

Television across Europe:
regulation, policy and independence
Czech Republic

Table of Contents

1. Executive Summary	487
2. Context	489
2.1 Background	489
2.2 Structure of the industry	490
2.3 Market share of the main players	491
3. General Broadcasting Regulation and Structures	492
3.1 Regulatory authorities for the television sector	492
3.1.1 RRTV remit and responsibilities	494
3.1.2 RRTV composition	498
3.1.3 RRTV accountability and transparency	499
3.2 Licensing and registration	501
3.2.1 Licensing for terrestrial broadcasters	501
3.2.2 Registration for satellite and cable broadcasters	505
3.3 Enforcement measures	506
3.4 Broadcasting independence	508
4. Regulation and Management of Public Service Broadcasting	511
4.1 The public broadcasting system	511
4.2 Services	513
4.3 Funding	514
4.4 Governance structure	518
4.4.1 The Czech TV Council and the Supervisory Commission	518
4.4.2 The Director General	519
4.4.3 The Czech TV Crisis	520
4.5 Programme framework	522
4.5.1 Output	522
4.5.2 Programme guidelines	523
4.5.3 Quotas	524

4.6 Editorial standards	525
5. Regulation and Management of Commercial Broadcasting	527
5.1 The commercial broadcasting system	527
5.2 Services	528
5.3 Ownership	528
5.3.1 TV Nova	529
5.3.2 Prima TV	531
5.3.3 The print and radio sectors	532
5.3.4 Cross ownership	533
5.4 Funding	534
5.5 Programme framework	536
5.5.1 Programme guidelines	537
5.5.2 Quotas	538
5.6 Editorial standards	538
6. European Regulation	540
7. The Impact of New Technologies and Services	541
7.1 New media	542
7.2 Market conditions	543
7.3 Digital television	545
7.4 Funding	547
8. Conclusions	548
9. Recommendations	549
9.1 Media policy	549
9.2 Regulatory authorities	549
9.3 Public television (Czech TV)	550
9.4 Commercial broadcasters	551
Annex 1. Legislation cited in the report	552
Annex 2. Bibliography	554

Index of Tables

Table 1.	TV Overview (2003)	491
Table 2.	Audience share of Czech television channels – breakdown by target group (2004)	492
Table 3.	Costs and revenues of Czech TV (2003)	515
Table 4.	Czech TV income and costs (1998–2004)	516
Table 5.	Czech TV output – breakdown by genre (2003)	523
Table 6.	Share of European works in television broadcasts (2003)	540
Table 7.	Selected high-speed Internet providers	544

List of Abbreviations

ČSSD	Social Democratic Party, <i>Česká strana sociálně demokratická</i>
ČTÚ	Czech Telecommunication Office, <i>Český Telekomunikační Úřad</i>
ODS	Civic Democratic Party, <i>Občanská demokratická strana</i>
RRTV	Council for Radio and Television Broadcasting, <i>Rada pro rozhlasové a televizní vysílání</i>
ÚOHS	Office for the Protection of Competition, <i>Úřad pro ochranu hospodářské soutěže</i>

1. EXECUTIVE SUMMARY

When communism fell in 1989, the Czech Republic's electronic media underwent rapid transformation. State-owned radio and television stations became public service entities, private radio stations proliferated and the first national commercial television station, TV Nova, started broadcasting in the early 1990s, swiftly gaining huge popularity.

However, the past decade also witnessed serious turbulence in the development of the broadcasting sector, stemming mainly from lengthy disputes over TV Nova's ownership and a crisis in public service television – which climaxed at the end of 2000 and fomented the largest public protests since communism's collapse.

Inefficient and highly politicised regulation was largely to blame. Parliament's Chamber of Deputies exerts a tight stranglehold over the country's electronic media regulator, the Council for Radio and Television Broadcasting (RRTV). Parties represented in the Chamber both nominate members and hold them accountable; the temptation to “cherry pick” members, and thereby exert control over the Council's decisions, is all too seductive. Moreover, it takes just two votes by deputies to dismiss the entire Council – many of whom are former politicians – by rejecting its annual report. This happened twice, in 1994 and 2003. All media experts and Council members interviewed for this report said that on both occasions the sackings were political rather than done for professional reasons.

Such excessive political control extends to the entire broadcast sector. As well as electing members to the supervisory bodies of public service broadcasters – Czech Television (hereafter, Czech TV) and Czech Radio – the Chamber also decides on how high to set the licence fee, which is both broadcasters' main source of income. The law does not oblige Parliament to take into account economic factors, such as the rate of inflation, when setting the licence fee. The Chamber is therefore free to use the fee as a bargaining chip to control the cash-strapped public broadcasters.

Journalists do not experience direct interference by politicians or private groups. However, broadcasters are aware of pressures on the management and supervisory level, from the Government, political parties and other interest groups.

The Czech media market attracted scores of foreign investors after communism's fall. Weak broadcasting regulation played a vital part in various ownership disputes that came to dominate the Czech Republic's commercial broadcasting scene since 1999. However, at the time this report was written, these wrangles had been resolved, albeit uneasily.

Persistent lobbying by commercial television stations strongly influences how media legislation is shaped. This, say media observers and local advertisers, mainly serves the interests of commercial broadcasters.

Most media observers and players agree that regulation of electronic media must be improved. The broadcasting regulator is not legally entitled to pursue investigations of important issues, such as ownership of commercial television or malpractice in the competition for advertising revenue. The need for a proactive broadcasting regulator is even greater in the Czech broadcasting market, which is characterised by a low level of competition. There are only three national broadcasters: Czech TV, with two channels, and two commercial television stations, TV Nova and Prima TV. In the past, there have been occasional reports in the media indicating that TV Nova and Prima TV have covertly cooperated in various fields, such as advertising sales. However, industry insiders and media observers say that the two stations have recently started to employ different business strategies, and now genuinely compete with one another. This could be attributed to the upcoming digitalisation of broadcasting, which, it is hoped, will boost competition on the market, since this will bring several more national channels.

European standards have been incorporated into Czech media legislation since 2001. Compliance with the EU “Television without Frontiers” (TWF) Directive is embedded in the Broadcasting Act 2001 and is observed by both public and private broadcasters. A new Electronic Communications Act, which entered into force in May 2005, distinguishes between the regulation of signals transmission and content. The Electronic Communications Act was expected to consolidate the entire legislation on communications, including telecommunications, broadcasting and digitalisation. However, the final version of the act did not incorporate existing broadcasting legislation, nor did it contain a clear legal framework for the introduction of digitalisation. Since the industry considers EU norms the highest benchmark, its main actors – who do not see any need to change the current model of regulation – regard formal adoption of EU media legislation as sufficient for regulating the electronic media.

Digitalisation, now a hot topic among experts and professionals, is still poorly understood on wider platforms. The debate among media professionals is currently dominated by the dispute over the regulation of digital licences and the chaos caused by the lack of clear legal guidelines for the launch of digital television. The RRTV launched the tender for granting digital television broadcast licences, even though Parliament had failed to approve new legislation regulating digital broadcasting. It accepted applications for digital licences until late December 2004, but then, under pressure from Members of Parliament, postponed the public hearings of bidders until summer 2005. Parliament is now expected to pass the new legislation in autumn 2005. Meanwhile, the digitalisation debate has yet to reach the general public.

2. CONTEXT

In the past decade, the Czech broadcasting landscape has been marked by an astounding growth. However, scandals and legal disputes surrounding the country's leading commercial station, TV Nova, and crises in Czech public service television, have equally left their mark.

2.1 Background

Two years after the fall of communism, the former Czechoslovakia adopted the dual system of broadcasting – a mixed sector with public and private outlets.¹ The new media market at the start of the 1990s was influenced by the belief that the development of free electronic media was a prerequisite for the democratic process, and would guarantee that the pre-1989 state of affairs would never return. The Government's priority at the time was to privatise State assets, including the broadcast media. The main objective of the Czech broadcasting regulator, the Council for Radio and Television Broadcasting (RRTV), was to award as many radio licences to as many applicants as possible.² As a result, radio stations mushroomed in the early 1990s. Two years after the dual system of broadcasting was introduced, over 40 local and regional radio stations were competing in the country. This number currently stands at 70.

The first commercial television station to challenge the monopoly of the State broadcaster was TV Nova, which was awarded a national broadcast licence in 1993. Within just four months of its launch in 1994, TV Nova had managed to attract over 70 per cent of viewers. Czech audiences quickly learned to enjoy a diet of soap operas, game shows and American crime series. The station's primetime news programme came to attract more viewers than similar programmes on the other national television stations.

TV Nova sparked fierce competition for audience share in the Czech market. Interviewed in 1999, TV Nova's then Director General, Vladimír Železný, said that,

We just show what the market wants. If opera was as popular as guns and naked women, TV Nova would show opera. There was this myth among

¹ The legislative framework that enabled the existence of the dual system was created in 1991, when the Act on the Operation of Radio and Television Broadcasting was passed by the (then) Czechoslovak Federal Assembly. Act no. 468/1991 on the Operation of Radio and Television Broadcasting, *Sbírka zákonů*, part 91 of 22 November 1991 (hereafter, Act on the Operation of Radio and Television Broadcasting 1991).

² "Later, this conception proved to be naïve." Interviews with Václav Moravec, BBC and Czech TV journalist, talk-show host and media observer, Prague, 3 and 8 June 2004; "Liberalization without clear concept and rules almost led to the collapse of [many] private radio stations", citation from: Václav Moravec, *Činnost Rady ČR pro rozhlasové a televizní vysílání a její vliv na provoz privátních rozhlasových stanic v letech 1993–1997*, (*Activity of the Czech Council for radio and television broadcasting and its influence on the operation of private radio stations in the years 1993–1997*), Institute of Communication Studies and Journalism, Charles University, Letohrad 1999.

dissidents during communist times that ordinary Czechs were secretly reading Proust. Our market research showed that Czechs are not refined intellectuals at all. We discovered that they are beer-drinking, working-class Catholics; rather like Belgians, but less cultured.³

TV Nova gradually caught the public's attention thanks to disputes over its ownership (see section 5.3.1).

With the arrival of commercial television, Czech public television, *Česká televize*, (hereafter Czech TV), entered the fray for ratings in the mid-1990s. Czech TV has been beset by financial and institutional difficulties for several years. A series of crises climaxed between December 2000 and January 2001, when some of the station's employees, many of them journalists, opposed the appointment of Jirí Hodač as General Director of the station. Although Hodač resigned after almost a month of protests by the station's staff, the "Czech TV Crisis" – as it became known – is not yet over. The crisis was firmly rooted in a mixture of political interference, lobbying interests by commercial television, as well as the fact that public service television's mission is ill defined (see section 4.4.3).

The public radio broadcaster, Czech Radio, *Český rozhlas*, has not experienced such serious problems. Politicians are less tempted to influence its work because the financial and political stakes associated with radio are lower.⁴

The fervour for liberalising the broadcast market in the early-1990s also resulted in lax broadcast media legislation – to the detriment of the regulatory system. For example, the law does not invest the RRTV with the power to oblige broadcasters to stick to their licence conditions or to disclose their ownership.

2.2 Structure of the industry

The television market in the Czech Republic, a country of 10 million inhabitants, comprises Czech TV, with two channels, ČT1 and ČT2, and two national commercial stations, TV Nova and Prima TV. Prima TV uses a network of 12 regional television stations. TV Praha and TV Hradec Králové, the only local terrestrial television stations, shut down their operations in mid-July due to an "unbearable financial situation".⁵ A total of 78 foreign and Czech broadcasters are currently available through cable television in the Czech Republic.⁶ The four national television channels – ČT1 and

³ "The disappearing Czech intellectual", interview with Vladimír Železný, in *The Economist*, 21 August 1999, p. 65.

⁴ Interview with Jan Pokorný, Prague, 4 June 2004. Pokorný is a journalist, head of the news department at Czech Radio. He was a former Czech TV journalist and talk-show moderator.

⁵ J. Gerbery, "Regionální TV Praha končí vysílání" ("Regional TV Praha ends broadcasting"), in *Marketing & Media*, 14 July 2005, on-line edition (accessed 18 July 2005).

⁶ RRTV statistics, available at <http://www.rrtv.cz> (accessed 2 September 2004).

ČT2, TV Nova and Prima TV – have a national reach of more than 90 per cent in a country of 3.735 million television households.

Table 1. TV Overview (2003)

Specification	Number of households	Reach (per cent)
Terrestrial broadcasting	3,303,000	88.4
Satellite television	331,000	8.9
Cable television	720,000	19.3

Source: ATO-Mediaresearch⁷

Czech Radio has five channels. There are two private national radio stations, Frekvence 1 and Impuls, and another 77 regional and local radio stations.

2.3 Market share of the main players

TV Nova dominates the television market, with an audience share of some 42 per cent in 2004. Prima TV has gained a healthy market share since 2000, while the aggregate audience of both channels operated by Czech TV has been more or less stagnant, hovering at around 30 per cent in 2004.

One of the stations operated by the Czech Radio, Čro1–Radiožurnál, has the largest audience share in the radio market, at around 12 per cent. It is followed closely by commercial Radio Impuls and Frekvence 1, both with audience shares of between 10 and 12 per cent.⁸

The Czech language section of the U.S. Congress-funded Radio Free Europe was shut down in 2002 and “transformed” into Czech Radio 6 (Čro6), a news station run by public service radio, targeting intellectuals and highly educated listeners. The Czech section of the BBC World Service is also considered a good source of unbiased news and analysis.⁹

⁷ IP International Marketing Committee, *Television 2004. International Key Facts*, October 2004, p. 322.

⁸ Audiences of radio stations are published regularly by the specialised news portal www.radiotv.cz (accessed 15 July 2005).

⁹ Interview with Martin Weiss, political analyst and commentator, Prague, 15 August 2004; See also: Martin Weiss, Chapter on the Czech Republic, in *Nations in Transit 2003. Democratization in East Central Europe and Eurasia*, Freedom House, 2004, p. 228, available at <http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN012418.pdf> (accessed 4 May 2005), (hereafter, Freedom House, *2003 Report on the Czech Republic*).

Table 2. Audience share of Czech television channels – breakdown by target group (2004)

		Annual average audience share (per cent)			
		Children 4-14	Women 15+	Men 15+	Adults 15+
Terrestrial channels	ČT1	24.74	21.31	21.09	21.21
	ČT2	6.94	6.89	12.01	9.17
	TV Nova	42.35	44.09	39.91	42.23
	Prima TV	16.25	22.78	20.09	21.58
Cable and Satellite combined		9.72	4.93	6.90	5.81

Source: ATO-Mediaresearch¹⁰

3. GENERAL BROADCASTING REGULATION AND STRUCTURES

The political nomination of members of the Council for Radio and Television (RRTV) casts doubt on the independence of the regulatory body, which is responsible *inter alia* for awarding broadcast licences and monitoring compliance with licensing conditions and broadcasting legislation. The regulator's powers are limited, however, mainly due to the fact that in its current form, the Broadcasting Act makes it very difficult for the RRTV to impose sanctions. Although journalists working in television do not feel direct pressure from politicians or private companies, the management and journalists at Czech broadcasters are vulnerable to interference by the Government, political parties and other interest groups.

3.1 Regulatory authorities for the television sector

The main broadcasting regulator is the Council for Radio and Television (RRTV). However, a number of other actors also have a regulatory role.

The Czech Telecommunication Office (*Český Telekomunikační Úřad – ČTÚ*) administers the country's broadcasting frequencies. Both the ČTÚ and the RRTV are administrative authorities independent of the Government – the RRTV in the area of radio and television broadcasting and the ČTÚ in the area of electronic communications and postal services. The two institutions cooperate in preparing the plan for allocating frequencies for radio and television broadcasting. The RRTV is established, and its activities

¹⁰ Statistics available online on the website of the Association of Television Organisations (ATO) at <http://www.ato.cz> (accessed 20 May 2005).

regulated, by the Broadcasting Act,¹¹ while the ČTÚ is established, and its activities mainly regulated, by the Electronic Communications Act.¹²

Czech legislation gives the Chamber of Deputies substantial power to control the media. Besides the RRTV, the Chamber of Deputies also appoints the members of the Czech TV, Czech Radio and Czech News Agency councils. (See section 4.4.)

There is also a parliamentary commission, the Permanent Commission for News Media, which deals systematically with media issues. The Commission comprises 17 MPs from parties represented in the Chamber of Deputies, who are appointed on the principle of proportional representation. Defined internally, the Commission's tasks are:

- reviewing and proposing new media legislation or amendments to existing laws;
- preparing hearings on various issues in Parliament for representatives of media outlets; and
- submitting recommendations on media legislation, on the annual reports of the Broadcasting Council, and on the councils of the public broadcasters.

The Commission's recommendations are usually acted on. Most of the media observers interviewed for this report said that most of the proposals with regard to media legislation and its amendments are initiated by the Permanent Commission for News Media.

The Government is also involved in the regulation of radio and television broadcasting through the Mass Media Department within the Ministry of Culture, which is responsible for assessing "the efficiency of legal standards regulating the operation of radio and television broadcasts".¹³ Its officials also participate in preparing amendments to media legislation. The Ministry's Mass Media Department also takes part in negotiations over international treaties and their implementation.¹⁴ Ministry officials cooperate with the Permanent Commission for News Media in Parliament and the Broadcasting Council in adopting media legislation. However, they have very little influence because they are overpowered by Parliament. In recent years, for example, Minister of Culture Pavel Dostál made several attempts to propose changes to media legislation and to influence the decision-making process in the Czech TV Council, but his proposals were usually rejected by Parliament.

¹¹ Act no. 231/2001 of 17 May 2001 on the Operation of Radio and Television Broadcasting and on amending other laws, *Sbírka zákonů* part 87 of 4 June 2001, (hereafter, Broadcasting Act).

¹² Act no. 127/2005 on Electronic Communications and on changes of other acts, *Sbírka zákonů*, part 43 of 31 March 2005, (hereafter, Act on Electronic Communications 2005). For more on the Act on Electronic Communications, see section 7.

¹³ Further information on the Ministry of Culture's competence in the mass media sector is available on the Ministry's website at <http://www.mkcr.cz/en/www/article.php?id=394> (accessed 15 May 2005).

¹⁴ For more information, see the website of the Ministry of Culture (www.mkcr.cz).

3.1.1 RRTV remit and responsibilities

Both public and private electronic media in the Czech Republic are regulated by the Council for Radio and Television Broadcasting, (*Rada pro rozhlasové a televizní vysílání* – RRTV), an administrative authority independent of the Government. The first Federal Council for Radio and Television Broadcasting was established in 1991.¹⁵ It folded at the end of 1992 when Czechoslovakia was split into two States. The first Czech Broadcasting Council took over the competencies of the Federal Council in 1993.

