, Academy for Art and Television Sciences, Academy of Cinema Art, appointed by the University Coordination Council among experts in Social and Communication Science, appointed by the representative entities of advertisers, appointed by the representative entities of state press</p>
<p><i>Note: The first meeting of the Advisory Board took place in July 2007.</i></p>			
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,	Art. 33 Public Radio and		The compensations for the effectuation of PSMS will be inscribed in the General

public / licence fees, advertising, merchandising...)	Television Act		State Budget, for every entity of the PSM separately. These compensations have an annual character and can not surpass the net cost of PSMS. Net cost is the difference between the total of the costs of every PSM and their income other than the compensations.
<i>Note: What are these other sources of income? Advertising, sponsorship, sale of IP rights, merchandising, etc.</i>			
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)	Art. 29 Public Radio and Television Act		RTVE and its associated societies have an own patrimony.
7.5.3. Definition of public service remit			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Art. 2, 1 Public Radio and Television Act		The objective of PSM is the production, edition and broadcasting of a whole of channels of radio and television with a divers and balanced program for any type of public, covering all the types and destined to satisfy needs of information, culture, education and entertainment of the Spanish society; distribute its cultural identity and diversity [...]
7.5.3.2. Obligation to engage in new media activities	Art. 3,3 Public Radio and Television Act		Part of the function of the PSM is the development of the Information Society. For that reason PSM participate in technological evolutions, using different technologies and ways of diffusion and develop new connected or interactive services to enrich or complement its offer and to bring the citizens closer to the Public Administration.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Art. 25 Public Radio and Television Act		The program-contract will establish the specific objectives and obligations which the different radio and television channels, and connected and interactive services as well as their programs must comply with.  RTVE must give special attention to social groups who need specific attention given their needs and demands, such as children and youngsters. This task of PSM should be extended to issues relevant to a majority of the population or to certain groups. At the same any form of discrimination because of incapacity should be avoided.
<i>Note: The program-contract has still to be approved by Government before the end of 2008 but the last draft establishes the following aspects: Two new digital channels in 2010, one in HD and other on culture to fulfil culture goals as established in Public Radio and TV act. From the 65000 hours broadcasted today, RTVE has to add 7000 hours more in 2010 through the 8 TV digital channels. No other program-contract content has been made public.</i>			
7.5.5. Universal coverage obligations	Art. 2, 3 Public Radio and Television Act		Radio and television broadcasting services should have the objective to have a universal coverage, meaning the highest possible coverage within the national territory.

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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	<p><u>Law 42/1995 of December 22, 1995 on cable</u> (art. 11)</p> <p><u>Royal Decree 2066/1996 of Sept. 13, 1996</u> (arts. 26, e), f) and g)</p> <p><u>Law 32/2003 of November 3, 2003 (General Telecommunications Law)</u>, additional provision 7 and transitional provision 6, § 3</p> <p><u>Royal Decree 920/2006, of July 28, 2006</u> on the conditions for the provision of television services by cable</p>		<p>Cable operators which have been granted an ‘administrative authorization’ for distribution of TV services have a must-carry obligation</p> <p>NB The current must-carry obligations arose automatically from the obligations attached to the ‘administrative concession’ (now converted into an administrative authorisation) granted to cable operators.</p> <p>NB No general interest objectives specified in the 1995 law.</p> <p>NB According to the General Telecommunications Law (2003), the government, by secondary legislation, can impose as public service obligations must-carry obligations where this is necessary to meet clearly defined general interest objectives.</p> <p>No such regulation adopted so far.</p> <p>Until switch-off, the TV channels subject to must-carry obligations are:</p> <p>1. The nationwide broadcasting services provided over terrestrial platforms:</p> <ul style="list-style-type: none"> <li>• TVE 1 (TVE, S. A.)</li> <li>• La Segunda (TVE, S. A.)</li> <li>• Antena 3 TV (Antena 3 TV, S. A.)</li> <li>• Telecinco (Gestevisión-Telecinco, S. A.)</li> <li>• Cuatro (Sogecable, S. A.)</li> <li>• La Sexta (Gestora de Inversiones Audiovisuales La Sexta, S. A.)</li> </ul> <p>2. Broadcasting services provided by the public service broadcasters in the autonomous communities</p>
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>			<p>NB No must-offer obligations via ex ante regulation</p> <p>NB On November 29, 2002 the Spanish Council of Ministers authorised the merger between Sogecable/Via Digital (satellite pay-TV platform) by imposing a number of <u>conditions</u> (34) for five years (i.e. until the end of 2007).</p> <p>NB They include the following:</p> <ul style="list-style-type: none"> <li>• The obligation to offer to third parties at least one premium channel (equivalent to ‘Gran Vía’, channel offered by Vía Digital) – Condition number 9.</li> <li>• The obligation to offer to third parties the thematic channels directly produced by Sogecable or commissioned by Sogecable to third parties – Condition number 10.</li> </ul> <p>If Sogecable acquires exclusive retransmission rights for the Spanish Football League and S.M. el Rey Cup and its summaries, it must sublicense those rights to free to air and pay per view TV.</p>
<i>Note: The general situation remains unchanged: no must-offer obligations. The Government conditions of the merger between Sogecable and Via Digital have expired at the end of 2007.</i>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives	<u>CMT final decision on market 18</u> (February 2006)		Included in market analysis: Terrestrial analogue and digital television broadcasting transmission services

			<p>delivering broadcast content to end users in Spain.</p> <p>Not included:          TV transmission services on cable networks          TV transmission services on cable networks          TV and radio satellite transmission services          Terrestrial transmission services for radio broadcasting</p>
8.3.2. Result of (first) round of market analysis of market	<u>CMT final decision on market 18</u> (February 2006)		<p>Access obligations imposed on Abertis (SMP):          Includes <i>inter alia</i>:</p> <ul style="list-style-type: none"> <li>physical access (collocation) to Abertis' technical infrastructure or other modalities of infrastructure sharing, including conduits, buildings or masts, in every Abertis' transmission and retransmission sites; and subsidiary;</li> <li>interconnection to Abertis' infrastructure at every transmission and retransmission site.</li> </ul> <p>NB Abertis has been subject to an access obligation in Catalonia since 2003 as a result of the conditions <u>imposed</u> by the Spanish Council of Ministers on the merger between Abertis/Retevisión.</p> <p>Price regulation imposed on Abertis:          Cost-orientation (not further defined).          CMT will define Abertis' cost accounting system at a later stage.</p>
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access	<u>Royal Decree 2296/2004 of December 10, 2004</u> on electronic markets, access to networks and numbering (art. 24 and 25)		<p>Responsible authority: CMT</p> <p>Scope of access: Similar provisions to Annex 1 of the Access Directive</p> <p>Who has obligation to provide access?:          Operators of conditional access systems in the provision of digital radio and television broadcasting services irrespective of the means of transmission</p> <p>Remuneration:          Fair, reasonable and non-discriminatory conditions</p>
8.4.2. EPG (or other search tools)	<p>Law 32/2003 of November 3, 2003 (<u>General Telecommunications Law</u>)</p> <p><u>Royal Decree 2296/2004 of December 10, 2004</u> on electronic markets, access to networks and numbering.</p>		<p>Regulatory authorities: <u>Ministry of Industry, Tourism and Trade</u> and <u>CMT</u>.          No definition of EPG.</p> <p>In accordance with the Access Directive, the law specifies that CMT may impose obligations on operators to provide access to EPGs on fair, reasonable, and non-discriminatory terms to ensure accessibility for end-users to digital radio and television broadcasting services specified by the government.          No decisions taken.</p>
8.4.3. API	<p>Law 32/2003 of November 3, 2003 (<u>General Telecommunications Law</u>), Annex III § 15</p> <p><u>Royal Decree 2296/2004 of</u></p>		<p>Defines APIs as '<i>the software interface made available by broadcaster operators or service providers and the digital television advanced resources equipment for digital radio and television</i>'.</p>

	December 10, 2004 on electronic markets, access to networks and numbering.		In accordance with the Access Directive, Law 32/2003 of November 3, 2003 ( <u>General Telecommunications Law</u> , additional provision 7) and <u>Royal Decree 2296/2004</u> (art. 23 e)) specifies that CMT may impose obligations on operators to provide access to APIs on fair, reasonable and non-discriminatory terms to ensure accessibility for end-users to digital radio and television broadcasting services specified by the government.  According to the <i>Comision Seguimiento TDT</i> measures should be taken to boost interactive services based on MHP and extend the use of this standard to cable and satellite.
8.4.4. Other			
<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?</b>			
<b>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 )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			Audiovisual Council of Catalonia - CAC (www.cac.cat)
	Art. 40 Public Radio and Television Act		The Audiovisual Authority supervises the compliance of RTVE with its mission as PSM. Therefore it can adopt recommendations or resolutions. The Authority can demand all necessary information of RTVE.
<p><i>Note: Spain is the only big country in Europe where there is no National Independent Audiovisual Regulatory Authority. The Spanish Government has its creation and development as the next step in audiovisual media policy. It will be created with a specific law, and there is no draft available yet. Until then it is up to the Ministry of Industry, Tourism and Trade, the Competition National Authority and the Telecommunications Market Commission to deal with audiovisual matters. A part from Navarra, Catalonia and Andalusia have a Regional Regulatory Authority as well. Catalonia is the most advanced case, because it controls licence procedure and awards radio and tv regional and local stations.</i></p>			
	Art. 39 Public Radio and Television Act		Parliament exercises the parliamentary control on PSM. RTVE informs the Congress and the Senate on an annual basis about the execution of the program-contract and the framework contract.
<p><i>Note: Is this control sufficient, given the fact that there is no Audiovisual Authority yet? No, because the first program-contract is still to be approved and therefore there are only general aims and goals from Public Radio and Television Act and from the Mandate Framework. It is difficult for Parliament to verify if these objectives have been accomplished. When the specific numbers on quota programming, in-house production, and minority content are in place, Parliament will have an easier task. But even then, it is up to the Audiovisual Authority to monitor how and at what cost public service remit is done. Briefly, Parliament has a minor role in monitoring the PSM, but a major role in defining the framework contract.</i></p>			
	Cullen International Study		<p><u>Ministry of Industry, Tourism and Trade</u> has separate responsibilities in telecommunications matters and on audiovisual matters. In particular:</p> <ul style="list-style-type: none"> <li>• frequency allocation, allotment and assignment;</li> <li>• supervision and sanctioning powers, in particular on content matters at national level.</li> <li>• defines the general audiovisual media policy;</li> <li>• grants national broadcasting licences;</li> </ul> <p>NB defines proposals for the regulatory framework for radio and TV broadcasting, including content and protection of industrial property in the audiovisual field.</p> <p>NB</p> <p>All regional administrations have the same responsibilities on regional audiovisual matters. They may be carried out by the regional governments directly or by independent regional audiovisual councils such as in <u>Cataluña</u>, <u>Navarra</u> and <u>Andalucía</u>.</p> <p>Responsibilities include:</p> <ul style="list-style-type: none"> <li>• granting of regional/local broadcasting licences; and</li> </ul> <p>NB controlling content being broadcast.</p>
9.1.1. Structure/ organisation			
9.1.1.1. Guarantees for independence			

9.1.1.2. Representation requirements			
9.1.2. Credibility and efficiency			
9.1.2.1. Sufficient resources			
9.1.2.2. Tasks and duties			
9.1.2.3. Effective sanctioning powers			
9.1.3. Cooperation with other regulators			
<b>9.2. Press Council</b>			
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>			La Comisión Nacional de la Competencia ( <a href="http://www.cncompetencia.es/">http://www.cncompetencia.es/</a> )
<p><i>Note: A new competition Act entered into force in Spain on September, 1st 2007. The new Act entails a significant reform of the Spanish competition regime and brings in further harmonisation of Spanish competition law with the EU rules. The new Act replaces the individual authorisation system for agreements by a directly applicable legal exception system. It also allows for the private enforcement of national competition rules.</i></p> <p><i>From an institutional standpoint, the most relevant change is the creation of a single competition authority that will replace the traditional two-tier system. The enforcement tools of the new authority are enhanced with the introduction, for the first time in Spanish competition law, of leniency provisions, as well as the power to conduct inspections in private homes.</i></p> <p><i>Regarding merger control, the Government will see its powers decrease whereas those of the new competition authority will be extended.</i></p>			
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!)			
9.3.1.1. Guarantees for independence	Art. 14 Competition Act		The Council of Ministers may intervene in the economic concentration control procedure in accordance with Article 60 of this Act If that concentration could be against the general interest.
	Art. 60 Competition Act		<p>1. The Minister of Economy and Finance may refer the decision on the concentration to the Council of Ministers for reasons of general interest when, in the second phase, the Council of the National Competition Commission:</p> <p>a) Has resolved to prohibit the concentration.</p> <p>b) Has resolved to subordinate its authorisation to the fulfillment of certain commitments proposed by the notifying parties or conditions.</p> <p>2. The resolution of the Minister of Economy and Finance shall be communicated to the National Competition Commission at the same time as its notification to the interested parties.</p> <p>3. The Council of Ministers may:</p> <p>a) Confirm the resolution issued by the Council of the National Competition Commission.</p> <p>b) Decide to authorise the concentration, with or without conditions. This decision must be duly justified on reasons of general interest other than protecting competition, in accordance with the provisions of Article 10.</p> <p>Before adopting the corresponding Decision, the National Competition Commission may be requested to issue a report.</p>



			<p>38</p> <p>4. After the periods indicated in Article 36 have elapsed and neither the Minister of Economy and Finance nor the Council of Ministers have adopted a decision, the express resolution of the Council of the National Competition Commission in the second phase shall be effective, immediately executive and shall bring the administrative procedure to an end, with the understanding that it has decided to:</p> <p>a) Subordinate the authorisation of the concentration to the commitments or conditions set out in the aforementioned resolution.</p> <p>b) Prohibit the concentration, and in such circumstances the Council of the National Competition Commission may:</p> <p>1. Order that the concentration is not carried through, when it has not already been executed.</p> <p>2. Order that the necessary measures be taken to restore effective competition, including deconcentration, when the concentration has already been executed.</p> <p>5. The Decision of the Council of Ministers shall be communicated to the National Competition Commission at the same time as its notification to the parties.</p>
<p><i>Note: Is this a balanced system (insofar it is already possible to evaluate)? The NCA impact on the audiovisual sector has been reduced to two sport rights cases (according to the 2007 annual report), and therefore it is too early to assess a judgement on the Spanish NCA.</i></p>			
	Art. 19 Competition Act		<p>1. The National Competition Commission is a Public Law institution with its own legal personality and full public and private capacity, attached to the Ministry of Economy and Finance, which shall exercise efficacy control over its activity. The National Competition Commission shall develop its activity and fulfil its aims with organic and functional autonomy, fully independent of the Public Administrations, and subject to this Act and the rest of the legal system.</p>
	Art. 29 Competition Act		<p>Appointment of organs by the Government on the proposal of the Ministry of Economy and Finance.</p>
	Art. 31 Competition Act		<p>Incompatibilities:</p> <p>1. The Chairman, the Council Members and the Director of Investigation of the National Competition Commission, in their capacity as senior posts of the General State Administration, shall perform their function with absolute dedication and shall be subject to the system of incompatibility of activities established in general for senior posts of the General State Administration in Act 5/2006, of 10 April, on regulation of conflicts of interests of the members of the Government and of the Senior Posts of the General State Administration and in their developing provisions, and in the Decision of the Council of Ministers of 18 February 2005, approving the Code of Good Governance of the members of the Government and of the Senior Posts of the General State Administration.</p> <p>2. On ceasing their employment and during the following two years, the Chairman and the Council Members of the National Competition</p>

			Commission may not exercise any professional activity related to the activity of this Commission.
9.3.1.2. Representation requirements			
9.3.2. Credibility and efficiency			
9.3.2.1. Sufficient resources	Art. 22 Competition Act		<p>1. The National Competition Commission shall have the following assets and economic means with which to fulfil its aims:</p> <p>a) The allocations established every year charged to the National Budget.</p> <p>b) The assets and rights that constitute its equity, and the products and income from the equity.</p> <p>c) Income obtained from the liquidation of rates accrued through the activities of service provision derived from exercising the competences and functions attributed by this Act. In particular, the rates regulated in Article 23 of this Act shall constitute income of the National Competition Commission.</p> <p>d) Any others that may be legally attributed to it.</p>
	Art.23 Competition Act		<p>1. The rate for analysis and study of concentration operations shall be governed by the provisions of this Act and by the general regulations regarding rates. Rate management shall be carried out by the National Competition Commission under the terms established by regulations.</p> <p>2. Conducting analysis of concentrations subject to control in accordance with Article 8 of this Act constitutes the taxable event of the rate.</p> <p>3. Persons who are obliged to notify in accordance with Article 9 of this Act shall be the taxpayers of the rate.</p> <p>4. The rate shall be accrued when the taxpayer submits the notification set out in Article 9 of this Act. If, at the time of the notification, self settlement without income is submitted, its levying shall be by the attachment procedure, without prejudice to the National Competition Commission handling the corresponding proceedings.</p> <p>5. The rate quota shall be:</p> <p>a) 3,000 euros when the global turnover in Spain for all the participants in the concentration operation is equal to or less than 240,000,000 euros.</p> <p>18</p> <p>b) 6,000 euros when the global turnover in Spain of the participating undertakings is in excess of 240,000,000 euros and equal to or less than 480,000,000 euros.</p> <p>c) 12,000 euros when the global turnover in Spain of the participating undertakings is in excess of 480,000,000 euros and equal to or less than 3,000,000,000 euros.</p> <p>d) A fixed sum of 24,000 euros when the turnover in Spain for all the participants is in excess of 3,000,000,000 euros, plus an additional 6,000 euros for every 3,000,000,000 euros in which the aforementioned turnover exceeds the above sum, up to a maximum limit of 60,000 euros.</p> <p>6. For concentrations notified through the abbreviated form set out in Article 56 of this Act, a reduced rate of 1,500 euros shall apply. In the event that the National Competition Commission, in accordance with Article 56, decides that the parties should submit the ordinary form, they must pay off the corresponding additional settlement.</p>

