MÉRTÉK MEDIA MONITOR

AN ILLIBERAL MODEL OF MEDIA MARKETS

Soft Censorship 2017

MÉRTÉK BOOKLETS
Volume 15
MÉRTÉK FÜZETEK
15. szám

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JULY 2018

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Published by
Mérték Médiaelemző Műhely
Közhasznú Nonprofit Kft.
[Mertek Media Monitor
Nonprofit Ltd.]
H-1042 Budapest, Árpád út 90-92.

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The editing of the report was
finished at 15 of June 2018.

ISSN 2559-8937
ISBN 978-615-00-2952-8
An Illiberal Model of Media Markets (pdf)
Máriás Leonárd et al.
Mérték Médiaelemző Műhely

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INTRODUCTION

The present *Soft Censorship* report differs somewhat from the customary format of previous reports.

For one, we do not provide you with a comprehensive cross-sectional overview of the state of the Hungarian media. Instead, this study mostly focuses on market processes. We did not devote a separate chapter to the analysis of the state of public media since there were no substantial changes, neither on public media offerings[1] nor their organisational structure. Nor did we focus on how journalists perform their work. Our express goal this year was to shine a light on the expansion of pro-government media, that is the process whereby the governing parties are giving themselves an edge in Hungarian public discourse that no alternative views can hope to match.

Another difference compared to prior years is that our report is published later in the year than usual. At the same time, this has enabled us to take a look at the 2017 financial results of media companies. This paints a much clearer picture of the distortions in the market structure; the advantage enjoyed by government-friendly media companies is readily apparent.

The report reflects on the situation as it was in 2017, but of course we know that since then Fidesz has won another supermajority in the Hungarian parliament, and it is also widely known that substantial transformations have occurred in the media ownership structures. The daily Magyar Nemzet and the Lánchíd radio station were shut down after the elections, and the print weekly Heti Válasz is only published online now. Their owner, Lajos Simicska, the prime minister's former confidante who became his opponent in 2015, has divested himself of all his business interests, including his remaining media portfolio. The Hungarian public sphere has undeniably become even more constricted as a result of these developments. Still, these changes are anything but unexpected.

The main goal of the 2017 Soft Censorship report is to show how massively uneven the playing field has become for the various players. What remains at this point is only seemingly a market, in reality the enterprises with ties to the government operate in a whole different framework and logic than the independent media companies. Certain aspects of the report might sound familiar based on our previous reports: Every year since we started this report we have reviewed the Media Authority's frequency tender practices, the trends in state advertising spending and the ownership structures in the media. A whole new aspect of our report is the look at the revenue side of the Hungarian media ecosystem, which serves to analyse the behaviour of commercial advertisers and advertising agencies. We used anonymous in-depth interviews to find out what considerations play a role in advertisers' or agencies' decisions on where to buy advertising space or airtime, and how political pressure comes into play in this realm, too. Our hope is that this makes it possible to more comprehensively understand the state of the Hungarian media market and thus our public discourse in general.

1 Every month Mérték performs an analysis of the evening news in the public media, and the relevant reviews are available on our website at http://mertek.eu/tevekenysegeink/tartalomelemzes (Hungarian)
During the period of the election campaign in Hungary, we analysed the main news shows at the request of RTL Hungary. The news is available at http://rtl.hu/rtlklub/hirek/mediaelemzes-keszult-a-kampanyidoszak-eddigi-hirados-megjeleneseirol. (Hungarian)

CHANGE IN OWNERSHIP: A MORE QUIET YEAR

The changes in the ownership structure of the Hungarian media market were not as extensive in 2017 as in the year before. While in 2016 the prime minister's friend and confidante, Lőrinc Mészáros became the owner of the biggest publishing company in Hungary, and news of the closing of the market-leading opposition daily, Népszabadság, reverberated throughout the international media, the year 2017 was far more mellow. Nevertheless, smaller media companies were still taken over by Fidesz and the government party's media empire is still in the process of consolidation. On the whole, the governing party was able to launch into the campaign for the 2018 parliamentary elections backed by a strong media hinterland.

The most important changes in 2017

The conflict between Prime Minister Viktor Orbán and his erstwhile confidante Lajos Simicska has had a huge impact on the transformation of the media market in recent years. Previously, Simicska was the leading oligarch and largest media owner in Hungary, but in February 2015 he became embroiled in a spectacular conflict with the prime minister.[2] Since then, Viktor Orbán has regarded Simicska as an enemy, and the prime minister and his party have had to rebuild their media hinterland. This explains the massive media acquisition spree by Fidesz-affiliated business interests in 2016.

Last year was more mellow, but still, some smaller media companies were acquired by pro-government investors. New owners arrived at two smaller publishers of county newspapers, Lapcom and Russmedia. In the radio sector, the expansion of the interests controlled by government commissioner Andy Vajna need to be highlighted, as his Rádió1 network became the largest player in the commercial radio sector. There were changes

2 The Economist (2015): Curse like an oligarch. February 9. http://www.economist.com/news/europe/21642647-countrys-biggest-media-mogul-turns-against-viktor-orban-no-uncertain-terms-how-cuss

also in the interests controlled by another oligarch, Zoltán Spéder. As part of a management buyout, Info Rádió in Budapest was taken over by a new owner, Márton Módos, the company's longtime manager. Ownership rights of the leading news site Index.hu were transferred to a private foundation led by the newsroom's attorney.

The expansion of pro-government investors is not only apparent in the ownership rights of media companies but also in the developments of the advertising market. The advertising time of media companies is typically sold by so-called sales houses. Since the portfolios of such sales houses usually include several media companies, these companies tend to enjoy a strong bargaining position. They are free to package various media companies as they see fit, and they can include brands in the package that might not be attractive for advertisers in and of themselves, but nevertheless receive advertising because of the other, more appealing media brands they are technically partnered with in the package offered by a sales house. The sales houses in question are overwhelmingly controlled by pro-government businesspersons these days, and in addition to amassing profits they can also be used to influence the advertising market.

Print press market

After the massive changes in the print press market in 2016, the role of pro-government investors continued to rise in 2017, though the growth was less pronounced than in the foregoing year.

There was a change in the ownership control of two smaller players in the county-level daily newspaper market, Lapcom and Russmedia. Lapcom, which publishes two county dailies and a national tabloid (Bors), was acquired by government commissioner Andy Vajna, who is also the owner of Hungary's second largest commercial television channel, TV2. Russmedia in turn, which publishes three county-level newspapers, was bought by the Austrian businessman Heinrich Pecina. Pecina is the former owner of Mediaworks, the company he sold to Lőrinc Mészáros after closing the newspaper Népszabadság, which Mediaworks used to publish.[3] As a result of these transactions, the entire county-level daily newspaper market has ended up in the hands of pro-government business interests: the 18 county-level newspapers are published by three publishing houses controlled by Lőrinc Mészáros, Andy Vajna and Heinrich Pecina, respectively. The newspapers are now also cooperating in terms of the contents they produce and publish, and on Christmas 2017 the websites of all these newspapers featured the same interview with the prime minister.[4]

The closing of Népszabadság has not resulted in the total elimination from the public realm of newspapers affiliated with the left, specifically with the opposition Hungarian Socialist Party (MSZP). The daily Népszava and two weeklies, Szabad Föld and Vasárnapi Hírek, were taken over in January 2017 by former MSZP treasurer László Puch.[5] As an investigative report revealed, Puch consulted directly with Viktor Orbán about buying Népszava, and as a result of this coordination the newspaper receives state advertising.[6]

3 Mérték (2017): Nyilvánosság helyett propaganda. Lágy cenzúra a magyar médiában 2016 [Propaganda instead of public discourse. Soft censorship in the Hungarian media 2016] . http://mertek.eu/wp-content/uploads/2017/05/MertekFuzetek11-2.pdf

4 Király, A. (2017): Orbán Viktor Mészáros Lőrinc összes lapján át szólt nemzetéhez [Viktor Orbán spoke to the nation through all of Lőrinc Mészáros' newspapers]. 444.hu, 23 December. https://444.hu/2017/12/23/orban-viktor-meszaros-lorinc-osszes-lapjan-at-szolt-nemzetehez

5 Szalay, D. (2017): Így változik a Puch László által felvásárolt Népszava és a Vasárnapi Hírek irányítása [This is how control of Népszava and Vasárnapi Hírek will change after their acquisition by László Puch]. 24.hu, 31 January. http://24.hu/media/2017/01/31/igy-valtozik-a-puch-laszlo-altal-felvasarolt-nepszava-es-a-vasarnapi-hirek-iranyitasa/

6 Rényi, P. D. (2018): Orbán lerendelte magához Hatvanpusztára Puch Lászlót, hogy vegye meg neki a Népszavát [Orbán ordered László Puch to come and see him in Hatvanpuszta and to have Puch buy Népszava for him]. 444.hu, 9 March. https://444.hu/2018/03/09/orban-lerendelte-magahoz-hatvanpusztara-puch-laszlot-hogy-vegye-meg-neki-a-nepszavat

In the meanwhile, Fidesz's former treasurer, Lajos Simicska, who has since emerged as the prime minister's chief rival, continues to be active in the media market. He owns two print newspapers (the daily Magyar Nemzet and the weekly Heti Válasz), though these have a very limited influence on public opinion. What is of far greater importance is Simicska's business interest in the outdoor advertising market.

The pro-government portfolio is undoubtedly the most influential in the print press market, its reach is very broad even beyond the already mentioned exclusive control of the market for county-level daily newspapers. The Mediaworks publishing company owned by Lőrinc Mészáros publishes dailies and magazines, including the leading pro-government daily Magyar Idők. Árpád Habony controls the tabloid Lokál, along with the weekly Lokál Extra. Both are free newspapers, which implies a high circulation. Other openly pro-government newspapers are the tabloid Ripost (owned by Miklós Ómolnár) and the once prestigious weekly Figyelő, which was taken over by the government commissioner Mária Schmidt. The daily Magyar Hírlap is published by the businessman Gábor Széles, whose pro-government sympathies are a matter of public record, just as those of the owner of the weekly Demokrata, András Bencsik.

A few years ago, international investors had still played a significant role in the Hungarian newspaper market, but by 2017 only a single major foreign player remained, Ringier Axel Springer. This publisher is mainly active in the market for glossy magazines, though it also publishes a daily tabloid (Blikk). Otherwise Ringier Axel Springer has completely withdrawn from the market for political/public affairs content, however.

A single politically independent Hungarian company remains among the major domestic owners of print media, the Central Media Group. Nevertheless, Central has also no political products in the print market, it is focused on glossy magazines.

Among the weeklies we find some that are openly critical of the government, and these are owned by smaller Hungarian publishing houses. These include Magyar Narancs, Élet és Irodalom and HVG.

Another print weekly that is critical of the government is 168 óra, though its ownership background and funding are hazy.[7]

Another noteworthy weekly is Hetek, which is owned by the Faith Church (Hit Gyülekezete), a smaller evangelical denomination that also operates the television channel ATV.

7 Becker, A. (2016): Fantomtulajdonosok a kormányfüggetlen médiában: kik állhatnak a 168 óra megvásárlása mögött? [Phantom owners in the media that is independent from the government: Who could be behind the acquisition of 168 óra?] atlatszo.hu, 4 November. https://atlatszo.hu/2016/11/04/fantomtulajdonosok-a-kormanyfuggetlen-mediaban-kik-allhatnak-a-168-ora-megvasarlasa-mogott/

↓ *Table 1: The largest newspaper publishers and those that are politically relevant*

Newspaper(s)	Publisher	Net turnover from sales 2017 ('000 HUF)*	Type of owner	Ownership transparency	Circulation 2017 H1**
12 county-level dailies, Világgazdaság, Nemzeti Sport, magazines	Mediaworks Hungary Inc	20,406,205	Hungarian investor (pro-government)	transparent	235,965 (county-level dailies)
magazines	Central Médiacsoport Inc	11,100,533	Hungarian investor	transparent	N/A
Blikk (tabloid), magazines	Ringier Axel Springer Magyarország Ltd.	6,771,742	Foreign investor	transparent	100,330 (Blikk)
Bors (tabloid), 2 county-level dailies	Lapcom Inc	10,477,747	Hungarian investor (pro-government)	transparent	58,107 (Bors) 89,008 (county-level dailies)
3 county-level dailies	Russmedia Ltd	5,610,800	Hungarian investor (pro-government)	partially transparent	106,455 (county-level dailies)
Népszava (daily) Vasárnapi Hírek (weekly)	XXI. század Média Ltd	1,668,716	Hungarian investor	transparent	19,005 (Népszava) 19,803 (Vasárnapi Hírek)
Magyar Nemzet (daily)	Nemzet Lap- és Könyvkiadó Ltd	804,683	Hungarian investor	transparent	15,447
Magyar Hírlap (daily)	Magyar Hírlap Ltd	740,730	Hungarian investor (pro-government)	transparent	N/A
Magyar Idők (daily)	Magyar Idők Kiadó Ltd	1,792,233	Hungarian investor (pro-government)	transparent	N/A
Ripost	Ripost Média Ltd	3,042,759	Hungarian investor (pro-government)	transparent	N/A
HVG (weekly)	HVG Kiadó Inc	3,650,887	Hungarian investor	transparent	31,500
Figyelő (weekly)	K4A Lapkiadó Ltd	835,674	Hungarian investor (pro-government)	transparent	N/A
Magyar Narancs (weekly)	Magyarnarancs.hu Ltd	238,145	Hungarian investor	transparent	N/A
Heti Válasz (weekly)	Heti Válasz Kiadó Ltd	497,089	Hungarian investor	transparent	11,601
168 óra (weekly)	Telegráf Kiadó Ltd	291,438	Foreign investor	non-transparent	N/A
Élet és Irodalom (weekly)	Irodalom Ltd	199,477	Hungarian investor	transparent	N/A
Szabad Föld	Mezőgazda Lap- és Könyvkiadó Ltd.	1,462,233	Hungarian investor	transparent	65,548
Magyar Demokrata (weekly)	Artamondo Ltd	551,890	Hungarian investor (pro-government)	transparent	10,181
Hetek (weekly)	Hetek.hu Ltd	132,632	Hungarian investor	transparent	N/A
Lokál (free dailies)	Modern Media Group Inc	3,179,663	Hungarian investor (pro-government)	transparent	N/A
Lokál extra (free weekly)					

* *Source: Annual financial accounts* (http://e-beszamolo.im.gov.hu/oldal/kezdolap)
** *Source:* matesz.hu

As compared to earlier periods, the role of print newspapers in political information has diminished, and almost all newspapers have seen their circulation decline over the past few years. Only the county-level newspapers can reach a broad base of readers, but all of these are owned by investors with close ties to the government.

Radio market

In terms of shaping public discourse, we do not tend to think of the radio market as the most decisive instrument, but over the past few years there have been some remarkable developments in the Hungarian radio market. This is the segment of the media sector where the Media Council has the broadest direct authority to intervene through frequency tenders. What makes the radio market especially important is that it plays a major role in the news consumption and information of the audience, as a research carried out by Mérték in 2016 showed.[8]

The most important player in the radio market are the public service radios, which broadcast on four national frequencies. There has been no major change in this area over the past few years.

The most vital development in this area in the last year was the expansion of the Rádió1 network. The rapid growth of this network, which was originally only available in Budapest, continues apace, and it has been joined by over 30 local stations thus far, making it the biggest commercial radio station today.[9] Rádió1 is operated by Radio Plus Ltd, which is owned by the government commissioner Andy Vajna, owner of the TV2 group.

The role of two widely-known Budapest talk radios, Info Rádió and Klubrádió, is still substantial in the news market. There was an ownership change at the rightwing Info Rádió in 2017, and as part of a management buyout the radio's former managing director, Márton Módos, became the new owner. The ownership background and funding of Klubrádió, a station known for its critical coverage of the government, is opaque and lacking in transparency.[10]

Karc FM, a station that broadcasts on a Budapest frequency is a rightwing talk radio. It is operated by Karc FM Média Ltd and owned by the pro-government Magyar Idők Kiadó Ltd.

