


# Media Investments and their Impact on the Media Market and the General Public in Central Eastern Europe



A research project  
carried out by  
Mérték Media Monitor,  
Hungary



Fundacja Wolności, Poland  
MEMO 98, Slovakia  
Univerzita Karlova v Praze, Czech Republic  
2015-2016





## MÉRTÉK BOOKLETS

Volume 10

## MÉRTÉK FÜZETEK

10. szám

October 2016

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### Media Investments and their Impact on the Media Market and the General Public in Central Eastern Europe



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### Published by

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

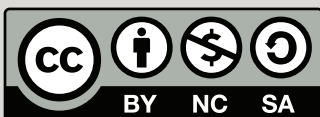
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The editing of the report was  
finished at October 2016.



Western European investors had a key role in the transformation of CEE media systems, after 1990. This process was shaped by economic, cultural and political factors, while the results and quality of the change also affected these factors. Purpose of the project is to analyze this process in the media markets of the V4, from the aspect of media economics, law and journalism, to identify the common characteristics and draw the conclusions, with a view to developing better media policy solutions.

The research is carried out in V4 countries. The media markets of the V4 under review also developed in the same direction after 1990: on many occasions, the foreign media investors came from almost the same circles, these pursued similar strategies, and their media investments in the region were often jointly managed. The regulatory and legal environments of the V4 under review are also comparable.

It is an interesting aspect of the research that, besides the many common features, some interesting differences can also be identified, which, through examining the lengthy historic period, may be suitable for drawing important conclusions for the future. These conclusions can in turn be used by the media policy decision-makers of the affected countries for developing their future strategies.

ISSN 2559-8937

ISBN 978-963-12-9100-1

10. Media Investments and their Impact on the Media Market  
and the General Public in Central Eastern Europe (pdf)

Mérték Médiaelemző Műhely

Közhasznú Nonprofit Kft.

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# CHAPTER 1

Media investment  
on the media markets  
of the Visegrad Countries

		Distribution or Reader/Audience Share							
Investor	Period on the market	Outlets	1997	2000	2005	2010	2013	2014	2015
<b>CZECH REPUBLIC</b>									
Soopresse SA (Groupe Hersant), France	1992-1995	Mladá fronta Dnes (1 June 1992 buys 48% in Mafra, a. s. - 11 November 1994 (52% in Mafra, a. s. sold by Socpresse SA to Rheinisch-Bergische Verlagsgesellschaft mbH)							
		Moravskoslezské vydavatelství, a. s., OSMA, a. s. (regional papers in Moravia - Rovnost, Svoboda) (August/September 1992-spring 1995)							
		Mladá fronta Dnes (1994-2013)	367874	329279	290424	229413	182683		
		Lidové noviny (from 1998-2013)		116316	66473	47937	35082		
		Metro (2007-2013)				n/a	n/a		
		Óčko TV (bought in 2005-2013)							
		Expres (1993-1996, bought by Ringier and closed)							
		Moravskoslezský den (1996-December 2000, sold to Verlagsgruppe Passau; by 2000 it had 6 regional papers in Moravia)	43185	33512					
Mittelrhein-Verlag MRV-Beteiligungs GmbH, Germany	August 1993-2000	ZN noviny (Zemské noviny) (1993-December 2000), bought by Vitava-Labe-Press (Verlagsgruppe Passau)	145827	98655					
		Slovo (1998-December 2000), sold to Verlagsgruppe Passau		44983					
		Blesk (1992-2013)	245483	342428	507220	352179	266860	251449	
		Blesk pro ženy, Blesk Hobby (2004-2013)			229292	211132	158825	146217	
		Lidové noviny (1993-1998, bought by Rheinisch-Bergische Verlagsgesellschaft)	75754						
		Sport (from November 2001, bought by Československý sport, s. r. o.)	61621	56918					
Ringier (Switzerland), from 1996 co-owned by Axel Springer (Germany)	April 1992-2010 (then they merged into Ringier Axel Springer); Ringier Axel Springer was bought by I&T in April 2014	Moravskoslezský den (1993-1996, sold to Mittelrhein Verlag)							
		Reflex (1993-2013)	70834	62557	52091	61060	64741	59720	
		many other magazines							
		Týden (1996-2000, sold to Czech businessman Sebastian Pawlowski)	n/a	24525					
		Aha! (tabloid daily, from 2007)			66309	93309	62435	60616	
		Sport (from 2004)				46061	35586	33141	
		Hospodářské noviny							
Euroexpansion (France-Germany-USA)	November 1991-end of 1992	Hospodářské noviny							
Handelsblatt - Dow Jones Investments B.V.	end of 1992-August 2008 (bought by Zdeněk Bakala)	Hospodářské noviny	108860	76763	68174				

		Distribution or Reader/Audience Share							
Investor	Period on the market	Outlets	1997	2000	2005	2010	2013	2014	2015
Verlagsgruppe Passau GmbH (Germany)	spring 1995-September 2015	Zemské noviny, Slovo (December 2000, from Mittelrhein Verlag-until 2001)		98655					
		Šíp (October 2006)		n/a	70400	online only	online only	online only	online only
		Moravskoslezské vydavatelství, a. s., OSNA, a. s. (regional papers in Moravia - Rovnost, Svoboda) (from spring 1995)	34 894 (Rovnost), 67 113 (Svoboda)	34 892 (Rovnost), 44 320 (Svoboda)					
		June 2001: imprintant point - Verlagsgruppe Passau and Rheinisch-Bergische Verlagsgesellschaft exchanges some titles: VLP gets Pressinvest (Moravské noviny Svoboda, Moravské noviny Rovnost), VLP stops national papers Slovo and Zemské noviny							
		2001, VGP creates its network of local daily papers Denik			354112	213487	160826	150161	138552
		Astrosat (publisher of lifestyle and hobby magazines), in 2013 buys also the portfolio of Sanoma							
		Západočeské noviny, spol. s r. o. (8 regional dailies), sold to Verlagsgruppe Passau							
		Super							
		regional papers (Vydavatelství Vltava, Vydavatelství Labe >>> merged in Vltava-Labe-Press in 1997, Deniky Bohemia)							
		PRAGOPRINT, a. s., published Večerník Praha, from 1997 (until 2000)	66313	46131					
		Metro	n/a	n/a	n/a				
		magazines							
		magazines (Tina, Bravo)							
		from 1994 many woman magazines							
		buys MONA, spol. s r. o. - publisher of „woman magazines“ (Praktická žena, Vlasta, ...)							
		2001 buys publishing house Roof spol. s r. o. (magazines about living)							
		National Geographic, lifestyle magazines, women magazines...							
		lifestyle magazines							
		Frankenpost Verlag GmbH (Germany)							
		E-Media, EPIC Holding (Austria)							
		Neue Presse Verlags-GmbH (Germany)							
		METRO Česká republika, owned by Modern Times Group MTG AB, from 2000 owned by Investment AB Kinnevik, the same company (Sweden)							
		Burda Media Holding GmbH (Germany)							
		Heinrich Bauer Verlag (Germany)							
		VNU Magazine Group International (Netherlands)							
		SanomaWSOY (Finland)							
		Hachette Filipacchi Presse SA (part of Lagardère) (France)							

		Distribution of Reader/Audience Share							
Investor	Period on the market	Outlets	1997	2000	2005	2010	2013	2014	2015
<b>POLAND</b>									
Ringier Axel Springer	2003-	Fakt			519067	437060		324730	303338
	2001-now	Newsweek Polska			165279	119656		118495	140917
	2007-now	Przeгляд Sportowy	72352		77656	50904		34722	26914
	1996-2011	Rzeczpospolita	217202	203211	182677	141156		58043	55439
	2006-2011	Parkiet		16270	10531	8060		5072	5690
	2006-2013	Dziennik Wschodni	29911	26057	19635	12815		8178	6338
	2006-2013	Echo Dnia	32309	34671	36939	34187			
	2006-2013	Gazeta Codzienna Nowiny	39948	38810	32243	28432			
	2006-2013	Gazeta Lubuska	70029	58532	49600	37960			
	2006-2013	Gazeta Pomorska	98644	105305	92963	67489			
	2006-2013	Gazeta Współczesna	19738	21784	19372	14485			
	2006-2013	Głos Dziennik Pomorza	27085	28073	18219	39278			
	2006-2013	Kurier Poranny	18146	20664	16707	14123			
2006-2013	Nowa Trybuna Opolska	36414	36597	34578	26774		18399	15678	
2006-2013	Tygodnik Ostrołęcki			22539	23957				
Polska Press (Verlagsgruppe Passau)		Dziennik Bałtycki	62912	70192	60703	42423		27055	23737
		Dziennik Łódzki	39759	44724	50899	39275		25322	24882
		Dziennik Zachodni	90676	100433	101486	69889		45437	42270
	2013-now	Echo Dnia						23102	23355
		Express Ilustrowany	98099	77751	55671	48004		31815	31041
	2013-now	Gazeta Codzienna Nowiny						18435	16316
		Gazeta Krakowska	37043	44965	31656	27005		18555	16505
		Gazeta Wroclawska		32638	40499	27652		18357	16213
	2013-now	Gazeta Współczesna						8272	6162
	2013-now	Gazeta Lubuska						22856	19616
	2013-now	Gazeta Pomorska						45447	40374
	2013-now	Głos Dziennik Pomorza						24904	22319
	2013-now	Głos Wielkopolski	64361	65098	33124	44984		32554	29600
2013-now	Kurier Poranny						7066	5216	
2013-now	Tygodnik Ostrołęcki						12304	10055	



Investor	Period on the market	Outlets	Distribution or Reader/Audience Share							
			1997	2000	2005	2010	2013	2014	2015	
Heinrich Bauer Verlag Kommanditgesellschaft		Chwila dla Ciebie	633238	510565	386675	300369		287216	277303	
		Kobieta i Życie		60334		445727		354797	314476	
		Kurier TV		319679						
		Na Żywo	430533	143152	68101	174609		181250	174000	
		Naj		330115	299875	146322		146382	97216	
		Przepisy Czytelników						274376	181357	
		Rewia			302155	255654		230440	214835	
		Show				406101		225656	151339	
		Świat Kobiety			147994	424341		322586	293962	
		Tele Tydzień	1337164	1549308	1204424	1074155		857705	848898	
		Tina			459296	468726		249494	194902	
		To&Owo		554971	436983	464435		360487	340175	
		Twoje Imperium		231727	378732	325843		324375	290734	
		Życie na Gorąco	844687	698276	676360	610469		589337	502608	
	Hubert Burda Media		Claudia	980515	786614	457990	307729		213555	202282
		Dobre Rady			439807	487465		344433	335696	
		Przyslij Przepis				788824		300583	194980	



Investor	Period on the market	Outlets	Distribution of Reader/Audience Share								
			1997	2000	2005	2010	2013	2014	2015		
<b>SLOVAKIA</b>											
Gruner + Jahr (Germany) was sole majority owner of Vydavateľstvo časopisov a novin, spol. s r.o. that was publishing Nový Čas, (the most popular daily newspaper) until 2004.	1993 - 2004	Nový Čas (P) daily		25%							
	2003 - 2004	Nový Čas pre ženy (P) weekly									
	1991 - 2004	Eurotelevizia (P)									
	1991 - 2004	Eva - monthly (P)									
	1992 - 2004	Život - weekly (P)									
	1993 - 2004	Telemagazin (P)									
	1993 - 1998	Profit (P)									
	2001 - 2015	Nový Čas (P) daily		29%		22%	18%	17%	16%		
	2004 - 2015	Nový Čas pre ženy (P) weekly		13%		8%	7%	6%	6%		
	2004 - 2015	Život - weekly (P)		7%		10%	8%	7%	6%		
In 2001, Ringier Axel Springer Media AG p (Switzerland) purchased 49 percent of ownership shares of Vydavateľstvo časopisov a novin, spol. s r.o. that was publishing Nový Čas, the most popular daily newspaper in Slovakia. In 2004, the company purchased additional shares and became majority owner. The company currently controls the most popular daily newspaper Nový Čas and 10 magazines including popular ones like Život or Eva, under the name Ringier Slovakia, a. s.	2004 - 2015	Eva - monthly (P)		11%		9%	7%	6%	6%		
	2004 - 2007	Telemagazin (P)									
	2008 - 2015	cas.sk (O)									
	2004 - 2007	Eurotelevizia (P)									
	2007 - 2015	Telemagazin (P)									
	2007 - 2015	Eurotelevizia (P)				6%	5%	5%	4%		
	2000 - 2010	Sme (P)		5%	9%	7%					
	2000 - 2010	Korzár (P)		2%	5%	4%					
	2000 - 2010	Vasárnap									
	1999 - 2010	Új Szó (P)		3%		2%					
Bauer Slowakei Beteiligungs GmbH - in 2007 this German investor purchased several print media, including Eurotelevizia, previously owned by Ringier.	2010 - 2015	Sme (P)					0	0	0		
	2010 - 2015	Korzár (P)					4	3	4		
	2010 - 2015	Vasárnap									
	2010 - 2015	Új Szó (P)					2%	2%	2%		
	2003 - 2004	Avizo (P)									
	2006 - 2011	Pravda (P)		6%	10%	7%	7%	7%	7%		
	2006 - 2011	pravda.sk (O)									
	2004 - 2011	Avizo (P)					1%	1%	1%		
	Verlagsgruppe Passau (Germany) purchased 50 % of publishing house Petit Press a. s., that owned dailies Sme, Korzár and Új Szó and other print media mainly daily press. The rest of the company was controlled by Slovak owners under, 'Prvá slovenská investičná skupina'	2010 - 2015	Rheinisch-Bergische Verlagsgesellschaft mbH (Germany) purchased 50% shares of Petit Press a.s. from Verlagsgruppe Passau in 2010. It remained an owner of 50 % of shares until the autumn 2015. The rest of the company was controlled by Slovak owners under 'Prvá slovenská investičná skupina' From fall 2015, 45 % of Pett Press a.s. shares are in control of Namav s.r.o. controlled by Penta, major financial group originating in Slovakia, active in central Europe.								
		2003 - 2004	RMS-Empresa de navegacao, consultoria empresarial e publicidade, sociedade unipessoal, limitada (Portugal)								
2006 - 2011		The Northcliffe International Ltd. (Daily Mail & General Trust) purchased shares of Perex a.s. publishing house from Slovak businessman Juraj Široky in August 2006.									
2006 - 2011		In 2011 the company sold its ownership shares of Perex. a. s., publishing company to Florena a.s., that is controlled by local/regional financial group J&T									
2004 - 2011		Lapcom Kft (Hungarian company controlled by The Northcliffe International Ltd.)									





## CHAPTER 2

Analysis of the legal  
environment of the  
media investments



## 1) Legal frames and tender conditions of the television market's liberalization (at the time of the liberalization) – if there were more tenders under different regulations, please describe all of these.

### a) List of applicable laws (at the time of the market entry)

- Act No. 231/2001 Coll., On operation of radio and television broadcasting
- Act No. 132/2010 Coll.
- Act no. 483/1991 Coll., Czech Television
- Directive 2010/13/EU of the European Parliament and of the Council

### b) Summary of the rules of terrestrial frequency tenders:

#### i) *Name and constitution of the organization (regulatory authority) that coordinates and decides the tender*

- The Council for Radio and Television Broadcasting (Rada pro rozhlasové a televizní vysílání, RRTV).
- The members of RRTV (there are 13 members) were and are nominated by the House of Commons for 6 years. The Chairman of the RRTV is nominated by its members.
- Czech Telecommunication Office (Český telekomunikační úřad, ČTÚ) in cooperation with RRTV distributes the licenses.

#### ii) *Rules of the decision making*

RRTV grants a license to operate a terrestrial digital television broadcasting, as well as radio, in a simplified licensing procedure. This procedure is made by the applicant's own initiative and as with the only participant. If the applicant fulfils all the stated requirements and conditions, the applicant has the right to get the license to operate terrestrial digital radio broadcasting. The right would not be renewed if the beneficiary has violated the contract repeatedly or seriously.

In 2010 ČTÚ got a new tool to ensure one of its main tasks, which is the efficient use of the frequency spectrum. Until 2010 ČTÚ could not change or withdraw once allocated frequencies. Frequency assignment which was free of charge expired at the end of its period. Consequently, some businessmen blocked unused frequencies. The new ability to change or withdraw the frequencies was meant to encourage competition.

#### iii) *Entitled persons or organizations that can apply, incompatibilities and special ownership rules*

Natural persons and legal entities are entitled to effect broadcasting. The license applicant qualifies for participation in the licensing procedure if:

- His property was not issued a decision on bankruptcy or entered into liquidation.
- He proves to have no arrears in terms of tax records.
- He proves he has no arrears in terms of public health insurance, social security premiums or contributions to the state employment policy.

- His license or registration was not cancelled in last 5 years. Only exception is the situation when the license or the registration is cancelled on the request of the broadcaster.
- He is irreproachable, meaning that the applicant was not convicted of a deliberate criminal offense. If the applicant is a licensed legal entity, this condition is applied to the natural persons who are members of the statutory or supervisory organ of this entity.
- He is not a member of any statutory broadcaster or trading companies established by the statutory broadcaster.

iv) *Duration of the license and conditions of extension*

The broadcasting rights are granted for a maximum period of 12 years (television) and 8 years (radio). The operator with the licence has to start broadcasting within 180 days (television) or 360 days (television). RRTV extends the duration of the license at the request of a licensed broadcaster. The period of validity may be extended once. For radio broadcasting for a period of 8 years and for television broadcasting for 12 years. At the request of a licensed broadcaster RRTV may extend the period of validity of the license for a shorter period.

Until 2015 there was no law modifying, limiting or prohibiting cross-media ownership and establishing large media houses. One owner can currently own two full-format nationwide TV and two nationwide radio stations. A nation-wide digital television broadcaster cannot have ownership interest in the business of another nation-wide television broadcaster or merge with it, and the same applies to of radio. The amendment of the Act No. 231 which is currently undergoing a so-called evaluation of its impact modifies the regulation of ownership in the electronic media. It should establish restrictions of cross-media ownership with no further specification.

**c) Summary of the tender conditions**

i) *Financial criteria*

Every broadcaster has to pay 90.000CZK (ca. 3.300 €) per year for every application or extension of a current licence. RRTV has increased this fee in 2013, because it was one of the lowest administrative fees in Europe. Therefore many foreign companies were trying to get the licence in the Czech Republic. The broadcasting license issued in an EU country is valid within the EU; for example, a Polish operator in the Czech Republic can obtain a license for satellite broadcasts intended exclusively for audiences in Poland. RRTV then only informs the Polish regulatory authority that it issued this license.

**d) Criteria on the media content**

There are no specific criteria on the content. In general, there are restrictions about inappropriate content (violent, sexual, i.e.) broadcasted before 10 pm. This condition is controlled by RRTV.

i) *Specific conditions (e.g. on ownership, business plan etc.) that influenced essentially the tender result*

There are no specific condition influencing the tender results.

**e) Summary of the laws of the market entry on cable networks and satellite (at the time of the liberalization)**

Television programs distributed on cable or satellite could enter the market by a simple registration. Acceptance of the report was refused if the provider could not otherwise be the beneficiary of a broadcasting contract. Providers of television programs distributed only by cable or satellite were also obliged to pay the broadcasting fee.



## 2) Short summary of the prevailing market access rules (television)

- Act No. 231/2001 Coll., On operation of radio and television broadcasting
- Act No. 132/2010 Coll.
- Act no. 483/1991 Coll., Czech Television
- 2010/13/EU of the European Parliament and of the Council

## 3) Short summary of the prevailing legal frames of the expansion on the media markets (media concentration rules)

### a) Limitation on the market positions within the single media markets

There are no limitations on the market positions within the single media markets. Since 2015 the Ministry of Culture is trying to put forward amendments to The Law on Radio and Television Broadcasting. Recently it enables the transfer of property between the media and more or less does not preclude cross-ownership and the creation of large media houses. One owner of one digital broadcast nationwide full-format can own two TV and two radio stations. A nation-wide digital television broadcaster cannot be part of another nation-wide television broadcasting or merge with it, and the same applies to radio.

The amendment modifies the regulation of ownership in the electronic media. It aims to prevent cross-media ownership. It is not an absolute prohibition, but some form of cross-ownership would not be possible. A more concrete specification is missing as this amendment is still in progress.

### b) Limitation on cross-ownership between different media sectors

There are no limitations on cross-ownership between different media sectors.

## 4) Legal frames of the newspaper market's liberalization (if there was or is any) – at the time of the liberalization and recently

### a) List of the applicable laws

- Act No. 46/2000 Coll., The law on the rights and responsibilities of publishing periodical press and amending certain other laws

### b) Market entry rules (registration)

The Ministry of Culture supervises and oversees the process of market entry. 30 days before publishing, the publisher has to send a written notice to the Ministry of Culture including: The name of the press product, the focus and periodicity as well as data about regional issues. The publisher is obliged to provide the following data in every edition: Name of the periodical press product, frequency (periodicity), the designation of a regional issue, place of issuance, number and date of issue, registration number assigned by the Ministry of Culture as well as name, address and identification number of the publisher if the publisher is a legal entity or name, surname and address of the publisher, if the publisher is a natural person.

### c) Ownership rules regarding the print media

There are no cross-ownership restrictions in the law in force.



## 1) Legal frames and tender conditions of the television market's liberalization (at the time of the liberalization) – if there were more tenders under different regulations, please describe all of these!

### a) List of applicable laws (at the time of the market entry)

- 1996: Act I on Radio and Television Broadcasting
- General Terms of Tender of the National Radio and Television Board

### b) Summary of the rules of terrestrial frequency tenders

#### i) *Name and constitution of the organization (regulatory authority) that coordinates and decides the tender*

- National Radio and Television Authority (Országos Rádió és Televízió Testület, ORTT).

The members of the ORTT Board were nominated by the parliamentary factions; each faction was allowed to nominate one member. The Chairman of the Board was nominated jointly by the President of the Republic and the Prime Minister.

#### ii) *Rules of the decision making*

The votes by the members of the authority were always distributed evenly among ruling-party and opposition nominees, regardless of the number of the members.

The tenders invited in respect of the national radio and television broadcasting rights were assessed in a special decision making process. It aimed to decide these tenders with a two-third majority of the members, but at the same time the regulation threatened the ORTT's members with the terminating of their mandate in the case of inability to decide, after the second unsuccessful voting. Only after four unsuccessful voting rounds a new tender could be invited. The chairman did not have a voting right in the first and second round of the voting; this solution emphasized again the political compromise character of the decision.

#### iii) *Entitled persons and organizations that can apply; incompatibilities, special ownership rules*

Basically, natural persons residing in Hungary and legal entities registered in Hungary were entitled to effect broadcasting in Hungary. But in the case of national television, the only form of operating was the share company.<sup>1</sup> All of the share companies on the media market had to be made up by registered shares.

Incompatibility rules ruled out the persons in the highest public offices from the possibility of broadcasting as well as the administrative bodies, persons in connection with the media and the telecommunications authority, the public service broadcaster, and furthermore political parties, their leaders and their enterprises, and the state-owned companies.

Television and radio providers were simultaneously entitled to perform, at the most:

- one national broadcasting service, or
- two regional and four local broadcasting services, or
- twelve local broadcasting services.