9.3.2.2. <i>Tasks and duties</i>	Art. 24 – 26 Competition Act		<p>-Handling, resolution and arbitration regarding the provisions of the Act          - consultation on matters regarding competition          -promotion of competition, consistent applicator of competition rules and supporting body for the Ministry of Economy and Finance.</p>
9.3.2.3. <i>Effective sanctioning powers</i>	Art. 63 Competition Act		<p>1. The competent bodies may impose the following fines on the economic agents, undertakings, associations, unions or groupings of them that, intentionally or by negligence, infringe the provisions of this Act:          a) Minor infringements with a fine of up to 1% of the total turnover of the infringing undertaking in the business year immediately preceding to that of the imposition of the fine.          b) Serious infringements with a fine of up to 5% of the total turnover of the infringing undertaking in the business year immediately preceding to that of the imposition of the fine.          c) Very serious infringements with a fine of up to 10% of the total turnover of the infringing undertaking in the business year immediately preceding to that of the imposition of the fine.          The total turnover of associations, unions or groupings of undertakings shall be determined taking into consideration the turnover of their members.          2. Besides the sanction set out in the previous section, when the offender is a legal person, a fine of up to 60,000 euros may be imposed on each of its legal representatives or on the persons that comprise the management bodies that have participated in the agreement or decision.          Excluded from the sanction are those persons who, forming part of the collegiate administrative bodies, have not attended the meetings or who have voted against or saved their vote.          3. In the event that it is not possible to delimit the turnover referred to in Section 1 of this article, the infringements typified in this Act shall be sanctioned on the following terms:          a) Minor infringements with a fine of between 100,000 and 500,000 euros.          b) Serious infringements with a fine of between 500,001 and 10 million euros.          c) Very serious infringements with a fine of more than 10 million euros.</p>
9.3.3. Cooperation with other regulators	Art. 48 General Telecom Act		CMT informs the competition authority of the practices that may involve an infringement of the competition law
	Title II, Chapter II Competition Act j. art. 17 Competition Act		<p>Sets out the rules for collaboration and cooperation of the National Competition Commission.          Art. 17 provides general rules for coordination with sectorial regulators (cooperation in matters of public interest, mutual exchange of information, annual meetings</p>



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



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

### [SWEDEN]

Author: Oliver Fueg  
Country correspondent: Prof. Dr. Jens Cavallin

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

- **Legislation**

- *Sector specific legislation*

Freedom of the Press Act (*Tryckfrihetsförordningen*)<sup>1</sup>

Fundamental Law on Freedom of Expression (*Yttrandefrihetsgrundlag*)<sup>2</sup>

Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression (*Lag med föreskrifter på tryckfrihetsförordningens och yttrandefrihetsgrundlagens områden*)<sup>3</sup>

Radio and TV Act (*Radio- och TV-lag*)<sup>4</sup>

Television Fees Act (*Lagen om finansiering av radio och TV i allmänhetens tjänst*)<sup>5</sup>

Electronic Communications Act<sup>6</sup>

Press Subsidy Ordinance (*Presstödsförordning*)<sup>7</sup>

Decree on State Subsidies for Literature (*Förordning om statligt litteraturstöd*)<sup>8</sup>

Decree on State Support for Radio and Cassette Newspapers (*Förordning om statligt stöd till radio- och kassettidningar*)<sup>9</sup>

Decree laying down the brief of the Broadcasting Commission (*Förordning med instruktion för Granskningsnämnden för radio och TV*)<sup>10</sup>

Decree laying down the brief of the Radio and Television Authority (*Förordning med instruktion för Radio- och TV-verket*)<sup>11</sup>

Public Libraries Act (*Bibliotekslag*)<sup>12</sup>

Secrecy Act (*Sekretesslag*)<sup>13</sup>

<sup>1</sup> SFS 1949: 105.

<sup>2</sup> SFS 1991:1469 as last amended by SFS 2002:909.

<sup>3</sup> Act (1991:1559) as last amended by SFS 2007:1288.

<sup>4</sup> SFS 1996: 844 as last amended by SFS 2007: 1439.

<sup>5</sup> SFS 1989:41 as last amended by SFS 2007: 1332.

<sup>6</sup> SFS 2003:389 as last amended by SFS 2003:394.

<sup>7</sup> SFS 1990:524 as last amended by SFS 2007:1356.

<sup>8</sup> SFS 1998:1469 as last amended by SFS 2002:1094.

<sup>9</sup> SFS 1988:582 as last amended by SFS 1999:1073.

<sup>10</sup> SFS 2007:1183.

<sup>11</sup> SFS 2007:1197 as last amended by SFS 2007:1286.

<sup>12</sup> SFS 1996:1596 as last amended by SFS 2004:1261.

Secrecy Ordinance (*Sekretessförordningen*)<sup>14</sup>

- *General legislation*

Copyright in the Literary and Artistic Works Act (1960:729)

• **Codes of conduct**

Code of Ethics for Press, Radio and Television in Sweden<sup>15</sup>

• **Other**

Charter of the Press Council<sup>16</sup>

Licences of SVT, SR, UR

Policy for Ethnic and Cultural Diversity Within SVT 2006

<sup>13</sup> SFS 1980:100 as last amended by 2008:228.

<sup>14</sup> SFS 1980:657 as last amended by SFS 2008:234.

<sup>15</sup> <http://www.po.se/Article.jsp?article=1905&avd=english>

<sup>16</sup> <http://www.po.se/Article.jsp?article=2290&avd=english>

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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Instrument of Government  Fundamental Law on Freedom of Expression. (SFS 1991:1469)  Freedom of the Press Act (1949: 105)  Section 5 SVT licence	PM + AAVM	Chapter 3, Section 1 Radio- and TV Act provides that licences for R, TV broadcasting can be made conditional on requirement for objectivity and impartiality; Chapter 6 Section 1 Radio- and TV Act requires that all broadcasting of R, TV programmes subject to a licence shall reflect ‘the fundamental values of a democratic society and the principle that all persons are of equal value, and the freedom and dignity of the individual’.  The Code of Ethics for Press, Radio and Television in Sweden recognizes that individuals must be protected against unnecessary suffering as a result of reporting. This consideration is also reflected in Section 6 SVT licence; Section 7 SR licence; Section 7 UR licence
	Section 7 SVT licence; Section 8 SR licence; Section 8 UR licence	TV; R	National PSB shall take into account the importance of its activities for the process of opinion formation and express a diversity of views and opinions
<b>1.2. Freedom of/right to information</b>	Chapter 2, Art. 1, Freedom of the Press Act		Official documents shall be freely available to Swedish citizens to encourage the free exchange of opinion and availability of comprehensive information.  Chapter 2 Section 2 provides for restrictions of this right of access for a number of public interest reasons.  Chapter 3, Section 1 Radio- and TV Act provides that licences for R, TV broadcasting can be made conditional on requirement for objectivity and impartiality
<i>Note: ‘Official’ documents are documents that have been finalized, dispatched or received. Documents currently being produced are not included and may be very substantial part of the production of texts. A rather subtle but important restriction.</i>			
<i>Is there – besides constitutional provisions – a specific act dealing with citizens’ or journalists’ access to public sector information?</i>	Secrecy Act, Secrecy Ordinance		These instruments define limits of the constitutional right to access government information.
<i>Are there specific rules dealing with journalists’ access to events for news reporting?</i>			Practical installations, such as provision of equipment and premises for news agencies in ministries.
<b>1.3. Explicit recognition of media pluralism</b>	Chapter 3 Section 4 Radio- and TV Act	TV Concerns only licensed – i.e. terrestrial broadcasting. Cable and satellite not covered (no licence required).	Licensing of TV programmes shall accommodate: - different programmes that appeal to different interests; - local, regional and national programmes; - multiple operators which are independent of each other
	Chapter 5 Section 8 Radio- and TV Act	R	When there are multiple applicants for a local radio licence, the Radio and TV Authority shall prevent the establishment of a dominant position and encourage a

			diverse range of views.
<i>Note: A merely formal clause has not been applied, since radio licences are traded and in reality concentrated to 2-chains. Auction system has not permitted any other than economic considerations for commercial local radio.</i>			
	Section 7 SVT licence	TV	National PSB shall take into account the importance of its activities for the process of opinion formation and express a diversity of views and opinions.
	Section 1 Decree on State Subsidies for Literature	B	State subsidies for the publication of literature are awarded to promote pluralism. Subsidies concentrated to Swedish literature and some translations.
<b>1.4. Protection of journalistic sources</b>			
<b>1.5. Right of reply</b>			
	Sections 5 and 13 Code of Ethics for Press, Radio and Television in Sweden	R, TV, N, M	Factual errors should be corrected when called for. Anyone wishing to rebut a statement shall, if this is legitimate, be given the opportunity to do so. Persons, who are criticized in a factual report, shall be given the opportunity to reply instantly to the criticism.
<i>Note: No legally binding obligation. In practice rare.</i>			
	Section 17 SVT licence; Section 19 SR licence; Section 16 UR licence	TV; R	Affected persons shall be able to apply for the opportunity to reply to any factual statements concerning them.
<b>1.6. Ratification of international instruments:</b> - CoE’s Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	- yes - yes		Ratification: 9.2.2000  Ratification: 18.12.2006



**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>			
<i>Note: Controversy between media companies and journalists organization on the scope of multiple use of material, not entirely solved. No legal regulations specifically for journalists.</i>			
<b>2.2. News / information programmes</b>	Chapter 7 Section 8 Radio- and TV Act	R, TV	Programmes which primarily feature news and current affairs may not be sponsored.
<i>Note: Sports programmes may be sponsored.</i>			
<b>2.3. Other media content</b>	Chapter 6 Section 4 Radio- and TV Act	R, TV	Programmes that are not advertising must not promote commercial interests in an improper manner
<b>2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)</b>			
<b>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")</b>	Section 13 SVT licence; Section 15 SR licence; Section 12 UR licence	TV; R	PSB shall engage in dialogue with special target groups of its programmes.

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures			
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...)	Policy for Ethnic and Cultural Diversity Within SVT 2006	TV	In each programme category, ethnic and cultural diversity is to be taken into account in planning, contracting and assessment. This includes the persons participating in the actual programmes and to persons having programme-project functions.
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings	Licence obligations for SVT, SR, UR		
<i>Note: Finnish, Meänkieli, Sami, Rom, other minorities, + various minority languages. Deaf.</i>			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works	Chapter 6 Section 8 Radio- and TV Act	TV	At least 50 percent of annual broadcasting time <sup>17</sup> shall be devoted to European works.
<i>Note: In practice not applied, since there are no sanctions. The obligation does not set any time prescriptions.</i>			
	Section 10 SVT licence; Section 12 SR licence	TV; R	SVT and SR shall promote programmes from the Nordic community.
<i>Note: No sanctions, English language programmes dominate purchased material in TV.</i>			
3.2.2.2. Promotion of European independent works	Chapter 6 Section 8 Radio- and TV Act	TV	At least 10 percent of annual broadcasting time or programme budget shall be devoted to works of European origin made by independent producers.
3.2.2.3. Promotion of national/regional works	Section 10 SVT licence	TV	SVT shall provide diverse cultural programmes of high quality reflecting both national and international developments and appealing to diverse interests; SVT shall contribute to the promotion of Swedish film production.

<sup>17</sup> Broadcasting time is defined as the time of programming devoted to programmes other than news, sport, competitions, advertisements and programme services. Pure text services are not considered for purposes of calculating total broadcasting time either.

3.2.2.4. Language requirements	Section 8, 10, 14 SVT licence; Section 10, 16 SR licence; Section 10, 14 UR licence	TV; R	PSB to promote Swedish language (8, 10 SVT; 10 SR; 10 UR); minority languages are to be awarded special standing (14 SVT; 16 SVT; 14 UR).
<i>Note: Inhabitants of Tornedalen have complained that Meänkieli is being treated as identical with Finnish by PSBs and that this constitutes implicit marginalization. Roma have also complained about inadequate representation.</i>			
	Section 2 Decree on State Subsidies for Literature	B	Generally facilitates support of Swedish language publications, including translations of foreign titles. Furthermore provides opportunity to subsidize the publication of books in minority languages.
<i>Note: In practice Swedish is dominant. The large communities speaking non-official minority languages have little access. (Arab, Persian, Kurdish, Serbo-Bosniak-Croatian etc.)</i>			
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)	Section 11, 14 SVT licence	TV	PSB to take into account the interest of ethnic and linguistic minorities (Section 14) and promote prg for children from minority backgrounds (Section 11). Efforts shall be coordinated between different PSB operators (Section 14).
<i>Note: No specification of minorities, in practice a voluntary matter.</i>			
	Policy for Ethnic and Cultural Diversity Within SVT 2006	TV	In each programme category, ethnic and cultural diversity is to be taken into account in planning, contracting and assessment. This includes the persons participating in the actual programmes and to persons having programme-project functions.
3.2.4. Subsidies (apart from general PSB funding)	Press Subsidy Ordinance	N	Provides subsidies for the production and distribution of newspapers, including electronic newspapers (Section 11a).
	Decree on State Subsidies for Literature	B	Provides subsidies for the publication of individual books in Sweden.
Subsidies for cultural magazines	Budget provision and regulations by National Council for cultural Affairs (Statens Kulturråd)		Supports cultural periodicals, by decision of Kulturrådet.
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			
	Chapter 3, Section 8 Radio- and TV Act	R, TV subject to licensing requirements	Grant of licence can be made conditional on accessibility requirements, e.g. for the visually or hearing impaired.
	Section 7 SVT licence; Section 9 SR licence; Section 9 UR licence TV 4 licence contains regulations close to Public broadcasters, though issued by the Radio and TV-authority, not the Government, 2008-2014	TV; R	Programmes shall generally be accessible taking into account the needs of different groups in society

*Note: The provision is very general, and there is very little room for enforcement.*

	Section 13 SVT licence	TV	TV programmes shall take into account the needs of the disabled.  For the deaf, esp. news, cultural and informational programmes shall be accorded priority for translation into sign language. At the end of the licence period 65% of programmes on SVT1 and SVT2 of Swedish origin shall be subtitled.
	Section 15 SR licence; Section 12 UR licence	R	Radio programmes shall take into account the needs of the disabled, and be provided with the long-term objective of making all programmes available to all citizens.
	Section 1 Decree on State Support for Radio and Cassette Newspapers	N	Provides subsidies to newspaper publishers for production of audio versions of their newspapers.
	Section 11 Decree on State Support for Radio and Cassette Newspapers	N	Those who subscribe to a radio periodical can be granted access to necessary reception equipment free of charge.

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Chapter 5 Section 4 Radio- and TV Act	R	Central government, counties and municipalities are barred from obtaining a local radio licences.
<i>Note: In practice no control whatsoever. Very difficult to ascertain that licensing indeed serves the public interest.</i>			
4.1.2. Requirements of independence from political parties / politicians	Chapter 5 Section 3 Press Subsidies Ordinance	N	The political orientation of a newspaper is not to affect the decision concerning its eligibility for press subsidies.
<i>Note: No requirement whatsoever, on the contrary. The ordinance is a political compromise, conscious of the fact that most first newspapers have a centre-right-wing tendency, while Labour-affiliated newspapers are mostly second. Today most Labour-tendency papers are owned, or co-owned by groups, traditionally favouring centre-right positions.</i>			
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			
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>	Section 5 Decree on State Support for Radio and Cassette Newspapers	N	Where support is awarded to areas in which newspaper of more than one political persuasion compete, support shall seek to reinforce political pluralism.
<i>Note: The provision has limited impact on media pluralism at large since Radio and Cassette newspapers are few.</i>			
4.2.1. Equal/proportionate access to airtime for political groupings			
4.2.2. Government announcements	Chapter 3, Section 8 Radio- and TV Act	R, TV subject to licensing requirements	Grant of licence can stipulate that broadcaster must broadcast announcements of importance for the general public.
	Chapter 6 Section 7b Radio- and TV Act	R	Obligation for local radio to broadcast messages of import to the general public if this is requested by government and the broadcast serves to protect people, property or the environment.
	Section 16 SVT licence; Section 18 SR licence	TV; R	SVT and SR shall transmit, free of charge, announcements of import for the general public if requested to do so by a public authority.
4.2.3. Impartiality obligations	Chapter 3, Section 7 Radio- and TV Act	R, TV subject to licensing requirements	Grant of licence can be made conditional on requirement for objectivity and impartiality.
<i>Note: A purely formal matter, apart from public broadcasters. TV 4 has the obligation but nobody is likely to prosecute the company.</i>			



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



4.2.4. Fair representation of political viewpoints; special rules in election periods	Section 13 Code of Ethics for Press, Radio and Television in Sweden	R, TV, N, M	In general, in factual reporting it shall be attempted to represent the views of all parties concerned.
4.2.5. Advertising for political and religious organizations	Radio Law ch 6, 5§ prohibits advertising for political and religious views in SVT,SR,UR and TV4 – under objectivity obligations. Other broadcasters are free to advertise.		

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b>			
	Chapter 2, Section 2 Radio- and TV Act	R	If special reasons justify this, government can issue licence for local radio that do not meet licensing criteria.
	Chapter 5 Section 3 Radio- and TV Act	R	Radio and TV Authority must publicly announce the availability of frequencies.
	Chapter 5 Section 8 Radio- and TV Act	R	Where multiple applicants exist for a local radio licence, it shall be ensured that the applicant offers programming that has local links.
<i>Note: In practice never applied, since all commercial radio is chain-linked.</i>			
	Chapter 5 Section 11 Radio- and TV Act	R	Grant of local radio broadcast licence of TV and radio can be made conditional on provision of a specific proportion of programmes with local links.
<i>Note: Never put into practice.</i>			
	Chapter 8 Section 2 Radio- and TV Act	TV	Cable network operators serving areas comprising more than 100 homes have to reserve, without charge, in each municipality a specific frequency for TV broadcasting activities by one or more local cable transmission undertakings.
<i>Note: The Radio and TV Authority may derogate from this requirement if special reasons apply (Section 6); provision does not apply where cable retransmission only concerns terrestrial broadcasts at frequencies of less than 3 GHz (Section 3)</i>			
	Chapter 8 Section 4 Radio- and TV Act	TV	Operators retransmitting TV programmes at frequencies above 3 GHz must reserve, without charge, in each municipality a specific frequency for TV broadcasting activities by one or more local cable transmission undertakings.
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>			
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	Chapter 5 Section 11 Radio- and TV Act	R	Grant of local radio broadcast licence of TV and radio can be made conditional on provision of a specific proportion of programmes with local links.
<i>Note: For commercial radio never applied in practice.</i>			
	Chapter 6 Section 7a Radio- and TV Act	R	Local licensees must broadcast content of their own production for at least three hours between 6 a.m. and 9 p.m.
<i>Note: The production requirement can be circumvented relative easily in practice, e.g. a machine, playing music with somebody talking in between songs.</i>			
	Chapter 7 Section 11 Radio- and TV Act	R, TV	Local cable transmission undertakings may not, as a rule, transmit commercial advertising. Sponsoring may be allowed.