The activities of the RRTV are laid down in the Broadcasting Act of 2001, which replaced the 1991 federal law governing the broadcasting regulator.¹⁶ Its main tasks are to issue broadcast licences and to supervise broadcasters' compliance with legislation. The RRTV is also in charge of maintaining and developing the plurality of programmes and information, as well as monitoring the independence of broadcasters.

The RRTV's most important powers, duties and obligations are summarised in Article 5 of the Broadcasting Act:

- granting, changing and withdrawing radio and television broadcast licences;
- supervising how broadcasters fulfil their legal obligations and how they comply with the conditions attached to their licence;
- granting, changing and cancelling decisions on registration of satellite operators transmitting programmes in Czech territory;
- maintaining archives on broadcasters and satellite operators;
- regularly publishing lists of applications for licensing and registration, and updating lists of licensees, registrations, and frequencies available for radio and television broadcasting;
- imposing sanctions on broadcasters for not complying with licence conditions and broadcasting legislation;
- monitoring broadcasts;
- preparing and maintaining, in cooperation with the Czech Telecommunication Office (ČTÚ), the frequency plan for radio and television broadcasting;
- participating in the creation of media policies, for example by advising the Government on broadcasting policy;

¹⁵ The Council was established under the Act on the Operation of Radio and Television Broadcasting 1991.

¹⁶ Act on the Operation of Radio and Television Broadcasting 1991.

- publishing Council resolutions, annual reports, and minutes of Council meetings; and
- publishing court decisions in lawsuits against Council decisions.

Some media observers, and even members of the RRTV, believe that broadcasting legislation regulates the Council's activities rather than the activities of the broadcasters: "It has more paragraphs indicating clearly when the Council has to decide and how it has to decide, and when it is imperative for them to decide and so forth than what the broadcasters' responsibilities are."¹⁷ Members of the current Council have complained¹⁸ that they are not legally entitled to oblige broadcasters to stick to their licensing conditions, and that the licensing procedure for the re-transmission of programmes within Czech territory by satellite operators is vague.

Legal experts, as well as members of the RRTV, point to serious drawbacks in the Broadcasting Act, which prevent the broadcasting watchdog from doing a better job of regulating the television market. In particular, the RRTV has no legal instrument to force broadcasters to announce changes in their ownership. The current act fails to guarantee transparency in the Czech television market: stations do not have to disclose who precisely owns the licence-holding company, nor do they have to declare their ownership structure. The Broadcasting Act allows both radio and television operators to change the name and the content of their broadcasts. The real owners – for example, an entity owning the company applying for the broadcast licence – do not have to disclose their identity during the licensing procedure.

Jan Potůček, a journalist and media observer, gives an example of a loophole in Czech broadcasting legislation allowing big media holdings to acquire a broadcast licence without having to disclose their identity,

Two years ago [in 2002] Prima TV owners, the [financial] group GES took part in a tender for very lucrative radio frequencies in Prague, Brno and Ostrava. In all three cases they did not participate directly in the tender but through "cat's-paw" firms. GES representatives were in the executive and controlling bodies of these companies. All three winning projects had different programming and different names. However, after these projects were awarded licences, the broadcasters suddenly asked the Broadcasting Council to approve the change of the radio's names and the new three radio stations became the radio network *Hey*.¹⁹

¹⁷ V. Moravec, Interview with Milan Jakobec, member of the RRTV, BBC World Service Czech Section, 2 May 2003 http://www.bbc.co.uk/czech/interview/030502_jakobec.shtml (accessed 11 September 2004).

¹⁸ Interview with Milan Jakobec, June 30, 2004, Interview with Václav Žák, June 4, 2004.

¹⁹ J. Potůček, "Vlastnická struktura českých médií? Detektivka", ("Ownership structure of the Czech Media? Detective story"), in *Krajské noviny Pardubice*, regional paper, August 2004, available at <http://potucek.blogspot.com/> (accessed 31 August 2004).

Commercial broadcasters argue that the RRTV does have enough legal tools at its disposal to oblige private television stations to announce changes in their ownership structure. According to representatives of Prima TV, however, Article 14 of the Broadcasting Act only states that applicants must present information about the ownership structure of their company when *applying* for a broadcast licence; subsequent changes in the ownership structure of the legal entity owning the broadcast licence do not have to be announced.²⁰

Legal experts and members of the council say that the RRTV is only allowed to check the first level of a broadcaster's ownership structure, and cannot go deeper, to check who is in fact behind a station's ownership.²¹ RRTV member Václav Žák explains,

Once the owner of a licence-holding company is a legal entity, the Council cannot ask [representatives of this entity] what its ownership [structure] is. The Council is allowed to control only the first level of the ownership [structure]. It has no right to know what is happening on other levels. Normally, the owner is the subject to whom the final cash flows [...]. However, in comparison to the German system, the Czech Council cannot follow the ownership structure until this last subject.²²

The RRTV has also been criticised by the local advertising industry, which is unhappy with TV Nova's near monopoly on advertising revenues and the drastic limits on advertising time on public television. Critics say that the Council should be more proactive in regulating the market, by making decisions aimed at stimulating competition and reporting dominant positions to the anti-monopoly authority, the Office for the Protection of Competition (ÚOHS). However, according to Prima TV's representatives, the Council should not be blamed for the current limits on advertising time, "because those are established by the law and are decided by lawmakers."²³

The RRTV can fine broadcasters whose programmes are found to have breached the law (see section 4.4). However, broadcasters also criticise the RRTV for how it

²⁰ Article 14 of the Broadcasting Act states that if the applicant for a broadcast licence is a legal entity, it is required to present data on the amount of equity, shares of voting rights and capital deposits of the partners. Article 21 of the Broadcasting Act states that broadcasters must ask the RRTV for written consent with the change in the amount of equity, how voting rights are distributed and partners' capital deposits. Written comments on the draft of this report submitted to EUMAP by: Martin Dvořák, Director General of Prima TV, 26 January 2005; and by Prima TV, 7 March 2005.

²¹ OSI Roundtable meeting, Prague, 24 November 2004, (hereafter, OSI roundtable comment). *Explanatory note: OSI held roundtable meetings in each country monitored to invite critiques of its country reports in draft form. Experts present generally included representatives of the Government and broadcasters, media practitioners, academics and NGOs. This final report takes into consideration their written and oral comments.*

²² Interview with Václav Žák, member of the Council for Radio and Television Broadcasting, Prague, 9 June 2004.

²³ Written comments submitted to EUMAP by Prima TV, 7 March 2005.

regulates television content. One of the most controversial topics is the interdiction of programmes that could endanger “the moral development of the youth”.²⁴ The RRTV has not made clear what this means exactly, and this is one reason why Czech TV has taken it to task: “Its [Czech TV’s] script editors are now, for example, eliminating the broadcast of theatre performances that contain vulgarisms.”²⁵ In 2002, for example, the RRTV imposed a fine of CZK 20,000 (€660) on Czech TV, after finding that its programme *Obrázkáři*,²⁶ aired on ČT 2 on 19 January 2001 at 20.00 had violated the Broadcasting Act.²⁷ The programme was a report about alternative culture, and the people who appeared in the programme continuously drank alcohol and spoke in a colloquial, explicit, vulgar language. However, after Czech TV challenged the decision, the Municipal Court in Prague found that the station had not harmed the moral development of young people and cancelled the fine.²⁸

Media critics in the Czech Republic say that this is a relevant example of just how inadequate the RRTV’s regulation is; the RRTV should judge programmes more carefully, case by case, rather than blindly following the letter of the law. Czech TV did not contradict its public service mission by airing a programme such as *Obrázkáři*, which, despite the vulgarisms, was a fascinating programme targeted at young viewers, according to media critics.²⁹

Finally, broadcasters complain about the RRTV’s lack of expertise and its provincialism. Echoing a viewpoint widely shared in the advertising industry, Michael Richter, of ARBOMedia, Czech TV’s advertising sales house, observes that,

In our environment, the Council only checks that the law is respected; it reacts if the advertising limit was exceeded by 10 seconds, but when they have to make [an important decision requiring some knowledge of the media], they say, ‘we cannot, we are only interpreters [of the law], you have to go to court.’ But that is not enough. Why have such an office at all?³⁰

The broadcasting industry expects the RRTV to take a more active part in the law-making process, chiefly by initiating public debates and consultations with professionals on vital topics such as broadcasting content and cross ownership: “One

²⁴ Broadcasting Act, art. 32(1)(g).

²⁵ OSI roundtable comment.

²⁶ It is hard to find an English equivalent for the word “obrázkáři”, the closest would be “picture makers”.

²⁷ In its Decision Ref. No. Rpo/4/02 of 28 May 2002, the RRTV stated that the programme breached Article 32 of the Broadcasting Act, which forbids broadcasters from airing programmes that “might endanger physical, mental or moral development of minors” between 06.00 and 22.00.

²⁸ RRTV, *Annual Report 2003*, p. 36.

²⁹ OSI roundtable comment

³⁰ Interview with Michael Richter, General Director of ARBOMedia, advertising sales house representing clients such as Czech TV and Czech Radio, Prague, 8 June 2004.

fundamental drawback of the Council is that it has not tried to initiate a public debate to achieve consensus about where to draw the line for what to tolerate and what not in terms of broadcasting content and cross-ownership”.³¹

3.1.2 RRTV composition

The RRTV is composed of 13 members. Members are nominated by the Chamber of Deputies, the lower house of Parliament, and then appointed by the Prime Minister, who can also remove them, based on a proposal of the Chamber. Members’ mandates are for six years and can be renewed only once. Their terms are not staggered. Members are not allowed to exercise functions in political parties or movements, or to act in their favour.³² There are no stipulations concerning the required professional experience of members.

Although all candidates are officially appointed and removed by the Prime Minister, the Broadcasting Act states that the “the appointment shall be carried out immediately after receiving the proposal”.³³ This means that the real power in the system of nomination and appointment is in the hands of the Chamber of Deputies. In reality, the Prime Minister’s approval is only a formality and it is the Chamber of Deputies that appoints and fires RRTV members. This system of nomination is seen as inevitably facilitating political influence over the RRTV. Members are nominated exclusively by the political parties represented in the lower house and then appointed by it, rather than by another entity, such as the Senate, where the distribution of power is sometimes different.

The Chamber of Deputies’ overwhelming control over the system of nomination often results in the appointment of political allies to the RRTV.³⁴ This system originated in media legislation dating from the early 1990s, when the tradition of politicised supervision of the media was established, as Václav Žák explained:

The people who drafted this legislation had absolutely no experience. A compilation of the German model of the media law and society and guidelines of the Council of Europe was used. However the German model is based on a structured civic society which did not exist [in the Czech Republic at the time]. It was hard to include church representatives in the media council since the church was under the control of secret agents, etc. Therefore it was replaced by the parliamentary vote. By doing that, the entire supervision over the media scene was politicised. And what was even worse [was how Czech lawmakers interpreted] a Council of Europe recommendation that the regulatory authorities should be accountable to Parliament. [The lawmakers] interpreted this “accountability” very strongly

³¹ OSI roundtable comment.

³² Broadcasting Act, art. 7.

³³ Broadcasting Act, art. 9(1).

³⁴ Interviews with Václav Moravec, 3 and 8 June 2004.

and implemented this idea in the media system. Thus, the entire regulatory body can be dismissed if Parliament does not approve its annual report twice. [...] This causes great problems and the regulatory authority is therefore directly dependent on the parliamentary majority.³⁵

In 1997, the number of members of the RRTV was increased by four (i.e. to 13), under the pressure of the (then) opposition Social Democratic Party (ČSSD), who wanted to push their own people in the Council.³⁶

The Chamber of Deputies can also easily dismiss the entire Council, by twice rejecting its annual report (see section 3.1.3.) The report is also submitted to the Prime Minister for comments.

3.1.3 RRTV accountability and transparency

The RRTV has become one of the most criticised institutions in the media sector. It is perceived as one of the most lobbied institutions in the country. It is hard for politicians to resist the temptation to handpick the Council members in order to control its decisions and dismiss it whenever it becomes disobedient.

The RRTV has been dismissed twice in its 12-year history. It was first fired in 1994 when its members rejected a recommendation by the Permanent Commission for News Media concerning the licensing procedure for AM radio stations. MPs fought back and took revenge by repeatedly rejecting the Council's annual report in the summer of 1994, recalling all Council members and appointing replacements.³⁷ According to other observers, however, the real reason why the Council was fired at the time was because it did not obey the wish of the Civic Democratic Party (ODS) to refuse TV Nova a broadcast licence.³⁸ The new members were mostly people close to the parliamentary parties. They included the former advisor to the Prime Minister, a former MP, and politicians who had failed to get elected to the Senate.³⁹

³⁵ Interview with Václav Žák, 9 June 2004; the same view has been expressed by independent media observers such as Václav Moravec, Milan Šmíd and Michal Prokop. Interview with Michal Prokop, member of the Czech Radio Council, former deputy at the Ministry of Culture, Prague, 16 June 2004. Milan Šmíd's works are cited in this report.

³⁶ M. Šmíd, *Média, internet, TV Nova a Já, (Media, Internet, TV Nova and I)*, ISV Publishing House, Prague, 2000, p. 71; This increase in the number of members was made possible through a change in legislation: Article 3(1) of Act no. 135/1997 of 12 June 1997, which changes and amends a series of acts, *Sbírka zákonů*, part 48 of 26 June 1997, (hereafter, Act no. 135/1997).

³⁷ Barbara Köpplova *et al.*, *Dějiny českých médií v datech (The History of Czech Media in Data)*, Karolinum, Prague 2003, p. 292, (hereafter, *The History of Czech Media*).

³⁸ Interview with Václav Žák, 9 June 2004.

³⁹ E. Tabery, "Prima rada nad zlato", ("Prima Council better than gold"), in *Respekt*, 12 February 2001, p. 4.

The RRTV was recalled a second time in April 2003, again by MPs rejecting the annual report. Its members were accused of having instigated the legal dispute between the Czech Republic and TV Nova's former investor, CME, which sued the Government in an international court of arbitration, accusing the State of failing to protect its investment in TV Nova (see section 5.3.1). In March 2003, a London-based arbitration court ordered the Czech Republic to pay CME CZK 10.4 billion (€350 million) in damages. The high cost of the arbitration, and the international criticism provoked by the dispute, sparked a heated debate on the need to reform the RRTV.

Opinions about this dismissal vary. While some media analysts blame the RRTV for the dispute, others say that the responsibility does not solely lie with the Council, as politicians pushed it to act as it did (see section 3.3).

Television market specialists point out that it is hard to create a neutral and professional regulator. The country still lacks professionals who have completed a career in broadcasting, have a good understanding of the market and are wealthy enough not to be easily corrupted.⁴⁰ Council members have the status of a Government official and an MP's salary (approximately €1,400 a month).

Following the arbitration decision, attempts were made to depoliticise the RRTV and make it more independent. The Ministry of Culture proposed that members should be nominated not only by the Chamber of Deputies, but also by the President and Senate, in equal parts. Nothing has yet been done, however, and no change is expected in the near future.⁴¹

The current members of the Council, composed of writers, journalists and former politicians, were again nominated on a party basis in spring 2003. Despite accusations of amateurism, they are a little more politically independent than their predecessors. According to Václav Žák, who was appointed a member in 2003,

The new council was nominated with the intention of not being composed of members directly connected to the political parties. So, although they express their political views from time to time during our discussions, it [the political factor] does not play an important role during the decision-making process.”

However, observers have warned that the way in which RRTV members are appointed and dismissed still leaves room for political influence over decision-making: “If a member knows that defying ‘signals’ from the Chamber of Deputies can mean losing

⁴⁰ Interview with Michael Richter, 8 June 2004.

⁴¹ Minister of Culture Pavel Dostál told the daily *Právo* that he did not want the RRTV to be dependent on political parties: “The Council should be respectable, with a high level of respect; the Council should treat everybody in the same way; it should not be just a lever for media moguls. I admit that my vision is a little bit science fiction.” Cited in: J. Perglerová, “Mlynář chce odvolat čtyři členy vysílací rady”, (“Mlynář wants to recall four members of the broadcasting council”), in *Právo*, 1 February 2002, p. 3.

their decently paid job, it is clear that they will always take account of these signals.”⁴² According to media analysts, these signals can be “advice” from MPs on various decisions, such as awarding of licences or sanctions.

Some representatives of broadcasters believe that the RRTV is still heavily politicised. Martin Dvořák, Director General of Prima TV, states that: “The current Council is more political than ever. The current coalition nominated eight of its members, thus securing a comfortable majority.”⁴³

Media observers believe that the introduction of staggered terms for members would ensure more independence for the regulator, as Council membership would not reflect the current distribution of political power in the Chamber of Deputies. However, although debates on the introduction of staggered terms for the regulator have emerged during the past decade, a provision on this has never been adopted.

Another possible solution for depoliticising the Council and improving its professionalism would be to transfer more competencies to the RRTV Office.⁴⁴ Established by the Broadcasting Act, and consisting of 34 employees, the RRTV Office provides organisational and technical support to the Council. It consists of a Secretariat, an Economic Department, a Department of Information, Communication and Foreign Relations, a Legal Department, a Licensing Department, a Programme Department and a Technical Department. According to Jaromír Talíž, a Member of Parliament, and Head of the Permanent Commission for Mass Media in the Czech Parliament and former Minister of Culture, the status of the Council’s Office is unclear at present, with many unanswered questions about its competencies, facilities and financing. Giving greater decision-making power to the specialists in the RRTV Office could increase the Council’s independence.⁴⁵

3.2 Licensing and registration

3.2.1 Licensing for terrestrial broadcasters

The RRTV is the sole body responsible for awarding and revoking radio and television broadcasting licences. The Czech Telecommunication Office (ČTÚ) has no role in awarding broadcast licences, it just coordinates the frequency plan with the RRTV. The licensing procedures follow the rules laid down in the Broadcasting Act.⁴⁶ The

⁴² M. Šmíd, “Sedm hříchů české Rady pro rozhlasové a televizní vysílání”, (“Seven sins of the Czech Radio and Television Broadcasting Council”), published on www.louc.cz, 2 July 2003 (accessed 1 June 2004).

⁴³ Written comments on this report in its draft form by Martin Dvořák, Director General of Prima TV, 26 January 2005.

⁴⁴ Interview with Jaromír Talíž MP, Deputy Head of the Permanent Commission for Mass Media in the Czech Parliament and former Minister of Culture, Prague, 1 July 2004.

⁴⁵ Interview with Jaromír Talíž, 1 July 2004.

⁴⁶ Broadcasting Act, art. 5(b).

Council is authorised to grant licences for broadcasting through transmitters, satellite and cable systems.

A company applying for a broadcast licence, or its subsidiary, must have its headquarters in the Czech Republic and be registered in the national Register of Companies. Individuals may be granted licences only if they are permanent residents of the Czech Republic or have a company located and registered there.

Radio licences are issued for a maximum of eight years, while television licences cannot exceed 12 years. Commercial radio stations must begin broadcasting within 180 days, and television broadcasters within 360 days, of being awarded a licence, otherwise their licences can be revoked.