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<sup>1</sup> Theoretically, they could operate also in the form of non-profit companies owned solely by local and regional governments, or (and) the self-governments of national and ethnic minorities.

These restrictions were not to apply to thematic channels, but the advertising time of these channels could be not more than 30 percent of the normal advertising time.

These restrictions were applicable not only for the provider itself but for the owners of the broadcasters, as well.

There were some restrictions to foreign ownership in the law determining the national broadcasting tenders of that time:

- Natural persons with Hungarian citizenship residing in Hungary and legal entities seated in Hungary should hold at least twenty-six percent of the voting rights in a company limited by shares with national broadcasting rights.
- A single enterprise may hold a maximum of forty-nine percent of the voting rights in a company limited by shares performing surface television broadcasting.
- In the board of directors of a company limited by shares performing national broadcasting the majority of the members, while in the case of a non-profit company, the majority of the managing directors, should be Hungarian citizens residing in Hungary.

iv) *Legal form (contract, licence etc.) and content elements of the licence*

According to the selection from the bids submitted in response to the tender invitation, the ORTT entered in the so called broadcasting contract with the awarded bidder. A broadcasting contract had to be concluded in the case of terrestrial broadcasting. On the basis of the contract, the broadcaster was entitled and obliged to broadcast for the length of time and during the broadcasting hours agreed to in its bid, in accordance with the broadcasting time schedule, using its own distinctive identifying signal, programmes in line with the programme structure undertaken, on its own network and with its own equipment and devices operated by it, or with the participation of a telecommunications service provider.

Here, the Hungarian legislator chose the form of the private law contract. This solution was the source of several problems when it came to the application of the law. Namely, the law entitled the ORTT, one of the contracting parties, to proceed as an administrative authority and apply administrative sanctions against the other contracting party, the broadcaster. As a result of this mixed private law – administrative law issue, the court was not able to settle the legal debates between the ORTT and the broadcaster: the court could not oblige the ORTT as an administrative authority to realize the consequences of a violation of the contract.

v) *Duration of the licence, conditions of extension*

According to the Media Law 1996, the broadcasting rights for television was valid for a maximum period of ten years. This term could be extended at the broadcaster's request, without inviting a tender, for a period of five years. The rights could not be renewed if the beneficiary violated the contract repeatedly or seriously. The further conditions and the rules of the procedure was not regulated, what caused problems in the application, again.

c) **Summary of the tender conditions**

The tender criteria were defined by the law, the ORTT's general terms of tender (GTT), as well as the tender calls.

The only tender of national television frequencies was published in January 1997. The call aimed to establish two national terrestrial television channels. For both calls, two offers were submitted. As the winners were the MTM-SBS Televízió Rt and the Magyar RTL Rt announced, Írisz TV could win none of the broadcasting rights. Írisz TV brought legal action against the ORTT's decision that awarded the frequencies to RTL Klub. Írisz TV argued that RTL had not enclosed some of the obligatory documents to its bid, and so the offer would be invalid. The Hungarian Supreme Court stated that the ORTT violated the law by not disqualifying RTL from

the tender procedure. However, due to the abovementioned serious failure of the legislation, the court could not nullify the contract between ORTT and RTL.<sup>1</sup>

i) *Financial criteria*

The minimum amount of the broadcasting fee had to be defined in the invitation to tender. All applying broadcasters had to undertake to pay this fee in order to be taken into consideration for the broadcasting rights.

In case of national television tenders, the minimum amount of the broadcasting was 8 billion HUF (ca. 25.813.000, for both national frequencies. The bidder could get 50 points for the offer on the fee from the altogether 110 points. The highest bid got the 50 points, the others got proportionally fewer.

ii) *Criteria on the media content*

According to the Media Law 1996, ORTT could define a set ratio of public service programmes or the serving to a set extent of the needs of national and ethnic and other minorities as a tender condition, if the freedom of the provision and obtaining of information and the diversity of culture had not prevailed in the given reception area, with regard to the whole of the broadcasting.

According to the GTT, that bidder had to be preferred,

- who determines a more favourable proportion of information and public service programs, especially news programs,
- in the case of national and regional television channels, who determines a more favourable proportion of presentation of films produced in Hungary,
- who offers a longer or full program transmission time,
- who undertook obligations exceeding the requirements set forth in the law.
- In the case of the national television tenders, the program structure and the program plan could get 35 points (from the altogether 110 points). The tender call did not exactly define these criteria, so the authority had a broad latitude by considering them.

iii) *Specific conditions (e.g. on ownership, business plan etc.) that essentially influenced the tender result*

According to the Media Law 1996 and the GTT, the business plan and the technical conditions were also factors of the application's evaluation. In the tender call regarding national television the business plan could get 10 points, the technical conditions 5 points (from 110). The consistency of the business plan was a crucial point of this tender that influences essentially the result.

**d) Summary of the tendering procedure(s) and its result(s)**

i) *Name and owners of applicants*

- MTM-SBS Televízió Rt (TV2 – owned by Scandinavian Broadcasting System 49%, MTM Kommunikációs Rt 38.5% and Tele München GmbH 12.5%) – Frequency
- Első Magyar Kereskedelmi Televízió Rt (Írisz TV – owned Central European Media Enterprises 71%, Hypo Securities Hungaria 18%, Alliance Hungary 10% and Péter Buzási 1%) – Frequency 1 & 2
- Magyar RTL Rt (RTL Klub – owned by CLT-UFA 49%, Matáv Rt 25%, Pearson Group 20% and Raiffeisen Bank 6%) – Frequency 2

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1 See <http://www.ce-review.org/99/7/csardas7.html>

ii) *Arguments of decision*

The bidder with the highest offer on broadcasting fee (Írisz TV) won none of the frequencies. The authority's main argument was once that this bidder offered a program with an essential lower quality in terms public service contents, secondly the high financial offer was not supported by a consistent business plan.

e) **Lawsuits in relation to the market liberalization**

i) *Facts of the case (parties, reason of the lawsuit)*

Írisz TV took a legal action against ORTT and stated the authority violated the law because it should have ruled out RTL from the process. Namely the application of RTL was defective, some documents regarding the owner structure were not submitted.

ii) *Main legal arguments of the court*

The court stated that the application of RTL was invalid due to formal reasons, since the GTT ruled out the subsequent completion of the application regarding the obligatory documents. RTL should not have been announced as the winner of the tender.

iii) *Decision, consequences on the market development or on the authority*

The claim was rejected in the first instance, but the court of second instance accepted it. The contract between the ORTT and the broadcaster was regulated in a way that the ORTT in its competence as an administrative authority was only entitled to terminate it. Therefore, the court could not state the nullity of the contract instruct the ORTT to do so. After starting the administrative law proceeding in order to cancel the contract ORTT suspended the proceeding to ask the Constitutional Court to rule on the constitutionality of the relevant sections of the Media Law. The Constitutional Court made its decision in 2007 [46/2007. (VI. 27.)] and found the regulation partly unconstitutional. Neither the court decision nor the decision of the Constitutional Court has any influence on the position of RTL. The Hungarian cable channel of the owner of Írisz TV was bought by the owners of TV2 and RTL in 2000.

f) **Summary of the laws of market entry on cable networks and satellite (at the time of the liberalization)**

Television programs distributed via cable or satellite could enter the market by a simple registration. The registration was refused if the provider could not otherwise be the beneficiary of a broadcasting contract. Providers of television programs distributed only by cable or satellite were also obliged to pay the broadcasting fee.

## 2) **Short summary of the prevailing market access rules (television)**

a) **List of the applicable laws (at the time of the market entry)**

- Act CLXXXV of 2010 on Media Services and on the Mass Media

b) **Summary of the rules of terrestrial frequency tenders**

The extent of regulatory penetration in the Hungarian media market has been significantly constrained by certain previous policy measures, notably by the concept of digital switchover for terrestrial broadcasting. As a result of this concept, there will be no more nationwide television tenders, because digital terrestrial capacities will be allocated by the operator of the digital terrestrial platform, which decides in its own discretion which media services to carry. In this way, the single legal condition for providing television services on any platform – cable, satellite, IPTV, digital terrestrial – will be simple registration by the Media Council. The state's acquisition of the platform operator Antenna Hungária Zrt from its previous owner in 2013 has

essentially opened up the possibility of the state decisively and non-transparently shaping the conditions for accessing terrestrial digital broadcasting capacities.

i) *Name and constitution of the registrar (regulatory authority)*

- Office of the National Media and Info-Communications Authority
- Media Council of the National Media and Info-Communications Authority

The National Media and Info-Communications Authority (Nemzeti Média és Hírközlési Hatóság, NMHH) is a so-called integrated/convergent authority, which oversees telecommunications and media markets within a single body. The Media Council is part of it, with a distinct scope of authority to make decisions and also with a partly distinct apparatus. The president of the NMHH is nominated by the Prime Minister and appointed by the State President. The four members of the Media Council are nominated by an ad hoc parliamentary committee composed of members with a voting power commensurable with the number of members in the respective parliamentary faction that elected them in turn. In the first round, members are nominated to the Media Council by a unanimous vote of the nominations committee. If a unanimous decision is not possible, candidates are nominated by a two-third majority of the weighted votes in the second round. Whenever the ruling parties hold a two-third majority in Parliament – which was the case by passing the law —, the nomination and election of members to the Media Council can be accomplished without any contribution by the political opposition or any other social group.

ii) *Rules of the registration*

The registration of television services involves the reporting of detailed information regarding the programming and the provider (including its owners). The commencement of broadcasting is subject to obtaining a resolution confirming the registration. The failure to register implies general media law sanctions. Subsequent violations may result in the deletion of the service from the records by the Media Council.

iii) *Incompatibilities, special ownership rules*

The incompatibility rules of the new Media Law are almost the same as the old ones. Apart from the rules limiting the media concentration there are no specific rules on the ownership structure.

iv) *Legal form of the registration*

Authority decision.

### **3) Short summary of the prevailing legal frames of the expansion on the media markets (media concentration rules)**

a) **Limitations on the market positions within the single media markets**

The regulation is of the so-called audience-share type, allowing media businesses to acquire new licenses and market segments as long as their annual average audience share (ratings) remains below the specified threshold of 35%. This ceiling amounts to a potential restriction in respect of a single enterprise, Magyar RTL/IKO Media only. The chances of any other media group in Hungary to even approach this magnitude of audience shares are virtually nil.

Beyond the ban on stockpiling licenses beyond a certain limit, the law provides only general guidance as to the substance of the desirable measures. The Media Act proposes three methods to enhance the diversity in the media: 'by modifying the media service's program structure, by increasing the proportion of Hungarian works and programs prepared by independent program makers, or in any other way.' Although the media service provider is required to define actual measures in consultation with the media authority, the law does not supply any useful yardstick for the authority to weigh proposals. It is the media provider's

burden to prove that the proposed measures are 'suitable for decreasing the information monopoly that has existed previously, and for increasing media market diversity and pluralism.' Such a demonstration, however, would appear to be quite an onerous task in the absence of the appropriate standards, let alone methodological and procedural safeguards.

**b) Limitation on cross-ownership between different media sectors**

The law does not in any way restrict cross ownership between diverse types of media.

**c) Limitations on the interpenetration between media providers and network operators or program producers**

The law does not in any way restrict the interpenetration between media providers and network operators or program producers.

**d) Special media concentration rules in the competition law**

The Media Act 2010 involves the NMHH as a specialized stakeholder in the procedure before the Hungarian Competition Authority relating to mergers involving the media market. The Act prescribes the procedure of the specialized authority for situations where "the affiliates of at least two groups of companies bear editorial responsibility". The standard of control applied by the specialized authority is that "the level of independent opinion sources following the merger should still ensure the right to diversity of information within the particular market segment of media content service". Overall, the evaluation is incomprehensible and unpredictable for the undertakings on the media market.

**e) List and short summary of the relevant cases (where an investor was involved)**

By requiring the approval of the specialized authority to be applied to ongoing official processes, the law effectively enabled the Media Council to step in and interfere with the Axel-Springer/Ringier merger, which had been under scrutiny by the Competition Authority quite some time before the adoption of the Media Act. The two ventures involved in the contemplated merger are among the largest enterprises in Hungary's print media market. Apart from major interests in the magazine segment, Axel-Springer holds a dominant stake in the regional daily market, while Ringier is - among other publications - the majority owner of Népszabadság, the leading political daily, and Blikk, the largest-circulation tabloid paper. In 2014, Axel Springer and Ringier launched their merger anew, under changed conditions. The two publishers sold a significant portion of their Hungarian media portfolios - including their entire holdings in political and public affairs media - to a financial investment company, the Vienna Capital Partners group. In this form, the merger was found unproblematic by both; the Media Council and the Hungarian Competition Authority.

Following the concentration between Axel-Springer and Ringier, the Media Council issued an official position statement on the concentration between the privately-founded M-RTL Company and the IKO Group of Companies. In this case M-RTL wished to acquire a 100 % direct stake in the media service provider of the channels Cool TV, Sorozat+, Reflektor TV, Prizma TV, Film+ and Film+2, namely IKO Televisions. The concentration was approved by the Media Council. The decision in the M-RTL/IKO case is characterized by a more balanced approach concerning both; market aspects and the constitutional objectives of limiting media concentration, but not even this decision provided undertakings engaged on the media market with guidance for the future Media law evaluation of concentrations.

**4) Legal reasons of the leaving of national market – if there was or there is a tendency of leaving the market**

- Number of television channels broadcasted from other European member states/ number of television channels broadcasted from inland – relevance of the country of origin principle regulated by the European television/audiovisual directive that makes it possible to broadcast the program from any member state to any others (see the paper from Polyák/Szóke)



- Regulations that significantly restrict(ed) the economic possibilities of the market players during the whole period of liberalized media market (e.g. duty to broadcast news programs, strict rules on protection of children, strict rules on advertising, strict rules on media ownership, high administrative fees etc.) – see the paper from Polyák/Szőke
- Possible other legal means to crowd out the foreign investors (e.g. special taxes, any discriminatory measures) – examples see in the paper from Polyák

## **5) Legal frames of the newspaper market's liberalization (if there was or is any) – at the time of the liberalization and recently**

### **a) List of the applicable laws**

- Act II from 1986 on the Press (to 2011)
- Act CLXXXV of 2010 on Media Services and on the Mass Media (from 2011)

### **b) Market entry rules (registration)**

According to Press Law 1986, press products could be published after a registration.

According to the rules in force, press products must be noticed at the time of commencing the activity. The failure to comply with the registration obligation carries a fine of up to one million forints. Press products are also the online journals and news portals. The notification does not contain any information on the content. There are some incompatibility rules in the law regarding the persons on connection with the media supervision. The media authority is not allowed to use deletion from the records as a sanction.

### **c) Ownership rules regarding the print media**

There were some restrictions in the Media Law 1996:

- Those holding a controlling share, publishers' or founders' rights in a daily newspaper with a nationwide circulation might not have acquired a controlling share in a broadcaster, and vice versa.
- Those holding a controlling share, publishers' or founders' rights in a weekly with a nationwide circulation, other than a weekly listing television and radio programmes, might not have acquired a majority share in a broadcaster operating with national broadcast diffusion, without being connected to a network, and vice versa.
- Those holding a controlling share, publishers' or founders' rights in a daily newspaper with a non-nationwide circulation with ten thousand or more copies sold daily may not have acquired a majority share in a broadcaster, the reception area of which overlaps with eighty percent of the distribution area of the newspaper, and vice versa.
- The owner, publisher or founder may have acquired a smaller share of ownership than a majority share of ownership if another local or regional broadcaster or broadcast transmitter covering at least seventy percent of the given area of reception already operates.

There are no cross-ownership restrictions in the Media Law 2010.



Analysing the legal environments of media investments: Comparative legal analysis, desk research

## 1) **Legal frames and tender conditions of the television market's liberalization (at the time of the liberalization) – if there were more tenders under different regulations, please describe all of these!**

### a) **List of the applicable laws (at the time of the market entry)**

- The Broadcasting Act (adopted in 1993, last amendment 25 February 2016, Journal of Laws 2016 item 639).
- Regulation of the National Broadcasting Council of 4 January 2007 concerning the contents of an application for awarding a licence and detailed procedures for awarding and revoking licences to transmit and retransmit radio and television programme services.

### b) **Summary of the rules of terrestrial frequency tenders**

#### i) *Name and constitution of the organization (regulatory authority) that coordinates and decides the tender*

The National Broadcasting Council. The members of the Council are elected by:

- the Sejm (2 members)
- the Senate (1 member)
- and the President (2 members)

The Council shall elect its Chairman and Deputy Chairman from among its members.

#### ii) *Rules of the decision making*

The Chairman of the National Broadcasting Council gives public notice about the opportunity to obtain a license. He decides about granting a license on the basis of the regulation of the National Broadcasting Council. The decision is final.

#### iii) *Entitled persons or organizations that can apply; incompatibilities, special ownership rules*

Application for obtaining a license to transmit programme services may be submitted by natural persons who are Polish citizens, legal persons and commercial companies, which are established on the territory of the Republic of Poland. The application can also be submitted by companies with the participation of foreign persons, provided that foreign capital does not exceed 49%, and that the management board and the supervisory board consist mostly of Polish citizens who reside in Poland. These provisions do not apply to foreign persons and companies which are established on the territory of a Member State of the European Economic Area.

#### iv) *Legal form (contract, licence etc.) and content elements of the licence*

One offer from among those which were submitted in response to the Chairman of the National Broadcasting Council's notice about the opportunity to obtain a license is selected. NBC compares different offers from the legal, programmatic, economic and technical point of view. All offers are considered together and in relation to each other.

The concession determines the broadcaster, the scope of activity covered by the license, the type of programme and the time of its transmission, the broadcasting start date and the date of the concession expiry. It may also contain other operating conditions laid down by the NBC.

v) *Duration of the licence, conditions of extension*

The concession is granted for a period of 10 years. Not later than one year before the expiry of the concession, the broadcaster may request its prolongation. Then, a refusal to award the concession can occur only if the broadcaster received a legally valid decision prohibiting the conduct of economic activity covered by the license or grossly violated the terms of the license or the Broadcasting Act.

c) **Summary of the tender conditions**

Regulation of the National Broadcasting Council defines a specific list of documents to be submitted together with the application for awarding the concession. These include i.a. data concerning the shareholders/partners, financial statements for the last two years, certificate of no tax arrears and assumptions of the three-year financial plan. There is formulated an opinion on the legal, programmatic, economic and technical part of the application. NBC settles the proceedings for awarding the concession at the meeting by adopting a resolution.

The rated factors include: compatibility of the intended program activities with the objectives described in the Broadcasting Act, investment and program financing opportunities, estimated share of programmes produced by the broadcaster, estimated share of programmes in the Polish language and former compliance with the provisions regarding radio-communications and mass media.

i) *Financial criteria*

The condition for obtaining a license is to pay the fee (single or in annual instalments). The amount depends on the number of potential recipients of the program. The fee for nationwide ground-based analogue programme broadcasting is PLN 25.5 million (ca. 5,9 million €). The fee for nationwide digital broadcasting with the use of multiplex is PLN 12,945 million (ca. 3 million €). Social broadcasters are exempt from concession fees. Social broadcasters may be associations, foundations or church and religious legal entities which do not broadcast commercials and their program promotes educational or charitable activities and respects the Christian system of values).

ii) *Criteria on the media content*

The Broadcasting Act defines the requirements regarding the content of programmes. The most important requirements relate to:

- min. 33% of the quarterly transmission time for broadcasts in the Polish language (does not apply to information services, commercials, teleshopping, sports broadcasts, text messages and game shows)
- over 50% of the quarterly transmission time for broadcasts from the Member States of the European Union
- min. 10% of the quarterly transmission time for broadcasts from the Member States of the European Union, created by independent producers,
- advertising and teleshopping shall not take more time than 12 minutes per clock hour.

iii) *Specific conditions (e.g. on ownership, business plan etc.) that influenced essentially the tender result*

Concessions shall not be granted if their granting could give the applicant a dominant position in the field of mass media on a given territory.

**d) Summary of the tendering procedure(s) and its result(s)**

Since 2006, NBC has granted 18 concessions for nationwide, ground-based, analogue broadcasting of programmes.

*i) Name and owners of applicants*

The tenderers who have received licenses for the broadcasting of programmes (in the following sequence: broadcaster's name, television station's name, shareholders):

- Telewizja Polsat Sp. z o.o. (TV4, TV6, POLSAT, Super Polsat) – Cyfrowy Polsat S.A. 100% of shares
- Telewizja Puls Sp. z o.o. (Puls, Puls2) – Dariusz Dąbski 100% of shares
- Stavka Sp. z o.o. (TTV) – TVN S.A. 100% of shares
- TVN S.A. (TVN 7, TVN) – Scripps Network Interactive 100% of shares (company with American capital)
- Lux Veritatis Foundation (TV TRWAM) – the Warsaw Province of Redemptorists (religious congregation), "social broadcaster"
- Telewizja Polska S.A. (TVP ABC) – State Treasury 100% of shares
- Stopklatka S.A. (Stopklatka TV) – Kino Polska TV S.A. 41,14% of shares (66% of this company's shares belong to a Dutch company SPI International B.V.), Agora S.A. 41.04% of shares, Hakan Atlan 14.88% of shares, others 2.94%.
- TV Spektrum Sp. z o.o. (Fokus TV, Nowa TV) – ZPR Media S.A. 100% of shares
- Green Content Sp. z o.o. (Metro) – Agora S.A. 100% of shares
- Lemon Records Sp. z o.o. (Polo TV) – ZPR Media S.A. 100% of shares
- Cable Television Networks & Partners Sp. z o.o. (Zoom TV) – Polish Foundation for the Development of Electronic Communication "piksel" 51% of shares, Kino Polska TV S.A. 49% of shares
- WP1 Sp. z o.o. (WP1) – Wirtualna Polska S.A. 100% of shares
- Trans-System Sp. z o.o. (TVT) – Jacek Stefaniak and Grzegorz Sypniewski

Entities which applied for concessions unsuccessfully:

- Telewizja Polsat Sp. z o.o. (Polsat Kino, Polsat Kids) – Cyfrowy Polsat S.A. 100% of shares
- TV Film sp. z o.o. (Telekino) – Kino Świat z o.o. (26,16%), Media Express Sp. z o.o. (21.09%), Polish Filmmakers Association (20.03%) ZPR Media (19.90%), Finkorp Sp. z o.o. (12.83%)
- Mediasat Sp. z o.o. (Kino 5) – Media 5 Sp. z o.o. 100% of shares (a company owned by Blue Wavetrade Limited, based in Cyprus)
- Superstacja Sp. z o.o. – Ster Sp. z o.o. (86.02% of shares) and Karswell Limited, based in Nicosia on Cyprus (13.98% of shares). Hieronim Ruta owns 85% of Ster company's shares and 8.58% of Cyfrowy Polsat's shares.
- Radio ESKA S.A. – ZPR Media 100% of shares
- Discovery Polska Sp. z o.o. – Discovery Communications Europe Limited 100% of shares
- Cyfrowe Repozytorium Filmowe Sp. z o.o. – Kino Polska TV Sp. z o.o. (100% of shares)
- Scripps Networks Polska Sp. z o.o. – 100% of shares (company with American capital)
- TV Spektrum Sp. z o.o. – ZPR Media S.A. 100% of shares
- APELLA S.A. (Telewizja NOWA) – SKOK Holding S.a.r.l., based in Luxembourg 100% of shares
- TVS Sp. z o.o. (TVS) – Arkadiusz Hołda and Beata Hołda
- Media Works S.A. (Telewizja Edukacyjno-Poznawcza WPROST) – Point Group S.A. 100% of shares

- Discovery Communications Europe Limited (DMAX) – DNI Europe Holdings Limited, based in London, 100% of shares

ii) *Arguments of decision*

NBC decides whether to award a license to broadcast television programmes or not, based on the comparison of individual offers. In the considered cases, decisions were based on, i.a. the number of programme broadcasting hours per day, estimated share of reran programmes, the percentage of broadcasts that meet the specialized nature of the programme, planned kinds of broadcasts, the total minimum share of broadcasts devoted to local affairs, estimated percentage of programmes produced in the Polish language and European programmes.

e) **Summary of the laws of the market entry on cable networks and satellite (at the time of the liberalization)**

Transmitting of television programmes on cable or satellite networks requires entering to register at least one month before the start of transmitting. Registration requires paying a fee determined by the NBC.

f) **Lawsuits in relation to the market liberalization (I suppose all of them concerned the first decisions of the liberalization but if there had been some lawsuits from the later period it is also interesting)**

i) *Facts of the case (parties, reason of the lawsuit)*

Lux Veritatis Foundation filed a complaint with the administrative court about the decision of NBC, which did not grant the foundation the expanded concession and space in a digital multiplex.

ii) *Main legal arguments of the court*

The first instance court and the Supreme Administrative Court rejected the complaint of Lux Veritatis Foundation. It was decided that the NBC rightly did not grant the license, recalling that the foundation has not provided the conditions of the loan agreement, making it impossible to assess the financial condition of the undertaking. The foundation pointed to irregularities in other applications for concessions, for example, that companies with not yet legally binding decisions about awarding their concession applied for an extension of the broadcasting license and that the process of the NBC evaluating applications was conducted in a non-transparent and arbitrary way. The court, however, did not accept the complainant's arguments and upheld the decision of the NBC.

iii) *Decision, consequences on the market development, or on the authority*

Before the case was finally settled, Lux Veritatis Foundation obtained a license by another announcement – for broadcasting a programme of educational and religious character (Trwam).

