

## OSI contribution

### **3<sup>rd</sup> meeting of the GROUP OF SPECIALISTS ON MEDIA DIVERSITY (MC-S-MD), 20-21 March 2006**

This OSI contribution is based on findings and recommendations from the series of monitoring reports, *Television across Europe: regulation, policy and independence*.

Launched in October 2005, the reports were prepared by the EU Monitoring and Advocacy Program (EUMAP) of the Open Society Institute (OSI), in cooperation with OSI's Network Media Program (NMP). The series covers 20 European countries, and includes an Overview report that resumes the main findings from across the countries monitored (hereafter, "*OSI Overview Report*"). The reports are available both on paper and online at: [www.eumap.org/topics/media/television\\_europe](http://www.eumap.org/topics/media/television_europe).

The OSI reports touch upon many of the issues to be discussed by the Group of Specialists on Media Diversity (MC-S-MD) in their meeting of 20-21 March 2006. OSI would therefore like to take this opportunity to share with the Group the most relevant findings and recommendations from this monitoring.

This contribution is divided in three parts:

1. Selected recommendations from the *OSI Overview Report*, related to the issues to be discussed by the MC-S-MD.
2. Annex I. A summary of the main findings of the monitoring across the 20 European countries covered. Highlighted in bold are elements which could be of particular interest to the Group's debate.
3. Annex II. A short description of the monitoring project and of the resulting reports.

We hope that this contribution will be useful to the debate.

We remain available for further queries, and for sending copies of the reports.

# 1. OSI RECOMMENDATIONS: for the 3<sup>rd</sup> meeting of the MC-S-MD, of 20-21 March 2006

## Debate will include:

### 5. Examination of a preliminary draft recommendation updating Recommendations No. R (94) 13 on measures to promote media transparency<sup>1</sup> and No. R (99) 1 on measures to promote media pluralism<sup>2</sup>.

#### **OSI contribution:**

The *OSI Overview Report* puts forward a number of recommendations fostering media freedom and pluralism and transparency of media ownership, that supplement the above recommendations (Nos. R (94) 13 and R (99) 1).

#### **International level recommendations:**

- The European Commission should initiate legislation to ensure transparency of ownership in the broadcasting sector. (*OSI Overview Report*, Recommendation 18, p. 28)
- The EU should establish an independent agency with the mandate of monitoring media markets and media concentration in the EU and on global markets. (*OSI Overview Report*, Rec. 19, p. 28)
- The CoE should prioritise the monitoring of media legislation and policy, and of their implementation in practice, and the provision of consultancy, research and funding in support of media reforms. (*OSI Overview Report*, Rec. 6, p. 26)
- The EU should lead efforts to enhance coordination between EU member governments, the CoE, and international and national media organisations, in order to avoid redundant projects and to increase the effectiveness and impact of implemented media projects and programmes. (*OSI Overview Report*, Rec. 7, p. 26)
- The EU should coordinate, and eventually integrate, existing measures in support of media development within the EU, with programmes to support media in the countries covered by the EU's European Neighbourhood Policy and Stabilisation and Association Process, in order to develop synergies and improve efficiency and quality. (*OSI Overview Report*, Rec. 8, p. 26)

### 6. Examination of the replies to the questionnaire on the implementation by members states of Recommendation No. R (2003) 9 of the Committee of Ministers on measures to promote the democratic and social contribution of digital broadcasting and follow-up<sup>3</sup>.

In December 2005, the CoE launched a public consultation, inviting individuals and organisations to complete a [questionnaire](#), on measures adopted by Member States to implement Recommendation No. R (2003) 9 of the Committee of Ministers. Based on the result of this consultation, the Group of Specialists on Media Diversity (MC-S-MD) is to determine whether it is appropriate to provide further guidance to Member States on how to ensure the implementation of this Recommendation.

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<sup>1</sup> CoE [Recommendation No. R \(94\) 13](#) on measures to promote media transparency

<sup>2</sup> CoE [Recommendation No. R \(99\) 1](#) on measures to promote media pluralism

<sup>3</sup> [Recommendation No. R \(2003\) 9](#) of the Committee of Ministers on measures to promote the democratic and social contribution of digital broadcasting and follow-up

### **OSI contribution:**

The *OSI Overview Report* puts forward a number of recommendations on digitalisation, that are in line with this recommendation (No. R (2003) 9 of the Committee of Ministers).