Lánchíd Rádió, which is owned by the formerly pro-government oligarch Lajos Simicska, can be received in the country's central and western regions, on a total of 14 frequencies,

8 Mérték (2016): The sources of political information in Hungary. http://mertek.eu/wp-content/uploads/2017/01/Mertek_newsconsumption_eng_2016.11.25.pdf

9 Official data December 2016 http://radiosite.hu/hallgatottsagi-adatok-2017-december/#more-5164

10 Becker, A. (2016): Fantomtulajdonosok a kormányfüggetlen médiában: kik állhatnak a 168 óra megvásárlása mögött? [Phantom owners in the media that is independent from the government: Who could be behind the acquisition of 168 óra?] atlatszo.hu, 4 November. https://atlatszo.hu/2016/11/04/fantomtulajdonosok-a-kormanyfuggetlen-mediaban-kik-allhatnak-a-168-ora-megvasarlasa-mogott/

↓ *Table 2: Commercial radio providers in the market for public affairs news*

Radio station	Broadcaster	Net turnover from sales 2017 ('000 HUF)*	Type of owner	Ownership transparency	Reach ('000) October-December 2017 **
Rádió 1	Radio Plus Ltd	2,810,086	Hungarian investor (pro-government)	transparent	1,321
Karc FM	Karc FM Média Ltd	284,126	Hungarian investor (pro-government)	transparent	N/A
Lánchíd Rádió	Lánchíd Rádió Ltd	25,622	Hungarian investor	transparent	65
Info Rádió	Inforádió Ltd	394,155	Hungarian investor	transparent	N/A
Klub Rádió	Klubrádió Inc	74,626	Foreign investor	Non-transparent	214

* *Source: Annual financial accounts* (http://e-beszamolo.im.gov.hu/oldal/kezdolap)
The data on net turnover does not include other revenues (subsidies, donations)
** *Source:* http://radiosite.hu/hallgatottsagi-adatok-2017-december/#more-5164

Smaller music radio stations are generally less likely to exert an influence on public affairs, political discourse and political information, but in Hungary the situation is nevertheless somewhat different. To keep their costs in check, a significant portion of local radio stations order their news services from the state media, that is from the Media Support and Asset Management Fund (MTVA). Even if a radio is independent in terms of its ownership, it is still possible for it to support the government's communication through its hourly news services. We do not currently know how many radio stations this applies to because the MTVA has failed to provide a proper response to Mérték's freedom of information request about this.[11]

Radio Sales House has emerged as a major player in the radio ecosystem. In addition to distributing the advertising airtime of public radios, it also sells advertising for 58 commercial stations; its portfolio reaches 4 million adults each day (Hungary's total population, by comparison, is slightly under 10 million).The company's revenues are rising rapidly, and in the first half of 2017 its turnover had grown by 50% compared to the same figure in the previous year.[12] Radio Sales House is owned by two businessmen with close ties to the government, András Tombor, Prime Minister Orbán's former advisor and Tibor Krsko.[13]

As a result of a peculiar intervention by the Media Authority, 2017 also saw changes in the way audience measurements are performed. Previously, audience measurements in the radio market were performed on a market basis, just as in the other sectors of the media. Market players funded the ratings system that was performed by a research company based on a pre-selected methodology. Surprisingly, the authority essentially "national-

11 https://kimittud.atlatszo.hu/request/mti_hirblokkok_szallitasa_radiok#incoming-14392

12 Radio Sales House (2017): Ötven százalékkal nőtt a Radio Sales House első féléves bevétele [A 50% growth in the first six months of the year in Radio Sales House's revenues] https://www.radiosaleshouse.hu/news/Otven_szazalekkal_nott_a_Radio_Sales_House_elso_feleves_bevetele.html

13 Csikász, B. (2017): Nem pihen a kormányközeli media úthenger: itt a Krskó&Tombori sales house [No rest for the pro-government media steamroller: Here comes the Krskó&Tombori sales house. 6 January. https://blog.atlatszo.hu/2017/01/nem-pihen-a-kormanykozeli-mediauthenger-itt-a-krsko-tombor-sales-house/

ised" the performance of the measurement, and as of 2017 it selects the company that measures radio ratings. Incidentally, the company selected is the same that performed this task previously (a consortium of TNS Hoffmann and M-Meter Ltd). Another research company (Inspira Media Research) that had entered this market at some point (Inspira Media Research) has since ceased performing audience measurements.[14]

Television market

There were no ownership changes in the television market that had an impact on the largest commercial players or the news channels.

The market-leading television channel, RTL Klub, is operated by the Magyar RTL Televízió Inc. Additionally, RTL Group operates several Hungarian-language channels, the majority of which are registered abroad (RTL II, Cool, Film+, RTL+, Sorozat+, RTL Gold, Muzsika TV). RTL also boasts its own sales house called R-time.

The second largest commercial television channel is TV2, which is operated by the TV2 Media Csoport Ltd and is owned by the government film commissioner Andy Vajna. The TV2 group also boasts a large number of thematic channels that are registered abroad (Super TV2, Fem3, Mozi+, Spíler1 TV, Izaura TV, Zenebutik, Prime, LiChi TV, Kiwi TV, Humor).

Four channels are noteworthy among the news channels: ATV, HírTV, Echo TV and the Hungarian-language news broadcast by Euronews.

The ATV channel is operated by ATV Inc, which is owned by the small evangelical denomination Hit Gyülekezete. ATV is generally regarded as a leftwing outlet that is critical of the government, but – most likely because of its owners – recently it found itself on the same platform with the government on an important issue of principle. In the refugee debate that has come to define Hungarian political life, ATV openly accepted the government's anti-refugee narrative while the structure of its broadcasts also became increasingly tabloid-like.[15]

The rightwing HírTV is operated by the Hír Televízó Inc., which is part of Lajos Simicska's media empire. It is very critical of the government, and the representatives of the government have reacted by boycotting HírTV, refusing to appear in interviews or in shows.

Echo TV is operated by the Echo Hungária TV Inc, which is owned by the prime minister's friend and confidante, Lőrinc Mészáros. Echo TV's has openly adopted a pro-government stance.

Euronews's Hungarian-language broadcasts began in 2013. Its ownership structure is complex, the 25 shareholders include several major European broadcasters. In Hungary it does not play an influential role in shaping public opinion.

14 Szalay, D. (2018): Beavatkozott a médiahatóság, leáll egy fontos kutatás [The media authority has intervened, an important research project was stopped]. 24.hu, 30 January. https://24.hu/media/2018/01/30/beavatkozott-a-mediahatosag-leall-egy-fontos-kutatas/

15 Rényi, P. D. (2018): A baloldal fellegvára volt, most bulvártévét csinálnak belőle a Fidesznek [It used to be a bastion of the left, now they are turning it into a tabloid television for Fidesz]. https://tldr.444.hu/2018/01/10/a-baloldal-fellegvara-volt-most-bulvartevet-csinalnak-belole-a-fideszne

↓ *Table 3: The commercial television company groups that play an important role in public affairs news*

Channel	Broadcaster	Net turnover from sales 2017 ('000 HUF)*	Type of owner	Ownership transparency
RTL Klub, Muzsika TV	Magyar RTL Televízió Inc	34,257,102	foreign investor	transparent
RTL II, Cool, Film+, etc. (6 channels)	RTL Group (Luxembourg)	-	foreign investor	transparent
TV2	TV2 Média Csoport Ltd	34,506,529	Hungarian investor (pro-government)	transparent
Super TV2, Fem3, Mozi+, etc. (9 channels)	CEE Broadcasting Co. (Romania)	-	Hungarian investor (pro-government)	transparent
ATV	ATV Inc	2,374,545	Hungarian investor	transparent
Hír TV	HírTV Inc	2,356,617	Hungarian investor	transparent
Echo	Echo Hungária TV Inc	4,154,690	Hungarian investor (pro-government)	transparent
Euronews	Euronews SA	-	Foreign investor	transparent

* *Source: Annual financial accounts* (http://e-beszamolo.im.gov.hu/oldal/kezdolap)

The less ostensible but nevertheless more important results of the transformation of the television market are apparent in the media market ecosystem broadly understood.

Advertising airtime for the respective channels of the TV2 Group and of the public service media are performed by the Atmedia sales house. The latter is owned by András Tombor, the prime minister's former security policy advisor. In other words, public service television, the pro-government TV2 and a few other commercial players (40 channels overall) mutually reinforce each other's position in the advertising market.

In the ratings market, Atmedia is the leading sales house (52.5% GRP share in the 18-59 age group in the period between January-September 2017).[16] In 2016, the company tripled its revenues[17] compared to the previous year, and in 2017 it continued to be among the main beneficiaries of state advertising spending: the Prime Minister's Office spent 1.4 billion at the sales house as part of its spending on various governmental campaigns ("Soros campaigns").[18]

16 TV market overview http://atmedia.hu/kutatas/2

17 Csurgó, D. (2017): Feltűnően jól keresett Tombor András reklámcége [András Tombor's advertising company has made remarkable amounts of money]. Index, 16 June. http://index.hu/gazdasag/2017/06/16/tombor_andras_atmedia_beszamolo/

18 Erdélyi, K. (2018): Tavaly 12 milliárdot költött sorosozós reklámkampányokra a kormány. Átlátszó, February 2. https://atlatszo.hu/2018/02/02/tavaly-12-milliardot-koltott-sorosozos-reklamkampanyokra-a-kormany/

Online market

The online market is still one of the most balanced in Hungary today, the major players in this market segment include several independent companies. Major developments only transpired at Index: In April 2017 the owner transferred the ownership rights to a foundation.[19] That was when it emerged that for three years now the erstwhile oligarch Lajos Simicska had held a right of option to the publishing house. Though this had been rumoured previously, no one had been able to actually prove it. Lajos Simicska exercised his option and immediately transferred the ownership rights led by the news site's attorney.

The political outlook of the other major online newspaper, Origo, had already been pro-government, but in April 2017 Ádám Matolcsy, the son of the president of the Hungarian central bank, became the new owner. At the same time, the entire corporate structure was revamped, and the new publisher is called New Wave Media Group Inc. In addition to Origo, it also comprises other online interests (e.g. the news portal vs.hu, which was awarded over half a billion forints from foundations affiliated with the Hungarian National Bank in 2016).

A key player of the online market for news sites is 24.hu, which is operated by the Central Digitális Média Ltd, in which Magyar RTL Televízió Inc had previously purchased a 30% stake, but after a protracted review the Media Council nixed the deal in early 2017.[20]

July 2017 saw the launching of the new news portal zoom.hu, owned by Péter Tarjányi. As a security policy expert, Tarjányi had been a frequent guest expert on television. The site's news editor, the former Népszabadság editor-in-chief András Murányi, said in an interview that the financial funds for the site had been put up by a few major companies, but the identity of these companies is not public information.[21]

Hvg.hu and 444.hu are important independent players in this market, as are the two crowd-funded investigative projects, atlatszo.hu and direkt36.hu. There were no changes in the ownership background and operations of the latter in 2017.

On the pro-government side, 888.hu and ripost.hu are still in operation, and they are visibly engaged in disseminating the government's viewpoint, and – obviously not independently of the latter fact – they feature state advertising.

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19 Index (2017): Alapítványi tulajdonba került az Index.hu Zrt [Ownership control of Index.hu Inc. now rests with a foundation]. Index, 30 April. http://index.hu/kultur/2017/04/20/index_uj_tulajdonos_magyar_fejlodesert_alapitvany/

20 Gálik, M. – Polyák, G. (2017): Az RTL-CDM összefonódási kérelem elutasítása [The rejection of the RTL-CDM petition for intertwinement], Fundamentum 2017/1-2, http://fundamentum.hu/sites/default/files/fundamentum-17-1-2-06.pdf

21 Borbás, B. (2017): Ki áll a Zoom.hu mögött? [Who is behind Zoom.hu?], Heti válasz, 18 September. http://valasz.hu/itthon/ki-all-a-zoomhu-mogott-125541

↓ *Table 4: The online news sources that play an important role in public affairs news*

Portal	Content provider	Net turnover from sales 2017 ('000 HUF)*	Type of owner	Ownership transparency	Real Users (2017 December)**
origo.hu	New Wave Media Group Ltd.	5,642,542	Hungarian investor (pro-government)	transparent	2,370,667
vs.hu					63,805
index.hu	Index.hu Inc	1,429,804	Hungarian investor	transparent	1,965,738
24.hu	Central Digitális Média Ltd	3,882,029	Hungarian investor	transparent	2,087,431
hvg.hu	HVG Kiadó Inc	3,650,887	Hungarian investor	transparent	1,682,220
444.hu	Magyar Jeti Inc	510,505	Hungarian investor	transparent	1,170,500
ripost.hu	Ripost Média Ltd	3,042,759	Hungarian investor (pro-government)	transparent	1,153,784
zoom.hu	STRAT-POL Ltd	-	Hungarian investor	non-transparent	504,174
atlatszo.hu	Atlatszo.hu Közhasznú Nonprofit Ltd	1,841	Hungarian investor	transparent	132,696
888.hu	Modern Media Group Inc	3,179,663	Hungarian investor (pro-government)	transparent	N/A
direkt36.hu	Direkt36 Nonprofit Ltd	6,628	Hungarian investor	transparent	N/A

** Sources: Annual financial accounts (http://e-beszamolo.im.gov.hu/oldal/kezdolap)*
The data on net turnover does not include other revenues (subsidies, donations)
***Source: Gemius – OLA (including computer, tablet and mobile users)*

The most important steps in the transformation of the ownership structure had already occurred in 2016, and 2017 was a far more mellow year by comparison. There are two major foreign investors left in Hungary. Ringier Axel Springer is active in newspaper publishing, and RTL Group is active in the television market. In terms of influencing public opinion, the latter plays a substantial role.

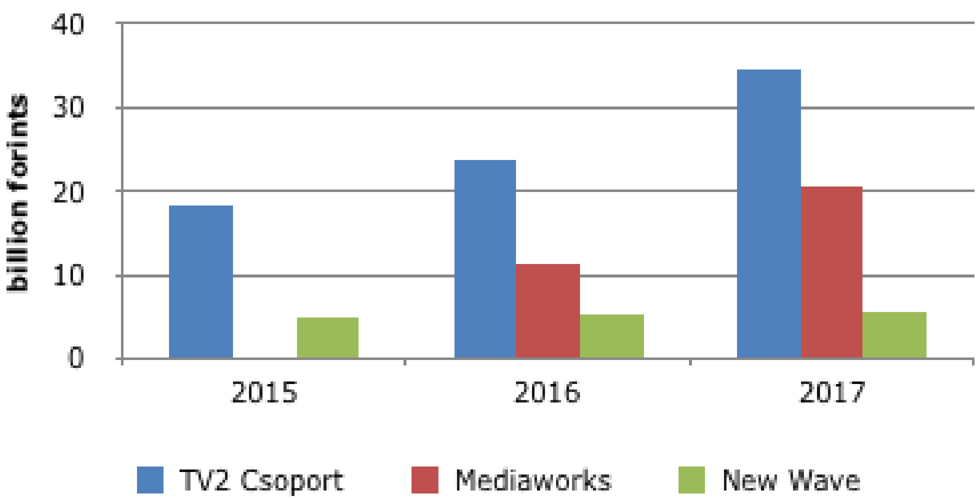
On the whole, it is readily apparent that the expansion of pro-government investors was successful in all segments, they have acquired media outlets with a substantial audience reach. Independent players have managed to hold their own in the online market above all, but the question they are facing now is whether they will be able to withstand the prevailing political pressure, especially seeing as there are serious problems with the business model of online content providers.

The financial results of the media companies in 2017

The year 2017 was marked by the preparations for the national parliamentary election in April 2018. In this period, the governing party focused on boosting its media hinterland. Substantial amounts of money were channelled to pro-government media and this had a manifest impact on the companies' financial performance. The spectacularly rising revenues made it possible for them to increase their profits or to reduce their losses.

By 2016 the new ownership structure of the government-friendly media had roughly taken shape, and the turnover of these media organisations began to rise quickly. The ongoing political campaigns (against refugees, George Soros and the European Union) provided continuous income from state advertising. The most important goal was to reinforce the TV2 Group, because squeezing the market leader RTL, a foreign-owned corporation, was a vital political objective.

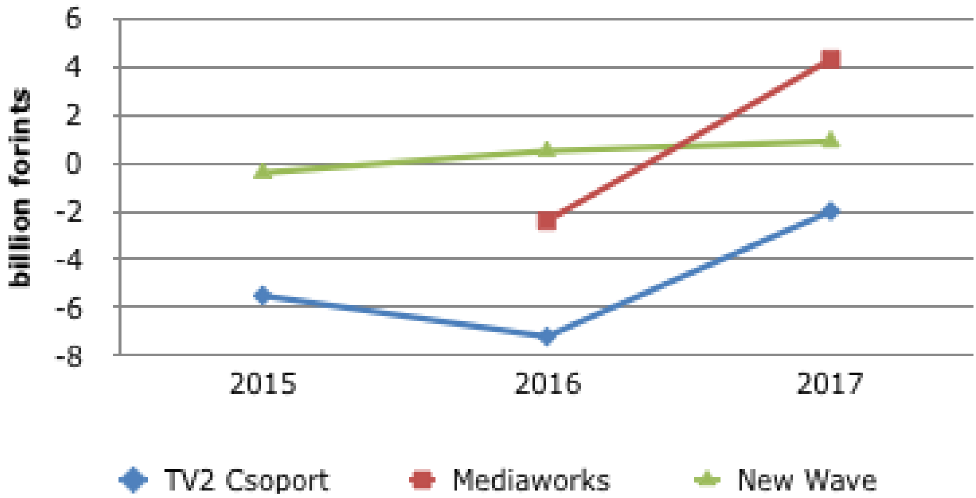
↓ *Figure 1: Turnover of the largest pro-government media companies*



Source: Created by the authors based on financial reports

For Mediaworks, the publishing house that became notorious for shutting down the leading national daily Népszabadság and for its acquisition of a major portion of county newspapers, the last year was very successful in terms of financial performance. After concluding 2016 with losses totalling 2.4 billion forints, they made 4.3 billion in profits in 2017. The TV2 Group significantly reduced its losses but has thus far not produced any profits, while the New Wave Media Group, which publishes the online newspaper origo.hu has stabilised its situation.