The RRTV announces a public tender for a licence, specifying the deadline and location for submitting applications, the timeframe, geographical area and technical parameters of the planned broadcast. Applicants' projects are assessed in light of the following criteria:

- the level of economic, organisational and technical readiness;
- transparency of ownership;
- contribution to broadcasting pluralism;
- presence of European, independent and contemporary productions in the television programming schedule;
- contribution to the development of original domestic programming; and
- contribution to the cultural development of ethnic and other minorities.

Applicants are invited to a public hearing, which also serves as a discussion forum focused on the programming structure.

In the past, the Council was entitled to propose and impose a set of binding licensing conditions during the public hearing. Critics of the current licensing system say that under the current law the Council cannot set such conditions. It can only *evaluate* the proposal and *suggest* some changes. Milan Jakobec, a current RRTV member, states that: "the licensing conditions will consist of whatever is written in the winning project of the licensing tender."⁴⁷ Moreover, the licensing conditions can always be changed by broadcasters.

In the early 1990s, the first post-communist broadcasting legislation (dated 1991) entitled the RRTV to establish additional licensing conditions. For example, the original licence of TV Nova was governed by 31 licensing conditions, prepared in cooperation with the UK's Independent Television Commission and relating to the

⁴⁷ Interview with Milan Jakobec, RRTV member, Head of Diplomatic Academy at the Ministry of Foreign Affairs, Prague, 30 June 2004.

informational, cultural and educational content of the station's programming. The company that applied for TV Nova's licence, CET21, promised to "strive to overcome social and cultural differences among people, to educate its viewers to be tolerant"; to commission original Czech films; and broadcast "community advisory programmes" (whatever that means) in off-peak times, as well as news and current affairs bulletins throughout the day.⁴⁸

After being given the licence, however, TV Nova's management simply ignored many of these conditions, airing downmarket commercial programmes targeted at a mass audience.

During the rush to liberalise the media market in the mid-1990s, Parliament adopted several important amendments to media legislation. The most important involved stripping the Council of the right to bind broadcasters to the licensing conditions.⁴⁹ "Since then the Council could neither order licence holders to adhere to their promises nor to monitor their ownership structure," RRTV member Žák wrote in 2003.⁵⁰

The new Broadcasting Act of 2001 failed to bring any radical changes in this respect. The Council was not granted the right to set up additional licensing conditions. The act also retained a provision permitting stations to make changes to their own licensing conditions – in effect, allowing broadcasters to go back on the pledges they made in their submitted application project.⁵¹

The Broadcasting Act was put together during the period of the so-called "opposition agreement" in 2000–2001, when a Social Democratic Party (ČSSD) minority Government stayed in power only thanks to the support of the opposition Civic

⁴⁸ B. Kenety, "CME enters Hungarian TV bid amidst Czech controversy", in *Central European Business Weekly*, 14-20 March 1997, online version available at <http://www.arts.gla.ac.uk/Slavonic/staff/Kenety2.html> (accessed 29 May 2005).

⁴⁹ The Act on the Operation of Radio and Television Broadcasting 1991 enabled the formation of the dual system of broadcasting. However, an amendment to this act in 1995 (Act 301/1995) cancelled the obligation to apply for licences for cable and satellite transmission and established a registration process instead. The RRTV could no longer determine additional licensing conditions on its own. Act 301/1995, which changes and amends Act no. 468/1991, *Sbírka zákonů*, part 81, 27 December 1995, (hereafter, Act on the Operation of Radio and Television Broadcasting 1995); For more details, see: *The History of Czech Media*, pp. 424 and 431.

⁵⁰ V. Žák, "Deset miliard. Za co?", ("Ten billion. For what?"), in *Ekonom*, 20 March 2003, p. 26.

⁵¹ According to the Broadcasting Act, a broadcaster can ask for approval to make changes to the licensing conditions and, somewhat ludicrously, the RRTV must approve them. The RRTV's only opportunity to withhold approval of the licensing conditions occurs during the licence tender. Once the RRTV approves a project, it can never reject changes in the licensing conditions. If the Council does not respond to a broadcaster's request for changes in these conditions within 60 days of this request being filed, the changes are approved automatically. Article 21(3) of the Broadcasting Act states that the Council has the right to withhold its consent to a change in the licensing conditions, only if such a change would mean that the broadcaster would have not been granted the licence in the first place.

Democratic Party (ODS).⁵² At the time, ODS pushed for a more permissive law (than the act it replaced) for private broadcasters. Media analyst Milan Šmíd comments that the above-mentioned provision of the Broadcasting Act, “deprived the Council of one of the main instruments of regulation.”⁵³ This opinion is widely shared by media observers and some politicians.

RRTV member Milan Jakobec describes the current arrangement for establishing licensing conditions as follows:

The applicant basically writes his own licensing conditions. In case of nationwide broadcasting, for example, the Council has a say, to a certain extent, on how it envisions that nationwide broadcasting. That means some programming specifics [...] such as sports, entertainment or news etc. That is all the Council can put together. But regarding the assignment of a licence, it is up to the applicants what they write into the project proposal. Those will become the licensing conditions.⁵⁴

The RRTV has the right to reject tendered contract conditions. However, this does not give it substantial power at the tendering stage, because the common practice is for the regulator to draft the conditions in cooperation with the representatives of the bidder. The Council has no legal right to impose any additional conditions, such as public service obligations, on the broadcaster. It only has the right to change the licence conditions when this is necessary to “fulfil international obligations” which are binding on the Czech Republic. The RRTV was blamed for not having used this clause in the dispute over TV Nova (see section 5.3).

The Broadcasting Act granted television licensees the right to an almost automatic, unconditional extension of their licences for a further 12 years.⁵⁵ This provision aims to bring the licensing procedure in line with EU standards. However, it is also clearly intended to serve the interests of commercial broadcasters. Media observers agree that during the debate over this provision, lawmakers succumbed to pressure and lobbying by commercial broadcasters. The result is that almost all licences are automatically renewed without any evaluation of the broadcaster’s activity over the years. Media observer and journalist Václav Moravec says, “[In adopting this provision] the interest

⁵² M. Šmíd, “Vysílací rada: bilance jednoho neúspěchu”, (“Broadcasting Council: Recapping a failure”), 15 May 2003, published on Šmíd’s media blog at www.louc.cz (accessed 20 April 2005), (hereafter, Šmíd, *Broadcasting Council: Recapping a failure*).

⁵³ Šmíd, *Broadcasting Council: Recapping a failure*.

⁵⁴ Interview with Milan Jakobec, 30 June 2004.

⁵⁵ Article 12(8) of the Broadcasting Act states that: “Upon the request of licensed broadcaster the Council shall extend the validity of the licence. The period of licence validity may be extended twice; for radio broadcasting for the period of 8 years and for television broadcasting for the period of 12 years. Upon the request of licensed broadcaster the Council may extend the validity of the licence for a shorter period.”

of lobby groups is evident. The public interest is suppressed and particular [individual] interests are being served.”⁵⁶

The fee for a national television broadcasting licence is CZK 200 million (€6.5 million). The RRTV’s representatives criticise the low level of administrative fees for radio and television broadcasting and the very vague and generous system of registering satellite re-transmission providers, which have been used by numerous satellite television operators. Under this system, these operators must formally establish a registered office or branch of their company in the Czech Republic, but they can uplink in another country, and need not cover the Czech market at all.

3.2.2 Registration for satellite and cable broadcasters

There is no requirement for a licence for satellite and cable retransmission. Operators of satellite and television stations via cable must only register with the RRTV in order to broadcast in the Czech Republic.

In the application for registration, operators of satellite television stations must include such data as the broadcast timeframe and territorial coverage, the company’s financial resources earmarked for broadcasting, information on the station’s programmes and, “if possible, also the planned distribution of channels and technical specification of the cable system.”⁵⁷ If the applicant has not provided all the information required, the Council must ask the company to complete the application, providing 15 days after the application’s submission to do so. If the Council fails to make a decision within 30 days of the application’s delivery, the operator is registered automatically.⁵⁸ The Council can reject an application for registration if, during the previous five years, the applicant’s broadcast licence or registration was cancelled “due to violation of law”, if the applicant has a criminal record, or if it results from the application “that the legal standards will be infringed through the retransmission.”⁵⁹

According to Jakobec, the lax registration process for satellite stations and broadcasters transmitting via cable puts the foreign policy interests of the Czech Republic in harm’s way. For example, in 2004 the Council received an application for the satellite programme *Venus*, with obvious pornographic content, targeting a Muslim audience in some Muslim-majority populated countries: “It would not be very nice to develop a relationship with the Muslim world based on this. But Czech legislation permits it.

⁵⁶ Interviews with Václav Moravec, 3 and 8 June 2004.

⁵⁷ Broadcasting Act, art. 27.

⁵⁸ Broadcasting Act, art. 28(1)(2)(3).

⁵⁹ Broadcasting Act, art. 28(4)(a)(b)(c).

According to the current law, the Council would have to approve satellite transmission even if Adolf Hitler applied for it.”⁶⁰

3.3 Enforcement measures

The RRTV monitors the compliance of (public and private) broadcasters’ with the rules enshrined in their licensing contract and with the relevant media legislation.

An operator breaching the obligations specified in the Broadcasting Act or the licence conditions will first receive a deadline to remedy the breach. The grace period to correct the fault is proportionate to the gravity of the breach. If the matter is not remedied by this deadline, the Council can impose a fine, again commensurate with the gravity and kind of fault, the extent and reach of the broadcasting, and the benefits gained from breaching the law. Broadcasters can be imposed with fines of between CZK 5,000 and CZK 10 million (€160 – €322,000).

If the broadcaster repeatedly commits a particularly serious breach of the Broadcasting Act or of the licence conditions, the Council can also withhold the broadcasting licence or disapprove the extension of the licence. An example of a serious infringement of the Broadcasting Act would be broadcasting programmes promoting violence, racial hatred, negatively affecting the mental or moral development of children and youth, or transferring a licence to a third party without the Council’s consent.

Council members and media observers agree that a broadcaster would have to “work” very hard to fail to have their licence extended. There have not been any withdrawals of a broadcasting licence thus far. The RRTV has issued fines in a number of cases. However, the RRTV has itself observed that: “Given the current legislation, sanctions are very difficult to enforce. Operators would rather pursue prolonged court disputes than pay the imposed fine.”⁶¹

The RRTV has in several cases imposed sanctions on the public service broadcaster. After the Czech TV crisis in 2000–2001 (see section 4.4.3), when rebellious staff interrupted the programmes and broadcast their own newscasts, the RRTV fined Czech TV CZK 2 million (€64,000) for biased reporting. The regulator found that broadcasts during the crisis only served the interests of a small group of Czech TV employees. It also accused the station of inserting advertisements in the newscasts and failing to separate advertising from other programmes during the crisis. Czech TV appealed these charges. In the end, the Municipal Court in Prague decided that Czech TV had breached the law, but did not have to pay the fine. The court sent the case

⁶⁰ In the case of *Venus*, the RRTV made the administrative process so unpleasant that the applicant gave up the application for registration. Interview with Milan Jakobec, 30 June 2004.

⁶¹ RRTV, *Report on the state of broadcasting and the activity of the Council for Radio and Television Broadcasting for 2003*, Prague, 27 February 2004, available on the RRTV website at http://www.rrtv.cz/zprava_en/index.html (accessed 29 May 2005), p. 27, (hereafter, RRTV, *Annual Report 2003*).

back to the Council. The regulator's final decision was only to notify Czech TV that it had violated the Broadcasting Act and Czech Television Act.

In 2002, the RRTV fined CZK 500,000 (€16,800), charging the station with breaching its duty "to maintain the principles of objectivity and balance in political programmes and particularly to ensure that no political party or movement is favoured." The incriminated programme was *České hlasování* ("Czech elections"), a satirical programme about Czech regional politicians broadcast on 28 October 2002. The station appealed the decision and a Prague court later decided in Czech TV's favour.⁶²

Czech TV has been also fined for exceeding the limit for broadcasting advertising. In 2003, it paid a couple of fines of CZK 100,000 (or approximately €3,250).⁶³

However, the RRTV's most controversial actions involved a private broadcaster, TV Nova. In 2003, Parliament dismissed the RRTV, because of its rulings in the TV Nova case (see section 5.3.1). The dismissals were sought by the ruling coalition Government in retaliation for the costly, unsuccessful arbitration with the U.S. media investor CME. When, in March 2003, a London-based arbitration court ordered the Czech Republic to pay CME CZK 10.4 billion (or approximately €350 million) in damages, the international arbiters had placed the blame squarely on the RRTV,

As the authority charged with ensuring compliance with the Czech Republic's television broadcasting laws, the [Czech] Broadcasting Council had both the power and the obligation under Czech law to remedy CET21's unlawful actions aimed at severing its exclusive relationship with ČNTS.⁶⁴

Václav Žák, who has observed the case closely from the beginning, explains:

The Broadcasting Council [at the time] understood the dispute [between Železný and CME] absolutely falsely. It understood it as a dispute between two private entities and never wondered whether, as a State authority, it had the right to ask questions about who invested the money [in TV Nova]. [The Council] did nothing to protect CME's investment. On the contrary, it helped Vladimír Železný to spoil that investment. This is the reason why the Czech Republic lost the dispute.⁶⁵

The story shows the technical incompetence of the Council.

⁶² Czech News Agency, CTK, "Česká televize odvrátila pokutu", ("Czech Television reversed fine"), in *Hospodářské noviny*, 3 March 2004, p. 2.

⁶³ RRTV, *Annual Report 2003*, p. 38.

⁶⁴ Ministry of Finance, "Arbitrážní řízení UNCITRAL CME Česká republika B.V. (Nizozemsko) proti České republice", ("UNCITRAL Arbitration Proceedings, CME Czech B.V. versus Czech Republic"), available online at <http://www.mfcr.cz/cps/rde/xbcr/SID-53EDF4E6-A45C5F7A/mfcr/ArbitrazniRizeni.doc> (accessed 15 May 2005).

⁶⁵ Interview with Václav Žák, 9 June 2004.

In May 2003, a parliamentary media commission was created expressly to investigate the CME case, in particular the reasons for the lost arbitration. The commission released its report on the dispute in January 2005. It stated that the Czech State made mistakes during the arbitration process. The commission specifically questioned the selection of the multinational law firm Clifford Chance to defend the Czech State. The Commission did not blame any individual and referred the case to the State Prosecutor. The Commission report stated that some Council members pursued interests which were not in line with the interests of the Czech State at the time.⁶⁶

According to representatives of Prima TV, the RRTV is simply unable to solve many problems that require a certain expertise, such as making decisions in cases when broadcasters breach media legislation. They advise that it would be possible to solve this problem by better dividing the RRTV's competencies. For example, the Council should only be in charge of granting broadcasting licences, while its specialised office should handle the regulator's daily agenda, including observance of offences committed by broadcasters.⁶⁷

3.4 Broadcasting independence

Czech broadcasters are vulnerable to pressure from the Government, political parties and other groups interested in exerting direct or indirect control over news content. Politicians exert significant control over, and interfere with, both public and commercial broadcasters' activities indirectly, through the RRTV – both via the nomination of its members and through control over the RRTV's financing (see section 3.1.3).

Public service broadcasters

Although the Czech public service television is vulnerable to political influence, the station's journalists respect the basic rules for providing impartial and objective reporting, such as protection of sources. All the journalists interviewed for this report, from both public and commercial television, expressed almost the same opinion about their reporting standards. They said that they observe the basic journalistic guidelines, such as checking information from at least two independent sources, respecting the confidentiality of their sources, and the right of opinion for all sides in a dispute. Due to the small size of the media market, many television journalists have worked in at least two out of three national broadcasters in the Czech Republic.

⁶⁶ Parliamentary Commission, *Zpráva Vyšetřovací komise Poslanecké sněmovny pro zjištění skutečností v souvislosti s arbitrážním řízením ve věci CME vs. Česká republika*, (Report of the fact finding Parliamentary Commission on arbitration between CME and the Czech Republic), available at <http://www.ceskamedia.cz> (accessed 12 July 2005).

⁶⁷ Written comments submitted to EUMAP by Prima TV, 26 January 2005.

Journalists working for the public service broadcasters do not experience any serious attempts by the managerial staff or politicians to manipulate the news content in favour of any political party. However, they experience pressure from MPs, who fiercely criticise the station's content and openly condemn investigative journalism. The instruments able to protect editorial independence, such as codes of ethics or codes of conduct, are an intricate issue. In general, journalists do not regard these instruments as powerful and respectable tools ensuring their editorial freedom and professional integrity. Their scepticism can be partly attributed to the journalists' traditional distrust of official guidelines. It is also a legacy of the communist past when official guidelines were generally not respected. It could also be partly attributed to journalists' lack of professional training.

The staff of Czech TV recently took advantage of an opportunity to join the debate on the preparation of the station's internal labour code, which is based on recommendations from the Council of Europe. In the end, however, the Czech TV Council submitted the document for approval to the Chamber of Deputies in July 2003. This was considered by some staff and media experts and observers as another example of continuing political interference in the station's editorial autonomy: "It is humiliating for Czech TV to have its [Ethical] Code approved by the Chamber of Deputies".⁶⁸

The Code is part of the working contract of the station's journalists. There seems to be little awareness of the content and origin of the Czech TV Code among Czech TV employees. There is also a lack of formal training, which would help to establish this awareness. Many journalists as well as other professionals also working on a freelance basis with Czech TV [...] do not have to sign the Code at all.⁶⁹

Politicians do not directly interfere with editorial content. They have, however, resorted to using threats against the stations. For example, on 20 October 2003, Czech TV broadcast an investigative report about the construction of a massive underground garage and system of tunnels to connect several buildings of Parliament.⁷⁰ The programme's producer compared the way MPs planned to expand their territory with how termites expand theirs. After the broadcast, many furious politicians threatened to freeze the station's licence fee indefinitely. Even the Minister of Culture, Pavel Dostál, who had supported an increase in the licence fee, said: "If the reporters, without relevant reasons, compare deputies or senators with those sneaky insects, they cannot expect politicians to welcome them."⁷¹ In this case, neither the station's Director General, Jiří Janeček, nor the Czech TV Council backed the reporters. Some of the

⁶⁸ OSI roundtable comment.

⁶⁹ OSI roundtable comment.

⁷⁰ Programme *Fakta (Facts)*, ČT1, 20 October 2003, 21.40, Producer Petr Hanoušek, Moderator Matek Vítek.

⁷¹ J. Kubita, J. Šídlo, and V. Dolejší, "Poslanci znovu válčí s Českou televizí", ("MPs are again at war with the Czech Television"), in *MF Dnes*, 24 October 2003, p. 2.

station's journalists believe that the reporters concerned should have been granted full protection and support, and that the station's management should have told politicians that it is not in their competence to judge the reporting.