<b>5.4. Regional State Aids</b>			
<b>5.5. Rules on national minorities</b>	Section 14 SVT licence; Section 16 SR licence; Section 14 UR licence	TV; R	Minority languages are to be awarded special standing in the activities of national PSB (14 SVT; 16 SR; 14 UR), including national minority languages.
<i>Note: Inhabitants of Tornedalen have complained that Meänkieli is being treated as identical with Finnish by PSBs and that this constitutes implicit marginalization. Roma have also complained about inadequate representation.</i>			
<b>5.6. Rules on social inclusion of remote areas</b> (Aménagement du territoire)	Chapter 5 Section 10 Radio- and TV Act	R	Award of a local radio broadcasting licence may be contingent on the delivery of programmes to a particular area within the transmission area.
	SVT licence  TV 4 licence Radio and TV Authority Decision (Radio och TV-verket beslut 2008-03-27 dnr 361/2008 etc. annex 30.)	TV	Right to broadcast nationwide requires that the broadcasts be divided into regional services.
<i>Note: Exact legal meaning of this requirement is unclear. On the other hand this is a reality, for once: SVT, SR and TV4 all do implement this regulation...TV4 should have 16 regional services.</i>			
	Section 7 SVT licence	TV	Broadcasting activity shall reflect Sweden's diversity in geography and living conditions.
	Section 9 SVT licence	TV	SVT is to provide a varied news production covering current events from a multiplicity of perspectives; its objective must be to provide citizens with the information necessary to participate in societal and cultural affairs on a well-founded basis.
	Section 1 SR licence	R	Obligation to provide four radio channels to the entire country, one of which has to provide regionally diversified content.
	Section 5 Decree on State Support for Radio and Cassette Newspapers	N	Support for the production of radio and cassette newspapers shall be geographically diverse.



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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
6.1.1. Moment of intervention			
<i>Note: Broadcasting licences include provision not to change ownership risking to increase concentration as a whole. Never applied, not even when Bonnier group took over TV 4, the largest TV channel. Technical legal problems contributed – temporary lack of “double coverage” of licence withdrawal based on this provision.</i>			
6.1.1.1. At moment of market entry (licensing procedure)	Chapter 3 Section 11 Radio- and TV Act	R, TV	Grant of licence for broadcasters of TV and radio other than local and community radio can be made conditional on relative stability of ownership structure and influence within company.
<i>Note: Cf. above. The provision has not been applied so far.</i>			
	Chapter 5 Section 4 Radio- and TV Act	R	No person or entity may have more than one licence in a local transmission area, unless there are special reasons to justify this
<i>Note: In practice set aside by chain structure.</i>			
	Chapter 5 Section 11 Radio- and TV Act	R	Grant of local radio broadcast licence of TV and radio can be made conditional on relative stability of ownership structure and influence within company.
<i>Note: Never applied.</i>			
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			
6.1.2.2. Crossmedia	Chapter 5 Section 8 Radio- and TV Act	R	In determining who is to receive a local radio broadcasting licence, the Radio and TV Authority shall, in determining whether a dominant position would result from the award, take into account whether the applicant publishes daily newspapers or broadcasts TV or radio in the transmission area concerned; exerts decisive influence over one such undertaking; or is a company in which a person exerts such influence.
<i>Note: The provision has lost much of its practical relevance as newspapers have largely left the market.</i>			
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			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Chapter 4 Section 6 Radio- and TV Act	R	Holders of a local or digital radio licence

	Act		cannot hold a community radio licence.
	Chapter 5 Section 4 Radio- and TV Act	R	Nobody may hold more than one local broadcasting licence, unless special reasons apply.
<i>Note: In practice, the effectiveness of this ban is somewhat limited by networking and cooperation practices between local service providers. A study by the Radio and Television Authority conducted in 2005 showed that very few stations have remained local and independent. Nevertheless, collaborative practices are usually structured in such a manner that they do not provide grounds for licence revocation.</i>			
6.1.3.2. Market shares			
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares			
6.1.3.5. Voting shares			
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors			
<b>6.2. Sector specific rules preventing cooperation between media companies</b>			
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>	Chapter 2 Section 1 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	N	Foreigners who are residents of Sweden or who are citizens of another Member State of the European economic area shall be allowed to own periodicals published in Sweden. This right also accrues to legal persons formed under the legal regime of another EU Member State and which have their headquarters or the centre of their activity within the European economic area.
<i>Note: None, in practice.</i>			
	Chapter 2 Section 6 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	N	Foreigners may be publishers of periodicals for which a certificate of no legal impediment to publication exists or is required.
<i>Note: The Radio and Television Authority has issued about 470 such certificates. In practice, these do not provide an obstacle to the take-up of operations by foreign publishers. Does not have the same extent of enforceability as licensing conditions.</i>			
<b>6.4. General competition rules</b>			
6.4.1. Antitrust			
6.4.1.1. Specific provisions for media sectors (e.g. public interest test...)	No		
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
<i>Note: Controversial application of competition law for publishing part of media, easier for advertising sector. Never tested in court.</i>			
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...)			
<i>Note: No, completely free. Legislative attempts failed.</i>			
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)			
<b>6.5. Transparency obligations</b>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)	Chapter 6 Section 9 Radio- and TV Act	R, TV	Broadcasters must provide a so-called ‘designation’ at least once per broadcast hour,

			or, if this is not possible, between programmes. Teletext shall feature such identification continuously.
	Section 8 Decree on State Support for Radio and Cassette Newspapers	N	Identification information constitutes an acceptable component of radio and cassette newspapers, inclusion of which does not void the right to receive public support
	Chapter 3 Section 1 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	R, TV	The editor responsible for each programme shall be recorded prior to transmission in a register kept by the broadcaster. The register shall be available for consultation by the general public.
<i>Note: In practice difficult, but increasing, for broadcasting. Very difficult for WWW.</i>			
	Chapter 3 Section 6, 10 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	R, TV	Where an agent acts on behalf of the editor of a radio or TV programmes (6), radio periodical (10), his name shall be made known as part of the broadcast.
<i>Note: The editor, is, on the legal level, solely responsible, and shall be named. The practically responsible producer (editor) may or may not be legally responsible.</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 9 Section 5+6 Radio- and TV Act	TV	Satellite operators must provide, upon request of the Radio and TV Authority, - ownership and financing information (Section 5) - information regarding its principal, the principal's address, the programmes' designation and the manner in which transmissions are carried out
	Section 9a Decree on State Support for Radio and Cassette Newspapers	N	Publishers of radio and cassette newspapers can be required to provide an overview of the costs and revenues incurred from the production of these products.
	Chapter 2 Section 2 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	N	The Patent- and Registration Office shall maintain a register of periodicals that have applied for a legal certificate of no legal impediment to publication.
	Chapter 3 Section 7 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	R	The owner of the periodical that constitutes the major source of a radio periodical shall inform the Talking Newspapers Council who is to be considered as editor of the radio periodical.
	Chapter 3 Section 13 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	R	The person responsible for appointing the editor responsible for transmissions other than those covered by the Radio & TV Act and wire-borne text, sound or images shall notify the Radio & TV Authority of the appointee's identity.
	Chapter 3 Section 18 Act containing Regulations relating to the Freedom of the Press Act and the	R	Obligation to register database driven services with the Radio & TV Authority (to be identified by the name of the database, not

	Fundamental Law on Freedom of Expression		that of the editor).
<i>Note: Impracticable, and hence of little value as a deterrent.</i>			
	Chapter 3 Section 26, 27 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression	R, TV	In every case where the editor of a printed periodical or a radio programme, an enterprise for the professional production of printed matter or matter equated with printed matter or of technical recordings, or a news agency, make available by electromagnetic waves to the general public (i) in response to a special request, information from a database that only it can modify, or (ii) information from such a database in accordance with a prior agreement, information on the party providing the service shall be provided concerning the identity of the company, the editors and the transmitting party. This information shall be easily accessible, clear and be publicized next to each other.  The Radio and TV Authority shall maintain a register of the companies concerned.
	Chapter 3 Section 3, 13 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression		Changes in the identity of the editor of the service have to be notified to the appropriate authority.
<i>Note: Difficult to practice for broadcasting, impossible for Web.</i>			
	Chapter 3 Section 4, 14 Act containing Regulations relating to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression		The identity of agents authorized to act on behalf of the editor has to be notified to the appropriate authority.

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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>			
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	Chapter 4 Radio- and TV Act	R	Community radio = local radio for voluntary associations (Section 1); transmission area no larger than a single municipality (Section 2)  Eligible to receive a community radio broadcast licence are <ul style="list-style-type: none"> <li>- non-profits with a link to the transmission area;</li> <li>- parishes &amp; religious bodies within the Church of Sweden;</li> <li>- obligatory student associations at universities and university colleges;</li> <li>- community radio associations</li> </ul> Chapter 6 Section 7 Radio- and TV Act specifies what type of programmes are considered acceptable as community programming
<i>Note: Under 'associations' political groups may be active. Interventions have occurred in cases of racist and anti-semitic programming. Absent such prima facie evidence, effective monitoring of this field is very difficult to implement.</i>			
	Chapter 6 Section 6 Radio- and TV Act	R	Only programmes specifically produced for community radio may be broadcast under such licences; up to ten hours may be from other sources if they are of particular interest to the association's members; AND promote knowledge and culture or involve local cultural events.
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	n/a		The Swedish legislator has never availed itself of the opportunity to adopt such a list. However, Chapter 6 Section 10 Radio- and TV Act stipulates that exclusive broadcasting rights may not be used to deprive a significant portion of the Swedish public from experiencing the event live and for free. Such events occur not more than once per year. The acquisition of rights to these events has to be notified to the Broadcasting Commission acc. to Chapter 9 Section 10 Radio- and TV Act.
<b>7.3. Short news reporting</b>	n/a		
<b>7.4. Fixed book price</b>	n/a		
<b>7.5. Public service media</b>			
7.5.1. Structural rules – organization			
7.5.1.1. Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)			All PSB operators (SVT, SR, UR) are owned by an administrative foundation ( <i>Förvaltningsstiftelsen för Sveriges Radio AB, Sveriges Television. AB och Sveriges Utbildningsradio AB</i> ).

<i>Note: This is a State foundation. Thus these companies are – through this foundation – state-owned.</i>			
7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)			The 13 members of its board are appointed by government following a proposal by the political parties. The Swedish Parliament seeks consensus on all appointees, and members are expected to reach their decisions unanimously.
7.5.1.3. Specific representation requirements for board of directors, other bodies			
7.5.1.4. Advisory bodies: ensured broad representation of cultural, political and geographic groupings	N.a.		
7.5.1.5. Employment: ensured broad representation of cultural, political and geographic groupings	Policy for Ethnic and Cultural Diversity Within SVT 2006	TV	In each programme category, ethnic and cultural diversity is to be taken into account in planning, contracting and assessment. This includes the persons participating in the actual programmes and to persons having programme-project functions.
	Policy for Ethnic and Cultural Diversity Within SVT 2006	TV	Ethnic and cultural diversity is an important part of SVT’s public-service task. SVT’s policy for ethnic and cultural diversity is to be paid particular attention in trainee intake, staffing, setting of salaries and management recruiting. In the long term, staffing choices are to increase the company’s ethnic diversity and cultural skills.
<b>7.5.2. Structural rules – FUNDING</b>			
7.5.2.1. Source of funding (state / tax money, public / licence fees, advertising, merchandising...)	Section 1 Television Fees Act	R, TV	Radio and television in the public interest as well as activities directly thereto shall be financed by a TV fee. The beneficiary must have obtained a licence according to the Radio- and TV Act and be barred from transmitting advertising.
	Section 18 SVT licence; Section 20 SR licence; Section 17 UR licence	TV; R	Prohibition against advertising (does not include sponsoring and self-promotion or promotion for PSB services and products more generally)
	Section 19 SVT licence; Section 21 SR licence; Section 18 UR licence	TV; R	Definition of acceptable sponsored material that can be broadcast.
7.5.2.2. Sufficiency of resources (taking into account the missions and new media activities)			
<b>7.5.3. Definition of public service remit</b>			
7.5.3.1. Obligation to provide a varied and pluralistic offer	Section 1 SVT licence	TV	Obligation to provide four TV channels to the entire country; the two channels provided in addition to SVT1 and SVT2 shall be different from those channels and each other in terms of content or transmission timing. A minimum of 50 hours of programming is to be provided by each service.
<i>Note: New remit is being prepared.</i>			
	Section 1 SR licence	R	Obligation to provide four radio channels to the entire country, one of which has to provide regionally diversified content.
<i>Note: Additionally, many web channels are produced. Moreover, a number of other web services is also offered.</i>			
	Section 7 SVT licence	TV	SVT shall offer a varied supply of programmes,

			covering both general and specific interest programmes; it shall take account of the importance of its activities for the process of opinion formation and express a diversity of views and opinions.
	Section 9 UR licence	R, TV	UR shall provide diverse programmes with a special emphasis on educational content (pre-school, primary and secondary school, university level and adult education).
	Section 9 SVT licence; Section 11 SR licence	TV; R	SVT and SR are to provide a varied news production covering current events from a multiplicity of perspectives; its objective must be to provide citizens with the information necessary to participate in societal and cultural affairs on a well-founded basis.
	Section 10 SVT licence; Section 12 SR licence; Section 13 UR licence	TV, R	SVT and SR shall provide diverse cultural programmes of high quality reflecting both national and international developments and appealing to diverse interests; it is an important objective to represent the many different cultures and cultural forms of expression that characterize contemporary Sweden.
	Section 11, 13 SVT licence; Section 14 SR licence	TV	Special regard shall be had to the production of programmes for children, incl. dedicated news and artistic programmes.
	Section 13 SR licence	R	SR broadcasts for reception abroad shall enable Swedish expatriates as well as foreign listeners to remain connected to Swedish society
	Section 15 SVT licence; Section 17 SR licence; Section 15 UR licence	TV; R	SVT shall promote diversity in programmes by exploiting different forms of production.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Section 7 SVT licence; Section 9 SR licence	TV	SVT and SR shall commit to produce innovative services in terms of both content and form.
7.5.4. Content obligations (not yet mentioned in table 3, 4 or 5)	Chapter 6 Section 1 Radio- and TV Act	R, TV	All licensed broadcasting shall reflect 'the fundamental values of a democratic society and the principle that all persons are of equal value, and the freedom and dignity of the individual'.
7.5.5. Universal coverage obligations	Chapter 3, Section 2 Radio- and TV Act	R, TV subject to licensing requirements	Grant of licence can be made conditional on accessibility of programmes throughout all of Sweden
	Chapter 5 Section 10 Radio- and TV Act	R	Award of a local radio broadcasting licence may be contingent on the delivery of programmes to a particular area within the transmission area.
	Section 1, Section 3 SVT licence	TV	Obligation to provide four TV channels to the entire country (99.8% of population must be able to receive broadcasts; transmissions must not be designed in such a manner that they can only be received by a limited share of the population in the transmission area).
	Section 1, 4 SR licence	R	Obligation to provide four radio channels to the entire country (99.8% of population must be able to receive broadcasts; transmissions must not be designed in such a manner that they can only be received by a



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



			limited share of the population in the transmission area).
	Section 2 UR licence	R, TV	Transmissions must not be designed in such a manner that they can only be received by a limited share of the population in the transmission area.



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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Chapter 8 Section 1 Radio- and TV Act	TV	<p>Network operators have to ensure free reception in their transmission area of TV broadcasts conducted</p> <ul style="list-style-type: none"> <li>- under a Government licence that comprises impartiality and objectivity requirements and a condition of diverse programming, incl. news coverage;</li> <li>- to meet an obligation to transmit throughout the country or parts thereof, even if this does not require a Government licence.</li> </ul> <p>No more than four channels produced by a licensee financed via the Television Fees Act have to be carried.</p>
<i>Note: The Radio and Television Authority may derogate from this requirement if special reasons apply (Section 6); provision does not apply where cable retransmission only concerns terrestrial broadcasts at frequencies of less than 3 GHz (Section 3)</i>			
	Chapter 8 Section 1, 2, 4		Obligation to provide channels for local cable transmission undertakings
	Section 2 SVT licence; Section 3 SR licence	TV; R	Place shall be reserved on TV and radio for educational programmes produced by Sveriges Utbildningsradio AB (Swedish educational broadcaster)
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18			
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access			
8.4.2. EPG (or other search tools)			
8.4.3. API			
8.4.4. Other			
<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>	Press Subsidy Ordinance	N	Provides subsidies for the production and distribution of newspapers, including electronic newspapers (Section 11a)
	Section 11 Decree on State Subsidies for Literature	B	Books eligible for publication subsidies can be awarded a distribution subsidy that seeks to promote availability of the supported works

			at public libraries throughout the country and selected cultural institutions abroad.
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>	Section 2 Law on public libraries SFS 1996:1596		Every local authority has a public library. 2§ of the Law.
<b>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 )</b>	See Section 8.2. above.		