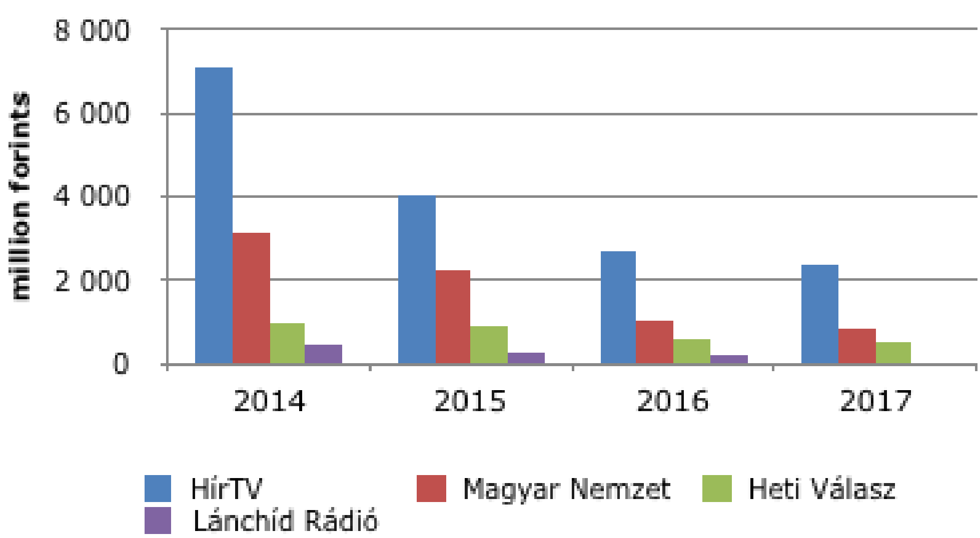
↓ *Figure 2: After-tax performance of the largest pro-government media companies*



Source: Created by the authors based on financial reports

Not every media company was this successful, of course. The biggest financial collapse occurred at the company of Lajos Simicska, the former media oligarch. The decline of his media empire began after the conflict between Simicska and Orbán intensified and became public in February 2015. The turnover of his HírTV news channel and his daily newspaper Magyar Nemzet dropped by a third over three years, while Lánchíd Rádió, which survives only based on advertising, dropped to 5% of its 2014 turnover, generating a revenue of only 26 million forints last year. The turnover of the weekly Heti válasz dropped by roughly half between 2014 and 2017.

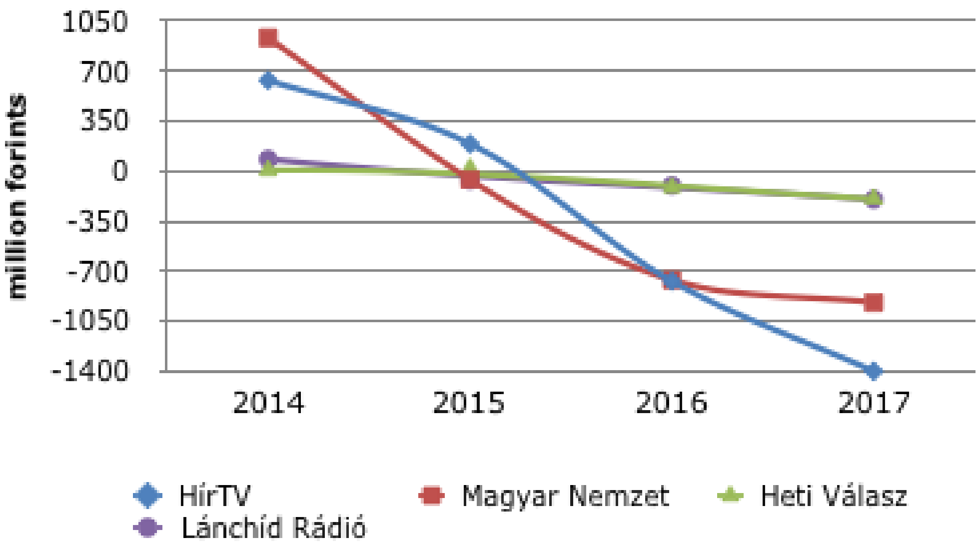
↓ *Figure 3: Turnover of the media companies affiliated with Lajos Simicska*



Source: Created by the authors based on financial reports

In light of the decline in turnover, it is not surprising that the after-tax performance also dropped, the companies became unprofitable. The previously soaring media empire simply became unsustainable from the moment when it ran into political headwinds.22

↓ *Figure 4: After-tax performance of the media companies affiliated with Lajos Simicska*



Source: Created by the authors based on financial reports

The figures above show clearly that the financial results of media companies are heavily dependent on their political loyalties. The largest pro-Fidesz media corporations were able to increase their revenue, and in parallel their profitability has also improved in recent years. The companies affiliated with Lajos Simicska, by contrast, saw their financial results sag spectacularly after Simicska became critical of the government. In the case of the companies reviewed here, the financial results were not a reflection of their market performance but of their political positioning. In other words, the market structure has become very distorted.

22 Magyar Nemzet was shut down in the first half of 2018, and Heti Válasz and Lánchíd Rádió also went out of business.

THE MEDIA COUNCIL'S FREQUENCY AWARD PRACTICE IN 2017

The media authority's most substantial power in shaping the media market involves the authorisation of market entry; these days, this power is essentially limited to the authority's activities concerning the tenders for entry into the radio market. Over the past few years, the radio frequency tenders issued by the Media Council and its frequency award practices have fundamentally reshaped the pre-2010 map of the radio market. This has had a significant impact on the structure of the market, the range of actors that are active therein, and – as a result of this process – it has led to a decline in the diversity of media offerings. Today, the Hungarian radio market is characterised by deep distortions and high levels of market concentration. Our critical analysis evaluates the Media Council's frequency tender practices based on legal, media policy and media market considerations, while it presents and reviews the characteristics and trends of the media authority's frequency tender practices. The analysis focuses on the frequency tenders conducted in 2017 and the decisions rendered by the Media Council in these procedures.

General observations

In the overwhelming majority of tender procedures some applicants were disqualified based on formal criteria. This reflects the excessive formalisation and complexity of the tender procedures. The tender notices have not been simplified, and in their current form they do not serve to promote tenders that facilitate genuine competition. Because of the judicial appeals against disqualifications from the tender, many tender procedures end up being protracted, which further reinforces the uncertainties in the radio market.

The Media Council's tender practices strongly favour the emergence of networks in the radio market, and the balance of the successful tenders reveals that the media authority actively promotes the rapid expansion of the Rádió 1 network in particular, which is owned by business interests with close ties to the government.

The significance of local radio broadcasting in shaping public discourse is diminishing, and we observe a retrenchment of local radios on the map of the radio market.

The Media Council's frequency tender practices continue to serve the government's media policies. The authority designs its own practices to mesh with and reinforce the government's efforts at occupying growing slices of the Hungarian media landscape.

The court procedures reviewing the Media Council's decisions show that the authority often errs in its proceedings, while manifestations of discriminative bias in its tender decisions are also far from exceptional.

The tender procedures continue to be characterised by partial public access, the lacking transparency of the tender process, and a desire to conceal conflicts.

Results based on the data

There were 25 tenders for local and district frequencies in 2017, along with one tender for a national frequency. Twelve of these were concluded successfully, that is the media authority announced a winner and concluded an agreement with the winning applicant, which awarded the latter with the license to operate a radio on the given frequency.[23] As to the remaining 13 frequencies, in seven cases the procedure had to be suspended on account of judicial appeals filed by applicants.[24] Five tender procedures were still pending at the end of the year,[25] and one was concluded unsuccessfully and the authority did not issue a new tender for the frequency in question last year.[26]

Seventeen of the tender procedures pertained to frequencies that are already in use, while eight procedures were launched to award previously unused radio frequencies. Among the twelve successful applications, the previous license holder ended up successfully reclaiming the frequency in two cases (Békéscsaba, Telkibánya), while in the remaining ten cases the respective licenses were awarded to new players.

Based on the balance of the tender results, we can assert that in 2017 the Media Council primarily supported the expansion of radio stations that were already present in the market, especially that of the Rádió 1 network. The Rádió 1 network was expanded by seven new licenses, Radio Mária (a Catholic station) received two new licenses, and Turul radio was awarded one. There are only two frequencies on the list that were awarded as independent licenses. These results indicate that the goal of promoting the emergence of independent local voices is not among the media policy objectives pursued by the authority in its frequency allocation practice. This impression is further reinforced by the fact that helping to build smaller independent regional voices is also not typical of those policies pursued by the authority that are aimed at supporting the expansion of existing radios: in the places where the Media Council supported the expansion of Rádió 1, it typically did so by declaring the latter – which is edging closer to becoming a radio with national coverage – the winner over local/regional players that sought to expand their coverage.

23 Békéscsaba 88.9 MHz. Budapest 101. 6 MHz; Derecske 94.7 MHz; Dunaújváros 93.1 MHz; Eger 101.3 MHz; Esztergom 98.1MHz; Győr 103.1MHz; Hajdúböszörmény 98.9 MHz; Hajdúnánás 93.3 MHz; Hajdúszoboszló 100.6 MHz; Szombathely 88.4 MHz; Telkibánya 100.6 MHz

24 Székesfehérvár 101.8 MHz; Veszprém 90.6 MHz; Pécs 101.7 MHz; Tatabánya 96.7 MHz; Kaposvár 99.9 MHz; Keszthely 99.4 MHz; Nagykanizsa 95.6 MHz

25 Szolnok 90.4 MHz; Budapest 98.6; Velence Meleg-hegy 90.4 MHz; Tokaj 101.8 MHz, Miskolc 103,0 MHz

26 Paks 96.3 MHz

A preferred player in frequency tenders

One of the main claims we advanced in our analyses on the authority's frequency allocation practices was that in the realm of frequency management, the authority seeks to boost the market positions of certain players from time to time. Previously, the media authority's activities helped the expansion of Lajos Simicska's Lánchíd Rádió, while at the same they also favoured various stations whose broadcasting focused on religious life.[27] In recent years, the media authority's frequency management practices have always hewed closely to the government's prevailing media policies.[28] This did not change during 2017 either. The Rádió 1 station owned by Andy Vajna, one of the government's favoured media market players, emerged as the new preferred beneficiary of this policy. Rádió 1 received a Budapest frequency in early 2016, and by 2017 it had emerged as the largest commercial station in Hungary. The station's business strategy is based on operating as a network because in the case of analogue radio licenses the media law sets a limit on the number of licenses that can be held by any single owner. The essential idea of a radio network is that the network broadcaster uses the licenses held by others for a significant portion of the daily broadcasting time (up to a limit of 20 hours). Operating as a network requires the media authority's approval, and whenever a new station joins the network the license agreement of the stations in the existing network must be amended correspondingly.

The company that operates the central station of the Rádió 1 network, Radio Plus Ltd, was less actively involved in the tender process in the 2017 frequency tender period. There was only one tender in which it applied, and ultimately it was disqualified from the procedure – in connection with the court decision reviewing the Media Council's decision on the merits – due to the invalidity of the application.[29]

Nevertheless, it is obvious that the winner of the 2017 frequency allocation is Rádió 1, the station operated by Radio Plus Ltd. Among the dozen procedures that resulted in a successful decision, ten involved tender applications by stations that sought to enter into a network with Rádió 1. In nine of these cases, the Media Council awarded the frequency to the station that wished to join the Rádió 1 network. As a result of the judicial review of these decisions, however, in two cases the stations with the license to broadcast will not be the Rádió 1 network-linked radios that were originally awarded the frequencies in question.[30]

Outside the framework of frequency tenders, there were another 15 instances in 2017 when the Media Council authorised broadcasters that previously operated independently or as part of another network to join the Rádió1 network.[31]

In 2017, the Rádió1 network, which was launched in 2016 and broadcast on nine frequencies at the end of its first year, had expanded to include 31 local and district frequencies. The station's ratings grew correspondingly: according to an audience measurement performed in December 2017, it had 1.3mn listeners, which make it the second most listened to station following the public broadcaster Petőfi Rádió.[32]

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27 Magyar Katolikus Rádió, Európa Rádió, Szent István Rádió, Mária Rádió

28 Mertek Media Monitor: Gasping For Air – Soft Censorship in Hungarian Media 2014 http://mertek.eu/en/2015/01/28/gasping-air-soft-censorship-hungarian-media-2014/
Mertek Media Monitor: The methods are old, the Cronies are new - Soft Censorship in the Hungarian Media in 2015 http://mertek.eu/wp-content/uploads/2017/01/softcensorship2015.pdf

29 Békéscsaba 88.9 MHz tender procedure

30 Békéscsaba 88.9 MHz; Velence Meleg-hegy 90.4 MHz

31 Salgótarján 104 MHz; Tiszafüred 88.7 MHz; Abádszalók 89.2 MHz; Sopron 94.1 MHz; Debrecen 95.0 MHz; Pécs 90.6 MHz; Villány 101.9 MHz; Komló 99.4 MHz; Mohács 93.8 MHz; Székesfehérvár 103.8 MHz; Mosonmagyaróvár 99.7 MHz. Zalaegerszeg 95.1 MHz; Szombathely 97.7 MHz; Békéscsaba 104.0 MHz; Szeged 87. 9 MHz;

32 https://radiosite.hu/hallgatottsagi-adatok-2017-december

A series of Media Council decisions approving requests to modify central components of the radio's thematic features and the programming plans associated with certain frequencies clearly indicate the official sanction of Rádió 1's expansion policies.[33] When a radio joins a network, its previous contractual commitment will necessarily change, its local undertakings will be proportionally diminished. But the events surrounding Európa Rádió, a community radio in the Hungarian city of Szeged suggest an even more overt willingness on the part of the authority to actively promote Rádió 1. In a decision on 31 October 2017, the Media Council approved a request by the Európa Rádió in Szeged, which was previously affiliated with the Reformed Church, broadcasting on the 87.9MHz frequency, to leave the Európa Rádió network. At the same time, in an unprecedented move it also approved the station's request to "change its status from a community radio to a commercial radio".[34] At its next meeting, on 7 November 2017, the authority also approved[35] the Európa Rádió Szeged's request to enter into a network with the Radio Plus Ltd. A further interesting facet in this series of events was the decision, rendered barely a month later, to extend Európa Rádió's (currently called 87.9 Rádió 1) just expiring license for another five years.[36]

Radio Plus Ltd's peculiar expansion ambitions are also manifest in a media market deal, namely the company's acquisition of the Kredit Holding Ltd, which operates Best FM radio, a station with an independent local frequency license in the eastern Hungarian city of Debrecen. This was an addition to its existing Debrecen 95.0 MH station, which is already a part of its network.[37] The deal may have been facilitated by the fact that in frequency tenders issued in the coverage area of Debrecen and its environs, the Media Council favoured the application of the LB Ltd, which wishes to use the frequencies in question to enter into a network with Rádió 1, against those aimed at the expansion of the Kredit Holding Ltd. Thus, with a station that is a part of its network and the acquisition of another local station, Radio Plus Ltd. has emerged as an especially dominant player in the Debrecen advertising market.

Diversity, positive messages

According to the media law: "The diversity of media services is a particularly important value. The protection of diversity shall also include the avoidance of the formation of ownership monopolies and any unjustified restriction of competition on the market. The provisions of this Act shall be interpreted in consideration of the protection of diversity."[38]

Somehow this passage in the law was forgotten in the Media Council's frequency allocation practices. The massive expansion of Rádió1 over the past two years surpasses even previous bouts of expansion realised by taking over of local frequencies. But the issue here is not only that local frequencies are integrated into a nationally broadcasting network, thereby depriving them of their original functions. The problem is also that the authority's practice has resulted in a decline in the number of local and independent radios.

Today's radio map is a manifestation of the absence of a planned frequency management (or worse, the total wrong-headedness of the underlying plans). While a privately-owned radio that operates a "truly national set of frequencies" has not existed in Hungary for

33 See, for example, the Media Council's decision No. 478/2017. (V.8.).

34 The radio station originally won the license with a community radio feature with a high proportion of public service shows and limited advertising possibilities. These restrictions were removed as the station transitioned to a commercial status. This decision marks an exception when compared to Media Council's longstanding frequency allocation practice, which has sought to scale back market mechanisms in the radio market and followed a policy of strengthening the role of community radios. 1181/2017. (X.31.)

35 1194/2017. (XI.7.)

36 1379/2017. (XII.19.)

37 http://www.haon.hu/andy-vajna-megvette-a-debreceni-best-fm-et/3680422

38 2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról 4. §

over a year now, the overwhelming majority of frequencies intended to serve the needs of independent local radios are used these days by radios that are "almost national" in their coverage.

The first media act that laid the legal foundations for the operation of the media market assumed the existence of two "national commercial" radio stations, which is how the market started in fact. And this was also how the market of the "major" players operated until the impactful intervention of the Media Council. With good planning, it takes about 15 frequencies on average to secure a high level of coverage. This is how the two national commercial radios, Sláger Rádió (16 frequencies) and Class FM (14 frequencies) had operated, and this is how the two nationally broadcasting public service stations, Petőfi and Bartók radios (16 frequencies each), still operate. The strategic shift in the frequency assignment practice commenced with the award of a URH frequency to the public broadcaster Kossuth Rádió, and then the expansion of its frequency network (47 frequencies) along with the entry into the market of another public service broadcaster, Dankó Rádió (37 frequencies). Pursuant to a decision by the Media Council, the frequencies previously used by the national commercial radio station Neo FM were awarded to Kossuth Rádió and Dankó Rádió starting in 2014.[39]

The public media's new URH channels took a substantial slice out of the space available to privately-owned radios, and the place of national commercial radios has been taken by stations that expand gradually by reducing the space available to small radios that operate at the local or district level. The results of this process are Rádió 1, which currently operates on 31 local and district frequencies, Katolikus Rádió, which uses 21 frequencies, Mária Rádió, which uses 20, and Lánchíd Rádió, which has 12. Neither has amassed national coverage as it is defined in the law, but they are present in the greater portion of Hungary's major urban areas.