## 2) Short summary of the prevailing market access rules (television)

a) **List of the applicable laws (at the time of the market entry) – max. 5-8 sentences/question!**

Currently, there are these laws concerning media environment applicable in Poland:

- Constitution of the Republic of Poland dated 1997,
- The Broadcasting Act (Journal of Laws of 1993, No. 7, item. 34) adopted in 1993,
- The Telecommunications Act (Journal of Laws of 2004, No. 171, item. 1800) adopted in 2004

- The Act on Competition and Consumer Protection (Journal of Laws of 2007, No. 50, item. 331) adopted in 2007
  - The National Media Act (Journal of Laws of 2016, item. 929) adopted in 2016,
- For the press:
- The Press Law Act (Journal of Laws, No. 5, item. 24) adopted in 1984

## **b) Summary of the rules of terrestrial frequency tenders**

### *i) Name and constitution of the registrar (regulatory authority)*

The National Broadcasting Council decides on granting television concessions. Following the amendment of the Broadcasting Act in 2005, the National Broadcasting Council consists of 5 people. Earlier it consisted of 9 people – 4 people appointed by the Sejm, 3 people appointed by the President and 2 people appointed by the Senate.

### *ii) Rules of the registration*

The rules for receiving a license to broadcast television programs are specified in the Broadcasting Act.

The Chairman of the Council, after consulting the President of the Office of Electronic Communications, announces information on the possibilities to obtain a licence for ground-based broadcasting of programs. The deadline for submission of applications for awarding a licence shall be not less than 45 days from the date of the announcement.

The announcement shall include:

- The subject of proceedings
- The programme conditions of broadcasting of programs, including the type and nature of a given program
- Frequencies or channels as well as radiation power and locations of broadcasting stations
- The number of licenses
- Period of time for which licenses may be granted
- Place and deadline for submission of the applications

In case of submission of more than one application, the applications are examined in one procedure (jointly).

### *iii) incompatibilities, special ownership rules*

Application for obtaining a license to transmit programme services may be submitted by natural persons who are Polish citizens, legal persons and commercial companies, which are established on the territory of the Republic of Poland. The application can also be submitted by companies with the participation of foreign persons, provided that foreign capital does not exceed 49%, and that the management board and the supervisory board consist mostly of Polish citizens who reside in Poland. These provisions do not apply to foreign persons and companies which are established on the territory of a Member State of the European Economic Area.

### *iv) Legal form of the registration*

The decision on the award of license to broadcast television programs contains the following elements:

- The name of the program
- Daily broadcasting time
- The nature of the program
- Types of broadcasts
- Maximum percentage of broadcasts from other sources than the broadcaster

- Technical conditions of program broadcasting
- Signalling parameters
- Term of the license
- The amount of fee for granting the license and the method of payment
- Justification of the decision concerning the license award

v) *Duration of the licence, conditions of extension*

The license is granted for a period of 10 years. The license may be extended for a period of another 10 years, subject to submission of the application for its extension no later than one year before the expiration date.

c) **Summary of the tender conditions**

i) *Financial criteria*

Financial criteria for television broadcasters focus on assessing their economic opportunities by the National Broadcasting Council during the concession process. The Council shall assess whether the broadcaster has sufficient financial resources to run a television program.

In addition, the Broadcasting Act determines that the National Broadcasting Council, in consultation with the Minister in charge of public finance, determines fees for awarding television licenses. In 2014 they were as follows:

- For ground-based, analogue broadcasting of programs – not more than PLN 26 847 930,
- For ground-based, digital broadcasting of programs with the use of multiplex – not more than PLN 26 847 930 (in 2012, the Sejm decided, that the fee shall be a half less than the fee for ground-based, analogue broadcasting of programs – the actual fee amounted to PLN 13 423 965),
- For satellite-based broadcasting of television programs – PLN 10 370,
- For broadcasting of television program in telecommunication networks, other than used for ground-based or satellite-based broadcasting – PLN 2 074

ii) *Criteria on the media content*

The Broadcasting Act specifies program amounts, with which television programs shall comply. The Act requires 33% of quarterly broadcasting time to be spent on programs produced originally in the Polish language and more than 50% of quarterly broadcasting time to be spent on European programs. This limit does not include information services, commercials, teleshopping, sports broadcasts, and game shows.

Regulation of the National Broadcasting Council of 18 May 2016 specifies a lower share of programs produced originally in the Polish language and European programmes for:

- Broadcasters, in the first year of the program broadcasting
- Specialized programs
- Programs directed to national and ethnic minorities

Requirements for the first two types of programs include 25% of quarterly broadcasting time to be spent on programs produced originally in the Polish language and 40% on European programs. The following specialized channels constitute exceptions:

- Channels targeting children under 7 years of age or broadcasting documentaries (the amounts equal 15% for programs produced in the Polish language and 25% for European programs)
- Channels in which advice programs constitute at least 80% of the monthly broadcasting time (the amounts equal respectively 29% and 40%).



The amounts for programs targeting national and ethnic minorities equal 10% for programs produced in the Polish language and 15% for European programs.

iii) *Specific conditions (e.g. on ownership, business plan etc.) that influenced essentially the tender result*

The National Broadcasting Council shall assess i.a. the business plan and opportunities for funding the program. They have to submit a statement saying that they have sufficient financial resources to run a television program and provide financial documents. If the applicant does not have sufficient financial resources, a signed and certified by the bank credit agreement is required.

Application for obtaining a license to transmit programme services may be submitted by natural persons who are Polish citizens, legal persons and commercial companies, which are established on the territory of the Republic of Poland. The application can also be submitted by companies with the participation of foreign persons, provided that foreign capital does not exceed 49%, and that the management board and the supervisory board consist mostly of Polish citizens who reside in Poland. These provisions do not apply to foreign persons and companies which are established on the territory of a Member State of the European Economic Area.

**d) Summary of the tendering procedure(s) and its result(s)**

The system of digital television signal broadcasting was officially launched on the territory of Poland in 2010.

On 30 September 2010, II national multiplex (MUX-2), reaching 98.8% of the Polish population, was officially launched. It was intended for the largest commercial broadcasters in Poland, who previously broadcast programs in the ground-based, analogue system.

On 27 October 2010, the III national multiplex (MUX-3), reaching 99.5% of the Polish population (the largest coverage of all, through the use of retransmission television stations) was launched. It was wholly assigned to TVP, a public broadcaster.

On 14 December 2011, I national multiplex (MUX-1), reaching 98.8% of the Polish population, was officially launched. It was designed for new broadcasters who have not previously used ground-based broadcast system.

On 1 August 2016, VIII national television multiplex was launched. It is designed for new broadcasters and for public television. None of its channels have officially started broadcasting (as for August 2016).

In addition, in Poland there are 11 local television multiplexes (with 4 entities which, until now, broadcast their local programs with the use of analogue system) and Cyfrowy Polsat's multiplex, that includes paid television stations.

In June 2015 15.9 million customers used digital, ground-based television, including 11.5 million customers, for whom it was the only source of television signal.

**e) Summary of the laws of the market entry on cable networks and satellite (at the time of the liberalization)**

Cable and satellite television market is based on the same provisions of law as the television market. There are no special, specific provisions in this regard. As in the case of television, there is the ban of concentration of businesses if it could affect the achievement or strengthening of a dominant position by one company (when its market share will equal at least 40%).

**f) Lawsuits in relation to the market liberalization**

During the process of organizing and selecting the providers of multiplexes there were no direct lawsuits related to it.

**3) Short summary of the prevailing legal frames of the expansion on the media markets (media concentration rules)**

**a) Limitation on the market positions within the single media markets**

In Poland there are no legal restrictions concerning concentration of one owner's market shares. For example, Ringier Axel Springer owns the most popular "Fakt" daily, the second, in terms of sales, "Newsweek" weekly, the "Przegląd Sportowy" sports daily and the "Dziennik Gazeta Prawna" daily. However, it is obligatory to obtain the consent of the Office for Competition and Consumer Protection for transactions involving contractors whose annual turnover exceeds EUR 1 billion worldwide and EUR 50 million in Poland.

In addition, the law prohibits the acquisition or merger, if the concentration could lead to achievement or strengthening of a dominant position by one of the entities. A dominant position of a broadcaster means that they gained at least 40% of the market share.

**b) Limitation on cross-ownership between different media sectors**

In Poland there are no legal restrictions concerning concentration of the market shares on different media markets. For example, the Bauer Media Group company owns 38 glossy magazines, the largest RMF radio station and the Interia.pl web portal. In 2004, there broke the corruption Rywin affair, which involved working on a project to introduce restrictions to the cross-concentration on the media market. The project was intended to address the prohibition to hold television concession by newspapers or magazines publishers. The words "or magazines" were deleted during the work on the project. The Act in such form would be unfavourable to the Agora company, the publisher of the "Gazeta Wyborcza" daily newspaper. Due to the affair, the works on the act were ceased.

**c) Limitations on the interpenetration between media providers and network operators or program producers**

There are no provisions concerning restrictions on interference or limiting among media providers and network operators or program producers. This possibility was used by two large players in the television market. The situation on the satellite television market can be compared to an oligopoly, where Cyfrowy Polsat (the owner of Polsat television station), with 63% of the shares in the market, has a dominant position. NC+ platform (belonging to the owner of the TVN television station) is in the second position and has 28.8% of the shares. Orange TV is on the third position and has 8.1% of the shares. In the cable television market there is a greater dispersion and there are no companies that run television stations.

**d) Special media concentration rules in the competition law**

The provisions of Polish law apply to restrictions in the horizontal concentration. This has been referred to in the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2007, No. 50, item. 331). The Act prohibits concentration between businesses (through a merger, acquisition or creation of a joint undertaking) if the concentration could lead to achievement or strengthening of a dominant position by one of the entities on a given market, i.e. if its market share exceeds 40% or considerably infringes the rules of competitiveness.

**e) List and short summary (1-2 sentences) of the relevant cases (where investor was involved)**

In 2013, the President of the Office for Competition and Consumer Protection agreed that Polskapresse group buys the "Media Regionalne" enterprise (publisher of 9 regional journals)

from the British Mecom Group Fund. The transaction could take place on condition that “Dziennik Wschodni” would be sold to another owner due to the fact that in the Lublin region Polskapresse published the “Kurier Lubelski” newspaper and a concentration of both newspapers would lead to monopolization of the daily newspapers market in the Lublin Voivodeship. Polskapresse was given 12 months to sell the “Dziennik Wschodni”. During this period, Polskapress was required to issue the newspaper in unchanged form and number of copies. In 2014, “Dziennik Wschodni” was sold to a local company – Corner Media.

#### **4) Legal reasons of the leaving of national market – if there was or there is a tendency of leaving the market**

**a) Number of television channels broadcasted from other European member states/ number of television channels broadcasted from inland – relevance of the country of origin principle regulated by the European television/audiovisual directive that makes it possible to broadcast the program from any member state to any others**

In Poland there are no television channels, broadcasted by broadcasters from other European member states, enjoying popularity (the lack of such channels in the list of 50 most popular TV channels in Poland, with viewing figures of minimum 0.32%).

**b) Regulations that significantly restrict(ed) the economic possibilities of the market players during the whole period of liberalized media market**

The Broadcasting Act requires that programs produced by domestic producers take at least 30% of the annual broadcasting time.

On 5 July 2016 the amendment to the Broadcasting Act was entered into force. It introduced the ability to reduce the share of programs originally produced in the Polish language (now at least 33% of the quarterly broadcasting time) and European programs (now at least 50% of the quarterly broadcasting time). The reduction shall be made by the President of the National Broadcasting Council at the request of the broadcaster.

High fees for awarding the licences constitute the restriction of competition. In 2012, the Parliament cut charges for awarding licenses for digital broadcasting with the use of multiplex by 50%. Justification for lowering the fees was to reduce economic barriers for smaller television stations. Before the lowering of charges, only programs belonging to the four largest television stations (TVP, Polsat, TVN and TV Puls) had the licenses.

On the other hand, the National Broadcasting Council, by specifying the criteria, awarded the licenses to many channels which broadcast reruns of programs and use the same archives. Apart from the four major stations in the market (TVP, Polsat, TVN and TV Puls) only one company was present on the digital multiplex – ZPR Media. It received licenses for three programs, including two music programs. In view of the above, there are big reservations regarding competitiveness and diversity of programs for television stations that received a license. It is worth indicating that many other television stations also applied for licenses, however, usually ineffectively (the list of stations which did not manage to obtain licences for digital multiplex is contained in the point I. d) i.)

The situation changed slightly in the last 2 years. The licenses were granted to four television programs non-related in terms of capital with four major stations – Green Content Sp. z o.o. (Metro), Cable Television Networks & Partners Sp. z o.o. (Zoom TV), WP1 Sp. z o.o. (WP1) and Trans-System Sp. z o.o. (TVT).

**c) Possible other legal means to crowd out the foreign investors (e.g special taxes, any discriminatory measures)**

In Poland, there are no provisions that could discriminate foreign investors, including special taxes or other ways of discrimination.

**5) Legal frames of the newspaper market's liberalization (if there was or is any) – at the time of the liberalization and recently**

**a) List of the applicable laws**

The Act of 26 January 1984 on Press Law (Journal of Laws 1984, No. 5 item 24, last amendment in 2013).

**b) Market entry rules (registration)**

Press publishing requires registration in the district court competent for the seat of the publisher. The application contains information about the daily or magazine, the publisher (name, registered office and address), an indication of the editor-in-chief and determines the frequency of publication. Registration of the press title is free of charge.

**c) Ownership rules regarding the print media**

In Poland there are no legal restrictions governing the ownership and concentration of capital in the print media.





## 1) Legal frames and tender conditions of the television market's liberalization (at the time of the liberalization) – if there were more tenders under different regulations, please describe all of these.

### a) List of the applicable laws (at the time of the market entry)

After the fall of communism the Czechoslovak Television (CST) embarked on a process of transformation into a public service broadcaster, on 4 September 1990 the first national channel became Federal 1 (a Czechoslovak channel) and the second channel was divided into the Czech (CTV) and the Slovak (S1) parts. The third channel – previously occupied by Soviet broadcasts (under the name 'Central programme of Soviet television', Ústredný program sovietskej televízie) – was replaced by OK3 in the Czech Federal Republic (it started broadcasting on 15 May 1990 and offered a mixture of satellite rebroadcasts) and TA3 in the Slovak Federal Republic (started broadcasting on 6 June 1991), however, in case of the latter, it interrupted its broadcasting in 1992.

Former Czechoslovakia (the Czech and Slovak Federal Republic at the time of adopting the law) was the first country of the post-communist block that passed the Law on Radio and Television Broadcasting (the law was passed on 30 October 1991 under the name of the Law No. 468/1991 Coll. on Radio and Television Broadcasting). The law created a legal basis for a dual radio and television broadcasting system as it established framework and conditions for a procedure of license granting, it stipulated conditions for public and private broadcasters, their content-related requirements, as well as, inter alia, conditions for advertising and sponsorship.

In 1993, based on the Slovak Constitution (No. 460/1992 Coll. from 1 September 1992, Art. 152(1)), Slovakia inherited legal basis from Czechoslovakia.

The Law No. 166/1993 Coll. on Measures in Radio and Television Broadcasting made the real conditions for development of a dual system of broadcasting in Slovakia possible.

In fact, in the years 1990-1992, both on a national and federal level more than fifteen very important new legal norms or amendments to the old laws were media-related. As analysed by Školkay (*Media law in Slovakia*, pages 52-53) after 1993 and until 1998 the new media legislation was primarily led by three dimensions: firstly, the correction of imperfect laws passed in previous years; secondly, to reflect the dismantling of the federal state and creation of an independent Slovak Republic; and thirdly, the deepening of the state's influence on public media (and the news agency) as well as the attempt to reintroduce state intervention in independent press, usually through economic laws.

For example, the platform of the new government established after 1994 parliamentary elections (dominated by Vladimír Mečiar's Movement for Democratic Slovakia (*Hnutie za demokratické Slovensko*, HZDS) requested that public broadcasters shall respect the national-state, cultural and public interests of the Slovak Republic what represented a complete U-turn in the principle of public media – from the interests of citizens towards the interests of the state.

In other words, media legislation became a major political tool in attempts to influence media reporting, in particular in case of the public STV (Slovak Television), but also in numerous

attempts to suppress media freedom in Slovakia during the period which is often referred to as 'Mečiar era' (1994-1998)<sup>1</sup>.

After the 1998 parliamentary elections that brought new political representation, led by the Prime Minister Mikuláš Dzurinda (1998-2006) from the Slovak Democratic Coalition (*Slovenská demokratická koalícia, SDK*)<sup>2</sup>, Slovakia started its EU accession process that materialized in 2004 by a EU membership.

While it was officially the Ministry of Culture that was responsible for the approximation process in the media field, in reality the process was led by the Council for Radio and Television Broadcasting due to its experienced staff. The negotiation process, including legal framework assessments resulted in the entirely new media legislation, primarily the Law on Broadcasting and Retransmission No. 308/2000 Coll. The law basically implemented the EU's *acquis communautaire* in the field. Noteworthy, the regulation of broadcasting was separated from regulation of telecommunications (by two different laws), including two different regulatory bodies – currently, the Council for Broadcasting and Retransmission and the Office for Regulation of Electronic Communications and Post Services.

### **Legal framework for the broadcast media (general):**

- The Bill of Rights - No. 23 from 9 January 1991 (*Listina základných práv a slobôd, č. 23/1991 Zb.*)<sup>3</sup>
- The Slovak Constitution - No. 460 from 1 September 1992 (*Ústava Slovenskej republiky, č. 460/1992 Zb.*)

### **Legal framework for the broadcast media (specific):**

- The Law on Radio and Television Broadcasting – Federal law No. 468 from 30 October 1991 (*Zákon o prevádzkovaní rozhlasového a televízneho vysielania, č. 468/1991 Zb.*)
  - The law was abolished and replaced in 2000 by the new law on Broadcasting and Retransmission (No. 308/2000 Coll.) while in the meantime it was amended almost 20 times, most importantly by:
- The Law on Measures in Radio and Television Broadcasting - No. 166 from 14 July 1993 (*Zákon o opatreniach v oblasti rozhlasového a televízneho vysielania, č. 166/1993 Z.z.* 4)
  - The law No. 166/1993 Coll. split frequency spectrum between Czech and Slovak Republics and redefined transmission frequencies for public broadcasters (*Slovak Radio, SRo; and Slovak Television, STV*) – the second nationwide television channel was divided between public broadcaster and potential private license holder, whereas the third nationwide TV channel, called in Slovakia TA3 was reserved for a private broadcaster. At the same time, some frequencies used by the Slovak Radio were reassigned for private broadcasters. The law also stipulated that the nationwide licenses granted by the Broadcasting Council shall be approved by the National Council of the Slovak Republic (the Parliament). As such, the law further broadened conditions for dual system of broadcasting in the Slovak Republic.
- The Law on License Fees and on Amendments to the Law on Radio and Television Broadcasting – No. 212 from 1995 (*Zákon o koncesionárskych poplatkoch a o zmene zákona o prevádzkovaní a rozhlasového a televízneho vysielania, č. 212/1995 Z.z.*)
- The Law on the Council of the Slovak Republic for Radio and Television Broadcasting – No. 160 from 1997 (*Zákon o Rade SR pre rozhlasové a televízne vysielanie a o zmene zákona o prevádzkovaní a rozhlasového a televízneho vysielania, č. 160/1997 Z.z.*)

1 Vladimír Mečiar served as Prime Minister of the Slovak Government in three periods, between 1990-91, 1992-94 and 1994-98.

2 In 2000 Prime Minister Dzurinda established the Slovak Democratic and Christian Union, (*Slovenská demokratická a kresťanská únia, SDKÚ*) that presented itself as a successor of SDK.

3 Zb. (Zbierka) – Coll. (Collection) of laws, abbreviation used for the laws adopted until the end of the Czecho-Slovak Federal Republic – until 31 December 1992.

4 Z.z. (Zbierka zákonov) – Coll. (Collection) of laws, abbreviation used for the laws adopted since the existence of the Slovak Republic – as of 1 January 1993.



