

**FORM FOR THE SUBMISSION OF COMPLAINTS CONCERNING ALLEGED
UNLAWFUL STATE AID OR MISUSE OF AID**

The mandatory fields are marked with a star (*).

1. Information regarding the complainant

and

2. I am submitting the complaint on behalf of somebody (a person or a firm)

(...)

3. Please select one of the following options, describing your identity*

a) Competitor of the beneficiary or beneficiaries

b) Trade association representing the interests of competitors

c) Non-governmental organisation

d) Trade union

e) EU citizen

f) Other, please specify

Member of the European Parliament

Please explain why and to what extent the alleged State aid affects your competitive position / the competitive position of the person/firm you represent. Provide as much concrete evidence as possible.

Please be aware that, by virtue of Article 20(2) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, only interested parties within the meaning of Article 1(h) of that Regulation may submit formal complaints. Therefore, in the absence of a demonstration that you are an interested party, the present form will not be registered as a complaint, and the information provided therein will be kept as general market information.

4. Please select one of the following two options*

Yes, you may reveal my identity

No, you may not reveal my identity

If not, please specify the reasons:

Confidentiality: If you do not wish your identity or certain documents or information to be disclosed, please indicate this clearly, identify the confidential parts of any documents and give your reasons. In the absence of any indication about confidentiality of your identity or certain documents or information, those elements will be treated as non-confidential and may be shared with the Member State allegedly granting the State aid. The information contained in points **5 and 6** cannot be designated as confidential.

5. Information regarding the Member State granting the aid*

Please be aware: the information provided under this point is regarded as non-confidential.

a) Country: **Hungary**

b) If known, specify which institution or body granted the alleged unlawful State aid:

Central government: Cabinet Office of the Prime Minister (in HU: Miniszterelnöki Kabinetiroda) and Prime Minister’s Office (in HU: Miniszterelnökség), National Office of Communications (in HU: Nemzeti Kommunikációs Hivatal, NKOH)

Region (please specify):

Other (please specify):

6. Information regarding the alleged aid measure*

Please be aware: the information provided under this point is regarded as non-confidential.

a) Please provide a **description of the alleged aid, and indicate in what form it was granted** (loans, grants, guarantees, tax incentives or exemptions etc.).

Advertising campaigns of the Government as a direct financial support are favouring particular groups of media in various sectors (print/newspaper, radio, television, internet)

Any government, when decide to advertise in various sectors of media, should be doing it in economically neutral way taking into consideration the viewing statistics and the viewers reached.

However, contrary to the above principle significant amount of public funds were spent on politically motivated governmental advertisement campaigns through a selected group of media outlets in the last years.

The exact figures spent in the media are unknown, since the government does not disclose the exact data.

1. The campaigns were the followings:

1.1. The “national consultation on immigration and terrorism” campaign (2015)

In May 2015 the survey was sent out in more than 8 million copies, from which about 1 million was sent back to the Government. The survey contained biased questions about immigration, terrorism and the EU. The total cost of the campaign was around 1.25 billion HUF¹ (ca 4,2 million EUR)

1.2. “Quota referendum” campaign” (2016)

In 2016 the government initiated a referendum related to the European Union's migrant relocation plans was held in Hungary on 2 October 2016. It was commonly referred to as the kvótanépszavazás (quota referendum) in the Hungarian media. While an overwhelming majority of voters rejected the EU's migrant quotas², turnout was too low to make the poll valid³. The total cost of the governmental campaign amounted to 8,6 billion HUF (ca 28,7 million EUR)⁴ without the costs of the management of the referendum.

1.3. “Hungary is getting stronger” campaign (2016 November – 2017 February)

The “Hungary is getting stronger” campaign intended to draw the attention to the results of the government (Messages: The minimum wage of the skilled workers grew by 25%, The wage of the doctors and nurses and teachers is increasing, the family tax benefits are increasing, government gives 10 million HUF for families for buying/building family home. The costs of the campaign for 2017 are estimated to 3 billion HUF (ca 10 million EUR)⁵.

1.4. The “Stop Brussels” campaign (2017 April)

The “National Consultation” contained six questions on “what Hungary should do” about EU policies on immigration and economic issues like tax-raising powers. The questionnaire is titled “Let’s stop Brussels!”. The costs of the national consultation itself only amounted to 949,6 million HUF⁶ (ca 3,2 million EUR). But the costs of the governmental campaign are running

¹ There is no official information containing the costs of the different campaigns available, therefore we rely on information gathered by journalists from government sources. <https://vs.hu/kozelet/osszes/mennyibe-kerult-nekunk-a-bevandozas-elleni-harc-0803#!s0>

² The question of the referendum was the following: Do you want to allow the European Union to mandate the resettlement of non-Hungarian citizens to Hungary without the approval of the National Assembly? (In HU: Akarja-e, hogy az Európai Unió az Országgyűlés hozzájárulása nélkül is előírhasa nem magyar állampolgárok Magyarországra történő kötelező betelepítését?)

³ The turnout rate was 44, 04% (The validity rate for a referendum is 50%+1 vote, Number of registered voters: 8 272 625, total number of votes: 3 643 055). The number of Yes votes 56 163 (1,64%), the number of No votes was 3 362 224 (98,36%) Number of invalid votes: 224 668. (Further info: https://en.wikipedia.org/wiki/Hungarian_migrant_quota_referendum,_2016)

⁴ Elárulta verge a kormány, hogy mennyibe került a kvóta kampány [At least government said the cost of quota campaign] Index, October 4, 2016.

https://index.hu/belfold/2016/10/04/elarulta_vegre_a_kormany_mennyibe_kerult_a_kvotakampany/

⁵ 3 milliárd forintot költött a kormány a propagandagépre a ‘Magyarország erősödik’ kampányban. [Government spent 3 billion forints for the propaganda machine in the ‘Hungary is getting stronger’ campaign] Atlatszo, May 31, 2017. <https://atlatszo.hu/2017/05/31/3-milliard-forintot-koltott-a-kormany-a-propagandagepre-a-magyarorszag-erosodik-kampanyban/>

⁶ <http://www.kormany.hu/hu/miniszterelnoki-kabinetiroda/hirek/a-kormany-nemzeti-konzultaciott-indit>

much higher: only in April the government spent 5,4 billion HUF (ca 18 million EUR)⁷ and altogether they spent about 7,2 billion HUF (ca 24 million EUR) to the campaign⁸.

1.5. The “Stop Soros” and related campaigns (December 2017 – January 2018)

In October 2017 the HU government started a national consultation about the so called “Soros plan” containing plans and thoughts of George Soros how to renew the asylum system in Europe. The Open Society Institute on behalf of Mr Soros and the European Commission both denied the existence of such a plan. The actual costs of running the national consultation are not available, but it is clear that in late 2017 and early 2018 the government spent 2,46 billion HUF (ca 8,2 million EUR) only on Stop Soros campaign itself. The whole communication package in this period was 4 billion HUF (ca 13,3 million EUR). Those other campaigns are also similar projects: communication on the government’s productivity and communication about the decision of the European Parliament of 16th November 2017.)⁹

1.6. The “Anti-UN” campaign, the STOP migrant campaign and other campaigns related to them (February 1 – April 8, 2018)

In the official election campaign, the government spent 7,0 billion HUF (ca 23,3 million EUR) on communication on the result of the government, reducing energy prices and the campaigns against the UN and its policies on immigration and asylum (1,1 billion HUF, ca 3,7 million EUR) and a so called STOP campaign against immigrants (1,1 billion HUF, ca 3,7 million EUR).¹⁰ Clear sign of the political motivation of the campaigns, that it ended on the day of Parliamentary election (April 8).

1.7. The Sargentini report campaign (2018 Sept-)

This is the newest campaign for the Hungarian Government. Since the adoption of the Sargentini report in the European Parliament the government has decided to launch a so-called “information campaign” about the “lies of the Sargentini report, which is foreseen to have a budget of 5,9 billion HUF (ca 19,7 million EUR).¹¹ The National Communication Office have already contracted the amount to one of the advertising company close to the government.

⁷ Áprilisban 4,2 milliárd forintot költött a kormány az “Állítsuk meg Brüsszelt!”-kampányra. [Government spent 4,2 billion forints for the ‘Let’s stop Brussels!’ campaign] Atlatzo, June 12, 2017. <https://blog.atlatzo.hu/2017/06/aprilisban-42-milliard-forintot-koltott-a-kormany-az-allitsuk-meg-brusszelt-kampanyra/>

⁸ Az idei első nemzeti konzultációt 7,2 milliárd forintért reklámozta a kormány. [The government advertised the first national consultation of the year for 7,2 billion forints] Atlatzo, September 28, 2017. <https://atlatzo.hu/2017/09/28/az-első-idei-nemzeti-konzultációt-72-milliard-forintért-reklamozta-a-kormany/>

⁹ Hungarian government spent € 8,1 million on its latest ‘Stop Soros’ campaign. Atlatzo.hu, March 22, 2018. <https://english.atlatzo.hu/2018/03/22/hungarian-government-spent-e8-1-million-on-its-latest-stop-soros-campaign/> (Data sheets and the original governmental documents are available from the article)

¹⁰ A választás előtt 7 milliárd forintért tolt a propagandát a kormány az adófizetők pénzéből. [Before the election government pushed propaganda in the value of 7 billion HUF from taxpayers’ money]. Atlatzo.hu., May 29,2018. <https://atlatzo.hu/2018/05/29/a-valasztas-elott-7-milliard-forintert-tolta-a-propagandat-a-kormany-az-adofizetok-penzebol/> (Data sheets and the original governmental documents are available from the article)

¹¹ <https://24.hu/fn/gazdasag/2018/09/13/plakatkampany/>

b) For what purpose was the alleged aid given (if known)?

The purpose of the aid is three-fold: the direct purpose of the funds spent on communication aiming at sending simplified and biased propaganda messages to the citizens (1) order to create fear, build up resistance and influence their political views continuously but that has little relevance concerning the complaint. It is more important to mention that it provides state aid for designated circle of otherwise not viable media outlets (2) which are in the hands of entrepreneurs and politicians close to the government irrespectively of their type (print, radio, television, internet) putting the still independent media outlets creates a disadvantageous situation (3) on the market.

c) What is the amount of the alleged aid (if known)? If you do not have the exact figure, please provide an estimate and as much justifying evidence as possible.

We do not possess the exact information regarding the exact amount of the alleged aid, since there is no official database on those spending, we can only rely on the data requested by investigative journalists which do not provide us with a full picture. However, in point 6. a) there is a collection of communication campaigns which amounted to 37 billion¹² HUF (ca 123 million EUR) since 2015. We have detailed database about the spending in the case of 1.4-1.6 campaigns, their overall sum is 18,2 billion HUF (ca 61 million EUR). We have to note here that the amounts are spent by the government via advertising agencies which also makes it rather difficult to get hold of exact information on the governmental spending on communication in general. There are continuously cases at the courts about FOI requests on specific issues of communication spending, however there is no clear landmark decision by the courts stating that this information should be made available.

We have to note here, that the governmental communication spending is only a part of the total state spending on communication. Municipalities, state institutions and state-owned companies are also part of the package. Of course, it cannot be denied that state owned companies have the right to advertise their services or products. It is also a fact that a state advertiser may have different target groups and a different advertising strategy than commercial advertisers, but when there is such a spectacular difference between the respective strategies of state and private advertisers, then the gap is probably no longer only due to special audience targeting. It is reasonable to assume that political considerations, play a role, especially when there is no other reasonable argument behind the advertising campaigns. Similarly to government campaigns, the state advertising spending in broader sense targets a certain group of beneficiaries and with that strongly influence the market, especially in a country where the market is rather small and therefore the number of market players as well as in the specific and the level of competition are rather limited.

¹² This final amount does not include the latest Sargentini report campaign figures, since it has not actually been started yet.

d) Who is the beneficiary? Please give as much information as possible, including a description of the main activities of the beneficiary/firm(s) concerned.

The beneficiaries are in entrepreneurs and current and former politicians and their media outlets with close links to the Fidesz government in all fields of the media.¹³

Print media:

Mediaworks Hungary Zrt

the biggest pro-government publishing house, publishes 13 regional newspapers, some national dailies and magazines. It is owned by Lőrinc Mészáros, close friend of the prime minister.

Magyar Idők Kiadó Kft. - Magyar Idők

a pro-government daily newspaper launched by Gábor Liszkay (former editor in chief of the Magyar Nemzet), businessman and journalist close to the government of Viktor Orbán in 2015.

K4A Kft. - Figyelő:

The weekly economic journal was acquired by Mária Schmidt (K4A Kft.), businesswoman with close ties to the Fidesz, Director-General of the House of Terror Museum and former chief advisor of Viktor Orbán, currently Government Commissioner for coordinating World War I commemorations. Although, the owner's communication right after the acquisition was indicating that she intended to improve the profitability of the journal but it has lost 17% of its readers since then.¹⁴

Modern Media Group Befektetési és Vagyonkezelő Zrt - Lokál

Lokál is a free weekly journal which was started by Árpád Habony, businessman and advisor of the Prime Minister and Tibor Győri, businessman and former secretary of state of Mr Orbán.

Ripost Média Szolgáltató és Kommunikációs Kft. – Ripost

The Hungarian tabloid started 1st January 2016. The owner is Miklós Ómolnár, who is also close to the current government. The tabloid is rumoured to be linked to Árpád Habony, who is responsible in an unofficial capacity for the government's communication.

Magyar Hírlap Kft.

Magyar Hírlap is a right-wing national political newspaper owned by Gábor Széles, a pro-government businessman.

¹³ Detailed data are available at data visualization of MerteK Media Monitor and atlatszo.hu. State advertising 2006-2017. <https://mertek.atlatszo.hu/state-advertising-2006-2017/>

¹⁴ Ordítózva állította a propagandagépezet szolgálatába Schmidt Mária a Figyelőt. [Shouting Maria Schmidt put Figyelő into the service of propaganda machine] Atlatszo, May 18, 2017. <https://atlatszo.hu/2017/05/18/impulziv-eroszakos-orditozos-hatalomvetel-igy-szerezte-meg-schmidt-maria-cege-a-figyelot/>

Radio:

Radio Plus Kft

Radio 1 became a major commercial radio network, owned by Andrew G. Vajna Government Commissioner.

Television:

The TV2 Média Csoport Kft. (including all the tv channels in the ownership of the group: TV2, Super TV2, FEM3, Mozi+, Prime, Humor, IzauraTV, Zenebutik, Spiler 1, Spiler 2, Spiler 3, LiChi TV and Kiwi TV) was purchased in 2015 by Andrew G. Vajna, who is a Government Commissioner responsible for the development of the national film industry¹⁵.