As compared to the situation that emerged when the post-transition radio market was first launched roughly two decades ago (with two nationally broadcasting public service radios and two national commercial stations broadcasting on the FM broadcasting band, in addition to numerous district radios and a multitude of local stations), the current setting is fundamentally different. There are no nationally broadcasting commercial radios to complement the four national public service stations, while at the same time 170 of the frequencies that are meant to serve the needs of local/district radios are instead used either by the new public service channels or by private radios that want to attain national coverage. This clearly signifies a tendency in the sector towards the eradication of a diverse radio market that reflects local needs (as well).

There are currently 106 radio stations in the Media Council's registry of stations that have won in tenders the license to perform local linear radio media services, but in reality a significant portion of them operate as part of a network, just as several of the 20 district radios in the registry operate as part of some previously mentioned network. However, these registries do not provide an accurate insight into the actual market situation. Instead, they are more likely to conceal these, for the operation as a network is not recorded in the official registry published by the media authority.

The decline in the presence of independent local and district radios is unequivocally apparent in the drastic reduction in the number of radios operating this way. Before 2010, there were over 150 local radios in the market, and the market players felt that this figure was excessive, arguing that the fervent competition was ultimately detrimental to the media content disseminated. Today, the National Association of Local Radio says there are roughly 60 such stations left.[40] There is arguably no ideal figure when it comes to the number of local radio stations, what is nevertheless certain, however, is that public service media and ambitious networks have had a substantial detrimental impact on the

39 http://nmhh.hu/cikk/161719/Javul_a_Kossuth_Radio_vetelminosege

40 https://24.hu/media/2017/11/13/aggodalommal-tolt-el-bennunket-ami-a-radios-piacon-zajlik/

space available to local radios, and diversity is definitely no longer a label that one can apply to the media offerings of local stations.

In addition to the retrenchment of local radios, the rapid growth of certain networks, and a frequency practice in the Budapest radio market that promotes the dominance of community radios[41] (which obviously did not result in changes in the selection of offerings), we can also observe some distinctly comical efforts in the practices of the Media Council. The two Budapest frequency tenders announced last year are good examples of this. The larger frequency (98,6 MHz) was previously home to "radiócafé 98.6" (the quotes are part of the name), which used to be a major player in Budapest's cultural life on account of its youthful style. No radio has been broadcasting on the frequency ever since 2012, thus one could only welcome the Media Council's goal of not letting this important frequency lie fallow for good. The media authority did not change its practice of issuing such tenders with a call for radios with a community character, but the content requirement is definitely a new element: "Any application submitted in this Tender Procedure must be of a special character in that the shows that the applicant commits to broadcast must be *free of violence, promote a positive outlook on life* and pursue public service objectives" (Section 2.3.2 of the Tender Notice).[42] Thus, it is not enough to strive to realise public service objectives, but the radio shows must also seek to counterbalance violent tendencies, which the Media Council appears to believe have proliferated. The tender notice does not offer further guidance on what the requirement of positive outlook on life entails, and this inevitably leads a sceptical observer to assume that the tender will be evaluated rather subjectively.

The other Budapest tender notice (101.6 MHz) also contains odd provisions. The tender issuer expected applications of a "community and special character", and the major thematic topic it wanted addressed was a worthy celebration of the 500th anniversary of the Reformation. This definitely seems to imply that the authority believes diversity to be important (at least in the realm of religious life) since thus far – oddly enough – there were no radio stations in Budapest that are associated with religious life in the Reformed Churches (the situation was different with respect to Catholics). One problem might be, however, that if the "special characteristic" requirement were taken literally, then over the next seven years the radio's audience will typically listen to shows about events about Protestantism in the previous centuries. Still, this tender did not include a "positive outlook on life" as a content-related requirement.

Controversial procedures, judicial review

The media authority has a substantial margin of appreciation in tender procedures. It uses its discretionary powers to decide whether to issue a tender in a given municipality, and it is also free to decide what particular conditions it specifies for the given tender. But it also has substantial latitude in the evaluation of the tenders. One cannot appeal the conditions set out in the tender notice in court or lodge a complaint against them. Court decisions can only review the lawfulness of the media authority's procedure, whether the decision selecting the winner complied with the legally enshrined requirements. Based on the practice of recent years, one cannot say that the judicial decisions have had a substantial impact on the allocation of frequencies and the evolution of the radio market. There were some exceptions of course, such as the protracted dispute surrounding the Budapest frequency of Klubrádió, which spanned several years and ended in the radio winning back its license as a result of the judicial proceedings.

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41 For a more detailed discussion of the Budapest radio market, see Mérték's earlier analyses of the frequency tenders (in Hungarian).
http://mertek.eu/sites/default/files/reports/frekvencia_palyazatok_2.pdf
http://mertek.eu/sites/default/files/reports/frekvencia_jelentes_3_final.pdf

42 Pályázati Felhívása a Budapest 98,6 MHz körzeti rádiós médiaszolgáltatási lehetőség hasznosítására
http://nmhh.hu/dokumentum/189438/pf_budapest_98_6_mhz.pdf

A judicial review of the Media Council's decision was requested in a substantial proportion (40%) of tenders in 2017, typically in the case of disqualifications on formal grounds. Since the procedural order of the tenders did not change substantially, the simplification and increased transparency of the often criticised, overly complex and self-contradictory tender notices never actually happened. The final judicial decisions on these cases can help us ascertain whether the invalidated tenders ran into problems because of the difficulties they imposed on applicants in terms of writing the tender or because of the discriminatory decisions of the Media Council. Looking back at the Media Council's practice thus far, we find examples of both. Among the judicial procedures reviewing the authority's decisions, some resulted in decisions which found that the texts of the tender notices contained contradictory provisions, while in still other cases the judges found that the tender requirements had been established inconsistently.[43] In our previous reports we also highlighted cases in which the media authority verifiably applied the formal requirements in a discriminatory manner, disregarding some formal requirements in some tender procedures even though it had invoked the failure to comply with the same as a grounds for invalidation in others. [44]

So let us take a look at how the media authority's tender practices in 2017 stand up to scrutiny with regard to this particular issue! Of the 25 tender procedures ongoing in 2017, there were 17 (over two-thirds of all procedures) in which the Media Council found a reason for invalidation. A total of 47 applications were submitted overall, and 23 (that is every second) of these were found to be invalid by the Media Council. In the vast majority of cases the Media Council found formal mistakes, and in four cases the invalidation was justified by reference to problems of substance. A judicial review occurred with respect to ten tender procedures, seven of which are still pending.[45]

There were two tenders in 2017 in which the applicants complained about the media authority's tender decisions, all the other appeals in court were filed in response to decisions disqualifying applications on the grounds of invalidity. Following the launching of the judicial procedures based on the appeal against its decisions on the merits in the context of a frequency in the town of Békéscsaba, the Media Council exercised its authority and changed its own decision.[46] It disqualified the application of the previous winner, Radio Plus Ltd, on formal grounds, and declared the sole remaining applicant, Interax Ltd (the previous license holder for the frequency), as the winner. [47]

In another case, that of the judicial proceedings concerning the tender on the Velence Meleg-hegy 90.4MHz frequency, the court set aside the Media Council's decision on the merits because it assessed that the authority had committed serious procedural mistakes.

The court found that the Media Council's rejection of the applicant's request during the tender procedure to review certain documents constituted such a serious procedural problem. It held that *"the unfounded and unwarranted refusal of the right to inspect the files had an undue detrimental impact on the applicant's rights of declaration, defence and submitting motions."*[48] The court further determined that the Media Council's failure to justify its decisions in accordance with the relevant statutory provisions also constituted a procedural mistake. Thus, among other things, the Media Council's decisions lacked an explanation for why it had interpreted the provisions of the Media Act and of the tender notice expansively in the context of the winning application, while the decision

43 E.g. Budapest Court of Appeal 2.K.27.441/2012/2., Budapest Court of Appeal 2.K.27.439/2012/2.

44 For a more detailed discussion of this issue, see Mérték's earlier analysis on The Practice of Frequency Tenders (in Hungarian). http://mertek.eu/wp-content/uploads/2017/04/MertekFuzetek6.pdf .

45 Székesfehérvár 101.8 MHz; Veszprém 90.6 MHz; Pécs 101.7 MHz; Tatabánya 96.7 MHz; Kaposvár 99.9 MHz; Keszthely 99.4 MHz; Nagykanizsa 95.6 MHz; Velence- Meleg Hegy 90.4 MHz; Békéscsaba 88.9MHz; Miskolc 103.0 MHz

46 Decision No. 559/2017. (VI. 6).

47 Decision No. 1152/2017. (X. 24.)

48 Budapest Court of Public Administration and Labour 3.K.32.007/2017/15.

also lacked an explanation for its assessment of the programme plan and how it had used its scope for subjective evaluation. Finally, the court also held that the principle of equal treatment had been violated, which the court argued was manifest in the fact that the authority had "*demonstrably engaged in discrimination*".

In the seven procedures launched in connection with the disqualification of tender applicants, the court suspended the underlying tender procedures; a decision in these cases can be expected in 2018. Another manifestation of the Media Council's odd practice was that it resumed the procedures after the first instance rulings, which were later subject to appeal –,[49] and that these were only suspended by judicial rulings handed down in the appeals procedure before the Curia, the Hungarian supreme court. The Curia suspended the execution of the Media Council's disputed tender decisions.[50]

Transparency, publicity

There was no change in the media authority's practice regarding the public dissemination and transparency of the tender procedures. The deficiencies we highlighted in our previous analyses are still present. The "renewal" of the authority's website did not yield any improvements in this regard, since the documents that have thus become accessible still fail to provide any substantial insights into the media policy considerations that inform the authority's decisions. In fact, in many cases even the text of the decision is unavailable. One example of this is that the public hearings about frequency management and the tender process, the comments and observations made at these, as well as the immediate and subsequent responses, were not publicly accessible. "*Based on the submissions made, the Media Council informs the Favorit Masters Ltd concerning the comments submitted by the latter in the context of the tender notice for radio service broadcasting opportunities for [a station] with a national broadcasting coverage area by way of analogue terrestrial broadcasting.*" (966/2017. (IX. 5.)) This text provides a good illustration of the Media Council's approach towards public transparency: with a search on its website, we find rulings stating that a decision had been made in the case, but neither the comments nor the response on the merits are available for public review. The statutory safeguards that apply to the tender procedure obviously make sense only if there is a possibility to publicly monitor the decisions, if they allow for discerning the underlying media policy objectives pursued by the Media Council, the reasons behind its decisions, that is if the communication about the tender procedure and its results are publicly accessible. Without the comments and recommendations, or the authority's response to the aforementioned, these rules cannot discharge a genuine safeguard function.

The motivations underlying the Media Council's decisions cannot be reviewed by the public because they are not publicly disseminated, neither with respect to the process of drafting the tender notices nor with respect to the decisions concerning the tender outcomes. Decisions based on the authority's assessments of compliance with formal requirements, which can lead to the disqualification of individual applicants, are seemingly available (the decisions cite the given sections of the tender notice[51]), but at the same time they do not allow the reviewer to evaluate the tender process as such because they fail to discuss the substance of the potential mistake in the application. They only include a legal reference showing where one can find the provision (i.e. the relevant section in the

49 1026/2017. (IX. 25.) 1195/2017. (XI. 7.) 1196/20a rru17. (XI. 7.) 1002/2017. (IX. 19.)

50 The Curia's decisions are not publicly accessible, the media authority did not react to our freed of information request, and the court did not release the judgments. All that the statement that was publicly released by the Media Council said was that the Curia had suspended the execution of the decisions concerning disqualification, but it is unclear how the media authority handled the procedures that were previously ordered by decisions. http://nmhh.hu/cikk/191434/Jogeros_iteletek_het_palyazati_eljarasban

51 The decisions say that the application is not in compliance with or not in full compliance with the provisions of "Section 2.5 of the Media Act's Article 56 concerning the applications submitted in response to Tender Notices".

tender notice) that was supposedly violated. These decisions are ill-suited for informing the public about the specific mistakes and deviations from formal requirements that applicants potentially made. This is highly problematic because it has a detrimental impact on the public control over potential discrimination in the authority's decision-making process. Furthermore, it also prevents those involved in the media sector from learning about potential mistakes they have made and the authority's reactions to it.

The decisions on the results of the frequency tenders lack real opinions that explain the decision. The decisions will cite specific provisions in the law and will refer to specific passages in the tender notice; what they will fail to reveal, however, is what considerations prevailed in the Media Council's decision in favour of one or the other applicant. The amount of the media service fee that the applicants offered to pay is not disseminated in the decision about the winning application, nor does it become subsequently accessible because the authority unduly classifies this information as confidential business information, even though its public dissemination would be absolutely vital for both, the transparent operation of the market and the transparent handling of public funds. The evaluation of the applications based on pre-set evaluation criteria and their detailed assessment is only available in the decision in the form of individual scores. Yet there is no explanation of what substantial considerations the evaluator drew upon in arriving at this score. The absence of a real opinion in support of the decision is detrimental not only in terms of the public transparency of the tender process, but is also a source of substantial legal problems. In its case with the docket number 3.K.32.007/2017/15, the Budapest Court for Public Administration and Labour, for instance, ruled that the Media Council had violated its obligation to justify its decision: "It is not a sufficient explanation for the 'respondent to argue that this is what it thinks is right'." The court ultimately set aside the Media Council's decision in the case at hand, citing, among other things, the lack of an opinion justifying the decision. [52]

Another transparency-related issue is that the Media Council strives to make numerous documents concerning its activities inaccessible to the public. The previously cited judicial ruling also argues that the Media Council had unlawfully restricted the applicant's (whose legal status was that of a client with a case before the authority) right to view pertinent documents. The court's decision reveals that the Media Council refused to present certain elements of the winning application despite the request of an applicant whose total score was just one point behind the application that ultimately won the tender. The elements that the authority refused to release included the sections of the application that present the programming plan, which played a significant role in the total score and hence the ranking of applicants. The applicant was only given the opportunity to view the files in question as a result of the judicial review of its case. The court held that the "unfounded and unreasonable refusal to comply [with the applicant's] right to view the documentation constituted a serious violation of the relevant statutory procedural rules."[53]

Ultimately, applicants who qualify as clients during the tender process can ask courts to help them access the relevant information. For the broader public, however, monitoring and reviewing the Media Council's decision-making mechanisms is even more difficult. Mérték, for example, had to engage in protracted litigation to access tender information which unequivocally showed that the Media Council's tender practice was discriminatory. We wrote in 2015[54] that as a result of a review of applications it was possible to determine that in evaluating tender applications falling within the same time period, the authority had discriminated in its practice of holding applicants accountable for their compliance with formal criteria. It appears, however, that judicial procedures are not effective in substantially changing the Media Council's practice. If certain court proceedings result in an obligation to reveal the documents in question, then this will still not have an impact on

52 Decision No. 539/2017. (V. 29.)

53 Budapest Court of Public Administration and Labour 3.K.32.007/2017/15.

54 http://mertek.eu/wp-content/uploads/2017/04/MertekFuzetek6.pdf

how the authority operates in practice. In 2017 Mérték once again requested information from the Media about tenders in which the authority had suspended the tender procedure; we wanted to review the judicial decisions in the ongoing lawsuits. We submitted a freedom of information request to the authority, which ignored it and failed to answer.

The lacking transparency, the concealment of vital information and the unknowability of the Media Council's media policy operations is not only apparent in the context of specific applications. According to the logic set out in the relevant law, the authority's tender practices ought to be derived from and congruent with the objectives of a detailed frequency management plan. The Media Council's practice, however, consists of a serious of unique frequency management decisions, and the underlying conceptual framework required by Article 183 (1) of the Media Act is missing.[55] The failure to lay out such a framework – assuming that the Media Council does pursue media policy objectives – reinforces the ad hoc impression that its decisions generate, and impede, in fact even render impossible, social control over the process of frequency allocation.

Drawing up such a conceptual document would also be important because it would provide the framework for the determination of what slice of the state's frequency assets are reserved for public media services, as well as to set their share vis-à-vis other similar service providers. The law accords the authority a broad margin of appreciation in defining the media service opportunities reserved for the public service media. The Media Council can annually review the system of public media services, and as part of that process it can decide what frequencies may be used by public media. The Media Council regularly performs such a review, but the public is only informed about the fact that the review is underway, without any information about its contents or potential conclusions.