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			Radio and TV Authority - RTVV (www.rtvv.se)
9.1.1. Structure/ organisation	Chapter 9 Section 3 Radio- and TV Act	R, TV	Broadcasting Commission comprises Chairman and six other members. It is placed under the Ministry of Culture.
<i>Note: Swedish Constitution prohibits ministers from direct intervention in the affairs of Government authorities.</i>			
			Radio and Television Authority is located under the Ministry of Culture.
9.1.1.1. Guarantees for independence			
9.1.1.2. Representation requirements	Section 3 Regulatory brief of the BC	R, TV	Considerations of gender equality and diversity shall be integrated into the Broadcasting Commission's work.
9.1.2. Credibility and efficiency	Chapter 9 Section 3 Radio- and TV Act	R, TV	Broadcasting Commission Chairman and Vice-chairman has to be active or former professional judge
	Section 15 Decree laying down the brief of the R+TV Authority		The Director of the Radio & Television Authority shall be a lawyer and have gained professional experience as a judge.
9.1.2.1. Sufficient resources			
9.1.2.2. Tasks and duties			
	Section 1 SFS 2007:1183; Regulatory brief of the BC	R, TV	The Broadcasting Commission ensures compliance with content standards for radio and television broadcasting intended for reception by the general public, incl. those directed at the Swedish territory from abroad. Its exercises its supervisory function ex post.
			Radio and Television Authority <ul style="list-style-type: none"> <li>- grants licences for community, private local radio and occasional broadcasting activity as well as local cable transmission activity, and advises government on the distribution on DTT licences.</li> <li>- Produces voluntary publishing certificates for use on the Internet and other services as well as for databases</li> <li>- Registers every operator who provides services under the Radio- and TV Act and the designation of their services, incl. radio and radio periodicals</li> <li>- Manages licence fee payment by commercial local radio broadcasters and TV4;</li> <li>- Monitors media development in radio, TV, industry structure, media policy, EPGs and tillämpningsprogram; and digital radio broadcasting;</li> <li>- Promote a common TV standard;</li> <li>- Assess technological developments, especially in digital radio distribution.</li> </ul> The Radio and TV Authority entertains a special Investigation Unit which is tasked with following and assessing developments in the media field.
9.1.2.3. Effective sanctioning powers	Chapter 10 Section 1-5, 7 Radio- and TV Act	R, TV	<ul style="list-style-type: none"> <li>- broadcasting without the required licence is punishable;</li> <li>- offshore radio broadcasting is punishable subject to certain conditions; property used towards this end is forfeited unless manifestly reasonable and objects may be forfeited is necessary to prevent an offence or otherwise justified;</li> <li>- failure to register operations is punishable;</li> <li>- property and objects used to commit an offence are forfeited</li> <li>- a special fee is payable where selected provisions concerning advertising, sponsoring and exclusive rights are concerned; depending on the type of the offence, an additional fee may be incurred for disruptive marketing practices.</li> </ul>

			<ul style="list-style-type: none"> <li>- where the Broadcasting Commission finds a failure to abide by licensing conditions the operator may be ordered to publicize the Commission’s decision;</li> <li>- orders for compliance may be issued where the following obligations are not abided by:               <ul style="list-style-type: none"> <li>o local and community radio content requirements;</li> <li>o identification and information requirements;</li> <li>o transmission obligations (incl. provision of transmission capacity);</li> <li>o obligation to submit recordings;</li> <li>o respect for warnings issued with regard to objectionable content.</li> </ul> </li> </ul>
<i>Note: Interventions are difficult to practice because of evidentiary problems.</i>			
	Chapter 11 Radio- and TV Act	R, TV	Revocation of licences; in the case of community radio broadcaster, this may be combined with the decision to bar the licensee from receiving a new licence for up to one year (where a serious abuse of the freedom of expression has been found in court proceedings, this ban may be extended to up to five years).
<i>Note: Licence revocations have occurred extremely seldom.</i>			
9.1.3. Cooperation with other regulators	Section 3 Regulatory brief of the BC	R, TV	Experiences gained in the course of international regulatory cooperation shall be incorporated into the Broadcasting Commission’s work. The Swedish regulatory bodies shall share their experiences among themselves.
	Section 3 Decree laying down the brief of the R+TV Authority	R, TV	When taking licensing decisions, the Radio and TV Authority shall cooperate with the NCA and the Post- and Telco Authority in competition issues, and with the latter in questions of transmission standards.
<b>9.2. Press Council</b>			
9.2.1. Broad representation of sector	Charter of the Press Council	PM (N, M <sup>18</sup> )	<p>The Council shall consist of a chairman, a first, second and third vice-chairman, and fourteen ordinary members. The National Press Club, the Swedish Union of Journalists, the Newspaper Publishers Association and the Magazine Publishers Association shall each appoint two members of the Council and two deputy members.</p> <p>The Chief Parliamentary Ombudsman and the chairman of the Swedish Bar Association shall jointly appoint six members and six deputy members, who shall be respected citizens with wide experience of national affairs.</p>
9.2.2. Sufficient resources			The operation of the Press Council is financed by four of the leading media associations in Sweden (The Newspapers Publishers Association, The Magazine Publishers Association, The Union of Journalists and The National Press Club). It is incumbent on these organizations to provide adequate funding.
9.2.3. Credibility	Section 3 Charter of the Press Council	PM (N, M)	<p>The chairman and vice-chairmen should be jurists with experience of service as regular court judges.</p> <p>The six members and their deputies jointly appointed by the Chief Parliamentary Ombudsman and the chairman of the Swedish Bar Association shall be ‘respected citizens with wide experience of national affairs’ and must not be dependent on any newspaper company or press organization.</p>
	Section 10 Charter of the Press Council	PM (N, M)	Decisions should be reached unanimously; dissenting opinions should be clearly documented.
	Comment on Section 3 Charter of the Press Council	PM (N, M)	Where a case has already been submitted for legal review under the Freedom of Speech or the Freedom of the Press Act, the Press Council shall decide whether a separate treatment of the same subject from an ethical perspective is still required, keeping in mind that journalistic

<sup>18</sup> S 1 Charter of the Press Council: ‘Council shall review such cases relating to all periodicals which, by subscription, by sale of single copies or by other means, are available to the public.’ Online publications are covered to the extent that they are produced by companies represented in the Joint Committee of Press Associations or constitute supplements to periodicals and have been produced by the editorial staff of a printed periodical or by a company belonging to a corporation that also publishes periodicals.

			ethics under no circumstances may obstruct the exercise of freedom of the press.
<b>9.3. Competition Authority</b>			
9.3.1. Structure/ organization: Does the NCA face any functional limitations that might negatively affect media pluralism?			Yes. The constitutional legislation on press and broadcasting, in practice does not make any intervention possible in ownership structures. Only advertising matters have in some cases been treated in substance.
9.3.2. Cooperation with other regulators			

**Short summary of major implementation problems**  
 Many of the provisions have mostly a formal character. The market situation development has made much legislation obsolete. Legislation on media concentration is by and large absent, due to the radical liberalism of constitutional regulations, the major exception being the Press support ordinance, having had impact on press development for three decades.



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



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

### [UNITED KINGDOM]

---

Author: Oliver Fueg  
Country correspondent: Prof. Dr. Damian Tambini

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

- **Legislation**

- *Sector specific legislation*

Broadcasting Act 1990 (c. 42)

Broadcasting Act 1996 (c. 55)

Communications Act 2003 (c. 21)

Community Radio Order 2004 (SI 2004 No. 1944)

Office of Communications Act 2002 (c. 11)

Radio Multiplex Services (Required Percentage of Digital Capacity) Order 2006  
(SI 2006 No. 2130)

The Broadcasting Act 1990 (Independent Radio Services Exceptions) Order 2007

The Media Ownership (Local Radio and Appointed News Provider) Order 2003 (SI 2003 No. 3299)

Wireless Telegraphy Act 2006 (c. 36)

- *General legislation*

Competition Act 1998 (c. 41)

Contempt of Court Act 1981 (c. 49)

Enterprise Act 2002 (c. 40)

Freedom of Information Act 2000 (c. 36)

Freedom of Information Act 2000 (c. 36)

Human Rights Act 1998 (c. 42)

- **Codes of conduct**

Editors' Code of Practice of the Press Complaints Commission, 7.8.2006

OFCOM Broadcasting Code, 2005

OFCOM Code on EPGs

OFCOM Rules on the amount and distribution of advertising, as last amended 10.7.2006

OFCOM Statement on European Production Quotas, 10.2.2005

The extension of the PCC's remit to include editorial audio-visual material on websites (2007)

The National Union of Journalists ' Code of Conduct [NUJ Code]

- **Other**

BBC Charter, 19.9.2006

BBC Trust, BBC Protocol A1– Appointments to and Remuneration of the Executive Board, January 2007

BBC Trust, BBC Protocol E2 – Audience Councils, January 2007

Broadcasting – An Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 30.6.2006  
[BBC Broadcasting Agreement]

Memorandum of association of the Press Complaints Commission, 26.4.2006

OFCOM, Radio Licensable Content Service Licences. Notes of Guidance for Applicants, July 2005

OFCOM, Television Licensable Content Services. Guidance Notes for Applicants, 31.3.2008



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

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Human Rights Act 1998 Section 1 i.c.w. Schedule 1; Section 12	P, AAVM	Everyone has the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The British courts, in considering whether or not to grant relief against respondents acting, <i>inter alia</i> , as journalists, shall have regard to the likely effects for the freedom of expression. Applications for relief shall not prejudice publication unless the court considers it likely that the applicant will be able to establish that publication should not be allowed.
<i>Implementation problem: In reaching its decision, the court shall have regard to applicable privacy codes. Pursuant to paragraph 2 (1) of Part 2 of Schedule 2 to the 1990 Broadcasting Act, religious bodies are generally banned from holding broadcast licences; paragraph 2 (2) of that Schedule allows, however, for derogations where OFCOM considers it appropriate for such a body to hold a licence for the provision of a satellite TV, a licensable programme service or any other licence other than a national licence to be granted under Part III of that Act. Furthermore, paragraph 15 (1) of Schedule 14 to the Communications Act 2003 further provides the opportunity for OFCOM to allow holding of such licences other than the ones mentioned in 2 (1A) of Part 2 of Schedule 2 to the 1990 Broadcasting Act.</i>			
	Editors' Code of Practice	N	There is a public interest in the freedom of expression itself.
	Section 58 (2B), (2C) Enterprise Act		The need for free expression of opinion in newspapers constitutes a specified consideration which requires the OFT to bring to the attention of the Secretary of State any completed or anticipated merger case affecting it.
<b>1.2. Freedom of/right to information</b>	See 1.1		
Is there – besides constitutional provisions – a specific act dealing with citizens' or journalists' access to public sector information?	Section 1 Freedom of Information Act		Everybody can request information from public authorities which are under a duty to confirm or deny whether they hold the pertinent information, and make it accessible to the extent it is not subject to the exemptions provided for and the request is not vexatious.
<i>Implementation problem: Freedom of Information plays an important role in the media's supervisory role as the fourth estate and the ICO publishes a collection of stories showcasing the application of this right on a recurrent basis to illustrate its function. This general success notwithstanding there continue to be concerns over case handling times, e.g., time taken by the ICO to initiate contact with government bodies from whom access to information has been unsuccessfully sought by journalists. At the same time, concern has been expressed by about media organisations' own handling of information requests, including the release of employee data even where these acted in a professional rather than in a private fashion. As workload implications of increased use of freedom of information requests become clear and organisations, especially large organisations, increasingly favour cost coverage solutions to recover costs incurred in answering requests, this may have adverse effects on investigative use of the instrument, in addition to wait times imposed by the need for complaints and case handling times.</i>			
Are there specific rules dealing with journalists' access to events for news reporting?	N/a		
<b>1.3. Explicit recognition of media pluralism</b>			
	Section 3 (2) (c) Communications Act	R, TV	It shall be an explicit objective of OFCOM's activities to ensure the maintenance of a sufficient plurality of providers of different television and radio services.

	Section 85 (2) Broadcasting Act 1990	R	In carrying out its licensing function, OFCOM shall secure the provision of a diversity of national and local services which cater to the tastes of different audiences.
	Section 12 (3) Broadcasting Act 1996	TV	Where the holder of television multiplex licence applies to OFCOM for a variation of the licence conditions, such variation shall only be granted if this does not lead to an unacceptable reduction in the appeal of the programmes offered to a variety of tastes and interests.
	Section 277 (1) Communications Act	TV	The regulatory regime for every licensed public service channel is to include the conditions that OFCOM consider appropriate for securing that, in each year, not less than 25 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions.
	Section 309 Communications Act	TV	Every digital television programme service that is not comprised in a licensed public service channel shall devote no less than 10 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the service to the broadcasting of a range and diversity of independent productions.
	Section 58 (2B), (2C) Enterprise Act		A sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom is recognized as a legitimate public interest consideration for purposes of applying the merger regime of the Enterprise Act. Similar recognition is given to: (i) a sufficient plurality of persons with control of the media enterprises serving every different audience in the United Kingdom or in a particular area or locality of the United Kingdom; (ii) the availability throughout the United Kingdom of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests; and (iii) the need for persons carrying on media enterprises, and for those with control of such enterprises, to be committed to the attainment in relation to broadcasting of the standards objectives specified by Section 319 of the Communications Act.
<b>1.4. Protection of journalistic sources</b>			
	Section 14 Editors' Code of Practice	N	Journalists have a moral obligation to protect confidential sources.

	Section 10 Contempt of Court Act		No court may require a person to disclose, nor is any person guilty of contempt of court for refusing to disclose, the source of information contained in a publication <sup>1</sup> for which he is responsible, unless it be established to the satisfaction of the court that disclosure is necessary in the interests of justice or national security or for the prevention of disorder or crime.
<i>Implementation problem: With new legislation, such as the Terrorism Act 2000, incarceration has become the only viable way of protecting sources in an increasing number of cases and journalistic freedoms have been seen to suffer as a result.</i>			
	Section 11 Contempt of Court Act		A court may allow a name or other matter to be withheld from the public and give directions prohibiting the publication of that name or matter in connection with the proceedings.
<i>Implementation problem: There has been some concern over the provision being applied too favourably for the defendant, e.g., in an attempt to protect relatives (such as the children of paedophiles). In the interest of open justice, a strict interpretation must be retained to make sure that it serves the function of witness protection. Postponement orders may suffice to prevent prejudicing effects of reporting before or during trial. Due to a lack of prosecution of offending media practices and an overreliance on judges’ mediating role, contempt proceedings are difficult to institute in England.</i>			
	Section 7 NUJ Code of Conduct		Journalists shall protect confidential sources of information.
<b>1.5. Right of reply</b>			
	Section 2 Editors’ Code of Practice	N	A fair opportunity for reply to inaccuracies must be given when reasonably called for.
	Rule 7.11 OFCOM Broadcasting Code		In case a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an opportunity to respond (7.11).
<b>1.6. Ratification of international instruments:</b> - CoE’s Framework Convention For The Protection Of National Minorities - UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	-Yes -Yes		

<sup>1</sup> Section 2 (1) specifies that a publication ‘includes any speech, writing, programme included in a cable programme service or other communication in whatever form, which is addressed to the public at large or any section of the public.’

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Art. 6 BBC Charter		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs, subject to any other provisions included in the Charter, in any Framework Agreement or laid down by law.
	S 2, 8, 9, 14 NUJ Code of Conduct		Journalists shall defend the freedom of the press and other media with regard to the collection of information and the expression of comment and criticism (S 2). Journalists must not accept bribes or other inducements to influence performance of their professional duties (S 8). Advertising or other considerations shall not affect the truthfulness of reporting (S 9), and journalists are not to endorse by way of advertising any product save his own or that of the medium by which he is employed (S 14).
	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
<b>2.2. News / information programmes</b>	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
<b>2.3. Other media content</b>	Section 319 (4) (f) Communications Act	R, TV	In defining and revising programme standards, OFCOM shall have regard to the desirability of maintaining the independence of editorial control.
<b>2.4. Subsidies/ Training of journalists (independence, ethic, recruitment, etc.)</b>	Section 27 Communications Act	R, TV	OFCOM shall takes initiatives to promote training and retraining of persons for employment by radio and TV operators.
<b>2.5. Consultative programming structure for participation of the public/citizens to media</b> (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 3 (4) Community Radio Order 2004	R	Every community radio service must afford members of the community it is intended to serve opportunities to participate in the operation and management of the service.
	Section 105 (1) (f) Broadcasting Act 1990 / Paragraph 5(1)(d) Schedule Community Radio Order 2004	R	Providers of community radio services shall demonstrate the procedures used to remain accountable to the relevant community.

	Art. 26 BBC Charter		The BBC Trust must adopt protocols outlining how it will engage licence fee payers; these protocols must themselves be made subject to public consultation prior to adoption.
	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		There shall be an Audience Council for each of the British nations whose task is to bring the diverse perspectives of licence fee payers to bear on the work of the trust (39 (1) i.c.w. 39(3)). These Councils shall also advise the BBC trust on how well the BBC is discharging its public interest functions (39 (2)), and their consultation is required on all proposals subject to a Public Value Test (39 (6)). Audience Council members must make a formal Declaration of Interest on an annual basis to ensure independence of their work (Protocol).