MTVA Group (including M1 M2, M3, M4, M5, Duna TV Duna World and the Kossuth Radio, Petőfi Radio, Bartók Radio and Dankó Radio) is a public service broadcasting company operated by the Media Service Support and Management Fund established by the Hungarian Parliament. The MTVA Group although it is a public service broadcaster, it is clearly biased and broadcasting the political propaganda of the Fidesz government¹⁶.

Echo TV

The Echo Tv's majority shareholder is Lőrinc Mészáros, major of Felcsút, the Prime Minister's birthplace, right wing businessman, subordinate and stooge for the prime minister. Since 2010 he became billionaire with an estimated 105,7 billion HUF (acquired by winning public tenders in the last 8 years. According to Forbes nobody in the history acquired such a big wealth in such a short period of time¹⁷. He owns the vast majority of the regional daily newspapers via Mediaworks Zrt. Lőrinc Mészáros bought the Echo TV from Gábor Széles, owner of Magyar Hírlap in December 2016.

Hír TV

Hír TV was the first Hungarian television news channel. It started to broadcast in 2003. Until end of July 2018 it belonged to the same ownership management as Magyar Nemzet (closed down 11th April 2018) and Lánchíd Rádió (closed down 11th April 2018) The channel was traditionally right wing but in 2015 it went through a significant change concerning its content following the so called Simicska scandal, the break between the owner of the above group and the prime minister. From that time until very recently (until end of July 2018) it became critical of the government and

¹⁵ <http://www.kormany.hu/hu/kormanybiztosok>

¹⁶ Jelöletlen politikai reklám [Unmarked political advertisement] Mérték, April 4, 2018.

<http://mertek.eu/2018/04/04/jeloletlen-politikai-reklam/>

¹⁷Mészáros Lőrinc – A mi emberünk. [Lőrinc Mészáros – Our man.] Forbes, November 24, 2017.

<https://forbes.hu/uzlet/meszaros-lorinc-a-mi-emberunk/>

Fidesz. However, after the general election of 2018 the owner decided to sell it with all the other already closed items of his media portfolio to Zsolt Nyerges, right wing businessman with close ties to the prime minister.

Internet:

New Wave Media Kft. – Origo.hu:

the New Wave Media Kft. bought the news site for a reported 4,2 billion HUF (13.2 million EUR) from Magyar Telekom (which is owned by Deutsche Telekom). The transaction was finalized the first quarter of 2016. New Wave Media Kft is owned by Ádám Matolcsy, the son of György Matolcsy, who is currently serves as President of the Hungarian National Bank and previously was minister of economy. On top of that the Hungarian National Bank (MNB) had given New Wave Media HUF 501.4 million for the support of the company's other news portal, vs.hu.

Modern Media Group Befektetési és Vagyonkezelő Zrt. - 888.hu.

The owner of the news site is Árpád Habony, businessman and advisor of the Prime Minister, the editor in chief is Gábor G Fodor, previously strategic director of the Századvég Foundation, which is research and advisory body to Fidesz and the government.

GerillaPress Lapkiadó és Médiatanácsadó Kft. - Pestisrácok.hu

The news site started its work in 2013 and it supports mainly the policies and the politicians of the Fidesz and the government. The site is partly in the ownership of the editor in chief Huth Gergely and Zoltán Szenvedí. The website and Mr Huth is contracted by the Fidesz and the government on a regular basis on different campaigns.

It is important to add, that these media companies are the final beneficiaries of the government spending. There are intermediaries (media agencies and sales houses) who also have a role in the media ecosystem, but they are not in the focus of this analysis.

e) To your knowledge, when was the alleged aid granted?

The alleged aid was granted continuously from 2014 with the above-mentioned governmental communication campaigns until the end of the general election of 2018. It continued during the autumn 2018 with an Anti-EU campaign again ('Sargentini campaign').

f) Please select one of the following options:

- According to my knowledge, the State aid was not notified to the Commission.
- According to my knowledge, the State aid was notified, but it was granted before the decision of the Commission. If known, please indicate the notification reference number or indicate when the aid was notified.

According to my knowledge, the State aid was notified and approved by the Commission, but its implementation did not respect the applicable conditions. If known, please indicate the notification reference number or indicate when the aid was notified and approved.

According to my knowledge, the State aid was granted under a block exemption regulation, but its implementation did not respect the applicable conditions.

7. Grounds of complaint*

Please note that, for a measure to qualify as State aid under Article 107(1) TFEU, the alleged aid has to be granted by a Member State or through State resources, it has to distort or threaten to distort competition by favouring certain undertakings or the production of certain goods, and affect trade between Member States.

a) Please explain to what extent public resources are involved (if known) and, if the measure was not adopted by a public authority (but for instance by a public undertaking), please explain why, in your view, it is imputable to public authorities of a Member State.

The economic benefit to media outlets listed in Question 6. point d) is granted by the state in the form of state advertisement, it requires direct and or indirect (via media agencies, which in our views do not alter the responsibility and the involvement of the state) expenditure from the public fiscal system, hence can be qualified as aid being granted by the state.

b) Please explain why, in your opinion, the alleged State aid is selective (i.e. favours certain commercial undertakings or the production of certain goods).

First of all, it is important to mention that there is no real necessity for the government's spending on those purposes mentioned in Question 6. Point a) since those topics and their advertising does not have any benefit for the public interest at all. Those are beneficial only for the media outlets which receive certain share of the public funds available for those communication campaigns.

But even if we consider those communication campaigns unnecessary, the Hungarian government should have acted and should act in a neutral way without influencing directly the competition of the media market.

The Hungarian government's advertising practice however is selective and discriminative, in fact it is not based on any economic rationale, since its practice is not even remotely related to the audience measurement data of the market players. Below we intend to prove that the government did not consider those audience measurement data, ignored the market position (rating, coverage or the efficiency of reach) of the different media outlets when it decided to grant public money for those outlets.

In fact, the state became one of the largest/if not the largest advertiser with significant influence on the competition. Therefore, we consider that the state provided a selected group of market players with state aid and distorted the competition in the relevant market.

As the Hungarian government distributed the alleged state aid of through intermediaries, namely media agencies, therefore there is a need for explanation regarding the market of the media agencies.

Since all state advertising is spent via a few agencies the state advertising spending has an increasing effect on the media agency market and increased the concentration of this market.

At the end of 2014 the National Communications Office (Nemzeti Kommunikációs Hivatal, NKOH) has been set up to coordinate the communication of all state institutions and to manage the relevant public procurements and verify their delivery. The winners of these public procurements were typically businessmen related to the ruling parties, as the list below indicates.

The importance of NKOH became obvious in August 2015, when it decided about a public procurement tender worth 25 billion HUF (ca 83.3 million EUR). Three media agencies won the right to manage the communications of the entire government sphere. Two of these three agencies are closely linked to the governing party through personal ties¹⁸:

- Csaba Csetényi, businessman related to Antal Rogán, Head of Cabinet of the Prime Minister (his companies: HG360 - later Network 360, Affiliate Network);
- Tibor Kuna, businessman related to Péter Szijjártó, Minister of Foreign Affairs and Trade (his companies are Trinity International and Young & Partners)
- Mindshare – owned by the international WPP company, independent.

In second part of 2015 and in 2016 the first two companies won high share of the contacted price: Network's contracted price was 14,2 billion HUF (ca 47,3 million EUR), while Trinity contracted for 8,5 billion HUF (ca 28,3 million EUR). A smaller sum, 2,8 billion HUF (ca 9,3 million EUR) went to independent Mindshare.¹⁹

The 2017 data was analysed by Kreatív professional and media magazine.²⁰ They compared the revenues of the TOP23 major media agencies which are relevant in the Hungarian market. Their overall turnover was 145 billion HUF (ca 483 million EUR), and 40% of that sum was generated by three players winning the new tender of NKOH. These three media agencies reached 59 billion HUF turnover (ca 196,7 million EUR), while turnover of the other 20 media agencies was 85 billion HUF (ca 283,3 million EUR). The beneficiaries of the NKOH tender were almost the same as a year before:

- company of Csaba Csetényi (Affiliate Network) reached 5,5 billion HUF revenue (ca 18,3 million EUR);
- companies of Tibor Kuna (Trinity and Young & Partners) generated 21,5 billion HUF revenues (ca 71,7 million EUR);
- a new player entered to the market: Gyula Balásy with New Land Media/Lounge Design reached 25,8 billion HUF revenue (ca 86 million HUF).

¹⁸ Köztük oszt ki az állam 25 milliárdot kommunikációs munkákra [These are the companies that will receive 25 billion forints to perform the government's communication]. 444.hu, August 7, 2015. <https://444.hu/2015/08/07/ok-harman-osztoznak-az-allami-cegek-25-milliardjan/>

¹⁹ Kegyvesztett lett a kormány kedvenc médiaügynöke [Favourite media agent of the government became out of favour], mno.hu, May 26, 2017. <https://mno.hu/belfold/kegyvesztett-lett-a-kormany-kedvenc-mediaugynoke-2400574>

²⁰ Az állami költség teljesen átrendezte a médiaügynökségi piacot [The state spending totally restructured the media agency market] Kreatív, July 12, 2018. <http://kreativ.hu/cegek-es-piacok/cikk/az-allami-reklamkoltes-teljesen-atrendezte-a-mediaugynoksegi-piacot>

The independent Mindshare was not involved in the contract anymore.

In the tender of National Communications Office for the first five months of 2018 the total spending was 11,4 billion HUF (ca 38 million EUR). Based on the analysis of the public procurement tender results some previous winners were marginalized.

This could provide us with the belief that the market is working properly and companies are coming and going on the public procurement market, but those changes do not make much of a difference. The winners are close to the ruling party and the money is spent in politically motivated manner rather than on market based indicators. The winners were the followings:

- companies of Csaba Csetényi (Network360, Affiliate Network) reached only 0,5% share from the tender;
- companies related to Tibor Kuna (Trinity, Young & Partners, Sprint Nyomda) could gain 15,4% share;
- The clear winner of this tender was Gyula Balásy's New Land Media/Lounge Design business group: he reached 84,1% on the tender, the overall sum was 9,6 billion HUF (ca 32 million EUR).²¹

If we have a closer look on the major winner: Gyula Balásy was described as an important background figure. He has been working for the Fidesz party since 2005, but he never was in the spotlight, he had no scandals.²² His name was even unknown publicly until 2018. Additionally, in June 2018 something unexpected happened: National Communications Office terminated the contract with the companies of Csaba Csetényi and Tibor Kuna.²³ The reasons are unknown, but the previously background figure, Gyula Balásy became the major beneficiary of the communication tenders.

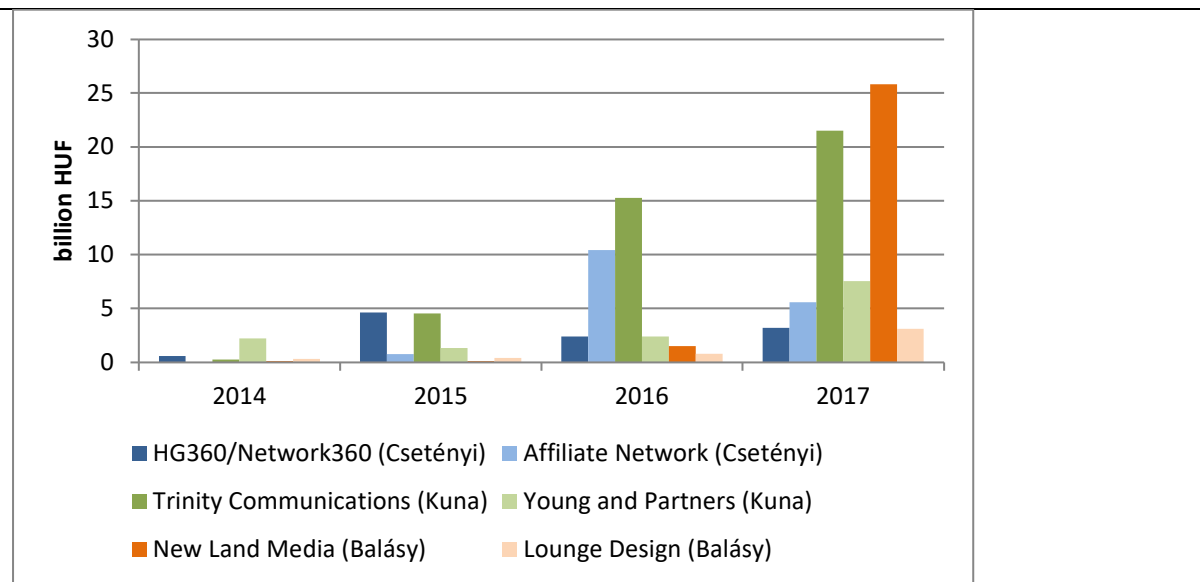
In the last years media agencies became important players in the media ecosystem. It is easy to identify the government related companies, they are the winners of the public procurement tenders and they allocate the state advertising spending. Because of the high share of state money in the advertising sector, the overall market share of the pro-government media agencies is high.

Figure 1: Net revenue of the pro-government media agencies

²¹ The well-known Hungarian anticorruption NGO K-monitor analyzed the 2018 tender of NKOH. Balásy valamit nagyon tud: az állam szinte már csak vele dolgoztat. [Balásy knows something: the state almost exclusively works with him] K-monitor, May 15, 2018. https://k.blog.hu/2018/05/15/nkoh_tenderek_2018

²² Az új médiakirály, aki el is hiszi a fideszes propagandát. [The new media king, who believes the Fidesz propaganda]. Index.hu, May 28, 2018. https://index.hu/gazdasag/2018/05/28/az_uj_mediakiraly_aki_nemcsak_szervezi_a_fideszes_propagandat_de_hisz_is_benne/

²³ Rogánék váratlanul kirúgták a kormány két kedvenc PR-osát [Rogans unexpectedly fired the two favourite PR figures of the government] 444.hu, June 21, 2018. <https://444.hu/2018/06/21/roganek-varatlanul-kirugtak-a-kormany-ket-kedvenc-pr-osat>



Source: own figure based on corporate financial reports (<http://e-beszamolo.im.gov.hu/oldal/kezdolap>)

As it is clear from the figure above the revenue growth of these rather newly established pro-government agencies was significant in the last years. The reason behind this growth is rather clear: in February 2015 PM Viktor Orbán had a serious conflict with Lajos Simicska, a major oligarch supporting Fidesz²⁴ and new players had to replace Simicska's agencies, mainly the Inter Media Group (IMG) Kft²⁵. The above companies which took over were relatively new companies on the sideline and until 2014 could hardly gain any market revenue. In 2015, after the Orbán-Simicska conflict broke out and the NKOH was created, these companies boosted their revenues. First Csetényi's and Kuna's companies became successful, and then Balásy became the new winner.

The analysis of this complaint proves that media portfolio of these media agencies is governed by political logic and not by the rules of the markets. They meticulously avoid independent, especially government critical media outlets, state advertisements are practically not available in these media. At the same time the media agencies heavily finance the pro-government media. It has no market rationality, it can be explained only by the political influence of these media agencies.