- The Law on Slovak Television – The Slovak parliament law No. 254 from 24 May 1991 (*Zákon o Slovenskej televízii, č. 254/1991 Zb.*)
  - Later replaced by The Law on Slovak Television – No. 16 from 4 December 2003 (*Zákon o Slovenskej televízii, č. 16/2004 Z.z.*)

Later replaced by the Law on Slovak Radio and Television – No. 532 from 15 December 2010 that merged both Slovak Radio and Slovak Television into one institution (*Zákon o Rozhlase a televízii Slovenska, č. 532/2010 Z.z.*)

- The Law on Slovak Radio – No. 255 from 24 May 1991 (*Zákon o Slovenskom rozhlase, č. 255/1991 Zb.*)
  - Later replaced by The Law on Slovak Radio – No. 619 from 4 December 2003 (*Zákon o Slovenskej rozhlase, č. 619/2003 Z.z.*)
  - Later replaced by The Law on Slovak Radio and Television – No. 532 from 15 December 2010 that merged both Slovak Radio and Slovak Television into one institution (*Zákon o Rozhlase a televízii Slovenska, č. 532/2010 Zz.*)

Both public service media laws defined the broadcasters as national, independent, public service oriented, informational, cultural and educational institutions. It was for the first time (alongside with the similar laws adopted in the Czech Republic) in the legislation of the Central and Eastern European countries that the former state radio and television media outlets were transformed into the public service media. As further stipulated by both laws, the mandate of public service broadcasters was to serve public by production and broadcasting of the programmes based on principles of democracy, humanity, ethics, truthfulness, independence, professionalism and legality, including the timely and objective information provided through their news and current affairs programmes.

- The Law on the Council of the Slovak Republic for Radio and Television Broadcasting – The Slovak parliament law No. 294 from 5 May 1992 (*Zákon o Rade SR pre rozhlasové a televízne vysielanie, č. 294/1992 Zb.*)
  - Later replaced by The Law on the Council of the Slovak Republic for Radio and Television Broadcasting – No. 160 from 21 May 1997 (*Zákon o Rade SR pre rozhlasové a televízne vysielanie, č. 160/1997 Z.z.*)

#### **Legal framework for the print media:**

- The Press Law – No. 81 from 25 October 1966 (*Zákon o periodickej tlači a ostatných hromadných informačných prostriedkoch, č. 81/1966 Zb.*)

#### **b) Summary of the rules of terrestrial frequency tenders**

- Name and constitution of the organization (regulatory authority) that coordinates and decides the tender*

The media environment was governed by the Ministry of Culture that in 1991 established the Commission for Radio and Television Broadcasting (*Komisia pre rozhlasové a televízne vysielanie*) to oversee the media environment until the permanent body would be established. In May 1992 the Law on the Council of the Slovak Republic for Radio and Television Broadcasting was adopted to set the legal basis for the regulatory body for the broadcast media environment - the Council of the Slovak Republic for Radio and Television Broadcasting (*Rada Slovenskej republiky pre rozhlasové a televízne vysielanie*, hereinafter 'the Council').

- Rules of the decision-making*

When deciding on the license applications, the Council had to take into consideration criteria on (based on the Law No. 468/1991 Coll.):

- Ensuring conditions for plurality and balance of programmes offer, in particular of local programmes;
- Comparable accessibility of culture values, information and opinions;
- Ensuring development original culture of nations, nationalities and ethnicities in the Republic;
- Scope of the previous business activities of the applicant in the media environment

At the same time, the Council was obliged to prevent situation that the applicants would gain dominant position in the media environment.

In addition, in case of application with foreign investment, the Council had to consider applicant's benefits for developing of local production; as well as on share of Slovak personnel, including both financial and executive participation.

iii) *Entitled persons and organizations that can apply; incompatibilities and special ownership rules*

Both legal entities and physical persons could apply for the license. The law explicitly prohibited public broadcaster to be a shareholder of the applicant's company.

iv) *Legal form (contract, licence etc.) and content elements of the licence*

The licence was granted by an administrative decision of the Council and confirmed by the Slovak Parliament - the National Council of the Slovak Republic (*Národná rada Slovenskej republiky*). This direct political involvement was removed by the 2000 Law on Broadcasting and Retransmission. The license contains a number of content elements, *inter alia*:

- Type of the license – declaring the broadcasting outreach;
- Name of the service (of the channel);
- Timeframe of the broadcasting (per week);
- Language of the broadcasting;
- Share of programme types (newscasts, current affairs, documentary, drama, entertainment, music, education, religion, sport);
- Share of public interest programmes;
- Share of European production
- Share of independent European production;
- Information on broadcaster shareholders as well as on its statutory bodies/representatives

v) *Duration of the licence, conditions of extension*

A decision on license was granted for up to six years for radio broadcasting and up to 12 years for television broadcasting. While the original law On Radio and Television Broadcasting (No. 468/1991 Coll.) did not foresee any possibility to extend the granted license, the Law on Broadcasting and Retransmission (No. 308/2000 Coll.) incorporated such procedure (maximum one additional term) into the Slovak legal environment as of 2000 as well as it prolonged a radio license duration from six to eight years.

## c) **Summary of the tender conditions**

i) *Financial criteria*

There were no explicit financial criteria introduced by the legislation. Nevertheless, financial background of the applications played a significant role in license-granting decision-making since the beginning. More importantly even during the later years based on negative experience with first license holders (*DCTV, VTV*) that faced serious financial constraints leading eventually to stop of their operations.

ii) *Criteria on the media content*

As mentioned above (question b - iv) there were several essential content elements important for granting a license, inter alia:

- Share of programme types (newscasts, current affairs, documentary, drama, entertainment, music, education, religion, sport);
- Share of public interest programmes;
- Share of European productions;
- Share of independent European productions

iii) *Specific conditions (e.g. on ownership, business plan etc.) that influenced essentially the tender result*

The law defined certain specific legal requirements that were obligatory (as stated above), while other aspects could influence the result alongside. Nevertheless, at the beginning of the liberalization, the decisions on granting the bigger television licenses were highly politicized.

**d) Summary of the tendering procedure(s) and its result(s)**

i) *Name and owners of applicants*

In the television sector, the first private channels appeared in the Slovak air only at the beginning of 1995, despite the fact that the legal conditions were in place since the end of 1991. On 16 January started its cable-satellite operation (in a trial mode, and one month later as a full operation) national channel DCTV (Danubius Cable TV). However, due to financial problems channel had to cease its activities four months later. In February 1995 appeared first terrestrial, regional, TV channel called Sever (North) and in April 1995 the first multiregional, though aired via satellite and later also by cable, television VTV (Yourtelevision, Vaša televízia) .

The latter one was closely linked with the ruling party of then Prime Minister Vladimír Mečiar, the Movement for a Democratic Slovakia (Hnutie za demokratické Slovensko, HZDS), as its owners were either members of the party or publicly supporting it.

At the same time, a partial privatization of STV 2 (second channel of public television) was planned to cover the whole territory of the country. Some considerations were given to an idea that a commercial company would air from evenings until early morning, and public television at other times – as inspired by the Finnish model (where both public and private channels coexisted on one channel until 1992). Yet, these plans have never materialized.

In fact, it was not until 31 August 1996 that a first national terrestrial (then the most important method of signal transmission) channel started its activity, namely TV Markíza. The company was a sister television to Czech private broadcaster TV Nova, co-owned by the Central Europe Media Enterprises (CME).. Currently, the CME (that is since 2009 of a Time Warner media group) is a majority owner of the channel that dominates the market basically since its launch. Even in case of TV Markíza the process of license-granting was by various experts seen as politically-influenced due to some former links between one of the channel's owners Pavol Rusko and the ruling HZDS.

The first official radio licenses for private radio broadcasters in Slovakia were issued in May 1992 when about sixteen private radio stations were already operating in the Czech Republic.

ii) *Arguments of decision*

As explained by Šolkay (*Media Law in Slovakia*, page 31-32), a reason for such a late start of private television broadcasters “was clearly a political one”. As he stated, “in 1991, there was evidently no interest among leading politicians in the Christian Democratic Movement (*Kresťanskodemokratické hnutie, KDH*; the strongest political group in the

Slovak parliament) in supporting private radio and television broadcasting. Then Prime Minister Ján Čarnogurský, was clearly in favour of postponing private radio and television broadcasts for at least two years". Later on, during the rule of Mečiar "authoritarian politicians from HZDS were afraid of any critical voices in a major independent medium".

**e) Summary of the laws of the market entry on cable networks and satellite (at the time of the liberalization)**

The whole television and radio environment was regulated by the same legal framework as enumerated in the section 1a).

**f) Lawsuits in relation to the market liberalization**

There were no real lawsuits concerning liberalization of the television market *per se*.

While there was a long-standing case concerning VTV channel (legality of license transfer to different owner based on execution) and later even a political-profile case of TV Markíza<sup>1</sup>, it has dealt with legality of a license transfer in the case of the former and with an ownership structure in a case of the latter, rather than with their market entry.

**2) Short summary of the prevailing market access rules (television) with focus on the main changes as compared to the point 1!**

**a) List of the applicable laws (currently in place)**

Currently, there are these laws concerning media environment applicable in Slovakia:

**Media-related (general):**

- The Slovak Constitution - No. 460 from 1 September 1992 (Ústava Slovenskej republiky, č. 460/1992 Zb.)
- Civil Code - No. 40 from 26 February 1964 (Občiansky zákonník, č. 40/1964 Zb.)
- Penal Code - No. 300 from 20 May 2005 (Trestný zákon, č. 300/2005 Z.z.)
- Freedom of Information Act - No. 211 from 17 May 2000 (Zákon o slobodnom prístupe k informáciám a o zmene a doplnení niektorých zákonov, č. 211/2000 Z.z.)
- The Law on Administrative Fees - No. 145 from 22 June 1995 (Zákon o správnych poplatkoch, č. 145/1995 Z.z.)
- The Law on State Language of the Slovak Republic - No. 270 from 15 November 1995 (Zákon o štátnom jazyku Slovenskej republiky, č. 270/1995 Z.z.)
- The Law on the Use of Languages of National Minorities - No. 184 from 10 July 1999 (Zákon o používaní jazykov národnostných menšín, č. 184/1999 Z.z.)

**For the broadcast media:**

- The Law on Compulsory Copies of Periodicals, Non-periodicals and Multiplications of Audiovisual Products – No. 212 from 3 July 1997 (Zákon o povinných výtlačkoch periodických publikácií, neperiodických publikácií a rozmnoženín audiovizuálnych diel, č. 212/1997 Z.z.)
- The Notification of the Foreign Ministry of the Slovak Republic on Adoption of the European Convention on Trans-frontier Television – No. 168 from 11 June 1998 (*Oznámenie Ministerstva zahraničných vecí SR o uzavretí Európskeho dohovoru o cezhraničnej televízii*, č. 168/1998 Z.z.)
- The Law on Broadcasting and Retransmission - No. 308 from 14 September 2000 (*Zákon o vysielaní a retransmisii*, č. 308/2000 Z.z.)
- The Law on Advertising - No. 147 from 5 April 2001 (*Zákon o reklame a o zmene a doplnení niektorých zákonov*, č. 147/2001 Z.z.)

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<sup>1</sup> The ownership dispute culminated in 1998, prior to the parliamentary elections. Since the channel's editorial policy was perceived as opposition-affiliated, the attempts of management takeover were seen as politically motivated and resulted in public protests that included numerous representatives of then opposition to ruling party of Vladimír Mečiar's HZDS.

- The Notification of the Foreign Ministry of the Slovak Republic on Adoption of Amending Protocol to the European Convention on Trans-frontier Television – No. 345 from 29 June 2002 (*Oznámenie Ministerstva zahraničných vecí SR o prijatí Protokolu pozmeňujúceho Európsky dohovor o cezhraničnej televízii*, č. 345/2002 Z.z.)
- The Law on Protection of Some Radio and Television Programme Services and Information Society Services – No. 646 from 13 December 2005 (*Zákon o ochrane niektorých rozhlasových programových služieb a televíznych programových služieb a služieb informačnej spoločnosti a o zmene a doplnení zákona č. 128/2002 Z.z. o štátnej kontrole vnútorného trhu vo veciach ochrany spotrebiteľa a o zmene a doplnení niektorých zákonov v znení neskorších predpisov*, č. 646/2005 Z.z.)
- The Law on Digital Broadcasting - No. 220 from 29 March 2007 (*Zákon o digitálnom vysielaní programových služieb a poskytovaní iných obsahových služieb prostredníctvom digitálneho prenosu*, č. 220/2007 Z.z.)
- *The Audiovisual Law – No. 343 from 20 June 2007 (Zákon o podmienkach evidencie, verejného šírenia a uchovávanía audiovizuálnych diel, multimediálnych diel a zvukových záznamov umeleckých výtvorov a o zmene a doplnení niektorých zákonov [Audiovizuálny zákon]*, č. 343/2007 Z.z.)
- The Law on Payment for Services to the Public Provided by the Slovak Television and the Slovak Radio – No. 68 from 15 February 2008 (*Zákon o úhrade za služby verejnosti poskytované Slovenskou televíziou a Slovenským rozhlasom a o zmene a doplnení niektorých zákonov*, č. 68/2008 Z.z.)
- The Law on Certain Measures Concerning the Slovak Radio and the Slovak Television – No. 312 from 30 June 2009 (*Zákon o niektorých opatreniach týkajúcich sa Slovenského rozhlasu a Slovenskej televízie*, č. 312/2009 Z.z.)
- The Law on Slovak Radio and Television – No. 532 from 15 December 2010 (*Zákon o Rozhlase a televízii Slovenska*, č. 532/2010 Z.z.)
- The Law on Electronic Communications – No. 351 from 14 September 2011 (*Zákon o elektronických komunikáciách*, č. 351/2011 Z.z.)
- The Law on the Office for Regulation of Electronic Communications and Post Services – No. 402 from 27 November 2013 (*Zákon o Úrade pre reguláciu elektronických komunikácií a poštových služieb a Dopravnom úrade a o zmene a doplnení niektorých zákonov*, č. 402/2013 Z.z.)
- The Audiovisual Act – No. 40 from 3 February 2015 (*Zákon o audiovizii a o zmene a doplnení niektorých zákonov*, č. 40/2015 Z.z.)
- The Law on Copyright – No. 185 from 1 July 2015 (*Autorský zákon*, č. 185/2015 Z.z.)

#### **For the print media:**

- The Law on Compulsory Copies of Periodicals, Non-periodicals and Multiplications of Audiovisual Products – No. 212 from 3 July 1997 (*Zákon o povinných výtlačkoch periodických publikácií, neperiodických publikácií a rozmnoženín audiovizuálnych diel*, č. 212/1997 Z.z.)
- The Press Law – No. 167 from 9 April 2008 (*Zákon o periodickej tlači a agentúrnom spravodajstve a o zmene a doplnení niektorých zákonov*, č. 167/2008 Z.z.)
- The Law on The News Agency of the Slovak Republic – No. 385 from 23 September 2008 (*Zákon o Tlačovej agentúre Slovenskej republiky a o zmene niektorých zákonov*, č. 385/2008 Z.z.)

#### **b) Summary of the rules of terrestrial frequency tenders**

- Name and constitution of the organization (regulatory authority) that coordinates and decides the tender*

The broadcast media environment is overseen by the Council for Broadcasting and Retransmission (Rada pre vysielanie a retransmisiu). Its activity and the rules for terres-

trial frequency tenders is currently based on the above mentioned Law on Broadcasting and Retransmission, No. 308/2000 Coll.

Alongside the above-mentioned Law on Broadcasting and Retransmission, there is the mentioned Law on Digital Broadcasting, No. 220/2007 Coll. that governs the area of digital broadcasting, including procedures for applying and granting digital licenses.

Slovakia has tested its digital switchover to DVB-T since 2004 and in years 2009-2011 experienced process of finalization that led to launch of four multiplexes for broadcasters transmitting in a digital terrestrial way (based on the licenses for digital terrestrial broadcasting). Alongside, as of 1 June 2007 the law does not anymore allow to grant a license for analogue terrestrial broadcasting, only for broadcasting via cable or satellite. For example, as reported by the Council for Broadcasting and Retransmission in its 2013-2015 Reports on State of Broadcasting, in mentioned three years it granted 59 licenses for digital terrestrial television broadcasting (based on the Law on Digital Broadcasting No. 220/2007 Coll.), while at the same time it issued only two licenses for cable broadcasting (based on the Law on Broadcasting and Retransmission No. 308/2000 Coll.).

ii) *Rules of the decision-making*

While in the question in the section 1 (b. ii) this texts described issuing of licenses for analogue broadcasting at the beginning of the liberalization process (since 1991), this section refers mostly to the process of granting licenses for analogue terrestrial broadcasting since 2000 (based on the Law on Broadcasting and Retransmission) and mostly to the process of granting licenses for digital terrestrial broadcasting (based on the Law on Digital Broadcasting).

According to the Law on Broadcasting and Retransmission No. 308/2000 Coll. the process of license granting had to be initiated and appropriately announced by the Council, it does not start as a consequence of the application.

The Council has normally announced tenders twice a year, usually in spring and autumn. The law obliges the Council to announce the tender at latest 18 months prior to expiry of the existing license for nationwide and multiregional television frequency; and at least 16 months prior to expiry of the existing license for regional and local television frequency.

The start of the tender the law requires that the Council announces basic conditions of the tender in at least two dailies with a nationwide outreach, on its official board in its seat, as well as on its official website.

Based on the Law on Broadcasting and Retransmission, the Council, when deciding on the applications during a public hearing, has to take into consideration, besides assessing fulfillment of obligatory requirements on the applicants, seven additional criteria on:

- Conditions for ensuring plurality of information and media content;
- Transparency of applicant's ownership structure;
- Transparency and reliability of financial sources assigned for broadcasting;
- Balance of proposed programming structure towards the existing programming offer on a territory that will be covered by the applicant;
- Benefit towards broadcasting and production of programmes of public interest;
- Prevention of situation in which the applicants would gain dominant position at the relevant market;
- Appropriate share of Slovak financial sources as well as participation of Slovak representatives in the management bodies, if the applicant is a legal person with foreign financial ownership

In license granting and allocation of the frequencies for analogue terrestrial broadcasting the Council cooperates with the Office for Regulation of Electronic Communications (the Regulation Office) which manages the frequency spectrum. The frequency



chosen for the license tender, including its technical parameters, is decided by the Regulation Office. As a result, there is a so-called frequency list with all the parameters issued as an obligatory attachment of the granted license.

In comparison to the Law on Broadcasting and Retransmission, the Law on Digital Broadcasting provides a legal entitlement for applicants to be granted the license. Given this fact, the Law does not foresee any special or additional criteria that the Council shall/has to take into consideration - besides assessing fulfillment of obligatory requirements on the applicants.

The procedure starts by the day of application and the Council has 90 days to decide on granting the license or rejecting the application, in case of any of six explicit conditions enumerated by the Law No. 220/2007 Coll.

*iii) Entitled persons and organizations that can apply; incompatibilities, special ownership rules*

Both legal entities and physical persons can apply for the license for digital broadcasting (digital license). In case of digital broadcasting, the public service broadcaster has also a status of an applicant. At the same time, an applicant that does not have a status of a public service broadcaster, cannot be granted more than one license for digital broadcasting. In principle, the law allows to grant license to these applicants:

- Natural person that is legally capable, has a permanent or temporary residence in Slovakia and was not convicted for a deliberate criminal offence conducted in connection with broadcasting or for an economic crime;
- Legal person that has a seat of its headquarters or of its organizational part in Slovakia, is a legal entity listed in Business register, and in case of a joint stock company it has its shareholders registered by name;
- Public service broadcaster
- In terms of ownership requirements, the entire ownership structure must be declared if the applicant is a legal entity, in particular the following:
- Name, legal business form, the registration number, seat (in case that the applicant is a foreign company, then it lists both data on the main office as well as on the company's organizational part in Slovakia). Such data shall be declared concerning all the partners or shareholders as well as the persons representing the company in the statutory or supervisory positions
- Data on the applicant's capital, financial contributions, stocks and financial assessment of other non-monetary shares of all the partners and shareholders

While the law does not require it, the application form also obliges the applicant (if it is a legal entity) to declare financial amount that is designed for broadcasting purposes.

The law does not explicitly prohibit ownership or shareholder position in the structure of other broadcasters. However, in such circumstances the applicant is obliged to present them in the application.

*iv) Legal form (contract, licence etc.) and content elements of the licence*

The decision that grants the digital television license contains the following components:

- Type of the license (nationwide, regional or local);
- Name of the programme service;
- Data on persons that have shares on license holder's capital or its voting rights (not applicable if the license holder is a public service broadcaster);
- Data on statutory and supervisory bodies (not applicable if the license holder is a public service broadcaster);
- Language(s) of the broadcasting;
- Timeframe of the broadcasting;
- Shares of various programme types;

- Share of programmes of a public interest (it cannot be lower than 15 per cent);
- Share of programming time dedicated to European production;
- Share of programming time dedicated to independent European production; or a share of acquisition or production costs of such products on the total share of the acquisition or production costs of all the channel's products

According to the Law on Administrative Fees No. 145/1995 Coll. there is an administrative fee for each type of the license, in the following manner:

- For nationwide or multiregional analogue broadcasting – 265,5 EUR
- For analogue broadcasting to abroad – 199 EUR
- For regional analogue broadcasting – 132,5 EUR
- For local analogue broadcasting – 66 EUR
- For nationwide digital television broadcasting – 663,5 EUR
- For regional digital television broadcasting – 331,5 EUR
- For local digital television broadcasting – 66 EUR

v) *Duration of the licence, conditions of extension*

The license for digital broadcasting is granted for unlimited period, unless the applicant requires the specific duration of the license.

**c) Summary of the tender conditions**

i) *Financial criteria*

There are no explicit financial criteria introduced by the Law on Digital Broadcasting.

ii) *Criteria on the media content*

The Law (as well as relevant Application form) enumerates several essential content elements important for granting a digital license, *inter alia*:

- Proposed programme structure, including the information on programming parts that are taken from other broadcasters;
- Specification of programme types;
- Share of public interest programmes; or the share of the costs annually spent on production of such programmes;
- Share of European production;
- Share of independent European production; or a share of acquisition or production costs of such products on the total share of the acquisition or production costs of all the channel's programming

iii) *Specific conditions (e.g. on ownership, business plan etc.) that essentially influenced the tender result*

As mentioned above, the application form obliges the applicant (if it is a legal entity) to declare its financial resources designed for broadcasting purposes.

Overall, the law requires all applicants (regardless of their legal form) to declare (and support by evidence) several facts concerning their ownership and cross-ownership, as follows:

- If the applicant is already a broadcaster in the Slovak Republic or abroad; or is personally or financially connected with another broadcaster in the Slovak Republic or abroad;
- If the applicant is a publisher of periodical publication or an owner of the news agency in the Slovak Republic or abroad; or is personally or financially connected with another publisher or news agency in the Slovak Republic or abroad;
- If the applicant is a provider of the terrestrial multiplex in the Slovak Republic; or is personally or financially connected with a provider that operates terrestrial multiplex in the Slovak Republic



The law also devoted another part to ensuring external plurality and ownership transparency by requiring the following:

- Financial connection between broadcasters is prohibited;
- Financial and personal connection between a broadcaster and a provider of terrestrial multiplex is prohibited (unless it is a regional or local broadcaster and the provider operates local terrestrial multiplex);
- Legal or natural person that is financially of personally connected with the nationwide broadcaster cannot be financially connected with the multiplex provider;
- Legal or natural person that is financially of personally connected with the regional broadcaster cannot be financially connected with more than one provider of multiplex;
- Legal or natural person cannot be financially connected with more multiplex providers in case that signal of all multiplexes of all the providers connected with the person can be received more than 50 per cent of population in the Slovak Republic

#### **d) Summary of the tendering procedure(s) and its result(s)**

While the digital terrestrial television (video) broadcasting (DVB-T) should have essentially broadened a programming structure in areas covered by both major multiplexes (with public television and major private channels), including by other accompanying multiplexes. The key and only player on the market of multiplex providers is a joint-stock company Towercom, a.s. which in privatization gained extensive transmission infrastructure of Rádiokomunikácie (then the company semi-owned by the state and by the Deutsche Telekom).