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies’ bodies, structures...)</b>	Section 12(1)(e) Broadcasting Act 1996	TV	Television multiplex licences shall include conditions that ensure that licence holders in their contracting of digital programme services or digital additional services do not unduly discriminate against or in favour of a particular supplier of such services.
3.1.1. Special representation requirements in media company structures			
3.1.2. Special representation requirements in media advisory bodies	BBC Protocol E2 – Audience Councils		Regional Audience Council members are drawn from a range of backgrounds and balanced as far as possible to be broadly reflective of the views of audiences throughout the transmission area, for example in terms of geographical location, disability, ethnic or national origin, gender, and age.
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Section 27 (2) i.c.w. (4) Communications Act; Section 27 (3) Communications Act		OFCOM shall promote equality of opportunity between men and women, different racial groups (Subsection 4) and for the disabled (Subsection 3) in relation to employment by TV and radio operators.
	Section 337 Communications Act	TV, R	For every Broadcasting Act licensee who employs (or is likely to employ) more than 20 individuals and provides his services for more than 31 days a year, OFCOM shall define conditions that promote, in relation to employment with the licence holder, equality of opportunity (a) between men and women; and (b) between persons of different racial groups (Subsection 1). This also includes the equalisation of opportunities for disabled persons (Subsection 2). The Secretary of State may include other equality considerations as he sees fit and vary the numeric thresholds which determine the applicability of this provision to a given service provider.
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings			
3.2.2. Content obligations			
3.2.2.1. Promotion of European works			
	OFCOM Statement on European Production Quotas, Annex 1	TV	Television broadcasters shall ensure that a majority of their transmission time is made up of European programming

3.2.2.2. <i>Promotion of European independent works</i>	Section 277 (1) Communications Act	TV	The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions.
	Section 285 Communications Act	TV	Every public licensed channel shall be required to draw up a code setting out the principles it will apply when agreeing terms for the commissioning of independent productions.
	Section 309 Communications Act	TV	Every digital television programme service that is not comprised in a licensed public service channel shall devote no less than 10 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the service to the broadcasting of a range and diversity of independent productions.
	OFCOM Statement on European Production Quotas, Annex 1	TV	Television broadcasters shall ensure that at least 10 percent of their transmission time or programming budget is devoted to European programming created by producers who are independent of broadcasters, and at least 50 percent of the transmission time under this rule shall be dedicated to such programmes that are no more than five years old.
	Clause 54 BBC Broadcasting Agreement		The BBC must ensure that, in each year, not less than the Relevant Percentage of the total amount of time allocated to the broadcasting of Qualifying Programmes included in BBC One and BBC Two is allocated to the broadcasting of a range and diversity of independent productions. The values obtaining for each are to be determined separately.
3.2.2.3. <i>Promotion of national/regional works</i>			
	Section 286, 288 Communications Act	TV	The regulatory regime for every Channel 3, the Channel 5 (Section 286 (1) and (3)) and the Channel 4 (Section 288(1)) service includes the conditions that OFCOM consider appropriate in the case of that service for Securing (a) a suitable proportion of programmes made in the United Kingdom for viewing on those channels are programmes made outside the M25 area; (b) that the programmes that are made outside the M25 area (taken together) constitute a suitable range of programmes; (c) that a suitable proportion of the expenditure of the providers of Channel 3 / Channel 5 / Channel 4 services programmes made in the United Kingdom is referable to programme production at different production centres outside the M25 area; and [...]

			<p>[...]</p> <p>(d) that the different programme production centres to which that expenditure is referable constitute a suitable range of such production centres. At OFCOM’s discretion, these considerations may be extended to a national Channel 3 licence (Section 286 (2)). To be suitable, the proportions stipulated must be significant in relation to the programme or expenditure in question (Sections 286 (6); 288 (4)).</p>
	Section 287 (1), (2), (4) Communications Act	TV	<p>For regional, local and national Channel 3 programmes, there shall be requirements for (i) inclusion of a sufficient amount of time being given to a suitable range of programmes, which in the case of regional and local services shall be of particular interest to persons living within those areas, or, in the case of a national service, diverse areas of the UK; (ii) the regional or local content, as the case may be, to be of high quality; (iii) the regional or local programmes included in the service to have been produced, in a suitable proportion, within the areas served; (iv) service area-related news programmes to be dispersed throughout transmission time; (v) other programmes to be available, in a suitable proportion, during peak-viewing and other times. To be suitable, the proportions stipulated must be significant in relation to the programme or expenditure in question (Subsection 7).</p>
	Section 289 (1) Communications Act	TV	<p>The regulatory regime for the public teletext service includes the conditions that OFCOM consider appropriate for securing that the service includes what appears to them to be an appropriate proportion of material that is of particular interest to persons living in different parts of the United Kingdom.</p>
	Section 351 (5) Communications Act	TV	<p>When a change of control of a Channel 3 service is announced or has been brought about, OFCOM shall review, inter alia, the effects of this change with respect to:</p> <p>[Subsection 5]</p> <p>(a) the extent to which Channel 3 programmes made in the United Kingdom that are included in the service are programmes made outside the M25 area;</p> <p>(b) the range of Channel 3 programmes made in the United Kingdom outside that area that are included in the service;</p> <p>(c) the extent to which the expenditure of the provider of the service on Channel 3 programmes is referable to programme production at different production centres outside the M25 area;</p> <p>(d) the range of different such production centres to which that expenditure is referable.</p>



	Section 351 (6) Communications Ac	TV	[Subsection 6] (a) the quality and range of regional programmes included in the service; (b) the quality and range of other programmes included in the service which contribute to the regional character of the service; (c) the quality and range of the programmes made available by the licence holder for the purposes of inclusion in nationwide Channel 3 service.
	Section 351 (7) Communications Ac	TV	[Subsection 7] (a) the amount of time allotted to regional programmes; and programmes included in the service which contribute to the regional character of the service; (b) the proportion of regional programmes included in the service which are made within the area for which the service is provided; (c) the extent of the use, in connection with the service, of the services of persons employed (whether by the licence holder or any other person) within that area; (d) the extent to which managerial or editorial decisions relating to programmes to be included in the service are taken by persons so employed within that area.
<p><i>Implementation problem: Under Section 352 (1), (3), (4), OFCOM may impose new or varied conditions of a more onerous character on the licensee, if a change of control, actual or potential, stands to affect the regional programming or the regional character of the service in question adversely. Subsection 5 stipulates, however, that variations must not provide for the inclusion of a new or varied condition in a licence unless the new condition, or the condition as varied, is one which (with any necessary modifications) would have been satisfied by the licence holder throughout the twelve months immediately before the relevant date. This seems to render the remedy far less effective than potentially possible.</i></p>			
	Clause 50 BBC Broadcasting Agreement		The BBC Trust is to ensure that BBC1 and BBC2 devote a sufficient amount of time to programmes of regional interest, which are of high quality. A suitable proportion shall be produced in the relevant area (Northern Ireland, Scotland, Wales, or any region of England in relation to which there is a regional variation of the television service concerned). Subject to conditions, the Trust shall not agree to any requirements that would lead to a fall in the number of hours or the proportion of programming dedicated to regional programmes below the level obtaining in the year 2002.
3.2.2.4. Language requirements	Section 205 (5) Communications Act	TV	Any additional programme services offered by the Welsh Authority must consist of a substantial proportion of programmes in Welsh.
	Section 208 (3) Communications Act		The Gaelic Media Service shall secure availability of a wide and diverse range of high quality programmes in Gaelic to persons in Scotland.
	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of appropriate provision in minority languages.

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)	Section 10 NUJ Code		A journalist shall only mention a person's age, race, colour, creed, illegitimacy, marital status (or lack of it), gender or sexual orientation if this information is strictly relevant. A journalist shall neither originate nor process material which encourages discrimination, ridicule, prejudice or hatred on any of the above-mentioned grounds.
	Section 12 (ii) Editors' Code of Practice of the Press Complaints Commission	N	Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to a story.
	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of reflecting different religious and other beliefs and of appropriate provision in minority languages
3.2.4. Subsidies (apart from general PSB funding)	Section 359 Communications Act	R, TV	OFCOM may make grants as they consider appropriate to providers of community radio services; furthermore, the Secretary of State may provide by order that OFCOM can also make grants to providers of local digital television services.
<i>Implementation problem: No order for the support of local digital television has yet been issued by the Secretary of State.</i>			
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)			
	Section 10 (1) Communications Act		OFCOM shall encourage the development of domestic communications equipment that is easily usable by the widest possible range of individuals, including those with disabilities, and that this is as widely as possible available for acquisition.
	Section 21 Communications Act		OFCOM shall establish an Advisory committee on elderly and disabled persons.
	Sections 303 (1), (4) , (5), 306 Communications Act	TV: (a) S4C Digital or any other digital TV programme service provided by the Welsh Authority; (b) any licensed public service channel; (c) a digital television programme service but not an EPG; (d) a television licensable content service but not an EPG; (e) a restricted television service.	OFCOM shall draw up, and periodically revise a code giving guidance as to (a) the extent to which services should promote the understanding and enjoyment by (i) persons who are deaf or hard of hearing, (ii) persons who are blind or partially-sighted, and (iii) persons with a dual sensory impairment, of the programmes to be included in such services; and (b) the means by which such understanding and enjoyment should be promoted (Subsection 1). From the fifth anniversary of the service, at least 60 percent of qualifying programmes must be provided with subtitling (Subsection 4). [...]

			<p>[...]</p> <p>From the tenth anniversary, (a) at least 90 percent of a Channel 3 service or of Channel 4 as consists of programmes that are not excluded programmes must be accompanied by subtitling;</p> <p>(b) at least 80 per cent of every other service to which this provision applies that are not excluded programmes must be accompanied by subtitling;</p> <p>(c) at least 10 per cent of every service to which this provision applies that are not excluded programmes must be accompanied by audio-description for the blind; and</p> <p>(d) at least 5 per cent of every service to which this provision applies that are not excluded programmes must be presented in, or translated into, sign language (Subsection 5). The Secretary of State is competent to alter these targets (Section 306).</p>
	Clause 59 BBC Broadcasting Agreement	TV	<p>Modified application of section 303 to the BBC (provision for the deaf and visually impaired): The notion of excluded programmes shall be defined specifically with regard to the BBC. They may include (a) different descriptions of programmes in relation to different UK Public Television Services provided by the BBC; and (b) in the case of a UK Public Television Service which the parties are satisfied is a special case, all the programmes included in the service. The BBC must publish anything agreed for the purposes of this clause in such manner as it considers appropriate, having regard to the need for access of (a) persons who are deaf or hard of hearing, and (b) persons who are blind or partially sighted.</p>
	Section 308 Communications Act	TV	<p>The regulatory regime for the public teletext service includes the conditions that OFCOM consider appropriate for securing, as far as it is reasonable and practicable, the inclusion of features in that service to enable persons with disabilities affecting their sight to make use of the service.</p>
	Section 310 (3) Communications Act; Section 5 EPG Code		<p>OFCOM shall oblige EPG providers to incorporate features in their EPGs to enable, so far as practicable, visually or hearing impaired people to use the EPGs for the same purposes as people without such disabilities.</p>
	Paragraph 64 Television Licensable Content Services. Guidance Notes	TV	<p>A television service achieving an average audience share of all UK households of 0.05% or more may be required to provide subtitling, signing and audio description, subject to passing an affordability threshold and not facing technical difficulties that are impracticable to surmount.</p>

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	Part II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990	TV, R	Individuals who are officers of bodies whose objects are wholly or mainly of a political nature and their affiliated bodies, including corporate bodies, are ineligible for obtaining a broadcasting licence.
4.1.2. Requirements of independence from political parties / politicians	Part II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990; Paragraph 8 (1) Schedule Community Radio Order 2004	TV, R	Bodies whose objects are wholly or mainly of a political nature and their affiliated bodies, including corporate bodies, are barred from obtaining a licence, as are bodies in which any of the aforementioned hold a share of five percent or more or which are controlled by them. However, individuals who are officers of such bodies as well as certain publicly funded bodies are allowed to hold community radio licences.
	Art. 6 BBC Charter		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs.
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	Pt II Paragraph 1 (1) Schedule 2 Broadcasting Act 1990		Individuals who are officers of bodies pursuing wholly or mainly political objects and their affiliated bodies, including corporate bodies, are barred from obtaining a licence
<i>Implementation problem: This disqualification clause has been rendered inapplicable by Paragraph 8 (1) Schedule Community Radio Order 2004.</i>			
	BBC Protocol E2 – Audience Councils		Audience Council members must make a formal Declaration of Interest on an annual basis to ensure independence of their work.
4.1.4. Representation requirements in media companies' bodies (board of directors...)			
4.1.5. Representation requirements in media advisory bodies and/or regulators			
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>			
4.2.1. Equal/proportionate access to media for political groupings			

	Section 333 Communications Act	R, TV	The regulatory regime for every licensed public service channel, and for every national radio service, includes (a) conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and (b) conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts defined by OFCOM. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).
	Part 2 Section 18 Schedule 12 Communications Act	TV	The Welsh Authority must include (a) party political broadcasts, and (b) referendum campaign broadcasts, in every designated public service of theirs (S4C, S4C Digital, any other public TV services designated by order under Section 205). The Welsh Authority shall draw up a policy for such inclusion, which may, in particular, regulate (a) the political parties on whose behalf party political broadcasts may be made; (b) for each of those parties, the length and frequency of the broadcasts; and (c) in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).
	Clause 48 BBC Broadcasting Agreement		The BBC must include, in some or all of its UK broadcasting services, party political broadcasts and referendum campaign broadcasts. It is for the BBC Trust to determine the conditions on which such inclusion shall take place, including the identification of registered political parties on whose behalf party political broadcasts may be made and the length and frequency of such broadcasts.
<b>4.2.2. Government announcements</b>			
	Section 336 Communications Act	TV, R	The Secretary of State or any other Minister require OFCOM to give a direction to licensees under the Broadcasting Act to include in their broadcasts government announcements.
	Section 142 (1AA) Local Government Act 1972; Section 349 Communications Act		Local Government Authorities may provide broadcasting or electronic communications services to distribute information concerning their functions and the services provided by them or other authorities as defined by the Local Government Act
<b>4.2.3. Impartiality obligations</b>			
	Section 319 (2)(c) i.c.w. (8) Communications Act	R, TV	News included in radio and television services shall be presented with due impartiality, no matter what their format.

	Section 320 (1) Communications Act	R, TV	Providers of TV and radio services that are not restricted services (cf. Section 245) are not to pronounce themselves on matters of political or industrial controversy and on matters relating to current public policy; due impartiality has to be reserved with respect to these subjects in every TV programme service, teletext service, national radio service and national digital sound programme service. Local radio, digital sound programme and licensable content services must not give undue prominence to the opinions of particular persons.
	Clause 6 (1), (2) (a) BBC Broadcasting Agreement		In fulfilling its purpose of sustaining citizenship and civil society, the BBC Trust must seek to ensure that the BBC gives information about the world through accurate and impartial news, other information, and analysis of current events and idea. This includes notably an obligation to promote understanding of the UK political system, including through dedicated coverage of Parliamentary matters, and an impartial account day by day of the proceedings in both Houses of Parliament.
	Clause 44 BBC Broadcasting Agreement		The BBC's UK Public Services (cf. clause 11) must not contain any output which expresses the opinion of the BBC or of its Trust or Executive Board on current affairs or matters of public policy other than broadcasting or the provision of online services. This does not apply to output consisting of proceedings in either House of Parliament; proceedings in the Scottish Parliament, the Welsh Assembly or the Northern Ireland Assembly; or proceedings of a local authority or a committee of two or more local authorities.
4.2.4. Fair representation of political viewpoints; special rules in election periods	Section 333 Communications Act	R, TV	The regulatory regime for every licensed public service channel, and for every national radio service, includes (a) conditions requiring the inclusion in that channel or service of party political broadcasts and of referendum campaign broadcasts; and (b) conditions requiring that licence holder to observe such rules with respect to party political broadcasts and referendum campaign broadcasts defined by OFCOM. Only registered parties and designated organisations are to be entitled to party political broadcasts or referendum campaign broadcasts (Subsection 3).

	Section 107 Broadcasting Act 1996; Clause 45 BBC Broadcasting Agreement		A code on unjust or unfair treatment in programmes drawn up by OFCOM (OFCOM Fairness Code) shall apply to any programme broadcast by the BBC, by the Welsh Authority and any programme included in a licensed service.
	Part 2 Section 17 Schedule 12 Communications Act	TV	It shall be the duty of the Welsh Authority to secure the observance (a) in connection with the provision of their public television services, and (b) in relation to the programmes included in those services, of the OFCOM Fairness Code.
	Rules 7.6, 7.9 to 7.11, 7.13 OFCOM Broadcasting Code		When a programme is edited, contributions should be represented fairly (7.6). Factual programmes as well as dramas and factually based dramas should not present or omit facts in a manner that is unfair to an individual or organisation (7.9, 7.10), and anyone whose omission might be unfair should be given an opportunity to contribute (7.9). In case a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an opportunity to respond (7.11). Programmes must represent the views of persons or organisations not participating therein in a fair manner (7.13).
	Clause 48 BBC Broadcasting Agreement		The BBC must include, in some or all of its UK broadcasting services, party political broadcasts and referendum campaign broadcasts. It is for the BBC Trust to determine the conditions on which such inclusion shall take place, including the identification of registered political parties on whose behalf party political broadcasts may be made and the length and frequency of such broadcasts.
4.2.5. Advertising for political and religious organizations			
	Section 2 (1) Local Government Act 1986		Prohibition of political publicity: Local authorities must not publish, or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party.
	Section 4 (1) Local Government Act 1986		The Secretary of State may issue one or more codes of recommended practice as regards local authority publicity, and local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.