Additionally, the calculation of the G7 business portal found, that state advertising is heavily overpriced in Hungary.²⁶ Typically the commercial advertisers (private companies, independent from the state) get significant discounts from the so-called list prices. The state advertisers do not reach these discounts, their advertising spending is irresponsible. Based on the calculation of the portal, state advertisers spend ten times more, than it is justified by market-based advertising, which support our previous statement about the political motivations.

²⁴ How did the Orban-Simicska media empire function? Kreatív.hu, April 9, 2018.

http://kreativ.hu/cikk/how_did_the_orban_simicska_media_empire_function

²⁵ IMG media agency in the past also proved to be an economic miracle: after the landslide victory of Fidesz and it became a major market player by 2012.

See: Tízmilliárdos pénzpumpa lett a kormány lett a kormány kedvenc médiaügynöksége [Favourite media agency of the government became a ten billion money pump]. hvg.hu, February 28, 2013.

https://hvg.hu/itthon/20130228_IMG_kormanyzati_kommunikacio_penz

²⁶ Tízszerez áron is hirdetnek az állami cégek a baráti médiában [State companies advertise even at 10x price in friendly media] G7.hu, September 2, 2018. <https://g7.hu/allam/20180903/tizszerez-aron-is-hirdetnek-az-allami-cegek-a-barati-mediaban/>

Recent study of weCAN²⁷ found that “In 2017, the Hungarian media market attained a considerable growth that cannot be attributed to the activity of market players. Examining developments in the television, radio or outdoor segments, we have observed one thing that all these media types have in common: the escalating influence of the state.” The study identified the Prime Minister's Office as the largest spender in the advertising market.

After tackling the role of the media agencies the relevant market need to be analysed:

1. General overview:

The Hungarian media market in general was never completely free of political influence. However, after the fall of the iron curtain, in the 1990' and the 2000' competition ruled the market. There were media outlets linked to one or other political sides but the market rules prevailed and there were various voices present on the media landscape. The more or less balanced situation was created by the media law of 1996, which had strict cross-ownership rules preventing media concentration, the media outlets had to follow the principle of obligation of balanced information at least at the radio and television markets. The media outlets were both in the hands of Hungarian and foreign investors. The regulatory authority, the Hungarian Radio and Television Commission although it had its own deficiency was able to maintain a certain balance.

Last decade of the Hungarian media can be described as a continuous crisis. Following the economic crisis of 2008, the advertising market dropped by 20%. The digital platforms (Google, Facebook) impact in terms of concentrating revenues challenged the business model of media companies.

Since 2010 and the adoption of the media law in late 2010 led to an unpredictable regulatory environment the previous balance has been broken: the previously strict cross-ownership rules have been eradicated, there is no real obligation of balanced information for the media outlets, the Media Council consists only of members elected by the Fidesz governments etc.

Such rules have already led between 2010 and 2018 to serious changes of the media market in general. Foreign investors are losing ground in every sector and they were selling their Hungarian holdings, and several of them left the region altogether. The following major players left the Hungarian market in the last years:

- Sanoma (Finland), Funke Gruppe (Germany), Metro International SA (Sweden) sold their Hungarian affiliations
- merged Ringier and Axel Springer publishers were forced by the media authority to sell majority of their portfolio
- German commercial television broadcaster, ProSiebenSat1 sold its Hungarian channel, TV2, the second biggest Hungarian channel
- Deutsche Telekom sold its market leader online news portal, Origo

In the meanwhile, Hungarian political actors and investors directly or indirectly linked to Fidesz and the government acquire more and more share of the media market. This has completely reshaped not only media ownership structures in Hungary, but in fact the entire Hungarian public sphere.

²⁷ weCAN is an affiliate network that was founded by strong and successful independent agencies of Central and Eastern Europe in 2010. Its 2018 annual report ('Annual Report 2018') is available: <https://annualreport.wecan.net/2018#/hello>

Some investors were annihilated/eliminated by legal or economic means, some others able to sell their investments without losses.

By the summer of 2018 the number of the independent owners had been decreased close to zero especially in print daily newspaper segment, radio and television broadcasting.

We understand however, that under EU law no competition case can be analysed independently from the relevant market definition, whereas market is traditionally considered to include *“all those products and/ or services which are regarded as interchangeable or substitutable by reason of product characteristics, prices and intended use”*.

All products and/or services that could be placed on the market by producers or competitors without significant switching costs and within a reasonable time period need to be included in that definition as well. That definition of the product/service market needs to be read in its geographic dimension, which covers the *“area in which (...) the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas.”*

Therefore, our analysis will continue further with an analysis of the traditional media sectors, as separate markets in Hungary, even if the actors in the different sectors might be overlapping each other. The figures include data between 2006 and 2017 to prove how the previously competitive market became distorted in the last years.

State advertising data can be analysed based on Kantar Media database, which contains so-called list price advertising revenues.²⁸ This calculates advertising revenues of major media brands based on publicly available lists prices and actual advertising volumes published. The database does not extend to every media outlet, for example, the three political/news channels, Hír TV, Echo TV and ATV are missing, just like the online newspaper 888.hu, which is part of the Habony-associated media empire, and Karc FM and Lánchíd Rádió among the major radio stations.

We also used the data of government communication campaigns. Atlatszo.hu investigative news portal tracks the data with information requests and calculations. These databases contain ‘real’ contracted prices, not list prices. We do not have detailed database for the 1.1-1.3 and the latest 1.7 campaigns listed in the 6.a section, Atlatszo.hu methodology was continuously evolved and detailed data are available for 1.4-1.6 campaigns.

Print media

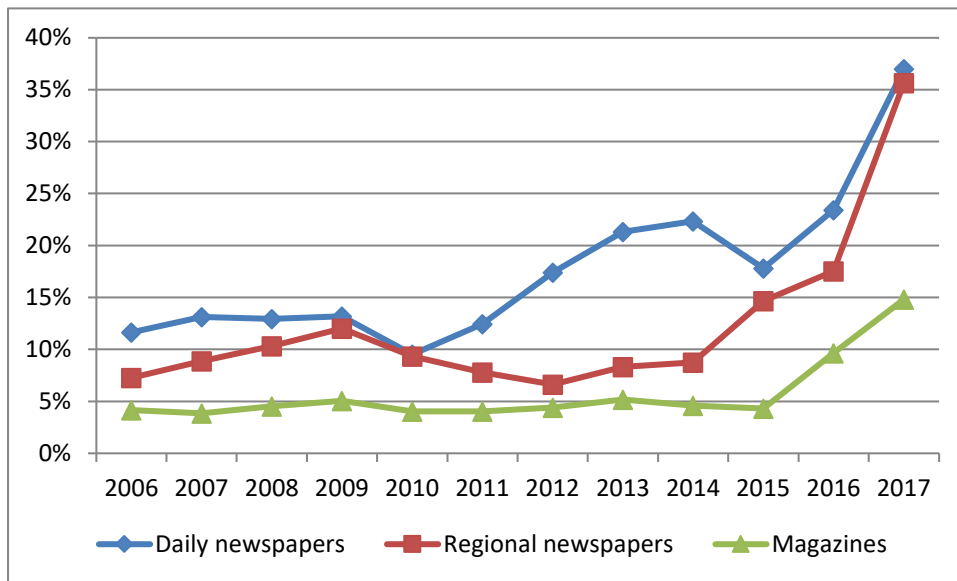
The economic crisis, the changes in media consumption patterns and the online platforms’ (Google, Facebook) impact in terms of concentrating revenues challenged the business model of newspaper publishers. Market players are struggling for revenues, while for pro-government publishers state sources can balance the declining market revenues.

Based on Kantar Media data share of state advertising revenues of total advertising revenues was 6,6% in 2006, and it increased to 26% in 2017. The growth was absolutely significant in the

²⁸ We use nominal prices in the analysis.

national daily and regional newspaper segments, while in magazine segment the market forces are still stronger mainly because of consumer magazines.

Figure 2: Share of state advertising revenues (% of total advertising revenues) in print media segments



Source: own figure based on data from Kantar Media

National political newspapers are traditionally influenced by political parties in Hungary, but since the fall of the Iron Curtain the invisible hand of the market played its important role in the market. However, since 2010 the market force has practically been reduced to the minimum in this segment and state advertising in the revenue structure took over its place. State advertisers keep spending more and more and at this point almost all of their spending goes to media companies with owners that are close to the government, thereby completely upsetting fair competition and distorting the market.

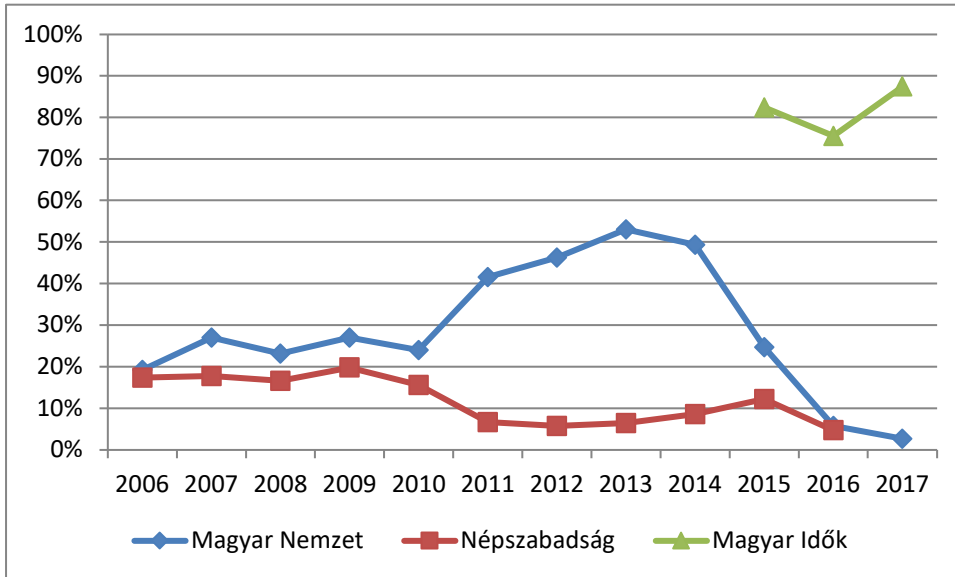
The national political daily newspaper segment is illustrative. In our analysis we focus on the former market-leader left wing Népszabadság (closed in October 2016), former market-leader right-wing Magyar Nemzet (closed in April 2018) and Magyar Idők, the new pro-government daily (launched in September 2015). We ignore two smaller political dailies (Magyar Hírlap, Népszava).

The left-wing Népszabadság could hardly get any advertising revenue from state institutions after 2010. At the same time, Magyar Nemzet (owned by oligarch Lajos Simicska, former treasurer of Fidesz party and therefore naturally with close ties to the government until 2015) was the major beneficiary of state spending. The aftermath of the “Simicska scandal”²⁹ which ended with a break between him and the prime minister in 2015 saw the creation of the pro-government daily Magyar Idők, which was hugely successful in drawing state advertising funds. At the same time Magyar

²⁹ More info about the background of the scandal and the break between Simicska and Orban: <https://www.politico.eu/article/viktor-orbans-former-bff-vows-to-take-down-fidesz/> and Mertek Media Monitor: The Methods Are Old, the Cronies Are New. Soft Censorship In the Hungarian Media In 2015. <http://mertek.eu/wp-content/uploads/2017/01/softcensorship2015.pdf>

Nemzet lost practically all the state advertisers, and therefore its situation became similar to Népszabadság.

Figure 3: Share of state advertising revenues at major political dailies (% of total advertising revenues)



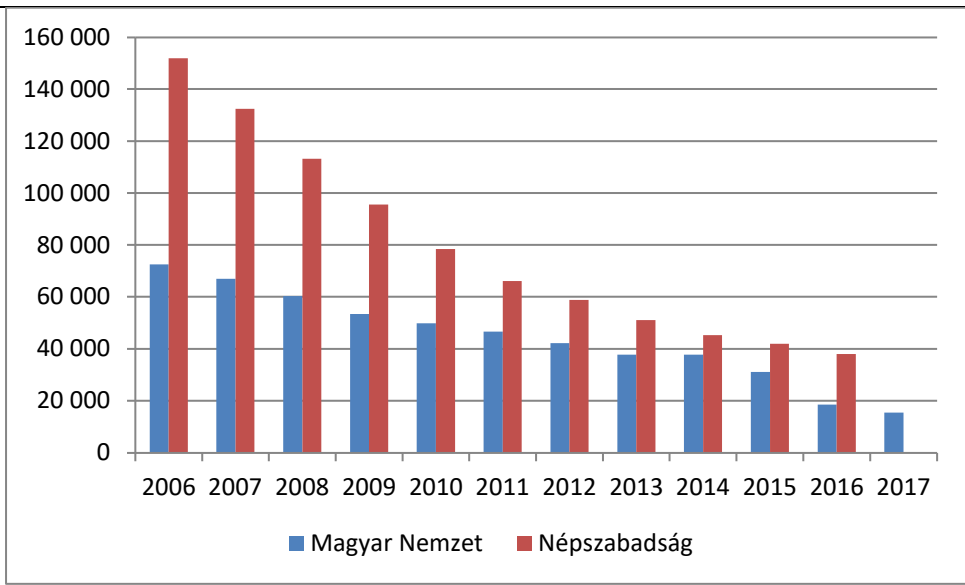
Source: own figure based on data from Kantar Media

Restructuring of state advertising is clearly not the consequence of audience market changes. Circulation data of Magyar Nemzet and Népszabadság were continuously declining similarly to other print products. Magyar Idők does not audit its circulation data, which is the clear sign that results are poor and it could hardly get any advertising on commercial basis. However, we can give an estimation for the circulation, since we know the circulation revenue data from the 2017 financial report³⁰ (316,909,000 HUF) and the 2018 annual subscription fee (34,680 HUF). Based on these data, Magyar Idők circulation must be below 10,000 and it is much less than the circulation of Magyar Nemzet and Népszabadság at the close of these newspapers.³¹ There is anecdotal evidence which suggests that since state institutions (ministries, state owned companies, municipalities) subscribe to many copies of Magyar Idők, the real market weight of the newspaper might even be lower than the circulation numbers reveal.