With respect to the influence of the Czech TV Council, journalists and editors do not feel that their journalistic independence is at stake, but admit that, "from a professional perspective, the pressure from the Czech TV Council is unpleasant." According to a journalist working with Czech TV, the Chamber of Deputies is always trying to pull the strings behind public television. He added: "We are a Parliament television."⁷² Jan Pokorný, a journalist who has worked with both Czech Radio and Television states that Czech TV Council members object, for example, when the station's reporters ask members of the Permanent Commission for News Media unpleasant questions.⁷³

Emblematic of the political interference with the editorial policy of the public television are the following comments by an MP from the Permanent Commission for News Media during the debate on the licence fee on 2 February 2005,

I am also not always satisfied with the news reporting [by Czech TV] and I have big reservations about it. However this Chamber of Deputies elects the members of the Czech TV Council and I thought that it [Chamber of Deputies] should work more together with these members. The fact that they are apparently independent does not mean that it is not possible to have a discussion with them and point out the mistakes Czech Television is making.⁷⁴

Commercial broadcasters

The owners of commercial television stations do not exert direct pressure on journalists and do not try to influence directly the reporting.⁷⁵ However, journalists working for commercial television are faced with the interests of the stations' owners and executives.

The reporting by commercial television stations is often seen by media observers and journalists as biased and unprofessional. However, the arrival of commercial broadcasting has had the merit of contributing to the development of news reporting and investigative journalism.

Instruments to protect the editorial independence and integrity of the newsroom at commercial stations are either not in place or have been implemented only recently. Prima TV introduced a Code of Ethics in 2003, which briefly states the fundamental

⁷² Interview with a Czech TV journalist, Prague, 1 July 2004.

⁷³ Interview with Jan Pokorný, 4 June 2004.

⁷⁴ ČSSD (Social Democratic Party) MP Ladislav Skopal, quoted from the official transcript of the parliamentary debate on 2 February 2005, published by the news portal www.ceskamedia.cz. (accessed 5 March 2005).

⁷⁵ From a number of interviews with employees at commercial broadcasters.

principles of the station's editorial policy concerning such issues as conflicts of interests.⁷⁶ TV Nova has not accepted any such codes so far. In the past, the main editorial bias at TV Nova was related to the station's long ownership dispute (see section 5.3.1).⁷⁷ With the arrival in 2003 of a new owner, the financial group PPF, the situation at TV Nova stabilised and those pressures eased. After the arrival of the new owner, "the [editorial] independence is one level higher," said Janek Kroupa, an investigative reporter for TV Nova.⁷⁸

Employment protection exists for journalists under the Labour Code and through contractual protections. However, many journalists are employed on so-called "external contributor" contracts which do not ensure a high level of protection.

4. REGULATION AND MANAGEMENT OF PUBLIC SERVICE BROADCASTING

Czech TV and Czech Radio have suffered in the past decade from institutional and financial crises and political interference. The situation climaxed in 2001, when Czech TV journalists openly protested against the political appointment of a Czech TV Director General. Their rebellion became known as the "Czech TV crisis". In recent years, Czech TV has fought with commercial television for advertising. However, Czech TV's potential for carrying advertising is severely limited by the one per cent limit on advertising that was imposed in the mid-1990s with the aim of helping commercial television to establish itself in the market. In summer 2005, Parliament voted for the further restriction of advertising on Czech TV, with the aim of eliminating advertising altogether from the public broadcaster by 2007.

4.1 The public broadcasting system

Czech TV and Czech Radio are organised as independent public service corporations, supervised by councils appointed by the Chamber of Deputies, and financed through revenues from licence fees and advertising.

⁷⁶ *Zpravodajský deník, (News Diary)*, Prima TV internal document.

⁷⁷ "It was very difficult to produce news in a television station that was subject to 80 different lawsuits, where nobody knew who owned the station [...] and where the station was itself making the news. At the time, the rules were looser. [...] The main rule was not to report on it at all, but when we did, we took our side" Interview with Pavel Zuna, Director of Programming and Anchor with TV Nova, Prague, 26 June 2004.

⁷⁸ Interview with Janek Kroupa, journalist working with TV Nova, phone interview, Prague, 5 September 2004.

The activities of Czech TV and Czech Radio are regulated by the Czech Television Act⁷⁹ and Czech Radio Act,⁸⁰ respectively. Both acts were first adopted in 1991 and have subsequently been amended a number of times. In a 2001 amendment of the Czech Television Act (hereafter, Czech Television Act 2001), Parliament adopted more detailed remits and obligations for Czech TV.⁸¹ The primary functions of Czech TV include:

- producing and broadcasting programmes serving as a reference for the whole of society;
- enhancing social cohesion and the integration of all individuals, groups and communities;
- avoiding any form of cultural, sexual, religious or racial discrimination and social segregation.⁸²

According to the Czech TV Code, the other primary functions of Czech public television are:⁸³

- acting as a forum for public debate open to the broadest possible range of opinions and viewpoints, and to provide independent and impartial news, information and commentary;
- creating a plural, inventive and diverse programme schedule that meets high ethical and quality standards, and not responding to the market pressures by lowering the standards of its programming;

⁷⁹ Act no. 483/1991 on Czech Television, *Sbírka zákonů*, part 93 of 29 November 1991, as last amended by Act no. 82/2005, which changes Act no. 483/1991 on Czech Television in its latest version, and Act no. 231/2001 on the Operation of Radio and Television Broadcasting and on the change of other Acts in their latest versions, *Sbírka zákonů*, part 23 of 23 February 2005, (hereafter, Czech Television Act).

⁸⁰ Act no. 484/1991 on Czech Radio, *Sbírka zákonů*, part 93 of 29 November 1991, as last amended by Act no. 192/2002, which changes Act. no. 484/1991 on Czech Radio, in its latest version, and on the Change of Other Laws, *Sbírka zákonů*, part 80 of 22 May 2002, (hereafter, Czech Radio Act).

⁸¹ Act no. 39/2001, which changes Act 483/1991 on Czech Television and on changes of other acts, *Sbírka zákonů*, part 14 of 25 January 2001 (hereafter, Czech Television Act 2001). This act amended the Czech Television Act of 1991. It was approved in an extraordinary session of Parliament organised in reaction to the “Czech TV Crisis”.

⁸² Czech Television Act 2005, art. 2.

⁸³ Czech Television, *Kodex Česká Televize, zásady naplňování veřejné služby v oblasti televizního vysílání*, (*Czech Television Code, principles of fulfilling public service in the area of television broadcasting*), Prague, 2003, available online (in English) at <http://www.czech-tv.cz/english/pdf/code.pdf> (accessed 10 May 2005), pp. 3–4, (hereafter, Czech TV Code).

- creating programme schedules able to attract a large proportion of the public while remaining sensitive to the needs of minority groups;
- reflecting the present-day diversity of philosophical concepts and religious denominations with the aim of fostering mutual understanding and tolerance, and strengthening the cohesion of a multinational and multicultural society;
- actively contributing to a better understanding and dissemination of both national and European cultural activities and heritage;
- ensuring that its programme schedules contain a significant proportion of original programming, especially feature films, drama and other creative exploits, and cooperating with independent producers and the film sector;
- broadcasting a package of programmes which are not normally offered by commercial broadcasters; and
- avoiding focusing on ratings or the speed of disseminating news and information at the expense of quality.

4.2 Services

Czech TV is obliged by the Czech Television Act to fulfil its duties as a public service broadcaster. The station must operate two national channels, ČT1 and ČT2; maintain its own network of reporters; produce and broadcast balanced and objective regional news through its regional studios; create and manage the television's archives; support Czech film production by co-producing local films; broadcast domestic and international productions; and provide non-stop broadcasting on at least one of its two channels. The station must also provide teletext services and be actively involved in developing new technologies and services.⁸⁴

Currently, Czech TV provides 24 hours of broadcasting on both its national channels. It also offers other services such as teletext, closed-captioning and online broadcasting on its website (www.czech-tv.cz). It has broadcast through satellite in digital format via the Eurobird1 satellite since May 2003. Czech TV news programming is supported by ten regional news desks and six foreign news desks, in Slovakia, Poland, Germany, Belgium, the USA and Russia. In May 2005, Czech TV launched the news channel ČT24. This channel is currently accessible via cable but is likely to become one of the four new digital channels Czech TV is expected to operate after the launch of digitalisation in the Czech Republic (see section 7).

Czech TV also provides support and media partnerships to various public benefit activities such as the project "Pomozte Dětem" (Help the Children) aimed at raising funds for poor and sick children; the foundation Člověk v tísni (People in Need),

⁸⁴ Czech Television Act, art. 3(1).

which is involved in humanitarian activities around the world; and the Karlovy Vary International Film Festival.

4.3 Funding

Czech TV has an average annual budget of CZK 4.5 billion (or approximately €145 million). The funding model for Czech TV is described in the Czech Television Act.⁸⁵ The station's supervisory body, the Czech TV Council, approves the draft budget and final accounts. In matters concerning the financial audit, the Council cooperates with the Supervisory Commission (see section 4.4.1).

The main sources of revenues for Czech TV are the licence fee – which currently amounts to CZK 75 (€2.4) per month – and the income from its own business operations, including advertising revenues (see Table 3. below). Licence fees are collected through the country's main postal company. Every household in the Czech Republic is obliged to pay one licence fee regardless of the number of television sets owned. Each company and institution must pay a licence fee per television set.

As for the second source of revenue, Czech TV is allowed by law to pursue commercial activities related to the production and broadcast of television programmes. The largest portion of this income comes from broadcasting advertisements and sponsored programmes. The amount of advertising is limited to one per cent of the daily broadcasting time, up to an hourly maximum of 12 minutes. Between 19.00 and 22.00, the station can broadcast an hourly maximum of 6 minutes. Commercials cannot be inserted within programmes. Television advertising spending in the Czech Republic in 2004 is estimated to be approximately CZK 8.3 billion (€268 million), with Czech TV receiving about CZK 1 billion and the rest swallowed by commercial television stations.

⁸⁵ Czech Television Act, art. 10.

Table 3. Costs and revenues of Czech TV (2003)

		CZK (millions)	€ (thousands)	As a share of total income (per cent)
Income	Total	4,352	140,390	100
	Licence fee	2,903	93,657	66.7
	Commercial income ⁸⁶	1,266	40,822	29.1
	Other income	183	5,911	4.2
Costs	Total	4,482	144,578	100
	Production and broadcasting costs	3,594	115,922	80.2
	Service department costs (wages, fixed asset depreciation)	739	23,835	16.4
	Other non-production costs (taxes, debt write-offs etc.)	149	4,821	3.4

Source: Czech TV⁸⁷

Over the past decade, Czech TV has experienced serious financial difficulties. Since 2000, the station has been constantly in the red. This was due to a combination of institutional instability and chaos, corruption, inefficient operations and other non-transparent business tactics.⁸⁸ Politicians have called Czech TV “a black hole that can absorb any sum of money with no return.”⁸⁹

⁸⁶ Commercial income includes revenues from broadcasting of advertising and sponsored programmes, sale of services and rights, tele-shopping, teletext and programme production.

⁸⁷ Czech Television, *Czech Television 2003*, Prague, published 2004, available (in English) at http://www.czech-tv.cz/ct/publikace/pdf/CT_2003-AN.pdf (accessed 29 May 2005), (hereafter, Czech TV, *Yearbook 2003*), p. 31.

⁸⁸ M. Šmíd, “Komu může vadit silný ředitel ČT?”, (“Who can mind a strong Czech Television General Director?”), 2 February 2003, published on www.louc.cz (accessed 10 August 2004), (hereafter, Šmíd *Who can mind a strong Czech Television General Director?*).

⁸⁹ I. Ryšánková, “Anketa mezi poslanci: Jste pro zvýšení koncesionářských poplatků a reklamy ČT?”, (“Opinion survey among MPs: Do you favour increasing the licence fee and limiting advertising for Czech Television?”), published on the media news portal www.ceska-media.cz, 15 January 2004 (accessed 10 July 2004).

Table 4. Czech TV income and costs (1998–2004)

Year	CZK (millions)		
	Income	Costs	Balance
1998	4,634	4,582	+52
1999	4,666	4,565	+101
2000	4,859	4,877	-18
2001	4,545	4,932	-387
2002	4,560	4,959	-399
2003	4,354	4,530	-176
2004	4,343	4,343	NA

Source: Czech TV⁹⁰

The funding model of Czech television is completely in the hands of politicians. The Act on Radio and Television Fees does not stipulate that the fee must be adjusted to match inflation, so any decision to increase the licence fee can only be taken by amending the act. The last time the licence fee was increased was in 1997.⁹¹

The crucial source of financing for Czech TV – the licence fee – is set as a fixed amount, and is very low compared to foreign countries. The fact that increasing the television fee requires an amendment to the Act [on Radio and Television Fees] means that the understandable lack of popularity of this step among the public is reflected both in the relationship towards Czech TV and towards the deputies in the Parliament. The lack of a solution for financing Czech TV puts the company under constant pressure, which may not be obvious at first sight, but eventually has an impact on the programmes. Finding a solution that would ensure the long-term stability of conditions for the activities of Czech TV is needed to ensure the balance of the dual system of broadcasting.⁹²

The Civic Democrats, who suffered a profile setback after the Czech TV crisis, have, in opposition, pushed for advertising on Czech TV to be further restricted or completely eliminated.⁹³ They have also advocated the privatisation of the station's second channel, which has the profile of a “minority channel”, broadcasting minority programming, documentaries, independent films, dramas and cultural and sporting

⁹⁰ Czech TV, *Yearbook 2003*, p. 31

⁹¹ Act no. 252/1994 on Radio and Television Fees, *Sbírka zákonů*, part 73 of 30 December 1994, as last amended by Act no. 135/1997.

⁹² Czech Television, *History of Czech Television*, available on the Czech Television website (in English) at <http://www.czech-tv.cz/english/history/finance.php> (accessed 29 May 2005).

⁹³ P. Žantovský, “Topolánek: Zrušil bych mediální rady. Interview s předsedou ODS Mirkem Topolánkem”, (“Topolánek: I would cancel the media councils, interview with the president of ODS, Mirek Topolánek”), published on www.ceskamedia.cz, 24 March 2005, available at http://archive.ceskamedia.cz/article.html?id=144881_hp_M&qqq=Mirek%20topolánek%20Česká%20televize (accessed 29 May 2005)

events. Big changes in the television and advertising markets may therefore occur if the Civic Democratic Party (ODS) fulfils current expectations by winning the next elections, due in 2006.

However, media observers believe that the discussion about the financing of the public service television is going on only among politicians and various lobbying groups. “The professional discussion is missing.”⁹⁴

Over the past few years, Czech TV constantly lobbied for an increase of the licence fee, to no avail. However, on 29 June 2005 the Czech Chamber of Deputies passed a bill raising the monthly licence fee for Czech TV, from CZK 75 (€2.4) to CZK 100 (€3.3). According to the bill, the TV licence fees will further increase to reach CZK 135 (€4.4) in 2008 when Czech TV will be allowed to broadcast only advertising linked to major sports and cultural events. However, to become effective the bill still needs to be approved by the Senate and signed into law by President Vaclav Klaus.

The current management of Czech TV claims that financial losses in recent years were caused by the low level of the licence fee. Moreover, while the number of licence fee payers has decreased – due to the poor fee collection system– the tax burden of the station has grown. Simultaneously, advertising sales have remained strictly limited while the cost of broadcasting rights and copyright has risen. Czech TV’s management is trying to improve the station’s financial situation by collecting licence fees more efficiently. In theory, anyone who does not pay the licence fee can be penalised, but the actual enforcement of the law obliging citizens to pay is very weak.

Licence fees are collected by Czech Post, the national postal office, which also claims a monthly commission for every registered household or corporation. In an attempt to save money by eliminating Czech Post from the chain of payments, Czech TV plans to collect the fees through a specialised department at the station, which is to start operating by January 2005. Since December 2002, households have been offered the option of paying the fee directly to the Czech TV account after registering on the Czech TV’s website.

In reaction to institutional instability and criticism, the new management at Czech TV also introduced a cost-cutting plan, “Programme of changes, boosting income and cost cuts”. The programme was prepared under the direct supervision of the station’s new Director General, Jiří Janeček, who was appointed in 2003. Within a year, about 300 employees were laid off, many employment contracts were revised and the station stopped selling movies co-produced by Czech TV to commercial broadcasters, with the aim of increasing revenue from this activity.

Nonetheless, due to the low licence fee and harsh restrictions on advertising time, the public broadcaster will have to continue to cut its budget and this will most probably affect the quality of programming. Janeček predicted that the first results of this

⁹⁴ OSI roundtable comment.

financial crisis would be seen in the station's programming in 2005 because the station can no longer make long-term plans to invest in dramas and documentaries.

4.4 Governance structure

4.4.1 The Czech TV Council and the Supervisory Commission

The Czech TV Council is the supervisory body of Czech TV. It consists of 15 members, appointed by the Chamber of Deputies for a six-year period. The terms of the members' mandates are staggered, with one third of the members replaced every two years.

Prior to the crisis that erupted in December 2000, the Czech TV Council's members were both proposed and appointed by political parties.⁹⁵ In response to the public protests against the political influence on the public media, the Chamber of Deputies amended the Czech Television Act in 2001⁹⁶ and members are now appointed from representatives proposed by civil society organisations and associations (see section 4.4.3).

There are minimal provisions on conflict of interest for members. For example, members cannot be active in politics. There are no requirements for professional qualifications for members.

The current Czech TV Council consists of professors, journalists, an architect, a catholic priest, a former athlete who is currently a member of the Communist Party, a lawyer, a physician, a ballet dancer and politicians.

The main task of the Czech TV Council is to oversee whether Czech TV meets its public service obligations and fulfils the principles established in the Czech TV Code. The TV Council decides on the draft budget of Czech TV, while its consultative body, the Supervisory Commission, carries out the financial auditing of the station.

The Supervisory Commission was established in 2001 following the Czech TV crisis. Its main duty is to supervise Czech TV's economic performance and inform the Czech TV Council about deficiencies in the administration of funds. The Commission is also in charge of submitting proposals to remedy financial problems. The Commission consists of five members, appointed and removed by the Czech TV Council, who can serve up to two years.

⁹⁵ Czech Television employees "reacted to what they perceived as political interference culminating in the appointment of a new director. The appointment, carried out by a Council dominated by the ODS and ČSSD, led to a revolt by TV staff and mass public protests." EUMAP, *Monitoring the EU Accession Process: Corruption and Anti-corruption Policy*, Czech Report, Budapest, 2002, available on the EUMAP website at www.eumap.org, (accessed 7 July 2005), p. 187.

⁹⁶ Czech Television Act 2001.

Other tasks of the Czech TV Council include approval of proposals by the station's Director General to establish or shut down television studios, the appointment and removal of television studio directors and ethics panels, and the approval of long-term plans concerning the station's programming, and technical and economic development.