### **International level recommendation**

- The CoE and the EU should foster scientific research and public debate on the social, political and cultural effects of digitalisation in the broadcasting sector, as well as on the creation of national policies in this area. (*OSI Overview Report*, Rec 9, p. 26)

### **Recommendations addressed to national governments:**

- Governments should initiate legislation providing for the automatic granting of licences for digital broadcasting to public service broadcasters with the aim of preserving the PSB in the digital environment. (*OSI Overview Report*, Rec. 28, p. 29)
- Parliaments should initiate legislation to forbid the formation of conglomerates grouping operators involved in the digital chain – such as digital multiplex operators, television stations, programmes packagers and software providers – in order to prevent the development of dominant positions in the digital television market. (*OSI Overview Report*, Rec. 29, p. 30)
- Parliaments and Governments should, in view of the likely transformative effects that digitalisation will have on broadcasting, encourage public education campaigns and debate on the introduction of digitalisation. (*OSI Overview Report*, Rec. 30, p. 30)

## **7. Other initiatives (to suggest to the CDMC) to preserve media pluralism**

The *OSI Overview Report* puts forward additional recommendations aimed at ensuring media pluralism and diversity.

### **International level recommendations**

- The CoE should, taking into account the importance of civil society for the democratic changes in Europe and the need to continue with reforms, include representatives from civil society – in particular consumers’ associations, media organisations and other NGOs, professional organisations, academics, and other civic partners – in all aspects of their efforts to develop and shape media policy. These civil society representatives should be consulted on basic media issues, including, but not limited to: independence of broadcast regulators; digitalisation and other technological developments relating to broadcasting; measures to ensure that the public interest is served by broadcasters; monitoring for compliance with international broadcasting obligations. (*OSI Overview Report*, Rec. 10, pp. 26-27)
- The CoE should support the further transformation of broadcasting regulators into independent bodies that will be ensured sufficient resources and extensive powers to enable them to effectively monitor the performance of broadcasters, and broadcasters’ compliance with legislation and licence conditions. At the same time, they should condemn any undue political interference and pressures on broadcasting regulators. (*OSI Overview Report*, Rec. 11, p. 27)

### **National level recommendations:**

- Governments should include in their national media policies strategies for the development of local television stations and community media. Such stations and media should have fair

- access to the frequency spectrum, and should, where a reasonable showing of need has been made, benefit from support to start-up their operations. (*OSI Overview Report*, Rec. 31, p. 30)
- Governments and Parliaments should provide for broad public consultations about media policy and media legislation. Public authorities, particularly in transition countries, should pay particular attention to involve civil society representatives – including from consumers’ groups, media rights organisations and NGOs, professional organisations, academia, and other civic partners – in media policy and legislation. In particular, such civil society representatives should be consulted on: measures to ensure that broadcast regulators, and the broadcasters themselves, are fully independent; digitalisation and other technological developments relating to broadcasting; measures to ensure that the public interest is served by broadcasters; monitoring for compliance of broadcasters with their legislative and licence obligations. (*OSI Overview Report*, Rec. 21, p. 29)
  - Broadcasting regulators should ensure that digital licences are distributed to a diverse range of operators, in order to ensure that the current dominant positions in the analogue broadcasting are not perpetuated. (*OSI Overview Report*, Rec. 36, p. 31)
  - Governments or regulators, as applicable, should provide financial and other support to producers who create programming for ethnic, linguistic and other minorities, and for broadcasters which broadcast such content. At the same time, regulators should recognise the fundamental importance of such content in the licence granting process, where appropriate for the context. (*OSI Overview Report*, Rec. 25, p. 29)
  - Governments and regulators should either *impose* basic public service obligations for commercial broadcasters, as a necessary and desirable instrument of broadcasting regulation, or should *encourage* commercial broadcasters to broadcast public interest content, through appropriate incentives. (*OSI Overview Report*, Rec. 24, p. 29)
  - Governments should adopt and implement legislation ensuring transparency of ownership of all media outlets, including external investors. (*OSI Overview Report*, Rec. 41, p. 32)
  - Governments should, where such legislation is not in place, adopt to ensure social and labour protection for media professionals employed in commercial broadcasters and in public service broadcasters. (*OSI Overview Report*, Rec. 42, p. 29)

## Annex 1: OSI MONITORING - MAIN FINDINGS

Close to 4,000 television channels are now available in the 25 European Union (EU) member States and in the other ten countries and territories of the continent aspiring to join the EU.<sup>4</sup> Television is the primary source of information for most people, and is widely considered to be the most influential medium in forming public opinion. Television viewing time has increased steadily over recent years. Television has maintained its dominant position in spite of the rise of new communication technologies such as the Internet.