Figure 4: Circulation data of Magyar Nemzet and Népszabadság (H1 data for each year)

³⁰ Kiegészítő Melléklet a Magyar Idők Kft. 2017. évi beszámolójához [Supplementary Annex to the 2017 Report of Magyar Idők Ltd] is downloadable from <http://e-beszamolo.im.gov.hu/oldal/kezdolap>

³¹ Magyar Idők is clearly one of the pro-government propaganda media in Hungary. Its website was analyzed by Corruption Research Center Budapest, 'The impact of Russia's state-run propaganda apparatus on online media in Hungary 2010-2017'. http://www.crcb.eu/wp-content/uploads/2018/05/crcb_2017_mrsrpphnm_English_180319_.pdf

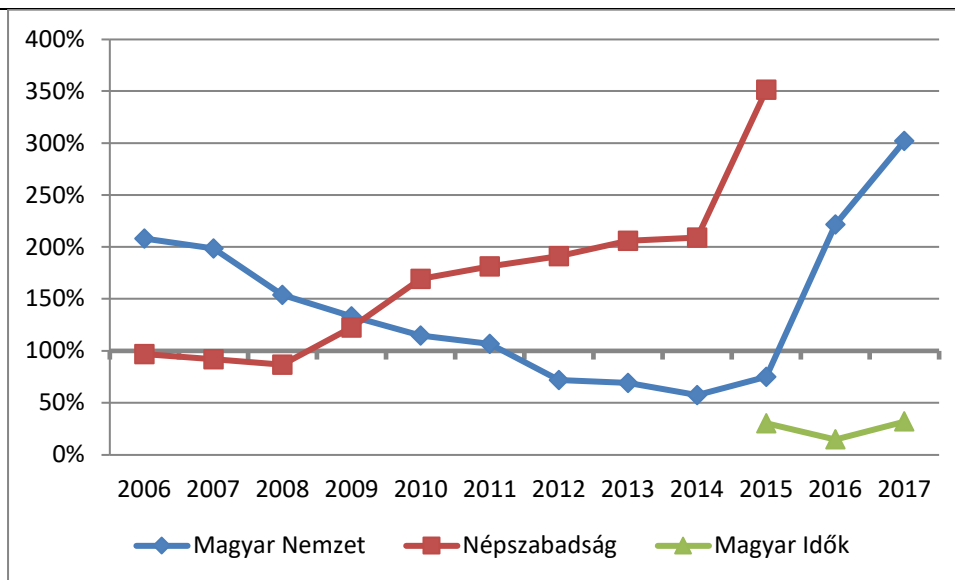


Source: own figure based on data from MATESZ

Next figure shows the share of advertising revenues to circulation revenues. According to an OECD³² (2010) study advertising and circulation revenues are more or less similar (it was also the case for Hungary), it means that the proportion should be around 100% on the figure below. If it significantly exceeds the 100% (Népszabadság and from 2016 Magyar Nemzet), the advertising revenues are marginalized, the audience generates the revenues. If it is well below 100%, the advertising revenues are much higher than the circulation revenues: somehow advertisers are willing to pay for ad space even audience revenues and circulations are low. That was the case at Magyar Nemzet in 2011-2015, when it was loyal to the government and Magyar Idők is also clearly financed by advertisers (mainly state advertisers, as you can see above).

Figure 5: Circulation revenues/advertising revenues at major political dailies (%)

³² OECD (2010) The Evolution of News and Internet. <http://www.oecd.org/sti/ieconomy/45559596.pdf>



Source: own figure based on data from supplementary annex of corporate financial reports (<http://e-beszamolo.im.gov.hu/oldal/kezdolap>)

We do not analyze the deeply the free newspaper and tabloid newspaper markets, since there were continuous changes in the last years (titles, owners). Anyhow, the free newspaper market is a monopol market in Hungary, Lokál is owned by Árpád Habony, informal consultant of the prime minister. There are three titles are in the tabloid segments: Blikk is published by Ringier-Axel Springer, the other two papers are owned by Hungarian pro-government investors. Bors is owned by Andy Vajna government commissioner, Ripost was launched in December 2016 as a government-friendly tabloid. Lokál and Ripost are major beneficiaries of state advertisements.

In the regional newspaper market there were ownership changes at all the four publishers.

The German Axel Springer originally owned 9 regional titles, but it was forced to sell majority of the portfolio, since the media authority rejected the merger of the Hungarian subsidiaries of Ringier and Axel Springer in 2011. The new owner became an Austrian businessman, Heinrich Pecina. In October 2016 he sold the company (Mediaworks) to Lőrinc Mészáros oligarch, who is a personal friend of the prime minister. Mediaworks also significantly increased its influence over the structure of the Hungarian public sphere by purchasing the Pannon Lapok Társasága newspaper company in 2016. Today Mediaworks is the owner of 13 regional newspapers and it has emerged as one of the most important sources of news for those living in the Hungarian countryside.

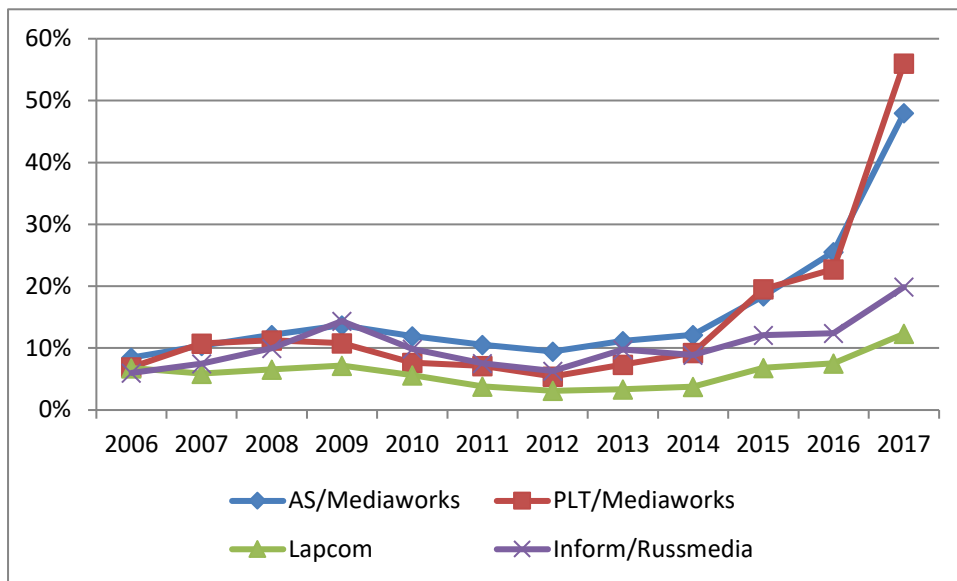
Lapcom, which publishes two county dailies and a national tabloid (Bors), was acquired by government commissioner Andy Vajna, who is also the owner of Hungary's second largest commercial television channel, TV2.

Inform Media (Russmedia) in turn, which publishes three county-level newspapers, was bought by the Austrian businessman Heinrich Pecina. Pecina is the former owner of Mediaworks, the company

he sold to Lőrinc Mészáros after closing the newspaper Népszabadság, which Mediaworks used to publish.³³

As a result of these transactions, the entire county-level daily newspaper market has ended up in the hands of pro-government business interests: the 18 county-level newspapers are published by three publishing houses controlled by Lőrinc Mészáros, Andy Vajna and Heinrich Pecina, respectively. The newspapers are now also cooperating in terms of the contents they produce and publish, and on Christmas 2017 the websites of all these newspapers featured the same interview with the prime minister.³⁴

Figure 6: Share of state advertising revenues at publishers of regional dailies (% of total advertising revenues)



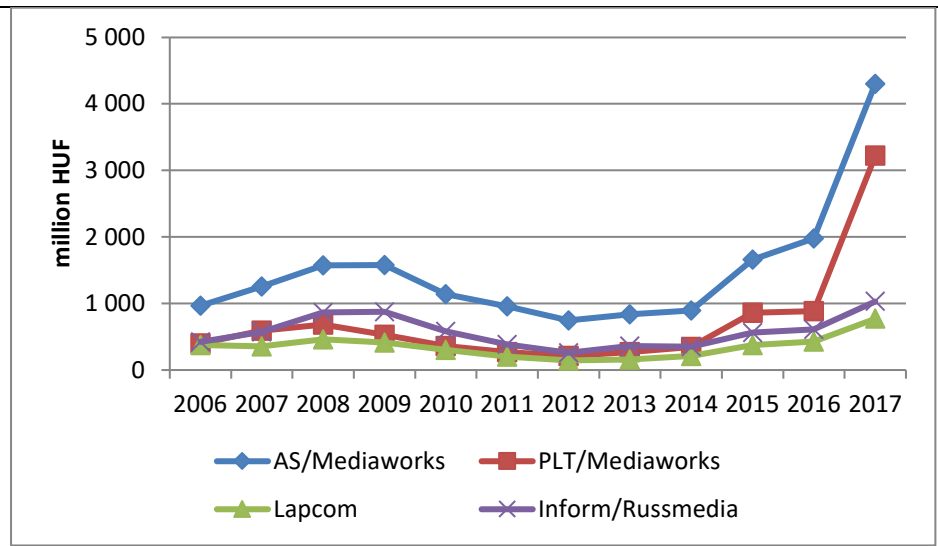
Source: own figure based on data from Kantar Media

It is apparent from the figure share of state advertising compared to total advertising revenues started sharply increasing after the ownership changes. It is not purely about the changing revenue structure of the publishers, but also about the significant growth of state money.

Figure 7: State advertising at the publishers of regional dailies*

³³ Mertek Media Monitor (2017): Soft Censorship in Hungary 2017. When Propaganda Rules Public Discourse. <http://mertek.eu/wp-content/uploads/2017/10/MertekFuzetek12.pdf>

³⁴ Király, A. (2017): Orbán Viktor Mészáros Lőrinc összes lapján át szólt nemzetéhez [Viktor Orbán spoke to the nation through all of Lőrinc Mészáros' newspapers]. 444.hu, 23 December. <https://444.hu/2017/12/23/orban-viktor-meszaros-lorinc-osszes-lapjan-at-szolt-nemzetehez>

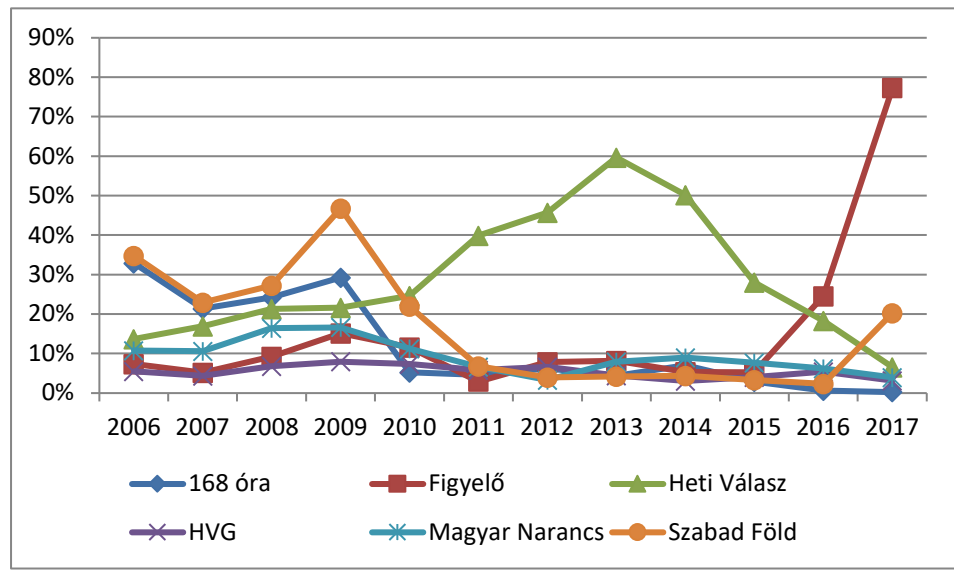


Source: own figure based on data from Kantar Media

*Kantar Media database includes so-called list prices, the contractual prices are lower, but anyhow, the tendencies are clear.

In the political weeklies' market the picture is rather similar. Between 2010 and 2015 *Heti Válasz*, owned by Lajos Simicska was the major beneficiary of state advertisement decisions. After the Orbán-Simicska conflict the *Heti Válasz* lost its privileged position. After 2016 *Figyelő*, the former investigative business weekly became the beneficiary of state advertisements. In 2016 its publisher was bought by the company of Mária Schmidt, Government Commissioner.

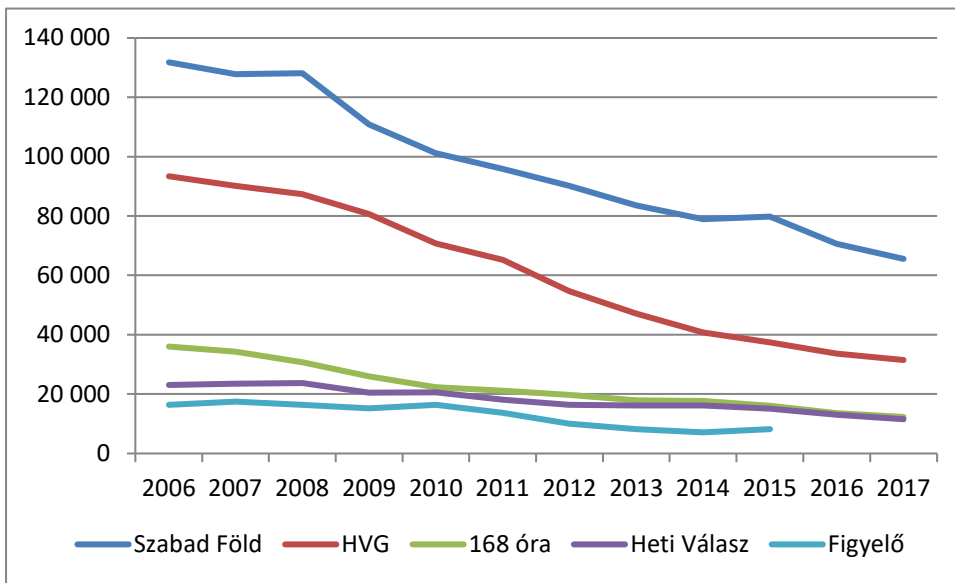
Figure 8: Share of state advertising revenues at major political dailies (% of total advertising revenues)



Source: own figure based on data from Kantar Media

Similarly to daily newspaper market, restructuring of state advertising cannot be explained by rapidly changing circulation. Circulation is declining in the whole segment, but the market positions are stable. Figyelő exited from circulation audit, but indirectly the circulation is calculable: based circulation revenue data from 2017 financial report (125,381,336 HUF) and 2018 annual subscription fee (34,620 HUF) circulation of Figyelő is less than 4,000. From market point of view Figyelő is absolutely marginal, but it became globally well-known, when it published a list with names with ‘mercenaries of Soros’ in April 2018³⁵.

Figure 9: Circulation data of political weeklies* (H1 data for each year)



Source: own figure based on data from MATESZ

*Magyar Narancs is not audited.

It is illustrative, how the certain government campaigns advertisements were allocated. Specialty of these campaigns that they had clearly political messages, they were very intense and government expenditure was extremely high.