	<p>Sections 319 (2) (g), 321 (2), (7)          Communications Act</p>	<p>R, TV</p>	<p>An advertisement contravenes the prohibition on political advertising if it is (a) inserted by or on behalf of a body whose objects are wholly or mainly of a political nature; (b) directed towards a political end; or (c) is linked to an industrial dispute. This ban does not extend to advertisements of a public service nature inserted by, or on behalf of, a government department, or party political and referendum campaign broadcasts the inclusion of which is required by a condition imposed under section 333 or by paragraph 18 of Schedule 12 to this Act</p>
--	---	--------------	--



**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b>			
	Section 3(2) Community Radio Order 2004	R	Community radio services are characterized by serving one or more communities.
	Paragraph 5(1)(c) Schedule Community Radio Order 2004	R	When awarding a licence for a community radio service, OFCOM shall take into account how the content adds to other existing local services serving the same area in whole or in part.
<i>Implementation problem: Paragraph 5(3) of the Schedule holds that the licence award decision shall take into consideration the economic viability of other local services alongside community radio broadcasting. As community radio operations are defined as being predominantly motivated by non-economic objectives (Art. 3(1), (3)), this provision tends to prefer economic viability at the expense of community service.</i>			
	Paragraph 2 Independent Radio Services Exceptions Order 2007	R	Community Audio Distribution Systems may operate without a broadcasting licence.
	Section 213 Communications Act	TV	This section abolishes the need for a licence to provide local cable delivery services.
	Section 244 Communications Act	TV	The Secretary of State may by order apply, inter alia, the general provisions on the licensing of television licensable content services to services which are local in the sense of Subsections 3 and 4. In this context, a service is to be considered as meeting the needs of a particular area or locality only if (a) their provision brings social or economic benefits to that area or locality, or to different categories of persons living or working in that area or locality; or (b) if they cater for the tastes, interests and needs of some or all of the different descriptions of people living or working in the area or locality.
	Section 287 Communications Act	TV	Regional, local and national Channel 3 services, shall include suitable proportions of regional (in the case of regional and national services) or local (in the case of local services) programmes.
	Section 314 (1) Communications Act	R	OFCOM shall carry out its functions in relation to local sound broadcasting services in a way that is most apt to guarantee that local material is included to the extent it considers appropriate; in those cases, a suitable proportion shall be devoted to locally-made programmes, i.e. programmes made wholly or partly at premises in the area or locality for which the service is provided.
<b>5.2. Structural measures: access of various localities to media (e.g. obligation to have branches throughout country)</b>			

<b>5.3. Content obligations: requirements to cover local events, etc.</b>	Art. 2 (2), 3(2) Community Radio Order 2004	R	A community radio service delivers social gain to the community that it serves, inter alia, when it contributes to the better understanding of that community and the strengthening of links within it. Like the characteristic of serving one or more communities, this requires coverage of the community itself. The obligation here then is a characteristic by design.
	Section 314 (1) Communications Act	R	OFCOM shall carry out its functions in relation to local sound broadcasting services in a way that is most apt to guarantee that local material is included to the extent it considers appropriate; in those cases, a suitable proportion shall be devoted to locally-made programmes, i.e. programmes made wholly or partly at premises in the area or locality for which the service is provided.
	Section 289 (1) Communications Act	TTX	OFCOM is to define conditions for the public teletext service that secure that the latter includes what appears to them to be an appropriate proportion of material that is of particular interest to persons living in different parts of the United Kingdom.
<b>5.4. Regional State Aids</b>	Section 359 Communications Act	R, TV	OFCOM may make grants as they consider appropriate to providers of community radio services; furthermore, the Secretary of State may provide by order that OFCOM can also make grants to providers of local digital television services.
<i>Implementation problem: No order for the support of local digital television has yet been issued by the Secretary of State.</i>			
<b>5.5. Rules on national minorities</b>	Clause 9 BBC Broadcasting Agreement	R, TV	In developing the remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC promotes awareness of different cultures and alternative viewpoints, taking into account the importance of appropriate provision in minority languages.
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>	Section 12 (5) Communications Act		Members of OFCOM’s Content Board shall be appointed, inter alia, with a view to their ability to represent the interests of different parts of the UK (England, Scotland, Wales, Northern Ireland).
	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		The members of the BBC Audience Councils acting in an advisory function to the BBC Trust must be recruited to ensure that they reflect the diversity of the UK have connections with communities, and are able to take a view on how the Public Purposes should be promoted. The Audience Council England is supported in its function by a number of Regional Audience Councils (RACs). Each RAC has a minimum of 16 members including the Chair who acts as the Audience Council England member for that region. Members are drawn from a range of backgrounds and balanced as far as possible to be broadly reflective of the views of audiences throughout the transmission area, for example in terms of geographical location, disability, ethnic or national origin, gender, and age.
	Section 13 (3) (b) Communications Act		In determining the functions of the Content Board, OFCOM shall ensure that it has a significant say in matters affecting the different parts of the UK.

	Section 20 (1) Communications Act		England, Scotland, Wales, Northern Ireland shall each be represented via an advisory committee that advises OFCOM as to the interests and opinions of people in that part of the country for which they are responsible. They may also advise the Consumer Panel at its request (Subsection 5), if consented to by OFCOM.
	Clause 12(3) BBC Broadcasting Agreement		The BBC may opt, where doing so is both cost effective and beneficial, to make available services primarily designed for viewers, listeners or other users in particular parts of the UK, more widely.
	Art. 14 BBC Charter		Among the ordinary members of the BBC Trust, there shall be one member for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). These members shall be qualified their knowledge of the culture, characteristics and affairs of the people in the nation for which they are designated, and their close touch with opinion in that nation
<b>5.7. Other</b>	Section 3 EPG code		When giving appropriate prominence to PSB channels, EPGs should enable viewers in a region to select the appropriate regional versions of those channels.

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

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
6.1.1. Moment of intervention			
6.1.1.1. At moment of market entry (licensing procedure)	Section 316 Communications Act	R, TV	For every licensed service, OFCOM shall define, as appropriate, conditions that help to ensure fair and effective competition in the provision of licensed services or of connected services.
	Sections 5, 88 Broadcasting Act 1990; Section 5, 44 Broadcasting Act 1996; Section 350 Communications Act	R, TV	A person must not become the holder of a licence if this would lead to a contravention of the ownership restrictions set out under Schedule 14 to the Communications Act 2003.
	Part II Paragraph 2 Schedule 2 Broadcasting Act 1990; Paragraph 15 Schedule 14 Communications Act	R, TV	Bodies whose objectives are mainly religious in nature as well as bodies controlling, controlled by them and associated to them are banned from holding any of the following licences: (a) a Channel 3 licence; (b) a Channel 5 licence; (c) a national sound broadcasting licence; (d) a public teletext licence; (e) an additional television service licence; (f) a television multiplex licence; or (g) a radio multiplex licence (Para. 2). Where religious bodies are admitted to holding a licence, this can happen only where OFCOM have made in that case, upon application, a determination as respects a description of licences applicable to that licence; and that determination remains in force (Para. 15).
	Part II Paragraph 3 Schedule 2 Broadcasting Act 1990	R	Bodies which have received in the last year more than half their income from public funds, are controlled by one or several such bodies, or have either of the aforementioned types of bodies as participants with more than 5 per cent interest, are disqualified from holding radio licences other than restricted licences. The restrictions imposed on local authorities, the Welsh Authority and the BBC are not affected by this provision.
<i>Implementation problem: This disqualification clause has been rendered inapplicable by Paragraph 8 (1) Schedule Community Radio Order 2004.</i>			
	Part II Paragraph 4 Schedule 2 Broadcasting Act 1990	R, TV	A person is barred from holding a licence under either the 1990 or the 1996 Broadcasting Act if in OFCOM's opinion (a) any relevant body (cf. Paragraph 4(2)) is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.
	Part II Paragraph 5 Schedule 2 Broadcasting Act 1990	R, TV	The BBC and the Welsh Authority are barred from holding a licence under either the 1990 or the 1996 Broadcasting Act.

	Part II Paragraph 5A Schedule 2 Broadcasting Act 1990	R, TV	A BBC company, a Channel 4 company or an S4C company is a disqualified person in relation any licence to provide regional or national Channel 3 services or Channel 5. BBC companies are also disqualified in respect of any licence to provide a national, local or restricted radio service.
	Part II Paragraph 6 Schedule 2 Broadcasting Act 1990		No (a) advertising agency, (b) associate of an advertising agency, (c) body controlled by either one or several of the aforementioned entities; (d) body corporate in any of the aforementioned is a participant with more than a 5 per cent interest can hold a broadcasting licence under either the 1990 or the 1996 Broadcasting Act.
	Section 85 (2) Broadcasting Act 1990	R	In carrying out its licensing function, OFCOM shall secure the provision of a diversity of national and local services which cater to the tastes of different audiences.
6.1.1.2. <i>At the moment of mergers &amp; acquisitions</i>	Section 59 Enterprise Act; Sections 378-380 Communications Act		Specific provisions have been introduced with the extension of the merger regime to cover certain media mergers. This includes a number of public interest considerations specific to the media, as they are described in Table 1, Section 1.3 above.
6.1.1.3. <i>Other (constant monitoring/supervision)</i>	Section 391 Communications Act; Section 119A Enterprise Act		OFCOM must carry out regular reviews of the operations of the provisions concerning ownership restrictions as defined under Schedule 14 of the Act; the provision of news to Channel 3 and Channel 5; the provisions of the Enterprise Act 2002 so far as they relate to newspapers or other media enterprises; the second schedule of the 1990 Broadcasting Act. The report of the review must clearly state OFCOM's recommendations to the Secretary of State for action. Moreover, OFCOM have the function of obtaining, compiling and keeping under review information about matters relating to the carrying out of their functions in relation to media mergers under the Enterprise Act (Section 119A (1)).
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>	Paragraph 7+8 Schedule 14 Communications Act	R	A person is not to hold more than one national radio multiplex licence (Paragraph 7) or two local radio multiplex licences at the same time if the potential audiences of both overlap to an extent of more than 50 per cent (Paragraph 8). While exceptions to the latter rule may be acceptable for historical reasons, any change of holdership will necessitate a renewed assessment.
	Paragraph 11 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit a person from holding one or more local sound broadcasting licences.
	Paragraph 12 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit persons holding local digital sound programme licences from holding more than a specific number of licences.

	Art. 5 Media Ownership Order 2003	R	A person holding at least two local sound broadcasting licences may not hold a further such licence if this led to a situation where that licence overlapped with any two of the other licences being held that were themselves overlapping and the concentration limit of 55 percent in relation to a point system, defined in Art. 8, was being exceeded (Art. 6 (4)).
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 11 Media Ownership Order 2003	R	A provider of local digital sound programme services under the authority of a local digital sound programme licence may not provide a further such service where he is already providing four or more of such services and the number of points attributable to these services in the market area of the relevant multiplex service represents more than 55 per cent of all the points attributable.
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 7 Community Radio Order 2004	R	No body corporate may hold more than one community radio licence at any given time.
6.1.2.2. Crossmedia	Paragraph 1 Schedule 14 Communications Act	TV	Both at the regional and national levels, persons running one or several newspapers that alone or cumulatively have a share in the relevant market (local or national) of more than 20 percent, are not allowed to provide a Channel 3 service at that level.
	Paragraph 2 (1), (3) Schedule 14 Communications Act	N, TV	Proprietors of one or several newspapers that alone or cumulatively have a share of more than 20 percent in the national market, are not to hold more than 20 percent of shares in a body corporate which is the holder of a licence to provide a Channel 3 service (Sub-para. 1). A body corporate in which a national newspaper proprietor is a participant with more than 20 percent interest must not hold more than 20 percent in a body corporate that is a Channel 3 licensee (Sub-para.3).
	Paragraph 2 (2) Schedule 14 Communications Act	TV, N	A holder of a Channel 3 service licence is not to be a participant with more than a 20 per cent. interest in a body corporate which is a relevant national newspaper proprietor.
	Paragraph 11 (2) (e) (f) (g) Schedule 14 Communications Act	R	In determining whether a given person may hold one or several local sound broadcasting licences, the Secretary of State may have regard to whether the person runs one or more national newspapers and their market share (sub-para. e), whether the person controls a local newspaper in the coverage area of the local sound broadcasting licence (sub-para. f) and whether an overlap exists between the coverage area of that licence and of that of a Channel 3 service for which the person holds a licence.

	Art. 6 Media Ownership Order 2003	R	A person is barred from holding a local sound broadcasting licence if he runs one or more local newspapers that have a local market share of 50 or more percent in the coverage area concerned, or if he holds a regional Channel 3 licence and 50 or more percent of the potential audience for that service reside within the regional coverage area, and the licence in question overlaps with any two other local sound broadcasting licences that themselves overlap, leading to the concentration limit of 45 percent in relation to a point system, defined in Art. 8, being exceeded (Art. 6 (4)).
<i>Implementation problem: According to the wording of paragraph 1, the restriction only applies if the effects were to arise immediately after the person became holder of the licence. It is unclear how this temporal conditionality clause is construed in practice, i.e. whether it acts to prevent or facilitate concentration by shortening the timeframe of impact assessment.</i>			
	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.2.3. Vertical integration with networks			
6.1.2.4. Integration with advertising sector			
	Part II Paragraph 6 Schedule 2 Broadcasting Act 1990		Advertising agencies, their associates and bodies corporate controlled by them or in which either one has more than a five percent interest are banned from holding a licence awarded by OFCOM.
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			
	Paragraph 7+8 Schedule 14 Communications Act	R	A person is not to hold more than one national radio multiplex licence (Paragraph 7) or two local radio multiplex licences at the same time (Paragraph 8). While exceptions to the latter rule may be acceptable for historical reasons, any change of holdership will necessitate a renewed assessment.
	Paragraph 11 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit a person from holding one or more local sound broadcasting licences.
	Paragraph 12 (1) Schedule 14 Communications Act	R	Secretary of State may prohibit persons holding local digital sound programme licences from holding more than a specific number of licences.
	Art. 11 (3) Media Ownership Order	R	The threshold number of local digital sound programme services is four such services, including both significant and intermittent services.
	Art. 7 Community Radio Order 2004	R	No body corporate may hold more than one community radio licence at any given time.
6.1.3.2. Market shares			

	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.3. <i>Circulation and audience shares</i>	Paragraph 11 (2) (c) (d) Schedule 14 Communications Act	R	In determining whether a given person may hold one or several local sound broadcasting licences, the Secretary of State may have regard to the potential audiences for those services and their overlap with audiences for other services.
	Paragraph 12 (2) (c) (d) Schedule 14 Communications Act	R	In determining the number of local digital sound programme licences that can be awarded to a licence holder, the Secretary of State may have regard to the potential audiences for those services.
	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.4. <i>Capital shares</i>			
6.1.3.5. <i>Voting shares</i>			
6.1.3.6. <i>Advertising revenues</i>	Paragraph 5(5) Schedule Community Radio Order 2004	R	OFCOM may lay down conditions for the award of community radio licences stipulating a maximum threshold for advertising and sponsorship revenues from specific arrangements.
6.1.3.7. <i>Involvement in number of media sectors</i>	Art. 9 Media Ownership Order	R, N	No person may simultaneously hold a local sound broadcasting licence, a regional Channel 3 licence, the potential audience of which includes 50 or more percent of that of the local service, and run one or more local newspapers that have a local market share of 50 or more percent in the coverage area.
6.1.3.8. <i>Operating revenue</i>	Paragraph 5(2) Schedule Community Radio Order 2004	R	Community radio licences may not be awarded to any applicant who proposes to receive more than 50 percent of income necessary to provide the service each year from one source or one source and other sources connected with him.
<b>6.2. Sector specific rules preventing cooperation between media companies</b>	Section 281 Communications Act	TV	A body cannot be appointed news provider to a regional Channel 3 service providers if this would be in contravention of the media ownership restrictions stipulated by Schedule 14 of the Communications Act.
<b>6.3. (Sector specific or general) rules preventing foreign (non-EU) ownership</b>			Limitations on foreign licence ownership were repealed by Section 348 Communications Act
<b>6.4. General competition rules</b>			
6.4.1. Antitrust			



<p>6.4.1.1. <i>Specific provisions for media sectors (e.g. public interest test...)</i></p>	<p>Section 58 (2B), (2C) Enterprise Act</p>		<p>A sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom is recognized as a legitimate public interest consideration for purposes of applying the merger regime of the Enterprise Act. Similar recognition is given to: (i) a sufficient plurality of persons with control of the media enterprises serving every different audience in the United Kingdom or in a particular area or locality of the United Kingdom; (ii) the availability throughout the United Kingdom of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests; and          (iii) the need for persons carrying on media enterprises, and for those with control of such enterprises, to be committed to the attainment in relation to broadcasting of the standards objectives specified by Section 319 of the Communications Act.</p>
<p>6.4.1.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i></p>			
<p>6.4.2. Merger control</p>			
<p>6.4.2.1. <i>Specific provisions for media sector (e.g. possibility for government to overrule NCA decision, public interest test...)</i></p>	<p>Section 59 Enterprise Act; Sections 378-380 Communications Act</p>		<p>Specific provisions have been introduced with the extension of the merger regime to cover certain media mergers. This includes a number of public interest considerations specific to the media, as they are described in Table 1, Section 1.3 above.</p>
<p>6.4.2.2. <i>Case law in media sectors (examples of leading cases; any specificities?)</i></p>			
<p><b>6.5. Transparency obligations</b></p>			
<p>6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)</p>	<p>Art. 27 (1) BBC Charter</p>		<p>The BBC Trust must adopt Protocols to ensure that, as far as is reasonable, the principal points of its proceedings and the reasons and key considerations behind important decisions are made public.</p>
<p>6.5.2. Transparency obligations towards regulator or in general (info on capital structure, balance sheets, either in specific media laws or in general company laws...)</p>	<p>Section 5 (2) (d), (da) Broadcasting Act 1990</p>	<p>TV</p>	<p>OFCOM may impose on any corporate licence holder an obligation to</p> <ul style="list-style-type: none"> <li>- inform the authority in advance of any proposals affecting shareholdings in the body or its directors where it is aware of such proposals;</li> <li>- inform the authority after any changes, events or transactions affecting either the shareholdings of the body or its directors have taken place, irrespective of whether these had been previously notified;</li> </ul>

	Paragraph 67-69 Television Licensable Content Services. Guidance Notes	TV	Licensee must supply Ofcom with any information required for the exercise of its supervisory duties. This includes (but is not limited to) information about the licensee's corporate structure, information needed to determine whether the licensee is a disqualified person, and information relevant to the calculation of fees. The award of a licence also obliges the holder to report any changes to the nature, characteristics or control of the licensee body as well as agreements providing for the provision of its service via a radio multiplex.
	Paragraph 67-69 Television Licensable Content Services. Guidance Notes	TV	Transferor must inform OFCOM of completed licence transfers.
	Paragraph 79 Television Licensable Content Services. Guidance Notes	TV	Upon request, the licensee shall supply details of its compliance procedures to Ofcom.
	Section 351(1) Communications Act	TV	Body corporates who are holders of Channel 3 licences must give OFCOM <ul style="list-style-type: none"> <li>- advance notification of any proposals known to them that may give rise to a relevant change of control.</li> <li>- Information necessary to exercise their supervisory functions.</li> </ul>
	Section 353(1) Communications Act	TV	Body corporates who are holders of Channel 3 licences must give OFCOM <ul style="list-style-type: none"> <li>- advance notification of any proposals known to them that may give rise to a relevant change of control.</li> <li>- Information necessary to exercise their supervisory functions.</li> </ul>
	Broadcasting Act 1990; Broadcasting Act 1996; Communications Act		Information obligations arise at several points in the course of service provision: in connection with a licence application, in relation to the facilitation of compliance monitoring with the licence conditions laid down and in relation to licence transfers or other events affecting effective control of the licence.