The process in Slovakia has been launched in a trial mode in 2004 and finalized between 2009-2011. The first DVB-T multiplex started on 22 December 2009 (MUX1, first commercial) covering 80.3 per cent of population. The next multiplex (MUX2, first public service) started to operate on 11 June 2010 and currently covers more than 98 per cent of population. Shortly afterward, on 28 June 2010 started third multiplex (MUX3, second commercial, with major private channels) that nowadays covers more than 95 per cent of population. One other multiplex (MUX4) is for paid programmes and covers 78 per cent of population.

Nevertheless, based on the various data, television signal in Slovakia is predominantly received via satellite, followed by cable networks. As presented by the research Satellite Monitor 2015 conducted by SES Astra<sup>1</sup>, 50 per cent of households receives signal via satellite, some 25 per cent via cable, 14 per cent relies on DVB-T signal and 11 per cent on IPTV.

As informed by the Towercom, Slovakia should expect switch to upgraded format DVB-T2 at least in one of the existing multiplexes by the end of 2016.

However, as pointed out by Valček (Will Markíza scrap DVB-T Smer has done long time ago), the current discussions concerning a possible withdrawal of the most popular television TV Markíza from private multiplex (MUX3) support past concerns that the DVB-T system was determined to fail since its beginning. According to Branislav Máčaj, former Chair of the Telecommunication Office (the body was replaced by the Regulatory Office in 2013) the DVB-T system represents a lost opportunity for Slovakia saying that none of the big strategic goals, articulated by the governmental Strategy of digital switchover from 2006, was met. Additionally, he argued the failure was pre-agreed between politicians and broadcasters to limit new market players, thus pushing the advertising revenues of the existing ones.

The J&T group that is owner of the second most popular private broadcaster JOJ TV (and by various experts believed to be behind JOJ Media House - see more in section 3.e) was also by many experts claimed to be connected with Towercom, the provider of terrestrial multiplexes in Slovakia. While the financial group has on several occasions denied its links to the provider, Towercom has for several years very nontransparent structure.

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<sup>1</sup> SES Astra, SES: Television satellite broadcasting gains regularly more popularity (SES Televízne satelitné vysielanie je čoraz populárnejšie), 2016, available at <http://www.satelitnatv.sk/2016/04/ses-televizne-satelitne-vysielanie-je-choraz-popularnejsie/>

The tender for multiplex providers was announced in 2008 by the Telecommunication Office and despite various turbulences, including its cancellation, was eventually conducted in 2009.<sup>1</sup> In the meantime during the period when the parameters of the tender were to be set, Branislav Máčaj who criticized the process, pointing out that lobbying of broadcasters influences the tender conditions in a way that will not allow diversification of the multiplex providers, was in December 2008 dismissed by the Parliament, officially due to slow switchover process.<sup>2</sup> This decision prompted also negative reaction by Viviane Reding, the EU Commissioner for Telecommunication who raised concern regarding the independence of the regulatory body.<sup>3</sup>

i) *Name and owners of applicants*

In the first tender that was re-announced in May 2009 (as the initial one was announced in August 2008 and later that year also cancelled) there were two unsuccessful applicants, Slovak-based *Telecom Corp., a.s.* and the Canadian *Valtech Corporations Inc.* At the same time, another serious bidder from Austria, a daughter company of Austrian public broadcaster ÖRF, *Österreichische Rundfunksender GmbH (ORS)* that was initially seen as main competitor to Towercom, a dominant operator of the analogue terrestrial broadcasting in Slovakia, decided not to take part in the tender due to alleged lack of its transparency

In the tender announced in October 2011 for a fourth multiplex participated two applicants - Towercom and another Slovak Operator *Telecom Corp.* The latter was disqualified by the Telecommunication Office and the former declared as a winner.

Similar to the first tender, the Assessing Committee was composed (by the Telecommunication Office) to assess the applications and evaluate their plans in several essential areas, measured according to their importance (in the following order, from the most important ones):

- Planned coverage in the moment of launch;
- Timely launch of the multiplex; Technical solution of the network; Fee for a frequency package
- Credibility of financial sources;
- Interest of providing multiplex in more frequency reservations simultaneously; Services for the final clients.<sup>4</sup>

In the end, Towercom gained fully monopolistic position in the field of digital broadcasting as it obtained licenses to provide all four national terrestrial multiplexes - one of them (MUX1) valid until 2021 (initially was managed only temporarily until 2015, but in 2011 the Telecommunication Office allowed it by a controversial exchange of frequencies) and other three, including the public service multiplex, until 2029. The company paid for all the multiplex licenses the fee of total 4.100.000 €.

The Towercom company was for long officially owned by an offshore company Hampden Investments Ltd. (with a warrant possessed by the person from the J&T Group), while according to the Antimonopoly Office there was another owner. In 2014, the Macquarie European Infrastructure Fund 4, a wholesale investment fund, belonging to the portfolio

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1 IT news, Telecommunication Office cancels tender for provider of digital broadcasting (TÚ zruší tender na prevádzkovateľa digitálneho vysielania), 2008, available at <http://old.itnews.sk/spravy/biznis/2008-12-10/c82314-tu-zrusi-tender-na-prevadzkovateľa-digitalneho-vysielania>

2 The National Council of the Slovak Republic (Slovak Parliament) was controlled by the Robert Fico's ruling party Direction-Social Democracy (Smer-Sociálna demokracia, Smer-SD)

3 Medialne.sk, The Eurocommissioner Reding wants explanation from Vážny concerning dismissal of Máčaj (Eurokomisárka Redingová chce od Vážneho vysvetlenie odvolania Máčaja), 2008, available at <http://medialne.etrend.sk/televizia/eurokomisarka-redingova-chce-od-vazneho-vysvetlenie-odvolania-macaja.html>

4 Medialne.sk, Tender for the fourth DVB-T multiplex has started (Tender na štvrtý multiplex DVB-T odštartoval), 2011, available at <http://medialne.etrend.sk/televizia/tender-na-stvrty-multiplex-dvb-t-odstartoval.html>

of the biggest Australian investment bank Macquarie, became the sole owner as pointed out by Valček (*Will Markíza scrap DVB-T? Smer has done long time ago*).<sup>1</sup>

**e) Summary of the laws of the market entry on cable networks and satellite (at the time of the liberalization)**

The whole cable and satellite sector is regulated by the same legal framework as enumerated in the section 2a).

**f) Lawsuits in relation to the market liberalization**

While the process of organizing and selecting the providers of multiplexes was heavily criticized as outlined above, there were no direct lawsuits related to it.

**3) Short summary of the prevailing legal frames of the expansion on the media markets (media concentration rules)**

**a) Limitation on the market positions within the single media markets**

There are certain general anti-monopoly limitations, as presented in the answer below (d) for which the Anti-monopoly Office of the Slovak Republic (Protimonopolný úrad SR) is a regulatory body. The framework as well as the Office's competencies is stipulated by the Anti-monopoly Law No. 233 from 1 October 2015 (úplné znenie zákona č. 136/2001 Z.z. o ochrane hospodárskej súťaže).

The Office deals with fairness in competition, concentration of businesses, unfair dominance on markets and upholds the rules of market competition. Noteworthy in this context, market dominance – unlike monopoly position – is not prohibited by the Slovak legislation, including the media market. The Office's responsibility is to oversee the market situation in order to prevent a case of evident abuse of dominant position on a relevant market.

Both the Law on Broadcasting and Retransmission No. 308/2000 Coll. as well as the Law on Digital Broadcasting No. 220/2007 Coll. (in their respective chapters concerning the Plurality of the Information and Ownership Transparency) contain various articles regulating market positions, primarily framing the ownership across different media sectors.

In addition, a single legal or natural person cannot be financially connected with more than one licensed national or multiregional broadcaster; at the same time this person cannot be financially connected with a publisher of a nationwide publication.

Further, a single legal or natural person may be financially connected with several licensed regional or local broadcasters only if their combined broadcasting can be received by maximum 50 per cent of total population.

**b) Limitation on cross-ownership between different media sectors**

Alongside the aspects stated above, the Law on Broadcasting and Retransmission also stipulates that a publisher that issues its publication at least five times a week and which public distribution covers at least half of the territory of the Slovak Republic cannot hold a broadcasting license for national or multiregional broadcasting.

At the same time, any capital and personnel-based connection among a radio broadcaster and a television broadcaster mutually, or with a publisher of nationwide publication, is prohibited.

**c) Limitations on the interpenetration between media providers and network operators or programme producers**

The Law on Digital Broadcasting prohibits situations where a legal or a natural person would be provider of a terrestrial multiplex and be a broadcaster at the same time. Addition-

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<sup>1</sup> Valček Adam (SME), Will Markíza scrap DVB-T? Smer has done long time ago (Odpíše Markíza DVB-T? Smer to urobil už dávno), 2016, available at <http://ekonomika.sme.sk/c/20245615/o-neuspechu-dvb-t-rozhodli-politici-davno-odpise-ho-markiza-uplne.html>

ally, any capital and personnel-based connection among broadcasters as well as between a broadcaster and a provider of a terrestrial multiplex is prohibited. The Law allows certain exceptions of the latter, in situations between a provider of local terrestrial multiplex on one side and a regional or local broadcaster on the other side.

**d) Special media concentration rules in the competition law**

The above-mentioned Antimonopoly Law No. 233/2015 Coll. prohibits three basic schemes of market concentration:

- Market Limiting Settlement (*Dohoda obmedzujúca súťaž*) that means some kind of agreement or mutually concerted policy of businesses with the consequence of a limited market;
- Abuse of Dominant Position Abuse (*Zneužívanie dominantného postavenia*) means various aspects of abusive business behaviour of a company that enjoys market dominance;
- Concentration (*Koncentrácia*) means process (in its various elements) of economic merger which lead to the control that one company gains over another

The Anti-monopoly Office of the Slovak Republic is entitled to control those concentration cases in which the aggregate turnover of companies engaged in concentration in Slovakia reaches 46 million Euro (for the last accounting period) and where the turnover of at least two of the companies involved in the respective concentration reaches 14.000.000 €.

**e) List and short summary of the relevant cases (where investor was involved)**

Penta Investments Ltd. during several recent years acquired significant publishers as in 2014 it purchased TREND Holding (it issues business weekly Trend), then Spoločnosť 7 Plus (issues popular tabloid and investigative weekly Plus 7 dní as well as daily Plus 1 deň). The company merged its media acquisitions into a newly formed News & Media Holding. However, as official owner is declared the Dutch company V3 Media Holdings and Penta stated that the owners are natural persons from the Western Europe without additional business activities in Slovakia. At the end of 2014 it also bought a minority share at Petit Press publisher (it issues quality daily SME, network of regional newspapers, Hungarian-language Uj Szó as well as English-language Slovak Spectator).<sup>1</sup> Additionally, in 2015 the Penta entered also into the Czech media market as it purchased two publishers, including of regional newspapers (Vltava-Labe-Press).

In June 2016, the Anti-monopoly Office approved Penta's acquisition of the Petit Press share in a decision that was issued after 15 months (471 days), what became the longest considered business of the media market. As explained by the Office Deputy Chairman (Radoslav Tóth), the Office wanted to properly assess the whole context of the business transfer. In 2014 when Penta purchased publishers TREND Holding and Spoločnosť 7 Plus, and merged them into the News & Media Holding, the Office assessed both transactions within 130 days.

In comparison, the Office spent some 14 months (423 days) in between 2004 and 2006 to assess (and eventually approve) a business transaction in which the CME Enterprises purchased the television channel Markíza.

Also, when in 2009 the German Rheinisch-Bergische Verlagsgesellschaft purchased its 50 per cent share in Petit Press (the share acquired currently by Penta via another company NAMAV) it took only 51 days for the Office to deliver its decision. Similarly, in 2011 when businessman Peter Korbačka sold television channel JOJ, the decision of the Office came after 56 days.<sup>2</sup>

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<sup>1</sup> The acquisition of daily SME prompted departure of numerous SME journalists (altogether more than 50) in protest and led to the launch of new daily Denník N as of January 2015.

<sup>2</sup> Valček Adam (SME), The Office approved Penta's entry into the Petit Press publishing house (Úrad Pente odsúhlasil vstup do vydavateľstva Petit Press), 2016, available at <http://ekonomika.sme.sk/c/20194064/urad-pente-odsuhlasil-vstup-do-vydavatelstva-petit-press.html?ref=trz>

Another financial group J&T is believed to control JOJ Media House, another media holding that is reaching also to radio broadcasters. J&T, through its media part J&T Media Enterprises in 2007 purchased second most popular private channel TV Joj from business mogul Ivan Kmotrik (who currently stays behind news-channel TA3). Media House was created in 2010 around the TV channel and besides its sister channels (Plus, Wau, Senzi) it currently includes advertising companies, websites and since recently also radio stations with nationwide out-reach (Antena Rock, Jemné a Vlňa). JOJ Media House is also active in outdoor advertising market through Akzent BigBoard group, with the group being the market leader in Slovakia with almost 50 per cent share.

However, nor the Anti-monopoly Office, neither the Council for Broadcasting and Retransmission have so far applied any legal consequences – the financial group denied own financial involvement and officially the holding as well as several of its media outlets are controlled by Cyprus-based companies. In addition, the Council, when assessing legal requirements and financial involvement (share of 25 per cent and more) it usually assesses only first ownership structure.

#### **4) Legal reasons of the leaving of national market – if there was or there is a tendency of leaving the market**

- a) **Number of television channels broadcasted from other European member states/ number of television channels broadcasted from inland – relevance of the country of origin principle regulated by the European television/audiovisual directive that makes it possible to broadcast the program from any member state to any others (see the paper from Polyák/Szóke)**

As communicated with the representatives of the Council for Broadcasting and Retransmission it is in fact rather complicated to get a concrete number of channels that are broadcasted from other EU member countries as each cable operator has its own television roster, not mentioning the fact that the most spread system of a signal reception remains the satellite broadcasting with some 50 per cent of population (see section 2.d).

Based on data from the Council's website ([www.rvr.sk](http://www.rvr.sk)), in 2015 there were 14 nationwide and multiregional television broadcasters, 16 regional and 45 local television broadcasters. At the same time, there were 138 holders of license for digital television broadcasting.

- b) **Regulations that significant restrict(ed) the economic possibilities of the market players during the whole period of liberalized media market (e.g. duty to broadcast news programs, strict rules on protection of children, strict rules on advertising, strict rules on media ownership, high administrative fees etc.)**

The legislative framework and rules basically exist in Slovakia since the market opening and contain a set of concrete regulations (duty to broadcast news programmes, rules on protection of minors, rules on advertising, rules limiting cross-ownership) which have not changed significantly in the course of the last 2 decades.

Nevertheless, it would be unfair to say that such a framework significantly restricted or limited potential investors in broadcasting sector. In fact, both *TV Markíza* and *Rádio Expres* as market leaders among private television and radio broadcasters, are owned by foreign companies. Alongside though, the sector remained basically closed in the area of digital broadcasting, in particular as concerns providers of the multiplexes with all four national multiplexes operated by the same local company. Regrettably, organised tenders raised numerous concerns regarding their transparency and conditions resulting in at least one serious foreign contender dropping its application in protest.

**c) Possible other legal means to crowd out the foreign investors (e.g special taxes, any discriminatory measures)**

There is nothing that would in any way discriminate foreign investors. In fact, the situation in the country has developed in the opposite direction, as stated by Školkay (*Media Law in Slovakia*, page 98): “[W]ith respect to media pluralism, during the past 25 years, Slovakia has benefited from foreign ownership of its key media and independent stance of some domestic media owners”.

**5) Legal frames of the newspaper market’s liberalization (if there was or is any) – at the time of the liberalization and recently**

**a) List of the applicable laws**

**Legal framework for the print media (general):**

- The Bill of Rights - No. 23 from 9 January 1991 (*Listina základných práv a slobôd, č. 23/1991 Zb.*)
- The Slovak Constitution - No. 460 from 1 September 1992 (*Ústava Slovenskej republiky, č. 460/1992 Zb.*)

**Legal framework for the print media (specific):**

- The Law on Some Temporary Measurements in the Print and Other Mass Media (of the Federal Parliament) - No. 127 from 13 September 1968 (*Zákon o niektorých prechodných opatreniach v oblasti tlače a ostatných hromadných informačných prostriedkov, č. 127/1968 Zb.*)
- The Law on Establishment of the Ministries and Other Central Government Bodies of the Slovak Socialist Republic (of the Slovak Parliament) - No. 207 from 28 December 1968 (*Zákon o zriadení ministerstiev a iných ústredných orgánov štátnej správy Slovenskej socialistickej republiky, č. 207/1968 Zb.*)
- The Law on Establishment of the Federal Office for Print Media and Information (of the Federal Parliament) - No. 180 from 16 December 1980 (*Zákon o zriadení Federálneho úradu pre tlač a informácie, č. 180/1980 Zb.*)

After the Prague Spring in 1968, there were established censorship offices in both republics (and later on in 1980 also a federal one) aimed at controlling and governing mass media, and inevitably ensuring their political and propagandistic focus. While the Slovak Office for Print Media and Information (*Slovenský úrad pre tlač a informácie*) established at the end of 1968 (by the law No. 207/1968 Coll.) was abolished in April 1988 (by the law No. 50/1988 Coll.), the Federal Office (*Federálny úrad pre tlač a informácie*) established at the end of 1980 (by the law No. 180/1980 Coll.) was abolished after the Velvet Revolution in May 1990 (by the law No.166/1990 Coll.).

- The Press Law (of the Federal Parliament) - No. 81 from 25 October 1966 (*Zákon o periodickej tlači a ostatných hromadných informačných prostriedkoch, č. 81/1966 Zb.*)

As mentioned already in the chapters above, the key legal document as the Communist-era based law, namely the Press Law - No. 81/1966. In the aftermath of the Velvet Revolution the key amendment of the law was passed by the Federal Parliament (of the then Czech and Slovak Federal Republic - CSFR) No. 86 from 28 March 1990.

Based on the amendment, fundamental changes were introduced, including the abolition of censorship and the state’s printing monopoly.

- The Press Law - No. 167 from 9 April 2008 (*Zákon o periodickej tlači a agentúrnom spravodajstve a o zmene a doplnení niektorých zákonov, č. 167/2008 Z.z.*)



Currently, there is the Press Law No. 167/2008 Coll. It was adopted during the first government of Prime Minister Robert Fico<sup>1</sup> despite controversies and protests from publishers, journalists and its associations (as well as critical position expressed by the OSCE Representative on Freedom of the Media). The main objections were related to specific institutions modified or newly introduced by the law, namely the right to correction, the right to reply and the right to additional announcement.

**b) Market entry rules (registration)**

The mentioned amendment No. 86/1990 Coll. cancelled an approval procedure under the Ministry of Culture. Conversely, the law replaced it with a registration at the Ministry. The procedure became relatively relaxed, with the Ministry obliged to approve the application within 15 days if all its requirements are met and to issue the confirmation on registration - or the registration becomes automatic after 30 days, in case of inactivity of the Ministry.

As for the requirements for the publishers, each legal entity from CSFR or its citizens aged 18 were entitled to publish print media. Any other legal or physical persons could become publishers only upon approval of the respective central state body.

The new 2008 Press Law basically accepted the existing mechanism, however, the process of registration was renamed as 'listing' by the Ministry of Culture. The list kept by the Ministry is a publicly available document. There are several requirements to be fulfilled by a potential or existing publisher in order to gain entry into the Ministry's list – the application for the entry shall contain, *inter alia*:

- Name of the publication;
- Name of the local edition, if published in different regional or language mutation;
- Date of publishing start;
- Territorial outreach;
- Language of the publication;
- Periodicity;
- Details on publishers, such as
  - Business name, seat and identification number (if a legal person);
  - Name, surname and permanent address (if a physical person);
  - Declaration on voting rights or on founding capital of the broadcaster;
  - Ownership structure of the publisher

The Ministry is obliged to approve an application in 15 days provided that all the described requirements are met.

**c) Ownership rules regarding the print media**

Among the application requirements for the listing the law obliges the applicant to declare its ownership structure; and if the applicant has status of a legal entity, then the declaration shall be done in the following structure:

- Name, surname and the permanent address or business name, seat of the publisher's partner or shareholder who holds at least 20 per cent of voting rights or of financial share.

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<sup>1</sup> Robert Fico served as Prime Minister for the first time between 2006-2010, then in years 2012-2016 and he leads the Slovak Government for the third time also after 5 March 2016 parliamentary elections.

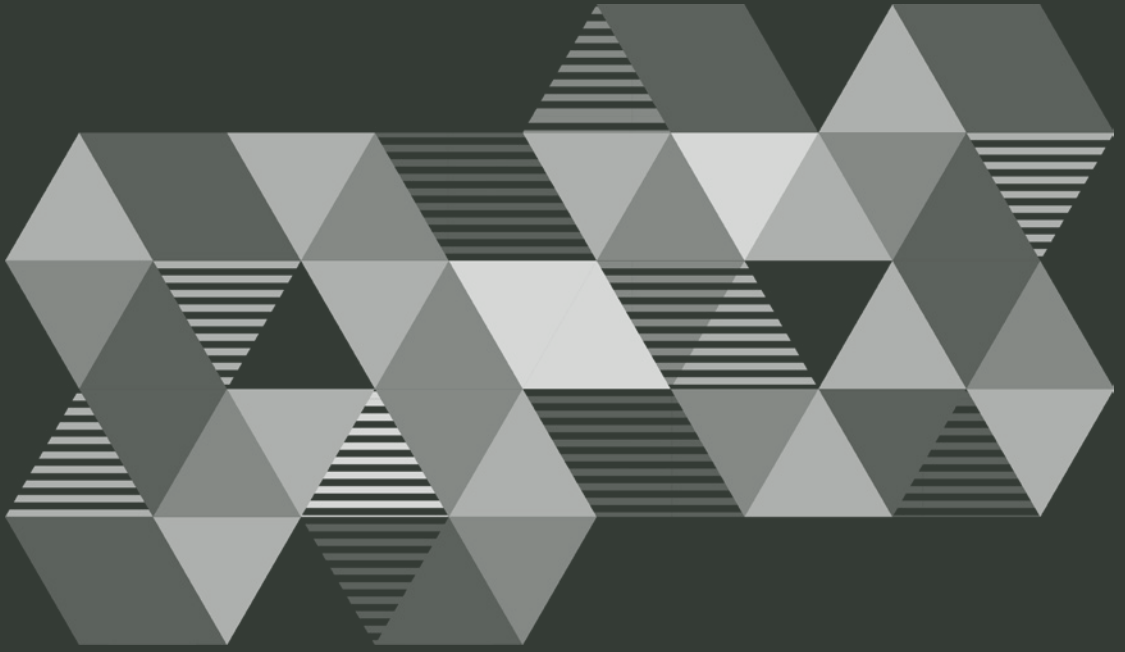
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## CHAPTER 3

Interviews on the impact  
of the media investments



# Czech Republic

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## INTERVIEW 1

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**RESPONDENT:** female, 27, foreign news, master degree

**PUBLISHING HOUSE:** Economia, a. s. (foreign owner to domestic)

She is not aware of any influence, but she strongly stresses the experience from the other publishing house. Although she doesn't say the name, she emphasizes the word "home owner" and so that talks about the Mafra company from Andrej Babiš. She thinks that working in a medium owned by a foreign owner, is freer and more independent. Home owner is more inclined to be influenced and is discredited in advantage. The foreign owner does not guarantee protection from political influence. Foreign owners are guided mainly by their economic interests.