‘Let’s stop Brussels!’ (national consultation) campaign in April 2017 data:

³⁵ Pro-Orban magazine lists Hungarian investigative journalists and refugee advocates among ‘mercenaries of Soros’. *Independent*. 12th April 2018. <https://www.independent.co.uk/news/world/europe/hungary-victor-orban-magazine-list-journalists-refugee-george-soros-mercenaries-a8301806.html>

Total spending in print market: 3,1 billion HUF (ca 10,3 million EUR)

Top5 beneficiaries:

- Mediaworks: 1,3 billion HUF (ca 4,3 million EUR)
- Pannon Lapok Társasága (already merged with Mediaworks): 542 million HUF (ca 1,8 million EUR)
- Ripost: 248 million HUF (0,8 million EUR)
- Modern Media Group (Lokál): 176 million HUF (0,6 million EUR)
- Inform/Russmedia: 148 million HUF (0,5 million HUF)

It is well documented, that all the Top 5 companies are related to the ruling party. The other publishers had an overall share 20,8% (647 million HUF, ca 2,2 million EUR). The ‘other’ publishers also include some government-related companies.

Six different government campaigns run in December 2017 – January 2018, among others the ‘Stop Soros’ campaign. The overall sum spent in print media in these six campaigns was nearly 1,5 billion HUF (ca 5 million EUR). The major beneficiaries were the following companies:

- Mediaworks: 734 million HUF (ca 2,4 million EUR)
- Lapcom: 225 million HUF (ca 0,8 million EUR)
- Inform Media/Russmedia: 140 million HUF (ca 0,5 million EUR)
- Modern Media Group (Lokál): 83 million HUF (ca 0,3 million EUR)
- Ripost: 75 million HUF (ca 0,3 million EUR)

The remaining 13,7% of the government spending went to the other market players, including smaller government related media outlets.

The campaigns between February 1 and April 8, 2018 including the Anti UN and Stop migrants! campaigns were slightly different from the others. They went during the official election campaign period (Parliamentary election was held on April 8, 2018) so the main priority of the government was to disseminate the communication messages as broadly as it was possible.

The overall sum spent in print media segment was 820 million HUF (ca 2,7 million EUR). The major beneficiaries were the following companies:

- Mediaworks: 296 million HUF (ca 1,0 million EUR)
- Inform Media/Russmedia: 111 million HUF (ca 0,4 million EUR)
- Lapcom: 111 million HUF (ca 0,4 million EUR)
- Modern Media Group (Lokál): 59 million HUF (ca 0,2 million EUR)
- Ripost: 75 million HUF (ca 0,3 million EUR)

Other 23% of the print campaign spending went to other media outlets.

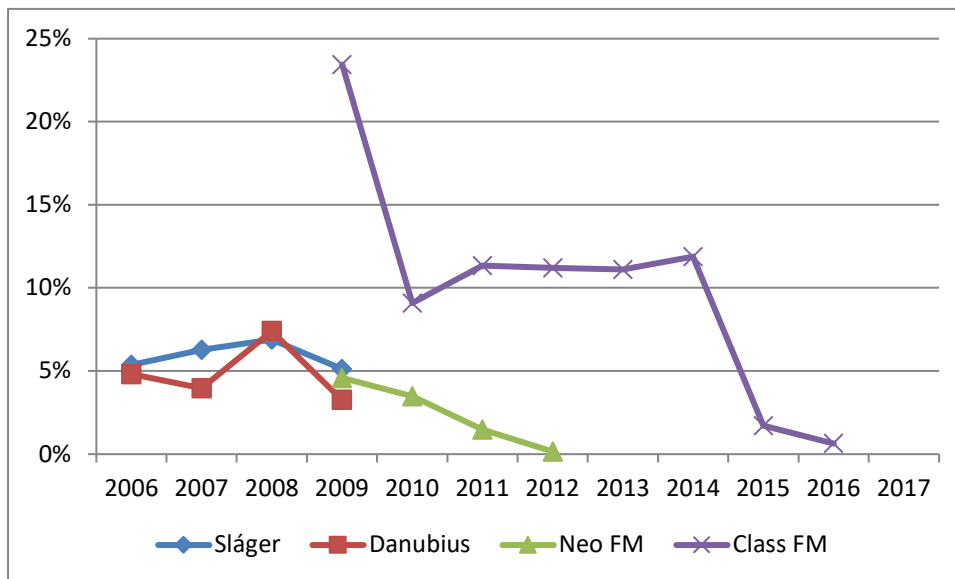
Independent political weeklies, like HVG, Magyar Narancs, 168 óra or Heti válasz were not included in any of the above analysed campaigns.

Radio market

Radio market is heavily influenced by Media Council via frequency tendering procedures. The state intervention is direct in this case, the state advertising allocation is only an additional element to influence the market.

The restructuring of national commercial radio market is well documented.³⁶ The figure below shows the role of state advertising revenues in the revenue structure. Until 2009, Danubius and Sláger, the two foreign owned commercial radio stations were fairly balanced, in both cases the share of state advertising was around 5%. In November 2009 two national commercial stations were launched after the tendering procedure of the media authority. It was well documented that Class FM was close to Fidesz, while Neo FM was similarly close to Socialist Party. The two radio stations had similar audience reach, but from 2010 Neo FM could hardly get any state advertising, it went into bankrupt in 2012. Class FM was the major beneficiary of state spending until 2015, when Orbán-Simicska conflict broke out. In 2016 Class FM was closed, since its media service contract expired and it could not renew the contract. Instead after 1,5-year silence a new national commercial radio called Retro Radio was launched on the same frequency in 2018. Investigative journalists found, that it is close to Andy Vajna government commissioner.³⁷

Figure 10: Share of state advertising revenues (% of total advertising revenues)



Source: own figure based on data from Kantar Media

³⁶ E.g. The radio market as political playground. <http://mertek.eu/en/2013/11/14/the-radio-market-as-a-political-playground/> and An Illiberal Model of Media Markets, <http://mertek.eu/wp-content/uploads/2018/08/MertekFuzetek15.pdf>

³⁷ Bejelentette a Vajna-közeli Retro Rádió, költözik az elnémított Class FM országos frekvenciájára [Vajna-related Retro Radio announced moving to the national frequency of silenced Class FM] 24.hu, 2018. June 8. <https://24.hu/media/2018/06/08/bejelentette-a-vajna-kozeli-retro-radio-koltozik-az-elnemittott-class-fm-orszag-os-frekvencijara/>

Competition of Klub Radio and Info Radio was similarly influenced by state advertisers. Both radios are talk radios available in Budapest, Klub has left-wing editorial line, Info is right-wing. Until 2010 share of state sources in advertising revenues were balanced. In the last years state advertising allocation became unequal. The right-wing Info Radio became the clear beneficiary of state advertisers.

The Klub Radio case

The graphs for the Klub Radio do not include the data for the years 2011-2014, it has a special reason.

The situation on the radio markets is still significantly influenced by the fact that the radio frequencies are allocated by the tenders of the Media Council. The tender procedures ensure direct state influence on the radio markets. One of the most significant and well documented evidence for the misusing of this competence of the Media Council was the tendering of the frequencies of the Klub Radio. There was two long court procedure between the Klub Radio and the Media Council, and the debate on the damage caused by the Media Council is still ongoing.

The ground of the first case was that the Media Council did not sign the licence – formally the contract – of the Klub Radio although Klub Radio won a Budapest frequency (92,9 MHz) in 2009 in a tender proceeded by the predecessor of the Media Council (ORTT). According to the tender, Klub Radio would have been entitled to broadcast a so called community radio, without paying any licence fee. The court decided in 2013 to the advantage of Klub Radio.

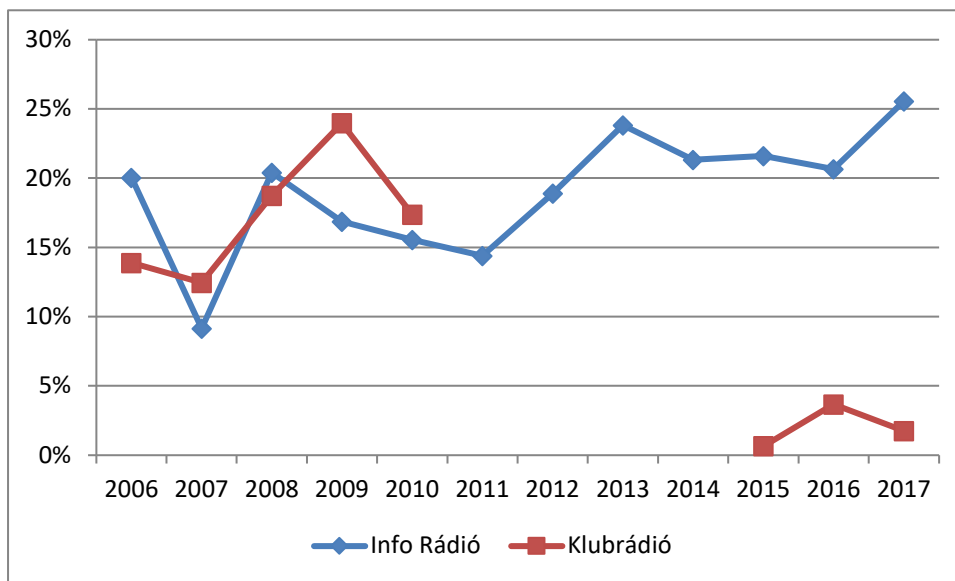
In 2011, Klub Radio applied for another Budapest frequency (95,3 MHz), practically for the frequency that the radio has used since 1999, because in this period it was uncertain if Klub Radio would be able to use the above mentioned 92,9 MHz frequency. This tender was about a commercial radio station with significant music proportion in the programme. The Media Council granted the frequency for another applicant and Klub Radio became only second. However, Klub Radio contested the resolution in court, and the court declared the application of the winner company was invalid. After the court's decision the Media Council revised its own decision and declared the application of Klub Radio formally invalid: with the reasoning that Klub Radio did not sign the empty pages of the application. Although it has been an ongoing practice that applications are normally required to be signed by the applicant in every page, but the signature of the empty pages were never a criteria. Hence, Klub Radio contested this resolution as well and the court decided to the radio's advantage.

During the lawsuits, Klub Radio's licence for the 95,3 MHz expired. From February 2011, it could continue the broadcasting only because the Media Council provided the radio with so called temporary licences valid for 60 days. However, the temporary licenses meant not only a legal uncertainty but also a financial one and very difficult situation on the advertising market. For the advertisers, the 60 days-licences could not guarantee that the radio was available for longterm campaigns. This situation set the

advertising income of the radio radically back, the commercial advertisers – and the media agencies – turned away from the Klub Radio.

Although, the fall of the advertising income cannot be linked to the lack of the state advertising in the above period but to the uncertain legal and financial situation based on the fight for the rights of the radio and the period of temporary licences has equipped the radio with an already very fragile financial position by the start of the period of the media campaigns, which damaged its position even further.

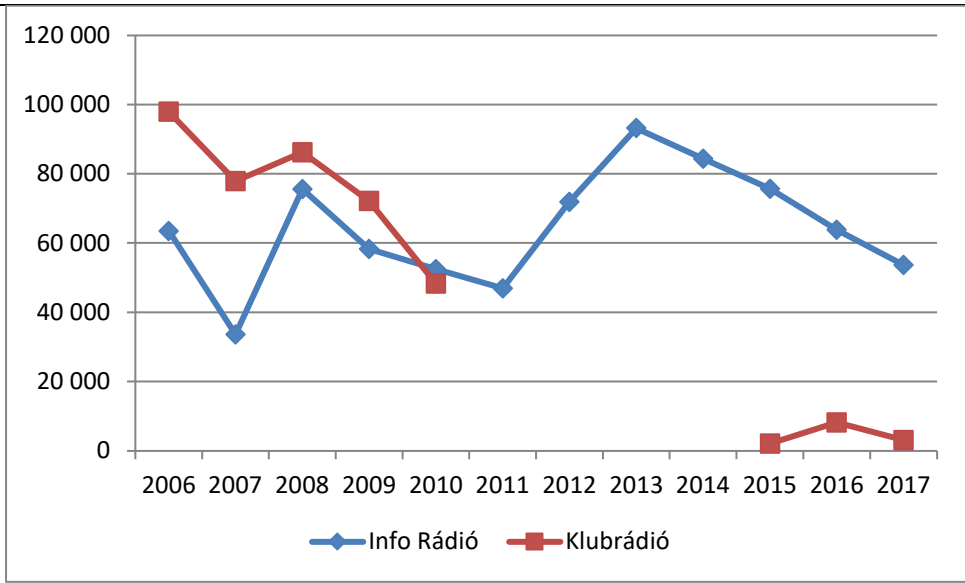
Figure 11: Share of state advertising revenues (% of total advertising revenues)



Source: own figure based on data from Kantar Media

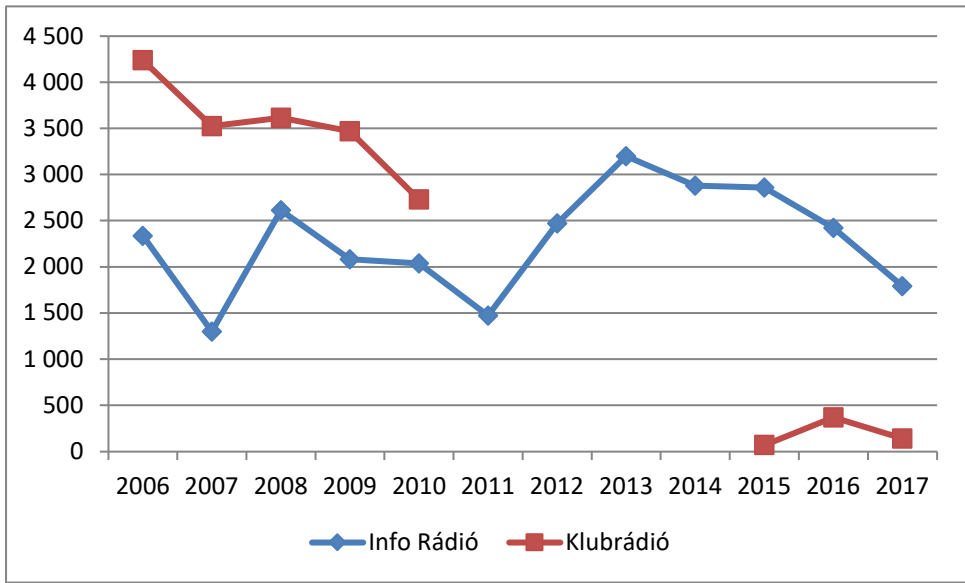
The difference is also illustrative on the figures below. They show the aggregate amount of state advertisements on the two talk stations in seconds and spots.