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

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>			
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	Art. 3 i.c.w. Paragraph 5(4) and (5), 6 Schedule Community Radio Order 2004	R	Community radio services are local services serving one or several communities, do not operate according to a profit-maximization rationale and reinvest any profit into the future improvement or maintenance of the service itself. They facilitate community participation and provide mechanisms to ensure accountability towards the communities concerned. Depending on the size of the transmission area concerned, OFCOM shall, in the case of overlaps with another licence, (i) not grant any licence, unless the overlap is with another community radio; (ii) prohibit the service from carrying any remunerated advertisement and sponsored programmes, (iii) determine threshold values for the maximum amount of remunerated advertisement and sponsored programmes as shares of aggregate annual income. Furthermore, it is for OFCOM to define conditions as it deems appropriate to prevent the holder of a community radio licence from entering into agreements that would grant another holder of a broadcasting licence, the BBC or the Welsh Authority an undue influence over the nature and content of the programmes provided (Paragraph 6).
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Sections 299-302 Communications Act; OJ L 295 of 14.11.2007, p. 12	TV	Only sports events.
<b>7.3. Short news reporting</b>			
<b>7.4. Fixed book price</b>			There is no fixed book pricing scheme in operation in the UK.
<b>7.5. Public service media</b>			
<b>7.5.1. Structural rules – ORGANIZATION</b>			
7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Art. 6 BBC Charter; Clause 4 BBC Broadcasting Agreement		The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs, subject to any other provisions included in the Charter, in any Framework Agreement or laid down by law.

<p>7.5.1.2. Election of management, composition of board members...(government? Parliament? Other?)</p>	<p>Section 183A (5) Broadcasting Act 1990; Paragraph 5 Schedule 19 Broadcasting Act 1990</p>	<p>TV</p>	<p>The Gaelic Media Service shall consist of no more than 12 members, which are to be appointed by OFCOM, subject to approval by the Secretary of State. Members must include (a) a member nominated by the BBC; (b) a member nominated by Highlands and Islands Enterprise; and (c) a member nominated by the Gaelic Development Agency. Members who have a direct or indirect interest in any matter that is brought up for consideration by the Service shall disclose the nature of their interest and abstain from participation in any deliberation or decision of the Service, or of any of their committees, with respect to that matter, unless all other members resolve that their interest is to be disregarded (Para. 5).</p>
	<p>Paragraphs 2, 5 Schedule 3 Broadcasting Act 1990</p>		<p>No governor or employee of the BBC or member or employee of OFCOM may be a member of the Channel 4 corporation. Before appointing a person to be a member of the Corporation, OFCOM shall satisfy themselves that that person will have no such financial or other interest as is likely to prejudice the discharge by him of his functions as a member of the Corporation; and OFCOM shall also satisfy themselves from time to time with respect to every member of the Corporation that he has no such interest (Para. 2(1)+(2)). Members of the Corporation are disqualified from the House of Commons and the Northern Ireland Assembly (Para. 5).</p>
	<p>Paragraphs 2, 5 Schedule 3 Broadcasting Act 1990</p>		<p>The members of the Authority shall not at any time include more than one person who is either a governor or an employee of the BBC; or more than one person who is either a member or an employee of OFCOM. Before appointing a person to be a member of the Authority, the Secretary of State shall satisfy themselves that that person will have no such financial or other interest as is likely to prejudice the discharge by him of his functions as a member of the Corporation; and the Secretary of State shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest (Para. 2(2)+(3)). Members of the Authority are disqualified from the House of Commons (Para. 5).</p>

	Art. 13, 14, 16, 20 BBC Charter		The Trust shall consist of a Chairman, a Vice-Chairman, and ten ordinary members, unless a different number is fixed by Order in Council. One ordinary member shall be appointed for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). Trust Committees shall be comprised solely of members of the Trust (Art. 20). The criteria for the termination of Trust membership (Art. 16) do not explicitly comprise any conflict of interest resulting from a political appointment. Neither are there specific appointment criteria to be fulfilled other than the general independence criterion of Art. 6.
	Art. 28-31 BBC Charter; BBC Protocol A1		The Executive Board of the BBC consists of executive and non-executive members (28). Its Chairman is appointed by the Trust, either in an executive or a non-executive capacity (29). Executive members and non-executive of the Executive Board are appointed by the Executive Board following proposal by a nomination committee (30, 31); non-executive members must also be approved by the Trust (31).
7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i>	Section 183A (7) Broadcasting Act 1990	TV	OFCOM must secure, so far as practicable, that the membership of the Gaelic Media Service adequately represents: (a) the holders of licences to provide regional Channel 3 services in Scotland; (b) the holders of licences to provide regional Channel 3 services in respect of which determinations under section 184(4)(b) are for the time being in force; (c) the independent television and radio production industries in Scotland; (d) other persons and bodies concerned with the promotion and use of the Gaelic language, including those concerned with education in Gaelic and in Gaelic culture.
	Art. 14 BBC Charter		Among the ordinary members of the BBC Trust, there shall be one member for each of the nations of the UK (England, Northern Ireland, Scotland, Wales). These members shall be qualified their knowledge of the culture, characteristics and affairs of the people in the nation for which they are designated, and their close touch with opinion in that nation
7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i>	Art. 39 BBC Charter; BBC Protocol E2 – Audience Councils		There shall be an Audience Council for each of the British nations (England, Northern Ireland, Scotland, Wales) whose task is to bring the diverse perspectives of licence fee payers to bear on the work of the trust.

7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i>	Section 27 Communications Act		It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting equality of opportunity in relation to (a) employment by those providing television and radio services; and (b) the training and retraining of persons for such employment.
<b>7.5.2. Structural rules – FUNDING</b>			
7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i>	Section 207 Communications Act		Provides for the finances of the Welsh Authority.
	Section 365 (2) Communications Act; Clause 75 BBC Broadcasting Agreement		TV licence fees shall be paid to the BBC and are recoverable by them accordingly.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
<b>7.5.3. DEFINITION OF PUBLIC SERVICE REMIT</b>			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>			
	Section 264 (4) Communications Act	TV	The purposes of public service television broadcasting in the United Kingdom are (a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing; (b) the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable; (c) the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and (d) the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to— (i) the contents of the programmes; (ii) the quality of the programme making; and (iii) the professional skill and editorial integrity applied in the making of the programmes.
	Section 265(2) Communications Act	TV	The public service remit for every Channel 3 service and for Channel 5 is the provision of a range of high quality and diverse programming.

	Section 265(3) Communications Act	TV	The public service remit for Channel 4 is the provision of a broad range of high quality and diverse programming which, in particular, (a) is innovative in the form and content of programmes; (b) appeals to the tastes and interests of a culturally diverse society; (c) makes a significant contribution to the need for educational programmes and other programmes of educative value; and (d) exhibits a distinctive character.
	Section 265(4) Communications Act	Teletext	The public service remit for the public teletext service is the provision of a range of high quality and diverse text material. If applicable; this extends both to the analogue and the digital version of the service.
	Section 204+205 Communications Act	TV	S4C and S4C Digital shall each represent a public service for the dissemination of information, education and entertainment. Any additional services offered by the Welsh Authority must conform to this objective (205(3)) and add to the existing range of programming available to the Welsh public (205(4)).
	Section 208 (3) Communications Act; Section 183 (3b) Broadcasting Act 1990		The functions of the Gaelic Media Service shall be to secure that a wide and diverse range of high quality programmes in Gaelic are broadcast or otherwise transmitted so as to be available to persons in Scotland.
	Art. 4 BBC Charter; Clauses 5-10 BBC Broadcasting Agreement		The BBC’s purposes are to: sustain citizenship and civil society; promote education and learning; stimulate creativity and cultural excellence; represent the UK, its nations, regions and communities; bring the UK to the world and the world to the UK; help to deliver to the public the benefit of emerging communications technologies and services, and to take a leading role in the switchover to digital television.
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)	Section 278 Communications Act	TV	Licensing conditions for each public service channel shall secure (a) that the time allocated, in each year, to the broadcasting of original productions included in that channel is no less than a proportion deemed to be appropriate by OFCOM; and (b) that the time allocated to the broadcasting of original productions is split in an appropriate manner between peak viewing times and other times (Subsection 1). The notion of original programmes is to be defined by the Secretary of State, or, by derogation, by OFCOM (Subsections 6 and 7).

	Section 279 Communications Act	TV	For every licensed public service channel, OFCOM shall determine conditions appropriate for securing (a) that the programmes included in the channel include news programmes and current affairs programmes; (b) that the latter are of high quality and deal with both national and international matters; and (c) that they are broadcast for viewing at intervals throughout the period for which the channel is provided (Subsection 1). OFCOM is to lay down proportions for each of these programme types as they see fit (Subsection 2) as well as a split between peak viewing times and other times (Subsection 3). The aggregate proportion may be achieved on different minimum proportions for peak viewing times and other times (Subsection 4).
	Section 296 Communications Act	TV	The regulatory regime for Channel 4 includes the conditions that OFCOM consider appropriate for securing that what appears to them to be a suitable proportion of the programmes which are included in Channel 4 are schools programmes.
	Section 319 Communications Act	R, TV	OFCOM shall define standards for radio and television programmes as it considers appropriate to attain the objectives of the OFCOM standards code.
7.5.5. Universal coverage obligations	Section 98(1) Broadcasting Act 1990	R	When announcing the availability of a national sound broadcasting licence, OFCOM shall specify the minimum area of the UK to be covered by the service.
	Clause 35 BBC Broadcasting Agreement	TV	Obligation incumbent on the BBC to provide its principal television services in digital format no later than the Digital Switchover Date so that these can be received by a proportion corresponding to that receiving them in analogue format at the date of the agreement.



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

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Section 64 Communications Act	TV	OFCOM is entitled to lay down conditions to ensure that particular services are broadcast or otherwise transmitted by means of the electronic communications networks (Subsection 1). These services are defined by a list, <sup>2</sup> which is to be periodically reviewed by the Secretary of State (Subsection 7). The must carry obligation extends only to such public electronic communications networks that are used by a significant number of citizens to receive television programmes (Section 64 (2)).
	Section 15 OFCOM Code on EPGs		EPG providers must ensure that free-to-air channels are available at least as pay-TV services and that reception does not require additional equipment or commercial agreements over and above those required for the acquisition of the receiving equipment.
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>	Section 242 (1f) Communications Act; Section 12 (1h) (4A) Broadcasting Act 1996	TV	Licence conditions for the holders of television multiplex licences may require the allocation of a minimum percentage of capacity to the broadcasting of particular services (following Subsection 4A, 90 percent or more, at OFCOM's discretion), i.e. (a) qualifying services; (b) digital programme services licensed under this Part or provided by the BBC; (c) digital sound programme services provided by the BBC; (d) programme-related services; and (e) relevant technical services.
	Section 259 (2) Communications Act; Section 54 (1h), (2A) Broadcasting Act 1996; Art. 2 Radio Multiplex Services (Required Percentage of Digital Capacity) Order 2006	R	Licence conditions for the holders of radio multiplex licences may require the allocation of a minimum percentage (following Subsection 2A, 70 percent or more, at OFCOM's discretion) of capacity to the broadcasting of particular services, i.e. (a) digital sound programme services; (b) simulcast radio services; (c) programme-related services; and (d) relevant technical services.

<sup>2</sup> The list itself is contained in Subsection 3 and comprises digital versions of BBC and ITV services, as well as the digital services of Channels 3, 4 and 5, SC4C Digital and public teletext services.

	Section 272, 273 Communications Act	TV	<p>Licensed public service channels, the public teletext service and every channel added to the list of must-carry services shall</p> <p>(i) as far as they are provided digitally, be available for distribution over every appropriate network (Section 272 (2)) or every satellite television service (Section 273 (2)),</p> <p>(ii) by virtue of contractual agreements entered into by their providers, be available to the greatest possible share of the intended audience (Section 272 (3), 273 (3)),</p> <p>(iii) remain accessible free-of-charge, even when taking into account the necessity of contractual agreements as described under (ii) (Section 272 (4), 273 (4)), as and when they are included in the list of must carry services under Section 64 (Section 272 (5)), or of must-provide services under Section 275 (Section 273 (5)).</p> <p>Must provide services are: (a) digital TV programmes by the BBC in relation to which OFCOM have functions; (b) digital Channel 3 services; (c) Channel 4 so far as provided in digital form; (d) Channel 5 so far as provided in digital form; (e) S4C Digital; (f) the digital public teletext service (Section 275 (1)).</p>
<i>Implementation problem: No commencement have as yet been appointed for the sections in question.</i>			
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18			
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access			
8.4.2. EPG (or other search tools)	Section 310 (2) Communications Act 2003; OFCOM Code on EPGs		<p>OFCOM shall oblige EPG providers to give appropriate prominence to the listing and promotion of public service channels.<sup>3</sup> The Secretary of State may add to, or subtract from, the list of relevant public service broadcasting (PSBs) channels.<sup>4</sup></p>

<sup>3</sup> EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach.

<sup>4</sup> This list currently comprises digital versions of BBC and ITV services, as well as the digital services of Channels 3, 4 and 5, SC4C Digital and public teletext services.

	Section 15 EPG Code		EPG providers must refrain from imposing any condition in an agreement for EPG services with a channel provider specifying exclusivity to one EPG for any service or feature, including the ability to brand services and access to interactivity.
8.4.3. API			
8.4.4. Other	Section 7 Wireless Telegraphy Act 2006		OFCOM must ensure that out of the spectrum reserved for television operations, sufficient capacity is made available for ensuring, in the case of every licensed television multiplex service, that the qualifying services are broadcast by means of that multiplex service.
<b>8.5. Interoperability requirements</b>			
<b>8.6. Specific rules for distribution systems in print media</b>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>			
<b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:        - Regional        - Linguistic/minority        - National )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			OFCOM ( <a href="http://www.ofcom.org.uk">http://www.ofcom.org.uk</a> )
	Part 1 Communications Act		Defines the functions of OFCOM under the Act.
9.1.1. Structure/ organisation	Section 1 Office of Communications Act 2002		OFCOM's membership shall be between three and six members, to be appointed by the Secretary of State.
9.1.1.1. <i>Guarantees for independence</i>	Section 1 (9) Office of Communications Act 2002; Paragraphs 17 and 21 Schedule to the Office of Communications Act 2002		OFCOM shall not be treated for any purposes as a body exercising functions on behalf of the Crown (Section 1 (9)). Members of OFCOM are not allowed to participate in discussions of and decisions on matters in which they themselves have an interest, unless the other members of OFCOM or of the committee responsible have unanimously decided to disregard that interest (Para. 17(3)). Members of OFCOM are barred from assuming political office as an MP (Para. 21).
9.1.1.2. <i>Representation requirements</i>	None		
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	Paragraphs 8 and 9 Schedule to the Office of Communications Act 2002		OFCOM shall seek to become self-sufficient, i.e. to finance its operations out of the revenues it generates, at the earliest possible date (Para. 8(1)). The Secretary of State may make grants to OFCOM with the consent of the Treasury (Para. 9(1)).
9.1.2.2. <i>Tasks and duties</i>	Part 1 Section 1+2 i.c.w. Schedule 1 Communications Act; Section 1 Wireless Telegraphy Act 2006		The functional areas covered by OFCOM's activities comprise (i) wireless telegraphy functions; (ii) functions in relation to the licensing etc. of television and radio services, and the enforcement of licences provisions; (iii) the proscription of foreign satellite services; (iv) functions in relation to the national television archive; (v) digital broadcasting policy and review thereof; (vi) the upholding of public interest standards in broadcasting, including fairness and privacy.
9.1.2.3. <i>Effective sanctioning powers</i>	Broadcasting Act 1990; Broadcasting Act 1996; Section 344-346 Communications Act	R, TV	For public service licensees, licensing conditions are generally intended to provide a source of comprehensive information on operators' activities, including a self-reporting obligation on compliance with licence conditions that has to take account of OFCOM's own reporting. Public service channels have to furnish statements of programme policy outlining how they will fulfil their obligations (Section 266), and significant changes to these policies can be enacted only upon informing and taking into account OFCOM's opinion, which may include a revision of the proposed policy (Section 267). Similar rules apply to the public teletext provider (Section 268+269). Where OFCOM is satisfied that public service providers have failed to make their contribution to the objectives of public service broadcasting, the regulator may give directions to the broadcaster as to how to remedy this shortcoming (Section 270 (4)). If the shortcoming persists, the regulator may vary the licence conditions to ensure attainment of the pertinent goals (Section 270 (6)). OFCOM may also recommend to the Secretary of State to revise the remit of public service broadcasters as a consequence of the reports on the fulfilment of the public service remit under Section 264, which the regulator has to draw up at least once every five years (Section 264 (2)). [...]