A decision published on the website reflects this all too well, as it lacks the appendix that contains the decision on the merits: "Upon consultation with the CEO of the Media Service Support and Asset Management Fund [MTVA in Hungarian], and in consideration of the needs of the budget plans for the following year and of the effectuation of the public service objectives laid down in Article 83 of the Mttv, as part of the review of the system of audiovisual and radio public media services pursuant to Article 98 (8) of the Mttv, the Media Council performs a review of the public media services and establishes the media service opportunities used by the public media providers in line with Appendix 1 of the proposal. The Media Council informs the public media service provider and the Media Service Support and Asset Management Fund about its decision."[56]

Frequency tender for the national commercial radio station

In August 2016 the Media Council decided not to extend the expiring media license of Class FM or, more specifically, of the company Advenio Inc, which owns and operates the radio. It rejected Class FM's application for a renewal, which the radio had submitted on 30 July 2015. This was the same Class FM that had received its license from the National Radio and Television Corporation (ORTT) in an open violation of the law, and the same radio for which Parliament had been even willing to amend the relevant law to prevent the legal consequences of the violation from taking effect, while the Media Council for its part substantially reduced the station's annual media service fee.

55 According to the authority's response to Mérték's freedom of information request: "Considering the experience amassed by the Media Council's legal predecessor, as well as previously drawn up technical assessments on the subject, the Media Council decides about tenders for each and every media service opportunity based on analysing and evaluating media market and media policy considerations. The Media Council's current frequency management approach is embodied in its tender practices." https://kimittud.atlatszo.hu/request/mediaszolgaltatast_erinto_frekve#incoming-6040

56 Decision No. 1388/2017. (XII. 19.)

In May 2016 Lajos Simicska sold Advenio Inc to the Sláger Rádió Inc managed by the American investor Michael McNutt. The Swiss media investor Jürg Marquard also acquired a 15% stake in the company.

Pursuant to the Media Act, the media service license can be "renewed once without a tender for a period not exceeding five years". However, the license may not be renewed if "the Media Council determined in a legally binding ruling that the media service provider has repeatedly or severely violated the contract or the relevant provisions of the law" (Article 48).

Advenio appealed the Media Council's decision refusing the renewal of Class FM's license in court. The lawsuit is still pending.

In rejecting Class FM's application for a renewal of its license, the Media Council primarily invoked that "in renewing media service licenses it is authorised to decide based on its own margin of appreciation whether it wishes to exercise its right of disposition [over the frequency], in other words, whether it wants to avail itself of the option to offer a given media service, and if so whether it will hold a tender procedure or renew the effective media service license with the previously applicable conditions." In other words: Its margin of appreciation is practically unlimited and it is only up to its own decision whether it authorises a renewal of a given license for another five years of frequency usage.

At the same time, however, at the end of 2015 and in early 2016 the Media Council reviewed the radio stations with the greatest audience reach in the framework of a "thematic review by the authority" – pre-eminently Class FM, of course – and found five legal violations. All of these pertained to violations of child protection rules, which is considered a serious offence based on both, the Media Council's own case-law and the relevant judicial practice. Class FM appealed the authority's five decisions about its alleged violations and it won all but one of the pertinent lawsuits against the Media Council. In the one case in which it lost, the court significantly lowered the amount of the fine, thereby casting doubt on the allegedly serious nature of the offence.

Moreover, however, Advenio also had to show that the Media Council has no unlimited margin of appreciation with respect to deciding whether to renew an expiring license in a situation when the relevant legal conditions are met. The adjudication of this issue might even lead to a constitutional complaint in which the Constitutional Court will have to examine whether press freedom and free enterprise are violated when the law fails to specify the criteria that undergird decisions concerning the renewal of licenses and thereby leave room for an arbitrary application of the law by the media authority.

As long as there is no final and legally binding judicial decision on these issues, the Media Council could hardly act responsibly in a situation in which a new frequency tender deprives Class FM from using the frequency further. If ultimately Class FM prevails and there is no longer a national frequency on which it can broadcast, then it will be entitled to a compensation of the amount that it would have generated in profits during the five-year period of its renewed license. Based on the radio's previous financial results this compensation will figure in the billions, and it will have to be repaid from the public coffers, of course. It is also important to point out in this context that it was precisely the Media Council that had provided the basis for Class FM's outstanding financial performance: when Neo FM went bankrupt, the Media Council did not issue a new tender for its frequency, and it thereby solidified Class FM's monopoly in the national radio market.

Despite the above, in September 2017 the Media Council published the tender notice for the license to operate a national commercial radio service. [57]

57 http://nmhh.hu/cikk/189926/Orszagos_vetelkorzetu_analog_radios_mediaszolgaltatasi_lehetoseg_2017__a_palyazati_felhivas

The most important part of the tender notice was the passage concerning the evaluation criteria of the applications. This reveals the Media Council's conceptual ideas about the national radio frequency, what it believes would be good for the radio market and the radio-listening audiences. The Media Council assigns scores to each evaluation criterion, thereby unequivocally indicating the weight and importance of the given criterion in the tender procedure.

A total of 96 points can be awarded for an applicant's submission in a national commercial radio tender. Of these, 32 points can be assigned for the so-called media service fee, that is the annual amount that the applicant must pay for the entire duration of the license. According to the tender notice, the smallest amount that could be offered as a fee was 499.75 million forints. This amount is slightly higher than what Class FM paid in 2016 (461.9 million forints) and significantly more than what the two national commercial televisions pay (RTL Klub: 65.6 million, TV2: 88.4 million). Whether this amount can be realistically attained in the Hungarian market – under normal economic conditions without the distorting impact of state advertising – is not apparent from the tender notice. No public calculation of any kind is available, and thus we do not know why this precise amount is specified in the tender notice. Under normal economic circumstances, it would be odd for the authority to assess that the radio market is worth 5-8 times more than the television market even as the radio advertising market is less than a fifth of the television market. This suggests that a radio that will be allowed to act as a monopolist in the national commercial radio market will play an important role in conveying governmental messages, and in return it will receive a significant slice of state advertising.

The maximum score for the media service fee is awarded to whoever makes the highest offer, while competing applications receive a score that is lower to the same proportion as their proposed fee is below the highest fee offer. This means that major differences in scores are unlikely to result from differing fee offers.

The programme plan is worth 36 points. This assessment criterion practically leaves the Media Council no margin of appreciation, as the tender notice clearly specifies how many points each type of programme must receive. Unlike the score for the media service fee, the various elements of the programme plan were not evaluated on the basis of a comparative review of the fees offered in the submissions of the applicants, but purely on the basis of their own undertakings.

Including a public interest show (or shows) with a length of 120 minutes a week in the programme plan can yield 20 points. This may include information shows presenting the work of civic associations and civic initiatives; education-related shows; or shows about cultural events. If an applicant undertakes to broadcast less than 120 minutes of these, then their score will be reduced correspondingly. Since 120 minutes a week – that is ca. 15 minutes a day – is not an unfeasible burden by any stretch of the imagination, it is practically impossible that any serious applicant would commit to less than that.

An application can attain a further 10 points if the applicant promises to broadcast only shows that are completely unproblematic with respect to child protection in the morning segment between 6:30 and 8:00. This evaluation criterion is completely non-sensical. Obviously, every applicant will pledge to comply and if it subsequently nevertheless broadcasts contents that are harmful to children, it will nevertheless retain its frequency, in the worst-case scenario it will pay a fine issued by the Media Council.

The Media Council awards two points if the applicant broadcasts four traffic reports a day. If an applicant would choose to broadcast only two traffic reports a day for some reason, then it would receive only 1 point, and zero if they commit to even less. Since this commitment has no impact whatsoever on the programming structure overall, the undertaking itself has no impact – once again we can rule out the possibility that any applicant would receive a score below the maximum on this particular issue. A further 2 points can be attained by broadcasting foreign language news or shows.

Another feature that is similarly inconsequential in terms of the total score as the aforementioned aspects of the programme plan is the willingness to provide so-called complementary media services. Depending on the quantity promised, a maximum of 4 points may be awarded for various RDS services. No substantive competition is to be expected in terms of the services pledged in this area either.

The Media Council can award up to 16 points for the so-called "surplus value manifest in the programme plan." The substantive content of this evaluation criterion changed completely between the initial draft of the tender notice and its final version. The draft included such subjective considerations as the "aspiration of broadcasting shows that do not have a detrimental impact on the physical, mental or moral development of minors"; which promote "the ability of conscious media consumption"; "[the applicant playing] a major role in the media market competition through the broadcasting of a rich selection of diverse and high-quality shows"; as well as the pledge to limit replays of previously broadcast contents. The inclusion of such subjective considerations would have allowed for a fully arbitrary evaluation of the applications and would thus have undermined the legitimacy of the entire tender. The actual tender notice, by comparison, limits the evaluation to a single consideration: the total weekly programming hours promised by the applicant, not counting any replays or the night hours (05.00-23.00). The Media Council scores the applicants' undertakings by comparing the relevant figures in the application. In contrast to the considerations in the initial draft of the tender notice, this evaluation criterion completely rules out any subjective assessments by the Media Council. In the case of a station that is basically a music radio, this undertaking does not imply anything more than a commitment to draw on a playlist featuring a broader selection of music. Despite the fact that this has no impact whatsoever on the dissemination of diverse information, the tender notice attaches a very high score to this particular criterion.

The objective scoring of the surplus value offered by the programme plan further increases the importance of the "prior media service experience" as an evaluation criterion. This criterion is primarily meant to serve the purpose of rewarding the knowledge and experience gathered in the course of previous media market operations. The Media Council's tender notice, however, turned this on its head. A radio that has operated a national station for at least two continuous years since 2010 receives two points. Applicants that had a district radio that performed its broadcasting activities as part of a network or with the expansion of their coverage area for a period of two years receive one point. It was easy to assess which market players met this requirement already at the time when the tender notice was published. Advenio/Class FM met the first condition, while Rádió 1 began its operations as a network radio only in November 2016, and thus the members of the network do not meet the criterion. A further six points can be claimed for years of operation without infringements of the law, with the proviso that the maximum of six points can only be awarded to an applicant that has committed a maximum of one infringement (determined in a legally binding decision) since 2010. Every other infringement established by a legally binding decision reduces the score attainable for this criterion by one point. Thus, if an applicant has six violations since 2010, it receives only one point, and above that number it receives zero.

The scoring of media service experience, or rather the role these scores play in the entire scoring scheme of the tender, leads to serious consequences with respect to the final outcome of the tender. Since the differences in score that result from this are difficult to make up based on other evaluation criteria, this scoring mechanism practically rules out all applicants that have not operated since 2010 as either nationally broadcasting radio services or as media providers that broadcast either as radio networks or with an expansion of their original coverage area. This constitutes a substantial and unreasonable constriction of competition in the tender procedure. One must also emphasise in this context that when it published the tender, the Media Council was fully aware how many points each of the potential applicants would get for the particular criterion of years of lawful operation.

Ultimately, the only two evaluation criteria that allow for any competition between applicants are the media service fee and the total airtime without any replays; neither of these give the Media Council any margin of appreciation. Furthermore, the previous media service experience – which is already pre-determined in the case of each applicant – is a criterion that does not allow for competition between the applicants as their own undertakings have no bearing on this particular score but nevertheless substantially impact the respective rankings of their applications.

Two companies submitted applications in response to the tender notice. Advenio Inc, which operates Class FM, and the Hold Reklám Ltd. The latter is owned by the former co-managing director of the Radio Plus Ltd, which is part of the business empire of Andy Vajna and operates the Rádió 1 network. The local stations operated by the Hold Reklám Ltd are also part of the Rádió 1 network.

In November 2017 Advenio Inc. filed a complaint against the tender notice in court. Based on the public records, Advenio argues in its complaint that the Media Council "unlawfully amended the legal requirements for bank certifications and included unlawful evaluation criteria in the scoring scheme of the [frequency tender]. Moreover, the text of the tender notice does not comply with either the media law or public administration procedural rules."

In its decision No. 165/2018 (II. 20.), the Media Council refused to enter Advenio Inc's application into the records because the bid did not comport with the formal requirements of the tender notice. Advenio appealed this decision in court, but the court affirmed the Media Council's order.

↓ *Appendix: Frequency renders in 2017. (State as of 31 December 2017)*

	Frequency	Media Council's decision on the merits	Winner	Applicant(s)	Network affiliation of the winner/coverage area expansion
1	Békéscsaba 88.9	1152/2017 (X.24.)	Interax Ltd.	Rádió Plus Ltd. Interax Ltd.	Independent license
2	Budapest 98.6	The proceedings are still pending		Manna Vision Media Ltd., Scaletta Ltd.	
3	Budapest 101. 6	1176/2017 (X.31)	Fontana Média Ltd	Fontana Media Ltd.	Independent license
4	Derecske 94.7	642/2017. (VI. 22.)	LB Rádió Ltd.	LB Rádió Ltd.	Rádió 1 network
5	Dunaújváros 93.1	1269/2017. (XI. 14.)	Crossborder Film Ltd.	Crossborder Film Ltd.	Rádió 1 network
6	Eger 101.3	558/2017 (VI.6.)	FW Befektetési Ltd.	Mátra Centrum Ltd. FW Befektetési Ltd.	Rádió 1 network
7	Esztergom 98.1	789/2017. (VII. 25.)	Turul Média Ltd.	FW Befektetési Ltd. Hold Reklám Ltd. Turul Média Ltd.	Expansion of the coverage area of the Turul Rádió Tatabánya 97,8MHz
8	Győr 103.1	280/2017 (III.29)	Lajta Rádió Ltd	Turul Média Ltd. Lajta Rádió Ltd.	Rádió 1 network
9	Hajdúböszörmény 98.9	682/2017 (VII.5.)	LB Rádió Ltd	Kredit Holding Ltd, Médiacentrum Debrecen Ltd, „Szabadhajdú" Közhasznú Nonprofit Ltd. BDR Média Ltd. LB Rádió Ltd.	Rádió 1 network
10	Hajdúnánás 93.3	683/2017 (VII.5)	LB Rádió Ltd	Kredit Holding Ltd. Médiacentrum Debrecen Ltd. LB Rádió Ltd.	Rádió 1 network
11	Hajdúszoboszló 100.6	684/2017 (VII.5.)	LB Rádió Ltd	Kredit Holding Ltd. LB Rádió Ltd.	Rádió 1 network

	Frequency	Media Council's decision on the merits	Winner	Applicant(s)	Network affiliation of the winner/coverage area expansion
12	Kaposvár 99.9	The tender procedure has been suspended pending the judicial proceedings		TIT Rádió Ltd. Regionális Rádió Ltd. Mambó Rádió Ltd.	
13	Keszthely 99.4	The tender procedure has been suspended pending the judicial proceedings		LB Rádió Ltd. Helikon Rádió Ltd.	
14	Miskolc 103.0	The tender procedure is still pending		"Borsod-Abaúj-Zemplén Megye Betegeiért" Alapítvány, Ifjúságért és Rádiózásért Egyesület, FM1 Műsorszolgáltató Ltd.	
15	Nagykanizsa 95.6	The tender procedure has been suspended pending the judicial review		Helikon Rádió Ltd., dtm Media Hungary Ltd.	
16	Paks96.3	258/2017 (III.21)	Unsuccessful	Rádió 96,3 Ltd, Hullám Média Ltd.	
17	Pécs 101.7	The tender procedure has been suspended pending the judicial review		Regionális Rádió Ltd., Pécs Rádió Ltd., P1 Rádió Ltd.	
18	Székesfehérvár 101.8	The tender procedure has been suspended pending the judicial review		Regionális Rádió Ltd. VLNC FM Rádió Ltd. Veszprém Rádió Ltd. Turul Média Ltd.	
19	Szolnok 90.4	The tender procedure is still pending		LB Rádió Ltd.	
20	Szombathely 88.4	295/2017. (IV. 4.)	Mária Rádió Frekvencia Ltd.	Szombathelyi Evangelikus Egyházközség, Mária Rádió Frekvencia Ltd.	Mária Rádió network
21	Tatabánya 96.7	The tender procedure has been suspended pending the judicial proceedings		Regionális Rádió Ltd. LB Rádió Ltd. Blue Hill Media Ltd.	
22	Telkibánya 100.6	1197/2017. (XI. 7.)	Médiahíd Ltd.	Médiahíd Ltd.	Mária Rádió network
23	Tokaj 101.8	The tender procedure is still pending		Hegyalja Média Ltd.	
24	Velence Meleg-hegy 90.4	539/2017 (V.29.) The judicial review was completed in 2017. The court set aside the decision of the Media Council.		Fehérvár Rádió Ltd., „B&T" Ltd. VLNC FM Rádió Ltd. Gong Rádió Ltd.	
25	Veszprém 90.6	The proceedings are suspended pending the judicial review		LB Rádió Ltd., Regionális Rádió Ltd.	

STATE ADVERTISING SPENDING: ALL-OUT ATTACK

The present chapter shows that in 2017 the market-distorting impact of state advertising became more intense than ever. In preparation for the parliamentary elections, the objective of reinforcing the government's media hinterland emerged as a supremely important consideration in the governing party's thinking. Successive governmental campaigns were implemented nearly continuously (against the EU, George Soros, etc.) and in addition to propagating the government's partisan ideas, these campaigns were simultaneously also used to provide funding for pro-government media. Calculated on the basis of list prices, the spending in 2017 reached 80 billion forints, which marks a 34% increase over the foregoing year.