Figure 12: State advertisements on Info Radio and Klubradio (seconds)



Source: own figure based on data from Kantar Media

Figure 13: State advertisements on Info Radio and Klubradio (spots)



Source: own figure based on data from Kantar Media

All metrics prove that after Info Radio was preferred talk radio for state advertisers, while they avoided the left-wing Klub Radio in the last years. Before 2010 the state advertising spending was more balanced.

In the 'Let's stop Brussels!' (national consultation, April 2017) campaign the government spent 444 million HUF (ca 1,5 million EUR) for the radio commercials. The major beneficiaries were the following companies:

- Radio Plus Ltd: 211 million HUF (ca 0,7 million EUR). It is a sales house, which sold advertising time of Radio1 network. Both Radio1 network and Radio Plus Ltd. are owned by Andrew G. Vajna Government Commissioner.
- Media Services Company (MSC) Ltd: 136 million HUF (ca 0,45 million EUR), which is a sales house and merged with Atmedia, the well-known, government related sales house.³⁸
- Radio Sales House: 65 million HUF (ca 0,2 million EUR). Radio Sales House is owned by pro-government investors.³⁹

The other 7,1% of the radio campaign was spent at another player (at a government related radio station).

In the next analyzed campaign period (December 2017 – January 2018), the situation was similar. The overall sum spent in radio media was nearly 276 million HUF (ca 0,9 million EUR). The major beneficiaries:

- Media Time Ltd, with 140 million HUF (ca 0,5 million EUR). It was the new sales house after Radio Plus Ltd. selling the advertising time of Radio1 network.⁴⁰ Media Time Ltd. is also owned by Andrew G. Vajna Government Commissioner
- MSC Ltd: 59 million HUF (ca 0,2 million EUR)
- Radio Sales House: 34 million HUF (ca 0,1 million EUR).

The other 15,5% of the government spending went to other radio market players, including smaller government-related investors.

During the Anti-UN and Stop Migrants! and other campaigns (February-April, 2018) the radio sector had 256 million HUF (ca 0,9 million EUR) revenue from the government spending. The main beneficiaries were the same as in the previous campaigns:

- Media Time: 105 million HUF (ca 0,4 million EUR)
- MSC: 79 million HUF (ca 0,3 million EUR)
- Radio Sales House: 42 million HUF (ca 0,1 million EUR)

The remaining 12% of the radio campaign spending went to other players.

The only independent talk radio, Klub Radio was not included in any of the campaigns.

³⁸ Growing ownership concentration in the sales house market is well documented, e.g. here: A Habony hitelezője által felvásárolt Atmedia bekebelezi az MSC-t és megkezdí a rádiós piac meghódítását. [Atmedia acquired by Habony's creditor annexed MSC and started conquering the radio market] 24.hu, December 27, 2016. <https://24.hu/media/2016/12/27/a-habony-hitelezoje-atal-felvasarolt-atmedia-bekebelezi-az-msc-t-es-megkezdi-a-radios-piac-meghoditast/>

³⁹ Nagyot nőtt a rádiós cég, amelynek Mészáros Lőrinc közvetett tulajdonosa lett nemrég. [Radio company, that is already owned indirectly by Lőrinc Mészáros, grew significantly] 24.hu, January 15, 2018. <https://24.hu/media/2018/01/15/nagyot-nott-a-radios-ceg-amelynek-meszaros-lorinc-nemreg-kozvetett-tulajdonosa-lett/>

⁴⁰ Változás a Rádió1 reklámidő értékesítésében. [Change in the sale of Radio1's advertising time] Radiosite.hu, December 28, 2017. <http://radiosite.hu/valtozas-a-radio-1-reklamido-ertesiteseben/>

Television

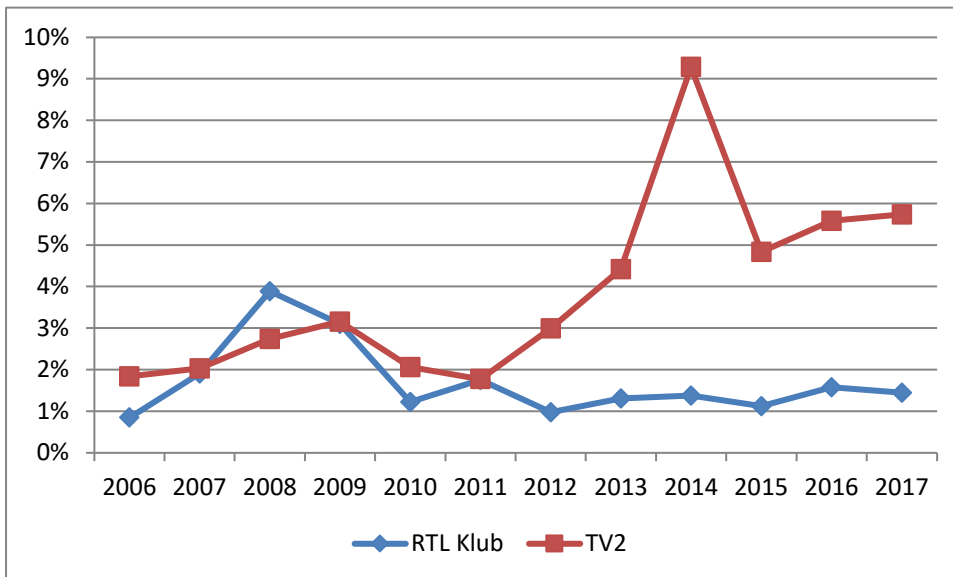
In the case of television market major commercial channels are most relevant.

The market leader RTL Klub is operated by the Magyar RTL Televízió Inc. It is owned by international RTL Group.

The second largest commercial television channel is TV2, which is operated by the TV2 Média Csoport Ltd owned by the government's film commissioner Andy Vajna.

The figure proves that previously the state advertising revenues were marginal for the two commercial channels, but in became more significant for TV2 in the last years with Hungarian ownership background.

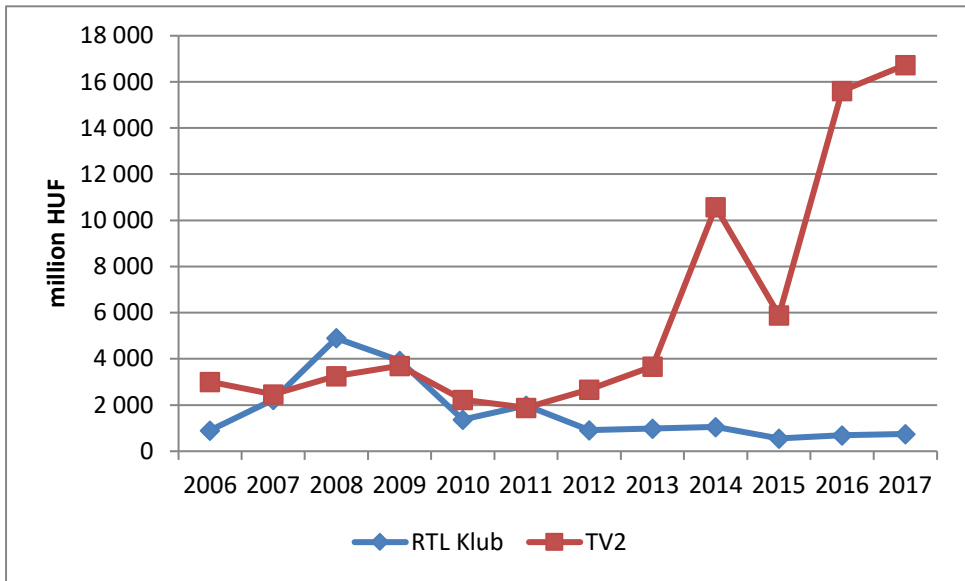
Figure 14: Share of state advertising revenues (% of total advertising revenues)



Source: own figure based on data from Kantar Media

But the share of state advertising revenues is still below 10% and it is relatively low compared to other pro-government companies in the media industry. There is a reason behind it: in 2016 TV2 radically increased its list prices to an unrealistically high level. If we compare the HUF prices, the differences are obvious, but in case of TV2 the list prices are not informative at all (it is also the case with commercial advertising revenues).

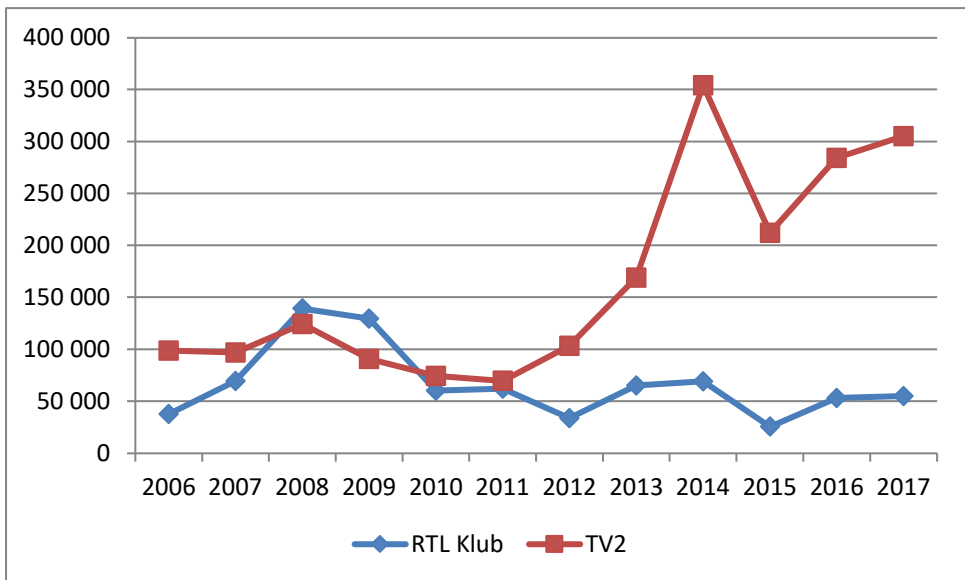
Figure 15: State advertising revenues at list prices



Source: own figure based on data from Kantar Media

Because of extreme high list prices at TV2, we used another metrics from Kantar Database. The figure below shows the state advertisements on the two commercial channels in seconds. From 2013 TV2 is the clear beneficiary of state advertisements, RTL Klub is lagging behind.

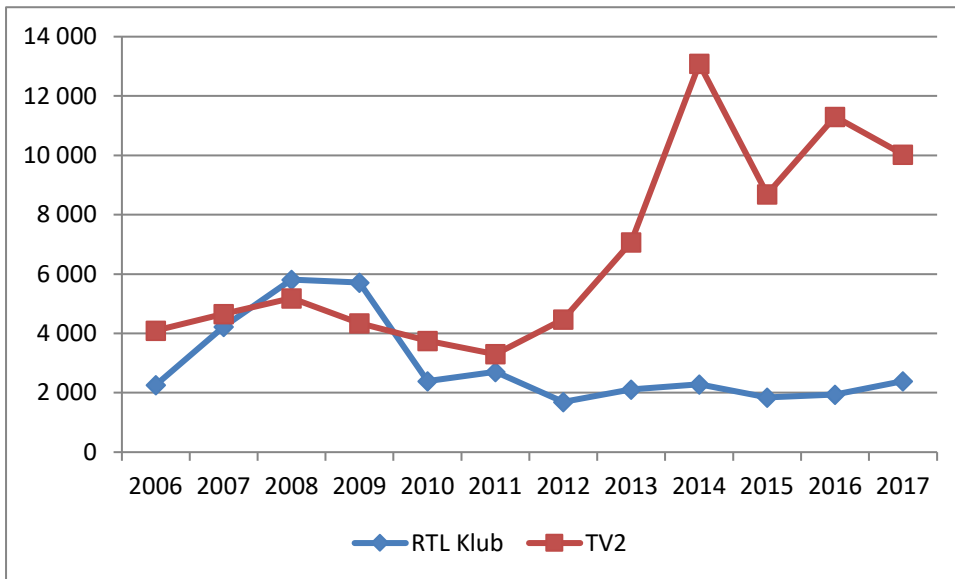
Figure 16: State advertisements on RTL Klub and TV2 (seconds)



Source: own figure based on data from Kantar Media

Not surprisingly, we get similar picture based on the number of state advertisement spots.

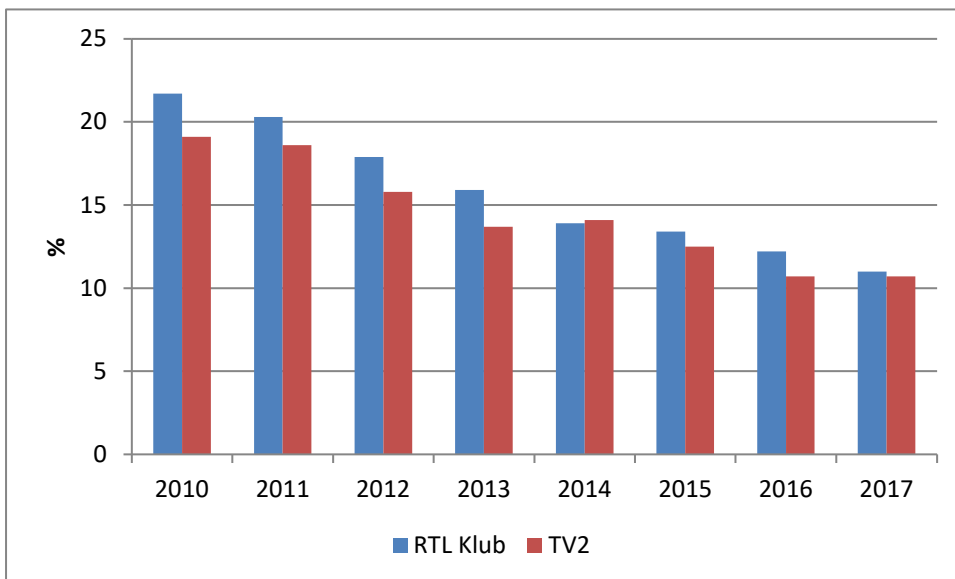
Figure 17: State advertisements on RTL Klub and TV2 (spots)



Source: own figure based on data from Kantar Media

This difference is clearly not the consequence of audience shares or the market position. In the last years RTL and TV2 were in strong competition, but RTL Klub usually reaches higher audience share (the only exception was 2014). It also means that campaigns would reach more people on RTL Klub.