### Chart 1. TV viewing time

Individual television viewing time (2003)

Ranked by viewing time, Average viewing time for adults, Monday-Sunday (minutes per day)

1. Serbia and Montenegro	278	11. Turkey	224
2. Hungary	274	12. Germany	217
3. Macedonia	259	13. Czech Republic	214
4. Croatia	254	14. France	213
5. Poland	250	15. Lithuania	210
6. Italy	245	16. Latvia	207
7. Estonia	239	17. Bulgaria	185
8. UK	239	18. Slovenia	178
9. Slovakia	235	19. Albania	NA
10. Romania	235	20. Bosnia and Herzegovina	NA
<b>Average (18 countries)</b>	<b>219</b>		

Source: IP International Marketing Committee

In Western Europe, the liberalisation of most television markets during the 1980s ended the commanding advantage that public service broadcasters or State television had enjoyed, by opening the frequencies to private players. During the 1990s, State television in Europe's new democracies began a gradual and still incomplete process of transformation into public service television. At the same time, there was an immense proliferation of commercial broadcasting channels, often unlicensed and illegal, in those countries.

Adapting to the Western European model of organising the broadcasting sector was, for many countries in transition, not only a precondition for their eventual membership of the EU, but also part of the general "Europeanisation" of their political, social and economic life. Although broadcasting regulation has been brought broadly into line with Western European standards, the implementation of legislation is often deficient and the operational and financial independence of broadcasting regulators is in many cases flawed. Nonetheless, in most European countries broadcasting now functions – to a greater or lesser degree – as a "dual" system of public service and commercial television.

<sup>4</sup> EUMAP research and European Audiovisual Observatory, *Transfrontier Television in the European Union: Market Impact and Selected Legal Aspects*, Strasbourg, 2004, p. 6.

Across Europe, television remains heavily regulated because it uses a limited natural resource, the spectrum of frequencies, which is controlled by the State. Among the other reasons why television is heavily regulated is its perceived immediacy and power. Legislation ensuring various degrees of independence of broadcasting regulators has been adopted in most countries. However, political and commercial pressures on the national regulatory authorities that are in charge of licensing broadcasters, remain a fact of life.

Public service television enjoys special esteem at the European policy-making level, being considered a vital element of democracy and part of European culture. It is seen as serving the mission to offer an alternative to, and even to raise the standards of, commercial television. Yet, the digitalisation and convergence of communication and information technologies, as well as the competition from commercial broadcasters, have created pressure on public service broadcasting across Europe to re-define its specific remit – to operate independently of political and economic interests – under new circumstances.

In addition, the European Commission has demanded more transparency and accountability in the finances of public service broadcasting, and intergovernmental organisations such as World Trade Organisation (WTO) have criticised the privileged position of public service broadcasting in terms of its funding. In Western and Eastern Europe alike, public service television broadcasters are frequently reprimanded for their ties to Government and to political parties, and for a growing commercialisation, with the resulting “dumbing down” of general quality, as they try to keep up with the competition from private television broadcasters.

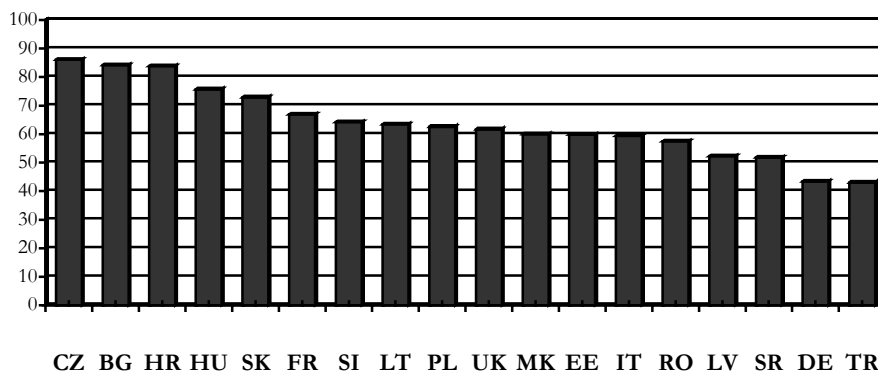
The arrival of commercial broadcasting shook the monopoly of emergent public service broadcasting in the transition countries, and resulted in sharp drops in viewership. Moreover, in this part of Europe, public service television broadcasters often lack funding, and face political interference and pressures, as well as low professional and public awareness of the role that public service television should play. Many reporters for this research wrote that in their countries the distinction between public service broadcasters and their commercial competition, in terms of programme content and quality, has become increasingly blurred. Investigative journalism and minority programming are scarce commodities in both public and commercial television. Newscasts have often become markedly tabloid, particularly on commercial television channels.