The Czech TV Council must submit the Czech TV Code and the station's annual report to the Chamber of Deputies. The Chamber of Deputies can recall the entire Czech TV Council if the Council does not fulfil its obligations under the Czech Television Law or if it does not agree with the Council's annual report twice. The Chamber of Deputies has never fired the entire Czech TV Council.

4.4.2 The Director General

The statutory authority of Czech TV lies with the station's Director General, who is appointed (and can be removed) by the Czech TV Council. The Czech TV Council is responsible for announcing and carrying out the selection procedure to fill the position of Director General, which carries a six-year term. It is also responsible to approve the Director General's salary. According to the Czech TV statute,⁹⁷ the station's Director General must direct the activities of Czech TV, decide on its organisational structure and represent it.

The Board of Directors is the Director General's permanent consultative body. It is composed of all senior employees at the executive level. Another body, the Ethics Panel advises the Director General on ethical issues.⁹⁸ It currently has five members: a law professor, the head of the local Academy of Sciences, two journalists and the head of a non-profit organisation for consumer protection.

Besides the Director General, Czech TV's top management includes the Chief Executive Director, Director of Commerce, Director of Programming, News Director, Director of Production, Head of Legal Department, and the Directors of the station's regional studios.

For the past decade Czech TV has been in search of a Director General with a strong enough personality to counter the attacks and pressure from politicians. Jiří Janeček is the fifth Director General in five years.⁹⁹ Because he came to the station with a plan of drastic cost-cutting, he is known as "the director of savings".¹⁰⁰ Janeček slashed the

⁹⁷ Czech Television, *Statute of Czech Television*, Prague, 25 February 2004, available online at <http://www.czech-tv.cz/english/pdf/statute.pdf> (accessed 6 May 2005), (hereafter, Czech TV statute).

⁹⁸ Czech TV Statute.

⁹⁹ The Czech TV Council appointed Jiří Janeček on 16 July 2003.

¹⁰⁰ D. Macháček, "Ředitel úspor čeká na vyšší příjmy", ("The Director of Savings is expecting higher revenues"), in *Hospodářské noviny*, 22 July 2004, p. 1.

number of employees, while managing to keep the station's revenues at a stable level and reducing the broadcaster's costs. Since his appointment in the summer of 2003, Czech TV has cut spending by about CZK 250 million (or approximately €8.3 million).

Nonetheless, Janeček does not seem to be the strong director that the station's staff have craved for. Like his predecessors, he is viewed as not having stood up to pressure from political and business circles. For example, in 2004, he apologised to the local lottery, Sazka, a major advertiser on Czech TV, for a three-year old report broadcast on Czech TV, which alleged that Sazka was investigated by the police for dubious business practices.¹⁰¹ The report was aired on Czech TV in 2001. Sazka sued Czech TV, but lost the case. After three years, Sazka asked the station to apologise for the report, threatening to move its advertising to a commercial broadcaster. Janeček decided to apologise and the Czech TV Council accepted the director's decision. The reason for the apology, Janeček explained, was the report's lack of accuracy. The general opinion was that through this decision, Janeček jeopardised the independence of Czech TV and the principles of public service broadcasting. Sazka is one of the largest advertisers on Czech TV, providing a tenth of the station's total advertising income.

Czech TV Council member, Alena Svobodová, told the Czech weekly *Respekt*,

I did not investigate it [Janeček's decision to apologise]. I trust the Director. It is necessary to understand the entire issue within context. Tens of millions of crowns come into Czech TV from Sazka every year. It would be a pity if [Sazka's] Director General [Aleš] Hušák cut back the funding because of one report. At a time when Czech TV needs every crown, we have to be able to make a sensible agreement [with them].¹⁰²

However, Czech TV's reporters expressed their disappointment with the behaviour of the station's Council and Director General.

4.4.3 The Czech TV Crisis

At the beginning of 2001 the debate on the future of public television dominated the news. A group of journalists working with Czech TV protested against the appointment of Jiří Hodač as the station's new Director General. Hodač was known for his links with the opposition Civic Democratic Party (ODS), which at the time was helping the Social Democratic Party (ČSSD) to maintain its minority Government in power.

Journalists accused Hodač of being a political appointee who would compromise the public broadcaster's independence. They argued that the speed with which he had been

¹⁰¹ J. Kubita, "Rada ČT prošetří omluvu Sazce", ("CT Council will investigate apology to Sazka"), in *Lidové noviny*, 16 January 2004, p. 1.

¹⁰² O. Kundra, "Sazka na veřejnoprávního koně", ("Sazka for the public horse"), in *Respekt*, 2 February 2004, p. 6.

chosen by the RRTV was illustrative of how politicised the station was becoming. In a statement at the time, one of the rebellious journalists said,

All of us face the danger that before the elections Czech TV will become an obedient instrument of those in power [...] It is not possible within one week to dismiss the managing director, launch a competition for the post, assess all applications and projects submitted by the candidates and choose a new Director General.¹⁰³

Protesting journalists staged a sit-in in the newsroom and started to broadcast their own newscast on big screens in front of the Czech TV headquarters. Hodač's team broadcast its own programmes from the facilities of commercial TV Nova, which offered him space for it. Scores of artists, celebrities, trade unions, small opposition parties and even the country's president, Václav Havel, initiated the civic initiative "Czech TV – A Public Matter" supporting the rebellious journalists. Hundreds of thousands of people took to the streets, expressing support for the strikers. These were the biggest public protests since the fall of communism. They showed the public's general dissatisfaction with the way the ČSSD and the ODS had carved up power in the country in general.¹⁰⁴

Under pressure and fierce criticism from civic society at home and abroad, Parliament agreed to find a solution to dilute political influence over Czech TV. In January 2001, it dismissed the Czech TV Council and, in an emergency session, amended the Czech Television Act, agreeing that the Chamber of Deputies should continue to appoint the members of the Czech TV Council, but at the proposal of civil society organisations.

The 2001 amendment of the Czech Television Act stipulated that any civil society organisation and association representing "cultural, regional, social, union, employers, religious, educational, scientific, ecological and national interests" can submit proposals for candidates to the Czech TV Council. The proposals must be submitted within 15 days of the day when the Speaker of the Chamber of Deputies publicly announces the invitation for proposals.¹⁰⁵ From this pool of proposals the Chamber of Deputies then appoints the members of the Czech TV Council.

While this was a positive step, these changes did not suffice to protect Czech TV from political control. The nomination of members through civil society organisations has not sufficed to prevent political parties from pushing their own, very often controversial, candidates on to the Czech TV Council,

¹⁰³ Statement of the Committee of the striking Czech Television employees, quoted by BBC News, "Fight for control of Czech TV", 25 December 2000, available online at <http://news.bbc.co.uk/1/hi/world/europe/1086223.stm> (accessed 29 May 2005).

¹⁰⁴ According to public opinion research carried out by the Centre for Public Opinion (IVVM) in February 2001, 47 per cent of Czechs interviewed agreed with the striking journalists, 38 per cent did not agree, and 15 per cent were undecided.

¹⁰⁵ Czech Television Act, art. 4(2).

It usually works the other way around. Political parties look for civil society organisations to nominate their candidates. There have been cases of [Czech TV] Council members proposed by organisations such as the Independent Association of Children and Youth for Leisure-time (DUHA), the Association for Youth, Science and Technology, and Hunters or Gardeners Associations.¹⁰⁶

Some Council members do not feel obliged to stay away from politics during their term in office. Such is Alena Svobodová, a Council member who at the same time ran for a seat in the European Parliament as a Communist Party candidate.¹⁰⁷

The Czech TV Council is still appointed by, and accountable exclusively to, only one chamber in Parliament, the Chamber of Deputies. Marek Wollner, a journalist working with Czech TV states that: “The [Czech TV] Council should be appointed by both houses of Parliament to minimise the political pressure. The members should be strong, independent personalities, not easily influenced by politicians.”¹⁰⁸ However, in June 2004, MPs rejected a proposal of the Minister of Culture Pavel Dostál to divide the competences for appointing the members of the Czech TV Council between the Chamber of Deputies, the Senate and the Prime Minister.¹⁰⁹

4.5 Programme framework

4.5.1 Output

According to yearly audience surveys by Czech TV, drama is the most popular genre with the station’s viewers, followed by news bulletins, Investigative journalism, news features and documentaries are the next most popular genres, in that order. Czech TV’s main channel, ČT1, is a generalist channel, airing news, drama, popular series, films, entertainment shows and children programmes. It broadcasts news bulletins every two hours during the weekdays and political talk shows at the weekend.

The station’s second channel, ČT2, focuses on programmes for minorities, sports, music, documentaries and independent films. In 2003, the total broadcasting time for both of Czech TV’s channels was 17,520 hours.

¹⁰⁶ J. Blažková and J. Šídlo, “Vrátí se zpět do televize”, (“Will they come back to television”), in *MF Dnes*, 20 May 2003, p. 4.

¹⁰⁷ Council Member Alena Svobodová stated: “I am independent in the [Czech Television] Council. Outside the television [Council meetings], I have the right to express my political opinion.” Cited in: J. Kopecký, “Radní agituje. Na hraně zákona”, (“A council member is agitating. On the edge of the law”), in *MF Dnes*, 1 June 2004, p. 2.

¹⁰⁸ Interview with Marek Wollner, Czech TV journalist, Prague, 16 June 2004.

¹⁰⁹ Dostál stated that under current conditions, the Czech TV Council is constantly under the threat of being dismissed should two or three parties in Parliament so decide: “A council that has a constant fear of being dismissed, works under the baton of the political parties.” Cited in: Czech News Agency (ČTK), “The Television Council will be still elected exclusively by the Chamber of Deputies”, (in English), 2 June 2004.

Table 5. Czech TV output – breakdown by genre (2003)

Genre	Hours	Share of total hours (per cent)
News	3,432	19.6
Current affairs	2,170	12.4
Documentaries	2,123	12.1
Education	677	3.9
Religion	113	0.6
Sport	1,203	6.9
Drama	4,138	23.6
Music	1,194	6.8
Entertainment	1,248	7.1
Non-commercial promotions, supplements	547	3.1
Tele-shopping	502	2.9
Advertising	173	1.0

Source: Czech TV¹¹⁰

4.5.2 Programme guidelines

Czech TV is legally obliged to offer impartial and accurate information and respect the principles of public service broadcasting as defined in Czech TV's 32-page Code –, a legally binding set of norms for all employees. “The Code should not only provide guidelines for correct decision-making in dealing with concrete questions and problems of television broadcasting, but also embodies a commitment to quality, a binding obligation to the viewers and the general public.”¹¹¹ *Inter alia*, the Code:

- contains rules for recording and protection of sources;
- bans discrimination in reporting;
- requires journalists to presume innocence when dealing with people charged with various accusations; and
- defines the mission of public service television.

Czech TV's institutional instability and financial crises over the past few years are evident in the station's output. Each new management comes to the station with new programmes and formats, but the prevailing opinion was always the same: programmes with low ratings must be moved to typical low-audience timeslots. Eventually, they disappear from the schedules. The presenters, jingles and formats change so often that viewers have almost no chance to get used to them. However, representatives of the

¹¹⁰ Czech TV, *Yearbook 2003*, chapter 4 (Programming and Broadcasting).

¹¹¹ Czech TV, *Czech Television Code*, p. 3.

public television broadcaster insist changes in programming do not mirror changes in the station's management but are the result of deep analysis.¹¹²

The first channel of Czech TV has been vehemently criticised for increasingly resembling commercial stations. Karel Hvižd'ala, a journalist and media analyst, said,

Vladimír Železný [former director of TV Nova] managed to push through – because he is the smartest one – the audience share as the only criterion in the television market. The aspects that are being examined in other countries, such as distorted information, influence on the target group, the factors determining the prestige of the media, have disappeared here. [The audience share] is the most important here. Therefore, they [broadcasters] are competing between [with] each other in the most banal way and therefore they slowly resemble each other.¹¹³

Freedom House's 2004 *Nations in Transit* report stated that "Czech TV does not provide high-quality public service programming. The station's first channel is quasi-commercial and competes openly for ratings with the two private channels, TV Nova and Prima TV. Its news operations are timid and lack informed analysis."¹¹⁴

4.5.3 Quotas

Czech TV is legally obliged to provide at least 70 per cent of all its programmes with closed-captioning, on-screen captioning or sign language for people with impaired hearing.

There are no special quotas for minority programming. One of Czech TV's main tasks, stated by law, is "the development of the cultural identity of inhabitants of the Czech Republic including members of national or ethnic minorities". The station's Code also states that Czech TV must emphasise in its programming the importance of minority genres and topics that other stations do not cover at all or only to a limited extent. Thus, it is obliged to devote part of its broadcasting to topics related to senior citizens, people who are ill or who have disabilities, people living in poverty, young families, and national or ethnic groups.

¹¹² OSI roundtable comment.

¹¹³ Interview with Karel Hvižd'ala, journalist, writer and media analyst, Dobřichovice, Czech Republic, 9 June 2004.

¹¹⁴ See also: Tomáš Klvaňa, Chapter on the Czech Republic, in *Nations in Transit 2004*, Freedom House, 2005, available at <http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN016574.pdf> (accessed 4 May) 2005), p. 8.

Czech TV meets all quotas of the TWF Directive¹¹⁵ (see section 6).

4.6 Editorial standards

Although it is not a self-regulatory instrument, but a legal provision approved and imposed by politicians, journalists working with the public broadcaster accept the content of the Code as a good basis for their work; however, some media observers argue that the problem is not the content of the Code, but the fact that it is approved by politicians: “Czech TV journalists should push for their own code [of conduct], to ensure editorial independence, to emancipate themselves professionally and force the management and the Council to function according to an internal set of rules.”¹¹⁶

On a daily basis, the desk editor, subordinated to the editor-in-chief of the News Department, is responsible for the editorial standards of the news reports. In the case of a news feature, the editor-in-chief of that particular division, the News Feature Programmes Department, is also responsible for the content of the report.

As already noted, Czech TV’s main problem is that it suffers from long-term financial instability. Both Czech TV and Czech Radio are financed largely by the licence fee and therefore are not dependent on the State budget. This should, in theory, help them to resist both political and commercial pressures. However, politicians can exert pressures on the public broadcasters indirectly, for example by using the licence fee as a tool of control. The licence fee has not been increased in seven years, a situation that has prompted a war of attrition between Parliament and Czech TV’s journalists. On 29 June 2005, the Chamber of Deputies in Parliament approved a bill to increase the licence fee, but to become effective this still needs to be approved by the Senate and signed into law by President Vaclav Klaus (see section 4.3).

Czech TV is also often criticised for biased reporting against MPs whenever an increase in licence fee is being discussed in Parliament.¹¹⁷ By openly citing Czech TV’s unfavourable reporting of politicians as their reason for rejecting demands to increase the licence fee, politicians have openly expressed their willingness to use their power to punish the public service broadcaster.

¹¹⁵ EU “Television without Frontiers Directive”: Council Directive of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 89/552/EEC, OJ L 298 of 17 October 1989, as amended by European Parliament Directive of June 1997, 97/36/EC, OJ L 202 60 of 30 July 1997, consolidated text available on the European Commission website at http://europa.eu.int/eur-lex/en/consleg/pdf/1989/en_1989L0552_do_001.pdf (accessed 15 March 2005).

¹¹⁶ Interview with Karel Hvizďala, 9 June 2004.

¹¹⁷ OSI roundtable comment.

Czech TV's current Director General, Jiří Janeček, achieved temporary financial and institutional stability a year after his appointment in the summer of 2003. However, Czech TV's financial crisis is ongoing and it would seem that Janeček's resistance to pressure from politicians and advertisers may be waning (see 4.4.2).

Another tool of control over the public broadcasters is the political appointment of the Czech TV and Czech Radio councils. Although after the Czech TV crisis the members of these councils are nominated by civic and professional organisations, it is still the Chamber of Deputies which appoints them (see section 4.3).

Czech TV has come under ruthless critical scrutiny over the past four years. The station lacks strong leadership and management, and has been marred by non-transparent financing and corruption, including in the tenders for commissioning the production of shows and documentaries.¹¹⁸ Media analyst, Karel Hvizďala, observes that: "The station's Director General should protect television from the pressure of politicians and other interest groups. He should be a strong personality with great prestige, very independent, and should serve as a battering ram against lobbyists."¹¹⁹

On the other hand, in terms of programming, competition with commercial broadcasting has improved the performance of Czech TV in some respects. For example, Czech TV is trying to cut costs by importing more economically efficient models of news reporting used by commercial television stations.¹²⁰ It introduced new programmes of investigative reports such as *Klekánice* ("Twilight Witch"), *Fakta* ("Facts"), and *Reportéři ČT* ("Czech TV Reporters"). Martin Mrnka and Marek Vitek, two Czech TV reporters working for *Fakta*, received the 2001 international award of the School of Advanced International Studies at Johns Hopkins University in Washington D.C. for their investigative report entitled "a Dark Story on Fuel Oil". This revealed how a Russian criminal put into practice a scheme to siphon off illegal profits from fuel sales, worth millions of dollars. The report was one of the first examples of collaborative investigative reporting carried out by journalists in the former communist bloc.

¹¹⁸ Šmíd, *Who can mind a strong Czech Television General Director?*

¹¹⁹ Interview with Karel Hvizďala, 9 June 2004.

¹²⁰ For example, Zdeněk Šámal, Czech TV's News Director, and a former editor-in-chief at the Slovak news channel TA3, said that he would be able to produce the news in a much smaller physical space, with a smaller news production team. Interview with Zdeněk Šámal, Prague, 1 July 2004.

5. REGULATION AND MANAGEMENT OF COMMERCIAL BROADCASTING

The Czech media market attracted scores of foreign investors in the early 1990s. More than a decade after the fall of communism, most of the capital investment in media is foreign. However, because of inadequate regulation of the broadcasting market, commercial broadcasting has been dominated by numerous, lengthy ownership disputes.

5.1 The commercial broadcasting system

The commercial television market is dominated by two national stations, TV Nova and Prima TV. TV Nova was the first national commercial television station to challenge the monopoly of public television in the early 1990s. Launched by the U.S. investor CME in 1994, it soon became the most popular station in the country.

Due to its hefty audience share of around 45 per cent, TV Nova is considered the most influential broadcaster in the country and lobbies more aggressively than any other. In the late 1990s, the station was enmeshed in an ownership dispute, which ended in 2003 when TV Nova's former investor was compensated for losing its investment in the country (see section 5.3).

Prima TV was awarded a regional broadcast licence in 1992. It started broadcasting in 1993 under the brand Premiéra TV. In 1996 Prima covered 55 per cent of Czech households. In 1997, the station's name changed to Prima TV. Its coverage reached about 94 per cent in 2005. Prima TV was also the object of some ownership disputes in the past. The station now enjoys an audience share of 22 per cent.