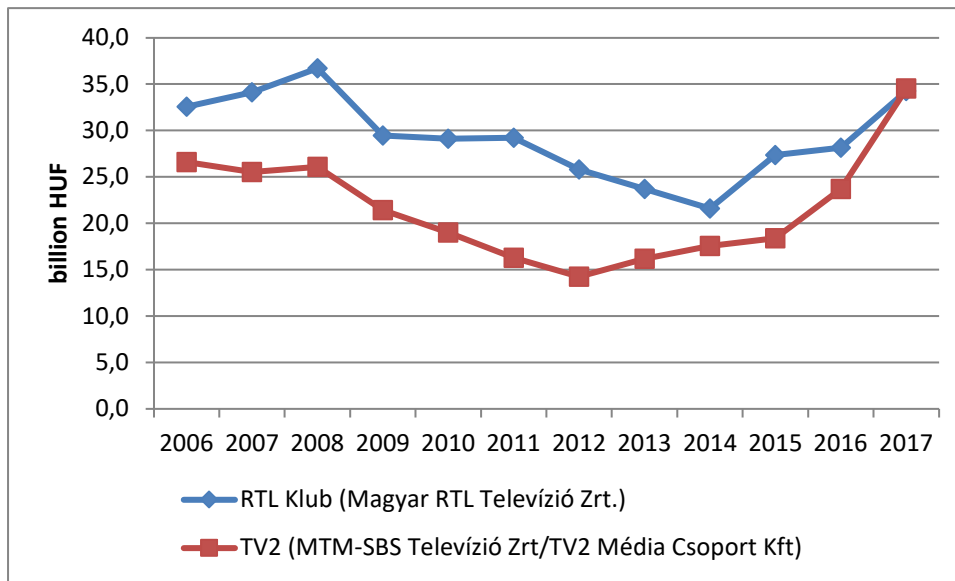
Figure 18: Audience share of RTL Klub and TV2 from 2010 (4+)



Source: own figure based on data from Nielsen, published in the annual Parliamentary Report of Media Council

The higher value of RTL advertisement time is reflected in the annual revenue data. It is not surprising that market leader RTL could reach higher revenue, commercial advertisers are willing to pay more for a wider audience. In 2017 TV2 revenues slightly exceeded the RTL revenues, which could be explained by the high level of state revenues. This situation clearly shows how state advertising could affect competition and revenues already on a shorter term.

Figure 19: Revenue of RTL Klub and TV2



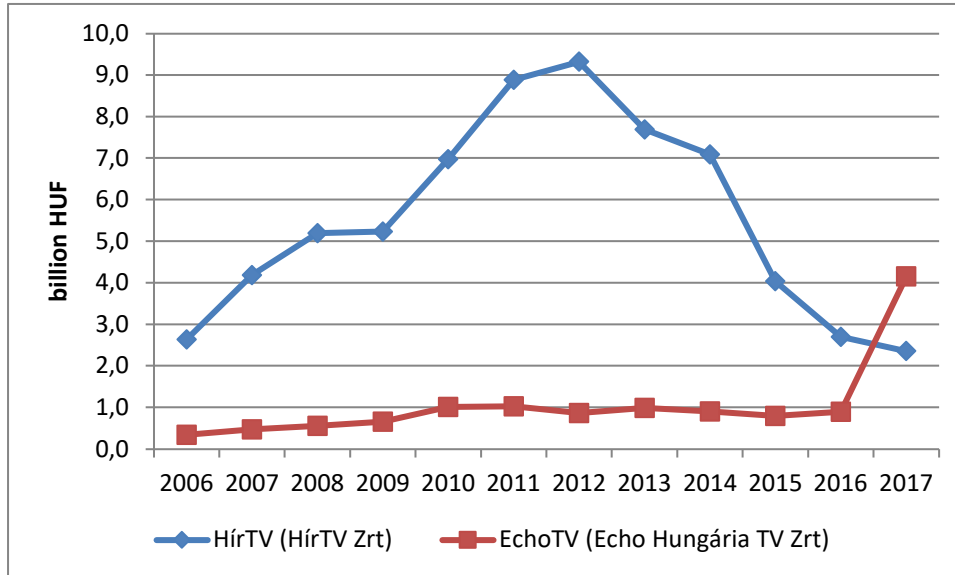
Source: own figure based on data from corporate financial reports (<http://e-beszamolo.im.gov.hu/oldal/kezdolap>)

Illustrative example of market distortion is the case of Hír TV and Echo TV. Both of them are right-wing news channels, although market data are hardly available (Kantar Media focuses on big market players, Hír TV and Echo TV are not included in their database). However, the annual corporate financial reports give a picture about the changing market environment. Until July 2018 Hír TV was owned by Lajos Simicska, who was one of the businessmen closest to the government until his conflict with Viktor Orbán in February 2015. Apparently after Fidesz winning the 2010 election Hír TV revenues sharply increased, 2012 was the peak year. After the 2015 Orbán-Simicska conflict the revenues have sharply declined.

Echo TV was previously owned by Gábor Széles, a businessman close to the governing party, but he sold the television to Lőrinc Mészáros, businessman and Fidesz politician in December 2016.

After this transaction the revenues radically increased in 2017, which is clearly against the market logic, since the Nielsen measured 0.31% audience share for Echo TV and 1.53% for Hír TV.⁴¹

Figure 20: Revenue of Hír TV and Echo TV



Source: own figure based on data from corporate financial reports (<http://e-beszamolo.im.gov.hu/oldal/kezdolap>)

In the 'Let's stop Brussels!' (national consultation) campaign the government allocated 1,6 billion HUF (ca 5,3 million EUR) to the television market. The biggest beneficiaries are:

- Atmedia: 375 million HUF (ca 1,3 million EUR) – it is a government related sales house, owned by András Tombor⁴²
- MSC Ltd.: 349 million HUF (ca 1,2 million EUR) – it is also a government related sales house, acquired by Atmedia
- TV2: 267 million HUF (ca 0,9 million EUR) – TV2 advertising time is sold via Atmedia sales house, but according to the data TV2 also generated direct revenues in the campaign
- Village Media: 214 million HUF (0,7 million EUR) – this sales house sells the advertising space/time of countryside media and journalists found relationship with government related companies⁴³
- Echo TV: 182 million HUF (ca 0,6 million EUR) – pro government news channel.

⁴¹ Data is available in a Nielsen document 'Methodological Recommendations of Nielsen Audience Measurement for the annual audience share calculation of television channels'. The document was sent to business partners of Nielsen via email, on January 22, 2018.

⁴² Tombor András tévés hirdetésszervező cége több pénzt keresett tavaly, mint a TV2. [András Tombor's television sales house earned more in the last year, than TV2]. 444.hu, June 16, 2017.

<https://444.hu/2017/06/16/tombor-andras-teves-hirdetesszervezo-cege-tobb-penz-t-keresett-tavaly-mint-a-tv2>

⁴³ Az első idei nemzeti konzultációt 7,2 milliárd forintért reklámozta a kormány [The Government advertised the first national consultation of the year for 7,2 billion HUF] Atlatzso.hu, September 28, 2018.

<https://atlatzso.hu/2017/09/28/az-első-idei-nemzeti-konzultációt-72-milliárd-forintért-reklamozta-a-kormány/>

The remaining 13,4% of television spending was allocated to other market players, including government-related companies.

The 2017 December – 2018 January campaign period was also rather intense in the television segment and a new player entered to the scene. The overall television spending of the government was 1,5 billion HUF (ca 5 million EUR). The main beneficiaries were the following:

- Magno Studio Ltd: 676 million HUF (ca 2,3 million EUR) – investigative journalists found the relation to the ruling party.⁴⁴
- Atmedia sales house: 289 million HUF (ca 1 million EUR)
- MSC Ltd sales house: 170 million HUF (ca 0,6 million EUR)
- Village Media: 154 million HUF (ca 0,5 million EUR)
- TV2: 135 million HUF (ca 0,5 million EUR) – TV2 also has a contract with Atmedia sales house

The remaining 6,3% of the television spending went to smaller market players.

In the February-April 2018 campaign period 4,7 billion HUF (ca 15,6 million EUR) was spent in the television sector. The main beneficiaries were same as before, but this time the spending was concentrated at Magno Studio:

- Magno Studio Ltd: 3,8 billion HUF (ca 12,7 million EUR)
- Echo TV: 245 million HUF (ca 0,8 million EUR)
- Atmedia sales house: 244 million HUF (ca 0,8 million EUR)
- MSC Ltd sales house: 239 million HUF (ca 0,8 million EUR)
- Village Media: 122 million HUF (ca 0,4 million EUR)

Basically the whole television campaign budget was spent at these top5 market players. Marginal sum, only 0,7% of the television spending went to other media outlets.

The only really independent market player, RTL Klub and the other channels of the RTL Group were not included in any of the campaigns. HirTV was also left out from the campaigns.

Online market

The online market is still a relatively free segment of the Hungarian media landscape with several independent players and with the dominance of market forces. But the growing influence of the pro-government investors is visible: that growing influence can be best illustrated by the example of two market leader news portal, Index.hu and Origo.hu.

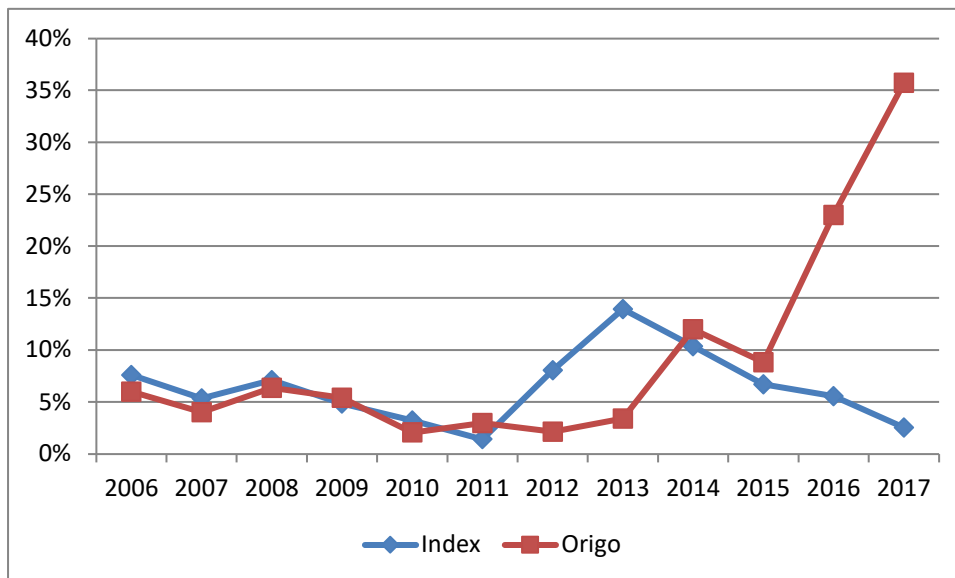
⁴⁴ A Magno Studio Kft. a fideszes médiabirodalom új csillaga. [Magno Studio Ltd. is the new star of Fidesz media empire.] Atlatszo.hu, June 6, 2018. <https://blog.atlatszo.hu/2018/06/a-magno-studio-kft-a-fideszes-mediabirodalom-uj-csillaga/>

For a long time, owner of Index.hu was Zoltán Spéder, who was never categorized as a major oligarch, but he was apparently pro-government investor until 2016, when his conflict with the prime minister became public. In April 2017 the owner transferred the ownership rights to a foundation.⁴⁵ It emerged that for three years the erstwhile oligarch Lajos Simicska had held a right of option to the publishing house. Though this had been rumoured previously, no one had been able to actually prove it. Lajos Simicska exercised his option and immediately transferred the ownership rights to the Foundation for the Development of Hungary (Magyar Fejlődésért Alapítvány) led by the news site's attorney László Bodolai. Since then Index.hu is considered as an independent player, it is clearly not related to any political parties.

The other major news portal is Origo.hu. Previously its owner was the Magyar Telekom, Hungary's leading telecom corporation, a subsidiary of Deutsche Telekom. The German telco sold the online news provider to a pro-government Hungarian investor in 2016. In April 2017 Ádám Matolcsy, the son of the president of the Hungarian central bank, became the new owner. At the same time, the entire corporate structure was revamped, and the new publisher is called New Wave Media Group Inc. Now Origo.hu is the biggest pro-government news portal.

The ownership changes at the two news portals are reflected in the shares of state ad revenues compared to total advertising revenues. For long years the state sources were marginal in the advertising revenues, typically it was below 10%. There was a slight increase at Index.hu when its owner, Zoltán Spéder was apparently a pro-government businessman (2012-13). The Origo.hu was owned by a foreign investor at that time. The major restructuring came after the ownership changes: share of state sources are significantly increasing at pro- government Origo.hu, while state advertisers practically left the independent Index.hu.

Figure 21: Share of state advertising revenues (% of total advertising revenues)



⁴⁵ Index (2017): Alapítványi tulajdonba került az Index.hu Zrt [Ownership control of Index.hu Inc. now rests with a foundation]. Index, 30 April.

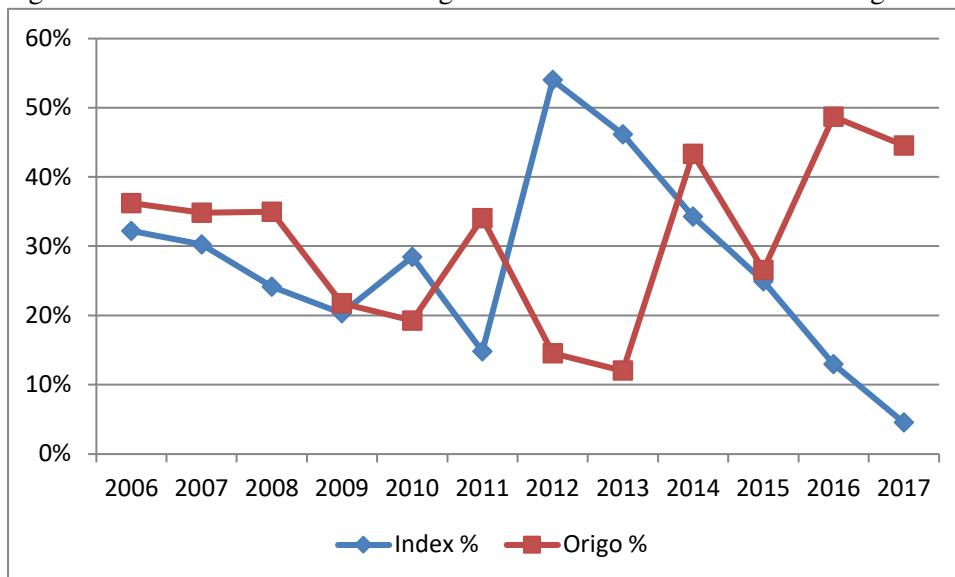
http://index.hu/kultur/2017/04/20/index_uj_tulajdonos_magyar_fejlodesert_alapitvany/

Source: own figure based on data from Kantar Media

Based on the data of Gemius digital audience measurement company, the two news portals have similar audience size, so it cannot be a reason for the significant differences in state advertising revenues. In July 2018 the number of real users was 2,7 million at Origo.hu and 2,4 million at Index.hu. In April 2018, in the month of Parliamentary election Index.hu reached 2,9 million real users, Origo.hu was lagging behind with 2,7 million.⁴⁶

Index.hu and Origo.hu are just examples in the online news market, but since they are traditionally the market leader portals, the beneficiary position of Origo.hu distorts the whole online segment. The figure below shows the share of Index.hu and Origo.hu from the whole online state advertising revenues. Historically the positions of the two portals were similar, just like their audience reach. In 2012-13 Index became the main beneficiary, but when Origo.hu became the pro-government portal, it also brought dominance in gaining online state advertising revenues. At the same time share of Index.hu from online state advertising revenues is lower than ever before.