**Question:** According to your experiences, what are the most essential differences in the work of a media outlet owned by foreigners and of one owned by national owners?

I often encounter that my colleagues from the media owned by their compatriots complain about the owner's interventions, especially in the work of home news section editors. In some cases, these interventions are of fundamental character. In such cases it would seem to indicate that the Czech owner-compatriot is trying to use his/her own medium to his/her advantage, especially if he/she is politically active. I have to say, though, that for myself, I have never experienced such intervention and that I am not particularly aware of them in the media where I work.

**Q:** Can you remember situations when you had to take the owner's interests in consideration to the disadvantage of your journalistic work?

No, I do not recall any such situation.

**Q:** What are the most important advantages / disadvantages of being owned by foreign investors?

I believe that as a matter of principle, journalists at foreign-owned media are freer in their work, in particular in respect of the politically more sensitive section of domestic news. I also think that sometimes media owned by a 'domestic' owner can be a priori discredited to a certain degree.

**Q:** Does the foreign owner mean stronger defence from political influence / from the influence of the advertisers?

I believe that when it comes to the question of political influence, a foreign owner is in no way a guarantee that it will not be exercised. But I would certainly consider it more likely, as opposed to a domestic owner who may also be politically active on his/her own account.

**Q:** Could the foreign owner guarantee higher professional quality than a national owner?

Yes, it is possible, but I do not think such a generalisation would be appropriate. It is no guarantee, it depends on the actual intentions of any given owner.

**Q: Could the owner contribute to clarify and realise professional standards?**

Again, I would not generalise this way. He/she certainly could, but it would not always be appropriate. In my opinion, this should be up to the chief editor or similar rather than up to the owner. For example, in many cases the owner is a politically engaged person who, in my opinion, should not be involved with professional standards.

**Q: In your opinion, media investments are led by economic or by journalistic motivations primarily? How important would you estimate the journalistic motivations?**

If I take into account my circles, I think that we are talking more about economic investments. Journalistic motivations are in my opinion more the concern of the journalists themselves rather than the people who buy media.

**Q: What has changed in your work when the foreign investor bought / sold the media outlet where you work?**

As far as my actual work is concerned, I have not seen any significant changes yet.

## INTERVIEW 2

**RESPONDENT:** male, 32, domestic news, master degree

**PUBLISHING HOUSE:** Mafra (foreign to „domestic“)

This journalist works in a medium that is most often criticized for influencing the content (Mafra). The author is not aware of any pressure. The journalist thinks that the foreign owner gives journalists more freedom and is less interested in what they write. The owner is guided primarily by economic interests. He would not be involved in the creation of the Code of Ethics. The foreign owner has more money, so they can afford to hire better journalists.

**Q: According to your experiences, what are the most essential differences in the work of a media outlet owned by foreigners and of one owned by national owners?**

I have only ever worked with a foreign owner. I know that as a rule, foreign owners do not care what is written. They are more interested in numbers. They want to know how they're doing, while the domestic owners tend to be interested in the content more.

**Q: Can you remember situations when you had to take the owner's interests in consideration to the disadvantage of your journalistic work?**

No, I cannot recall any such situation, the company's interests never entered into my work.

**Q: What are the most important advantages / disadvantages of being owned by foreign investors?**

It is also important to distinguish between owners. If, for example, we are talking about owners like the current finance minister Andrej Babiš, who is by many people not perceived as a foreign owner, then it can all start turning around a bit. If we are talking about real foreign owners, such as Mafra, then the biggest advantage lay exactly in the fact that they did not care about what was being written. The disadvantage is the fact that because they focus on the medium's performance, the profit is their key indicator, at all costs. They will spot an opportunity and they are not afraid to throw money into the investigative components, even if any possible result may come out of it later. But the fact they are chasing a profit may mean that they are only interested in entertainment. But it all depends on how they set up the parame-

ters and how much they dare to invest in it. Before the crisis, the will to invest into investigative projects was stronger.

**Q: Does the foreign owner mean stronger defence from political influence / from the influence of the advertisers?**

I believe that such pressures are always there. It is always a matter of discussion who it favours, where do most of the advertisers come from and so on. Then, of course, it is easier to go for that medium. This is of course easier, when they are owned by someone who is politically active. In such cases, also the reaction in the social media is much stronger than when this is not the case. Therefore, the voices against foreign owners are not so evident.

**Q: Could the foreign owner guarantee higher professional quality than a national owner?**

I do not think there is any connection. The level of freedom granted by the foreign owner is also important and it is up to the actual editorial office how they set it up. In my office the degree of freedom was high.

**Q: Could the owner contribute to clarify and realise professional standards?**

Yes, by giving the editorial office sufficient resources to maintain them. It is easier to maintain professional standards if you have money for good people; and how else can this be achieved than by giving them the resources to make this happen. Ideally, the compilation of a code of ethics is in the hands of the editorial office and the owner does not get involved in it. On the other hand, it is their investment, so I can understand if they want to have some input.

**Q: In your opinion, media investments are led by economic or by journalistic motivations primarily? How important would you estimate the journalistic motivations?**

I think it is necessary to consider each individual owner. Current big players (Babiš and Bakala) focus a lot on the financial side. When it comes to Bakala, this may be the question of a brand that he likes, the same in the case of Babiš, in theory. Still, we are talking about investments into media that are not doing that well when it comes to print. It is, therefore, difficult to believe that there would be any great economic motive in the printed media, because that doesn't make that much sense. Ideal would be if they had journalistic motivation, because then they would understand our work better.

**Q: What has changed in your work when the foreign investor bought / sold the media outlet where you work?**

In a certain sense it has changed. One develops a kind of autocensorship, in particular in articles dealing with such an owner. There are many cases where it would be possible to speculate whether something happened as a result of autocensorship or whether it was ordered by someone. There are things that get noticed only by a few people. The most striking change after Babiš bought Mafra was that many people left, because they considered it a conflict of interest. At the same time, there were experienced people there, who had worked in the newspapers for a very long time and under whose leadership there was a kind of stability. The upheaval that followed could never be helpful, out of principle. New approaches do not benefit stability, on the contrary - they tend to hinder any development.

## INTERVIEW 3

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**RESPONDENT:** male, 51, domestic news, master degree

**PUBLISHING HOUSE:** Economica (domestic to foreign)

The journalist is not aware of any pressure on his job. He thinks that a foreign owner offers more freedom. He is convinced that a foreign owner should not interfere in editorial work and in the creation of codes of ethics. The journalist mentions Mafra and its problematic position. The foreign owner has more money and can afford better journalist and equipment.

**Q:** According to your experiences, what are the most essential differences in the work of a media outlet owned by foreigners and of one owned by national owners?

I am not aware of such intervention in the medium outlet where I work. It seems to me that in our case, the difference is clear between who owns the daily and who runs it - i.e. the editorial office management.

**Q:** Can you remember situations when you had to take the owner's interests in consideration to the disadvantage of your journalistic work?

If I had, it was unintentional.

**Q:** What are the most important advantages / disadvantages of being owned by foreign investors?

It is the creative freedom, nobody tells us what to write. We have more money too. I clearly do not see any disadvantages

**Q:** Does the foreign owner mean stronger defence from political influence / from the influence of the advertisers?

I am not able to judge how it is elsewhere, but I do not feel any political pressures in our office. That is why it seems that a foreign owner can manage it better. They also have a larger team of lawyers behind them and if it is a larger company, fewer people dare to challenge it. It is true, however, that nowadays it is rare that people have no political ties, so perhaps certain things are going on that I am not even aware of.

**Q:** Could the foreign owner guarantee higher professional quality than a national owner?

I believe so. He/she has more money, which will then be seen in the technical resources. But most importantly, they get more inspiration from the ways journalism is done abroad.

**Q:** Could the owner contribute to clarify and realise professional standards?

No.

**Q:** In your opinion, media investments are led by economic or by journalistic motivations primarily? How important would you estimate the journalistic motivations?

It is certainly led by economic investments. I am not naive, they are the main driver.

**Q:** What has changed in your work when the foreign investor bought / sold the media outlet where you work?

I was very afraid of that, but fortunately nothing has changed. But I have heard that in other places it does happen.







## Interview I: Endre Babus, Journalist at HVG (20<sup>th</sup> May 2016)

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**Question:** What relevant differences did you observe during the periods of foreign and Hungarian ownership at your magazine in terms of the journalistic/editorial work? Were there any palpable differences?

**Babus Endre:** The current period is a time in the life of HVG when the magazine is Hungarian-owned. More specifically, it is owned by managers and employees. I've worked here for 34-35 years and thus I am in a position to say that this is a very tough period, which has led to continuous decline in salaries for many years now, especially during the last four. The working conditions are still excellent here at HVG, but the budgets are palpably tighter than they were under German ownership.

The welfare and benefits system was considerably stronger under foreign ownership than it has been since 2014. Company cars and other benefits have disappeared. Journalists also have to produce more, they face a greater work burden. The same length of newspaper has to be produced by fewer staff members, which means that a single journalist has to work 50-60% more than, say, 15 years ago.

This is a very difficult era, what we are seeing now are practically the end days of print media. The changes outlined above result primarily from the decline of print media. In the early 2000s, the position of the print media was shaken, but they were not imperilled yet. Internet first emerged as an equal competitor to print media, but then it became more fashionable, popular and significantly more influential in many respects. This resulted in substantially weakening the position of print media. My sense is therefore that the decade following the early 2000s was only a period of weakening for print media, it was not a full-blown crisis yet. Only in the current decade did I begin to observe that what is at issue here is that the print media are imperilled. All signs indicate that its role, influence, circulation, etc. will continue to decline radically. The economic crisis that began at the end of 2008 further exacerbated this sectoral and professional crisis. At this point, people buy fewer newspapers not only because online media are becoming more popular, but, simply put, also because this is an area of consumption where they can scale back their spending without serious adverse consequences – at least in material terms, though not intellectually.

As compared to the current period, when we are ourselves in control of the newspaper, the age of the German owner can be described as a Silver Age of sorts. The reason is neither the generosity of the German owners nor the stinginess of the domestic Hungarian owners – i.e. ourselves – but the processes in the economy and the media, which we could aptly label dramatic.

Seen in a broader context, HVG has experienced four distinct periods. The first was the intellectual Golden Age between 1979 to 1989. Then it went through a financial Golden Age, from 1989 to roughly 2000. This coincided approximately with the time when commercial television surged in strength, along with the re-structuring of advertising revenues and of the advertising market, until the emergence of the internet. As compared to these macro developments, the decade of German ownership during the subsequent period seems like just an episode in the life of HVG. I felt that HVG's position was undermined during this third era as a result of the weakening in the general positions of newspapers, their overall situation and problems. Finally, the fourth – the current post-2014 – period is marked by an expansion of the crisis, by its becoming all-pervasive.

**Q: How was the privatisation of HVG conducted after regime transition?**

**BE:** The characteristic development for the Hungarian press was that very quickly after transition, within a span of 2-3 years, 95% of newspapers were sold. There was widespread chaos and insecurity. The newspapers were sold to foreign owners, primarily German and British. HVG's story diverges from this general trend. We became an independent stock corporation already in 1989, and we had many possibilities to sell our magazine. Thank god, at seeing the paper's financial strength, the corporation's young CEO at the time decided to follow the independent path rather than seeking a prominent western publisher. As of 1993, a large portion of county newspapers, national newspapers – mainly weeklies, but also some of the dailies – were acquired by foreign owners. HVG, by contrast, was in a cooperative ownership arrangement of sorts between 1989 and 2003. Legally, it was a stock corporation, but it operated like a cooperative. Based on a very detailed scheme designed by the members, some seventy odd persons – including the receptionist – became part-owners as a result of self-privatisation.

Around 1989-1990 we even drew up journalism statutes in the interest of safeguarding the autonomy of journalists. These statutes contained provisions governing the election of the editor-in-chief, and also contained rules concerning business interests and the freedom of journalists. This was paired with an organisational structure which was highly unusual, though not unprecedented. The editor-in-chief was elected for a period of three years and his work was supervised by a four-member body comprising journalists and editors who acted as a counterweight to the editor-in-chief.

This was the form in which the magazine operated when it was acquired by the German owner. In terms of the work we actually performed, the change in ownership did not yield dramatic changes. I don't think this owed to the German owners being more enlightened. They were struggling with difficulties that prevented them from keeping their own newspapers on a short leash and directly influencing them. They handed us the reins and were only interested in profit indicators.

**Q: Why did the idea of selling the magazine to foreign owners even arise in 2002?**

**BE:** Several foreign owners sought contact with the company in the 1990s, but for a long time HVG was not for sale. It was only after immense internal debates that the management sold the magazine when it saw the first signs of weakening in the position of print media. I was against the sale at the time, along with roughly 23-25% of the newsroom, but time ultimately proved those right who had been for selling the magazine. Financially speaking, selling was also in our interest, but we wanted things to continue as we had become accustomed to. We were afraid of the type of interventions that might follow. And we were optimistic in assuming in 2002-2003 that the magazine's future trajectory would be characterised by the trends that had prevailed in the previous two decades. However, the management and some in the newsroom were aware already that we were coming up on a major turmoil. As a business move, HVG's management was ultimately clever in buying back the company for less than what it had sold it for.

**Q: Can you recall a situation in which the owner's interests had a detrimental impact on the work of journalists?**

**BE:** Never in the context of my work. One characteristic feature of our situation is that we traditionally have bad relations with OTP Bank. OTP – one of the largest Hungarian banks that also spends vast amounts of money outside the banking sector – never advertised in HVG. For us it was more important to write freely about the National Bank and OTP.

There were never any overt interventions. When the management asked us to explain an article, then we presented what it was based on and that was that.

**Q: Was there any difference in this respect between the periods under domestic and foreign ownership?**

**BE:** The Germans never intervened in anything. HVG was owned by the Westdeutsche Allgemeine Zeitung, which is part of the Funke Group. The group primarily owns German regional newspapers. The other interested party was a Swedish company, but they insisted on a 100% share of the magazine. The Germans accepted a 75-1% share for the same price, while a stake of 25+1% was retained by the staff. This

prevented the new owner from subsequently selling HVG to someone we didn't want. This actually led to those in the newsroom who were against the deal to abandon their opposition.

It turned out to be a very fortunate business deal, and it allowed the magazine to keep in place the existing statute, along with the four-member executive body and the election of our editor-in-chief. I think that we have no reason at all to complain about the Germans.

The remaining ownership stakes that we retained left us with some measure of control when it came to strategic questions. Moreover, the management that had controlled the magazine between 1989 and 2003 also remained in place. Péter Szauer stayed on as CEO, just as he had between 1989 and 2003, and indeed, the same as between 2014 and 2016. The direct management of the company was left up to Szauer all throughout, and the Germans evinced no desire to deeply immerse themselves in our affairs, thus for example to review the articles, order specific writings or to influence their content. They were interested in profits.

The CEO of WAZ, Bodo Hombach, was the chancellery minister under the most recent German social democratic chancellor, and he was a player in the big leagues. He wasn't a newly rising star as a media executive, he did not have to prove that he can build a strong media empire here. He looked at this as the bonus round of the last 10-15 years of his active life.

When Mr. Hombach arrived, our editor-in-chief, Iván Lipovecz wanted to explain what type of innovations he envisioned at the magazine. They sat down in a restaurant, and when Iván Lipovecz presented his proposals, Mr. Hombach interrupted him saying: "Herr Lipovecz, do you know how many proposals like this I've heard? Let's just forget about it." This was typical of the German owner.

That is how HVG continued to operate in its established ways. However, if we had implemented certain changes at that point, then, perhaps, we might have been better off now. When we asked our own management what the Germans want they said that the Germans were interested in generating the profits they anticipated. For ten years we had foreign owners without even noticing it much.

Though as a trend our decline was apparent, HVG continued to sell a reasonably good number of copies, and on the whole the magazine was not losing money at that point. The Germans were preoccupied with their many foreign and domestic newspapers that needed to be propped up financially, as well as with their own organisational and staff problems. So in the end, the Germans did not treat HVG as many other owners tend to treat their newspapers, though this owed to the mundane reasons outline before rather than their good intentions. They did not want to attain a position in society through their ownership of the magazine, they harboured no desire to build political relations or to further political careers.

### **Q: What are the benefits and disadvantages of foreign owners?**

**BE:** If I only look at my experiences at HVG, then I can say that we never felt any disadvantages. The first years only resulted in scaling back salaries at the magazine, which had been very high by domestic standards. We lost our 13th and 14th monthly salaries. A few foreign correspondent positions were eliminated, for example in Washington and Brussels. HVG became unprofitable around 2008-2009, and then base salaries dropped by roughly 15%, and then once more by roughly the same amount.

### **Q: In light of these developments, why do you still consider the period under German owners as the Silver Age?**

**BE:** As owners they implemented far less drastic changes than we did ourselves subsequently. For one, we continued to lower salaries after 2014, while at the same time we increased quotas by 40-50% during this time, thereby laying a greater burden on journalists. The incentive scheme was almost completely eliminated. All this happened because HVG turned unprofitable while we were the owners ourselves. We had two options. One was to hold on to our previous living standards and work conditions. In this case we would have run through the company assets within the span of three years. The other option was that we would tighten our belts and make it through another decade, in the hope that some miracle occurs and print media will live to see better days. We opted for the latter. If we look around in Hungary, in Europe or the world, we see print media facing a similar dilemma everywhere. Of course, there are also critics of this approach at HVG, but I am not one of them.

**Q: In approximate terms, how high were salaries during the German period and how high are they now?**

**BE:** Around the turn of the millennium senior journalists at HVG made a gross salary of 600,000-700,000 per month, today their gross salaries range from 400,000 to 450,000. The 13th and 14th monthly salaries have been eliminated. The company used to pay for petrol. Then we had to pay some contribution to petrol costs, and then we bought all company cars from the magazine in 2012 and since then we have had to pay for our own petrol.

**Q: On the whole, was it then an advantage that the German owner slowed the process that would have followed from the economic transition of the sector?**

**BE:** It had a dual impact. During the period when the magazine was owned by Germans there were fewer negative changes than would have been conceivable, but at the same time this delayed adaptation to the new situation until there was a change in ownership.

**Q: Does a foreign owner provide better protection against political and business pressure?**

**BE:** In our case, it did not result in greater protection, just as we did not experience interventions. HVG is special in this regard. HVG had a special reputation towards the end of the 80s, the early 90s and during the term of the first Orbán government. When another rightwing government came to power in 2010, I thought that this would lead to another boom period for the magazine. HVG had profited a great deal from being in opposition during the term of the Antall government [Hungary's first democratically elected government after regime transition] and during the time of the first Orbán government. Ultimately, this failed to materialise, the general market trends were too pronounced this time.

**Q: Was the foreign owner able to guarantee better quality?**

**BE:** Not in our case, but theoretically that could be the case. They offer access to bigger archives and can provide correspondent positions.

**Q: Did the foreign owner play a role in clarifying or implementing professional standards?**

**BE:** We played a greater role in setting professional standards. It may seem like a dream for a newspaper's staff to elect its own editor-in-chief, and in some sense it really is. But such a system sometimes results in a great deal of excessive consultation and bargaining.

**Q: In your opinion, are media investments primarily driven by economic or journalistic motivations, by the desire to shape public opinion?**

**BE:** I've seen examples of both. Figyelő's owners are primarily motivated by business ambitions, but elsewhere we observe the opposite. In recent years, Magyar Hírlap was acquired by a wealthy businessman, and he keeps the newspaper going despite the fact that it probably generates enormous losses.

**Q: In the case of foreign investors, were business motivations prevalent or were journalistic goals/shaping public opinion more typical?**

**BE:** In their case, too, I've seen examples of both. When a media company also seeks to enter the television market in addition to purchasing a newspaper, then it can use the print media it owns as an instrument for exerting influence. In the case of county newspapers, however, there was no such ambition, they were seen only as a source of revenue. My sense is that a significant portion of them – which were sold for petty change – were business investments.

As of 2014, we also saw this kind of hard-line new ownership perspective manifest itself within HVG. It is motivated by economic rationality, but it's painful nevertheless. As I said before, our work conditions changed, the work quotas increased. In the meanwhile, there was a drastic decline in auxiliary services. In HVG's glory period our documentation division had 11-12 staff members, now there is one full-time staff. This was downsizing on a massive scale. The goal is now to ensure that the newspaper becomes at least self-sufficient; we still hope for some miracle in the long run. One miracle would be if the government decided to subsidise political newspapers in need, as the French government does. They buy subscriptions for grammar school students, so there exists some serious state patronage for the press. It is possible that we will see better times as a result of such a development; maybe we can reclaim our positions then. *But* it's also conceivable that these times will never come. It's possible that only a single newspaper will be left standing, or maybe two: one opposition newspaper and a pro-government newspaper.

## Interview II: József Martin, former editor-in-chief of the weekly Figyelő (27<sup>th</sup> May 2016)

**Question:** In your experience, what is the most important difference between domestic media owners and foreign media owners with respect to the work of journalists?

**József Martin:** I haven't really worked with domestic owners. I wrote my first article for Világgazdaság around 1994, while I was still a university student. After a year at that paper, I went to work for Figyelő. After an interruption, I worked there continuously for almost ten years, from 1999 to the end of 2008. During these ten years, Figyelő was never controlled by a domestic owner.

While I was working at Figyelő, it was always foreign-owned. Until 2000 or 2001 it was owned by the Dutch company VNU. Then VNU was acquired by Sanoma, they took over the entire company while I was working at Figyelő. Figyelő only shifted into domestic ownership once I had left the company. So I have no direct experience with domestic ownership, only an indirect one.

This was a major contrast between the present period and the times back then: today, the majority of Hungarian media companies have been taken over by domestic owners. Oligarchs own and rule media companies. Back then, however, multinational corporations (MNCs) were dominant in the market. Sanoma's competitor was Axel Springer. We always felt that our situation was better than theirs, and that was probably in fact the case. Sanoma was a Scandinavian MNC with an inclusive mindset. Of course, we were also occasionally confronted with the negative features of MNCs, but on the whole it was a good multinational company. They allowed their staff to do their work independently. The prevailing perception – which I shared – was that this is better for us than if we were owned by a domestic company. Even back then I had the sense that we could work more independently at a foreign-owned media outlet. These days, a single political party dominates politics, back then it used to be two parties. We felt that we were better off outside Hungarian domestic politics, not being owned by a domestic player, because if we were owned by domestic interests, then that would inevitably imply that we would be affiliated with the sphere of interest of one of the major parties. By working for an MNC, we enjoyed a protection of sorts and were able to remain more or less independent.