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**Across Europe, television markets are highly concentrated both in terms of ownership and viewership. In most countries, the three largest television channels grab the bulk of the viewership. At the same time, the ownership of private broadcasters tends to be highly concentrated, despite political declarations against the monopolisation of media markets and legislation to limit such concentration. In Western Europe, there is higher concentration of ownership than in transition countries. However, in the past decade the transition countries have seen massive mergers and acquisitions, and the establishment of large media groups controlling much of the broadcasting market. When financially backed by politicians or part of larger enterprises operating in other sectors than the media, commercial television can, and often has, become an instrument for pursuing political or business interests. More often than not there is a low level of transparency of media ownership and interests.**

Chart 2: Concentration of national audiences:

■ Aggregate audience share of the top 3 channels (per cent) share of the top three channels



Source: EUMAP - OSI

Chart 3: Concentration of ownership: main investors in television in Central and Eastern Europe

Group	Station	Country	Position on the national market
Central European Media Enterprises (CME)	Nova TV	Croatia	4
	TV Nova	Czech Republic	1
	Pro TV	Romania	2
	Acasa TV	Romania	4
	Markíza TV	Slovakia	1
	Pop TV	Slovenia	1
	Kanal A	Slovenia	4
RTL Group	RTL Klub	Hungary	1
	RTL Televizija	Croatia	3
Modern Times Group (MTG)	TV3 (through Kinnevik)	Lithuania	2
	TV3	Latvia	2
	TV3	Estonia	1
	Prima TV	Czech Republic	3

Source: EUMAP - OSI

The European Commission has found it difficult to propose any kind of harmonisation of media ownership rules between EU member States, and has indicated that the issue should be left to the member States. The implementation of already existing pan-European standards, such as the Council of Europe's Convention on Transfrontier Television (ECTT) or the EU's "Television without Frontiers" (TWF) Directive, is often hesitant or even deficient, particularly in new EU members and in the candidate States.

In spite of the increased presence of transnational investors in the broadcasting sector, industrial relations in this segment of the media market are mostly played out at the national level, with few examples of cooperation among journalists and other media professionals across Europe. There are only initial attempts to establish minimal labour protection standards and other common rules in spite of massive foreign investments particularly in the broadcasting industry of Central and Eastern Europe. **Especially in transition countries, journalists have little labour protection. Foreign investors habitually offer inferior work conditions in comparison to what they provide in their own countries of origin.**

digital  
broadcasting

Digitalisation has advanced quickly in Western Europe in the past two years after a hesitant launch around 2000. Traditionally, media industry products were sold as concrete material goods, such as books and CDs, or were distributed by analogue terrestrial television broadcasting. Converted into digital signals, media content is now divorced from a concrete form and can be distributed by the Internet, mobile telephony, satellite broadcasting and similar advanced platforms. Although across Europe many questions about digital roll-out have still to be answered, especially those related to its financing and its implications for regulation, digitalisation is likely to sharpen competition and boost diversity and pluralism. At the same time, it is expected to pose new challenges to public service broadcasting and the existing regulatory frameworks. However, in transition countries, digitalisation is a slow process due to lack of funding, policy and legal frameworks.

digital  
broadcasting

The *OSI Overview Report* brings together the main findings of the monitoring carried out in 20 European countries, which included both transition States and established democracies, and EU member States, candidate countries and potential future candidates. **Overall, if one consistent message emerges from across these reports – and it is one that bears out the warnings of many industry insiders and commentators – it is that public service broadcasting stands on the brink of far-reaching change. The momentum of technological change, the ripples of which are reaching even the least developed broadcast sectors examined in this report, is unstoppable.**

At present, the powerful commercial broadcasters seem poised to become the clear beneficiaries of this change, while the public service broadcasters appear to risk losing much, if not most, of the traditional justification for their privileges. Nonetheless, as this report shows, the argument for public service broadcasting remains compelling. Public service broadcasting is not only a bulwark against commercial trends that, left unchecked, would be likely to drive standards further down, reducing the less lucrative strands towards invisibility. It also provides essential leverage for raising standards in all programme genres.