			<p>[...]          The contravention of a licence condition or direction issued by OFCOM is punishable, depending on the service in question, either by a financial fee, by an alteration of the licence conditions or by a revocation of the licence, where the licensee has failed to abide by previous directions issued to him.</p>
9.1.3. Cooperation with other regulators	Sections 317 (2), (6), 369-371 Communications Act; Section 106B Enterprise Act	TV	<p>Prior to enforcing licence conditions, OFCOM shall consider whether enforcement of competition law provisions would be more appropriate. People affected by the exercise of OFCOM's Broadcasting Act powers for competition purposes may appeal to the Competition Appeal Tribunal (Section 317). The Secretary of State may vary OFCOM's competition functions under the Competition Act and the Enterprise Act (Section 369), which require a coordination of activities with those of the Office of Fair Trading. Under Part 4 of the Enterprise Act on market investigations, OFCOM concurrently carries out the functions ascribed to the OFT in relation to communications markets (bare two exceptions, cf. Section 370 (2)). Before either authority first exercises one or several concurrent functions, it shall consult the other, once a function has been exercised by either authority, it shall not be exercised by the other (Section 370 (5), (6)). OFCOM shall assist the Competition Commission as necessary where it conducts an investigation on a reference by OFCOM (Section 370 (7)). Under Part 1 of the Competition Act, OFCOM shall be entitled to concurrently perform the same functions as the OFT with respect to agreements affecting competition and abuses of dominant positions in as far as these relate to communications matters Section 371 (1), (2)), except for the determination of guidance on penalty levels and the making of enforcement rules. Section 106B of the Enterprise Act affords OFCOM a general advisory function in relation to media mergers.</p>
	Section 377 Communications Act; Section 44a Enterprise Act		<p>OFCOM shall where an intervention notice under the Enterprise Act mentions a media public interest consideration, furnish a report on those considerations to the Secretary of State that will allow him to decide whether or not to refer the case to the Competition Commission.</p>
<b>9.2. Press Council</b>	Section 5, 6, 10 Memorandum of association of the Press Complaints Commission		<p>The Press Complaints Commission consists of 9 to 17 public and editorial representatives, the former of which shall be in the majority (Section 5). Anybody can apply to become a lay member of the Commission. The application is subject to confirmation by the Appointments Commission, which brings together the Chairman of the PCC, the Chairman of the Press Standards Board of Finance and three independent, public nominees (Section 10).</p>
9.2.1. Broad representation of sector	Section 6 Memorandum of association of the Press Complaints Commission		<p>Editorial representatives on the Commission, on of which must represent a Scottish newspaper, are proposed by the various publishing bodies, and have to be approved by the Appointments Commission. The Commission Chairman is appointed by the Press Standards Board of Finance.</p>
9.2.2. Sufficient resources	Section 5, 10 Memorandum of association of the Press Complaints Commission		<p>Newspapers and magazines pay an annual levy to the Press Standards Board of Finance, which dispenses funding to the Commission.</p>
9.2.3. Credibility			<p>The Commission reports that the effectiveness of its rules is evidenced by the fact that adherence to its code now is a common contractual clause for editorial staff and that the practice of defending editorial decisions in terms of the code demonstrate the importance that failure to comply therewith may have for the employment of editorial staff.</p>
<b>9.3. Competition Authority</b>			

<p>9.3.1. Structure/ organization:          Does the NCA face any functional limitations that might negatively affect media pluralism?</p>			
<p>9.3.2. Cooperation with other regulators</p>			<p>See comments above on the involvement of OFCOM in competition proceedings.</p>

### Short summary of major implementation problems

The Communications Act equips OFCOM to enforce the public service remit of the four public service operators (Channel 3/ITV, Channel 4, the Gaelic Media Service and the Welsh Authority) and their associated services. Limited supervisory powers exist also in relation to the BBC. In the course of the second public service review, it has become clear that the enforcement powers granted, despite the detailed regulatory framework in which they have been embedded, does not afford OFCOM decisive opportunities to influence broadcasters' operations. In particular ITV, who has strong programming obligations towards local and regional constituents, is seen as living up to its remit only in a rather selective manner, without the regulator being able to effectively overrule management decisions. In fact, ITV has succeeded in being granted the right of reorganizing its operations at the regional level into nine service areas, where the existing system features eighteen. With this expansion of the transmission areas to be served, there is a high risk that local diversity will be lost with this reorganization. The current economic downturn and its impact on advertising financed public service media provides further incentives to downscale involvement in the financially demanding production of local content, which is only marginally interesting as an advertising environment for companies targeting service areas in their entirety. It is thus to be expected that the share of local advertising may continue to fall to the point of dropping out of the television advertising mix entirely, with larger companies buying up advertising space and being able to leverage their presence in the larger national and UK advertising markets to achieve volume rebates. This development, combined with the declining value of advertising minutage in general (which is likely to be reinforced further by stations' attempts to address declining revenues by offering the largest possible amount of premium advertising opportunities), is likely to have effects on future programming strategies as well, depending on how effects of financial market turbulence are going to further affect the behaviour of advertisers. At this point, ITV is negotiating with OFCOM, in addition to the repartitioning of regional service areas, over an increase in the amount of allowable advertising minutes televised during peak viewing time; other operators may follow, if exceptions are granted. The failure of Channel 4's venture into digital broadcasting to rival the BBC makes such developments somewhat likely.

ITV's considerations to hand back Channel 3 licences altogether and continue operations at commercial risk instead points to a wider issue for media pluralism in the UK, which will have to be addressed in coming years, which is the value of public service licences in general post the digital switchover. Therefore, ongoing discussions consider the option of reorganizing PSB delivery before current licences expire in 2014, and notably the issue of spectrum grants in exchange for provision of public service content. However, the current system's stability may be aided by the fact that digital market development is somewhat impeded by the ongoing crisis and the lack of viable digital competitors to the BBC and comparatively low penetration rates in e.g. Wales, although both of these are likely to be overcome before the end of the current licence period. In sum, major implementation issues concern the enforceability of licence conditions and the value of licences themselves. In the newspaper market, dwindling advertising revenues are expected to lead to further consolidation with up to six national level outlets expected to cease operations with the next two years. Outside the sector-specific regulatory framework, journalists' working conditions are seen to be negatively impacted by legislative initiatives spurred by the governments' efforts to curb potential terrorist activities



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





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

This document contains an overview of self regulatory instruments (+) and state regulation, including regulatory decisions (✓).

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

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
<b>Measures</b>																											
<b>1.1. Freedom of expression</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>1.2. Freedom of/right to information</b>	✓	✓	✓	+	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<i>Specific act supplementing constitutional provisions</i>	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	
<b>1.3. Explicit recognition of media pluralism</b>	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	
<b>1.4. Protection of journalistic sources</b>	✓	✓	✓	+	✓	+	✓	✓b	+	+	✓	✓		+	✓	✓	✓	✓	✓b	+	+b	✓	✓	+	✓	✓	
<b>1.5. Right of reply</b>	✓	✓	✓	+	✓	✓	✓	✓b	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	+	
<b>1.6. Ratification of international instruments:</b>																											
- CoE's Framework Convention For The Protection Of National Minorities	✓		✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	

**TABLE 2. Editorial independence**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk	
Measures																												
2.1. Journalists	✓	+	✓	+	+	+	✓ +		+	+	✓	+	+	✓	✓ +	✓ +	✓ +	✓ +	✓	✓	+	+	✓	✓	+	+		+
2.2. News / information programmes		✓			+	✓	✓	✓	✓	✓		+			✓	✓	✓ +		✓	✓	✓	✓	✓		✓	✓	✓	
2.3. Other media content	✓	✓	✓		+	✓	✓	✓b		✓	+	+	+	✓	+	✓	✓	✓	✓	✓	+	✓	✓	+	✓	✓	✓	
2.4. Subsidies/ Training of journalists		✓	✓												✓		+			✓		✓			✓		✓	
2.5. Consultative programming structure for participation of the public/citizens to media							✓			+				✓	✓		✓			✓		✓				✓	✓	

**TABLE 3. Cultural pluralism**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
<b>Measures</b>																											
<b>3.1. Structural rules</b> ( <i>guaranteeing or promoting access by the various cultural groups to media companies' bodies, structures...</i> )													✓											✓			
3.1.1. Special representation requirements in media company structures		✓			+			✓	✓		+									✓					✓		
3.1.2. Special representation requirements in media advisory bodies		✓			✓	✓	✓	✓												✓	✓	✓		✓			+
3.1.3. Legal or policy measures prohibiting discrimination in recruitment / promoting equal opportunities	✓	+	✓	✓	+	✓		✓			✓			✓			✓		✓	✓	✓		✓	✓			✓
<b>3.2. Representation of various cultural groups</b>					+								✓							✓				✓	✓		
3.2.1. Access to airtime for cultural groups	✓	✓	✓		+	✓			✓		✓		✓		✓			✓	✓	✓	✓	✓	✓		✓	✓	
3.2.2. Content obligations	✓		✓																		✓				✓		
3.2.2.1. Promotion of European works	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.2.2.2. Promotion of European independent works	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.2.2.3. Promotion of national/regional works		✓	+		✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
3.2.2.4. Language requirements	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓
3.2.3. Representation of minorities on the screen		+			✓					+	✓				✓										+		+
3.2.4. Subsidies (apart from general PSB funding)	✓	✓	✓	✓	✓		✓			✓	✓		✓	✓	✓		✓	✓		✓	✓	✓			✓	✓	✓
<b>3.3. Accessibility measures</b>	✓	+	✓		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	+		✓	✓	✓		✓	✓	✓	✓

**TABLE 4. Political pluralism**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
Measures																											
<b>4.1. Structural rules</b> (relating to the organization and structures of media companies/advisory bodies)			✓	✓																							
4.1.1. Restrictions to politicians' ownership/control of media	✓	✓	✓			✓						✓		✓		✓	✓				✓					✓	✓
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		✓	✓					✓			✓			✓	✓	✓						✓			✓		
4.1.5. Representation requirements in media advisory bodies and/or regulators		✓	✓					✓				✓					✓		✓		✓	✓	✓				
<b>4.2. Content rules</b> (relating to media programmes, press articles, other content)											✓										✓						
4.2.1. (Equal/proportionate) Access to airtime for political groups		✓		✓	✓	✓		✓			✓			✓	✓				✓		✓	✓	✓		✓		
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 (limits to political advertising)		✓	(✓)	✓		✓	✓		✓		✓	✓	(✓)	✓	✓	(✓)	(✓)		✓		(✓)	✓	✓			✓	✓
4.2.2. Government announcements	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
4.2.3. Impartiality obligations	✓	✓	✓		✓	✓	✓	✓		✓			✓	✓	✓				✓		✓	✓	+	✓	✓	✓	✓
4.2.4. Fair representation of political viewpoints (general/ election periods)		✓	✓	+	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	+	✓

**TABLE 5. Geographical pluralism**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
Measures																											
<b>5.1. Licensing policy fostering local/regional types of media</b> <i>(e.g.: 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...)</i>	✓	✓	+	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓
<b>5.2. Structural measures: access of various localities to media</b> <i>(e.g. obligation to have branches throughout country)</i>		✓	+	✓	✓		✓		✓		✓		✓		✓						✓	✓		✓	✓		
<b>5.3. Content obligations: requirements to cover local events, etc.</b>	✓	✓	✓	✓	✓		✓		✓			✓	✓		✓				✓		✓	✓	✓	✓	✓	✓	✓
<b>5.4. Regional State Aids</b>											✓	✓					✓				✓	✓			✓		✓
<b>5.5. Rules on national minorities</b>			✓		✓			✓		✓							✓				✓		+	✓	✓	✓	✓
<b>5.6. Rules on social inclusion of remote areas (Aménagement du territoire)</b>									✓		✓											✓				✓	✓

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

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
Measure																											
<b>6.1. Sector specific rules limiting media ownership</b>																					✓			✓			
6.1.1. Moment of intervention																											
6.1.1.1. Market entry (licensing procedure)	✓	✓	✓		✓		✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
6.1.1.2. Mergers & acquisitions	✓	✓			✓				✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓
6.1.1.3. Other (constant monitoring/supervision)		✓				✓		✓				✓		✓	✓	✓			✓		✓	✓	✓				✓
6.1.2. Scope																											
6.1.2.1. Monomedia	✓	✓	✓	✓	✓	✓			✓		✓	✓	✓		✓	✓		✓		✓	✓	✓	✓	✓	✓		✓
6.1.2.1. Crossmedia	✓			✓	✓	✓		✓			✓	✓	✓		✓	✓			✓	✓				✓	✓	✓	✓
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		✓														✓					✓						
6.1.3. Criteria used to define thresholds for maximum ownership and/or control													✓										✓				
6.1.3.1. Number of licenses	✓	✓	✓	✓	✓			✓			✓	✓		✓	✓	✓		✓	✓				✓	✓		✓	✓
6.1.3.2. Market shares	✓					✓					✓				✓		✓			✓	✓						✓
6.1.3.3. Circulation and audience shares		✓			✓	✓						✓		✓	✓									✓	✓		✓
6.1.3.4. Capital shares	✓	✓		✓		✓			✓		✓	✓				✓		✓					✓	✓			
6.1.3.5. Voting shares	✓					✓			✓		✓							✓			✓				✓		
6.1.3.6. Advertising revenues																									✓		✓
6.1.3.7. Involvement in number of media sectors	✓											✓			✓					✓							✓
<b>6.2. Sector specific rules preventing cooperation between media companies</b>		✓							✓						✓	✓											✓
<b>6.3. (Sector specific or general) rules preventing (non-EU) foreign ownership</b>				✓					✓	✓	✓	✓	✓		✓		✓		✓		✓		✓	✓	✓		

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
<b>Measure</b>																											
<b>6.4. General competition rules</b>			✓	✓	✓			✓				✓	✓	✓	✓		✓				✓	✓		✓	✓		
6.4.1. Antitrust					✓			✓					✓			✓			✓		✓		✓	✓			
6.4.1.1. Specific provisions for media sectors						✓						✓				✓											✓
6.4.1.2. Case law in media sectors				✓	✓											✓		✓									
6.4.2. Merger control	✓			✓	✓			✓					✓	✓			✓	✓		✓				✓			
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					✓											✓		✓		✓							
<b>6.5. Transparency obligations</b>		✓	✓																✓	✓		✓			✓		
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**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk	
Measures																												
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>	✓	✓				✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓			
<b>7.1bis. Special framework for community media</b>		✓							✓		✓	✓		✓	✓											✓	✓	
<b>7.2. Events list</b>	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	
<b>7.3. Short news reporting</b>	✓	✓	✓		✓	✓	✓	✓	✓		✓		✓				✓		✓		✓	✓	✓	✓	✓			
<b>7.4. Fixed book price</b>	✓					✓			✓		✓				✓				✓		✓	✓						
<b>7.5. Public service media</b>																					✓		✓					
7.5.1. Structural rules - organization					✓			✓					✓										✓				✓	
7.5.1.1. Independence	✓	✓	✓				✓	✓	✓		✓	✓		✓		✓	✓		✓	✓	✓	✓	✓		✓		✓	
7.5.1.2. Objective and transparent election of management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓	
7.5.1.3. Specific representation requirements for board of directors, other bodies	✓	✓					✓	✓	✓	✓				✓			✓								✓		✓	
7.5.1.4. Advisory bodies: broad representation of cultural, political and geographic groups	✓	✓	✓			✓		✓	✓										✓	✓	✓	✓		✓	✓		✓	
7.5.1.5. Employment: broad representation of cultural, political and geographic groups		+			+					+	✓										✓						+	✓
7.5.2. Structural rules - funding				✓																								
7.5.2.1. Source of funding:	✓	✓	✓		✓			✓		✓	✓		✓	✓	✓				✓		✓	✓	✓	✓	✓			
- only license fee/ public money					✓	✓	✓	✓					✓								✓	✓	✓	✓	✓		✓	
- dual funding (public + advertising/sponsoring)			✓		✓	✓			✓			✓				✓	✓		✓	✓	✓		✓	✓	✓	✓		
- 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	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
7.5.3.2. Obligation to engage in new media activities	✓		✓		✓	✓	✓		✓						✓	✓			✓	✓					✓	✓		
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)**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk	
Measures																												
<b>8.1. Guarantees for public interest content to be distributed (must carry)</b>	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	+
<b>8.2. Guarantees for network operators to distribute public interest content (must offer)</b>		✓					✓				✓		✓								✓						✓	
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>					✓	✓															✓			✓				
8.3.1. Implementation of market analysis procedure in ECNS Directives	✓	✓			✓				✓						✓		✓		✓	✓	✓			✓				
8.3.2. Market 18 analysis	✓	✓							✓								✓			✓								
<b>8.4. Ex ante regulation for associated facilities of networks</b>																					✓							
8.4.1. Conditional access	✓	✓			✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
8.4.2. EPG (or other search tools)	✓	✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
8.4.3. API	✓	✓				✓		✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
8.4.4. Other					✓					✓							✓										✓	
<b>8.5. Interoperability requirements</b>	✓	✓			✓	✓					✓		✓		✓	✓			✓		✓				✓			
<b>8.6. Specific rules for distribution systems in print media</b>		✓					✓			✓	✓	✓				✓										✓		
<b>8.7. General competition law</b>								✓			✓	✓			✓								✓					
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...)</b>							✓									✓										✓		
<b>8.9. State Aids to distribution platforms and/or schemes (based on regional; linguistic/minority; national criteria)</b>	✓		+					✓		✓					✓					✓						✓		

**TABLE 9. Supervision**

Countries	at	be	bg	cy	cz	de	dk	ee	es	fi	fr	gr	hu	ie	it	lv	lt	lu	mt	nl	pl	pt	ro	sk	si	se	uk
Measures																											
<b>9.1. Media Regulator</b>			✓	✓	✓		✓					✓	✓			✓	✓	✓	✓	✓	✓		✓	✓	✓		✓
9.1.1. Structure/ organisation	✓			✓	✓		✓					✓			✓	✓	✓		✓	✓	✓			✓	✓		✓
9.1.1.1. Independence	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓
9.1.1.2. Representation requirements	✓	✓	✓	✓	✓		✓	✓				✓			✓	✓	✓				✓	✓	✓	✓	✓	✓	✓
9.1.2. Credibility and efficiency				✓				✓													✓					✓	✓
9.1.2.1. Sufficient resources				✓	✓			✓			✓			✓	✓	✓	✓			✓	✓		✓	✓	✓	✓	✓
9.1.2.2. Tasks and duties	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓
9.1.2.3. Sanctioning powers	✓	✓		✓	✓		✓			✓	✓	✓		✓	✓	✓	✓		✓	✓	✓			✓		✓	✓
9.1.3. Cooperation with other regulators	✓	✓	✓	✓				✓		✓						✓			✓	✓	✓		✓	✓	✓	✓	✓
<b>9.1. Telecoms Regulator</b>																											
9.1.1. Structure/ organisation																											
9.1.1.1. Independence																											
9.1.1.2. Representation requirements																											
9.1.2. Credibility and efficiency																											
9.1.2.1. Sufficient resources																							✓				
9.1.2.2. Tasks and duties																							✓				
9.1.2.3. Sanctioning powers																							✓				
9.1.3. Cooperation with other regulators																							✓				
<b>9.2. Press Council</b>			+	✓		+	✓	✓							✓	✓	+	+							✓		+
9.2.1. Broad representation							✓	✓		+					✓		+	+							✓	+	+
9.2.2. Sufficient resources																	✓								✓		+
9.2.3. Credibility							✓									✓									✓	+	
<b>9.3. Competition Authority</b>			✓	✓			✓	✓	✓							✓	✓	✓	✓	✓	✓				✓	+	✓
9.3.1. Structure/ organisation				✓			✓		✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓				✓	+	
9.3.2. Cooperation with other regulators				✓				✓	✓							✓		✓		✓					✓		