**Q:** What type of instruments did a Hungarian owner have at his disposal back then to influence your work?

**JM:** There were a wide variety of instruments. Obviously not as crude as the ones used today, but nevertheless, the extreme polarisation that has prevailed for a long time now, it did not begin in 2010. These

hardened frontlines, which rule out a joint platform between the two sides on any conceivable issue, had emerged already in 2001-2002. At that time, both sides still boasted their own oligarchs and businessmen, and we thought that if we were going to be bought by them, they would try to influence us. Obviously, back then they would have had to use more subtle tools than the ones we see today at the state television, which makes no effort whatsoever to conceal the obvious fact that it operates a propaganda machinery. The same is true for TV2.

MNC ownership was the guarantee that we would be able to stay above the fray of domestic political battles. True enough, it was not so much a matter of actual experience but rather a sense, a perception that we shared. Since we had never been owned by domestic owners, we did not have actual experience to compare it with. Nevertheless, in this respect we appreciated the fact that we were owned by an MNC.

My personal experience was that I was freer in my work at Figyelő than I had been at Népszabadság [which was partly foreign-owned at the time], the one experience I had working for a Hungarian-owned company for six months or so in 2008-2009. That is where I had the chance to learn that if the owner is Hungarian, and if he has a clear political preference, then that completely changes journalists' manoeuvring room. To be fair, one must also add that Népszabadság is a political newspaper, while Figyelő is a business/economics weekly. Our general sense at Figyelő was that we can be independent because we produce a business magazine rather than a political paper.

**Q: Can you recall a situation in which the owner's interest had an adverse impact on your work as a journalist?**

**JM:** Yes. During the six years when I served as Figyelő's editor-in-chief, there were three or four occasions when we were asked to give preference to the owner's interests regardless of what we thought about the issue at hand. And I think that's okay. I think that the intellectual attitude which suggests that a media company has to be so independent that it is even independent of the owners is to some extent divorced from reality. That doesn't actually exist anywhere in the world. Obviously, an investigative piece about the Economist Group is not going to be published in the Economist.

Still, the owners did not seek to control the content that appeared in the paper. The instances I referred to above did not involve a request to see the articles before publication. Instead, when someone in corporate management learned that we were writing an article on the given issue, he or she would influence the management, which would in turn relay that to us. It was more like three rather than four such instances over six years, in other words very few. Nor were these political issues – though indirectly they may have been related to politics. They were issues which presumably or actually hurt Sanoma's business interests.

What was probably at issue was that a top manager sought to ingratiate himself with a business player. The way it was presented to me was that Sanoma's business interests would be hurt.

At the same time there was no instance when we were asked to write positive or glowing articles about something. Instead, it was a situation in which we wanted to write a critical piece about something and then we were told that this was not a good idea. Ultimately, the article was either not published in the end or it was toned down, the most critical parts were left out.

A very messy case – in a political sense – cropped up right at the time when I was appointed editor-in-chief in February 2003. This was the so-called K&H scandal, also known as the broker scandal. This featured many political intertwinements. We were allowed to freely cover this issue. It appeared that there was some type of MSZP dealings in the background, and as a result there was some political risk involved. Yet the management did not intervene in this case, neither directly nor indirectly.

Sanoma had excellent legal support in place. We worked with an international law firm. Before publishing pieces we would continuously consult about our articles. Since we had a very good lawyer – who worked for the Oppenheim Law Firm – in 99% of the cases we were able to come to arrangements that did not require us to hollow out our articles, even as they were still all right legally. We were thus able to remove the problematic aspects of articles even before they were published.

We had relatively few press lawsuits during the six years when I was in charge, and we won all of those that did arise. This owed to a substantial extent to the quality of the legal services in the background and also to the fact that I spared neither time nor effort in consulting with our lawyer prior to publication.

**Q: What advantages and disadvantages does a situation with foreign investors imply?**



We were allowed to work independently for two reasons. One was that we kept a distance from domestic policy conflicts, which in turn owed a lot to the fact that we were owned by an MNC. The other reason was that we were a business rather than a political newspaper. Additionally, our legal support and support in general were of a higher quality than one normally finds at a Hungarian-owned company.

Cross-financing was also of major assistance. Though our financial results were not bad – especially when compared to media companies today – there were a few years when it was difficult for us to turn profits. But of course we did have very profitable years as well. There were years when Figyelő generated advertising revenue worth a billion forints; today, ad revenue is around 100-150 million.

Our corporate culture was also one of the advantages, but this was not the result of being owned by an MNC. At Axel Springer, for example, this particular aspect was not good.

One drawback we experienced was that the owners were resistant to all innovation and all changes. This went beyond rejecting changes to our layout. In addition to the fact that I received an offer from Népszabadság that was impossible to refuse, the other reason why I left Figyelő was that they evinced no affinity whatsoever to the idea of combining print and online. This would have been a very plausible move, and in fact the result would have been a change in the newspaper's history for the better, despite the crisis. These type of structural changes were very difficult to implement, if we could implement them at all. This was impeded to a significant extent by personal ambitions and personal considerations on the part of the management. These did not necessarily serve the interests of the company, but the real or presumed interests of specific individuals.

A good illustration during the time when I was at the company was the time when Sanoma was considering the acquisition [of the leading Hungarian weekly] HVG, [of the daily] Világgazdaság and maybe even [the leading online newsportal] index. They were looking to buy four-five major media outlets, but ultimately they did not buy any of them because there was no one to make the right decision at the right time.

Another disadvantage that I should point to is that we were burdened with massive allocated costs. Figyelő's financial results were never just its own, since Sanoma disbursed its costs among its individual newspapers. Roughly 20% of Figyelő's total costs were made up of such allocated costs.

In other words, we did not enjoy any discretion with regard to structural issues, but there was no interference in the layout or in the content of articles.

**Q: Does a foreign owner provide greater protection against political and business influence?**

**JM:** As far as political influence is concerned the answer is definitely yes. In terms of business influence, as I noted earlier, there were roughly three instances during the six years when I was in charge. When these occurred, I was told that this is necessary in the interest of Sanoma, and I accepted that; it would not have made sense not to accept it. It is of course possible that these were not really motivated by Sanoma's interests but by the interest of certain individuals.

**Q: Was it easier to engage in independent business journalism at that time? How are the conditions different now?**

**JM:** It was unequivocally easier then than it is today. This also applies to business journalism as such, though the business media par excellence are often more balanced in their coverage than political media. The pressure on editors-in-chief is probably greater these days. It may occur three times a week that they are subject to outside influence, rather than the three occasions during the six years when I was previously in charge. These ownership structure has changed; the media are dominated by Hungarian oligarchs.

**Q: Can a foreign owner guarantee greater professional quality? Is there a difference between domestic and foreign owners in this respect?**

**JM:** I think so. This was probably true before 2010 as well. A foreign owner has greater know-how. This continues to apply, though the reason for the greater quality that results from foreign ownership is not

necessarily that the latter is smarter. One of the fundamental problems I observe is that the totally hysterical and civil war-like public discourse in Hungary has engulfed a substantial portion of Hungarian media. It is just impossible to extricate oneself from its influence.

It is very difficult to disentangle professional quality from independence, for these are intertwined. Forbes does not wish to involve itself in Hungarian domestic policy battles, and this is also its flaw. I like the newspaper, the people working on it are former colleagues, so I am also biased towards them, but I do miss a more critical tone and a review of problems. Business newspapers typically report about business achievements and fail to take notice what the context is, and that such success is available only to a select few.

I think any type of externally generated innovation benefits the Hungarian market. The prevailing discourse has been poisoned, it is excessively politicised and held overly captive by all types of oligarchic interests. Forbes does not engage in political discourse, you could say it does not even take sufficient notice of problems, but it is undeniable that it has emerged as an interesting addition to the Hungarian media market. Not only financially, as it is exceedingly successful in the advertising market, but also in terms of content.

The western weekly could revamp the Hungarian media. At this point, we are talking about very low circulations figures, not 120,000-150,000, but only 30,000-40,000. But a western-oriented stratum of this size still exists in Hungary. It is almost irrelevant what type of western newspaper comes to Hungary – it is also irrelevant whether it's rightwing or leftwing – it will definitely be a source of content innovation. The owner of an opposition newspaper in Hungary today would say that you cannot produce a newspaper here that is centre-right; they argue that there is a situation that you have to react to, which one needs to resist, and this is not the time for philosophical contemplation. There is some truth to that. This also has a distorting impact on the prevailing conditions, because as a result the media arena will become even more polarised, with the result that the new media that emerge will be either apologists or outlets of resistance. Or a mix of the two, but not in a western sense.

### **Q:** Does the owner play a role in setting standards?

**JM:** I think owners do play a role in this. At MNCs, owners will not personally involve themselves because they are far away. I have always been able to collaborate well with managers who implement the owner's perspective when they neither fully removed themselves from the goings-on in the newsrooms nor leaned too heavily on them. This is obviously a delicate balance, but it is attainable in my view. It depends more on the individual, it would be difficult to pin this to certain types of corporate structures.

### **Q:** What motivates media investments primarily: journalistic or business considerations?

**JM:** The owner primarily wants to make money. There are investors who are interested in this particular professional area and there are financial investors. The latter is only interested in money, the former also pursues other goals by acquiring a newspaper.

### **Q:** Do you mean social responsibility?

**JM:** I wouldn't go that far. They pursue certain professional goals. They want a broader portfolio and high quality newspapers, as well as good financial results, but not at any price.

I am very sceptical about the notion that investors are concerned about the national interest or social interests. As a matter of fact, I've not experienced this. Public interest often conceals some type of political interests, which may be the interest of the company or of a particular manager. I'm not mainly referring to Sanoma here, we were sufficiently independent in that respect. The other situation in which someone refers to the public interest is when she wants the company to pursue some type of CSR activity, or is engaged in that for marketing reasons. In 15 years I have not experienced a single instance when one of the Hungarian media owners did something for the community. In this respect, the group responsible for managing the Hungarian media has performed very badly during the last 15 years. The

situation is even worse among owners: since 2010, Hungarian media owners have tended to be primarily motivated by political considerations.

**Q: Do you think that the belated reaction of print papers to the online world is the result of the foreign owner's hesitation or their indifference to this issue?**

**JM:** This is not the result of multinational corporate culture. I think it owes to the indecisiveness and risk avoidance of the Hungarian management. My perception was that managers in the media sector were reluctant to assume even the smallest degree of risk, so they always followed events rather than actively shaping them. They sought to deliver what people wanted. But in reality we never even tried to find out what happens if what we give them something less tabloid-like – maybe they'd want that too. What we referred to as social responsibility was completely absent.

This stratum of media executives actively contributed to the phenomenon of dumbing down in our discourse by focusing on short-term goals rather than long-term objectives. Though it is true that we were not the primary source of dumbing down; the chief cause of that were politics and general trends.

**Q: Was the reason not that the owner was remote, and the managers here were afraid of assuming the risk of producing less stellar financial figures?**

**JM:** Indeed.

Managers are always focused on the short-term, what matters for them is that they receive their bonuses, they are less concerned about the future of the company in, say, five years. In this respect, this process was exactly what the textbooks would have predicted.

There is no sense of responsibility towards the nation, none whatsoever. Media managers bear substantial responsibility for the emergence of this civil war-like state, as well as the concomitant dumbing down of discourse; nor should we exempt journalists or editors from responsibility. The fact that the owner was remote also implied that the media management and the editors could have worked towards the implementation of long-term objectives as they saw fit. The owner was only interested in the numbers, he was less concerned about how those were generated. A long-term strategy was completely absent, and long-term national interests have ceased to play a role a long time ago.

And this would not necessarily have been a problem if politics had not leaned so heavily on the media market. The media market was never actually clean, politics has always distorted and polarised the market through engendering oligopolistic structures. Genuine market logic was never allowed to prevail. Short-term thinking and the distorting impact of politics mutually reinforced one another.

**Q: Did this distortion become worse following the crisis?**

**JM:** No, it was strong already in the early 2000s. Politically motivated media financing was extremely widespread. Indirectly, this may also have manifested itself at MNCs, though the effect was relayed through several layers of intermediaries. And then this process was massively reinforced by the crisis, as the sector lost vast amounts of money at that time. Finally, the fate of the media was sealed after 2010, when the whole sector was crushed by the Fidesz steamroller.

**Q: What changed when the foreign investor sold the newspaper?<sup>1</sup> Can you pinpoint any change that may be interesting in this context?**

**JM:** Well, a positive change may be that it can now react more easily to structural changes. Though the paper is still not united. For some illogical reason Sanoma treated the print and online segments separately. It retained the online platform, and then integrated it with [the online newsportal] Hir24, while it sold the print version separately, even though it could have sold them together. This also illustrates that

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<sup>1</sup> The magazine was purchased by a Hungarian owner in 2011.

business logic does not always prevail; instead, individuals' considerations often trump these. It would nevertheless have been possible to produce a quality figyelo.hu, but they didn't.

My former colleagues who still work there said they are not under pressure, they are allowed to work freely, though the management always checks the cover page. Under Sanoma, it would have been inconceivable for the management to come in every week to check the cover.

**Q: Did the change in ownership also result in a drastic reduction of costs?**

**JM:** Yes, there was a reduction in costs, which was solved with layoffs. It is difficult to say whether this owed more to the change in ownership or the crisis. Those who stayed do not make less than they did before, but they have to work more, they have to write more articles.

**Q: And did EU accession have a positive impact?**

**I:** It's too late now. Our decision to leave the Eastern European countries, to sell all our holdings in the region, for example, has already been adopted by a resolution of the shareholders. This decision is three-four years old now. There was too little movement. All western publishers reacted in the same way. Axel Springer sold everything, everyone sold their investments.

**Q: Wouldn't the European Union be able to provide a more secure, more reliable legal framework?**

**I:** Of course. These countries are punishing themselves when they get rid of investors. After all, it wasn't only media corporations that left these countries. There were also energy producers and others. They are all leavings because the legal order, the system in place, does not allow investors to operate normally.

**Q: What future perspective do you see here, even if WAZ is no longer interested in these markets?**

**I:** No publishing house will voluntarily invest in Eastern Europe now. The only aspiration they have left is to leave these markets with as little damage as possible. But the damage tends to be fairly massive.

**Q: What might these media markets look like in the future?**

**I:** They will stay locally owned. They have achieved their objective. In the next 5-7 years there won't be anyone who will invest in Eastern European print, television or radio markets. The trust is gone, and it will be gone for a long time. For us, the Eastern Europe adventure is done. If we invest, then we are more likely to look in a whole different direction, towards the West, for example, or wherever. If we invest at all.

**Q: How could this situation change in Eastern Europe?**

**I:** Only as a result of sustainable stabilisation in the governments and governmental systems of the region. Otherwise there won't be any change at all. But such changes would also have to be sustained over a long time. I don't believe that any of the investors will return just because someone says "It's all better now". You see, we just concluded a great deal with Axel Springer and have acquired a large slice of their assets. We did that very deliberately, in Germany. We just performed the largest investment in our corporate history in Germany.





## Interview 1: Journalist who was working in Rzeczpospolita newspaper from 2007-2012<sup>1</sup>

**Question:** According to your experiences, what are the most essential differences in the work of a media outlet owned by foreigners and of one owned by national owners?

**Interviewee:** Actually, I do not see any differences in the impact of capital on journalist work. Of course, I am speaking from the perspective of a journalist from the national department of the „Rzeczpospolita” daily. I was not affected directly by situations which would allow me to see radical differences.

Perhaps there were present some mental differences that resulted from subjective feelings. In case of „Rzeczpospolita”, the situation was the opposite of in other media. I started working in a medium controlled by a foreign owner. In 2011 it was taken over by a Polish businessman, Grzegorz Hajdarowicz. I had good experiences when I came to work in the newspaper with a foreign owner. I came to the company which had a good job offer that guaranteed satisfying and interesting journalistic challenges.

The difference after the takeover was that I was aware that there would be big finance and staff cuts. The owner explained that it was because of the need to save money. The changes were not limited to dismissals, and the dismissals did not occur immediately. Restructuring took a couple of months. They started with reducing costs of mobile phones and bonuses for journalists.

**Q:** Can you remember situations when you had to take the owner’s interests in consideration to the disadvantage of your journalistic work?

**I:** I did not experience such a situation in the „Rzeczpospolita”. Of course, when I came to work, I was aware of the editorial line. I experienced such conflicts in other editorials, but during my work in the „Rzeczpospolita” I never encountered such cases

I recall the period between 2007 and 2011 as the one in which the owners of the medium have interfered in my journalistic work the least.

**Q:** What are the most important advantages / disadvantages of being owned by foreign investors?

**I:** From my perspective and experience, the most unfavourable were financial changes, which resulted in the decrease of my final salary. As a journalist who, since 2007, has worked in the newspaper which had a conservative-liberal policy.

After the takeover by a new businessman, nobody explicitly said that, but the new owner made some statements about his vision of running the editorial line. Moreover, there were introduced new people to the board of the company, whose presence led to changes in the activity of the newspaper.

**Q:** Does a foreign owner mean stronger defence from political influence / from the influence of the advertisers?

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<sup>1</sup> \*in 2011 sold by Mecom Group to Gremi Business Communication controlled by Polish businessman Grzegorz Hajdarowicz)

**I:** It is hard to say. I was in charge of journalistic work. And doing such job, it did not matter to me. I did not feel the change. I did not have direct experiences with that. We should distinguish this from what I could hear or read in the industry media but it is a matter of interpretation.

The change of ownership was associated with an attempt to put pressure on the leadership. Before the takeover, there was a huge conflict among the members of the board. Even a bankruptcy application was filed. An attempt of real impact on foreign owner was made so that he gets rid of his shares. The then editor-in-chief, Paweł Lisicki, claimed that the company's bankruptcy application was politically motivated. In his view, the main aim was to put pressure on the Mecom company to agree to the change of the newspaper's management. It was about the pacification of the editorial staff and limitation of its opinion-forming.

**Q:** **Could the foreign owner guarantee higher professional quality than a national owner?**

**I:** My experience shows that he could. I came to work for a company, where on each step I was positively surprised. Until now, I think that during that period I had the best working conditions. However, after the acquisition of the company by Mr. Hajdarowicz, me and my colleagues devoted much time to talk about the fate of us and our company. In view of this uncertainty, we were less focused on journalist work.

In case of the „Rzeczpospolita”, there is no doubt that the takeover took place for political reasons.

**Q:** **Could the owner contribute to clarify and realise professional standards?**

**I:** In my opinion, this is the main task of the owner, who should set the business in a way which would create the best conditions for work and journalistic development. What really suited me was the care about professionalism in every detail. It was the most opinion-forming newspaper in Poland at that time and it was appreciated by the in-depth legal and economic analyses.

**Q:** **In your opinion, media investments are led by economic or by journalistic motivations primarily? How important would you estimate the journalistic motivations?**

**I:** I am afraid that primarily they are motivated economically or politically. Journalistic motivations are either in the background or they are completely marginalized. The media were created in order to promote political trends or for advertising reasons. Journalistic motivations are only a tool. I do not blame media owners, because I think it works like this everywhere. It is a question that needs to be balanced. Readers should be honestly informed what is the purpose of the owner. In case of local newspapers it is also a business.

For me, the journalistic motivations are crucial. I have become a journalist in order to explain the reality. Sure, we work for money, but in the first place we should consider what we are going to gain from a journalistic point of view. Of course, money is also important.

**Q:** **What has changed in your work when the foreign investor sold the media outlet where you work?**

**I:** Prior to the announced change of the newspaper owner, there took place some actions which were to be expected. This was accompanied by uncertainty. After the takeover there came dissatisfaction with the worsening of financial conditions. And consequently dismissing a large number of employees.

The period when Mecom owned the newspaper, was the best period of my professional career in terms of journalism. Full independence and great professionalism in the work of editorial and good administrative environment. One felt that he worked in a well-organised company that gave journalistic freedom and independence.







# Slovakia

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## PRAVDA daily, Foreign desk journalist

*Pravda*, a daily that between 1948-1989 served as official publication of the Communist Party of Slovakia. Currently, it positions itself as a serious newspaper with social-democratic affiliation (thus for a long time seen as a supporter of ruling Direction-Social Democracy (*Smer-Sociálna demokracia*, *Smer-SD*). In the period of 2006-2010 it was owned by the English Northcliffe International Ltd., owner of *Daily Mail*. Purchased by Florena, a.s. which is owned by clients of the financial group J&T.

## Roland Kubina, Editor-in-Chief of News room & Programming, JOJ TV

JOJ TV is since 2007 by the Slovak financial group J&T, forming the core asset of the media holding JOJ Media House. It started its operation under the current name in 2002, a change from previous TV Global, a network of 18 regional channels that was created on the basis of Košice-based TV Naša (it was established in 1996). In 2000 TV Global was bought by the Czech company Česká produkční invest a.s., a sister company of Česká produkční 2000, which operated Czech most popular private broadcaster TV NOVA. In 2004 the television channel was purchased by the Slovak Grafobal Group of Slovak publishing & advertising mogul Ivan Kmotřík.

**Question:** According to your experiences, what are the most essential differences in the work of a media outlet owned by foreigners and of one owned by national owners?

**Pravda's Journalist (P):** Perhaps the main difference was in a focus of our daily, in a different positioning in the market, given the style of the British-owner's core newspaper in England [*Daily Mail is traditionally a right from centre oriented tabloid* – author]. While the foreign investor wanted our publication to position itself in a more tabloid-like style, the previous and the current owners preferred more serious, traditional editorial policy. At the same time, the difference was not so evident in terms of topics covered; rather by the style how to present the daily events – the foreign owner wanted to use more simplistic language, with more and bigger pictures.

**JM:** If there is a local owner, you are more flexible, you can make decision easier; that is the essential difference. On the other hand, naturally, you are under bigger scrutiny as you have owners closer.

**Q:** Can you remember situations when you had to take the owner's interests in consideration to the disadvantage of your journalistic work?

**P:** To some extent we can speak about it in connection with our foreign owner, as sometimes it appeared quite difficult for me to pursue my usual approach, a more serious, traditional one. As far as the current owner is concerned, certainly there is his point of view, but at the same time, also the paper's management has the same perspective, so the daily decisions are primarily based on management decisions rather than coming from the owner. I do not think, though I might be wrong, that the owner calls every

single morning tasking the management what to cover or not. Certainly there are such contacts, and most likely they are on a regular basis, but the daily business is run by the management.

So to sum it up, I cannot say that I myself had to compromise my approach somewhat. On the other hand, when a reader looks at the final product, (s)he might have some doubts whether the owner's interests are not reflected there. It is fair to say that my view is probably influenced by the fact that I'm a foreign desk journalist, thus I am not dealing with hot political or economic stories – in such cases it might happen that decisions on what to cover, or maybe even more often on what not to cover, are more directly linked to the owner's interests.

**RK:** No, never.

**Q:** **What are the most important advantages / disadvantages of being owned by foreign investors?**

**P:** Hard to assess what it is in fact. Once the independence is guaranteed, the actual daily business is based on each owner respectively, as it has its own philosophy. Again it is not purely foreign-or-local owner-related question; it is more about the business strategy of the owner. Certainly, the local owner might be more sensitive to local issues, both political and economic and that could impact the content. The foreign owner, on the other hand, is somewhat further away from this. Nevertheless, such owner does not live in a vacuum either – even if living in Bahamas or London, the owner naturally follows what is happening in the country of his investment. Simply, the foreign owner has to take local conditions and processes into consideration as well.

