



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

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*by*

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**Final Report - Annex III**

**COUNTRY REPORTS**

**Poland**

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**Important Notice**

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

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

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

### [POLAND]

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#### 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>
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**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>
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**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).
<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>			
	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:          “1. The President of UKE shall carry out the analysis of relevant markets within the scope of telecommunications products and services. (...)          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):          “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          Article 38          Article 38a          the 1992 Broadcasting Act as described above</p>
<p><i>Note:</i> “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.</p>			
6.1.2.2. Crossmedia	no media specific rules		
<p><i>Note:</i> 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.</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          “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          Article 38          Article 38a          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	Control of concentration: articles 13 - 17 Decisions in cases of concentration: articles 18 – 23 Antimonopoly proceedings in cases of concentration: Articles 94 - 99  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.”
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>	For example: Case DDI-34/2002 of 3 April 2002, <i>Agora S.A./Prószynski</i>  Case RWA 20/2002 of 5 December 2002, <i>RUCH S.A.</i>  Case DDI 110/2002 of 16 December 2002, <i>Telewizja Polska S.A.</i>  Case DPI 27/2003 of 24 April 2003, <i>Canal+ Cyfrowy</i>  Case RWR 7/2004 of 11 February 2004, <i>Polskapresse</i>  Case RWA 19/2004 of 16 July 2004, <i>RUCH S.A./ROLKON</i>  Case DOK 75/2004 of 27 July 2004, <i>Sony Corporation of America/Bertelsmann AG</i>  Case RPZ 24/2004 of 5 October 2004, <i>Telewizja Kablowa Poznań</i>		

*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 Polskapersse. 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>
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**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			