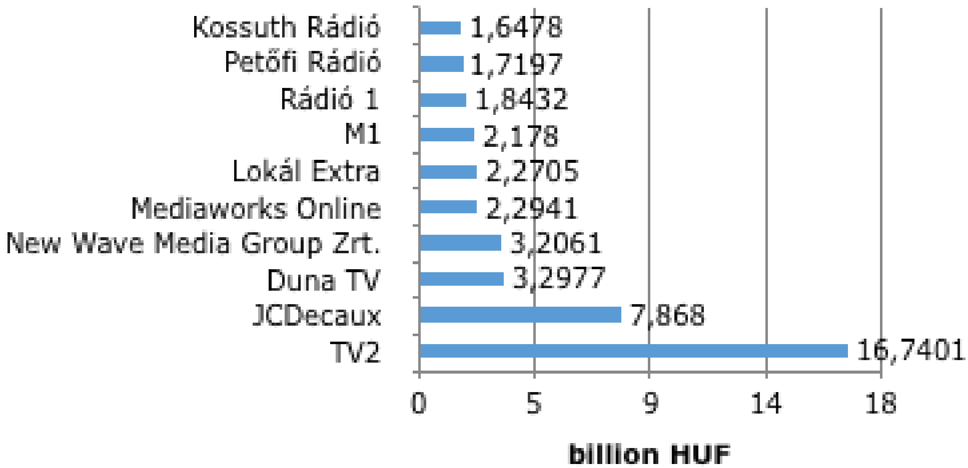
This analysis was compiled on the basis of the Kantar Média database, which contains so-called list price advertising spending. This calculates advertising spending based on publicly available lists prices and actual advertising volumes sold. The database does not extend to every media outlet, which is something that needs to be kept in mind and must be accepted as a given. The specific amounts that we thus estimate do not provide a perfectly accurate picture of reality, for media companies tend to offer steep discounts from their list prices. Thus, for example, the three political/news channels, Hír TV, Echo TV and ATV are missing, as are two important players in the outdoor advertising market, Mahir Cityposter and ESMA, the online newspaper 888.hu, which is part of the Habony-associated media empire, and Karc FM and Lánchíd Rádió among the major radio stations.

The biggest beneficiaries

We can use two alternative ways to identify the biggest beneficiaries of state advertising spending. For one, it is worth examining which media brands received the highest amounts of advertising revenue from the state. Alternatively, we can also learn a lot from investigating where the share of state advertising as a proportion of total advertising revenue is highest; this will show us which media outlets would not be able to attract sufficient advertising from the market and are thus financially dependent on the state.

The biggest beneficiary of state advertising spending in 2017 was TV2, a commercial television channel owned by government commissioner Andy Vajna. It was followed by an outdoor advertising company, JCDecaux, the only foreign-owned media company on this list. It is striking that the list of the biggest beneficiaries of state advertising also includes four public service media brands which are basically financed by public money(two television channels and two radios).

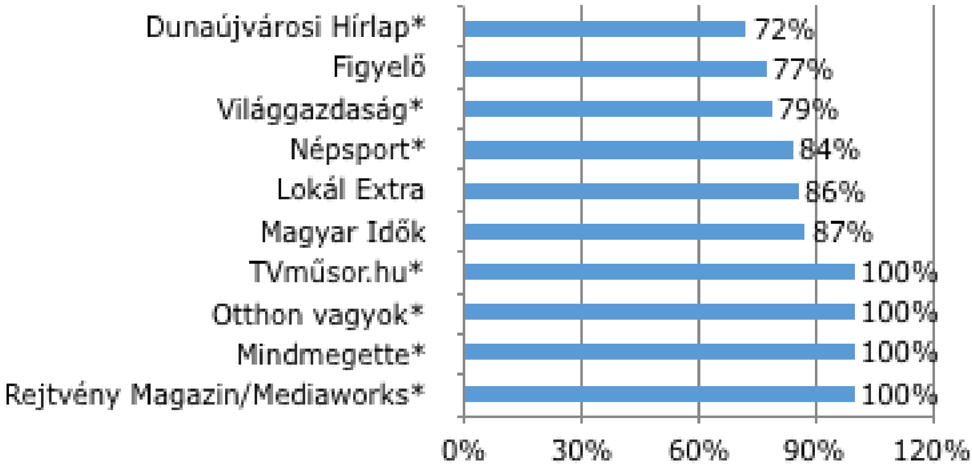
↓ *Figure 1: The biggest beneficiaries of state advertising (2017)*



Source: The author's own work based on data provided by Kantar Media

If we examine the various media brands based on the share of revenue that state advertising makes up as a percentage of their total advertising revenue, the list is of course very different from the one above. In some cases, certain marginal media outlets received a very small amount of state advertising which nevertheless amounted to a massive share of their total advertising revenue; in three cases, the corresponding ratio was as high as a 100%, in other words they had no commercial advertising revenue at all. Interestingly, as recently as 2016 there had only been five media brands in the case of which the share of state advertising exceeded 50% of all advertising revenues. In 2017, by comparison, this figure had risen to 26, in other words there was a sharp increase in the number of media outlets that depend on the state to the extent of deriving at least half of their total advertising revenue from that source. Seven of the media brands in the top 10 list belong to the Mediaworks conglomerate, and the remaining three are also known for their loyalty to the government (Magyar Idők, Lokál Extra, Figyelő).

↓ *Figure 2: Media brands with the highest level of exposure to state advertising spending, i.e. the highest proportion of state advertising as a share of total advertising revenue (2017)*



* *Mediaworks brands*

Source: The author's own work based on data provided by Kantar Media

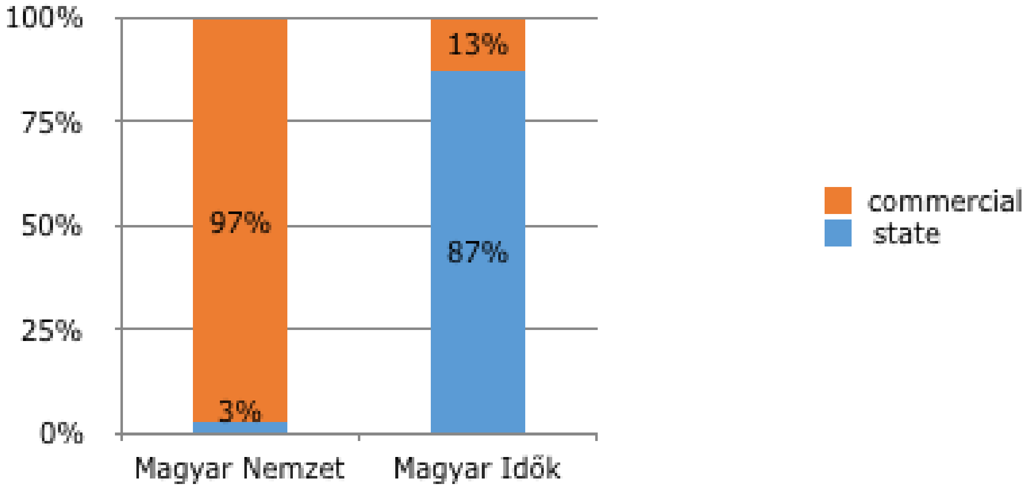
It is worth noting that across all media brands, based on list prices advertising spending from the state made up 4.9% of all advertising expenditures. Of the 372 media brands in the database, 101 received no state advertising at all.

Head-to-head

It is worthwhile to compare some rival media brands in terms of how their respective shares of revenue from state and commercial advertising have shaped up. We examine four pairings that play an outstanding role within their given media segment and allow for a distinct comparison of a government-friendly and an independent brand.

The first comparison shows how substantial the differences were in the advertising revenues of the government-friendly Magyar Idők and the critical Magyar Nemzet with respect to their advertising revenues. As is widely known, Magyar Nemzet is owned by Lajos Simicska, who used to be the prime minister's friend and confidante but has since emerged as a vociferous opponent of Viktor Orbán. It is obvious that Magyar Nemzet features hardly any state advertising, while Magyar Idők primarily runs ads of various state institutions

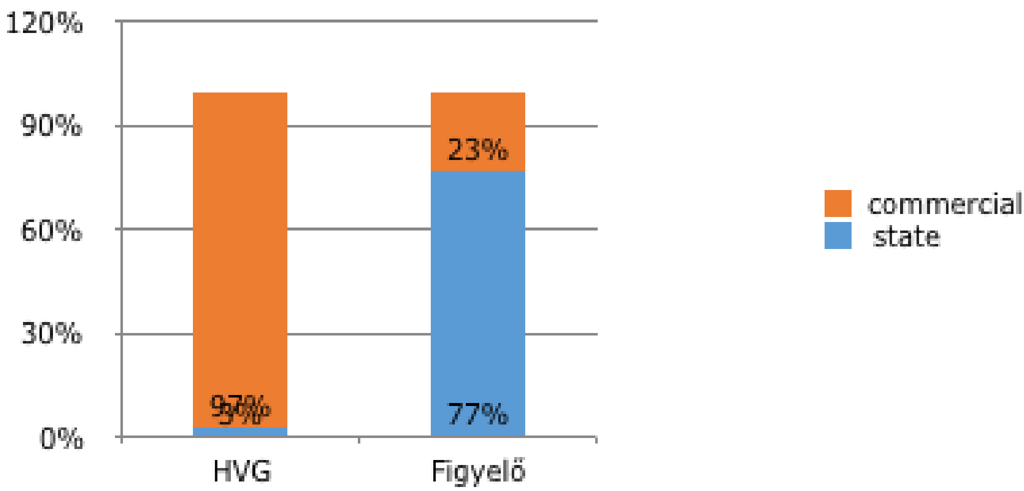
↓ *Figure 3: Comparison of the respective revenues from state and commercial advertising at Magyar Nemzet and Magyar Idők (2017)*



Source: The author's own work based on data provided by Kantar Media

A comparison of the weeklies HVG and Figyelő yields a similar result. HVG is an independent but critical weekly, while the previously independent Figyelő was acquired by the government commissioner and oligarch Mária Schmidt at the end of 2016, and has since veered into a staunchly pro-government direction. The respective shares of commercial and state advertising clearly show which company derives its income from the market and which is dependent on the state.

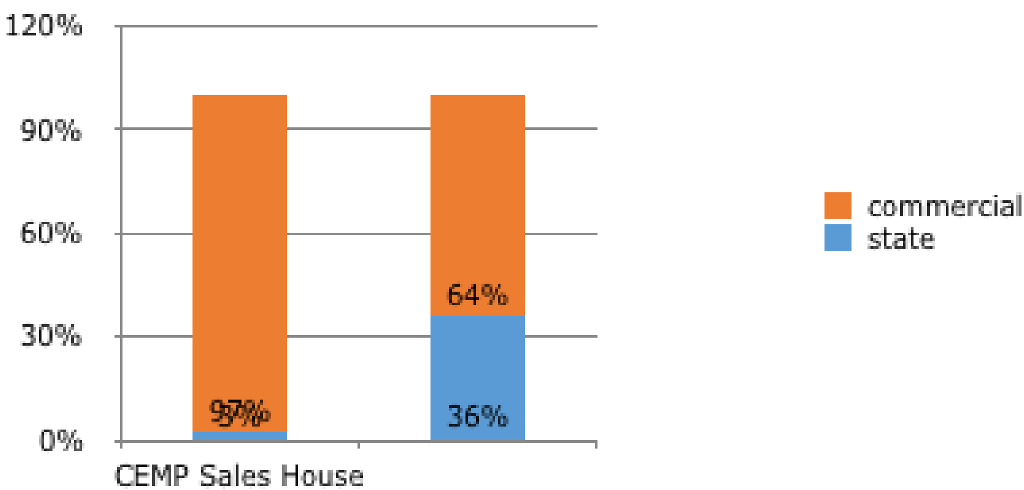
↓ *Figure 4: Comparison of the respective revenues from state and commercial advertising at HVG and Figyelő (2017)*



Source: The author's own work based on data provided by Kantar Media

The next figure presents data concerning the publisher of origo.hu (New Wave Media Group Inc.) and the CEMP Sales House, which performs the sale of advertising space on index.hu. Origo was acquired by an investor with close ties to the government in February 2016, and in the time since then the once quality portal has increasingly descended into the role of a propaganda site. At the same time, the owner of Index has become caught up in a conflict with the prime minister. Indeed, as it emerged later, Lajos Simicska has long held an option right to buy the publisher of Index. He exercised his right in April 2017, and then handed them over to a foundation. Although the CEMP Sales House sells online advertising opportunities for several online portals, index.hu is a decisive segment of its portfolio, which most likely explains the vast differences in the respective ratios of state and commercial advertising in its revenues.

↓ *Figure 5: Comparison of the respective revenues from state and commercial advertising at the CEMP Sales House and the New Wave Media Group Inc (2017)*

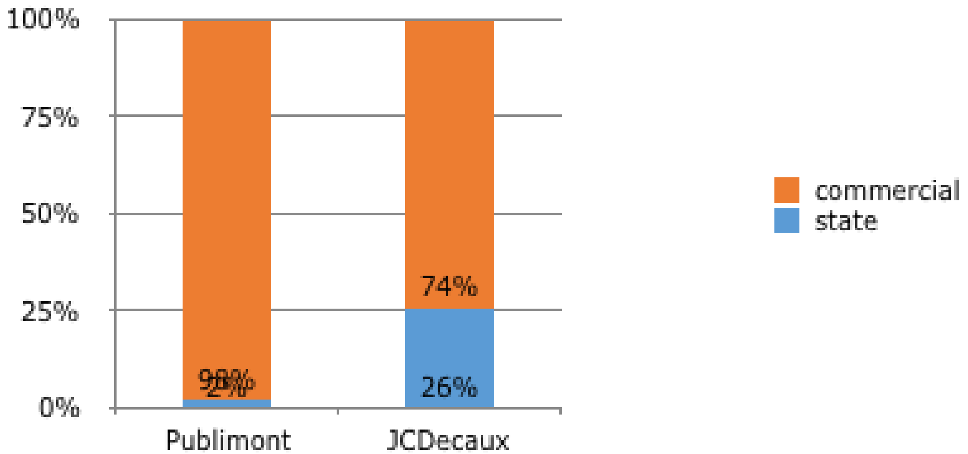


Source: The author's own work based on data provided by Kantar Media

Outdoor advertising is typically not included in media policy analyses, but in light of the fact that in 2017 outdoor advertising that reaches the entire public was one of the most important elements of governmental campaigns, it ought to be addressed separately. The most important player in this market are Publimont owned by Lajos Simicska and the foreign-owned JCDecaux. Even though state advertising generally tends to be awarded to Hungarian-owned media companies, the outdoor advertising market is an exception.

In light of the Hungarian political situation, it would be practically inconceivable for state institutions to allocate substantial amounts of state advertising to any company owned by Lajos Simicska, and hence state advertisers had no choice but to opt for the French-owned company among the two major players in this market. Nevertheless, it readily apparent from the date that JCDecaux has no trouble selling its advertising surfaces to commercial advertisers as well.

↓ *Figure 6: Comparison of the respective revenues from state and commercial advertising at Publimont and JCDecaux (2017)*



Source: The author's own work based on data provided by Kantar Media

The examples above illustrate how spectacularly state advertisers favour individual government-friendly companies and thereby seriously distort market competition. It stands to reason that the decisions of commercial advertisers are more likely to reflect a market logic because they have a business incentive to effectively reach their target groups (even if at the same time they are also under pressure form the government to only advertise in certain media). A state advertiser may of course target different groups and pursue another advertising strategy than a commercial company, but when the advertising strategies of state advertisers consistently and spectacularly diverge from those of commercial advertisers, then the issue is probably not one of specialised target group formation. There is reason to assume that in the case of state advertisers, the guiding principle is not effectiveness but some other, political consideration.

A recently published data visualisation tool by Mérték, which presents the trends in Hungarian state advertising spending between 2006 and 2017, also substantiates the proposition that political decisions predominate in the awarding of state advertising.[58] The figure also shows the impact of all major political developments (the change in government in 2010, the conflict between Orbán and Simicska in February 2015), and it is readily apparent that in 2017 state advertisers were massively engaged in reinforcing and rebuilding the Fidesz media hinterland.

58 Mérték (2016): State advertising 2006-2017 https://mertek.atlatszo.hu/state-advertising-2006-2017/

"YOU START FROM A POSITION WHERE YOU TAKE A DISTORTED MARKET AS A GIVEN" – ADVERTISING MARKET STAKEHOLDERS ON MEDIA FINANCING

In parallel with the rapid and substantial expansion of their influence in the media market, government-friendly investors have achieved similar gains in the advertising market over the past few years – thus our interview subjects. Just like the changes in the media system, the major transformations in advertising began in February 2015, when the governing party's once near-monopolist oligarch, Lajos Simicska spectacularly broke with his former friend and ally Viktor Orbán, on what became colloquially known as G-Day[59] in Hungary.

The present chapter summarises the insights from our interviews with nearly a dozen current and former advertising and media market figures, who talked to us about the considerations that tended to guide advertisers in their recent decisions when it came to choose which media they should send their advertising money to. They spoke to us on the condition of anonymity. It has been widely known for years that the government uses the allocation of state advertising to fund pro-government media, and thus those serve as key instruments of soft censorship. The goal of the present research was to ascertain how advertising money spent by commercial/privately owned companies is diverted from certain media outlets for political or other reasons.