By the end of 2003, the main broadcasting regulatory authority, the RRTV, had registered 13 local television broadcasters with a regional footprint and 16 television stations with a local footprint. These included (until mid-2005, when they shut down their operations) two local television stations, TV Praha and TV Hradec Králové, operating with their own frequencies. Twelve other local stations share common frequencies with Prima TV, broadcasting within time windows. These shared broadcasting times have been the subject of a prolonged dispute between FTV Premiéra, holder of Prima TV's broadcast licence, and some regional broadcasters, namely Dakr and ZAK TV.

A new project to boost the development of local television has been launched by Regional Television Agency (RTA), a company run by a local businessman and media lobbyist, Jaroslav Berka, who is in the process of purchasing most of the local television stations and grouping them into RTA. Berka's aim is to have eight television studios in different regions of the Czech Republic and to create a network of regional television stations with three main programming pillars: news, news features and magazines. Part of the broadcasts of the planned network will be shared with national stations such as

Prima TV. Some of the regional stations which Berka is trying to buy have fed the programming of national commercial stations in the past. RTA also applied for a digital licence. Prima TV is also planning to build a network of regional stations.¹²¹

5.2 Services

Only minimal public service obligations are imposed on commercial broadcasters. According to the Broadcasting Act, broadcasters must provide the State authorities with the broadcasting time needed for important and urgent announcements serving the public interest. They must also provide open captions for people with hearing difficulties in at least 15 per cent of their output.¹²²

5.3 Ownership

After the fall of communism, the Government's main policy objective was to limit the role of the State as much as possible, and this also encompassed the mass media. Competition on the media market was seen as the best guarantee of news quality and objectivity.¹²³ This more-or-less liberal media policy shaped the outcome of media ownership throughout the past decade.

Foreign ownership is not limited. Any foreign company or citizen can invest in the media if it establishes a legal entity such as a company or organisation in the country. Foreign companies or nationals can own a broadcast licence as long as they establish a company in the Czech Republic (see section 3.2). There is no ceiling for the amount of shares foreign companies can own in broadcasters.

Like other industries, broadcasting is regulated by the Economic Competition Act, which forbids the abuse of a dominant position on the market. The act defines "dominant position" as having a share of 40 per cent of the market or over.¹²⁴ All mass media are considered a single market.

¹²¹ J. Potůček, "Východočeská televize Puls změnila majitele", ("East Bohemian television Puls changed owner"), available at http://potucek.blogspot.com/2004_12_01_potucek_archive.html (accessed 23 December 2004).

¹²² Broadcasting Act, art. 32(1)(2).

¹²³ "Programové prohlášení vlády ČR", ("Czech Government Manifesto"), in *Hospodářské noviny*, 23 July 1992.

¹²⁴ Article 10 of the Act on Protection of Economic Competition defines the dominant position in the following way: "One or more companies jointly are deemed to have a dominant position on the relevant market (joint dominance), if their market power enables them to behave to a significant extent independently of other companies or consumers". Act no. 143/2001 on the Protection of Economic Competition and on changes of other acts, *Sbírka zákonů*, part 58 of 27 April 2001.

Although leading commercial station TV Nova has a 45 per cent audience share and, according to local media analysts, receives some 65 per cent of television advertising spending, its dominant position has never been investigated by the Office for the Protection of Competition. The limit of 40 per cent established by the Economic Competition Act “serves only as an orientation point, because the evaluation of the dominant position proceeds according to many different criteria.”¹²⁵

5.3.1 TV Nova

Over the past decade, TV Nova became the most popular television station and the epitome of successful commercial television in a non-transparent business climate. For Czech intellectuals, however, the station is a symbol of cultural and moral decline.

TV Nova is currently back in the hands of U.S. investor CME, which launched the station in 1993, then lost it after its local partner broke the contract with the investor. The station was subsequently bought by the domestic financial group PPF, which resold it to CME in December 2004. When it entered the station in 2003, PPF settled TV Nova’s legal problems with CME and sacked the station’s controversial Director, Vladimír Železný, who was at the centre of dozens of protracted ownership and legal disputes and three international arbitrations.

TV Nova’s ownership situation has always been extremely intricate. Back in 1993, a group of five Czech intellectuals controlling a limited liability company called CET21 was awarded a broadcast licence to operate the first national commercial television station in the country. In its application for a broadcast licence, CET21 pledged to broadcast educational, high-quality news, commercial and entertainment programmes (see section 3.2). The company also promised to support domestic production and contribute to building a real competitive environment in the Czech media market. CET21 was backed financially by U.S. company CME where the majority shareholder was Ronald S. Lauder, the heir of the Estee Lauder cosmetics empire. Part of the initial investment came from Česká Spořitelna (Czech Savings Bank).

TV Nova started broadcasting in February 1994. In reality the station turned out to be very different from the pledges in the licence application. With a tabloid newscast, soap operas, game shows and American blockbusters, TV Nova gained an audience share of over 70 per cent in its first few years of broadcasting. The station started to turn a profit just a few months after its launch.

CME set up its own company in the country, ČNTS, which was TV Nova’s exclusive service provider. Importantly, however, although it controlled the flow of advertising

¹²⁵ Milan Šmíd, Report on Slovenia, in Brankica Petković (ed.), *Media markets in Southeast Europe and EU accession countries: Mapping patterns of media ownership and their effects on media freedom and pluralism*, Peace Institute and SEENPM, Ljubljana, Slovenia, 2004, available at http://www.mirovni-institut.si/media_ownership/pdf/slovenia.pdf (accessed 26 June 2015), p. 145, (hereafter, PI/SEENPM, Media Ownership Report).

on TV Nova and the station's profits, ČNTS never owned the station's broadcast licence, which was retained by CET21. This is the origin of the intricate ownership of TV Nova and of the ownership disputes over the station. Because CME could not gain majority shares in the licence-holding company, CET21, they decided to instead secure control of the licence indirectly, via TV Nova's former Director, Vladimír Železný. CME gave Železný money to control the majority stake in CET21 and asked him to sign a contract stating that, as Director, he would act in CME's favour.¹²⁶

The dispute between CME and Železný erupted in 1999 when CME's management started negotiations to merge with Swedish broadcasting giant SBS Broadcasting. Fearing that he would lose control and power when the two broadcasting mammoths merged, Železný cut his links with CME and stopped cooperating with the station's servicing organisation, ČNTS. Taking advantage of the station's complex ownership structure Železný then launched his own breakaway TV Nova, leaving CME without a licence. Consequently, SBS Broadcasting called off the deal. CME's Nasdaq-listed shares lost almost all their value and the company teetered on the brink of insolvency. Železný's station started to broadcast from a new location.

The RRTV refused to intervene as long as Železný held the broadcast licence (via his majority share in CET21).¹²⁷ CME initiated several lawsuits. The most important were three complaints in international arbitration courts against Vladimír Železný and the Czech Republic. During the four years of legal wrangling, Železný ceded financial control of TV Nova to MEF Holding, a domestic business group with a credit link to the controversial Czech Investment and Postal Bank (IPB), which collapsed in June 2000.

In 2002, when it was more or less clear that CME would win the case against the Czech Republic, Železný's position weakened. In March 2003, a London-based arbitration court ordered the Czech Government to compensate CME to the tune of \$353 million for its lost investment. In the summer of 2002, TV Nova and its companies had been the target of a hostile take-over bid from the Czech financial group PPF, which settled Železný's liabilities to CME in return for his shares in TV Nova's companies. PPF also bought the station's former service provider, ČNTS,

¹²⁶ "From the viewpoint of Czech law it [the contract] was all right, but from the viewpoint of international law dealing with the protection of investment, it definitely weakened the position of the Americans, because it made them very dependent on the will of one man." Interview with Václav Žák, 9 June 2004.

¹²⁷ "From the viewpoint of the current Broadcasting Act, the CET21 company is unambiguously the broadcasting operator. This company has full, indivisible and non-transferable responsibility over broadcasting. The current dispute between the broadcasting operator, CET21, and the service organization, ČNTS, is a commercial dispute. Only the competent commercial courts may issue decisions in this matter (and they are doing so at the present time). The Council is not competent to predict or prejudice their decision-making." RRTV, *Zpráva o stavu vysílání a činnosti rady ČR pro rozhlasové a televizní vysílání za období 1.1.1999 – 31.12.1999*, (Report on the state of broadcasting and the activity of the Czech Radio and Television Broadcasting Council over the period 1 January-31 December 1999), available (in English) at http://www.rrtv.cz/zprava_en/index.html (hereafter, RRTV, *Annual Report 1999*).

which was the subject of the litigation between CET21 and CME.¹²⁸ CME agreed not to compete in the Czech market for two years, but it also secured a first option on TV Nova if PPF decided to sell.

Finally, in December 2004 CME was indeed able to buy back TV Nova. On 14 December 2004, CME announced that, in a deal worth \$642 million (€535 million), it had purchased 85 per cent of PPF shares in TV Nova, representing 56 per cent of the TV Nova group. CME agreed to pay PPF \$529 million (€441 million) in cash and the rest in company stock, making PPF the second-largest shareholder in CME after Lauder.

5.3.2 Prima TV

Prima TV also experienced ownership uncertainty when its original investor, the Investment and Postal Bank (IPB) collapsed in June 2000 and the Czechoslovak Commercial Bank (ČSOB) took over its assets. At the time, the Broadcasting Council allowed GES Real Investment to buy two thirds of FTV Premiéra, TV Prima's licence holder. FTV Premiéra was fully owned by Domeana, itself fully-owned by GES Holding.

Before the collapse, IPB transferred its shares in FTV Premiéra to Domeana. However, ČSOB asked the Czech Economic Chamber to cancel the transfer, claiming that it was concluded under unfavourable terms for IPB. ČSOB complained at the time that the Council had given the green light to the GES Real Investment deal before the Chamber had come to a decision.¹²⁹ Representatives of Prima TV said ČSOB's complaint was not justified because the Chamber did not have the competence to cancel the transfer of shares. In the end, GES Holding, a company closely linked with IPB's management, became the undisputed owner after it settled an ownership dispute with ČSOB.¹³⁰

The press has often speculated on the close relationship between the two national commercial television stations, TV Nova and Prima TV. In 2001, for example, some Czech newspapers speculated that CME and Železný planned to merge with Prima TV to create a media empire.¹³¹ There was no direct evidence for this allegation. However, the two television stations have been cooperating in certain areas. For example, they use the same company, AQS, for acquiring programmes. Advertisers also claim that

¹²⁸ PI/SEENPM, *Media Ownership Report*, p. 157.

¹²⁹ M. Dragomir, "TV market soap opera to continue", in *Prague Business Journal*, 17 December 2001, p. 1.

¹³⁰ "In the years 1994–2000 the controversial Czech Investment and Postal Bank (IPB) was the main investor in TV Prima. When the Government put IPB under forced administration in June 2000, and IPB was sold to the Czechoslovak Trade Bank (ČSOB), GES Holding, a group with close ties to the management of IPB, managed to gain control over IPB's shares in TV Prima." PI/SEENPM, *Media Ownership Report 2003*, p. 158.

¹³¹ J. Unger and M. Jašminský, "Nova se měla spojit s Primou", ("Nova was supposed to merge with Prima"), in *MF Dnes*, 3 March, 2001, p. 1.

they jointly coordinate other activities, such as sales of advertising – especially after PPF gained its stake in TV Nova.

There have also been allegations in the past about the close connections between Prima TV and TV Nova in ownership matters.¹³² Representatives of both television stations have vehemently denied these allegations. However, advertising industry insiders interviewed for this report indicated that lately, each of the two stations has been employing “unique” sales strategies and have started to behave as genuine competitors. “[...] We can just guess how these media [television stations] are linked by common interests and do not ensure plurality of information,” said Hana Marvanová, a lawyer and former MP, who claims that she tried to push through important changes to the broadcasting legislation after the lost international arbitration related to TV Nova.¹³³

5.3.3 The print and radio sectors

Unlike the commercial television stations, both of which are in the hands of local owners, most of the print media outlets are foreign-owned. The largest investors in the media market include the German publishers Rheinisch-Bergische Verlagsgesellschaft, Passauer Neue Presse, Verlagsgruppe Handelsblatt and the Swiss publishing house Ringier. Out of the five fully-fledged national daily newspapers, *Právo* is the only one still owned by a Czech company. Although the print media are editorially independent, reporters feel pressure from owners and politicians. “This interference is mostly anecdotal and difficult to assess, as is the reportedly considerable influence of public relations and lobbying groups.”¹³⁴

The magazine market is dominated by women’s and lifestyle magazines. There are few political journals or news magazines. Czech intellectuals highly value the independent weekly *Respekt*, which is financed by Duke Karl Schwarzenberg, a Chancellor to former Czech President Václav Havel. *Respekt* has a circulation of around 17,000 copies. It suffers from a lack of advertising revenue, low sales and lacks profitability. Advertisers prefer more glossy news weeklies such as Ringier’s *Reflex*, which boasts a circulation of

¹³² According to Freedom House’s 2003 report: “there are signs that TV Nova and TV Prima might be colluding in programming and ownership matters. Their ownership structures are not transparent, but individuals in related industries have indicated that the two channels are interconnected. Furthermore, they do not compete directly with each other in broadcasting content.” Freedom House, *2003 Report on the Czech Republic*, p. 8.

¹³³ Interview with Hana Marvanová, lawyer and former MP for Freedom Union (US-DEU), Prague, 22 June 2004.

¹³⁴ Freedom House’s 2003 report gives the example of the country’s largest broadsheet daily, *MF Dnes*, that “continued its slide into infotainment in 2003, abandoning comprehensive news coverage to focus on dramatic stories, human interest features and TV-fuelled coverage of celebrities.” Freedom House, *2003 Report on the Czech Republic*, p. 9.

nearly 60,000, and the magazine *Týden*, with a circulation of over 60,000, owned by a Swiss-based Polish entrepreneur, Sebastian Pawlowski.¹³⁵

Overall, despite the absence of strict limits on media ownership, the Czech print media market has not experienced such levels of concentration that would jeopardise media freedom. The SEENPM and Peace Institute report on media ownership stated that,

vertical concentration can be detected in the print media, where the main newspaper publishers own printing plants and control the press distribution companies PNS and Mediaprint&Kappa Presegrosso. The horizontal concentration of media is still at the embryonic stage. However, it is slowly developing, and it cannot be ruled out that a menace to media pluralism will someday come from this direction.¹³⁶

The Czech radio market is fragmented. Three radio stations enjoy healthy audiences, with 10–12 per cent of the total radio audience in the country. These are the first channel of the public broadcaster, Czech Radio (Čro1-Radiožurnál) and two national commercial radio stations, Frekvence 1 and Radio Impuls. The rest of the audience is dispersed among 70 other private local stations. The most powerful player in the radio market is the French investor Lagardère Active Radio International SA, which runs the national station Frekvence 1, the radio network Evropa 2 and the media sales agency Radio Regie Music (RRM). The licensing policy of the RRTV is to maintain a diversity of local stations.¹³⁷

5.3.4 Cross ownership

The broadcast media in the Czech Republic are subject to restrictions on cross ownership. A company or individual is not allowed to hold more than one national radio or television station. A national channel is defined as a set of frequencies covering more than 70 per cent of the country's population.¹³⁸

Radio and television owners must inform the RRTV about any mergers involving their stations. Companies or individuals possessing “substantial interest” in two or more television or radio stations must also notify the Council. (Substantial influence is defined as at least 34 per cent of the voting shares.)

Czech law does not impose any cross ownership limits on broadcast and print media publishing. However, print media have not so far been interested in television or *vice*

¹³⁵ “Pawlowski, whose real-estate business in Prague needs political support, is an example of the new trend in media investing, in which entrepreneurs who come from other industries than the media are interested in having influential media.” PI/SEENPM, *Media Ownership Report*, p. 155.

¹³⁶ PI/SEENPM, *Media Ownership Report*, p. 142.

¹³⁷ PI/SEENPM, *Media Ownership Report*, p. 159.

¹³⁸ See the provision on securing the plurality of information in radio and television broadcasting in Part 6 of the Broadcasting Act.

versa. The television market seems to have stabilised for now. The most famous attempt at cross ownership was made in 2001, when the tabloid newspaper *Super* was launched. *Super* was owned by Epic-Holding, rumoured to be connected with TV Nova's general director at the time, Vladimír Železný. *Super* was also reported to be a political vehicle intended to support the Civic Democratic Party (ODS) before the 2002 elections. Advertisers expressed their fear of an unprecedented monopoly of the media market. *Super* folded in the summer of 2002 after ODS lost the elections, thereby lending weight to the view that it had a political agenda.¹³⁹

TV Prima's owner, GES Holding, has expanded in the television, radio and print business in the past three years. It bought into the local TV Galaxie and has ownership links with the radio network Radio Hey. It also owns three life-style magazines. Another example of cross ownership in the media is the alliance of Mafra, the publisher of mainstream daily *MF Dnes* and local radio station Classic FM. In April 2005, Mafra bought 80.92 per cent of the company Stanice O, which operates music television channel Óčko, transmitted via cable and satellite.¹⁴⁰

5.4 Funding

Advertising revenues are the main source of income for commercial broadcasters. In the first half of 2004, TV Nova had total pre-tax revenues of roughly CZK 5.5 billion (or approximately €180 million). In the same period, Prima TV's income reached CZK 1.9 billion (€62.2 million).

Czech law limits advertising on commercial television to 10 per cent of airtime. Czech TV competes openly for ratings and implicitly for advertising with TV Nova and TV Prima. However, advertising is limited to just one per cent of airtime on Czech TV

The two commercial broadcasters have used common strategies of advertising sales against the public broadcaster, for example by giving preferential treatment to companies that place their advertising campaigns exclusively on the commercial stations.¹⁴¹ Commercial broadcasters also use a joint strategy of very aggressive lobbying.

Some representatives of large advertising spenders have indicated that TV Nova abuses its market dominance by dictating tariffs and pressuring advertisers not to buy slots on

¹³⁹ D. Garkisch and S. Škývarová, " 'Zlý bulvár' Super dneškem skončil", ("Nasty tabloid' Super finished as of today"), in *Lidové noviny*, 17 July 2002, p. 4.

¹⁴⁰ Mafra, "Mediální skupina Mafra koupila hudební TV Óčko", ("Media group Mafra bought the music TV Óčko"), news release of 29 April 2005, available online (in Czech) at http://info.idnes.cz/predstaveni/novinky/mafra_koupila_TV_ocko050429.html (accessed 29 May 2005).

¹⁴¹ Interviews with representatives of advertisers and media buying agencies who did not want to be named; See also: M. Dragomir, "Big advertisers could follow P&G's example, dump Nova", in *Prague Business Journal*, 15 September 2003, p. 1.

public television.¹⁴² Because the national television market is very small, advertisers have to accept TV Nova's aggressive negotiating stance.

Media buyers and advertisers have expressed serious concerns about the commercial networks' quasi monopoly, as well as the concentration of power in the hands of commercial broadcasters. They point out the lack of genuine competition and the relatively small size of the total advertising market.