Figure 22: Share of Index.hu and Origo.hu from all online state advertising revenues



Source: own figure based on data from Kantar Media

The online segment is especially important, because it was traditionally the most market driven sector without significant state influence. After buying up one of the major news portals by a pro-government investor, the tendentious allocation of state sources strongly distorted this segment.

⁴⁶ <http://dkt.hu/hu/menu/ola.html>

In the 'Let's stop Brussels!' (national consultation) campaign the government allocated nearly 1,3 billion HUF (ca 4,2 million EUR) to the online market. The Top5 beneficiaries are:

- Ripost: 277 million HUF (ca 0,9 million EUR)
- Origo/New Wave: 218 million HUF (ca 0,7 million EUR)
- Mediaworks: 209 million HUF (ca 0,7 million EUR)
- Modern Media Group (888.hu, Lokal.hu): 84 million HUF (ca 0,3 million EUR)
- Pannon Lapok Tarsasaga: 70 million HUF (ca 0,2 million EUR) – PLT was acquired by Mediaworks

The remaining 31,9% of the campaign's online spending went to other players, majority of them also related to the ruling party.

In the 2017 December – 2018 January campaigns the government spent only 242 million HUF (ca 0,8 million EUR) in the online sector. In this case the spending was not concentrated, the main beneficiaries were the following:

- Mediaworks: 36 million HUF (ca 0,12 million EUR)
- Netrise: 23 million HUF (ca 0,07 million EUR) – it publishes the popular celebrity portal, femcafe.hu. It is linked to the ruling party.⁴⁷
- Pestisrákok: 22 million HUF (ca 0,07 million EUR)
- TV2: 18 million HUF (ca 0,06 million EUR)
- Lapcom: 18 million HUF (ca 0,06 million EUR)

Majority of the online campaign budget (51,9%) went to other players.

During the 2018 campaigns (Anti-UN, Stop Migrants! and others) the online spending of the government was not really concentrated and some beneficiaries were not related to the government. The overall sum spent in this sector was 516 million HUF (ca 1,7 million EUR) Obviously the priority of the campaigns was to reach as broad audience, as it is possible because of the Parliamentary election held on April 8, 2018. The list of the main beneficiaries:

- Facebook: 67 million HUF (ca 0,22 million EUR)
- Blikk: 66 million HUF (ca 0,22 million EUR)
- Origo/Evomedia: 64 million HUF (ca 0,21 million EUR) – Evomedia is a sales house which became a contracted partner of Origo to sell the advertising space of the portal
- Blogstar: 50 million HUF (ca 0,17 million EUR)
- Mediaworks: 48 million HUF (ca 0,16 million EUR)

The remaining 42,9% of the online spending went to other market players.

Major independent news portals, like index.hu, 24.hu, 444.hu and HVG were not included in any of the government campaigns.

⁴⁷ Matolcsyékhoz kerül a Femcafé is [Femcafe also goes to Matolcsys'] 24.hu, September 27, 2017.
<https://24.hu/media/2017/09/27/matolcsyekhoz-kerul-a-femcafe-is/>

c) Please explain how, in your opinion, the alleged State aid provides an economic advantage for the beneficiary or beneficiaries.

The high volume of advertisements without any competition grants in itself a significant economic advantage for the beneficiaries while it is unreachable for other market players. It distorts the market competition in itself. Since 2016 the state has become the largest advertiser in Hungary.⁴⁸ The beneficiaries can be clearly identified, and all of them are related to the ruling party at ownership level.

The price level of the contracts is not publicly available, which raises concerns. The lack of transparency leads to the supposition that state advertising is a tool of media financing. Anecdotal evidence is that the state as advertiser does not use its strong bargaining power: there are no high discounts from the list prices. The state buys the advertising space/ time above the market price.

In our view the economic advantage of the alleged aid can be identified and demonstrated easily both in terms of direct and indirect advantages as well.

Direct advantage:

The purchase of advertising space/time from market players selected unjustifiably referred to in question 6 point a can be considered as direct and immediate aid to these media outlets, since they did not need to compete for the advertisements and since no public procurement procedures took place in the “selection procedure”. They can also save sales costs, since majority of the revenue comes from state source. There are no transparency rules: it is not obligatory to publish the exact amount of state sources.

Moreover, the amount of the expenditures can be regarded as considerable compared to the revenues of the advertising market.

There are market players (not referring to the public service broadcaster) in Hungary, which might not be viable on the market, since they receive majority of their income from the state. There are media brands (all of them are published by Mediaworks publisher) which get 100% of the advertising revenues from the state. There are also significant titles which get overwhelming

⁴⁸ Announcement of Zsolt Urbán, president of the Hungarian Marketing Association. He estimated the state advertising sum 40 billion HUF in 2017 (it is about 17% of the whole advertising market). See: Nagyot nőtt a magyar reklámtorta [Hungarian advertising market grew significantly]. 24.hu, February 28, 2018. <https://24.hu/media/2018/02/28/nagyot-nott-a-hazai-reklambevetelek/>

majority of ad revenues from the state, e.g. Magyar Idők daily (87%), Lokál Extra free weekly (86%) and Figyelő weekly (77%).⁴⁹

Indirect advantage:

The advertising purchase of the state in these media outlets and the high or average prices could be used as a possibility to acquire new advertisers from the market with offering lower advertising price than other market players which are excluded from the state spending. The alleged aid can of course cover the potential losses of the lower prices.

The alleged aid provides extra benefits for the market players on a short term, but on the long run it provides them with the indirect advantage to side line or even annihilate the other competitors existing on the market.

State advertising also has another impact that we still cannot illustrate with data: it is assumed that state advertising can also impact the advertising practices of commercial advertisers. Due to their major role in the market, numerous elements of the pro-government media portfolio have become unavoidable for commercial advertisers. According to a recent qualitative research with advertisers and media agency experts, they have experienced progressively rising levels of pressure since 2010. This pressure was aimed at persuading them to advertise in pro-government media even when this decision was not the best from a business/advertising effectiveness perspective. Moreover, numerous corporations comply with this expectation to improve their bargaining position in their consultations with the government.⁵⁰

It is important to see, that unjustified and growing state advertising distorts not purely the media market itself. It has an effect on the whole media ecosystem, including the market of media agencies and sales houses, where the government related investors dominate the market.

d) Please explain why, in your view, the alleged State aid distorts or threatens to distort competition.

On one hand the unjustified purchase of advertising space/time by the state for its campaigns is a direct and immediate revenue, “a gift” for the unjustifiably selected media outlets referred to in question 6 point, which distorts the competition on the market. The campaigns and the spending are completely unnecessary and they do not fall within the competence of a government. In fact, it does not belong to the constitutional functions of any governments. And the government itself should not be in leading position on the advertising market at all.

⁴⁹ List of Top 10 media brands with highest state share in advertising revenues is available in report of MerteK Media Monitor, An Illiberal Model of Media Markets, p39 (Figure 2) <http://mertek.eu/wp-content/uploads/2018/08/MertekFuzetek15.pdf>

⁵⁰ The research was conducted by the former award-winner investigative journalist, Leonárd Máriás. The results are available in report of MerteK Media Monitor, An Illiberal Model of Media Markets, pp45-57 <http://mertek.eu/wp-content/uploads/2018/08/MertekFuzetek15.pdf>

On the other hand, as already mentioned in the answer to question 6 point c, the government spending has an indirect effect on the market on a long term, by eliminating the politically non-favoured market players or at least taking them into a very disadvantaged situation.

e) Please explain why, in your view, the alleged aid affects trade between Member States.

Firstly, as governmental campaigns affect the media market as a whole, irrespectively whether we mention print, radio, television or internet, therefore it is necessarily affects the position of foreign investors on the market, ownership structures and through those the trade between Member States. In fact, it is clearly visible that in the Hungarian market the number of foreign investors is decreasing, as they are constantly affected negatively by the government's financial interventions and by other government measures which serve the government's strategy to take away the interest of the foreign investors from investing into the Hungarian media market. Of course, those other measures are not subject of this complaint, however one cannot disregard them completely when intends to have a clear overview of the media market and all its sectors. Since the adoption of the "new media law" in 2011 changes on the media landscape clearly show the decreasing figures of foreign investment in all traditional media sectors.

The following major players left the Hungarian market in the last years:

- Sanoma (Finland), Funke Gruppe (Germany), Metro International SA (Sweden) sold their Hungarian affiliations (print)
- merged Ringier and Axel Springer publishers were forced by the media authority to sell majority of their portfolio (print)
- German commercial television broadcaster, ProSiebenSat1 sold its Hungarian channel, TV2, the second biggest Hungarian channel (television)
- Deutsche Telekom sold its market leader news portal, Origo (online)

Secondly, the alleged aid affects in every sector of the media the market players which are present in the whole country and in many cases beyond its borders. In both cases the trade between Member States would be affected.

The online market is "per definitionem" affects the European market, in the radio and television sector the television signals are distributed across Member State borders, inter alia via online or satellite. The print media although it is rather focusing on the national market, selling it available in the neighbouring countries as well and in most of the cases the print version is available online as well.

8. Compatibility of the aid

Please indicate the reasons why in your view the alleged aid is not compatible with the internal market.

The placement of state advertising can have a substantial impact on the entire media market. For one, the concentrated spending of this money makes it possible to ensure the financial viability of media products that would otherwise be unsustainable in the market. Moreover, these advertisements also serve to convey important messages for advertisers as to which actors in the

media market are "preferred" by the government. The criteria used to select the beneficiaries of state advertising are not regulated nor were they published anywhere.

Pursuant to EU law, state advertising – even if the organisation that directly procures it is a state-owned enterprise – may constitute "state aid" which distorts competition. Naturally, the advertisements at issue here are normally services for which state institutions or state-owned enterprises must render payment the same as others who purchase these services. According to the ECJ's jurisprudence, "[e]conomic transactions carried out by a public body or a public undertaking do not confer an advantage on its counterpart, and therefore do not constitute aid, if they are carried out in line with normal market conditions."⁵¹ Thus, if an economic benefit accrues to the recipient company that it would not have obtained under normal market conditions, and if as a result it finds itself in a more favourable position than its competitors, then the state can no longer be regarded as an actor whose actions are based on market considerations.⁵² If doubt arises, then it must be able to show that the transactions in question were performed on the basis of market considerations which are comparable to those that any reasonable commercial market actor in a similar position would have considered in its decision-making (European Commission, 2014). When assessing whether a given transaction is in line with the underlying conditions in the market, all relevant criteria must be considered.

These criteria should also guide the evaluation of advertising distribution practices. It follows that the allocation of state-funded advertisements to individual media outlets must not be independent of their performance. Basically, an advertiser whose actions are governed by market considerations decides about its advertising campaign portfolio based on the general reach of the media, and in particular the ability of media outlets to reach specific target groups in the audience. The particular objectives of a campaign may give rise to additional considerations, but these must always be determined by the audience that the campaign wants to reach rather than the selection of media that the state advertiser wants to involve in the campaign.

Correspondingly, a practice that awards certain media with a share of state advertising that is not commensurate with the performance of the respective outlets is not compatible with the market-based evaluation outlined above. In a situation in which a state institution or a state-owned company cannot show, through the documented planning of its campaign, that the media portfolio it used was designed based on specific objectives concerning target audiences, the distribution of state advertising must be regarded as a form of state aid.

State institutions can also involve media agencies in the placement of advertising. As long as they participate in the process as independent and profit-oriented actors, media agencies can in principle reduce the risk of political influence. Yet when they purely act as conveyors of the prevailing political will, then they can effectively help in ensuring that advertising is distributed in an even more concentrated manner and even less transparently. The conditions underlying their selection and the level of their actual autonomy also influences the overall assessment of how agencies manage the public funds they control.

⁵¹ ECJ Judgment of 11 July 1996 C-39/94 (SFEI and others)

⁵² ECJ Judgment of 5 June 2012 C-124/10 (Commission v *Électricité de France*); ECJ Judgment of 15 March 1994 C-387/92 (Banco de Crédito Industrial SA, now Banco Exterior de España SA v Ayuntamiento de Valencia)

9. Information on alleged infringement of other rules of European Union law and on other procedures

a) If known, please indicate what other rules of European Union law you think have been infringed by the granting of the alleged aid. Please be aware that this does not imply necessarily that those potential infringements will be dealt with within the State aid investigation.

Providing state aid only to a limited circle of companies, which are chosen by their relation to the government has the potential to infringe freedom of press and though that the freedom of speech. It affects media pluralism. It might limit the freedom to provide services.

The above-mentioned interventions of the state clearly show that the government's aim is to promote and subsidize the targeted media companies and at the same time to hinder the activity of the remaining independent media. The tendency, which has started with the Advertisement Tax Act in 2014 which deemed to be against EU rules⁵³, demonstrates that the government intends to influence the media in a way which is favourable for its communication and for its political strategy.

In addition, the advertisements cannot be regarded as advertisements related to public service. The topics of the advertisements show that they support the aims and the image of a political party. This also means that there is no other reasonable explanation for the campaigns but to perform political activities and support certain media companies.

b) Have you already approached the Commission's services or any other European institution concerning the same issue? *

Yes No

If yes, please attach copies of correspondence.

c) Have you already approached national authorities or national courts concerning the same issue? *

Yes No

If yes, please indicate which authorities or courts; also, if there has already been a decision or judgement, please attach a copy (if available); if, on the contrary, the case is still pending, please indicate its reference (if available).

d) Please provide any other information that may be relevant for the assessment of this case.

⁵³ SA.39235 Hungarian advertisement tax case:
http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39235

10. Supporting documents

Please list any documents and evidence which are submitted in support of the complaint and add annexes if necessary

- Whenever possible, a copy of the national law or other measure which provides the legal basis for the payment of the alleged aid should be provided.
- Whenever possible, please attach any available evidence that the State aid was granted (e.g. press release, published accounts).
- If the complaint is submitted on behalf of someone else (a natural person or a firm) please attach proof that you as a representative are authorised to act.
- Where applicable, please attach copies of all previous correspondence with the European Commission or any other European or national institution concerning the same issue.
- If the issue has already been dealt with by a national court/authority, please attach a copy of the judgement/decision, if available.

I hereby declare that all the information in this form and annexes is provided in good faith.

Place, date and signature of complainant”

Budapest, November 26, 2018

András Arató
Klubrádió Szolgáltató Zártkörűen Működő Részvénytársaság

Benedek Jávor
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