The rise of pro-government investors in the advertising market has created a situation that triggered vast changes in the allocation of commercial advertising as well. The advertising spaces and radio and television advertising airtime that became concentrated in the hands of pro-government sales houses are increasingly becoming unavoidable for commercial advertisers. At the same time, our interview subjects stressed that the political orientation of advertisers also plays an important role in the way commercial advertisers allocate their spending. Sometimes the companies themselves or the media agencies that manage their adver-

59 G-Day refers to a profane slur that Simicska uttered about Orbán in a media interview on the day when their falling out became public.

tising spending are subject to direct outside political pressure; what is far more common, however, is a form of self-restraint in the context of advertising spending even when the market players did not experience any direct political influence.

In addition, the trend in advertising spending is fundamentally determined by the general reduction in the size of the advertising market and the substantial political polarisation of the ownership structures in the media. Before the current pro-government media system came into being, advertisers could choose from a broad and diverse range of media outlets. Today, the representatives of media agencies perceive that the range of sensible media outlets with a reputation for respectability has been winnowed massively over the years. Beyond the aforementioned, the governing party also promotes the political diversion of market advertising spending by increasing and centralising state advertising spending.

The war of sales houses

There is a uniformly accepted view in the advertising industry that the largest and most important change in the market is the transformation referred to as the "small television regime transition". In the course of this process, which took place between 2016-2017, the television advertising market became bipolar.[60] To this date, television remains the most important and most decisive area of the advertising market, despite the fact that online advertising has been taking up ever-increasing slices of the total advertising pie since 2015. Previously, the important television companies in this market, TV2, the public media holding company MTVA, Story TV as well as ATV and HírTV sold their own advertising time. The market was dominated by the R-time sales house, which sells the advertising time of the RTL group and several other channels. When a sales house grows large enough, it can establish a pivotal position in the media and advertising market. That is because its activity is centred on securing the right to sell the advertising surfaces of the media outlets that contract with it as clients. It then integrates them into its portfolio and sells them to media agencies or advertising companies that buy advertising time/space.

The regime transition in television meant that Atmedia Ltd, which was previously a minor government supported player in that particular market segment, quickly gained massive ground and had emerged by 2015 as the top player in the market. Today, the market is essentially about the rivalry between the two major sales houses, Atmedia and R-time. This is the particular advertising front of the war that rages between the governing TV2 group – whose advertising spaces are sold by Atmedia – and R-time's parent company, RTL Hungary, which operates the leading commercial television channel RTL Klub. RTL Klub has often struck a critical tone in its reporting about the government. Another interpretation proposes that it is a full-scale operation by the pro-government media investors against RTL, which has been a thorn in the government's side for a while now.[61] By 2017, the trenches in this war had been dug and frontlines had hardened, said an interview subject who is well-acquainted with the power relations at the television companies.

The previously Polish-owned Atmedia Ltd. ended up in the hands of a pro-government investor at the end of 2016, when András Tombor, who is one of the creditors of Orbán's key advisor Árpád Habony, as well as himself a former security policy advisor to Orbán, bought the company.[62] A year later, at the end of 2017, the close personal friend of the

60 M. László F. (2017): Gazdaságon kívüli kényszer [Non-economic compulsions]. Magyar Narancs, 12 January. http://magyarnarancs.hu/belpol/gazdasagon-kivuli-kenyszer-102157

61 Lásd Mérték (2017): Nyilvánosság helyett propaganda – Lágy cenzúra a magyar médiában [Soft Censorship in Hungary—When Propaganda Rules Public Discourse], 2016. 20., p. 50.

62 Szalay D. (2016): Habony Árpád hitelezőjéhez került a 35 hazai tévécsatorna reklámidejét értékesítő cég [The company that sells the advertising time of 35 domestic television channels is now in the hands of Árpád Habony's creditor]. 24.hu, 23 December. https://24.hu/media/2016/12/23/habony-arpad-hitelezojehez-kerult-a-35-magyarorszagi-tevecsatorna-reklamidejet-ertekesito-ceg/

prime minister, Lőrinc Mészáros also acquired a stake in the company through one of his publicly traded corporations.[63] The change of ownership was not surprising given that the company had previously received a lot of support from government party figures. The TV2 group, which was acquired by the government film commissioner Andy Vajna, handed the right to sell its channels' advertising time to Atmedia, and a little later in the same year the sales house also acquired the entire airtime of the public media television channels, which are managed by the Media Support Service and Asset Management Fund (abbreviated at MTVA in Hungary). This happened despite the fact that the tender for the advertising airtime of the public service channels had been won by the Media Services Company Ltd, which at the time was owned by Csaba Csetényi, the neighbour of Antal Rogán, Orbán's confidante and the minister in charge of government communication in the Cabinet Office of the Prime Minister. [64]

In this war the two companies mutually lured channels from one another, while TV2 raised its advertising airtime by launching several new thematic channels, and Atmedia sold these as part of a package that also included the public service channels. The change was followed by a massive transformation of advertising spending. The portfolio sold by Atmedia soon exceeded an audience ratio of 50% of viewers in the vital age group 18-49, which thus turned the company into the market leader. Previously, many players in the television advertising market had spent significantly higher shares of their television advertising budget through R-time, while TV2 boasted few such advertisers. During the past two years, those with an overwhelming share of their advertising time at R-time either reduced the share of advertising going to RTL or switched to Atmedia. As a result, the number of clients who sold a major share of their advertising through R-time dropped, while at Atmedia the share of such clients increased substantially. The impact of this process began to show in 2016 and fully unfolded in 2017.

There were several reasons behind the migration away from R-time. As one of the interview subjects who knows how these decisions were rendered explained, under normal market conditions advertisers will choose whatever suits them best: Thus, for example, Atmedia's portfolio reaches an older target group, while R-time is more likely to reach a younger demographic. However, when an importer of cars wishes to receive a major commission from the government, then the company is more likely to advertise with Atmedia. In the explanation of another interview subject, the political environment is such that it takes courage to spend the entirety of a major corporation's advertising budget on the RTL channels, which is critical of the government. In the worst case, this might be construed as a declaration of war against the government, and hence there are few advertisers who dare to do so. Instead, the companies tend to divvy up their advertising spending in a way which ensures that Atmedia, too, receives a portion, in the hopes that in return they will be left in peace.

Background information from the advertising market suggests, however, that in most cases when Atmedia won over advertisers from R-time, political considerations were not at the forefront; Atmedia competed successfully on price. And it was in a good position to do so because the billions spent by the government on state advertising campaigns are channelled through TV2 and the public media, which Atmedia represents. [65] This played a major role in the fact that the company's revenue in 2016 was three times higher than

63 Bohus P. (2017): Mészárosék beszálltak a húszmilliárdos növekedéssel berobbant médiacégbe [Mészáros has bought a stake in the media company whose business exploded with a turnover of 20bn]. Index, 18 December. https://index.hu/gazdasag/2017/12/18/meszarosek_reklam_tv2_tombor/

64 Szalay D. (2015): Úgy értékesíti az MTVA reklámidejét, hogy nem is ő nyerte a tendert [It is selling MTVA's advertising time even though it did not even win the tender]. 24.hu, 30 November. https://24.hu/media/2015/11/30/ugy-ertekesiti-az-mtva-reklamidejet-hogy-nem-is-o-nyerte-a-tendert/

65 Szalay D. (2018): Brutális veszteség a TV2-nél, hatalmas nyereség az RTL-nél [Brutal losses at TV2, massive profits at RTL]. 24.hu, 1 June. https://24.hu/belfold/2018/06/01/brutalis-veszteseg-a-tv2-nel-hatalmas-nyereseg-az-rtl-nel/

it had been in the foregoing year.[66] All signs indicate that this trend continued unabated in 2017. The RTL Group, by contrast, does not receive any state funding and operates purely on a market basis, commercial clients are its only source of income and operation. As a result, it is at a substantial competitive disadvantage since the TV2 group can spend more on show production.

There were also some advertisers who moved their entire advertising budget from R-time to Atmedia on account of the lower prices offered by the latter. If we look at this purely based on a market logic, then the price issue notwithstanding this decision is not entirely compelling from a professional angle because if a company places all of its advertising budget at a single sales house, then it will not reach a substantial portion of the viewers whom it could only reach through R-time's portfolio. A professional logic would therefore suggest that the advertiser split up its advertising budget between sales houses in order to reach the highest number of potential consumers, and this would be the reasonable decision in the interest of protecting its own position. One of our interview subjects took a more nuanced of this issue, however, and suggested that when a campaign is targeted at specific groups then a decision to go through a single sales house won't necessarily be an unprofessional decision. It is possible, therefore, that a low price for example will allow the advertiser to field a sufficient quantity of ads that will make it possible for them to reach a substantial proportion of the target group during the campaign, regardless of which sales house they use.

There is another personal reason behind the conflict of the two sales houses. The CEO of TV2, Dirk Gerkens, is the former chief executive of RTL, who was fired in the spring of 2015. He is motivated by the desire to take revenge on his former employer[67] and he did not make a secret out of the fact that his goal is to "destroy" RTL.[68] Citing this comment, several sources described him as a "man with an axe to grind" who is motivated by the desire to ensure that RTL fares as badly as possible. And indeed, RTL is in a tough spot right now because it has lost its lead in the competition with TV2 for viewers, now the two channels are fairly balanced. At the group level, RTL has a solid lead, but not by a far margin, and it has a fundamental interest in ensuring that it can hold on to its first place because many advertisers use this as a justification to explain why they spend their advertising money at RTL.

Nevertheless, those with an awareness of how the market works say that Atmedia does not expect that an advertiser place 100% of their budget with them. Given the way the market operates right now, it is still possible to bring some level of professionalism to the process, the majority of advertising decisions are decided on a market basis according to our interview subjects with a perspective on the television advertising market. One reason for this situation is that the market has a traditional structure that continues to work. Even before the appearance of pro-government investors, it was typical for individual media agencies or advertisers to be leaning towards one or the other major commercial television channel. This was connected to agency bonuses, which are now banned by law, even though in practice things continue as they always have.

According to our sources, the other important consequence of the small television transition was that transparent pricing gradually faded from the market. As recently as 2016, the two sales houses still published their prices for advertisers; but when Atmedia abandoned this practice, R-time followed suit in 2017.

66 Csurgó D. (2017): Feltűnően jól keresett Tombor András reklámcége [András Tombor's company made striking amounts of money]. Index, 16 June. https://index.hu/gazdasag/2017/06/16/tombor_andras_atmedia_beszamolo/

67 M. László F. (2017): Gazdaságon kívüli kényszer [Non-economic compulsion]. Magyar Narancs, 12 January. http://magyarnarancs.hu/belpol/gazdasagon-kivuli-kenyszer-102157

68 Gergely Zs. (2017): "Szándékos lejáratás nem lesz, a cél kinyírni az RTL-t" - így érkezett Gerkens a TV2-höz ["There won't be any deliberate efforts at discreditation, the goal is to liquidate RTL" – this is how Gerkens arrived at TV2]. Hvg.hu, 5 April. http://hvg.hu/itthon/20170405_tv2_dirk_gerkens_tenyek_andy_vajna_rtl_klub

Atmediatisation in the online and radio market

Our interview subjects suggested that a process they referred to as "Atmediatisation" had begun in the online media spaces. A portfolio concentration similar to the one observed in the television advertising market – where Atmedia had taken control of the advertising sales of the television channels that support the government's communication – was now beginning to unfold in the online news market as well. One of our sources expressed his/her apprehension in this context that "over time pro-government investors will suffocate the market with this concentration because a sales house that is dominant in several market segments at the same time can have a decisive impact on the media market overall as it can sell advertising spaces for whatever price it wants."

In December 2017 Atmedia acquired the right to sell advertising for several online media outlets. As a result of this expansion in its portfolio, the company was in charge of selling ads for the following: the online spaces of the state media; the Lapcom publishing houses, which are controlled by Andy Vajna; the digital advertising spaces of TV2; the IKO Digital portfolio; mandiner.hu; and Femcafé. Subsequently, it also added to its portfolio the online platforms of the regional newspapers controlled by Lőrinc Mészáros and Heinrich Pecina, respectively.[69] In addition to Atmedia, a new government-affiliated player entered the market in September 2017. The acquisition of Evomedia by Ádám Matolcsy – the son of György Matolcsy, the president of the Hungarian National Bank – led to what was announced to become the online sales house with the biggest reach. Among other companies, Evomedia sells adds for the leading online newspaper Origo, and its portfolio reaches 3.4 million people a day.

At the same time, the major online media outlets which are not affiliated with the governing party are under pressure from advertisers. With respect to the largest player in the market, Index, several of our sources claimed that the governing party's media tactic is to wear the online newspaper out. They know full well that a large newsroom has high maintenance costs. In addition to withholding any state advertising from Index for years now, they are also trying to influence multi-national corporations – who are often strategic economic partners of the government – not to buy ads on the news site. The companies that can afford to do so continue to advertise in independent media while they also buy ads in pro-government outlets.

The other market segment that is subject to "Atmediatisation" is the radio advertising market, which is at this point considered to be an almost completely pro-government domain of the market – nigh all media outlets in this segment are operated either by pro-government investors or by government-controlled state media. The leading outlet by audience reach is the state radio Petőfi, followed by Rádió 1, which is owned by Andy Vajna and operates a network of smaller local stations.

A huge change in this market was the silencing of Class FM in 2016. The station is owned by Lajos Simicska and was the target of 2.5-3 billion forints in advertising spending per year. The advertising money that was thus freed up flowed to the radio portfolio managed by the Radio Sales House, which was created at the end of 2016. The company is a subsidiary of Atmedia and HGY Invest (controlled by Csaba Csetényi) and almost immediately after its creation it emerged as the largest player in the radio advertising market. Since early 2017 it has been selling advertising airtime for the MTVA-controlled channels (Petőfi, Kossuth, Bartók, Dankó), and is doing the same for Sláger FM and 57 regional

69 Szalay D. (2018): Összezárnak Mészáros Lőrinc médiacégei [Lőrinc Mészáros' media companies close ranks]. 24.hu, 26 January. https://24.hu/media/2018/01/26/osszezarnak-meszaros-lorinc-mediacegei/

stations. Through this sales house, advertisers have access to over 70% of radio listeners in the age group 15 or older, 4 million citizens a day.[70]

Smaller stations, such as the independent leftwing Klubrádió, are considered irrelevant from an advertising market perspective. Thus their advertisements mostly feature smaller companies that have nothing to lose from buying airtime on this station, such as local restaurants or retailers. Even in this segment, which is presumably below the radar of the political realm, there are exceptions, however, as illustrated by an episode experienced at Lánchíd Rádió, which is a part of Lajos Simicska's media portfolio. A source with insight into the operations of the station said that when journalists at Lánchíd were trying to find sponsors to support their shows, even small-business owners tended to respond that theoretically they would gladly help but they could not be seen as supporting Lánchíd Rádió. Our source assessed that these people had not been subject to actual threats but decided to withhold support for fear of anticipated retribution.

The political conformity of advertisers has become a default setting

Several of our interview subjects said that the distortion of advertising purchasing practices in conformity with political expectations has always been part and parcel of the way the advertising industry operates in Hungary, regardless of who was in government at any given time. As a result, some interviewees suggested that the diversion of advertising on a political basis was atypical, and it probably only applied in a few isolated instances. They argued that the Hungarian advertising market is so abnormal in any case in terms of its politicisation that the politically-motivated flow of advertising spending is a default setting; advertising decisions have always been guided by the desire to make gestures of goodwill towards politicians or to express political allegiance. "We start with a highly distorted market where decisions have always been rendered on the basis of a fear of politics rather than on the basis of the target group that one wants to reach or how much money the advertiser has on hand" – explained one of our interview subjects.

We also encountered opinions arguing that before 2010 – in other words before the second and third Orbán governments took office – the advertising market had not been as obviously lopsided as it is today. Market players assess that the political environment has become far harsher than it was previously. "Fifteen years ago, the situation was that the media agency would come up with the media plan and the advertiser would say 'let's make sure to give Heti Válasz [which was pro-Fidesz at the time – the editors] something because when Fidesz becomes the governing party, this might prove a prudent investment.' At this point, by contrast, the prevailing line of thought is not to spend at Heti Válasz because we will be in trouble if the [government] sees it", said one of our interview subjects.

At the same time, many also acknowledge that because of the previous massive leftwing dominance in the media overall, a diversion of advertising spending for political reasons would have been difficult to discern at the time. Back then, when someone advertised in media that were openly associated with the left that was often a sound professional decision because they got the best value for money. Today's situation is similar in many respects. Because of the overwhelming pro-government concentration among the owners of major media outlets, the advertisements of privately owned companies do not need to be diverted based on political considerations in order to be published/aired mainly in pro-government media – even if these advertisers focused mainly on a business logic, they would still mostly advertise with pro-government media outlets. The market for

70 Szalay D. (2018): Nagyot nőtt a rádiós cég, amelynek Mészáros Lőrinc közvetett tulajdonosa lett nemrég [The company of which Lőrinc Mészáros recently became an indirect owner has grown massively] . 24.hu, 15 January. https://24.hu/media/2018/01/15/nagyot-nott-a-radios-ceg-amelynek-meszaros-lorinc-nemreg-kozvetett-tulajdonosa-lett/

regional newspapers is a case in point, as that segment is now completely controlled by pro-government investors. Hence, for reaching that particular audience, there are no alternatives to pro-government media. As one of our interview subjects who previously worked as the manager of a media agency put it, the "market has become massively constricted, so I have to advertise in pro-government media whether I want to or not."