This has led some media observers to argue that public broadcasters should be allowed to sell more advertising because the advertisers have a high interest in Czech TV's audience. The one per cent limit on advertising was imposed on Czech TV in the mid-1990s to help commercial broadcasters. However, many media observers believe that these broadcasters no longer need such protection.

In reaction to the proposal of the Senate in June 2004, to further reduce the time for advertising on Czech TV (see section 4.3), the World Federation of Advertisers (WFA) – which represents the interests of global advertisers in the Czech Republic – warned of the potential monopolisation of the television market by commercial broadcasters.¹⁴³

As an example of this danger, the Czech media publicised the dispute between the biggest domestic advertiser, Procter & Gamble (P&G), and TV Nova. In 2003, P&G decided to stop buying advertising on TV Nova, claiming that the station was abusing its dominant position on the market and was dictating advertising fees. However, TV Nova declined to lower its advertising tariff, for fear that this would encourage other clients to do likewise. Sources in the advertising industry said that TV Nova was also pressuring advertisers to spend their entire budgets on TV Nova or risk losing their access to the country's most popular station. P&G was the first advertiser to reject TV Nova's conditions and take its custom to Czech TV. P&G spends approximately CZK 900 million (€60 million) on advertising each year,¹⁴⁴ of which some 90 per cent is spent on television.¹⁴⁵

On the other hand, TV Nova's representatives, especially during the reign of Vladimír Železný, have spoken out strongly against competitive forces as well as digitalisation. They argued that an increase in the number of television channels would lead to the fragmentation of the market and result in poor quality broadcasting, as a small market like the Czech Republic cannot support too many stations.

¹⁴² Interviews with representatives of large advertising spenders who did not want to be named.

¹⁴³ The Voice of Advertisers Worldwide, *Advertisers defeat proposals to limit advertising in the Czech Republic*, 29 July 2004, available at http://www.wfanet.org/news/article_detail.asp?Lib_ID=1326 (accessed 1 September 2004)

¹⁴⁴ The exchange rate used in this report is €1 = CZK 30.

¹⁴⁵ Czech News Agency (ČTK), "Procter & Gamble does not reach agreement with TV Nova about Advertising", 5 September 2003, also available at <http://archive.ceska-media.cz/article.html?nw=12329&nw200309> (accessed 5 September 2004).

Digitalisation is eagerly anticipated by companies seeking to enter the broadcast market and by the advertising industry – both view digitalisation as a solution to the concentration of power on the Czech television market. Some advertisers have called for the establishment of another commercial television network to compete with TV Nova. Others say the solution is not so simple because there is no guarantee that a new channel would attract a robust audience.

So far, Czech TV has been the only defence against the dominance of the two commercial television stations on the market. However, big changes in the television and advertising markets may occur if the Civic Democratic Party (ODS) fulfils current expectations by winning the next elections, due in 2006. In opposition, the party had publicly called for the complete elimination of advertising on public Czech TV and the privatisation of one of the public television channels.¹⁴⁶

5.5 Programme framework

The national commercial television stations use the same editorial hierarchy for their news programming. A desk editor, working under the editor-in-chief, is responsible for news content on any given day. There is no set of written internal rules telling reporters and editors how to provide accurate and impartial information.

TV Nova does not require its staff to obey any internal set of editorial rules. Its journalists and editors work under general legal provisions such as the Labour Code and the Broadcasting Act. Basic journalistic guidelines do exist, but they are implemented by word of mouth and have at times been “more flexible”, according to the former editor-in-chief of TV Nova’s News Department, Pavel Zuna.¹⁴⁷

Prima TV recently adopted a formal, very basic code of conduct, which defines basic journalistic concepts such as impartiality and bias in reporting, and conflict of interest. Journalists are barred from active engagement in any political party, and may not work for the Government or “important” industries. Reporters are also obliged to inform senior staff if they are exposed to “provable” pressures by political, economical or other interest groups. The code summarises the most important ethical principles in eight points. Journalists are asked, encouraged and recommended to ask themselves eight questions during their reporting work, namely whether they:

- trust the facts that they want to publicise;
- have checked facts with at least two independent sources;

¹⁴⁶ P. Žantovský, “Topolánek: Zrušil bych mediální rady. Interview s předsedou ODS Mirkem Topolánkem”, (“Topolánek: I would cancel the media councils, interview with the president of ODS, Mirek Topolánek”), published on www.ceskamedia.cz, 24 March 2005, available at http://archive.ceskamedia.cz/article.html?id=144881_hp_M&qqqq=Mirek%20topolánek%20Česká%20televize (accessed 29 May 2005).

¹⁴⁷ Interview with Pavel Zuna, 26 June 2004.

- have cited sources in context;
- have justified the use of anonymous sources;
- are sure no one is insulted or that no member of a minority, race, culture or nation is stereotyped;
- present the names and position of people they report about correctly;
- use correct dates and timeline; and
- have fixed a mistake as soon as possible. Anyone who points out mistakes must be carefully heard.¹⁴⁸

5.5.1 Programme guidelines

Programme obligations are usually specified in the licensing conditions. However, television stations can easily change or adjust these (see section 3.2).

Like the public broadcaster, the commercial television stations are also obliged to observe some basic rights and duties in their programming, as stated in the Broadcasting Act.¹⁴⁹ These duties include responsibility for programme content, avoiding broadcasting programmes which might seriously affect the physical, mental or moral development of minors – in particular pornography and gross gratuitous violence – and avoiding showing people dying or exposed to torture, except in cases where there is a serious justification for doing so.

The RRTV is in charge of monitoring balance and impartiality in the output of all broadcasters. The aim of this monitoring, especially of news and political programmes, is to prevent “unilateral preference of a certain political party or movement”.¹⁵⁰ In its latest report, the RRTV concluded that in the last quarter of 2003 all national television broadcasters granted all political parties and movements represented in the Chamber of Deputies equal access.

Ever since its launch, TV Nova has broadcast U.S. series and films, and entertainment shows produced in-house, engaging mostly mainstream entertainers and singers. An important part of its programming has been represented by domestic films and quiz shows. For many years in the late 1990s, one of the TV Nova’s most popular shows was the weather forecast presented by women, and sometimes men, getting undressed during the programme. Lately, TV Nova changed its tabloid approach somewhat, especially in its newscasts. TV Nova’s primetime news programme enjoys an audience share of about 70 per cent, which is still the station’s highest rating. The high share the newscast attracts is not necessarily because the station’s news items are more trusted,

¹⁴⁸ *Zpravodajský deník, (News Diary)*, Prima TV internal document.

¹⁴⁹ Broadcasting Act, Part 5.

¹⁵⁰ RRTV, *Annual Report 2003*, p. 56.

but because they present reports in a more sensational, dynamic and entertaining manner.

In the past two years, Prima TV has built on a profile of a family channel. Its most popular programmes are those focused on women, such as soap operas or talk shows dealing with women's issues. The station has been also trying in the past years to beef up its male audience by airing, for example, more sports.¹⁵¹ The station is known for featuring sitcoms and hour-long dramas in the afternoons, such as *Melrose Place* or *Commissar Rex*, and knowledge quiz shows. Prima TV's main newscast starts at 19.00 and is the first and shortest news programme of all the three national Czech stations. Prima TV's weekend programming is a combination of sports (Formula One racing, football matches), entertainment shows and dramas. Among the most successful primetime programmes are entertainment shows such as *Nikdo není dokonalý* ("Nobody's perfect") and the Czech soap opera *Rodinná pouta* ("Family ties"), watched on average by 1.8 millions viewers. Both are produced by Prima TV.

In 2004, Czech commercial television stations began to invest in more original productions of soap operas. For example, TV Nova invested generously in the production of the drama series *Pojišťovna štěstí* ("Insurance House of Happiness"), one episode of which cost some CZK 6 million (almost €200,000) to produce.

5.5.2 Quotas

No obligations for regional programming or diversity are imposed on commercial broadcasters, except for the quotas specified in the TWF Directive (see section 6).

5.6 Editorial standards

In general, commercial television owners do not interfere directly with editorial content and journalists try to be objective and impartial in their reporting. However, commercial broadcasters air numerous biased news reports. This is not done deliberately, but is most often the result of journalists' lack of experience and expertise. TV Nova's strategy is to employ people without journalistic experience – people who have not been "spoiled" by common stereotypes and experience from other media – and to train them in-house. However, although these young, enthusiastic people bring dynamism and fresh ideas to the station, politicians and businessmen also often find it easier to manipulate them.

Martin Ondráček, the current editor-in-chief of TV Nova's News Department states that: "In our case, audience share is the only benchmark of success and quality."¹⁵² The

¹⁵¹ Prima TV, written comments submitted to EUMAP, 7 March 2005.

¹⁵² I. Jemelka, "Rozhovor s Martinem Ondráčkem", ("Interview with Martin Ondráček"), 17 September 2003, available at <http://archive.ceska-media.cz/article.html?gs=2384&gs200309> (accessed 20 July 2004).

Department's former editor-in-chief, Pavel Zuna (now head of TV Nova's programming) said there is no need for codes of ethics or internal codes of conduct because the basic rules of journalistic ethics are embedded in the station's journalistic culture: "Our newscast is a commercial product; that is our advantage. If the news was substantially manipulated, the viewer would recognise it and could switch to another programme. That is the advantage of commercial television."¹⁵³ The newscasts of all national television stations run almost simultaneously. TV Nova's main news programme, *Televizní noviny*, starts at 19.30 and ends at 19.55, overlapping with Czech TV's newscast, *Události*, which starts at 19.15 and ends at 19.55.

By contrast, Prima TV's General Director Martin Dvořák observes that: "the measure of success cannot only be the audience share". He added that it is also important how the newscast is viewed by the general public from the point of credibility and balance.

When we create *Zpravodajský deník* [Prima TV's main newscast] we take into consideration many factors such as truthfulness, credibility, objectivity, accuracy, and not only to have the biggest audience share. We, of course, consider the audience share as the most important measure of success [in television]. But in the case of news, it is not the only one.¹⁵⁴

TV Nova's news bulletin starts with a news feature covering broader issues from a "human interest angle", while the most important news story comes only second or third. TV Nova's news producer explains their news programme comes last in the evening, so they have to look for new angles on the news they broadcast in order not to repeat what has been said already on the other stations.

Zuna has worked for both public and commercial television. He started his television career as a Czech TV reporter and anchor. He handpicked a new team of reporters for TV Nova after Vladimír Železný broke with CME. In his opinion, the only effective tool to ensure editorial independence is to "put your professional integrity above any other interest". This, he has said, was his main criterion when recruiting reporters back in 1999.

TV Nova introduced investigative television reporting to Czech viewers. Today it runs programmes such as *Na vlastní oči* ("With one's own eyes"), a 35-minute weekly investigative programme, which uses its own editorial department to cover political and economic issues, but also trivia such as mystery or human interest stories. The programme has featured a series of solid investigative reports uncovering illegal sales of child pornography, and corruption at the Czech Ministry of Foreign Affairs.

¹⁵³ Interview with Pavel Zuna, 26 June 2004.

¹⁵⁴ Prima TV, written comments submitted to EUMAP, 7 March 2005.

6. EUROPEAN REGULATION

Czech legislation is largely in line with EU audiovisual policy. The EU “Television without Frontiers” Directive (TWF Directive) was transposed into national legislation in 2001. In June 2004, the Chamber of Deputies approved some formal amendments to the Broadcasting Act to ensure full alignment with EU legislation. These included definitions of advertising, hidden advertising, tele-shopping and sponsorship.¹⁵⁵

In its 2003 progress report on the pre-accession countries, the European Commission characterised the compliance of the Czech Republic’s broadcasting legislation with the EU norms as “satisfactory”. However, the Commission assessed broadcasting regulation as “controversial” and stated that the main challenge for the Council for Radio and Television Broadcasting (RRTV) was to establish a stable, transparent and effective framework of regulation.¹⁵⁶

In 2001, within the framework of harmonising media legislation with EU legislation (the TWF Directive) and Council of Europe instruments (the European Convention on Transfrontier Television¹⁵⁷), the Government also included in the Broadcasting Act a provision on promoting European production.¹⁵⁸

As shown below in Table 6, all national television stations have implemented the TWF quotas on European works in television broadcasting.

Table 6. Share of European works in television broadcasts (2003)

Channel	Total broadcasts (hours)	European works	
		(hours)	Share of total (per cent)
TV Nova	6,744	3,424	50.8
Prima TV	5,521	3,351	60.7
ČT1	6,697	5,475	81.8
ČT2	5,445	4,836	88.8

Source: RRTV¹⁵⁹

¹⁵⁵ Broadcasting Act, art. 48-49.

¹⁵⁶ The Budapest Observatory, *Extracts from the progress reports on the pre-accession countries adopted by the Commission on 5 November 2003*, available at <http://www.budobs.org/eu-chapter2003.htm> (accessed 10 May 2005).

¹⁵⁷ Council of Europe, European Convention on Transfrontier Television, European Treaty Series no. 132, Strasbourg, 5 May 1989 (text amended according to the provisions of the Protocol (ETS no. 171) which entered into force on 1 March 2002).

¹⁵⁸ Broadcasting Act, art. 46-47.

¹⁵⁹ RRTV, *Annual Report 2003*, p. 89.

In general, European programmes have brought significant benefits to broadcasters. They are cheaper than U.S. television shows and movies, draw large audiences and therefore attract advertisers. European production on Czech television is represented mostly by German serials. One of the popular programmes on Prima TV is the German detective series, *Kommissar Rex*. Due to their success, European productions represented more than 60 per cent of Prima TV's broadcasting time in 2004.

TV Nova met the quota of European production chiefly by airing Czech programmes in primetime, while broadcasting non-Czech, European programmes after midnight.¹⁶⁰ One of the most successful programmes ever aired on TV Nova was a European production, the show *Česko hledá Superstar* ("The Czech Republic looks for a Superstar"), which is the Czech version of the British television contest *Pop Idol*. The show's finale attracted a 65 per cent audience share.

Czech TV also complies with European quotas. It has broadcast European movies, shows and serials, but also programmes aimed at smaller audiences, such as documentaries.

The Broadcasting Act also contains the obligation to broadcast events of major importance for society, as stated in the TWF Directive.¹⁶¹ The act states that a television broadcaster may not exercise any exclusive rights to broadcast an event of major importance to society if it does not cover a "substantial proportion" of the public, which must have the option to watch that event live or recorded, in non-encrypted form and without any surcharge. In 2001, the Ministry of Culture drew up the *List of Events of Major Importance for Society*, in consultation with the Broadcasting Council. The list includes the Summer and Winter Olympic Games, the European and World football Championships (all national team matches, semi-finals and finals), the Ice Hockey World Championship (ditto), and the World Athletics Championship.¹⁶²

7. THE IMPACT OF NEW TECHNOLOGIES AND SERVICES

The Government has defined priorities in the field of new technologies and services, but the implementation of most of these priorities has fallen behind schedule. The digitalisation of television broadcasting is eagerly awaited, but the debate over its future regulation is dominated by disagreement and disputes. All questions related to the future of new technologies and services in the field of broadcasting were expected to be resolved by the new Act on Electronic Communications, which was adopted in February 2005 and entered into force in May 2005. However, although the new act

¹⁶⁰ Interview with Pavel Zuna, 26 June 2004.

¹⁶¹ Broadcasting Act, art. 33.

¹⁶² Decree no. 233/2001 of the Ministry of Culture, by means of which the *List of Events of Significant Social Importance* is published, *Sbirka zákonů*, part 87 of 4 July 2001.

was expected to consolidate all legislation dealing with communications, finally it did not include broadcasting legislation.

7.1 New media

In 2004, the Government adopted a new strategy on modern information and communication technologies for the period up to 2006. The Government's objectives in this field are stated in the Ministry of Informatics' *State Information and Communications Policy e-Czech 2006*¹⁶³ (hereafter, *e-Czech 2006*). This document elaborates the goals and requirements contained in the European Commission's updated *e-Europe 2005* action plan¹⁶⁴ and their application in the Czech Republic.

The Government's main priorities, as stated in the *e-Czech 2006* document, are building modern and secure public administration services available online; continuing the liberalisation of the electronic communications sector; and supporting the development of high-speed Internet access and ensuring its affordability for all groups of the population. Other main priorities are continuing the development of information society legislation; supporting the increase of computer literacy of the population; and supporting the development of e-business, by creating suitable, technologically neutral, conditions.

The Government's action plan to achieve these goals includes the following deadlines: defining the rules for moving from analogue to digital broadcasting (by end 2004); equipping all public administration institutions with high-speed Internet access (by end 2006); and enabling reliable and secure interconnection of public administration bodies and connecting all educational institutions to the Internet (by end 2006). The action plan also includes introducing preferential taxation of home computers and home Internet access; and making services such as filing of income tax, application for identification documents, application for social benefits, and services related to public healthcare available via the Public Administration Portal (by 2006).

In general, the Government is behind schedule in approaching these goals. For example, one of the priorities of the Ministry of Informatics in 2003 was to finalise the bill on Electronic Communications, which was intended to transpose the new European regulatory framework¹⁶⁵ and speed up the liberalisation of the communication services market. However, the bill was only approved by the

¹⁶³ Ministry of Informatics, *State Information and Communications Policy e-Czech 2006*, available at <http://www.micr.cz/scripts/detail.php?id=1288> (accessed 13 September 2004).

¹⁶⁴ European Commission, *e-Europe 2005: An information society for all, An Action Plan to be presented in view of Sevilla European Council, 21/22 June 2002*, Brussels, 28 May 2002, COM(2002) 263 final.

¹⁶⁵ Z. Duspiva, *Zákon o elektronických komunikacích – ČR a EU I, (Act on electronic communications – CR and EU I)*, 7 May 2004, published on <http://www.ceska-media.cz> (accessed 30 July 2004).

Government in September 2004, and adopted by Parliament in February 2005. The Act on Electronic Communications entered into force in May 2005.¹⁶⁶

The Act on Electronic Communications was originally intended to consolidate all existing legislation in the field of broadcasting and telecommunications, including incorporating the provisions contained in the Broadcasting Act and the Telecommunications Act.¹⁶⁷ In addition, it was intended to redefine the competencies in regulating telecommunications and radio and television broadcasting, and also to contain some supplementary provisions defining the rules and mechanisms for the switch to digital broadcasting. The new Electronic Communications Act of 2005 does replace the Telecommunication Act 2000 and other acts. However, in the end, the text of the Broadcasting Act and the new provisions on digitalisation were removed from the final version of the Electronic Communications Act, which was approved without them.¹⁶⁸

The Broadcasting Act therefore remains valid. It is expected that in autumn 2005, Parliament will discuss amendments to the Broadcasting Act, related to the transition from analogue to digital broadcasting. The Electronic Communications Act contains only minimal provisions on digitalisation, such as the automatic granting of licences for four digital channels to the public service broadcaster, Czech TV.