**RK:** Better financial opportunities is obvious advantage of a foreign owner, especially when it is a big corporation. It is always easier to get some financial support when your media outlet is part of a successful corporation (holding) with more companies in the portfolio – to transfer money from more profitable part of the holding to another one and later to re-cover it in the opposite direction. Additionally, you can share project-related costs, you can make acquisition of programmes more easily, you have a better market position worldwide, in particular in purchases. Naturally, you have someone to learn from, how to make business more cost-effective. Now, with a globalized market, you know how to get things easier if you know whom to contact within 'the family'. I am not saying we do not have this, but we have to create those networks on our own.

Disadvantage of a foreign corporate owner is lower flexibility – there is a longer planning, decision-making, some given set ups that might not be always the most appropriate for particular market. But I did not work for such a company so it is rather my deduction.

Yes, we were owned by *TV Nova*, I have worked here even before that, from the beginning, now it is about 25 years. But I do not consider the Czech Republic to be a real foreign owner. With them we have worked together on an excellent level – we have made friends within the company and indeed helped each other quite a lot, learned a lot. While they were a big strong company already, we were small and poor. So we showed them how to minimize costs for some processes, while we learned a lot from many other aspects. It was mutually beneficial and pleasant.

**Q:** **Does the foreign owner mean stronger defence from political influence / from the influence of the advertisers?**

**P:** In theory yes. In principle, the foreign owner has some distance to the local issues, though, there is no absolute vacuum, foreign owner has to understand and follow certain local developments too. If we look on the advertisers, there are from here, so the owner must take it into consideration, regardless of his office location. And there is someone behind those advertisers, so any owner must think it of as well.

It probably should be like that, but local conditions have an impact. It also depends on how strong the owner is, how much all moments are considered – as for example our foreign owner in some situations decided not to care that much. In ideal situations a foreign owner offers better protection, but to what extent do we live in an ideal environment, that's difficult to say.

**RK:** I do not think so. Every owner, regardless of the office location, has to deal with the same issues on the market. Conversely, if the foreign investor comes to the country, the first thing to do is to meet with the politicians. Why should it be different in case of media investor? In particular, given that the media does possess political power. An idea that an owner with plans to invest in a media outlet which influences public opinion will not meet or not communicate with politicians is unrealistic. That is my deduction only, but quite logical, I guess.

**Q: Could the foreign owner guarantee higher professional quality than a national owner?**

**P:** We were owned by the foreign owner whose main product in Great Britain is a perfectly managed professional tabloid newspaper, at the same time its political affiliation is absolutely obvious – to the extent incomparable with any Slovak daily. So if we speak about professionalism and quality, we should firstly define what we mean. If some objective, super-balanced journalism, even though I'm not sure anything like that is ever possible, but if we keep speculate that this is the goal – then nothing like that was to be found in the owner's main paper at home. It was a product that was clearly oriented on its target group.

On the other side, foreign owner has long-term experience, approaches, it certainly can be seen as helpful and positive from a technical and marketing aspect. They told us some things we had never thought about before, e.g. a change of the newspaper's layout – though it has taken some time, eventually it proved easily readable. Additionally, they brought different positioning of the paper's sections. Simply some changes were clearly led by a vision, by knowledge and long experience, not by the fact that someone has read an interesting article in the morning, as could be sometime seen in Slovakia. The owner had a clear vision what the product should look like, where a market niche might be, what and how to focus on to address its target group. For example, they made our paper more women-oriented (based on some researches) and it worked out.

**RK:** Not today anymore. Certainly, there were new processes, new technologies, new work approaches and discipline when CME arrived and made strong financial investments in *TV Nova* and later on in *TV Markíza* 20 years ago. But after so many years it is not relevant anymore, not to mention the fact that journalists have swapped between media outlets, many others have studied abroad, have experience from abroad. In addition, in certain segments of the television market we are ahead of many others in Europe or the world. We have at least three formats (*My mother cooks better than yours*, *Got a talent*, *Guess my age*) which were assessed as among top adaptations of the original format. Additionally, there were several foreign production teams from whom to learn how such a quality can be achieved within such budget. It applies for examples and professionals from *TV Markíza* that are too highly demanded from abroad for their adaptations. We can certainly say that in entertainment segment Slovaks are a real top class.

**Q: Could the owner contribute to clarify and realise professional standards?**

**P:** In an ideal scenario yes. It is wonderful, if a foreign owner has long business experience, has a strategy and willingness to develop the product financially in order for it to gain some quality level. It is indeed related to foreign owners/investors with a long-term vision, a factor often missing in Slovakia. Who is doing media business in a longer run here? Look, now Penta [*financial group Penta Investments purchased various print media titles over recent years* - author] has acquired half of the media market, but what is the company's experience in this market and what does it want to achieve? I think that a foreign owner with some clear, longer history is probably better and has potential, in a good scenario, to ensure things that are missing in Slovakia.

**RK:** I think it goes hand in hand between the owner and journalists – if the owner is smart, he will stay away from a daily operation of the media outlet. As it is in our case. In fact, the owner does not bring you money for you to cultivate them; he wants it from you. It is about if there is some money left, how it is used, invested. Nevertheless, every meaningful owner wants his television/media outlet to be professional, to look better, nicer – it is only about a compromise whether something is worth the price or not. These debates are taking place everywhere – to make their product better. The difference between local

and foreign is that if we have to ask the local owner whether it is worth the financial risk – and they will most likely agree - but we will need to guarantee that the money will return. Whereas in the big foreign corporation the process to get a green light might take longer, however, it is said that maybe in a year or two it will be your turn to pay your debts instead of someone else from the holding – in other words, you are under smaller immediate pressure. It applies if the corporation is functional – like CME here for example [owner of *TV Markiza*] that is part of really big corporation [*Time Warner*], what is a big advantage that a loss will not hurt them so much. Compared to that our television is just a small company.

The real difference is that if there is a foreign owner, you in fact do not know who is the real owner, person that owns it. Whereas, in case of a local owner, you know it exactly – the real person comes every other week to check cashbooks, financial situation, plans, look into your eyes and asks on all the pertinent issues. This approach is in fact unimaginable in big firms – there you get hot talks with the director, but that is the management level. However, to imagine that the big owner will show up is out of question. Simply it is quite different, the feeling of real responsibility is very different.

**Q:** In your opinion, are media investments led by economic or by journalistic motivations primarily? How important would you estimate the journalistic motivations?

**P:** I do not think there should be OR when assessing two aspects as both moments should be evenly important – to do good quality journalism and to look for a good profitable business model at the same time. And this is the problem for 75 per cent of the media world. Yes, we can try to do a super-objective journalism, but still, someone has to pay for it. And it remains a big question whether such an approach is eventually profitable investment anyway. If Jeff Bezos were not the Washington Post owner, maybe it would not exist as he finances it with lot of financial injections and thus enables its great journalism, but is this a real business model?

On the other hand, if someone owns a media outlet purely as a business, then inevitably the serious quality journalism will suffer as the success is judged by selling data. That is the question of the modern world, in particular when we speak about dailies whose circulation is decreasing all around the world (maybe with exception of big part of Asia) – how to ensure the journalism with a certain purpose, and how to make some profit out of it too? I believe in journalism, but if does not reach out to more people, then...

Overall, I do not think that media business is extra successful in Slovakia, though I do not know the real market data. Still, I think that most of the media here try to do at least somewhat descent journalism. Nevertheless, the economic motives are certainly relevant. I am really curious about the future of Penta's entry into the media market as they have purchased quite a lot – but is it a real investment for them, do they have a real and clear vision what to do, what to achieve, do they want to make a profit or it was just an opportunity to buy something else or is there anything else behind? And to some extent it applies to my daily as well – as in fact all the dailies in Slovakia fell down quite significantly in terms of circulation over the last decade. At the same time, online revenues are still not that big, additionally, the market is very small and fragmented here. And until when will the situation last like this?

**RK:** It is primarily a business that is the driving force for every owner. Money factors certainly influence the focus – that is why, for example, you will not see a real, quality based investigative journalism in Slovak television for a long time, including in TV JOJ. There are many good journalists in our channel asking me for it continuously, but if you want to do it properly, seriously, it takes real time to identify the issues, to get a real insight, to analyze them – and all this costs money. The current times are too hectic, which does not suit such formats – and I do not want to present products that are half-done, superficial. Nevertheless, for some time in the past we had *Under the lamp* [*Pod lampou*, a socio-political discussion programme, that gained several Journalistic Price awards. It was broadcasted by TV JOJ Plus in 2009-2010 after public television that aired the programme since 2004, cancelled its broadcasting, in a politically motivated decision, in 2007 - author] in our programming structure despite the fact that such format attracts only very small segment of the audience. It indeed did not meet typical commercial criteria, but some of our owners were in favor of it. I think, I hope, that the time is coming; it looks there is a social demand for a good investigative programme again.

**Q: What has changed in your work when the foreign investor bought / sold the media outlet where you work?**

**P:** The focus has changed – from a serious political daily we turned into semi-political tabloid which I did not appreciate much. And conversely, once we were bought back by Slovak owner, we have returned to the previous, more serious style. Not that things were so different for me, but in style there were changes – shorter articles, more pictures. Now we have returned back to politics, or even to analyses for example. Again, it is based on owner’s policy, not that it is necessarily good or bad. I have nothing against professional tabloid, as I have worked in one previously. It is not entirely my thing, but if it is done properly, why not.

**RK** Arrival of Vladimír Železný [*General Director of CET 21, license holder of Czech TV Nova - author*] has broadened our horizons. We moved rapidly forward as we could go to Prague, to TV Nova to learn numerous things there. In this way we had it much easier. It is similar to when TV Markíza has been launched, there was TV Nova existing for some time already [both co-owned by CME], which helped them with know-how, so things went much quicker for them. We would probably have reached the same level, but it would last much longer without TV Nova, or without Železný. In particular, Železný is a great charismatic, experienced and sophisticated person, what was an additional asset and helped our successful cooperation a lot.





# Aspect of the investors

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## Interview I: Ringier Axel Springer (Switzerland)

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**Question:** 2010 was also a major point of transition in Hungary.

**There were new media laws, new media policies.**

**The question here is whether the sale of political newspapers in Hungary is merely a clean-up of your media portfolio or also a media policy decision?**

**Interviewee:** This portfolio clean-up was naturally motivated by several reasons. For one, anti-trust regulations forbade us from merging the portfolios of Ringier and Axel Springer in their respective constellations at the time. It was of course important for us to retain the tabloid brand in our portfolio, and then we were also interested for example on the women's market, where we assumed we would be able to make good money. As far as getting rid of regional newspapers, Axel Springer did the same in Germany, for example the *Hamburger Abendblatt* or the *Berliner Morgenpost*. We sold these because we are aware that their business models will be under pressure. And then we also sold *Népszabadság* as well as the *Világgazdaság*. In the end we were left with a portfolio that was similar to what we have in other countries. We currently also have a tabloid in Poland, where we don't own a business newspaper or a major broadsheet -- we don't have that in any market anywhere. Where we own newspapers, those tend to be tabloids.

**Q:** In your experience, do the governments in these countries pursue any specific media policy goals, and do you have any influence on the formulation of these goals? Or do you not see that as an important issue for the future development of von Ringier Axel Springer?

**I:** Well, governments almost always have specific ideas how the media should behave or what the function of the media is. Our opinion about that is essentially always different. For us, it is crucial to retain our independence, and to make sure that we do not allow ourselves to be bent under pressure when the circumstances are tough. Ultimately, that is also our USP (Unique Selling Point). In many markets in which we are active we are also – more or less – the only independent publisher that remains. Incidentally, we view that as a great opportunity. We have also observed, however, that especially since the financial crisis in 2008 the entire traditional media segment has been under tremendous pressure (also resulting from structural changes). This has contributed to the decisions of international investors to sell off their media portfolios. In part because they no longer believed that there were opportunities for growth in the central European market, or at least not in the near future. But at the same time they also saw that the political climate had changed – and this was in a way also connected to the financial crisis – because these emerging economies stumbled and were facing problems as a result of the crisis. They could no longer ensure continuously rising standards of living for their citizenries. That led to widespread dissatisfaction and ultimately brought down several governments. There were changes in power; that happened in Hungary, Serbia and several other markets. And then this also resulted in nationalistic tendencies moving to the foreground. Foreign investors, for their part, responded by reviewing their activities and began to consider fewer of them as part of their core strategic activities. This opened up opportunities for some oligarchs who duly picked up the scent: "That is our opportunity to take over a media outlet and to use it to steer the country in the right direction". There has been a shift in many markets, away from independ-

ent international investors to local tycoons and oligarchs. From the perspective of democratic political development, this is not making the situation any easier for these countries. We observe ever greater intertwinements between politics, business and the media in these countries.

Nevertheless, we always say our business case is publishing. We want to make money with journalism. This is not always easy for us in the market because our competitors do not always have the same business case. A local tycoon might say "I like having a newspaper because I can shape public opinion in order to make good money in my gas and coal business". And then he can easily accept a 5.000.000 € loss with the newspaper because it still compares favourably to the 6 million euros he used to spend on marketing. And then the competition is unfair because the tycoon doesn't care, he pays high salaries and lures away the best journalists or destroys prices in the advertising market, simply because in his media activities business considerations are secondary. That is a huge problem and it makes life difficult for us in these markets. So we are still lucky that we can sustain this USP – that of an independent media company – in these countries, and that journalists are aware of this; it attracts them. There are still journalists who want to pursue journalism rather than some type of marketing job. And they appreciate the fact that we protect and value editorial independence.

**Q: Other publishers have opted for a very different path, most of them already left Hungary. From Sanoma all the way to Funke they are all gone. What kind of protection mechanisms could Ringier Axel Springer develop against these trends? Was your company more courageous than the others?**

**I:** Protection mechanisms? For one, you need the right people in these countries, those that fight for their profession and don't give in. But you also need an investor to back these people. And that's us. In other words, our journalists always know that they can rely on us. When we see that there is pressure on our journalists, then we naturally also use the means at our disposal – which are not at all inconsiderable at the European level – to protect press freedom and the independence of our media assets. This means that we will even call on the highest diplomatic circles – be it in Germany, in Switzerland or other markets – to resolutely convey our impression that these goings-on are not all right. At the same time, we will steadfastly seek to enter into a dialogue with the government, to find out what the problem is without bending to the government's will. Because the moment we'd be willing to give up on editorial freedom would also be the moment when give up on our business.

**Q: Do you have any common models that you can provide to newsrooms, based on which they can design their internal regulations, their journalistic culture or provide trainings?**

**I:** Yes, we are very active in this area. For starters, we have a Code of Conduct which defines very clearly what we mean by journalism, it lays out what editorial independence means and also contains all classic professional standards. Additionally, we also work a lot with all local newsrooms to help refine and improve these standards further. We have specialised coaches who visit the newsroom every few weeks and then perform a critical review of the newspaper together with the staff. And from them we receive new ideas, which is when I tend to get involved. Our coaches come to me then and say: "So THAT is not going in the right direction now, so we must to THAT." Then we discuss this with the editor-in-chief and say, for instance "All right, you don't have enough people in this area, you need to build inter-newsroom competence in business coverage", and so on. That does not involve any editorial interference in content. The issue for us is always how we can improve the quality of our journalism, how we can reach a high standard. Because quality is still very unevenly distributed. The markets in Central Europe are smaller and thus one must invest a lot in training individual journalists. At the same time, we are also about to invest massively in the digital training of our journalists. We are in the process of building a digital academy of sorts, which will serve young journalists in learning about digital journalism and more experienced journalists in refreshing their skills or learning about this area. That is important because digital journalism requires cutting edge know-how.

**Q: What is your assessment of the impact of EU accession on our region, in the sense whether the instruments at the disposal of the European Union provide adequate safeguards for your investments? Or does that depend on the individual countries?**

**I:** That is difficult for me to judge. Basically, I think all of our markets have benefitted from EU membership because it has increased investors' focus on these markets. We have a very specific example in our portfolio, Serbia – which will hopefully soon enter into accession talks with the EU –, where the market is not really rising. Serbia is very dependent on foreign direct investments. A market such as Serbia needs an external impulse to be propelled forward and develop its potential. And at the end of the day, such an external impulse can only come from EU accession. Through accession Serbia would create certain framework conditions that would render it more interesting to investors. There are already a number of foreign companies that are active in the market, but there is potential for a lot more. That could lead to a positive overall dynamic that would substantially accelerate growth in Serbia. I think that the EU was a very positive experience for Hungary, Slovakia and especially Poland, because there have been a lot of investments, from EU funds in part, but also from foreign investors.

**Q: What are the regulatory and non-regulatory factors that influence the security of investments?**

**I:** Political and economic factors are the main issues. Most of the times, these move hand in hand. And in our industry, this is all augmented by structural changes. The changes in the media business exert pressure on our existing businesses, and we need to build new businesses in the digital area. Naturally, this takes financial stamina and, above all, a commitment to raising the necessary financial resources.

**Q: If Ringier Axel Springer wants to implement a new investment project in an eastern European country where it has no investments yet, how would it prepare for this, what factors would you research?**

**I:** (36:18) Legal security is of course very important, and also how the media market has evolved. So we need a framework where one won't have to say "We can't rely on anything here. It could be like this today and completely different tomorrow." So I can tell you very plainly: Nothing is going to make us go to countries such as Belarus or Ukraine. In addition to the political framework conditions, however, we also look at the market from an economic perspective. How are the GDP figures evolving, and, most importantly, how is the digital advertising market doing? How strong is the position of television as compared to digital offerings? We follow a basic premise: We no longer buy print publications and we do not invest in them. So if we were to enter a market now we would build a purely digital company. We also think a lot in terms of platforms. We believe that in addition to the development capacities that one must possess, and which need to operate as the central unit, it is enriching to have a platform that one can first develop and then expand into other countries. This is a completely different division of labour than the one we know from a classic publishing house. At a classic publishing house, you have a general manager who decides everything and controls a variety of different titles. Then you have the editors-in-chief. They decide everything that goes on with respect to content. That's not how digital business works. We are the only regional player in Central and Eastern Europe that is still active in the media business. Our strategy is clear: We want to evolve from a small group of local champions into a regional heavyweight. So in other words this is about scale, about platforms, about covering large areas, efficiency, and above all a technological edge that I just won't get with five developers working at the local level.

**Q: How do you see the future in these markets?**

**I:** I am fundamentally very optimistic as far as our markets are concerned. Of course we no longer see the growth rates that we saw in the early 2000s, when GDP grew by 8-10% annually. I think if these markets grow around 3-4% these days then that's a very decent and solid rate of growth. But these markets are also far more advanced now. I think there is a huge amount of potential left in these markets. But there

is also potential in Hungary. You can see Hungary is slowly lifting itself up again. For this year, I think the growth prediction was around 3%. That opens up some possibilities. The government is the only risk factor. And I hope that the country will grow once again and that the labour market will continue to develop as we saw this year. Yes, the other markets, Slovakia and Serbia, are smaller now. For Serbia, EU membership is definitely the decisive factor. Slovakia, too, has a lot of potential, but it is still too dependent on foreign direct investments, and automobile production especially should rely to a greater extent on the internal market.

## Interview II: WAZ/ Funke Group (Germany)

**Question:** Can I ask you about the strategy behind WAZ's expansion in central and eastern Europe? What is your goal, what is the underlying idea behind this expansion?

**Interviewee:** There was a targeted investment in the region at the time, as the market was just in the process of opening up. The expectation was that we would be able to make good money with targeted media investments in these countries, since the media world was not as organised yet as it was in western Europe. There was a demand to invest especially in EU candidate countries, in the anticipation that the emerging rule of law system would allow for safe investments.

**Q:** Is it possible to determine in how far these investment activities were shaped by business objectives? In terms of your investment decisions, what would you say was the respective impact of wanting to shape the process of democratisation and of pursuing business objectives?

**I:** No, these two must be treated separately. We always pursue business objectives, we are a business corporation. We are in fact obliged to pursue business investments. In the case of any investment, we weigh the options based on an investment proposal, which includes a profitability component. Nevertheless, even though as a media company we operate as a business, the independence of journalists is a cardinal value for us. We have a code of conduct that applies to our subsidiaries across Europe. So this is the other side of the coin: We strictly pursue business activities in the publishing industry, but our editors are free. We respect the freedom of the journalistic profession. It is impossible to determine what the "share" of this policy is. Initially, the question of whether to invest in a country is strictly a business decision. But once we are present as a publisher, our editorial guidelines naturally apply.

**Q:** These countries are not uniform, of course, but did you encounter a consistent and deliberate media policy in them? Did you have the impression that the various governments there had specific goals with respect to the media system, that they envisioned a certain type of media system?

**I:** The media policies of the given governments were generally shaped by the desire to gain influence over the media, over the contents they disseminate. Governments sought to decide who the owners and editors-in-chief would be, and also the contents that the media publish. In our case they came up against a brick wall, we fiercely resisted these efforts. All governments said more or less unequivocally that they want government-friendly media coverage.

**Q:** How can a German company react in such a situation?

**I:** We simply don't do it.

**Q:** But that jeopardises the investments.

**I:** Indeed, and that's what happened everywhere, which is why we ended up leaving.

**Q:** Were there any practices that you brought from Germany to this region? Did you for example introduce internal regulations?

**I:** Of course, we always had an internal review department. This department is responsible for all of Europe. We continuously monitored and controlled our non-German investments in the same way as our German holdings.

**Q:** Was it possible for you to influence legislative action on media policy in any way? Were you consulted before such decisions were rendered?

**I:** No.

**Q:** So you were seen purely as financier of the media market.

**I:** We were indeed welcomed as financiers. Yet we had hardly arrived when we were already told to comply with the rules of the game. This we failed to do. But there were differences between countries in this respect, this type of pressure was more intense in some while it was absent in others.

**Q:** Can you pinpoint the critical aspects of a legal system that could have a positive or negative impact in the case of such investments?

**I:** It would be difficult to name the positive things, but I can tell you what has a negative impact. One type of negative experiences were deficiencies in judicial independence. Another problematic issue was the lack of respect for the separation of powers. It should not be the case that Parliament or individual MPs have direct access to public authorities and therefore influence their decisions. The tax system was in some aspects scandalous. Hungary recently provided a striking example with the Lex RTL [the advertising tax that was in its initial form mostly paid by a single company, RTL].

**Q:** In Brussels you also mentioned anti-trust law. Were you in conflict with anti-trust authorities?

**I:** Yes. To go into more detail, initially many countries in which we invested did not even have anti-trust laws. This was the case in Serbia, for example. Anti-trust laws were created later. But the authorities lacked personnel with the ability to act independently from the state. At the same time, anti-trust laws were often abused to help the state or some private party assert their interests against us. There is a protracted case in Serbia, for example, that of NOVOSTI, which was denied a merger clearance. That decision was in obvious contravention of the law, there was no legal justification whatsoever.

**Q:** Did you also experience discrimination in some official procedures?

**I:** Of course, in every which way. We saw everything, we – and that includes me personally – were even subject to criminal proceedings and investigations. For vacuous reasons. Just to scare us off from entering the country. There was an investigation against me in some of these countries without any grounds, just to keep me from entering the country.