It follows that the goal for broadcasting policy-makers, regulators, concerned media professionals and citizens should be to reap the benefits of this change – in terms of a wider choice of programming, accessible on more, and more convenient, platforms – without in the process losing the achievements of traditional public service broadcasting, in terms of the quality, range and genuine plurality of universally available content, that is responsive to segments of a society as well as to society as a whole. However, there is no certain way to reach this goal. No single approach can guarantee the achievement of a balanced and durable "dual system" of broadcasting or of

independent regulation, and nor is there any single model of successful public service broadcasting. Broadcasting is so deeply rooted in, and dependent on, a society's political experience, institutions and assumptions – not to mention its journalistic traditions and resources – that each society must evolve its own models.

Against this background, the condition of public service broadcasting in Europe's new democracies gives special cause for concern, and its future is far from secure. These transition States have committed themselves to uphold public service broadcasting, even though it is still an unknown quantity in their societies. In fact, the widespread professional and public indifference to the role of public service broadcasting in these States should come as no surprise. It reflects both the sheer novelty of the concept of public service broadcasting, and the widespread failure of the emergent, or nominal, public service broadcasters to broadcast programming that impresses the public as sufficiently distinct from commercial television to be worth supporting. As a rule, politicians have shown little inclination to respect the autonomy of the public service broadcasters. Even in those States which now see themselves as post-transitional, the public service broadcasters are, for the most part, firmly stuck in mid-transition.

The *OSI Overview Report* puts forward 41 recommendations, on four main areas – media legislation and policy, broadcasting regulators, public service broadcasting and commercial broadcasting – which are intended to contribute to the European policy debate. All the recommendations are based on the findings of the monitoring, as detailed in this overview section and further developed in the country reports – each of which, in turn, contains more specific recommendations for the particular national context.

## **Annex 2: ABOUT THE MONITORING REPORT “TELEVISION ACROSS EUROPE: REGULATION, POLICY AND INDEPENDENCE”**

The Open Society Institute (OSI) has produced a series of reports monitoring public service broadcasting, commercial television, broadcasting regulatory systems and new technologies, in 20 European countries, combining EU members, candidate and potential candidate countries:

*Albania; Bosnia and Herzegovina; Bulgaria; Croatia; the Czech Republic; Estonia; France; Germany; Hungary; Italy; Latvia; Lithuania; Poland; the Republic of Macedonia; Romania; Serbia; Slovakia; Slovenia, Turkey; and the United Kingdom.*

In each country the monitoring assesses media policy and regulations established in particular to secure the political and economic independence of television across Europe. A regional overview assesses the trends across the region.

### **Monitoring reports**

At 1662 pages, the complete three-volume set of reports is the largest ever comparative survey of its kind. It consists of 20 country reports plus an overview report, which resumes the main findings across all the countries monitored.

The 20 country reports were drafted by local experts with the support of partner NGOs. In each country, the initial findings were discussed during roundtable meetings, where stakeholders – including Government representatives, civil society organisations and media experts – discussed the report in its draft form, and their comments and suggestions were subsequently introduced in the report. The reports are presented to the public, to governments and to the media in each country, and are also available on the web. All country reports are based on the same methodology, thus allowing for a comparative analysis. The reports are divided into the following sections:

1. Executive Summary
2. Context
3. General Broadcasting Regulation and Structure
4. Regulation and Management of Public Service Broadcasting
5. Regulation and Management of Commercial Broadcasting
6. European Regulation
7. Conclusions
8. Recommendations

The overview report was drafted by media experts who also edited the single country reports. It includes a comprehensive annex section, with tables of comparative data.

The country reports and the overview report include concrete recommendations to governments, international organisations and regulatory bodies aimed at ensuring that television can play its democratic role.

The complete three-volume report - as well as a one-volume summary report - are published in English. Each country report is included in the English volumes and is also published in translation, together with the regional overview.

## Further information on this project

For the full text of the reports; the methodology text; the list of local experts who conducted the monitoring and of NGOs who supported them, and for additional information on this series of reports, please see [www.eumap.org](http://www.eumap.org).

Copies of the report can be obtained by using the order form available at [www.eumap.org/puborder](http://www.eumap.org/puborder) or by contacting Miriam Anati at [manati@osi.hu](mailto:manati@osi.hu).