7.2 Market conditions

Internet use has developed fast in recent years. Some 61 per cent of the population use the Internet from home and 45 per cent from their workplace, according to the latest (2003) survey by the Czech Statistical Office. Approximately 12 per cent of citizens use the Internet from home every day. Most of the Internet users – 82 per cent – use a fixed-line Internet connection. High-speed connections are not yet common; only 10 per cent of users have one. Some 62 per cent of all households with a high-speed internet connection use a cable television connection, while only 3 per cent use ADSL or other DSL technologies.¹⁶⁹

Domestic telephone operator Český Telecom offers high-speed Internet connections (ADSL) through a fixed line, attracting 101,000 customers by the end of 2004. About 60,000 households use high-speed Internet offered through cable television, by the cable

¹⁶⁶ Act on Electronic Communications 2005. The act was drafted by the Ministry of Informatics, after consultation with representatives of the RRTV and the Czech Telecommunication Office (*Český Telekomunikační Úřad – ČTÚ*), which administers the country's broadcasting frequencies.

¹⁶⁷ Act no. 151/2000 on Telecommunications and the amendment of other laws, *Sbírka zákonů*, part 47, 13 June 2000.

¹⁶⁸ In 2005, Parliament had aimed to introduce provisions on the regulation of digitalisation in the Broadcasting Act, and then to incorporate this amended act into the new Electronic Communications Act. However, However, Parliament finally decided not to amend the Broadcasting Act and therefore not to incorporate it in the Electronic Communications Act.

¹⁶⁹ Information from the website of the Czech Statistical Office (www.csu.cz).

operators UPC and Karneval.¹⁷⁰ Competition in the high-speed Internet market has increased with the entry into the market of mobile phone operators. The average monthly fee for unlimited use of the Internet through a mobile phone connection is about CZK 1,000 (€35).¹⁷¹ Mobile phone operator Eurotel launched a high-speed Internet connection in 2004. Its main competitor, T-Mobile, launched in November 2004 its own high-speed Internet connection, based on EDGE (Enhanced Data Rates for Global Evolution). The third mobile phone operator, Oskar Mobil, also started offering Internet access via a mobile phone connection in March 2005. The Ministry of Informatics predicts that the number of subscribers will grow “rapidly and continuously.” The backbone networks are usually equipped with relatively new fibre-optic cables.¹⁷²

Table 7. Selected high-speed Internet providers

	Name of the service	Speed (kbit/sec)	Limit for data transfer	Monthly price (€)
České radiokomunikace (Čra)	Bluetone	512/128	none	53.3
Český Telecom	Broadband Profi	512/128	none	114
COL	Volny	512/128	1 GB	21
Eurotel	Nonstop	approx. 50	none	25
UPC	Chello	768/128	5 GB	39.5

Source: Czech News Agency (ČTK)¹⁷³

In 2003, the Czech cable industry enjoyed sustained growth. By the end of the year, there were over 900,000 subscribers, with the leading cable operator UPC boasting nearly 400,000 customers and its closest competitor, Karneval, some 270,000. Karneval was formed through the merger of the cable companies TES Media and Intercable CZ. By the autumn of 2004, the number of cable-Internet homes stood at around 30,000, almost double the number at the beginning of the year.

Cable companies offer on average 30 television channels. The monthly fee ranges between CZK 400 and CZK 1,000 (€13 and €32), depending on the number of channels offered. Cable has not been a popular product in the Czech Republic, first of all because it is not cheap. Moreover, citizens expect television to be free,

¹⁷⁰ Czech News Agency (ČTK), “Karneval zvýšil rychlost kabelového internetu”, (“Karneval increased the speed of cable Internet”), *Právo*, 10 January 2005, p. 17.

¹⁷¹ Czech News Agency (ČTK), “Rychlý internet má osmdesát tisíc Čechů”, (“High speed Internet is used by eighty thousand Czechs”), in *MF Dnes* daily, 2 August 2004, p. 1.

¹⁷² Information from the website of the Ministry of Informatics (www.micr.cz)

¹⁷³ Czech News Agency (ČTK), “České radiokomunikace nabídl rychlý internet na pronajatých linkách od Telecomu”, (“Czech Radiocommunications offered high speed Internet on the lines leased from Telecom”), 6 June 2004. Prices are fixed monthly fees and include VAT tax.

People will spend more if they are earning more. We have regions in the Czech Republic where people only have enough money for basic survival, so they will not spend on luxurious items, and cable television is in fact a luxury. That's why I think their behaviour will change only when the overall economy is doing better.¹⁷⁴

Czech TV currently provides online broadcasting at its website (www.czech-tv.cz). Its programmes are also distributed through satellite in digital format MPEG-2 via the Eurobird1 satellite. The commercial television stations do not yet broadcast via the Internet.

7.3 Digital television

The process of digitalisation began in 2000 when the companies Czech Digital Group and České Radiokomunikace were awarded broadcasting licences for experimental digital broadcasting to test the feasibility of digital broadcasting in the Czech Republic. In July 2001, the Government released a draft proposal for making the transition from analogue broadcasting to digital radio and television broadcasting by 2010. A year later, the Government issued the policy document *Concept of Transition to Digital Radio and Television Broadcasting*.¹⁷⁵ This document was updated several times and, in April 2004, the Cabinet finally issued a resolution giving the green light to the launch of regular digital broadcasting sometime between 2004 and 2006.¹⁷⁶

According to the Government's strategy, the transitional period between 2004 and 2006 will have both digital and analogue television broadcasting. The plan for the actual implementation of digital broadcasting, *The Concept of Development of Digital Broadcasting*, is currently being prepared by the Ministry of Informatics, in cooperation with the Ministry of Culture and the Czech Telecommunication Office (ČTÚ), and is likely to be submitted to the Government in 2005.

Czech TV has announced its intention to operate a public service digital telecommunication network, with up to four public service television channels. The station has already taken part in experimental terrestrial digital broadcasting; in 2003, the signals of its two channels were transmitted in full digital format in Prague and its surrounding area. In May 2005, in preparation for the digital TV market, Czech TV launched an all-news television channel, ČT24, which is transmitted via cable, satellite and the Internet.

¹⁷⁴ M. Dragomir, "Fine Tuning", interview with Zdeněk Vaniček, president of the Association of Cable Communications, in *Prague Business Journal*, 10 December 2001.

¹⁷⁵ Czech Government, *Concept of Transition to Digital Radio and Television Broadcasting*.

¹⁷⁶ Government Resolution no. 395 of 28 April 2004, on the Launch of Digital Television Broadcasting, available (in Czech) at http://www.micr.cz/files/298/Koncepce_pro_roky_2004-2006_uprava.pdf (accessed 1 June 2005).

Digitalisation has given common cause to the three national television stations – otherwise fierce competitors. Czech TV, TV Nova and Prima TV agreed on a strategy to coordinate their progress in digitalisation and make joint recommendations on amending or adopting broadcasting legislation.¹⁷⁷ Representatives of commercial television stations said that they met to discuss the future of digitalisation in an attempt to advise the State on setting up a strategy for digitalisation, in order to avoid errors that other states in Europe have made in the process of launching digital broadcasting. They added that the interests of each of the stations are completely different.¹⁷⁸

Media observers believe that digitalisation will prevent the concentration of power in the Czech television market. The advertising industry is especially enthusiastic for digitalisation, which is expected to increase competition in the television market. However, there is the danger that existing stations will control all the digital multiplexes in the future, hampering competition.

The two parties that are most engaged in the debate on digitalisation are the two main broadcasting regulators: the RRTV, which grants broadcast licences, and the ČTÚ, which manages the frequency spectrum. Both institutions have been wrestling to enlarge their competences in the digitalisation process. The ČTÚ is likely to become responsible for operating the digital multiplexes, which falls exclusively within the sphere of telecommunication, while the RRTV will be entrusted with content regulation.

However, the two institutions have already clashed over some issues relating to digitalisation. In particular, current legislation leaves room for argument over the procedures for, and competencies over, licensing digital broadcasting. The new Act on Electronic Communications was expected to solve this problem. The act was originally intended to include the provisions of the Broadcasting Act 2001.¹⁷⁹ However, as it was finally adopted without the provisions of the Broadcasting Act, the new act fails to clearly define the respective competencies of the two regulatory bodies.

In August 2004, the ČTÚ awarded licences for the operation of terrestrial digital television stations to České Radiokomunikace, Český Telecom and Czech Digital Group, without consulting the RRTV.¹⁸⁰ In the meantime, the RRTV had also started the process of handing out digital television licences, announcing a tender for digital

¹⁷⁷ “Novu, Primu i ČT spojila digitalizace”, (“Digitalisation put together Nova, Prima and C[zech] T[elevision]”), *Právo*, 25 May 2004, p. 6.

¹⁷⁸ Prima TV, written comments submitted to EUMAP on 7 March 2005; Written comments on this report in its draft form, submitted to EUMAP by Milan Šmíd on 1 December 2004.

¹⁷⁹ Interview with David Stádník, president of the Czech Telecommunication Office, BBC Czech Section, 12 May 2004, available at <http://www.bbc.co.uk/czech/interview/stadnik.htm> (accessed 13 September 2004).

¹⁸⁰ “O právo udělit licenci se přou dva státní kohouti”, (“Two roosters are fighting over the right to award the licence”), in *MF Dnes*, 3 August 2004, p. 6.

licences back in November 2004. By the end of 2004, it had received 42 project proposals, from 33 applicants, for digital multiplexes B and C.¹⁸¹

In mid-February 2005, the RRTV decided to postpone the tender until the summer of 2005. It made this decision reportedly under the pressure of MPs, who said that there was no legal foundation for the launch of digitalisation and that digital licences should be awarded only after a new amendment of the Broadcasting Act of 2001 had entered into force.¹⁸²

The proposed amendments to the Broadcasting Act – which RRTV members expect to be adopted by September 2005¹⁸³ – are intended to establish the legal basis for digitalisation. The draft new act is expected to state the number of digital multiplexes in the country; guarantee national stations now broadcasting terrestrially a digital licence; and guarantee the public broadcaster two digital channels.

Representatives of the RRTV said that the existing Broadcasting Act is a sufficient legal basis for the launch of digital broadcasting. The whole process is surrounded by confusion and controversy.

Besides that among professionals and people working in the media sector, there has been no real public debate on television digitalisation. The media has reported sporadically on the issue, but there is no sustained public debate.

7.4 Funding

There is no clear plan for funding the digitalisation of broadcasting. To be able to receive the digital signal, viewers will need to purchase new equipment – either a new digital television set, which is still an expensive product, or a set-top box that can be connected to an ordinary analogue television set. Some media critics argue that digitalisation will fail unless the Government subsidises new digital equipment from the beginning. However, the Government has already announced that it will not consider granting direct financial support for purchasing digital equipment.

According to the Act on Electronic Communications, Czech Television will be awarded digital licences for a four-channel multiplex. There is no separate budget for the digitalisation of public service broadcasting.

¹⁸¹ The digital spectrum in the Czech Republic has been divided into three multiplexes – A, B and C – operated by the companies České radiokomunikace, Czech Digital Group and Český Telecom, respectively. Multiplex A, hosting four channels, is the most attractive, as its frequencies cover 70 per cent of the country's territory. Multiplexes B and C together accommodate 12 channels.

¹⁸² Interviews with employees of the RRTV Office, who did not want to be named, 15 March 2005.

¹⁸³ Interviews with employees of the RRTV Office, who did not want to be named, 15 March 2005.

8. CONCLUSIONS

Television in the Czech Republic confronts three main challenges: inadequate regulation resulting in ownership disputes, lack of competition, and the uncertainty hanging over the future of public service broadcasting.

Problems over regulating the broadcasting market stem mostly from the vagueness of broadcasting legislation and the power that the Chamber of Deputies holds over the national regulator of electronic media, the RRTV – in particular with respect to the nomination of its members. Political nomination by one institution has even been damaging for the reputation of the Czech Republic abroad. In the dispute over commercial TV Nova, the RRTV was viewed as protecting the interests of commercial broadcasters and of the minority cabinet at the time. Its faulty performance and behaviour were considered the main reason why the Czech Republic lost an international arbitration and paid hundreds of millions of dollars in damages.

However, not even this international scandal was a strong enough motivation to change the broadcasting legislation to create conditions for a strong, independent regulatory body that would be respected by broadcasters and work to build a transparent, competitive television market.

Although in line with European standards, Czech broadcasting legislation is not a strong tool for regulation. Candidacy for EU membership, followed in 2004 by accession, has not changed much in the field of broadcasting regulation. The EU legal framework had a significant influence on the provisions in the Act on Electronic Communications, which entered into force in May 2005.

The central challenges to the health of the broadcasting sector are the creation of a competitive television market and the reform of public service broadcasting to ensure its survival. The public service broadcaster remains the only serious rival of commercial broadcasters Prima TV and, especially, TV Nova. A healthy public broadcaster, capable of offering a qualitative alternative to commercial broadcasting, needs legislation that would ensure stable and adequate funding.

Another challenge concerns the lack of transparency of media ownership. Deficient regulation has resulted in non-transparent ownership structures of commercial broadcasters and costly international arbitration. Czech broadcasting law is tailored to the needs of the big commercial broadcasters. There is an absolute lack of control over the connections between the ownership of the different broadcasters, which makes media ownership non-transparent.

Television stations in the Czech Republic can be generally described as free and independent. There have been signs of negative influence of economic pressure jeopardising the independence of the television sector. Some experts also point to the phenomenon of “mediacracy”, signifying the politicians’ dependence on the media. Print media have been more efficient in revealing cases of political corruption. Most of

the recent domestic political scandals were exposed first by the print media. Television stations do not contribute to the refinement of the political environment by providing high-quality information.

9. RECOMMENDATIONS

9.1 Media policy

Digitalisation

1. The Government should initiate a public debate on digitalisation policy.
2. In Government policy on digitalisation, public service broadcasting should be retained under certain circumstances.

Public consultation

3. The Government should develop and implement policy to set up new mechanisms of supervision of broadcasting by the public.

9.2 Regulatory authorities

Independence

4. The Government should put forward legislative changes to increase the independence, sanctioning power and effectiveness of the Council for Radio and Television Broadcasting (RRTV).
5. The Government should initiate a public debate, involving media experts and NGOs, on the issue of nomination of the members of the Council for Radio and Television Broadcasting (RRTV), and should initiate legislative changes to reform the RRTV so that its membership ceases to reflect the distribution of power in the Chamber of Deputies. This reform should ensure a broad social and professional representation.
6. The Government should propose legislative changes to ensure that the Council for Radio and Television Broadcasting (RRTV) has a stable and long-term source of financing. This funding should be sufficient to secure the Council's independence and should not be used by the Government as an instrument to exert influence over the activities of the Council.

Media diversity

7. The Government should propose legislative changes to entitle and oblige the Council for Radio and Television Broadcasting (RRTV) to ensure transparency of ownership structures of the holders of broadcast licences.

Regional and local broadcasters

8. The Council for Radio and Television Broadcasting (RRTV) should develop a strategy for encouraging the development of regional and local television stations.

Media diversity

9. The Government should initiate changes in legislation to entitle the Council for Radio and Television Broadcasting (RRTV) to monitor all tiers of ownership in companies owning broadcasters.

Public consultation

10. The Council for Radio and Television Broadcasting (RRTV) should support the formation of an association of viewers, and oblige television stations to allot them broadcasting time to express their views.

9.3 Public television (Czech TV)*Independence*

11. The Government should initiate a public debate on the issue of nomination of the members of the Czech TV Council and Czech Radio Council.
12. The Government and Parliament should ensure the status of Czech TV as an independent public service corporation, by abolishing the Chamber of Deputies' control over the station's Council and management.

Funding

13. The Government should initiate legislation that would allow Czech TV to carry advertising until the switch over to digitalisation, in order to maintain a certain degree of competitiveness in the television market.
14. The Government should propose changes of legislation to regularly raise the TV and radio licence fee in line with the rate of inflation or the retail price index.

Professional ethics

15. The Government should ensure that the Czech TV Code, especially the part concerning editorial activity, is drafted and agreed upon by the editorial staff, rather than approved by Parliament. The Code should be publicly disseminated.

9.4 Commercial broadcasters

Media diversity

16. Parliament should take steps to amend legislation to impose limits on cross-ownership in the print and broadcasting sectors.

Professional ethics

17. The Council for Radio and Television Broadcasting (RRTV) should require applicants for broadcast licences to submit internal codes of conduct or ethics, as a precondition for receiving a licence to run a commercial television station.

Enforcement

18. Parliament should amend the Broadcasting Act to empower the RRTV to enforce the licensing conditions, based on which television stations have been granted their broadcast licences.

ANNEX 1. Legislation cited in the report

National legislation

General broadcasting legislation

Act no. 468/1991 on the Operation of Radio and Television Broadcasting, *Sbírka zákonů*, part 91 of 22 November 1991. (*Act on Operation of Radio and Television Broadcasting 1991*)

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Act no. 231/2001 of 17 May 2001 on Radio and Television Broadcasting Operation and on amending other laws, *Sbírka zákonů* 87 of 4 June 2001. (*Broadcasting Act*)

NB. The Broadcasting Act replaced the Act on Operation of Radio and Television Broadcasting 1991 (subsequently amended)

Act no. 151/2000 on Telecommunications and the amendment of other laws, *Sbírka zákonů*, part 47, 13 June 2000. (*Telecommunications Act 2000*)

Act no. 127/2005 on Electronic Communications and on changes of other acts, *Sbírka zákonů*, part 43 of 31 March 2005. (*Act on Electronic Communications 2005*)

NB. The Act on Electronic Communications 2005 replaced the Telecommunications Act 2000

Acts on Czech Radio and Czech Television

Act no. 483/1991 on Czech Television, *Sbírka zákonů*, part 93 of 29 November 1991 (*Czech Television Act 1991*)

Act no. 483/1991 on Czech Television, *Sbírka zákonů*, part 93 of 29 November 1991, as last amended by Act no. 231/2001 on Operation of Radio and Television Broadcasting and on the change of other acts in their latest versions, *Sbírka zákonů*, part 23 of 23 February 2005. (*Czech Television Act 2001*)

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Act no. 252/1994 on Radio and Television Fees, *Sbírka zákonů*, part 73 of 30 December 1994, as last amended by Act no.135/1997, *Sbírka zákonů*, part 48 of 26 June 1997. (*Act on Radio and Television Fees*)

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Ministry of Culture Decree of no. 233/2001, by means of which *The List of Events of Significant Social Importance* is published, *Sbírka zákonů*, part 87 of 4 July 2001.

International legislation

European Union, Council Directive of 3 October 1989 on the Coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, (“Television without Frontiers Directive”), 89/552/EEC, OJ L 298 of 17 October 1989, as amended by European Parliament Directive of June 1997, 97/36/EC, OJ L 202 60 of 30 July 1997.

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