Our sources suggest that advertisers can be assigned into several groups based on how far they take political factors into consideration in allocating their advertising spending. Which of these categories a given company falls into depends on how vulnerable they are to political blackmail or whether the economic sector they are active in is potentially a target of government-affiliated investors. In addition to these, a company's outlook will also be determined by the web of personal relationships of their owners and executives, as well as the question of whether the foreign owner of a Hungarian subsidiary understands the intricacies of the domestic situation.

Since the political orientation of the advertising spending of state-owned companies and institutions has been widely known and well-documented in the Hungarian media for a while now, we can forgo a detailed description of this group. Private advertisers can be classified as falling into one of two groups. One clearly distinct segment are those companies that advertise strictly according to business rationality. Several of our sources who are affiliated with the advertising market or media agencies agreed that when it comes to advertising spending, multinational corporations try to disregard political considerations and essentially want to spend their money where it is most likely to yield the biggest impact in market terms, in other words where they can reach the largest segment of the target group at the best possible price. One of our sources said that such an approach can primarily prevail in those sectors of the industry where the government or investors affiliated with the government currently have no designs on anything. They assessed that insurance has been such a segment of the market in the past years.

There are several sectors, however, where companies find it more difficult to ignore political influence. There are sectors in the economy where commercial operations depend substantially on regulatory changes, which makes it easy for the government to interfere with their business operations. One such area is retail, for example, where the market players depend on the government because they need permits to open new branches, and pharmaceutical companies, where the provision of state drug licenses may hinge on a conflict with the government. Several of our sources referred to a market player in the aforementioned sector who was threatened that one of its products would not be available for purchase without a prescription and it was warned that it might run into difficulties in receiving its next licenses unless it redirected some of its advertisements to pro-government media. A prominent food chain and an established producer of pharmaceuticals stuck with Hír TV after G-Day, and then they received the message telling them they should no longer advertise on HírTV, said a source who was acquainted with the story. Food chains and pharma companies are generally considered the most important advertisers, they tend to spend the most on TV commercials.

In the case of pharma companies, however, we also heard of cases where the opposite obtained: our interview partners told us about Hungarian-owned drug companies that distinctly prefer not to buy advertising time on channels affiliated with the RTL group, which is considered critical of the government. Their decision might be informed by the presumption that the government will find it easier to pressure a Hungarian-owned major corporation, said an interview subject who is deeply familiar with television advertising.

The examples we mentioned present the cluster of advertisers which includes companies that feel that they have to take into account – or indeed might have a very specific reason to do so – the risks they potentially face from politics. Our interview subjects said that in addition to the companies we discussed explicitly, this cluster includes a great many other enterprises. The strategy that our interview partners often use is to divide advertising spending between different political forces according to some underlying conceptual framework. Typically, they strive to make sure that some money flows in all directions, or that on the whole a greater slice ends up with pro-government media. At the time when Lajos Simicska's HírTV was the governing party's main bridgehead, a widespread model of distribution was to give 50% of advertising funds to HírTV and another 50% to ATV, which is seen as a leftwing channel. Today, advertisers often use the same strategy with respect to the two major sales houses in the market, Atmedia and R-time, while they simultaneously also try to exploit the intense competition between the two sales houses.

A company whose profitability will depend on its marketing activity cannot afford to advertise without regard to professional considerations, even though it might also try to take political factors into account. That is why it cannot exclude RTL or Index from the media mix for fear that the government might potentially dislike it, since it knows that these media outlets provide the best or only way to reach important target groups. The solution for these companies is to choose advertising outlets both on a professional basis while also buying ads on a political basis, which they essentially arrange by making sure that "the professional component includes all these at the same time", said one of our interview subjects. This "let peace prevail" attitude is typical of advertisers that qualify as major corporations. These include some who will augment their careful apportionment of advertising funds with support for foundations and football clubs that are close to the government.

This strategy does not provide total cover, however. In the present political climate, no company can be fully sure to receive a more favourable treatment merely because they do not provoke any of the political players. If there is a shift in the underlying political interests, then "good behaviour" on the part of a company will ultimately prove immaterial. A prominent example of this was the public row between Heineken and the Hungarian government, which erupted in January 2017.[71] The backdrop of this conflict was that the producer of the *Igazi Csíki Beer*, an ethnic-Hungarian Romanian beer producer in the formerly Hungarian region of Transylvania in Romania, lost a lawsuit against Heineken in connection with a beer produced by the latter that bore a very similar name. In response, politicians in Hungary's ruling party, which portrays itself as the protector of the interests of ethnic Hungarians in the neighbouring countries, attacked Heineken's Hungarian subsidiary.

Previously, Heineken had not only not been on bad terms with the government, but in fact cooperation between them had been excellent. Although it cannot be asserted that they did so for political reasons, the Dutch company even donated money to the Ecumenic Aid Organisation, one of whose goodwill ambassadors is Anikó Lévai, the wife of Prime Minister Viktor Orbán. At the same time, like other market players, they also advertised in pro-government media, and they even excelled in job creation, inaugurating their new assembly lines with a government minister in attendance. When the row erupted, however, all that was for naught: the communications equivalent of carpet bombing was carried out against the corporation by government party politicians, and suddenly the red star on their product label was portrayed as a totalitarian symbol despite the fact that a mere few weeks before a minister had proudly held up a product with the symbol at an inauguration. The government even threatened to adopt a bill that would have banned the use of red stars on products.

Yet the unpredictability of political winds is not reason enough for companies to avoid seeking the government's graces through the delicate allocation of advertising funds. If they fail to do that, they risk provoking the government, which might prove a very costly mistake, for a simple amendment of the law at any time would be enough to make life a lot harder for them.

71 Hvg.hu (2017): Az egész sörpiacot újraszabályozná a kormány a Heineken–Csíki Sör-vita miatt [The government is considering rewriting the regulatory framework of the entire beer market because of the dispute between Heineken and Csíki Beer]. Hvg.hu, 16 March. http://hvg.hu/gazdasag/20170316_Az_egesz_sorpiacot_ujraszabalyozna_a_kormany_a_HeinekenCsiki_Sorvita_miatt

In this whole story the only player that is more vulnerable than advertisers and the media agencies that handle their advertising are the media outlets themselves. The media are dependent either on politics or on business players, and to some extent on both, and all advertisers – be they domestic or international players – pressure them immediately if anything displeases them, explained an interview subject who is deeply familiar with the way the media and the advertising market work.

A media agency market awash in corruption

Like the advertising companies, the media agencies also continuously weigh their activities based on political considerations. Media agencies are among the most important players in the advertising market, they often play a vital role in deciding where advertisements are placed since they produce the advertising plan and they draw up the media mix, in other words they submit a proposal to the advertiser when and how the latter should spend its money. Nevertheless, they are often subject to pressure on the part of advertisers.

In our research we talked to a media agency owner who has been working in this segment of the market for decades, operating profitably for a long time during which his/her company emerged as a major player in the market. The agency's clients include multinational and domestic corporations alike. According to our interview subject, professional considerations are becoming less important in the advertising market. Instead, what is increasingly relevant is whether an advertising agency is willing to commit to one side or another politically. In most cases, advertisers force the agency to go down this route, and a frequent expectation of theirs is that the media agency be "on the good side" of the government.

Our media agency source offered a pessimistic assessment of the state of this market. He suggested that in terms of its operating mechanisms, the advertising market had slid back to the level of the 1990s, and that whoever spends advertising money does so in response to presumed or actual political pressure. There was a client who got scared upon seeing the media plan and asked for changes because the media mix in the plan seemed overly "liberal" based on the print media and television channels it included. Another similar experience these days was that in the planning phase the media agency had to pull creatives concerning politically sensitive topics, for example the refugee issue.

Another interview subject who had worked for several Hungarian media agencies in senior positions recounted that one advertiser, a major domestic corporation, stipulated that its commercials must be broadcast on the state television channels even though that was not at all where the company's target group was. Its commercials should have been broadcast on RTL or Cool TV at times when urban youth would be watching television rather than the elderly generation that is most inclined to watch state television. The media agency sought to explain to the client that it would not be recouping its investment, whereupon the marketing department responded that they understood this full well, but the owner had demanded that "commercials be broadcast only on government channels and nowhere else". Our interview subject also encountered decisions by advertisers that went exactly in the opposite direction. There was a company that made clear before the media mix was compiled that it was only willing to advertise with television channels that are not affiliated with the government, to wit RTL, ATV and Hír TV. It also did not care if it failed to reach some target groups as a result of this decision.

Based on the accounts of our interview subjects, scams and taking political considerations into account are not things that media agencies eschew, either. There is a general sentiment in the wider media market that the media agency market has always been awash with corruption. Sales-related issues have been murky always and everywhere, and non-transparent dealings along with the relevant default set of tools always included scams designed to funnel money to favoured players. In addition to a fear of politics, these kinds of tricks were the main reason why it is difficult to convinced stakeholders to talk about the prevailing operating mechanisms in the market. The lack of transparency is also caused by the fact that decisions are rendered at the level of owners, directing managers or chief executives, and that those on the lower rungs of the corporate ladder have little insight into the decision-making.

The standard modus operandi in the advertising market is that media agencies negotiate with the media outlets about how much advertising space or airtime they want to buy for their advertisers. Although they negotiate on behalf of advertisers, the agencies typically represent their own interests in this process. They often do so at the expense of the advertisers, for example by buying advertising space/airtime too expensively or by preferring publishers that provide them with certain favourable conditions. That is what the bonus system was about, which is an established tool of market corruption in this segment. A significant source of income for the agencies is when they receive a bonus from the publishers when they purchased advertising from them or when they conclude parallel deals concerning the allocation of advertising spending. This was the official reasoning provided in the relevant regulatory amendment adopted in 2015, which bars bonuses. The new regulation is easy to circumvent, however, and market players continue to do so.

Another allegedly widespread phenomenon in the media agency market is that domestically-owned companies or their owners – or even the marketing executives of multinational corporations – use accounting tricks to extract substantial untaxed kickbacks from advertising spending. The majority of these advertisers do not look at advertising as an investment that will yield returns, most of them do not care where the media agencies place their ads. What matters is that the bill charged by the media agency to their company is as inflated as possible, and that at the end of the deal the agency use the larger portion of the money – often as much as 50-80% of the total amount – to pay the owner or the head of marketing in an envelope. Whoever selects the agency to work with will pick a partner that is willing to cooperate on this.

“What you see going on in public procurement on a grand scale is also manifest on a smaller scale in the market for media agencies. In some cases I represented the company that had been pre-selected as the winner, and I had to submit bids in the names of two other media agencies, using e-mail addresses that I had to create myself. I had to do this so that the head of marketing could go to the owner and highlight the best offer, which was highly inflated in fact. There was one case when we sold the advertising space for ten times the market price” – an interview subject who used to work for a domestic media agency told us. He/she said that almost all clients at the agency worked like this, and as he/she said these were not unknown or small Hungarian companies, either, but major corporations whose advertisements we often encounter in the streets. With domestic clients, the person who ordered the ads was the owner, while in the case of multinational corporations the head of marketing was usually charged with this responsibility.

In his/her retelling, the media agency generated a massive revenue and a significant portion of that stemmed from the marketing budget of state projects. It is said that there are numerous agencies in the market that mainly focus on laundering money for companies or political players under the guise of advertising spending.

The gist of the accounting scam employed by the agency was that it was not the media agency itself that bought the advertising airtime from the television channels but a minor and unknown company that was in effect managed by the agency; then the agency bought the advertising time from this company at a massively inflated price that could be as high as ten times the original price. “I called the radios, the television channels, and I did everything relating to the advertising time we purchased, but I had two-three other companies where I didn’t even know the owners, I even created their e-mail addresses myself. At the television channels and the radios, they knew full well that the media agency was the actual partner, but the invoice was nevertheless not sent to the media agency but to some phony company" – said our interview subject.

The advertiser paid the agency the tenfold price, and then an amount somewhere between 50-80% was paid to the owner or the head of marketing in cash. The fact that the phony company at the bottom of this chain – which was in a contractual arrangement with the media outlet – could not account for the money to the tax authority was not an issue. "The owners and the signatories were foreigners, and after a while all these companies were liquidated, especially when a tax inspection was underway. And then I got a new list of companies telling me that in the future I would do the advertising acquisitions with these" – said our source.

The same murky marketing stories went on in the context of the state projects managed by the agency. A well-known government agency had an EU-funded tender, for example. The extensive study that had to be produced as part of the undertakings in the winning application had to be written by a staffer at the media agency in the name of someone else. "The government agency paid 20 million forints for this study, and then someone came knocking from the agency asking for 19 million in kickbacks. The accounting was performed by involving another, unknown PR agency that specialised on such deals – the owner was also unknown – and this company claimed authorship of the study and submitted a bill for 19 million, which we paid them as a subcontractor fee, and they brought the money back in cash so that we could pay the person at the government agency" – explained our source, though the aforementioned amounts were not the actual figures in the case. The invoicing of all state procurement was handled in the same manner by the agency, regardless of whether it concerned media campaigns or film production.

In addition to market corruption, political corruption, too, is an everyday component of the media agency universe. Market players had to cooperate with the Socialist Party as well, and in those instances they had to adjust in the same way to the ideas concerning market advertising of László Puch, the MSZP treasurer, just as they had to accommodate the demands of Lajos Simicska between 2010 and 2014. Among those who are familiar with the operations of the advertising market, there is a widespread perception that the Fidesz government that entered into office in 2010 was capable of "capturing" the media agencies precisely because of the corruption mechanisms that were in place in the market; these mechanisms rendered the agencies susceptible to political pressure. Before the Fidesz government, however, professional considerations and corruption operated side-by-side, one of our interview partners said, putting the corruption of the earlier era in context.

Another development that ended up diverting advertising spending was that by using state-owned enterprises, the government poured massive amounts of money into the advertising market through its successive communication campaigns. Over 40 billion forints of the total 241-billion advertising pie in 2017 came from state advertising spending, which has been growing in volume each year at a rate that exceeds[72] the market growth rate.[73] Another important new factor that influences the market is that the state advertising reached the media through a centralised channel, the National Communication Office. Colloquially, this institution, which was established in October 2015 and is led by Antal Rogán, a minister in the Cabinet Office of the Prime Minister, is known as the "propaganda ministry". It centralises advertising procurement which reaches the media through pro-government agencies.

72 Kreatív (2018): A piacinál sokkal nagyobb ütemben bővül az állami tévés reklámköltés [State television advertising spending at a faster space than commercial advertising spending]. Kreativ.hu, 1 March. http://kreativ.hu/cikk/a_piacihoz_kepest_sokkal_nagyobb_utemben_bovul_az_allami_teves_reklamkoltes

73 Szalay D. (2018): Nagyot nőtt a magyar reklámtorta [A huge boom in the Hungarian advertising pie]. 24.hu, 28 February. https://24.hu/media/2018/02/28/nagyot-nott-a-hazai-reklambevetelek/

At present, there are three media agencies that are deemed as loyal suppliers of the government, and these typically carry no commercial advertising. The multinational agencies, by contrast, typically feature no state advertising, and several of our interview subjects mentioned in this context that there was an international media agency which had previously won several communication tenders, and in return for these state commissions it delivered business advertising to the pro-government media.

As one of our sources put it, “the world is full of people who are willing to partially compromise, who will do put up with what the political environment compels them to do, and in the meanwhile they try to compensate for this in some form, trying to find a way to stay decent.” There was also a media agency executive who tried to play both sides: while his company was active in governmental campaigns, he sought to convince other media agency executives to fund opposition media.

The other key factor that renders the media agencies susceptible to pressure is that their executives are typically Hungarian professionals who live here and want to continue their careers here in Hungary. In order to do so, they must conclude their own bargains with pro-government players. All the more so because they have their private dealings in addition to their media agency activities.

Market-distorting regulations

Several of our interview subjects emphasised that in addition to attempts at direct political influence and the default problems in the advertising market, the flow of advertising market money was also substantially upset and distorted by the regulatory changes in recent years. The market players assessed that these either served the political and economic interests of the governing party and other stakeholders with ties to the government or the goal of greater political control over the advertising market. Among the most important factors influencing the market, our interview subjects mentioned the 15% mandatory commission that replaces the bonus system, the advertising taxes that have turned media that do not receive massive amounts of state advertising unprofitable, and the changes that apply to outdoor advertising.

According to a widespread perception in the market, the goal of the bonus law is to help the government funnel money towards government-friendly agencies, since the mandatory bonuses that the state orders serve to fatten these companies' wallets, and in return they support pro-government media by placing state advertising in the former. It is very hard for rival media agencies to operate profitably under such circumstances, and this is especially true of smaller market players. Evasion of the 15% commission and the persistence of the previous bonus system are widespread phenomena in the market.

The Act on Protecting Municipal Landscapes, which was adopted in July 2016, will lead to the removal of billboards by 2021. This will affect some 30,000 billboards. Furthermore, local governments will decide themselves whether to tax billboards in their jurisdiction, and they will have the authority to levy a tax ranging from 1000-12,000 forints per square metre, which could make billboard advertising significantly more expensive. The law also authorises municipal governments to ban the use of building meshes as advertising spaces. The experts who commented for our research assessed that if a business player with close ties to the government were to take control of Simicska's outdoor advertising company, then the billboard law might be amended in a way that would bring back the previous regulatory environment which was more compatible with a market-based operation.